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LEGISLATIVE ASSEMBLY

Tuesday, 23 November 1999

THE SPEAKER (Mr Strickland) took the Chair at 2.00 pm, and read prayers.

SMALL BUSINESS TAX SYSTEM

Statement by Minister for Small Business

MR COWAN (Merredin - Minister for Small Business) [2.03 pm]: I advise the House of an initiative of the Small Business Development Corporation to assist Western Australia's 105 000 small businesses with the transition to the new tax system. In May this year, Small Business Development Corporation research showed that only 7 per cent of respondents had a thorough knowledge of the goods and services tax and that nearly 45 per cent admitted to an inadequate understanding of the new system. Now, six months later, it is clear that there is a very high level of interest from businesses in preparing for the GST.

In order to facilitate the preparation of businesses, the Western Australian GST Transition Centre was officially launched on 5 November. The GST Transition Centre is part of the State Government's commitment to "get business GST ready". The centre provides the small business sector with free information and guidance on obtaining an Australian business number and GST registration, transitional issues such as contracts spanning 1 July 2000, the availability of GST software and record keeping systems, federal government GST financial assistance measures for small business, and access to GST information and the Internet via computer terminals located at the centre.

The centre is a one-stop shop facility offering small business operators independent, objective and confidential information, guidance and assistance at no cost. Small business operators can access the service personally, through face-to-face consultation, by telephone, or electronically. Importantly, the centre offers information from a business perspective and it complements the services offered by other departments and organisations providing technical assistance and advice.

In addition, the Australian Taxation Office has seconded two full-time staff to assist in service delivery at the centre and a hotline to the Australian Competition and Consumer Commission is also available.

The centre will, of course, act as a referral point to private sector service providers such as tax advisers and accountants, including the Australian Society of Certified Practising Accountants' help line. The GST Transition Centre is located at 553 Hay Street Perth, and can be contacted on 1300 130 678.

Members will have received, or will receive soon, a kit providing information on the services available at the GST Transition Centre. I urge members to encourage constituents involved in small business to use the centre's services as they make the change to the new taxation system. I table papers relating to the centre.

[See paper No 416.]

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Statement by Minister for the Environment

MRS EDWARDES (Kingsley - Minister for the Environment) [2.05 pm]: I report on the outcome of a recent mission I participated in as part of Australia's delegation to the United Nations Framework Convention on Climate Change's fifth Conference of the Parties, which was held in Bonn. The convention is the international treaty on greenhouse gas emissions to which Australia and 179 other countries are signatories and the Conference of the Parties is the implementation body for that convention. As Minister for the Environment, I represented state and territory environment ministers at the high level segment, led by the Commonwealth's environment minister. The most important outcome was international agreement to an intensified and accelerated negotiation process. The objective is to ensure that decisions can be taken at the sixth conference next year which will ratify the Kyoto Protocol. The protocol is the convention instrument which sets enforceable targets for emissions from developed countries.

The decision of major importance for Western Australia was the establishment of rules for greenhouse gas sinks, which are the ways in which atmospheric carbon dioxide can be absorbed. A major opportunity exists for Western Australia to link greenhouse gas sinks with the restoration of the degraded areas of Western Australia's environment. The re-establishment of vegetation on over-cleared land is recognised in the salinity action plan as an essential mechanism to slow, halt and ultimately reverse salinity, land degradation and loss of biodiversity. It is critical for Western Australia that the international rules for sinks be agreed to so that the benefits can be realised and credited. Without this incentive, the effort to bring together these two significant environmental issues for maximum gain may well be thwarted.

Australia's statement in Bonn emphasised that greenhouse gas sinks can contribute to a better outcome for the environment. This outcome can be achieved by lowering the cost of abatement action and assisting sustainable development where normal business practices would not provide the same opportunities.

Australia will host a high level meeting and workshop involving many countries on greenhouse gas sinks in April 2000. I have offered Western Australia as the location and am confident the invitation will be accepted. Other key decisions to be made next year relate to emissions trading and compliance with agreed emissions targets. Both issues are important to Western Australia. Participation by the Western Australian Government in the international meeting enabled direct input of the viewpoint of Western Australia and other States and Territories into the ongoing negotiations process. Western Australia's participation also established a framework for these views to be carried forward to the sixth conference and beyond.

DRAFT RURAL AND AGRICULTURAL LAND USE PLANNING POLICY

Statement by Minister for Planning

MR KIERATH (Riverton - Minister for Planning) [2.07 pm]: The Western Australian Planning Commission has released the draft rural and agricultural land use planning policy for a three-month public comment period. The policy has been developed by the commission, AgWest and a government-appointed committee to review and replace the commission's current rural land use planning policy. This follows a 1994 cabinet decision which recognised that productive agricultural land is a finite national and state resource that must be conserved and managed to maintain sustainability for the benefit of current and future generations. The policy supports the recommendations of the 1990 Legislative Assembly Select Committee on Right to Farm. The committee concluded that disputes involving agricultural practices could be averted by better planning to avoid locating incompatible land uses in potentially conflicting situations. The irreversible removal of productive agricultural land through conversion to non-agricultural uses can reduce options for agriculture and for future generations.

Agricultural production is worth $4.5b a year to this State and provides valuable export income and employment for many Western Australians. It is a significant part of our economy and it is important to discourage the removal of rural land from agricultural production. The draft policy recognises that rural land planning must also accommodate the other beneficial uses that make up the rural environment, including urban, industry, mineral extraction and resource protection. The draft policy is linked to the state planning strategy, which emphasises the need for local governments to prepare local planning. The policy aims to protect productive agricultural land, particularly high quality land of strategic significance to the State, regional or local context by discouraging conversion to non-agricultural uses and incompatible activities; provide opportunities for planned, contained and sustainable settlement; and assist in the conservation, restoration and, where possible, in the wise use of natural resources.

It is important to note that the policy does not remove any existing established rights to the use of land. Ultimately the new policy will help provide resource and investment security to the State's agricultural industries. It will also establish a framework for local governments to optimise decisions about land use and provide greater flexibility for farmers seeking to subdivide land for bona fide agricultural use and conservation purposes. It has been brought to my attention that the closing date for advertising may not enable many farmers to prepare adequate submissions with current farming activities. I have therefore discussed this with the commission and agreed to allow submissions on the policy to be received until 11 March 2000.

CITIZENSHIP SYMPOSIUM

Statement by Minister for Citizenship and Multicultural Interests

MR BOARD (Murdoch - Minister for Citizenship and Multicultural Interests) [2.10 pm]: There is no doubt that the people of Western Australia have a strong sense of community. This has again been proved through their response to recent disaster situations such as the floods in Moora, the cyclone in Exmouth and external tragedies like the Turkish earthquake.

With the time constraints of modern life it is often difficult for people to actively participate in volunteering. There is a need to work at maintaining a high level of active citizenship and community involvement in order to uphold the strong sense of community that is a part of our identity. At the launch of MillenniumWEST in September, I outlined a number of projects, all of which have a citizenship theme.

This Saturday an important Citizenship Symposium will be held at Edith Cowan University, which is the first step in formalising a plan to promote and facilitate active citizenship for the millennium period of 2000-2001. This symposium is the first ever meeting of community and business leaders who will be helping to build the State's vision of what it means to be a citizen. The symposium is an initiative of the Western Australian Citizenship and Multicultural Advisory Council. WACAMAC was formed earlier this year, bringing together representatives from Government and non-government bodies to advise me on ways to develop active citizenship in Western Australia. Active citizenship reflects a feeling of civic mindedness and involvement in the community and encourages an inclusiveness of all Western Australians, regardless of background. The symposium will draw on the experience, wisdom, and energy of a wide range of Western Australians. It will provide the major impetus for WACAMAC to form a Western Australian citizenship strategy, which will be known as Citizenship 2000+.

Citizenship 2000+ will provide a framework to encourage and facilitate greater involvement in citizenship by all Western Australians, the vision being "to be the world's most inclusive and harmonious society" and the purpose being to ensure that all Western Australians have the opportunity to participate and contribute as valued citizens.

Mr Speaker, a number of prominent people will speak at the symposium, which will be opened by the Governor of Western Australia. At the launch of MilleniumWEST, and in this Parliament, I have outlined a number of projects for the new millennium which involve people in many parts of our community, particularly regional areas. Through the development of Citizenship 2000+ we will be encouraging more Western Australians to become active members of the community.

TOWN OF EAST FREMANTLE

Statement by Minister for Local Government

MR OMODEI (Warren-Blackwood - Minister for Local Government) [2.13 pm]: I wish to make a brief ministerial statement in relation to an inquiry into the Town of East Fremantle established by the Executive Director of the Department of Local Government, Mr John Lynch. The inquiry had specific references to the council's planning and building approval

processes, the separation of roles and responsibilities, and the lease for The Left Bank Cafe Bar and Restaurant. The inquiry was undertaken by three people with substantial expertise and experience in local government. It comprised an elected member, a senior town planner and a chairman who was a senior officer of the Department of Local Government.

Mr Lynch has forwarded the inquiry's report to me and I have determined that it is appropriate for it to be tabled. Although the inquiry did not identify any criminal conduct, the report does not reflect well upon the Town of East Fremantle council. The inquiry found that the many problems inherent in the operations of the town limit its capacity to achieve an acceptable level of efficiency and effectiveness; that the council has failed to properly fulfil its role as the statutory planning authority for the district; that the town fails to meet the standard of compliance required of local government under the Local Government Act 1995; and that the town provides a level of customer service below that expected of a local government.

It is in the execution of the council's planning responsibilities that the inquiry is most critical. The council's town planning scheme has remained relatively unchanged since 1982, contrary to the statutory requirement to review it every five years. The report finds that the council uses misleading and inappropriate policies to control or inhibit development and to justify its position. Some of these policies do not have legislative backing, while others conflict with the council's town planning scheme.

On the basis of these planning issues alone I gave serious consideration to the full range of options available to me in dealing with a council which is operating well below the standards of compliance expected of local government and generally below the standards of customer service given by other local governments.

The report's 46 recommendations cover a wide range of statutory and modern management issues which the council and chief executive officer need to address, including completing the review of the town planning scheme, ensuring that town planning policies are consistent with the scheme, addressing possible illegal delegations of decision-making powers under the scheme, discontinuing illegal heritage assessment fees, developing records management procedures and developing complaint handling procedures.

I will be requesting the executive director to reappoint the inquiry to oversee and report on the council's response to the recommendations. A further adverse report by the inquiry will result in my reconsidering the options available to me. I am deeply concerned about the extent and breadth of the issues that were subject to negative comment by the inquiry. The underlying message to the Town of East Fremantle is to move quickly to address the report and its recommendations. I table the report.

[See paper No 415.]

[Questions without notice taken.]

BILLS - ASSENT

Message from the Governor received and read notifying assent to the following Bills -

1. Acts Amendment (Fixed Odds Betting) Bill 1999.

2. Totalisator Agency Board Betting Tax Amendment Bill 1999.

BILLS - APPROPRIATIONS

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Native Title (State Provisions) Bill 1999.

2. Parliamentary Superannuation Legislation Amendment Bill 1999.

ARMY AGAINST CRIME, REFERENDUM

Petition

MR PRINCE (Albany - Minister for Police) [2.51 pm]: Pursuant to an undertaking which I gave to Mrs Joan Torr last Thursday, I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned, support Joan Torr's Army Against Crime calling for Parliament to hold a Referendum and take other action on Law and Order.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 20 653 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

[See petition No 65.]

URBAN BUFFER AREA, MUSHROOM FARM

Petition

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

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

We, the undersigned, say that Local Government should make provision for an Urban Buffer Area by using a method which is contained under planning legislation and by no other method.

Now we ask that the Legislative Assembly will ensure the Swan Shire Council initiates an amendment to the Town Planning Scheme No 9 map and text to prevent the establishment of any use that might be incompatible with the mushroom farm, at Lot 52 Victoria Road, West Swan, within 1000 metres of the mushroom farm

[See petition No 66.]

STATE TRADING CONCERNS AMENDMENT BILL 1999

Council's Amendment

Amendment made by the Council now considered.

Consideration in Detail

The amendment made by the Council was as follows -

Clause 6, page 5, after line 2 - To insert the following new subclauses -

(9) If, during a financial year, a statutory corporation enters into a contract in the course of carrying out an activity authorized by subsection (2)(c) -

(a) the identity of the parties to the contract;

(b) the term of the contract;

(c) the amount of any fee or charge referred to in subsection (3) imposed by the statutory corporation in relation to the contract; and

(d) any other information relating to the contract that the Minister responsible for the statutory corporation considers relevant,

are to be included in the annual report of the statutory corporation submitted for that financial year under the *Financial Administration and Audit Act 1985*.

(10) If a contract referred to in subsection (9) -

(a) contains a provision of a kind prescribed for the purposes of this subsection; or

(b) is of a type prescribed for the purposes of this subsection,

the Minister responsible for the statutory corporation must cause a copy of the contract to be laid before each House of Parliament within 6 sitting days of the House after the contract is made.

(11) If the contract is not in writing, the reference in subsection (10) to a copy of the contract is a reference to a document setting out the terms and conditions of the contract.

Mr COURT: I move -

That the amendment made by the Council be agreed to.

Negotiations in the Legislative Council resulted in some changes to this legislation. Although the end result is not necessarily the Government's preferred choice, it is prepared to accept the amendment.

Dr GALLOP: The State Trading Concerns Amendment Bill, which went from this place to the other Chamber, will extend the provisions of the Act to allow departments and agencies which do not currently have the power, to undertake commercial activity. This legislation was needed because the State Trading Concerns Act of 1916 set down regulations for the establishment, carrying out and management of government trading concerns and ensured that should the Government go into commerce it could do so only with parliamentary approval. Today's public sector is different from that which existed in 1916. Contracting out of government functions to the private sector occurs in a range of areas, and the use of consultants to assist the Government in what it does means there is a blurring of the line between what the government sector and the private sector do. Increasingly, the private sector contributes to the public sector in the performance of its functions. However, more importantly, an increasing range of skills, expertise and intellectual property that have been developed by the public sector are going into the commercial marketplace. There are many examples of this. This legislation is designed to facilitate that process in respect of, first, goods, information or intellectual property; secondly, scientific, technical, education, training management or advisory services; and, thirdly, advertising opportunities, including sponsorships.

It was this last issue that concerned the Opposition. In the Legislative Assembly debate, I referred to the fact that there were two interpretations of this clause, which deals with advertising opportunities, including sponsorship. The first interpretation was fairly straightforward; that is, a government department might want to advertise its own services in the marketplace. As I said earlier, increasingly government departments and agencies are developing skills within their departments, developing particular intellectual property, and they have the ability to offer their services to the market. To do that, they may have to project themselves and advertise what they do. This Bill certainly makes that possible.

The other interpretation of advertising was much more important; that is, when a government department or agency accepted advertising deals and sponsorship to raise revenue. This is the issue that is of concern to the Opposition. We work on the assumption that the public sector acts on behalf of the public interest, without fear or favour and without compromising on behalf of narrow sectional interests. Indeed, the whole idea of the public sector is that it stands above the private interests that exist, attempts to find what is in the best interests of everyone and then administers that without fear or favour. If one has a situation in which the private sector is sponsoring some government activities, it may lead to conflicts of interest within government.

Two approaches to this matter can be adopted. The first is a rigid approach that no private money should ever go into government operations. This would pose some difficulty, because there is no doubt that many government agencies now find sponsorship from private sources. I will deal with some examples of that. As we move around the State and visit some of our schools, we find that private companies give support to those schools. This is particularly the situation outside Perth, although it is also the situation in Perth. These companies sponsor particular programs whereby schools link up with businesses. In fact, only this morning I saw the vocational education initiative at the Balga, Girrawheen, Ballajura and Mirrabooka schools, at which work experience for some of their students is provided.

Mr CARPENTER: I would like to hear more from the Leader of the Opposition on this interesting subject.

Dr GALLOP: The police, particularly in the crime prevention area, have been supported by private sector companies. Indeed, at the universities, which are of course government agencies, many of the research programs are now funded by the private sector. Therefore, it would be unrealistic to say that private money cannot come into the public sector. Certainly, we must be ever vigilant about the fact that the public sector should act on behalf of the public interest rather than sectional interests. However, I think it would certainly be undesirable to stop any of that money coming in. That takes us to the second approach that could be adopted; that is, accept that some of these things will happen but make sure they are fully transparent and are subject to parliamentary scrutiny. In debate on this matter in the Legislative Assembly, the Opposition said it believed there should be scrutiny and transparency in this area, and that it would move in the Legislative Council to ensure that is the case. The Labor Party supported the second and third readings of the Bill, and in the Legislative Council it put forward some amendments. The Government accepted the argument that we needed to provide transparency and scrutiny, and introduced its own amendments which the Labor Party supported in the Legislative Council. Those amendments have come back to this Chamber by way of a message. The Labor Party amendments would have required each minister to table within six sitting days of the end of the financial year a specific report which contained all the details of sponsorship and advertising contracts entered into by departments or agencies under that minister's control. The Government argued in the other place that it was a little cumbersome, and simply made it a requirement that the information be contained in the annual reports, but that for some prescribed matters information would need to be tabled within six sitting days.

The Opposition acknowledges that the Government responded to the point made in the Legislative Assembly, and also that the Government moved an amendment in the Legislative Council consistent with what the Opposition said needed to be done. The Opposition takes heart from the fact that the message today essentially carries through what the Labor Party said needed to be done.

I conclude by making a couple of comments about this issue. The Opposition considers the changes in this legislation to be positive, but it has concerns about the sponsorship and advertising issue. We do not believe it is desirable to rule it out of court, but we want to be ever vigilant in respect of these arrangements. We do not want the quality or distribution of public services affected by sponsorship arrangements between the public and private sector. This is particularly important with regard to the government agencies that regulate the private sector, because the regulatory function of government must be carried through without fear or favour. The second issue is that the Opposition would be very unhappy if these sponsorship dollars were used by the Government to reduce its funding commitment in core areas of government service. Certainly, the Opposition will be ever vigilant to make sure that is not the case.

The Opposition expresses its support for the amendment from the Legislative Council; it allows for transparency and public scrutiny. It is a practical amendment that accords with what the Labor Party said needed to be done.

Question put and passed; the Council's amendment agreed to, and a message accordingly returned to the Council.

COURT SECURITY AND CUSTODIAL SERVICES BILL 1998

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

Mr BARNETT: I move -

That Legislative Council message No 14 be now considered in detail.

Mr McGINTY: As I understand them, these amendments which were agreed to by the upper House provide for an extension of the Office of Inspector of Custodial Services to non-prison establishments, in particular to lockups and also to courts. The amendments contain considerable detail. One of the issues that has been raised with me is the capacity of the Inspector of Custodial Services to have access to places other than prisons in which prisoners are detained. I refer to lockups, the place in the court system where prisoners are detained, and also for that matter in courts where prisoners are detained during the term of their trial. My concern is that if this legislation is to be effective, the Inspector of Custodial Services must have complete access at whatever time and whenever that statutory office holder deems that to be necessary. I believe these

amendments do propose a better capacity of the Inspector of Custodial Services to enter lockups and courts. New clause 87 has a requirement that the Inspector of Custodial Services cannot enter a court without prior notice having been given to the chief judicial officer of that court. That is a matter upon which I would appreciate hearing from the Minister for Police, who has carriage of this legislation.

Mr BROWN: I will also ask the Minister for Police to answer that question. I note that amendment No 1 is to clause 2 of the No 2 Bill, which seeks to include the words "subject to subsection (2)", and then there is a new -

The DEPUTY SPEAKER: I remind the member that we are still dealing with the first question, which is whether this matter should be dealt with in detail. We have not resolved that question yet so we cannot move on to amendment No 1.

Mr BROWN: I am sorry. I will address that question. Can the minister outline the substantive reasons for dealing with this matter in detail, the impact of the proposed amendments and how the amendments are materially different from the matters that were considered when the Bill was last before this House? The Bill was not rushed through the House. It was given considerable examination in both the second reading debate and the committee stage. It is somewhat surprising that new amendments have been suggested after that level of detailed analysis. One should bear in mind that during that time, the Government introduced amendments that were passed by the House, thus amending the Bill. It is surprising that additional amendments have been suggested. I am interested to know what has caused the change of heart, given that level of scrutiny and the additional amendments on the Notice Paper. The amendments could have been imposed by the non-government parties in the other place. However, I understand the Government agreed to these amendments.

I also find it intriguing that a series of amendments providing for the position of Inspector of Custodial Services were moved after the Bill was introduced into this House. I recollect that was a deal between the coalition Government and the Australian Democrats to achieve the passage of the legislation in the other place. The Government did not particularly want an Inspector of Custodial Services but it was the price it had to pay in return for the legislation being passed by Parliament. The Australian Democrats insisted on the inclusion of that provision in the legislation. Therefore, the Government took the opportunity to introduce amendments including that provision in this place. I am intrigued that additional amendments are before the House after the Government and the Australian Democrats obviously held intense discussions about the Bill prior to the detailed debate in this House. Can the minister acquaint the House with the reasons that caused further amendments to the Bill?

The DEPUTY SPEAKER: This debate is going nowhere. We should move on to the first amendment.

Mr PRINCE: I seek direction as I have not handled a Bill under these standing orders before. Unfortunately, I was absent from the Chamber when the debate started. Should I respond to the matters that have been put?

The DEPUTY SPEAKER: We will move on to amendment No 1 and deal with that in detail.

Mr BROWN: Amendment No 1 deals with clause 2, which is the commencement clause. Amendment No 2 seeks to include an additional subclause in clause 2. One might theorise about why that is there but rather than do that it might be worthwhile to hear from the minister what is proposed and how the amendment has come about.

The DEPUTY SPEAKER: We cannot go into consideration of any of the clauses until the House agrees that we consider Legislative Council message No. 14 in detail. The question is that the House consider Legislative Council message No.14 in detail.

Question put and passed.

The amendments made by the Council were as follows -

No 1.

Clause 2, page 2, line 6 - To insert after "This Act" the words "subject to subsection (2),".

No 2.

Clause 2, page 2, after line 7 - To insert the following new subclause -

(2) Part 5 comes into operation on the day on which the Inspector provisions as defined in section 2(4) of the *Prisons Amendment Act 1999* come into operation.

No 3.

Clause 3, page 6, line 6 - To insert after "**lock-up**" the words ", subject to section 6,".

No 4.

Clause 34, page 22, lines 17 and 18 - To delete "entitlement that a court, under a law,'" and substitute "power that a court".

No 5.

Clause 41, page 28, line 3 - To insert after the word "contract" the words ", or any part of such a place".

No 6.

Clause 41, page 28, line 6 - To delete "who works in" and substitute "whose work is concerned with".

No 7.

Clause 43, page 29, line 20 - To insert after the word "contract" the words "other than whether or not an offence has been committed".

No 8.

Clause 43, page 30, lines 5 to 13 - To delete the subclauses.

No 9.

Clause 43, page 30, after line 28 - To insert the following subclauses -

(8) Before an investigator requests a person to give information or asks a person a question for the purposes of an inquiry the investigator must advise the person -

(a) that the person does not have to give the information or answer the question unless the investigator requires the person to do so;

(b) that if the person gives the information or answers the question on the request of the investigator but without having been required by the investigator to do so, the information or answer may be admissible in evidence against the person in any proceedings;

(c) of the effect of giving the information or answering the question in response to a requirement of the investigator to do so, as mentioned in subsection (6); and

(d) of the offences and the penalty as mentioned in subsection (7).

(9) A requirement of an investigator to give information or answer a question for the purposes of an inquiry must be clearly distinguishable from a request to give the information or answer the question.

No 10.

Clause 44, page 31, after line 13 - To insert the following subclauses -

(4) The Minister is to ensure that a contract, as amended from time to time, is laid before each House of Parliament within 30 days of such House next following the execution of the contract or the amendment.

(5) If neither House of Parliament is sitting on the day when the 30 day period referred to in subsection (4) expires -

(a) immediately on the expiration of that period the Minister is to send a copy of the contract or the contract as amended, as is relevant to the case, to the Clerk of the Legislative Assembly and the Clerk of the Legislative Council; and

(b) the Clerks are to jointly ensure that the contract or the contract as amended is published as soon as practicable in a manner prescribed.

No 11.

Clause 90, page 52, line 22 - To insert after "Act" the words "other than Part 5,".

No 12.

New clause, page 8, after line 22 - To insert the following new clause 6 -

6. Application of certain provisions to lock-ups that are not prescribed as lock-ups for the purposes of this Act

(1) In this section -

"non-prescribed lock-up" means a lock-up other than a place that is prescribed by the regulations to be a lock-up for the purposes of this Act.

(2) A reference in section 15 or 71 or in Schedule 2 clause 2(2), 3(2), 5, 10 or 13 to a custodial place includes a reference to a non-prescribed lock-up.

(3) A reference in section 80(a)(ii) to a lock-up includes a reference to a non-prescribed lock-up.

(4) A reference in section 86 or in Schedule 2 clause 7, 8, 9, 11, 12, 14 or 15 or in Schedule 3 clause 1(1)(b) to a person being moved between custodial places includes a reference to a person being moved to or from a non-prescribed lock-up.

No 13.

New part 5, page 48, line 1 - To insert the following new part -

Part 5 - Inspector of Custodial Services

83. Definition

In this Part -

"CSCS Act inspection report" means an inspection report under section 84(1);

"Inspector" means the Inspector of Custodial Services under the *Prisons Act 1981*;

"person in custody" means a person in custody or an intoxicated detainee for whom the CEO is responsible under this Act;

"vehicle" means a vehicle used for moving persons for whom the CEO is responsible under section 15.

84. Functions of Inspector under this Act

(1) The Inspector is to inspect each court custody centre and each lock-up at least once every 3 years and prepare a CSCS Act inspection report on his or her findings.

(2) A CSCS Act inspection report may contain such advice or recommendations as the Inspector considers appropriate in relation to the findings.

(3) The Inspector may -

(a) inspect a court custody centre or a lock-up at any time and on any number of occasions between the inspections of the court custody centre or lock-up referred to in subsection (1); or

(b) review a custodial service at any time, including any aspect of a custodial service.

(4) The Inspector may, at any time -

(a) report to the Minister on any matter relating to an inspection of a court custodial centre or a lock-up or a review of a custodial service and give advice or make recommendations in relation to the matter; or

(b) deliver to the Minister or any other person having an interest in the subject matter of the document -

(i) a draft CSCS Act inspection report; or

(ii) a report prepared by the Inspector concerning an inspection or review under subsection (3).

(5) The Inspector is to ensure that the performance of a function of the Inspector under this Act is not likely to delay, interfere with or duplicate an inquiry under section 43.

85. Inspector may have access to certain places, persons, vehicles and documents

(1) The Inspector and any person authorized by the Inspector may, at any time (with any assistants and equipment that the Inspector or authorized person thinks are necessary), have free and unfettered access to a place, person, vehicle or document referred to in subsection (2) for the purpose of performing the Inspector's functions under this Act.

(2) A person referred to in subsection (1) may have access to -

(a) a custodial place at which, or in respect of which, a custodial service is provided or any part of such a place;

(b) a person in custody in such a place;

(c) a person whose work is concerned with such a place;

(d) a vehicle;

(e) a person in custody in a vehicle;

(f) a person whose work is concerned with a vehicle;

(g) all documents in the possession of -

(i) the Department in relation to a court custody centre or lock-up or a custodial service; and

(ii) a contractor or a subcontractor in relation to a court custody centre or lock-up or a custodial service that is a subject of a contract.

(3) The Inspector may authorize a person for the purposes of subsection (1).

(4) An authorization must be in writing and may be made subject to such conditions and limitations specified in the authorization as the Inspector thinks fit.

(5) A person must not hinder or resist a person referred to in subsection (1) when the person is exercising or attempting to exercise a power under that subsection.

Penalty: $20 000.

(6) Nothing in this section limits any entitlement that a person, under a law, has to have access to a place, person, vehicle or document referred to in subsection (2).

86. Directions

(1) The Minister may direct the Inspector to inspect a court custody centre or lock-up or to review a custodial service or an aspect of a custodial service and report on a specified matter of significance.

(2) Section 109L of the *Prisons Act 1981* applies to a direction under subsection (1) as if it were a direction under section 109L(2) of that Act.

87. Inspector to notify and consult relevant chief judicial officer about certain matters

(1) Despite section 109J(2) of the *Prisons Act 1981*, the Inspector is to give, within a reasonable time, the chief judicial officer of a court written notice of the Inspector's intention -

(a) to inspect a court custody centre that is part of the court premises; or

(b) to review a court custodial service, or any aspect of a court custodial service, affecting the court.

(2) The Inspector is to consult the chief judicial officer of a court in relation to -

(a) an inspection of a court custody centre that is part of the court premises; and

(b) a review of a court custodial service, or any aspect of a court custodial service, affecting the court.

88. Reporting

(1) The documents referred to in section 109N(2) of the *Prisons Act 1981* include -

(a) each CSCS Act inspection report prepared by the Inspector as a result of inspecting a court custody centre or lock-up in the period of 12 months ending on the preceding 30 June;

(b) a list of -

(i) the court custody centres and lock-ups that have been inspected since the preceding 30 June and the day on which the list was prepared; and

(ii) the court custody centres and lock-ups that are proposed to be inspected in the period up to the next 30 June; and

(c) any report prepared by the Inspector concerning an inspection or review under section (3) that the Inspector considers appropriate to be laid before the Houses of Parliament.

(2) If, under section 109N(1)(a) of the *Prisons Act 1981*, the Inspector delivers to the Speaker of the Legislative Assembly and the President of the Legislative Council -

(a) a CSCS Act inspection report concerning a court custody centre; or

(b) a report prepared under section 84(3) concerning an inspection of a court custody centre or a review of a court custodial service,

the Inspector is to ensure that a copy of the report is delivered as soon as practicable to the chief judicial officer of the relevant court, who may prepare a response to the report.

Mr PRINCE: I move -

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

The amendment puts a qualification on the clause with respect to the application of the second amendment that appears on the Notice Paper. The second amendment gives effect to the commencement of part 5 of the Bill. Part 5 which comprises the bulk of the amendments on the Notice Paper brings in the concept of Inspector of Custodial Services. That part of the Bill will come into operation on the commencement of amended provisions in the Prisons Act. The Inspector of Custodial Services will apply under the Prisons Act as well as under this legislation. Consequently, that should come into operation at the same time. Therefore, the proclamation of part 5 of the Bill should be done on the same day as proclamation is made of the complementary provisions that are to be put into the Prisons Act, which we will come to later this afternoon. That is the reason for the change to the commencement date in clause 2 of the Bill.

Mr McGINTY: My concern arises out of the fact that what gives the legislation validity is the establishment of the Office of Inspector of Custodial Services. Without that, this legislation will not have our support, to the limited degree that it enjoys that support. My concern is that there is a capacity to proclaim next year, the year after or never those provisions which relate to the establishment of the Inspector of Custodial Services. It concerns me that a differential proclamation date is contained in the legislation, when legislation which we find by and large repugnant could be proclaimed tomorrow. What gives the legislation some validity is the establishment of the new independent Inspector of Custodial Services, who will have the power to enter into a court or lockup with a view to inspecting the conditions therein and reporting on those conditions. I refer particularly to a speech given by Professor Richard Harding to the administrative Law Society of WA in which he sang the praises of the creation of the new independent Office of the Inspector of Custodial Services. The point he made in that address was that at the moment there are no proper accountability measures in our prisons or lockups, and that this person will, for the first time, both in respect of government prisons and privatised prisons or facilities, have the capacity to deliver proper accountability in these services. That is the sense in which I say that this legislation derives its legitimacy from the creation of that office. We do not in any sense criticise the creation of the office; in fact, we welcome it. However, the capacity to then have a different proclamation date causes us on this side of the House considerable concern for the simple reason that the obnoxious provisions can be proclaimed and the beneficial ones cannot be proclaimed for some considerable time. It seems to me that we should not be operating on that differential arrangement. I would appreciate the minister's comments on that view.

Mr PRINCE: I understand the point at which the member for Fremantle is driving. The proclamation of part 5 is tied to the proclamation of the similar provisions in the Prisons Act. The Prisons Amendment Bill was passed recently with similar provisions in it. They are inextricably tied. Those provisions must be proclaimed for the private prison to continue to commence and for contracts to be negotiated, signed and so forth. Consequently, it is inevitable that the provisions in part 5 be proclaimed. However, the timing of the proclamation should be exactly the same as for prisons, otherwise we will end up with the creation of an inspector after the proclamation of the provisions under the Court Security and Custodial Services Bill, and we will end up with a nonsense as a matter of law. It is simply a matter of advice from parliamentary counsel that we must have that complementary proclamation date for the provisions in both the prisons and court security legislation that deal with the inspector of prisons. I understand what the member is saying about being suspicious of government proclaiming only part and not the whole. That will not be possible under the Prisons Act as amended, because it is not possible to proclaim the amendments to the Prisons Act, which deal with the capacity to contract for a private prison, without also proclaiming the provisions for the inspector at the same time. It is inevitable that the member's suspicions will not come to fruition, because they must be proclaimed.

Mr BROWN: From what the minister has said, it seems that his advice depends on what is contained in clause 2(4) of the Prisons Amendment Bill. I do not have that clause in front of me. However, unless that clause directly relates to the commencement date of those provisions of the Prisons Amendment Bill which enable the establishment of a private prison, there is no guarantee that this amendment will allow the inspector to come into operation at the same time as the other Bill is proclaimed. What is the intention in relation to the timing of this matter? As I recollect, Wooroloo Prison South is not intended to be operational until next year or the year after.

Mr Prince: I think it is the year after.

Mr BROWN: In 2001. Is it intended that the provisions relating to the inspector of prisons would not be proclaimed -

Mr Prince: I would not have thought so. I would have thought that they would be proclaimed as soon as possible because we would then have to go through the process of advertising, finding the person, premises and so on and setting up the hierarchy and the bureaucracy to do it. My experience with the Office of Health Review was that it took about nine months or more to set up before it started doing its job. I would expect the same thing in this case, if we are proclaiming long in advance of the opening of Wooroloo Prison South.

Mr BROWN: In terms of that, would the minister envisage that there would be an allocation for the Ministry of Justice in the 2000-01 state budget for the inspector of prisons and the staff of the inspectorate?

Mr PRINCE: The management contract for Wooroloo Prison South cannot be entered into until proclamation takes place. We must have proclamation of the amendments to the Prisons Act before a contract can be signed. Proclamation of the amendments to the Prisons Act involves proclamation of those amendments that also deal with the creation of the Inspector of Custodial Services. That means that part 5 of this legislation must be proclaimed at the same time. We might wind up proclaiming the rest of the Court Security and Custodial Services Bill at a different time or possibly after we have proclaimed part 5 of the Bill in order that the inspector is in place as a matter of law to cover both prisons and elsewhere. That timing is dictated largely as a result of the Wooroloo exercise. With regard to the custodial services, from a police point of view, I am keen to get that under way. Initially, that involves the detention centre at the Central Law Courts going to contract and some of the movement of people in and around the metropolitan area and, progressively, it rolls out through the lockups in the metropolitan area. I am keen to have that happen but I cannot do it without having the inspectorate part being proclaimed and in place. This is a conjunction of necessity driving the proclamation. Part 5 must be proclaimed with the same proclamation as the amendments to the Prisons Act.

Mr BROWN: With the Deputy Speaker's indulgence, we are crossing between amendments Nos 1 and 2 because they are linked.

The DEPUTY SPEAKER: I was going to bring that to members' attention but I thought it was helping the situation.

Mr BROWN: It would be difficult to deal with them separately.

Mr Prince: Is the member for Bassendean looking at the consequential provisions?

Mr BROWN: No, amendment No 2 on the Notice Paper provides that -

> (2) Part 5 comes into operation on the day on which the Inspector provisions as defined in section 2(4) of the *Prisons Amendment Act 1999* come into operation.

The commencement provisions of the Prisons Amendment Bill - I assume the Bill is a reflection of the Act as it has been passed through the Parliament although it has not been proclaimed at this stage - are in clause 2 but subclause (4), to which this refers, states -

> In this section -
>
> **"the Inspector provisions"** means section 4(5), section (5)3, section 18 and Schedule 1 clause 1(2) to (4), clause 2, clause 4(2) and clause 5(2) and (5) to (7).

Mr Prince: Those provisions must be proclaimed not more than six months after the date referred to in clause 1(1), which I think is the general proclamation. I am also looking at the Prisons Amendment Bill and if the member looks at clause 1(1), he will see it says something along the line that the Act comes into operation on the date fixed by proclamation. One then moves down to the inspector provisions which are as the member just said and those provisions can be separately proclaimed but not more than six months after the proclamation of the rest of the Bill. The member would understand that both the Attorney General and I are keen to get on with the contracting part of things. The Attorney General cannot do that without the proclaiming of the Prisons Amendment Bill and I cannot contemplate contracting out court security without the proclamation of that Bill. As soon as the Attorney General proclaims the Prisons Amendment Bill - even if he does not proclaim the inspectorate provisions at the same time - he will trigger a six-month countdown which will mean inevitably that the inspectorate provisions will be proclaimed both in the prisons and the court security Acts.

Mr BROWN: The commencement provision in clause 2(1) of the Prisons Amendment Bill as opposed to this Bill, states -

> Subject to subsection (2), this Act, other than the Inspector provisions, comes into operation on such day as is fixed by proclamation.

Subclause (3) of that clause states -

> The Inspector provisions come into operation on such day as is fixed by proclamation but that day must not be more than 6 months after the day referred to in subsection (1).

The extent to which there is a connection is that in order to have a private prison, the Prisons Amendment Bill must be proclaimed. The Government must proclaim the inspector provisions within six months of the day on which the Prisons Amendment Bill is proclaimed.

Mr Prince: By operation of this provision in the Court Security and Custodial Services Bill, as soon as we proclaim the inspector provisions in the Prisons Amendment Bill, part 5 of the Court Security and Custodial Services Bill will be automatically proclaimed.

Mr BROWN: What is the proposed time line for proclaiming the Prisons Amendment Bill?

Mr PRINCE: I am advised that the Attorney General intends to proclaim the Prisons Amendment Bill in the next few weeks. He is keen to progress the private prison side of things and cannot do that without proclaiming the Prisons Amendment Bill. If we assume the Prisons Amendment Bill will be proclaimed before Christmas, the countdown will start and roughly by the middle of next year, June, the inspector provisions will be proclaimed even if the Attorney General does not proclaim them as a deliberate act - they wind up being proclaimed by default as do the inspector provisions in this Bill.

Mr BROWN: Now the minister has his adviser here, he might be able to provide some detailed advice for the record about the time lines for the actual establishment of the office vis-a-vis the timing for the opening of the new Wooroloo Prison South.

Mr PRINCE: As the Inspector of Custodial Services will be a separate department - not a subset of the Ministry of Justice but separate and standing alone - it will depend on the Public Sector Management Act and the Public Sector Management Office. However, if we triggered it now, effectively that organisation would need to be formed, housed and staffed within the next six months and I would have thought the individual would need to be appointed but certainly advertised for. There may be some transitional provisions which allow a person to be appointed after the six months depending on his availability. However, the office itself must be created in a physical and lawful sense within six months.

As to timing, the nearest I can give the member is we want the whole court security thing in place for May and that is my principal concern as Minister for Police.

Mr Brown: When will Wooroloo Prison South open?

Mr PRINCE: My adviser is not able to give me an accurate date. It is unfortunate that the member for Swan Hills is not here as I am sure she could tell us the time and the day, she follows the matter that closely. It is in the 2000-01 financial year and, from memory, the last time we discussed this it was expected to open some time in the first half of 2001 with the construction and so forth taking the time it does.

Mr BROWN: The only other issue is the Court Security and Custodial Services Bill 1998 enables a private contractor to

be used for courts and police lockups. The State will have a private company involved in courts and lockups and therefore there is a need for the role of the inspector. When is it envisaged that the private contractor will take over the court and lockup role? When is it envisaged that the position of inspector will be up and running?

Mr PRINCE: The Government wants these services for court security and prisoner transport - that is, transport of people in custody between the court and prison - in place by May next year. By then we want police officers out of the courts and prisons people out of the job of moving prisoners backward and forward between court and jail. The takeover with the detention centre at the Central Law Court will occur in May of next year. The balance of the functions is more policing work than anything else. Lockups will be transferred progressively over two years. I refer to the major lockups in the metropolitan area which generate most of the transport. The transport between the lockups and detention centre and/or jails will be transferred over two years from May next year.

Mr BROWN: The question of the inspector arises primarily because these services are to be privatised. Therefore, one needs an inspector to bring an overview and independent -

Mr Prince: One could argue for one even if the services were not privatised.

Mr BROWN: Whatever. Given that the privatisation will start from May 2000, will the inspector be in place when the privatisation starts? A gap will be created if the inspector will not be in place by May 2000. One will have services commencing as a private contractor takes over the Central Law Court, prisoner transport and other functions to which the minister referred, but no overarching body or inspector will examine the quality of services provided. The inspector also is to assume other roles. Will the inspector be in place when the privatisation occurs in May 2000?

Mr PRINCE: There is an inevitability that the inspector must be in place. Basically, one cannot sign the contract without the proclamation of the inspector at that time or within six months - we hope it will be sooner. Once the contract starts to be executed by the contractor, the inspector must be in place. That is part of the agreement reached by the Attorney General with the Australian Democrats in the other place, and it is part of the reason for the creation of this office. It follows that if no inspector is in place, one cannot begin to apply the agreement reached elsewhere. It is inevitable that one must have the inspector in place when a private contractor is involved in this process.

Mr Brown: As long as it is clear that that is the intention.

Mr PRINCE: It is undoubtedly so.

Mr Brown: If the contract comes into place on 1 May, and the private contractors assume that work, the inspector of prisons must be appointed and be in place to carry out the role.

Mr PRINCE: That will be the case as far as I know. I am aware that that is the Attorney's intention. It is conceivable, by means of the normal public processes of advertising the job and so on - it is a very important position - that one may wind up with a person who says that he cannot start until, say, 12 June. Therefore, one may end up with an acting or temporary appointment for a time. I recall that the Office of Health Review started in that way, although I may be corrected in that regard. It is intended that the appointment be in place when the contract begins to be executed; undoubtedly, it will happen within six months subject to the appointment of the appropriate person. My adviser indicates that the recruitment process can start before proclamation. Undoubtedly, that will be the case. We will be into it as soon as the Attorney proclaims the prisons amendments.

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

Council's amendment No 2 agreed to.

Mr PRINCE: I move -

That amendment No 3 made by the Council be agreed to.

Mr McGINTY: Can the minister explain the amendment to me? I do not understand it.

Mr Prince: That's a worry. Parliamentary counsel has been at it again!

Mr McGINTY: The amendment seems to relate to the definition of "lock-up" on page 6 of the Bill. The provision as amended will read -

"lock-up", subject to section 6, means a place prescribed by the regulations . . .

Proposed section 6 will extend the legislation to bind the Crown. I cannot for the life of me see why the definition of lockup will be subject to the Act binding the Crown.

Mr PRINCE: The member asks the most difficult questions when he can! The only lockups applicable are those which are prescribed. The applicability of police lockups will be a progressive exercise over a couple of years. They will not suddenly all become subject to this provision. As we debated four or five months ago, some lockups will probably never be prescribed as they are rarely used.

Mr McGinty: It is a matter of drafting. It seems to serve no purpose whatsoever.

Mr PRINCE: The clause notes state that the amendment serves as a measure between lockups prescribed for the purposes of the Bill, and lockups which are not prescribed. The explanatory note also states, "See also new clause 6". On page 9 of the Notice Paper, amendment No 12 inserts new clause 6 which refers to the application of certain provisions to lockups that

are not prescribed as lockups for the purposes of the Act; in other words, prescribed and non-prescribed lockups. The Bill will be renumbered with a new clause 6 to which this amendment refers and the binding of the Crown will become another number.

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

Mr PRINCE: With the agreement of my colleagues, I move -

That amendments Nos 4 and 5 made by the Council be agreed to.

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

Mr PRINCE: I move -

That amendment No 6 made by the Council be agreed to.

Mr BROWN: This amendment seeks to amend clause 41 by deleting "who works in" and substituting "whose work is concerned with". Is this a change of elegance or is it a more substantive change? Clause 41 gives the minister and the chief executive officer etc access to certain places, persons, vehicles and documents. Subclause (1) reads -

> The Minister, the CEO and any person authorized by the CEO may, at any time (with any assistants and equipment that the Minister, the CEO or authorized person thinks are necessary), have free and unfettered access to a place, person, vehicle or document referred to in subsection (2) for the purpose of -
>
> (a) ensuring compliance with this Act . . .

Subclause (2) provides that -

> A person referred to in subsection (1) may have access to -

And paragraphs (c) reads -

> A contract worker who works in such a place;

By this amendment, the words in paragraph (c) "who works in" will be deleted and substituted by "whose work is concerned with". That, presumably, would read -

> A contract worker whose work is concerned with such a place;

What is the purpose of that change?

Mr PRINCE: This amendment was suggested in advice from the Chief Justice. It is clear that a judge works in a court, as do the attendants and other people including, arguably, counsel. However, from time to time many people are in courts or about the court precincts who do not work there but whose work is concerned with the court. Those people may be carrying out modifications to the structure of the building, contract workers and staff who come and go from the place; for example, management staff from the head office of the contracting organisation which carries out the security. It may be debated whether they work in the court but their work is concerned with what occurs in the place. It could be debated, for example, whether the contractors' internal supervisor works in the court but that person's work is certainly concerned with the court. The Chief Justice therefore suggested this amendment which seemed to me to be sensible.

Mr BROWN: I do not want to take issue with words suggested by the Chief Justice. Can the minister explain those words?

Mr Prince: I wish the member for Bassendean good luck if he thinks he is a better draftsman than the Chief Justice.

Mr BROWN: No. As I said, I am a lay person without any of the wonderful experience of the Chief Justice. Subclause (2)(c) would now read -

> a contract worker whose work is concerned with such a place;

I am not sure whether that is elegant.

Mr Prince: Yes. The provisions of clause 41(1) give the minister, the CEO, etc, access to certain places, persons, vehicles and documents and the contract worker whose work is concerned with the place, which means a person who is working in the place in addition to a person whose work takes him to and from there on an intermittent basis. If we ever wind up with a problem of interpretation of this subclause before the Chief Justice, I am sure we will get a definitive result.

Mr BROWN: One would hope so but that is not necessarily so.

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

Council's amendments Nos 7 and 8 agreed to.

Mr PRINCE: I move -

That amendment No 9 made by the Council be agreed to.

Mr BROWN: I understand that this clause has been taken from the Prisons Act.

Mr Prince: This is your clause. I hope you like the drafting.

Mr BROWN: I want to clarify that amendment. This Bill was debated in this House and the Prisons Amendment Bill was introduced subsequently. During the consideration in detail stage of this Bill I moved an amendment to clause 43 to provide protection for people who were called before an investigator if it appeared that an investigator was "requiring" rather than "asking" them to give evidence. The minister accepted my amendment, subject to any refinement of its wording if that was considered necessary or appropriate.

During the consideration in detail stage of the Prisons Amendment Bill a new clause was moved, drafted by parliamentary counsel, which, in fact is this clause, that sought to more elegantly define what I had attempted to define in lay language for inclusion in this Bill.

In other words, amendment No 9 is a replica of the clause inserted into the Prisons Amendment Bill, which has now been removed from that Bill and which is sought to be included in this Bill.

Mr PRINCE: That is the case, as far as I am aware. The amendments proposed in former subclauses (8) and (9) were drafted by parliamentary counsel. The amendments seek to introduce a number of procedural steps to be followed consistent with the intent of the amendments adopted in the Legislative Council and the amendment moved by the member for Bassendean.

Parliamentary counsel has tidied up the wording, as near as possible, to eliminate any doubt in the mind of an investigator or a person being questioned as to the consequences of giving evidence or information without having been first instructed to do so by the investigator, and being advised of the procedures to be followed and of the precautionary procedures. The expression of that requirement was unclear and created some confusion. The amendment adopted reflects the intention of the clause more clearly and succinctly. Parliamentary counsel has reworded the amendment to avoid any confusion. As far as I am aware this amendment replicates in substance, if not necessarily quite in form, the provisions in the Prisons Amendment Bill; it is exactly the same wording.

Mr BROWN: I thank the minister for that explanation and for honouring the commitments he made previously. This is a very important provision. One day in this place we will review the situation in which an enormous amount of taxpayers' money was wasted by the coalition due to some of the nefarious activities in which, not this minister but other ministers, were involved to protect their positions. Inquiries were made into the Ministry of Justice which proved to be a deck of cards that collapsed and cost the taxpayers approximately $3m.

To put the matter on the record for those who may one day read *Hansard*, in 1994, when the Ministry of Justice was in turmoil, a device was used by the then chief executive officer, with the consent of the then Attorney General, to establish a couple of administrative inquiries under section 9 of the Prisons Act. Those inquiries were supposed to be administrative in nature. However, they were extensive. Information and evidence was called under somewhat dubious circumstances. The information gleaned by the inquiries was handed over to the Director of Public Prosecutions, who subsequently used the information to charge nine or 10 prison officers and superintendents with a number of criminal offences.

They were charged under a blaze of publicity after television stations were alerted to the story. The officers were suspended and they remained on suspension on full pay for approximately 18 months, until the matter went to the District or the Supreme Court - I cannot recall which. The charges were brought by the DPP at great expense to the State. On one or two occasions a former prisoner was brought back from the United Kingdom to give evidence against the officers. After long first and second trials all the charges were thrown out. The third lot of charges were not proceeded with.

The charges were extraordinary. Officers were charged with assaulting a prisoner and with attempting to pervert the course of justice. The charges called into the court in the first instance were not the assault charges; they were the charges of attempting to pervert the course of justice. Rather than proving that an assault had taken place and moving on from there, an attempt was made to have the attempting to pervert the course of justice charge dealt with first, but it was thrown out.

That whole sorry episode, which not only cost a number of people a great deal of money but also caused personal hardship to them and their families was an appalling administration of justice in this State and a massive waste of taxpayers' funds, all designed to save the hide of the then Attorney General. One day, when there are two or three hours to spare in Parliament, we will go through that chapter and verse because that is on the public record, together with the way in which the Royal Commission into the City of Wanneroo has been duckshoved and not dealt with. I am pleased this amendment is being included because it could save a great deal of heartache for members of the prison service and certainly much money from being wasted.

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

Mr PRINCE: I move -

That amendment No 10 made by the Council be agreed to.

Mr BROWN: Will the minister advise why this new subclause is to be included?

Mr PRINCE: The provision is sought to be inserted to ensure that the minister, upon executing a contract, must table it in the Parliament within 30 days of the execution of the contract. That is clearly what it says and what it sets out to do. It sets out the usual provisions when Parliament is not sitting; otherwise the contract must be tabled.

Mr BROWN: What is intended in relation to the contract? There are ways of writing contracts. Some contracts are written with the detail contained in them; other contracts are written with heads of agreement.

Mr Prince: Documents with heads of agreement are not contracts.

Mr BROWN: Okay. However, some contracts are written in a concise form, with much of the detail being left to schedules or agreements beyond the form of the contract. Is this intended to be a comprehensive contract that is laid before the Parliament, so that the Parliament can see precisely all of its detail? I raise that because the tendency with some contracts is to refer to other documents, and sometimes attempts to obtain those other documents are not successful. Therefore, if it is the intention to make sure that the contract is comprehensive, that is fine; if it is the intention to give the appearance that the contract will be laid before the Parliament, but what is laid before the Parliament is a fairly thin document and other documents relating to it are not tabled, that is of limited value. Therefore, I seek advice on the Government's intention in this regard.

Mr PRINCE: Unlike when the member was in government and tabled nothing, it is our firm intention, and the Attorney General has gone on record -

Mr Brown: I have never been in government, so do not say that.

Mr PRINCE: I was referring to the member's side of politics. It is this Government's firm intention that the contract, together with, I am told, four schedules, will be tabled. That will include everything, including price, and any amendments that may be made from time to time.

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

Council's amendments Nos 11 and 12 agreed to.

Mr PRINCE: I move -

That amendment No 13 made by the Council be agreed to.

Mr McGINTY: Will the minister explain to the House why a different regime from that operating in prisons and other custodial facilities has been adopted in courts, including lockups in courts or custodial facilities in courts? In particular, I refer to the fetter on the Inspector of Custodial Services to access courts, or a custodial centre as part of the court premises. It is important from the point of view of the integrity of the independent Inspector of Custodial Services, as a statutory officeholder, that that person should not in any way be fettered in his access to custodial services. This has been done in the State's prisons whereby the Inspector of Custodial Services has a right of entry into a prison at any time without prior notice. However, when it comes to lockups in courts, for instance, or facilities in a court, this is a right which cannot be exercised without prior notice to the chief judicial officer of the court. I am referring to proposed clause 87 of the Bill, which is contained on page 11 of the Notice Paper. I would appreciate the minister's explaining why the Chief Justice, Chief Judge or Chief Stipendiary Magistrate must be given notice of the proposal by the Inspector of Custodial Services before that officer inspects the facilities, whereas the superintendent of a prison, for instance, including the State's maximum security prisons, is not required to be given such notice. I think it is appropriate that such notice should not be given. If we have a problem in our prisons, our lockups or our detention facilities in the courts, and if this new office bearer is to do his or her job properly, it seems that unfettered access at any time of the day or night, without prior notice to the person who is ultimately responsible for the state of that facility, is an important way to proceed.

Mr PRINCE: The prisons are an operation of the executive arm of Government in the broader sense - legislative, executive and judicial. Clearly, therefore, an inspector who is in that sense also part of the Executive, in that the Inspector of Custodial Services is not part of the legislative or judicial arms but is quasi-autonomous, a bit like the Auditor General, should have the right to march in without notice and should have full and free access. That is right and proper. However, when it comes to dealing across the divide with the separation of powers and going into the judicial area, although the judiciary-magistracy has welcomed an inspector without any problems - it is very much in favour of the concept of an Inspector of Custodial Services inspecting not only the places that it uses on a regular basis but also those that are used irregularly, such as circuit courts, so that standards can be maintained, uplifted and so on - the judiciary-magistracy quite reasonably says that the control of a court precincts and so forth is within the hands of the judiciary-magistracy and is not something over which the Executive should ride. Therefore, although the inspector is welcome to come - and clearly can come - as of right, the inspector must give notice.

Mr McGinty: It is a bit prissy, is it not?

Mr PRINCE: That is the member's word, not mine. It is perhaps a question of cigarette paper between two differences. I think it is simply acknowledging the fact that the judicial arm of the five arms of government is separate from the Executive. The inspectorate, if it is part of any arm of government, is part of the Executive. What it comes down to in common parlance is, "Yes, by all means come, but tell us when you are coming." I do not see a problem with that, and I do not see why notice should be given, whether the inspector is going into any one of the maximum security jails, minimum security jails or places which detain juveniles. I think that is perfectly legitimate, without any warning or notice. We could perhaps debate this backwards and forwards. That is the view of the judiciary, which is not unreasonable. It simply requires the investor to give warning, perhaps by facsimile, that he is coming.

Mr BROWN: Where is the provision that gives either a person working in a prison or a prisoner access to the inspector? There are provisions that give the inspector access to a person, but there do not appear to be any provisions which create a right for a prisoner or a prison worker to see the inspector.

Mr PRINCE: My adviser informs me that the main body of those provisions is in the Prisons Act. These amendments are not the totality of the provisions that relate to the Prisons Act, but only those that are deemed appropriate, relating to court custody centres, lockups and the transport of prisoners. By definition, they are places where people are there for only a transitory period. It was not thought to be necessary for a person in custody to be able to demand to see the Inspector of

Custodial Services. Obviously, an inspector or acting inspector inspecting the court detention centre at the Central Law Courts has right of access and the prisoner will be able to talk to the inspector.

My adviser reminds me that under the legislation, the inspector cannot deal with certain types of complaints from prisoners. The Inspector of Custodial Services is not intended to be a complaints authority in that sense. It is intended to be an organisation, body or person dealing with the accountability side inspecting something to see whether standards are complied with. The inspector talks to prisoners and workers so far as the task requires him to do so. If the inspector's role was broader and encompassed all sorts of other complaints, it would not only usurp other lines of authority, discipline and accountability, it would also be a bigger exercise.

Mr BROWN: I understand the Inspector of Custodial Services will not work as an ombudsman.

Mr Prince: Yes.

Mr BROWN: Therefore, if a prison worker or prisoner had a complaint about an individual, it would not be a matter for the inspector.

Mr Prince: I would expect that if it were raised with the inspector, he would note what was said and ensure that it was passed on.

Mr BROWN: It seems that the inspector's role is to look at standards, procedures and those types of things.

Mr Prince: It is more of an audit role.

Mr BROWN: That role can be done in three ways: Firstly, the inspector is psychic and can work it out without anybody telling him what is the problem. Presumably, the inspector will not have those powers. Secondly, the inspector goes into the prison and fossicks around trying to find things out or thirdly, he invites people to talk to him about those issues. Quite often, managerial problems are identified by people proffering information, not because management finds the information itself through great intellect.

Mr Prince: The member knows, as I do, that in the prison system, prisoners are wont to proffer information in copious quantities.

Mr BROWN: It seems that the provisions are deficient, unless there is a direct access provision in the Bill. People must have an opportunity to make a request to see the Inspector of Custodial Services and to convey their concerns. Those concerns may not fall within the purview of the inspector. That is fine; the inspector can make that decision and find accordingly. However, the inspector may believe that he or she should thoroughly examine those matters. Information provided about the United Nations General Assembly Resolution 43/173 of 9 December 1988 relates to this question. The principles enunciated by the United Nations state -

> 1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

Such as an inspector -

> 2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

Through the wording of that convention, it appears that there is not only a desire to have an independent inspector who can enter institutions, lockups and court custody centres to carry out an inspection, but also to go beyond that so that people in those centres, whether they be workers, prisoners or people held on remand, can seek to speak to that inspector. It cannot be a right of audience. However, there is no provision in the Bill that confers a right to request an audience with the inspector.

Mr PRINCE: A clause in the Prisons Amendment Bill states -

> (6) The Inspector shall not deal with a complaint or grievance concerning an individual other than to advise the complainant that the Inspector's functions do not relate to the matter or, if appropriate, to refer the matter to the Parliamentary Commissioner for Administrative Investigations.

The inspector's function is not to deal with individual grievances, although the inspector may carry out an inquiry or inspection as the result of information supplied by individuals, which triggers the functions of his office. The role of Inspector of Custodial Services does not exist to deal with individual problems. The prison system has visiting officers and justices of the peace to whom the prisoners take their individual grievances. Under the Prisons Act, prisoners are able to take a complaint about an officer to the ranking officer. Those complaints are dealt with in that way. I understand the member for Bassendean's point, but I think Western Australia complies with the United Nations convention because of the existing arrangements whereby prisoners can speak to justices of the peace. The inspector's office is not intended to cover that area. If it was intended to do that, it would subsume both those roles and become quite enormous. The Inspector of Custodial Service is intended to be an audit exercise. The inspector can act on information he has received, as well as on his own.

Mr BROWN: I understand what the minister is saying but I cannot conceive how one can carry out an audit function in that regard. It is one thing if an incident has occurred.

Mr Prince: The Auditor General does this all the time. He goes through a place to make sure all the procedures are in place and are complied with. He makes sure that the public accountability standards of any organisation are being complied with. The Auditor General does that without necessarily receiving a complaint.

Mr BROWN: Sometimes the Auditor General does an inspection without receiving a complaint and sometimes an inspection is done on the basis of a complaint, whether the complaint has substance or not. My point is that the inspector has a responsibility to bring an independent mind to the way the system is operating. We are talking about the way the system is operating, whether standards are being complied with and not what happened to an individual on a particular day. A prisoner may, if the opportunity exists, draw to the inspector's attention a variety of incidents which are all one-off, and the inspector may say, quite rightly, "These incidents are all one-off and are not for me but are for the Ombudsman."

Mr Prince: Nothing will prevent a prisoner from writing to the inspector in those terms.

Mr BROWN: The legislation is silent on that matter. There is nothing in the legislation to place an obligation on the inspector by saying he shall investigate all matters that are drawn to his attention by prisoners or prison workers, but there is an opportunity for prisoners or prison workers to draw to the inspector's attention matters of a systems or standards nature that fall within the role of the inspector. The inspector may dismiss those matters by saying they are one-off and should be dealt with elsewhere, and that is fine; the inspector can exercise his or her discretion to do that. However, my concern is that in the absence of a provision that invites comment from prisoners and prison workers, the office of inspector will be seen as an aloof position that stands above and looks down and does not seek input.

Mr Prince: I understand the point the member is making. Nonetheless, the inspector may invite comment.

Mr BROWN: The inspector may do that, but there is no obligation on the inspector to do that, and there is no inherent invitation to prisoners and prison officers to make comment to the inspector. If the inspector's role will be nothing more than a bit of icing on the cake and is not designed to do much, then I can understand why the minister wants to put a straitjacket around the inspector so that he does not look in great detail at a range of issues, particularly systems and standards issues. However, if this position is designed to have substance and to ensure that the standards and procedures that are laid down in the Act and regulations are complied with, then I cannot understand why there is not an invitation for prisoners and prison workers to comment on matters.

Mr PRINCE: I understand the point the member is making, but we do not necessarily need to provide a specific power for prisoners and prison workers to have access to the inspector, because the proposed amendments to the Prisons Act and the Court Security and Custodial Services Bill state under the heading "Functions of Inspector under this Act" that the inspector is to inspect each court custody centre and each lockup at least once every three years and prepare an inspection report on his findings, which may contain such advice or recommendations as the inspector considers appropriate. That places a positive obligation on the inspector, as detailed in what will hopefully become new clause 84 of this Bill, to do a range of things and report on them. In order to do that, the inspector must have access to the people who work or are detained in the prison. That means that those people will have the opportunity to make comments to the inspector; and whether they do that orally or in writing is for the inspector to determine. The inspector may, in order to discharge his or her functions under the Act, say, "I invite people to contact me to air their complaints." I do not intend to dictate how the inspector shall carry out his job, but that is one way of doing it, particularly to get matters going. Presumably there will need to be a routine of inspections if the inspector is to inspect each prison every three years, but the inspector will also have the power to inspect a prison without warning if he or she suspects that something is wrong at that prison. That suspicion will arise only if information has been provided from a prisoner or prison worker, or someone else; for example, the Coroner. If there has been a death in custody, the Coroner may make an investigation and report findings, and the inspector may inspect a prison as a result of that investigation. All sorts of triggers can send an inspector into a particular prison other than to conduct the routine inspection that is required once every three years. People who are detained or work in a prison will in no way be prohibited or restricted from making their views known to the inspector, either as attributed to them or anonymously.

Mr BROWN: If the intention is that prisoners and people who work in the system can openly communicate with the inspector on matters without being asked and can proffer advice and information, why is that not made clear in the legislation? Why is it left silent?

Mr Prince: Why should it be?

Mr BROWN: It is a matter of whether we want a top-down or bottom-up approach. This tends to suggest that the minister wants a top-down approach.

Mr Prince: I disagree.

Mr BROWN: Nothing in this legislation invites the people below to participate, unless the inspector in his or her wisdom decides to approach those people. Other than that, how will they be able to get across to the inspector their view that a certain situation in the prison is wrong? What if the inspector is not looking at that matter? It seems to me that this provision is included because of a deal that has been done between the Government and the Australian Democrats. The Government was keen to get its legislation through. It could not get its legislation through in the other place, so it copped this office of inspector. It did not particularly want it and it was not part of its original Bill, but the price of getting its legislation through was to accept this provision. I get the impression that the Government has gritted its teeth and said, "If this is the only way we can get the legislation through this place, we will put this provision in the Bill grudgingly, but we will craft it very carefully so that the effectiveness of the office will be limited."

By making that aspect silent, the Government limits the breadth of the matters that the inspector will look at, because the

inspector will have to rely on his or her own judgment when trying to sort out the issues rather than being given the information by people in the system. In some ways it is analogous to the CRS Australia occupational safety and health inspector. If one asks workers if they know when the inspector from the department is to come around, they will say yes they know. If one asks whether a circular is put out or they are told, they will say they do not get a circular and they are not told. If one asks how they know, they will say that all the lines on the floor are remarked, the warning signs about wearing safety glasses and helmets and so on go up, and the first aid box is updated. When all those things happen, someone says that he bets the inspector is coming. Sure enough, two weeks later the inspector arrives and the whole place is given a clean bill of health. It is a joke, and everybody knows it and plays the little pantomime that has been going on for many years. If that is the intent of this legislation, because basically the Government has got caught with the problem, does not really like it but thinks that if it must spend a few extra dollars as the price of getting the legislation through, so be it. I hope that is not the case. I hope that the Government is seeking to do something more. From my reading of the Bill, I do not see that. I do not see the minister's objection to what I am saying as being a good reason for not looking at an amendment. If people are to participate in this process, why not invite them to participate?

Mr PRINCE: If the member is of that mind and thinks that the Bill is devious and that people wish to obfuscate and make things appear to be something other than they are - it never occurred to me - he would write the Bill in that fashion. Nothing in the legislation prevents anybody from contacting the inspector; it is entirely to the contrary. The inspector has free access to everybody and has powers which say that a person shall not hinder, resist or threaten the inspector and so on. One would not expect to see those sorts of powers in the Bill if one was not trying to set up an inspector with free and open access, absolute right and power and so on. If he has access to prisoners, the prisoners have access to him. That follows as a matter of logic. Prisoners can contact him whenever they wish. He is an auditor and not a complaints authority. Complaints authorities are already in existence in the prison system. We are not talking about that; we are talking about court security, the detention centre in a court, in which people do not usually spend a long time, and the transport of people to and from court. People do not spend a long period in these places. If a person wants to make a complaint, he will do so. If he wishes to make a complaint against a particular officer, for example a police officer, he can do so immediately, usually to the next rank up, and then the whole investigative process and procedure comes into play. When the service is contracted out, a similar system will apply.

The inspector is not there to deal with matters of complaint. Obviously they could trigger his interest to inspect processes, procedures and so on, if they are clearly not being complied with and attended to properly. However, to somehow suggest that something is wrong with the legislation because it was the subject of negotiation with the Australian Democrats and because it has been carefully crafted by parliamentary counsel to do what it says it does, namely to set up an autonomous and largely independent inspectorate of custodial services, is real fiction. It is whistling in the wind by the member for Bassendean. The powers of the inspector are such that anybody will be able to get to the inspector if he wishes to in order to make his view known. I do not accept what the member is saying. It may be that the member is capable of that rather devious train of thought, but it did not occur to us. We are simply trying to comply with our agreement with the Australian Democrats and come up with a good idea. There it is in legislation. Even the Chief Justice agrees with it.

Mr BROWN: I am sorry if I appear to be somewhat cynical, but other legislation has come before the Parliament with the Government's saying that it will achieve an outcome, when it has achieved a different outcome.

Mr Prince: Intentionally or otherwise?

Mr BROWN: Absolutely intentionally. That is why I look at the words very closely. For example, the Government said during the 1993 election campaign that people would be better off under its industrial relations legislation, but a report from the Workplace Agreements Commissioner indicates that 25 per cent are worse off. We said at the time that the legislation was deficient in that it did not provide protection. We were told that we were wrong. The legislation was guillotined through this place. The Legislative Assembly sat late and members argued about the legislation. We were told we were wrong, stupid and did not know what we were talking about. However, today we are right. The only problem is that it is now six years later when lives are being destroyed. Therefore, when we are told that something is not in the legislation but it is the intent, the minister will appreciate we have some cynicism about it.

Mr Prince: You are taking it too far. If you give an outside body access, clearly people on the inside have access to it. We are talking about courts, detention centres attached to them and the transport of people to and from courts. If the inspector has access to the courtroom on notice to the judiciary, to the detention centre on notice to the judiciary and to any form of transport at any time without notice to anybody, the people who are there at any time have access to the inspector. You are a great conspiracy theorist. You would make a good novelist.

Mr BROWN: I have learnt in this place to be very distrustful.

Mr Prince: How sad.

Mr BROWN: It is, because people say one thing but the fact is different.

Mr Prince: I am not talking about your caucus room but the legislation.

Mr BROWN: I am talking about what government ministers have told us and what they claim to be facts, which we find out later are not. The problem is that we find out much later because it takes a while for a lot of the facts to be shown up in the system. Obviously, the minister will not change his position. He has his riding instructions from the bloke in the other place, so very little can be done other than to simply put it on the record. I will be very interested to see the way this office operates. Perhaps I will be pleasantly surprised. I will be interested to see whether it is an office of substance or of gloss. At the moment, the way I read the wording, it is a bit of an office of gloss, except of course that it will cost the taxpayer some dollars to set up.

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

The Council acquainted accordingly.

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL 1998

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No 1.

Clause 7, page 5, line 11 - To delete "means a lock-up as defined in" and substitute "includes a place prescribed as a lock-up for the purposes of".

No 2.

Clause 29, page 18, line 11- To delete "means a lock-up as defined in" and substitute "includes a place prescribed as a lock-up for the purposes of".

No 3.

Clause 33, page 20, line 11 - To delete "means a lock-up as defined in" and substitute "includes a place prescribed as a lock-up for the purposes of".

No 4.

Clause 35, page 21, lines 16 to 21 and page 22, lines 1 to 3 - To delete the lines and substitute the following -

(1) Section 16(5) is repealed and the following subsection is inserted instead -

" (5) The chief executive officer may allow a prisoner to serve all or part of the prisoner's sentence of imprisonment in a lock-up if approval to do so has been given -

(a) in the case of a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1998*, by the CEO as defined in that Act; or

(b) in the case of any other lock-up, by the Commissioner of Police. ".

(2) Section 16(7) is repealed and the following subsection is inserted instead -

" (7) The chief executive officer may allow a person required to serve a period of imprisonment in default of a payment of a fine or other monetary penalty to serve that period of imprisonment in a lock-up if approval to do so has been given -

(a) in the case of a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1998*, by the CEO as defined in that Act; or

(b) in the case of any other lock-up, by the Commissioner of Police. ".

Mr PRINCE: I move -

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

This comes back to the issue of the prescribed lockups. Not all lockups are covered by this legislation; it applies only to those that are from time to time prescribed for that purpose. We will start with the court detention centre at the Central Law Courts and, over a two-year period, cover most of the major lockups in the metropolitan area, and hopefully those in the country. That is why we need amendments Nos 1, 2 and 3.

Mr BROWN: Is a prescribed lockup intended to be those places from which security contractors will operate?

Mr Prince: Yes. For example, a lockup at Kalgoorlie that is part of the police station may be prescribed for the purposes of the contract at some future date within the next two or two and a half years. It then comes under ambit of this legislation but not otherwise.

Mr BROWN: Will that also include lockups for juvenile offenders?

Mr PRINCE: The member has pushed the wrong button. This is something about which I have very strong views. There are no juvenile lockups, but there should be, and I have said that for 25 years. Juveniles are kept in police lockups. In the sense that a juvenile is arrested and held in custody for a short period, there is nothing wrong with that because there is no reason to have some other facility to hold a person for an hour or two. If the system could then be made to work so the juvenile was out of that facility and into court and bailed, there would be no problem. If, as unfortunately too often is the case, such juveniles are not bailed and they are in a country area, they are transported at huge expense to Banksia Hill

Detention Centre and held before appearing in court at a later date. As a practising lawyer, that was the bane of my life. The same applies to women in other than Kalgoorlie, Geraldton and Roebourne, which have prisons that can take them on remand. In other places, women offenders must come to Perth and be held at Bandyup Women's Prison. The Attorney General and I want facilities in major country centres - Bunbury, Albany, Kalgoorlie, Geraldton, Broome and Port Hedland - so that women and juveniles can be held as near as possible to home rather than be carted the length and breadth of the State. There is no such thing as a juvenile lockup.

Mr BROWN: I raise that issue because I had an experience recently with a constituent whose house was broken into by a couple of juveniles. She was able to give the police, who arrived quickly, a good description of the offenders. They scoured the area and within an hour had arrested the juveniles, who were then taken back to the police station. However, an hour after that they were back at the woman's place harassing her. When we met with the police officers and the woman concerned questions were asked about how this occurred. The officers indicated that there was a weakness in the legislation and that it needed to be resolved.

Mr Prince: Not in this legislation.

Mr BROWN: No. I indicated to them that I had participated in a debate in this place on the amendments to the Bail Act and pointed out that under that Act juveniles can be released only to a responsible adult. One of the officers said that they cannot distinguished who is responsible and who is not.

Mr Prince: That is a cop-out.

Mr BROWN: Be that as it may, the officers said that they were on afternoon shift and had two cars. They picked up the young offenders and had two choices: First, they could bail them; or, second, they could be transferred to Banksia Hill Detention Centre. If that had happened, they would have had a car out of action for two hours.

Mr Prince: Yes.

Mr BROWN: It was for administrative reasons that the decision was made to bail them rather than any deficiency in the law. Where there are lockups, particularly 24-hour lockups, is it intended to have facilities for holding juveniles as well as adults? I understand the minister is looking at 24-hour lockups as they relate to the private security operators and their responsibilities.

Mr PRINCE: I am a little disappointed in the answer given by the police officers. If their judgment was that these characters were such a problem that they would harass the complainant, they should never have released them on bail. One could argue an error of judgment - they should have not been released. After all, the first function of police officers is to ensure community safety and security, not to let people go if they believe this type of offence might be committed. I do not know the individuals involved - the police officers or the miscreants - but, for the offenders to have the hide to confront the complainant, I suspect they have a fair record or come from a family with a criminal history. That would be the normal pattern. In that case, I suggest the police officers have probably erred somewhat in their judgment. They should have taken them to the Banksia Hill facility. If it is necessary to use a car and, in a sense, some officers to do that, so be it. That is what they are paid to do. That is the price of taking these youngsters off the street. If that judgment is made with regard to bail for purely administrative reasons, they are disobeying the law. That is not what the Bail Act, or the instructions, or any form of proper interpretation should require. If I can find out who they are, I will tell them.

We should pass this Bill and get the contractor in. That will result in more police being on the street and more vehicles being available, but not to cart people to the Banksia Hill facility, because the contractor will do that. We will have more people to arrest the miscreants, the juveniles, to take them to a lockup and to exercise the right decision with regard to bail. If the judgment is that bail should not be granted, the contractor will take them to the Rangeview Remand Centre or the Banksia Hill facility. I would be surprised if that decision was made solely on administrative grounds. It is entirely human for people to seek not to admit that they have made the wrong call and to find some other reasonable excuse for their having made the decision. By the sound of it, it may not have been the right decision; although, to give the officers their due, they may not have had any information to suggest that these two would behave in that way once they were released on bail.

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

Council's amendments Nos 2 and 3 agreed to.

Mr PRINCE: I move -

That amendment No 4 made by the Council be agreed to.

Mr BROWN: This amendment deals with the power of a chief executive officer to allow a prisoner to serve all or part of his or her sentence at a prison and a lockup. I am aware that that has been the practice for some time, not just for safety reasons for the prisoner but also for the convenience of the police, as well as having a "trusty" - I think that is the word that was used - around the place, or some such thing. What is the change in this amendment? Why is it here in this form?

Mr PRINCE: As it stands, the sentenced prisoner is a "trusty". For a police lockup, the Commissioner of Police authorises that decision. The last time I was at the facility at Joondalup, two prisoners were living quite comfortably in a couple of cells with the doors open and they used a nice little kitchen. They do a lot of little jobs around the place. It benefits their welfare. These people would have difficulty existing in the ordinary prison population for a variety of reasons, but otherwise they can be trusted to serve out their time in a place such as that. If the Joondalup lockup became the subject of the contract, to have these trusty prisoners there, the chief executive officer, not the Commissioner of Police, would have to consent, because

it ceases to be a lockup in the control of the commissioner. To perpetuate the same system, it is necessary to bring in these amendments so that the CEO can allow the prisoner to serve a sentence where the lockup is not under the jurisdiction of police officers.

Mr BROWN: This was not contained in the original Bill.

Mr PRINCE: It was an anomaly that was discovered afterwards. It occurred upon further review of this legislation and the Prisons Act as a matter that could arise.

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

The Council acquainted accordingly.

SENTENCE ADMINISTRATION BILL

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No 1.

Clause 4, page 3, after line 7 - To insert the following definitions -

"early release order" means -

(a) a parole order;

(b) a home detention order;

(c) a work release order;

"home detention order" ("HDO") means a home detention order made under Part 5;

No 2.

Clause 4, page 3, after line 13 - To insert the following definition -

"work release order" ("WRO") means a work release order made under Part 4.

No 3.

Clause 4, page 3, after line 16 - To insert the following -

"HDO" for home detention order;

No 4.

Clause 4, page 3, after line 18 - To insert the following -

"WRO" for work release order.

No 5.

Clause 8, page 6, after line 21 - To insert the following subclause -

(3) A term does not elapse while a prisoner is not in lawful custody unless this Act or another written law provides otherwise.

No 6.

Clause 10, page 7, line 3 - To delete "a parole order" and substitute "an early release order".

No 7.

Clause 27, page 18, lines 6 and 7 - To delete "the effect of section 45 and the general effect of Divisions 12 and 13" and substitute "the general effect of Divisions 2, 3 and 4 of Part 6".

No 8.

Clause 28, page 18, lines 14 to 16 - To delete "the effect of section 45 and the general effect of Divisions 12 and 13' and substitute "the general effect of Divisions 2, 3 and 4 of Part 6".

No 9.

Part 3, Division 9, clauses 36 and 37, page, 23, lines 3 to 24 - To delete the Division.

No 10.

Clause 41, page 24, line 22 to page 25, line 4 - To delete the clause.

No 11.

Clause 42, page 25, lines 8 to 11 - To delete the lines and substitute the following lines -

(2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a parole order if, during the parole period, the prisoner is charged with or is convicted of an offence.

No 12.

Clause 44, page 26, line 5 - To delete the word "was" and substitute the word "is".

No 13.

Clause 45, page 26, lines 8 to 29 - To delete the clause.

No 14.

Part 3, Division 12, clauses 46, 47 and 48, page 27, line 1 to page 29, line 4 - To delete the Division.

No 15.

Part 3, Division 13, clauses 49, 50 and 51, page 29, line 5 to page 31, line 14 - To delete the Division.

No 16.

Clause 52, page 31, after line 24 - To insert the following paragraph -

(c) under Division 10 the order is suspended and the suspension is not cancelled by the Board within 30 days afterwards; or

No 17.

Clause 52, page 32, line 1 - To delete "section 40, 41 or 42" and substitute "Division 11".

No 18.

Clause 52, page 32, line 5 - To insert after "section 43" the words "or 45".

No 19.

Clause 54, page 34, line 5 - To insert after "is released" the "or, if the offender is subject to a WRO or HDO, after the end of the period of the order".

No 20.

Clause 54, page 34, lines 10 and 11 - To delete the lines.

No 21.

Clause 55, page 34, line 17 - To insert after the word "unless" the following -

-

(a)

No 22.

Clause 55, page 34, line 19 - To insert after the word “offender” the following words -

; or

(b) when the prisoner is released, he or she will be subject to a parole order made in respect of another term.

(2) If -

(a) an offender is serving a fixed term, or an aggregate of fixed terms, of at least 24 months; and

(b) none of the terms is a parole term,

the CEO must make an RPO in respect of the offender unless -

(c) the CEO considers that such an order is not warranted for the offender;

(d) when the prisoner is released, he or she will be subject to a parole order made in respect of another term.

No 23.

Clause 59, page 38, lines 6 and 7 - To delete "a parole order" and substitute "an early release order".

No 24.

Clause 60, page 39, line 1 - To delete the word "who" in the second place where it occurs.

No 25.

Clause 60, page 39, line 2 - To delete the word "who".

No 26.

Clause 60, page 39, line 3 - To delete the word "who".

No 27.

Clause 61, page 40, line 8 - To insert after "parole order" the words "or a WRO".

No 28.

Clause 61, page 40, line 11 - To delete "cancelled under Part 3" and substitute "suspended or cancelled under Part 3 or 4 (as the case may be)".

No 29.

Clause 61, page 40, after line 11 - To insert the following new paragraph -

(c) if the offender is subject to an HDO, report the matter to the CEO and recommend that the order be suspended or cancelled under Part 5;

No 30.

Clause 62, page 41, line 7 -To delete "a parole order" and substitute "an early release order".

No 31.

Clause 62, page 41, line 21 - To delete "supervision period of a parole order" and substitute "the period of an early release order".

No 32.

Clause 62, page 42, line 7 - To insert after "parole order" the words "or a WRO".

No 33.

Clause 62, page 42, after line 10 - To insert the following new paragraph -

(c) in relation to an HDO - means the requirement to do the prescribed number of hours of community corrections activities in each period of 7 days;

No 34.

Clause 66, page 44, lines 1 to 4 - To delete the lines.

No 35.

Clause 67, page 45, lines 6 and 7 - To delete "a parole order" and substitute "an early release order".

No 36.

Clause 78, page 52, lines 6 and 7 - To delete "parole orders" and substitute "early release orders".

No 37.

Clause 81, page 53, line 11 - To insert after "parole order" the words "or a WRO".

No 38.

Clause 93, page 57, line 23 - To insert after "parole order" the words "or a WRO".

No 39.

Clause 95, page 58, line 18 - To insert after "parole order" the words ", a WRO".

No 40.

Clause 96, page 59, line 2 - To insert after "parole orders" the words ", to WROs".

No 41.

Clause 96, page 59, line 3 - To delete the word "parole" and substitute the word "those".

No 42.

Clause 99, page 60, line 11 - To delete "Part 2, 3, 4 or 5" and substitute "Parts 2 to 8".

No 43.

New Division, page 24, after line 14 - To insert the following new Division -

Division 10 - Suspension of parole orders (supervised)

38. Suspension by CEO during supervised period

(1) The CEO may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.

(2) Written notice of the decision to suspend is to be given by the CEO to the Board within 3 working days after the decision and in any event before the end of the supervised period.

(3) The written notice must include reasons for the decision.

39. Suspension by Board during supervised period

The Board may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.

40. Period of suspension

(1) If under section 38 the CEO, or under section 39 the Board, suspends a parole order (supervised), the Board is to set the period of suspension.

(2) The period of suspension may be for a fixed or indefinite period, as the Board thinks fit.

(3) The Board may cancel the suspension of a parole order (supervised) at any time before the suspension period ends.

41. Suspension, effect on other parole orders

When a parole order (supervised) is suspended any parole order applicable to the prisoner when the order is suspended, including a parole order (unsupervised), is suspended by virtue of this section, irrespective of whether it had taken effect or not.

42. Prisoner to be notified

(1) If under this Division a parole order (supervised) is suspended, written notice of the decision to suspend is to be given by the Board to the prisoner as soon as practicable after he or she is returned to custody.

(2) The written notice must -

(a) subject to section 126, include the reasons for the decision; and

(b) inform the prisoner of his or her right to make submissions under subsection (3).

(3) A prisoner whose parole order has been suspended may make written submissions to the Board about the decision and reasons (if any are supplied).

No 44.

New Parts 4, 5 and 6, page 33, after line 13 - To insert the following new Parts -

Part 4 — Work release order

49. Certain prisoners may apply to Board for WRO

A prisoner may apply to the Board to be released under a work release order ("WRO") if -

(a) he or she is at least 17 years old;

(b) he or she is not serving a life term or indefinite imprisonment;

(c) he or she is not a person referred to in section 14(1);

(d) at the release date that would be specified in the WRO if it were made, he or she will have been in custody under sentence for a continuous period of at least 12 months; and

(e) within 6 months after the release date that would be specified in the WRO if it were made, he or she would in any event be eligible for release (whether under a parole order or not).

50. CEO to report to Board about WRO applicants

(1) The CEO must report to the Board about every prisoner who applies to be released under a WRO.

(2) A report by the CEO under subsection (1) must be given to the Board as soon as practicable after a prisoner applies to be released under a WRO.

(3) A report by the CEO under subsection (1) must report about the risk that the release of the prisoner under a WRO will or may pose to the personal safety of people in the community or of any individual in the community.

51. Board may make WRO

(1) The Board must consider the case of every prisoner who applies to be released under a WRO and may, in respect of such a prisoner -

(a) make a WRO;

(b) defer the making of a WRO; or

(c) refuse to make a WRO.

(2) The Board must not make a WRO in respect of a prisoner unless satisfied that the prisoner is a person whose release would pose a low risk to the personal safety of people in the community or of any individual in the community.

(3) Except with the prior approval of the Governor, a WRO must not be made in respect of a prisoner serving a fixed term, or an aggregate of fixed terms, of more than 15 years.

(4) A WRO may relate to more than one term.

(5) The fact that an RPO may be made in respect of a prisoner does not prevent a WRO being made in respect of the prisoner.

52. Prisoner to be notified of refusal to make WRO

(1) If the Board refuses to make a WRO, written notice of the decision is to be given by the Board to the prisoner as soon as practicable.

(2) The written notice must -

(a) subject to section 126, include the reasons for the decision; and

(b) inform the prisoner of his or her right to make submissions under subsection (3).

(3) A prisoner whose release on a WRO has been refused may make written submissions to the Board about the Board's decision and the reasons for it (if any are supplied).

(4) The Board must consider the submissions and may make a further decision under section 51.

53. WRO, nature of

(1) A WRO is an order that on a release date specified in the order a prisoner is to be released if he or she -

(a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;

(b) gives a written undertaking that while the WRO is in force he or she will comply with -

(i) the standard obligations in section 54; and

(ii) any additional requirements imposed by the Board under section 55.

(2) A WRO ceases to be in force when the period of the WRO ends, or when it is cancelled, whichever happens first.

(3) The period of a WRO is the period -

(a) beginning on the day when the prisoner is released under the WRO; and

(b) ending on the first to occur of -

(i) the release date in a parole order made in respect of the prisoner;

(ii) the date when under section 93 or 95 of the *Sentencing Act 1995*, the prisoner must be released.

(4) A prisoner who is released under a WRO is nevertheless still subject to the sentence or sentences of imprisonment to which the WRO relates.

54. WRO, standard obligations

The standard obligations of a WRO are that the prisoner -

(a) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;

(b) must -

(i) seek or engage in gainful employment or in vocational training; or

(ii) engage in gratuitous work for an organization approved by the CEO;

(c) must not leave the State;

(d) must not change address or place of employment without the prior permission of a CCO; and

(e) must comply with section 88.

55. WRO, additional requirements

(1) The Board may impose such additional requirements as it thinks fit on a WRO.

(2) Without limiting the generality of subsection (1), additional requirements may include -

(a) requiring the prisoner to wear any device for monitoring purposes;

(b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes.

56. Prisoner's undertaking

(1) A prisoner must give the written acknowledgment and undertaking required by section 53 on or before the release date specified in the WRO and if he or she does not, the WRO is to be taken as having been cancelled.

(2) If a WRO is cancelled by the operation of subsection (1) and the prisoner subsequently gives the Board written notice that he or she is prepared to give the required written acknowledgment and undertaking, the Board, if it thinks fit, may then make a WRO.

57. Prisoner may be paroled or returned to custody after WRO

(1) The making of a WRO does not affect the operation of Part 3, and in particular Division 4 of that Part.

(2) If under Division 4 of Part 3 the Board refuses to make a parole order, or if a prisoner subject to a WRO refuses to be released on parole or to give the written acknowledgment or undertaking, or both, required by a parole order, the Board may cancel the WRO.

58. Suspension by Board or CEO

(1) The Board or the CEO may suspend a WRO at any time during the period of the order.

(2) The period of suspension may be for a fixed or indefinite period as the Board or the CEO (as the case may be) thinks fit.

(3) Without limiting subsection (1), if a prisoner subject to a WRO is charged with or convicted of an offence, or if the CEO is satisfied that a prisoner has failed to comply with a requirement of a WRO, the CEO may do either or both of the following -

(a) suspend the WRO;

(b) refer the prisoner's case to the Board for consideration.

(4) If the CEO suspends the WRO of a prisoner who is charged with an offence the CEO must, when the charge has been determined -

(a) if the prisoner is not convicted of the charge - lift the suspension; or

(b) if the prisoner is convicted of the charge -

(i) cancel the suspension;

(ii) suspend the order for a further period; or

(iii) refer the prisoner's case to the Board for consideration.

(5) If the CEO suspends a WRO for a fixed period of one month or more, or if an indefinite suspension extends for a month, the CEO must refer the prisoner's case to the Board to consider.

(6) If the CEO suspends a WRO and the prisoner's case is not referred to the Board, the CEO may cancel the suspension of the WRO at any time before the suspension ends.

(7) If the Board suspends a WRO, it may cancel the suspension at any time before the suspension ends.

(8) If the case of a prisoner is referred to the Board, the Board may vary the suspension period of or cancel the CEO's suspension order, or cancel the WRO.

59. Suspension, prisoner to be notified

Written notice of a decision to suspend a WRO is to be given by the Board or the CEO (as the case may be) to the prisoner as soon as practicable.

60. Cancellation by Board

(1) The Board may cancel a WRO at any time during the period of the order.

(2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a WRO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

61. Cancellation, prisoner to be notified

(1) If a WRO is cancelled, written notice of the decision to cancel is to be given by the Board to the prisoner as soon as practicable.

(2) The written notice must, subject to section 126, include the reasons for the decision.

Part 5 - Home detention order

62. Certain prisoners may apply to CEO for HDO

(1) A prisoner may apply to the CEO to be released under a home detention order ("HDO") if -

(a) the term or terms that he or she is serving or is yet to serve are not parole terms;

(b) the term, or aggregate of terms, that he or she is serving or is yet to serve is not more than 12 months; and

(c) at the release date that would be specified in the HDO if it were made -

(i) he or she would have served two thirds of the term or the aggregate of terms (as the case may be); and

(ii) there would be at least one month of the term or the aggregate of terms (as the case may be) left to be served.

(2) For the purposes of this section, to calculate the length in days of two thirds of a term -

(a) determine the dates on which the term as imposed by the court will begin and end and then express the term as a number of days ("T");

(b) then divide T by 3 and disregard any remainder; and

(c) then subtract that result from T.

63. CEO may make HDO

(1) The CEO must consider the case of every prisoner who applies to be released under an HDO and may, in respect of such a prisoner -

(a) make an HDO; or

(b) refuse to make an HDO.

(2) In deciding whether to make an HDO, the CEO must have regard to -

(a) the nature and circumstances of the offence for which the prisoner is imprisoned;

(b) the degree of risk that the release of the prisoner appears to present to the personal safety of people in the community or of any individual in the community; and

(c) the views of other people residing at the place where it is proposed the prisoner will remain while subject to the HDO.

(3) Subsection (2) is a directory provision only and a breach of that subsection does not affect any issue relating to the lawfulness of the release of a prisoner under an HDO.

(4) An HDO may relate to more than one term.

(5) The fact that an RPO may be made in respect of a prisoner does not prevent an HDO being made in respect of the prisoner.

64. HDO, nature of

(1) An HDO is an order that on a release date specified in the order a prisoner is to be released if he or she -

(a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;

(b) gives a written undertaking that while the WRO is in force he or she will comply with -

(i) the standard obligations in section 65; and

(ii) any additional requirements imposed by the CEO under section 66.

(2) An HDO ceases to be in force when the period of the HDO ends, or when it is cancelled, whichever happens first.

(3) The period of an HDO is the period -

(a) beginning on the day when the prisoner is released under the HDO; and

(b) ending on the day when the prisoner would have been released under section 93 or 95 of the *Sentencing Act 1995* had he or she not been released under the HDO.

(4) A prisoner who is released under an HDO is nevertheless still subject to the sentence or sentences of imprisonment to which the HDO relates.

65. HDO, standard obligations

(1) The standard obligations of an HDO are that the prisoner -

(a) must remain at and not leave the place specified in the HDO except as provided by subsection (2);

(b) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;

(c) must not leave the State; and

(d) must comply with section 88.

(2) A prisoner may only leave the place specified in an HDO -

(a) to do the community corrections activities referred to in subsection (1);

(b) to work in gainful employment approved by a CCO;

(c) with the approval of a CCO, to engage in vocational training;

(d) with the approval of a CCO, to seek gainful employment;

(e) to obtain urgent medical or dental treatment for the prisoner;

(f) for the purpose of averting or minimizing a serious risk of death or injury to the prisoner or to another person;

(g) to obey an order issued under a written law (such as a summons) requiring the prisoner's presence elsewhere;

(h) for a purpose approved of by a CCO; or

(i) on the order of a CCO.

66. HDO, additional requirements

(1) The CEO may impose such additional requirements as he or she thinks fit on an HDO.

(2) Without limiting the generality of subsection (1), additional requirements may include -

(a) requiring the prisoner to wear any device for monitoring purposes;

(b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner is required by the HDO to remain for monitoring purposes.

67. CCO's powers in relation to home detention

(1) A CCO may give such reasonable directions to a prisoner subject to an HDO as are necessary for the proper administration of the order including, without limiting the generality of the foregoing, directions as to -

(a) when the prisoner may leave the place where he or she is required by the order to remain;

(b) the period of any authorized absence from the place where he or she is required by the order to remain;

(c) when the prisoner must return to the place where he or she is required by the order to remain;

(d) the method of travel to be used by the prisoner during any absence from the place where he or she is required by the order to remain; and

(e) the manner in which the prisoner must report his or her whereabouts.

(2) To ascertain whether or not a prisoner is complying with an HDO, a CCO may, at any time -

(a) enter or telephone the place where the prisoner is required by the order to remain;

(b) enter or telephone the prisoner's place of employment or any other place where the prisoner is permitted or required to attend; or

(c) question any person at any place referred to in paragraph (a) or (b).

(3) A person must not -

(a) hinder a person exercising powers under subsection (2); or

(b) fail to answer a question put pursuant to subsection (2)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: $12 000 or imprisonment for 12 months or both.

68. Amendment by CEO

(1) The CEO may amend an HDO at any time by -

(a) substituting a different place for the place where a prisoner is required by the HDO to remain;

(b) amending or revoking any of the additional requirements imposed on the HDO; or

(c) imposing additional requirements or further additional requirements on the HDO.

(2) Written notice of a decision to amend an HDO is to be given by the CEO to the prisoner as soon as practicable.

69. Suspension by CEO

(1) The CEO may suspend an HDO at any time during the period of the order.

(2) The period of suspension may be for a fixed or indefinite period as the CEO thinks fit.

(3) Written notice of a decision to suspend an HDO is to be given by the CEO to the prisoner as soon as practicable.

(4) The CEO may cancel the suspension of an HDO at any time before the suspension ends.

70. Cancellation by CEO

(1) The CEO may cancel an HDO at any time during the period of the order.

(2) Without limiting subsection (1) or affecting the operation of section 73 the CEO may cancel an HDO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

(3) Written notice of the decision to cancel is to be given by the CEO to the prisoner as soon as practicable.

(4) Subject to section 126, the written notice must include reasons for the decision.

Part 6 - Provisions applicable to early release orders

Division 1 - General

71. Period of early release order counts as time served

(1) If during the period of an early release order, other than a parole order (unsupervised) -

(a) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period); and

(b) the early release order is not cancelled,

then the period of the early release order is to be taken as time served in respect of the term or terms to which the early release order relates.

(2) If during the parole period of a parole order (unsupervised) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period), then the parole period of the parole order is to be taken as time served in respect of the term or terms to which the parole order relates.

72. Prisoner under sentence until discharged

(1) Subject to this Part, a person sentenced to imprisonment and released under an early release order remains under and subject to that sentence until discharged from it.

(2) Subject to this Part, a person sentenced to imprisonment is discharged from the sentence -

(a) if released under a parole order - at the end of the parole period;

(b) if released under a WRO - at the end of the period of the WRO unless the sentence is a parole term;

(c) if released under an HDO - at the end of the period of the HDO.

(3) Subsections (1) and (2) do not affect the operation of section 71 and Divisions 2 and 3.

Division 2 - Automatic cancellation

73. Cancellation automatic if prisoner imprisoned for offence committed on early release order

(1) If a prisoner, while subject to an early release order, commits an offence (in this State or elsewhere) and is sentenced to imprisonment for that offence -

(a) any early release order applicable to the prisoner when the offence was committed is cancelled by virtue of this section; and

(b) any early release order made in respect of the prisoner on or after the date on which the offence was committed and before the sentence of imprisonment was imposed is cancelled by virtue of this section, irrespective of whether it had taken effect or not.

(2) For the purposes of subsection (1) it does not matter if the sentence of imprisonment for the offence committed while subject to the early release order is imposed on the prisoner -

(a) after the period of the order; or

(b) after the date when, but for the cancellation of the order by virtue of subsection (1), the prisoner would have served or be taken to have served the term to which the order relates.

Division 3 - Consequences of suspension and cancellation

74. Suspension, effect of

(1) If an early release order in respect of a prisoner serving a fixed term is suspended, the prisoner is then liable to resume serving the fixed term in custody and, unless the suspension ceases or the early release order is cancelled, is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.

(2) If an early release order in respect of a prisoner serving a life term is suspended, the prisoner is then liable to resume serving the life term in custody.

(3) The suspension of an early release order ceases at the end of the suspension period or when before then the suspension is cancelled.

(4) When the suspension of an early release order ceases, the early release order and any other early release order taken to be suspended again have effect unless during the period of suspension the early release order was itself cancelled.

(5) Nothing in this section prevents another early release order being made under this Act in respect of a prisoner.

75. Cancellation, effect of

(1) If an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the fixed term in custody and is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.

(2) If a parole order in respect of a prisoner serving a life term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the life term in custody.

(3) If a parole order in respect of a prisoner serving indefinite imprisonment is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the indefinite imprisonment in custody.

(4) If a parole order in respect of a person referred to in section 14(1) is cancelled after the person is released under the order, the person is liable to be again kept in strict or safe custody at the Governor's pleasure.

(5) Subject to Division 4, this section does not prevent another early release order being made in respect of a prisoner.

76. Returning prisoner to custody

(1) When an early release order is suspended or cancelled, the warrant of commitment that relates to the sentence of imprisonment to which the early release order relates is again in force and the prisoner may be arrested and kept in custody under that warrant.

(2) Despite subsection (1), if an early release order is suspended or cancelled as mentioned in subsection (1), a warrant to have the prisoner arrested and returned to custody may be issued, whenever necessary -

(a) by a Supreme Court Judge or a District Court Judge;

(b) by the Board if it suspended or cancelled the order; or

(c) by the CEO if the CEO suspended or cancelled the order.

(3) Notwithstanding section 71 or 80, a warrant under subsection (2) may be issued, and the prisoner may be arrested, whether under that warrant or under the warrant of commitment referred to in subsection (1) at any time -

(a) during or after the period of the early release order; or

(b) after the date when, but for the suspension or cancellation of the early release order, the prisoner would have served or be taken to have served the term or terms to which the order relates.

77. Clean street time counts as time served

(1) Subject to subsection (2), if an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order -

(a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is cancelled counts as time served in respect of the fixed term; and

(b) the period (if any) beginning on the day when the order is cancelled and ending on the day when the prisoner concerned is returned to custody does not count as time served in respect of the fixed term.

(2) If an early release order in respect of a prisoner serving a fixed term is suspended and, without the suspension ceasing, is subsequently cancelled, then -

(a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is suspended counts as time served in respect of the fixed term;

(b) the period (if any) beginning on the day when the order is suspended and ending on the day when the prisoner is returned to custody does not count as time served in respect of the fixed term.

(3) For the purposes of subsection (1), the day when an early release order is cancelled is -

(a) if it is cancelled by a decision of the Board or the CEO (as the case may be) - the day of the decision; or

(b) if it is cancelled by virtue of section 73 -

(i) the day when the offence that resulted in the cancellation was committed; or

(ii) if the CEO cannot ascertain the day when that offence was committed - the latest day on which that offence could have been committed, as determined by the CEO.

(4) For the purposes of subsection (2), the day when an early release order is suspended is the day of the decision to suspend the order.

Division 4 - Re-release after cancellation

78. Re-release after cancellation of order made by Board or CEO

(1) If -

(a) an early release order made by the Board or the CEO is cancelled by virtue of section 73; and

(b) the offence referred to in that section for which the prisoner was sentenced to imprisonment was a crime tried on indictment,

the Board or the CEO, as the case may be, must not make another early release order in respect of the prisoner in relation to the term to which the cancelled order related unless satisfied there are exceptional reasons for making another order.

(2) If an early release order made by the Board or the CEO -

(a) is cancelled under section 43, 44, 60 or 70; or

(b) is cancelled by virtue of section 73 in circumstances where subsection (1) does not apply,

then the Board or the CEO, as the case may be, may, subject to Parts 3, 4 and 5, subsequently make another early release order in respect of the prisoner.

(3) If the early release order that was cancelled was a parole order (supervised) any subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Board decides.

(4) The parole period in the subsequent parole order is the period that begins on the day when the prisoner is released and ends when the parole term ends.

(5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Board decides; but it must not -

(a) end after the parole term ends; or

(b) be longer than 24 months.

79. Re-release after cancellation of parole order made by Governor

(1) If a parole order (supervised) made by the Governor is cancelled under section 43 or

44 or by virtue of section 73, the Governor may subsequently make another parole order in respect of the prisoner.

(2) If a parole order (unsupervised) made by the Governor is cancelled by virtue of section 73 the Governor may subsequently make another parole order in respect of the prisoner.

(3) The subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Governor decides.

(4) The parole period in the subsequent parole order is to be set by the Governor and must be at least 6 months, not more than 5 years, and not longer than the parole period of the cancelled parole order.

(5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Governor decides.

80. Parole period under new parole order deemed to be time served

If -

(a) under section 78 or 79 a parole order is made in respect of a prisoner;

(b) in the case of a parole order (supervised), the CEO or the Board does not cancel the parole order under Division 11 of Part 3; and

(c) the prisoner does not commit an offence (in this State or elsewhere) during the parole period for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after the parole period),

then the prisoner is taken to have served the term, or the aggregate of terms, to which the parole order relates.

No 45.

New clause 56, page 35, after line 2 - To insert the following new clause 56 -

56. Preparation for RPO before release

(1) Not later than 12 months before the CEO is required by section 55 to make a determination whether the making of an RPO is warranted for an offender, the CEO must consider whether, to help achieve the purposes mentioned in section 57(1), the offender should before his or her release be started on a programme ("a pre-release programme") consisting of -

(a) the assessment described in paragraph (a) or (b) of section 57(2), and any necessary treatment;

(b) attendance at any programme or course of the kind described in section 57(2)(c); or

(c) more than one of the above.

(2) If the CEO determines that the offender should be started on a pre-release programme before his or her release, the CEO is to take the steps necessary to provide the programme under section 95 of the *Prisons Act 1981* and to ensure completion prior to the date on which the prisoner is eligible to be released on parole under section 93(1) of the *Sentencing Act 1995*.

(3) Sections 57(3) and (4) apply for the purposes of this section in the same way as they apply in the carrying out of an RPO.

No 46.

New clause 86, page 37, after line 7 - To insert the following new clause -

86. Facilitation of proof

(1) This section applies only in relation to proceedings under this Division.

(2) A copy of an RPO certified by the CEO is, in the absence of evidence to the contrary, evidence of its contents.

(3) In proceedings for an offence under section 85(1) in relation to an alleged beach of an RPO, evidence of the alleged breach may be given by tendering a certificate signed by the CEO stating the particulars of the alleged breach.

(4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the CEO was signed by a person who at the time was the CEO.

No 47.

New clause 100, page 60, after line 15 - To insert the following new clause 100 -

100. Arrest warrant may issue where warrant of commitment in force

(1) If a court has issued a warrant of commitment in respect of an offender that requires the offender to be imprisoned for a period, then at any time before the prisoner has served the period the CEO may issue a warrant to have the offender arrested and taken to a prison to serve or to continue to serve the period.

(2) A warrant must not be issued under subsection (1) if the offender has been released pursuant to an order made in accordance with this Act or another written law in respect of the sentence or made in the exercise of the Royal Prerogative of Mercy.

(3) Without limiting subsection (1) or affecting subsection (2), a warrant may be issued under subsection (1) if in error an offender is released before having served the period of imprisonment specified in the warrant of commitment.

(4) Subsection (1) does not limit any power to arrest a person who has escaped lawful custody.

Mr PRINCE: I move -

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

Mr McGINTY: Since this is the first amendment, I wonder whether the minister can indicate the amendments which deal with matters other than the reinstatement of work release and home detention. We have no issues to raise in those two matters. I understand the amendments to this Bill also deal with a requirement that prerelease programs be made available by the department, and also the problem of parole being cancelled in a case of reoffending. I want to ask questions about the latter two items; however, in respect of the bulk of the amendments from the upper House, the issues of home detention and work release orders are not controversial.

Mr PRINCE: I am informed that amendments Nos 44 and 45 are the ones to which the member refers. The replacement matters he mentioned are covered from amendments Nos 1 to 43.

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

Council's amendments Nos 2 to 21 agreed to.

Mr PRINCE: I move -

That amendment No 22 made by the Council be amended by deleting "Clause 55, page 34, line 19 - To insert after the word offender the following words -" and substituting -

Clause 55, page 34, lines 20 to 26 - To delete the lines and substitute the following lines -

In the Council two new clauses were inserted by error, and an old clause was not deleted. We will delete the clause that should have been deleted but was not. We want to delete six lines, simply because an error was made in the Council in inserting something new and deleting something old. The Council omitted to delete that which it should have deleted.

Assembly's amendment on the Council's amendment put and passed; the Council's amendment, as amended, agreed to.

Council's amendments Nos 23 to 43 agreed to.

Mr PRINCE: I move -

That amendment No 44 made by the Council be agreed to, subject to the following amendments -

Proposed new clause 64(1)(b) in proposed new Part 5 - To delete "WRO" and substitute "HDO".

Proposed new clause 80(b) in proposed new Part 6 Division 4 - To delete "the CEO or".

This will rectify drafting anomalies. In proposed new clause 64 the reference to a work release order is incorrect; it should be a home detention order. Proposed new clause 80 contains an incorrect reference to the chief executive officer having the power to cancel a parole order. The CEO can only suspend parole and the reference to the CEO must be removed from clause 80 to avoid any confusion.

Assembly's amendments on the Council's amendment put and passed; the Council's amendment, as amended, agreed to.

Mr PRINCE: I move -

That amendment No 45 made by the Council be agreed to, subject to the following amendments -

Proposed new clause 56(1) - To delete "section 55" and substitute "section 55(2)".

Proposed new clause 56(2) - To delete "completion prior to the date on which the prisoner is eligible to be released on parole under section 93(1) of the *Sentencing Act 1995*." and substitute "the offender completes it before being released."

New clause 56 of the Sentence Administration Bill was inserted on the motion of Hon Helen Hodgson and places various formalities on the chief executive officer in respect of prisoners eligible for release on a release program order. New clause 56 proposes that the CEO be required to consider participation in defined pre-release programs for those offenders who are to be considered for an RPO. Specifically, the clause requires that 12 months prior to determining whether the offender should be placed on an RPO, the CEO shall consider the offender's participation in a pre-release program. Additionally, if the offender is to be included in the pre-release program, the CEO will be obliged to take steps to provide the program in custody prior to the offender's release into the community.

Discussions have recently taken place with Hon Helen Hodgson to clarify the intent behind new clause 56. These discussions centred around the reference in new clause 56(2) to parole and the application of new clause 56 to sentences of two years or more. Specifically, new clause 56(2) refers in part to an offender's eligibility date for parole. The concept of RPOs is to target those offenders who the court has determined are ineligible for parole consideration. As such, the reference to parole in new clause 56(2) has been amended to better reflect the intent of the provisions. In addition, the *Hansard* references point to Hon Helen Hodgson's belief that the new clause applies only to offenders serving sentences of two years or more. At present the requirements of the clause apply to any determination made by the CEO under clause 55 in respect of any eligible offenders - that is, those referred by the court whose sentence is less than two years, and all non-parole prisoners serving two years or more. The amendments I have just moved are intended to address those issues that arise out of an amendment put by Hon Helen Hodgson in the other place, and are a measure of clarification in redrafting.

Mr McGinty: Are those amendments acceptable to Hon Helen Hodgson?

Mr PRINCE: I understand that to be the case, yes.

Assembly's amendments on the Council's amendment put and passed; the Council's amendment, as amended, agreed to.

Council's amendments Nos 46 and 47 agreed to.

The Council acquainted accordingly.

SENTENCING LEGISLATION AMENDMENT AND REPEAL BILL 1998

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No 1.

Clause 2, page 2, lines 6 and 7 - To delete the lines and substitute the following lines -

(1) Subject to this section, this Act comes into operation on a day fixed by proclamation.

(2) Different days may be fixed under subsection (1) for different provisions.

(3) If section 4 of the *Bail Amendment Act 1998* has not come into operation when the second amendment to section 3(1) of the *Bail Act 1982* in Schedule 1 comes into operation, that amendment comes into operation immediately after section 4 of the *Bail Amendment Act 1998* comes into operation.

No 2.

Clause 3, page 2, lines 8 to 10 - To delete the clause.

No 3.

Clause 5, page 3, lines 13 and 14 - To delete the lines and substitute the following lines -

(1) Section 85(1) is amended in the definition of "early release order" by inserting after "*Sentence Administration Act 1995*" -

or *Sentence Administration Act 1999*

No 4.

Clause 5, page 4, line 29 - To delete "a parole order" and substitute "an early release order".

No 5.

Clause 8, page 7, line 16 - To delete "Part 4 of the *Sentence Administration Act 1998*" and substitute "Part 7 of the *Sentence Administration Act 1999*".

No 6.

Clause 15, page 13, lines 5 to 8 - To delete the lines.

No 7.

Clause 18, page 15, line 4 - After "paragraph (a)" to insert "or (c)".

No 8.

Clause 20, page 15, lines 21 to 26 - To delete the clause and insert the following clause -

20. WROs

(1) If immediately before commencement a person is subject to a sentence of imprisonment to which the old provisions apply, then on or after commencement -

(a) subject to Part 4 of the repealed Act, a work release order may be made in respect of the person; and

(b) Parts 4, 6, 7 and 8 of the repealed Act continue to operate for those purposes and in respect of any such order, subject to subsection (2).

(2) If on or after commencement -

(a) a work release order is made under the repealed Act in respect of the person; and

(b) after the order is made it is cancelled under section 70 of the repealed Act by reason of the person having been sentenced to imprisonment for an indictable offence (whether or not it was tried on indictment),

the Board must not make another work release order under the repealed Act in respect of the person in relation to the sentence to which the cancelled order related unless satisfied there are exceptional reasons for making another order.

No 9.

Part 3, page 18 to page 35, Clauses 25 to 29 - To delete the part.

No 10.

Clause 35, page 24, line 7 - To delete "4" and substitute "7".

No 11.

New clauses 21 and 22, page 15, after line 26 - To insert the following new clauses -

21. HDOs

If immediately before commencement a person is subject to a sentence of imprisonment to which the old provisions apply, then on or after commencement -

(a) Part 5 of the repealed Act applies for the purpose of determining -

(i) whether the person is eligible to be released under a home detention order; and

(ii) the period of any such order;

(b) if a home detention order is to be made in respect of the person, the order is to be made under Part 5 of the *Sentence Administration Act 1999* and for that purpose the period of the order is to be the period calculated under the repealed Act; and

(c) if a home detention order is made in respect of the person, the *Sentence Administration Act 1999* applies to an in respect of the person and the order except to the extent that paragraph (a) or (b) provide otherwise.

22. Warrants in force at commencement

A warrant issued under the repealed Act and in force immediately before commencement remains in force despite the repeal of the repealed Act.

No 12.

New Clause 24, page 18, after line 1 - To insert the following new clause -

24. Section 111 amended

After section 111(3) the following subsection is inserted -

" (4) A court that makes a reparation order may make any other order that is

necessary to give effect to the reparation order, including an order to be obeyed by a person other than the offender. "

No 13.

New clause 27, page 18, after line 15 - To insert the following new clause -

27. Section 117 amended

Section 117(2) is repealed and the following subsections are inserted instead -

(2) Such a compensation order is an order that the offender must pay an amount of money set by the court to the victim as compensation for -

(a) the loss of, or damage to, the victim's property; and

(b) any expense reasonably incurred by the victim,

as a direct or indirect result of the commission of the offence.

(2a) A compensation order must not be made in respect of injury or loss as defined in section 3(1) of the *Criminal Injuries Compensation Act 1985*.

No 14.

New clause 29, page 19, after line 22 - To insert the following new clause -

29. Section 120A inserted

After section 120 following section is inserted -

" **120A. Sheriff's powers to enforce restitution order**

(1) If a person against whom a restitution order has been made does not comply with the order, the victim in whose favour the order was made may request the Sheriff of Western Australia to seize the property and deliver it to the victim.

(2) On receiving such a request and a copy of the restitution order, the Sheriff may seize the property and deliver it to the victim and for that purpose may enter any place where the Sheriff reasonably believes the property may be.

(3) Regulations may provide for the costs of the Sheriff to be paid by the victim and then recovered from the person who did not comply with the restitution order. "

No 15.

Schedule 1, page 25, in the amendments to the *Bail Act 1982* - To delete the second amendment to section 3(1) and substitute the following -

s. 3(1)	Delete the definition of "early release order" and insert instead — **"early release order"** means an early release order made under the *Sentence Administration Act 1995* or *Sentence Administration Act 1999*;

No 16.

Schedule 1, page 28, in the amendments to the *Sentencing Act 1995* - To delete the amendment relating to section 23(3) and substitute the following -

s. 23(3)	Delete "under the *Sentence Administration Act 1995*." and insert instead — made under the *Sentence Administration Act 1995* or the *Sentence Administration Act 1999*.

No 17.

Schedule 1, page 28, in the amendments to the *Sentencing Act 1995* - To delete the amendment relating to part 13 and insert instead -

s. 97	Delete "*Sentence Administration Act 1995*." and insert instead — *Sentence Administration Act 1999*.

Council's amendment No 1 agreed to.

Mr PRINCE: I move -

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

In December 1998, the Bill was introduced to the Legislative Council as Bill No 50-2 and, subsequently, on the motion of Hon Nick Griffiths, the Bill was split and the Sentencing Matrix Bill was created. The specific provisions of the original Bill that formed the Sentencing Matrix Bill were clauses 2, 3 and part 3. On a technical basis, the remaining Bill, the Sentencing Legislation Amendment and Repeal Bill had no commencement provision - that is, no clause 2 - and had no provision detailing that the amendments were to be made to the Sentencing Act; in other words, it had no clause 3. However, when the original Bill, which then became the Sentencing Legislation Amendment and Repeal Bill, was printed, it inadvertently contained clauses 2 and 3. As a result of the amendments made, a new clause 2 was inserted. According to the *Hansard* record, clause 3 was put and passed. However, message No 10 from the Legislative Council contains a reference that clause 3 of the Bill was deleted in the upper House. In discussions with parliamentary counsel, it is clear that without clause 3, the proposed amendments in the Bill have no basis; that is, there would be no reference to what Act was being amended. This inconsistency was discussed with parliamentary counsel and officers from the Legislative Council. The amendment to clause 3 in the Legislative Council's message is merely to reflect the specific nature of the motion of Hon Nick Griffiths earlier this year so as to rectify the errors contained in Bill No 98-1. To overcome this problem, it is necessary to not support the amendment to clause 3 in the Legislative Council's message. That will effectively reinsert clause 3 into the Bill so as to indicate what statute - that is, the Sentencing Act - is to be amended by the Bill.

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

Council's amendments Nos 3 to 7 agreed to.

Mr PRINCE: I move -

That amendment No 8 made by the Council be agreed to, subject to the following amendment -

Proposed new clause 20(2)(b) - To delete "an indictable offence (whether or not it was tried on indictment)." and substitute "A crime tried on indictment,"

Mr McGINTY: This is a tidying up exercise as I understand it. This provision of a crime tried on indictment, which is now to be included in the Sentencing Legislation Amendment and Repeal Bill, is designed to avoid a situation in which a person would automatically be locked up for the commission of what is, in everyone's mind, an offence at the trivial end of the scale. Not all indictable offences are serious in the overall scheme of things. Some assaults of a very minor nature, such as shoplifting something of no value in circumstances of duress, nonetheless are indictable offences. It is obviously designed to avoid a situation in which someone who has spent a considerable time in prison is released on parole and then put back in prison, in some cases for many years, for the commission of an indictable offence at the trivial end of the scale. As I understand it, that is to regularise the test throughout the sentencing legislation. If that is correct, we are happy to support it.

Mr PRINCE: The member for Fremantle succinctly states the reason for this amendment.

Assembly's amendment on the Council's amendment put and passed; the Council's amendment, as amended, agreed to.

Council's amendments Nos 9 to 17 agreed to.

The Council acquainted accordingly.

RIGHTS IN WATER AND IRRIGATION AMENDMENT BILL 1999

Consideration in Detail

Schedule -

Dr HAMES: I move -

That whenever listed in the schedule below - To delete "resource" or "resources" and substitute "resources management".

Clause 7

Page 8, line 4;

Clause 20

Page 17, lines 1 and 5;

Clause 44

Page 37, lines 2, 8 and 10;

Page 46, line 27;

Page 47, lines 1 and 8;

Clause 51

Page 83, line 12; and

Clause 69

Page 101, line 20.

Amendment put and passed.

Schedule, as amended, put and passed.

Clause 1: Short title -

Mr BRIDGE: The Minister for Water Resources will recall that earlier today I presented him with a letter requesting that he consider delaying the passage of this legislation. The request occurred as a result of correspondence with concerned water users throughout the State. They are concerned there was not sufficient and precise consultation before the introduction of the Bill. I know those of us in Parliament and within Government would say it is not a fair proposition; however, this proposition comes from a general group of people. I believe it is necessary to highlight it. As I said during the second reading debate, this is a significant piece of legislation which has ramifications far beyond what we contemplated in the early stages of considering the legislation. For that reason, as much clarity as possible must be provided to water users, industry groups and the general community before the final passage of this legislation. That detail and clarity may need to be considered before the other place receives the Bill or while the other place debates the Bill. However, whenever that opportunity is given to those people, it must be treated by the minister as extremely urgent. That opportunity must be worthy of my request on behalf of the water users of Western Australia. I appeal to the minister to take into account the points I submitted in my letter to him. Those points not only express my point of view and concerns as an individual parliamentarian but also echo the sentiments of most discerning Western Australia water users. I will be pleased to learn of the minister's response to their concern; that is, a lack of precise consultation with the people out there. I will also be pleased to gain an understanding and appreciation of his response. This is a genuine request and I will be pleased if the minister responds in a like manner.

Mr BRADSHAW: I do not agree with the member for Kimberley at all. There has been an excellent amount of consultation on this legislation by the Water and Rivers Commission over the past two to three years. I do not stop receiving information from that organisation. Local meetings have been held on the issue. It is a load of rubbish for the member for Kimberley to say that most water users are concerned about the legislation.

Mr Bridge: It is not a load of rubbish.

Mr BRADSHAW: A group has contacted the member, just as they have contacted every member of Parliament. The member must have just started reading his mail because I received a letter from that group about two to six months ago. All of a sudden the member has found new life on the Rights in Water and Irrigation Amendment Bill. I cannot believe the member has the temerity to suggest that this Bill should be put on hold. The water users in my area are as great as anywhere in Western Australia and they have no concerns about the Bill. I find it incredible that the member has the audacity to stand up in Parliament because a group has suddenly contacted him and said they have concerns. Those people have been talking about those concerns for some time.

Mr Bridge: I have also been talking about it for some time.

Mr BRADSHAW: No, the member has not been talking about it.

Mr Bridge: I have been speaking about these concerns in the Parliament for two or three years. You know it. You should not imply that I do not know what I am talking about. I happen to know what I am talking about; you do not. That is the difference.

Mr BRADSHAW: I know what I am talking about.

The DEPUTY SPEAKER: Members should address their remarks through the Chair and not to each other.

Mr BRADSHAW: I have been following this process because there are a lot of water users in my electorate of Murray-Wellington. It is a very important irrigation area. Farm dams and streams are also addressed in this legislation. This legislation is important and we should continue with it.

Dr TURNBULL: I will make some remarks on the first clause during the consideration in detail stage because I was unable to make any remarks during the second reading debate.

The DEPUTY SPEAKER: The member should remember the House is discussing the short title of the Bill.

Dr TURNBULL: That is right. We are discussing the title of the Bill, which is the Rights in Water and Irrigation Amendment Bill. This Bill is the result of three attempts to rewrite the current water legislation. Those attempts have taken place over about 15 years. When I first came into this Parliament, we were in opposition. The Minister for Water Resources at that time introduced similar legislation. I remember the enormous concerns that were expressed at that time, and I had many of those. About three years ago, the Government commenced consultation for the development of this Bill. It has been a long and extensive consultation process. From the beginning I tried to be involved in that process in my electorate. Members will remember that there were enormous concerns, especially from their electorates. Discussions were held to the effect that the legislation was an evolving process and a number of land-holders and water users became involved. Every

few months people who had not been involved or who were not aware of the issues would enter into the discussions with their concerns. We needed to bring those people up to speed before we were able to move on to the next phase. That happened a lot in my electorate and it is why it is important to have community meetings and a long mailing list and to try to keep everybody informed. The Water and Rivers Commission played an extremely responsible role in the process. They produced many discussion papers and progress reports which helped show the land-holders and water users that the development of this legislation was an evolving process. I commend those from the Bunbury office and head office for their enormous commitment and for the time they gave in trying to ensure that the consultative process was fully entered into by everybody.

Like the member for Murray-Wellington, I have had dealings with irrigators as there are many in the Wellington irrigation area. They readily accepted the principles of the Bill. The principles of trading water are applicable only in the ground water areas of the coastal plain and in the irrigating areas. The irrigators have welcomed this Bill. The Preston Valley irrigation area is new. It has taken a while for people to understand the way that area works. However, an integral part of the whole process of privatising the irrigation of the Preston Valley system has been the trading of the water allocations. Members can rest assured that the people involved in irrigation schemes understand the principles behind the Bill. The people in areas where the sharing of water has not yet become a problem are most fearful of the changes proposed in the Bill. They keep asking why the system must be changed.

Progress reported.

[Continued on page 3601.]

Sitting suspended from 6.02 to 7.00 pm

PROSTITUTION BILL 1999

Order of the Day

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

That the Prostitution Bill be now taken.

The SPEAKER: The problem is we do not have a number for this Bill yet. Earlier today, the Leader of the House gave notice that he would be bringing this matter on later in this day's sitting and there is no official order of the day number.

Introduction and First Reading

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

Second Reading

MR PRINCE (Albany - Minister for Police) [7 02 pm]: I move -

That the Bill be now read a second time.

The Government is introducing legislation that it considers will give police increased powers better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship. The delay in presenting a Bill is not a result of any lack of commitment on the part of this Government to pursue the reform of prostitution laws in Western Australia; indeed, the delay has been occasioned by the need to achieve a position on this issue, which, at the end of the day, is not only acceptable to the community generally but also, in terms of effect, enforceable.

It is intended that the Bill will ensure the regulation of the activities of prostitutes and potential clients in public places and eliminate the involvement of children in prostitution. Therefore, the Bill precludes children from being prostitutes and prevents their exploitation for sexual gratification; protects the community by creating offences relating to health; and introduces offences to make street soliciting and kerb crawling illegal, regardless of who initiated the action, a prostitute or a client.

The Bill addresses the majority of the concerns expressed by members of both Houses concerning street and child prostitution and, in so doing, endeavours to provide a unified approach to ensuring that this conduct is no longer tolerable within this State.

The Prostitution Bill includes provisions that not only make this conduct unlawful, but through the imposition of strict penalties, including forfeiture, are directed at empowering police more effectively to curtail this activity. In general terms, it will be an offence to be involved in street soliciting, irrespective of whether the person is a prostitute, a client or an agent; that is, a person who seeks to procure another for prostitution. Similarly, any person who in a public place seeks another to act as a prostitute or to be the client of a prostitute will commit an offence. It is intended that the effect of this provision will be to bring about a reduction in the demand for street prostitutes by targeting in the first instance those persons seeking the services of prostitutes - that is, kerb crawling - for which a penalty of a maximum of two years' imprisonment will apply. In reducing the demand for services it is reasonable to assume that supply will also diminish.

Research has indicated that a number of women soliciting in this manner are looking to support a drug habit or to make a living. They are more susceptible to exploitation. Hence, a lesser penalty of a maximum of one year's imprisonment will apply to the prostitute. A greater penalty will apply where the offence involves a child.

I remind the House that a significant number of government and non-government agencies in the inner city and Northbridge

areas have responsibility to work together to provide an appropriate welfare response when people under the age of 18 are found working as prostitutes.

In relation to public health, the sexual transmission of life threatening infections such as HIV/AIDS and other forms of sexually transmitted diseases has been addressed through the inclusion of specific offences. For example, a person who knows or who could reasonably be expected to know that they have a sexually transmitted, life threatening infection who acts, or offers to act as a prostitute, will on conviction be subject to a penalty of imprisonment for a maximum of 20 years. On the other hand, where that conduct involves a sexually transmitted infection that is non-life threatening, a lesser penalty of a maximum of five years' imprisonment will apply.

One of the most offensive and visible adjuncts to prostitution is found in public advertising. The Bill will prohibit anyone from publishing any statement promoting employment in prostitution or from entering into a sponsorship arrangement which promotes prostitution. In reflecting the seriousness with which this issue is viewed, a penalty of a $50 000 fine has been provided. In addressing the issue of advertising, I take the opportunity to thank the *Sunday Times*, *The West Australian* and Community Newspapers of Western Australia for their efforts in working with the Government to deliver a code of conduct that will limit the content of advertising for the purpose of prostitution. While the Government intends to monitor this accord, with a view to ongoing self-regulation by the parties involved, I take this opportunity to commend them for adopting this position on the issue.

While the exploitation of women is a serious issue, the community generally is appalled by those within society who would see fit to exploit children for the purpose of the sexual gratification of others, as has been the case in relation to the Asian sex tours and the steps taken to address that issue. As a consequence, a child - being a person under the age of 18 years - will be prohibited from involvement in or from being exploited for the purpose of prostitution. The Bill makes it an offence for any person to -

> Cause, permit or seek to induce a child to act or continue to act as a prostitute or do anything with the intention of inducing a child to act or continue to act as a prostitute;
>
> Receive any payment, in money or any other form, knowing that it or part of it has been derived, directly or indirectly, from a child taking part in an act of prostitution, whether as a prostitute or client; or
>
> Enter into, or offer to enter into, an agreement under which a child is to act as a prostitute, whether for that person or any other person.

A penalty of a maximum of 14 years' imprisonment will apply to these offences. In addition, where a person takes part in an act of prostitution, whether as a prostitute or client, knowing that a child is present; provides acts of prostitution where the client is a child; or allows a child to enter or remain on premises where acts of prostitution are carried out, that person commits an offence for which appropriate penalties are provided.

However, there are occasions where the person acting as a prostitute or seeking the services of a prostitute, is himself or herself a child and therefore it is essential that the actions of a child in these circumstances should constitute an arrestable offence. This will empower police to take appropriate action in removing the child from further risk and to place that child in the care of an appropriate authority, such as Family and Children's Services.

To strengthen the effect of the Bill it is necessary to provide police with new powers of search and seizure and to provide for the undertaking of covert operations - subject to appropriate guidelines - to meet the evidentiary requirements necessary to ensure a conviction and to police the provisions of the Bill, particularly those relating to children and health. These powers have been developed by drawing from existing powers in the Criminal Code, the Misuse of Drugs Act 1981 and the Censorship Act 1996, and have been adapted to meet the unique situations likely to be faced by police when dealing with prostitution and the investigation of related offences. This includes -

> A power of entry without warrant, at any time, to any place from which a business involving the provision of prostitution is or is suspected of being conducted. This provision enables the timely investigation of suspected prostitution offences relating to children or health and empowers police to detain and search all persons found on such premises.
>
> Powers relating to seizure, retention and disposal of property. This provision allows for the seizure, retention and disposal of property during an investigation of any offence under the Bill. This is consistent with the powers contained in section 28 of the Misuse of Drugs Act 1981 and those which have been included in the Weapons Act 1999.
>
> A new search warrant similar to that in the Misuse of Drugs Act 1981 has been created to enable searches of any place which may reveal evidence connected to prostitution. The warrant allows for the searching of any person on those premises and the gathering of evidence as to the commission of an offence under this Bill.
>
> The Bill will allow police officers to operate covertly in order to obtain evidence of the commission of an offence. Statutory protection from prosecution will be provided for certain offences committed by undercover officers in the performance of that duty. Examples of the offences which may be committed by undercover officers in order to obtain evidence are the use of a false name; soliciting sexual services in public; or seeking sexual services at a business involving the provision of prostitution.

These powers have been provided as an interim measure until the criminal investigation (covert operations) Bill is finalised.

In addition to the offences relating to street soliciting, police officers will be empowered to issue a move-on notice where they suspect that a person is committing, or is about to commit a soliciting offence. The move-on notice will enable police to direct a person to move away from a specified area. The notice will prevent a person from returning to the area for a period set by police - maximum of 24 hours. Additionally, where a person is convicted of a soliciting offence or an offence relating to a move-on notice, the courts will be empowered to issue restraining orders prohibiting that person from returning to a specified area or engaging in a specified course of conduct. These provisions are detailed in part 6 of the Bill and have been drawn from the current Restraining Orders Act 1997.

Part 7 of the Bill contains evidentiary averments in relation to certain offences created by the Bill. These averments have been included to overcome the evidentiary difficulties likely to be encountered, by placing the onus of proof on the other parties with regard to prostitution related offences.

The issue of street and child prostitution is not for any one state government body to resolve in isolation as it is accepted that a number of agencies have a key role to play. The Bill therefore provides the powers and protections necessary to enable the relevant instrumentalities to work together and to coordinate their actions and resources in addressing this very issue.

As a consequence, the Bill allows for the exchange of information between relevant state authorities that may be required to deal with prostitution and other related issues; and provides protection of a person who in accordance with the provisions of the Act provides confidential information to an authorised state authority. In addition, regulations may be prescribed by the Governor on matters required or permitted by the Bill.

This Bill represents another major step in the commitment of the Government to law and order. In particular, it provides the Police Service with modern and more effective powers to enable police to deal adequately with the issue of street and child prostitution. In addition, it provides an assurance to the community that the Government is listening to community concerns relating to prostitution and is prepared to act to curb the incidence of street soliciting and kerb crawling, and the exploitation of children for the purpose of prostitution.

For the information of members, I table the explanatory memorandum for the Bill and commend the Bill to the House.

[See paper No 419.]

Debate adjourned, on motion by Dr Edwards.

RIGHTS IN WATER AND IRRIGATION AMENDMENT BILL 1999

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 1: Short title -

Progress was reported after the clause had been partly considered.

Dr HAMES: The member for Kimberley has recently had some correspondence from the Water Users Coalition. He has concerns about the more general aspect of the Council of Australian Governments' legislation reform throughout Australia.

I will discuss those issues separately. First, I will discuss the general concept of the COAG reforms throughout Australia and then more specifically his concerns here. The Water Users Coalition to which he refers has been an integral part of the negotiation on this Bill for at least 18 months. The Bill has been in the formulation stage for two years now. At the beginning of this year I put a draft Green Bill out to the community for consultation, so that everybody could see exactly what was proposed in the legislation. Large numbers of meetings have taken place, here with members on both sides of the House and with the community, which has expressed concerns. Staff have had a large number of meetings with the Water Users Coalition. I have had two meetings with the Water Users Coalition, one recently in the House when I went through the issues its members found contentious.

I understand that most of those issues of concern have been addressed. We have made changes with some of our amendments which have addressed some of the issues they raised. On a couple of points we have agreed to disagree and the amendments that I want to have in place are not those they prefer. However, in general terms we have discussed this Bill with them endlessly as well as contacting the member for Kimberley. The Opposition has recently had contact with the Water Users Coalition and has discussed with its members its concern. If any group has initiated consultation and discussion of concerns, it has been this side of the House. Some members on this side were initially quite strongly opposed. As we worked through those issues, made changes and discussed them with members, they have been able to accept our proposals. A group of members from this House went to the eastern States where they met a large number of farmers and water users in New South Wales. They discussed issues with them, particularly tradeable water rights. They got a very strong indication of support for the legislation that we are bringing in. I understand people in the eastern States have some areas of concern but we do not have the same sorts of problems. The reason is that we have not over-allocated our water resources.

The Bill does three things: First, it creates a framework for the settlement of local disputes. When there are local issues, particularly with disputes over streamlets, the Bill sets up a system which helps people to address their problems. Secondly, it brings in tradeable water rights, which we require. Some of the eastern States have had tradeable water rights for 10 years now. They are very supportive of the process. It will enable us to much better use our water resource. Thirdly, the Bill creates a much greater awareness of the major contribution of water to the environmental needs to make sure there is always

an allocation for environmental needs. That sometimes is not supported by users because they think it will take away their existing supply but it is essential for us in the future. Our good news is that because we have not over-allocated, the environmental supply is already there. All we are doing with this legislation is protecting that environmental water supply to make sure that it is recognised and is there for the future.

That addresses those concerns in general terms. As for the time of the passage of the legislation, we are hoping to get the legislation through but it will not go through the upper House this year. We hope it will do in the first six months of next year, which will give us a significantly larger amount of time for consultation to occur.

The SPEAKER: I will give the member for Collie the call in a minute. I indicate to the minister that under the new standing orders, a marvellous process would have been available called the pro forma amendment, which would have allowed him to print all of these amendments and incorporate them in the Bill, so that he would get a clean Bill. This would have saved a complex process. We will not go down that path as members have probably done their homework and wish to talk to various clauses. It is important to alert the House that members can do such things these days under the new trial standing orders which solve many problems, such as turning over pages and following proceedings.

I am not sure whether the member for Collie wants to make a general speech, which the Chair will not allow. The member's speech must relate to the short title of the Bill. If the member wants to make a general comment, she should do so when considering the relevant clauses or during the third reading stage if she missed an opportunity to do so during the second reading. An Acting Speaker before the dinner suspension may have allowed a little latitude, which we try to do on occasions to help members. However, we could make a rod for our backs if we continued along that line.

Dr TURNBULL: I refer to the short title; that is, the Rights in Water and Irrigation Amendment Bill 1999. People such as those in the Water Users Coalition are concerned about their rights under this legislation. Among all the groups of people with whom I have dealt in my electorate, the Water Users Coalition is specific in its concerns. I am pleased to hear the minister's comments. I am sure the Water Users Coalition had many of its problems resolved, as was the case at its meeting with the minister. The remaining problems will be mentioned as we consider further clauses. People along rivers, streams and waterways where subdivision is taking place are also concerned about rights, as are people wanting their riparian rights, to which I will specifically refer when we reach the riparian provisions. I support the short title and look forward to consideration on the rest of the Bill.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Long title replaced -

Dr HAMES: I move -

Page 3, line 7 - To insert after "**Act**"in the proposed long title the words "**relating to rights in water resources,**".

This is a change the Government made in consultation with the Water Users Coalition, which sought clarification on that to which the Act refers. The Government is happy to accommodate that request.

Dr EDWARDS: The Opposition is pleased that concerns about a loss of rights have been alleviated through the inclusion of "relating to rights in water resources" in the long title. What was the minister's thinking in making the decision given the correspondence I saw which indicated that the Crown Solicitor's advice was that these words were not needed, and that "rights" should not be re-introduced into the principal Act? At the Pastoralists and Graziers Association workshop in Bunbury on 18 October, I understand that the Water and Rivers Commission acknowledged and gave a verbal recognition of existing rights. According to correspondence I received on Friday from the Water Users Coalition, the Water and Rivers Commission promised to prepare policy papers and reports on protecting and formalising existing uses. These come under the heading of rights. Why did the minister accept the amendment, and what progress has the Water and Rivers Commission made on the policy papers?

Dr HAMES: People were given that impression regarding the insertion of words because parliamentary counsel believed the words were not necessary and did not need to be included. However, I bowed to the wishes of the Water Users Coalition as the words do not detract from the Bill. It was a matter of keeping people happy and no harm was involved; also, I accepted the good outcome if the words clarified matters for users. The policy development to which the member for Maylands referred is occurring as part of our normal policy development. This will be presented at the appropriate time.

Dr TURNBULL: I am very pleased that the amendment will insert "rights in water resources". As I described in the debate on the short title, wide-ranging groups of people are involved with water usage and land holding. Not only the Water Users Coalition is concerned about rights. People, particularly those in broadacre farming, who at this time have no concerns about the sharing of water, are very concerned that any regulations or rules made under this legislation might impinge on their rights in the future. I assure the minister that the inclusion of "rights in water resources" will be favourably accepted in many country areas.

Dr HAMES: I made it clear during all debate on this Bill that the existing rights of water users will be preserved. I reiterate that assurance. People need not be concerned that their rights may be removed.

Amendment put and passed

Clause, as amended, put and passed.

Clause 5 put and passed.

Clause 6: Section 3 inserted -

Dr TURNBULL: Will the minister expand on the definition of "water course"? This is an extremely difficulty matter in all country areas because in many places water runs only at the time of rain. A reiteration is needed of how "water course" will be defined in differing areas. That is very important. Proposed section 3(2)(c) reads -

> It is immaterial that a river, stream or brook or natural collection of water may have been artificially improved or altered.

That creates many concerns for property holders. Many people have altered streams in order to enhance the water provision. Will the minister elaborate in that regard?

Dr HAMES: It is very difficult to define a watercourse properly. We have gone to some length to define it in the best possible terms. If there is any doubt, the Bill provides for the local committee to decide what is and is not a stream in the context of the meaning of watercourse so they can apply their local rules.

This clause provides that it does not cease to be a watercourse if someone diverts the water. The Moore River was diverted with levy banks, but it remains a watercourse. This clause covers all those possibilities.

Clause put and passed.

Clause 7: Division 1 inserted in Part III -

Dr EDWARDS: We know that the objects provide for the management of water resources. Reference is made in proposed subsection (1) to sustainable use and development, and proposed subsection (2) refers to protection of ecosystems and the environment. It has been put to me that other natural resources management legislation passed by this House in the past couple of years has incorporated the principles of ecologically sustainable development. Was consideration given to incorporating those principles in this Bill, and why was a decision made not to incorporate them? How has the environmental allocation been worked out? Is that another part of the COAG proposal? Do we have a draft policy dealing with environmental water flows? If so, how do we ensure that the protection of the environment is achieved consistently while giving people rights to use water?

Dr HAMES: Environmentally sustainable development is in the Bill in the sense that it is referred to as a principle. The Department of Environmental Protection has looked at this Bill and reviewed it, and it is satisfied that that covers those principles.

A draft policy has been developed dealing with environmental allocations. The environmental requirements are calculated by the Water and Rivers Commission in assessing the flow of water, the available yield and the requirements, particularly with regard to the quantities required to maintain downstream water flows or other environmental factors. Those calculations are constantly reviewed as part of the licensing system to ensure they are maintained, especially in times of drought or lower yield. Adjustments to the use of water by licensed users is required to ensure that the environmental flow is maintained.

Dr EDWARDS: I gather that at some stage the issue of duty of care when the water is being used was considered. Why has that not found its way into the legislation and what were the deliberations regarding that issue?

Dr HAMES: It was originally going to be included in the Bill. However, parliamentary draftsmen had difficulty coming up with terms that could be included in the Bill. We decided it was unnecessary to include it because the licence system requires a duty of care to ensure that the people using the water use it exercising proper care and in an environmentally-friendly fashion.

Dr TURNBULL: I strongly support the objective in proposed subsection (1), which refers to the protection of ecosystems and the environment in which water resources are situated. I commend the Water and Rivers Commission and the minister for the foresight they have shown in establishing the Collie water advisory group, which was set up to work out how the ecosystems of the Collie coal basin could be protected from the extraction of too much water during mining and power generation. Many people do not see the need for a provision relating to the protection of ecosystems and the environment because, fortunately, in many places in Western Australia the water extraction has not been so great that it has destroyed the environment. That has happened in our coal basin. This legislation is very important to ensure that in the future the environment and ecosystems are considered throughout Western Australia.

Dr HAMES: That is true. When I said earlier to the member for Kimberley that we are far better off than the other States and that we have not over allocated our water resources I forgot about that one exception. It is an exception for two reasons: First, because of the water used by the power station; and, second, the mine itself and the dewatering process. Those provisions are very important. We have addressed that problem and recently announced what we will do to resolve the situation at Collie. However, as the member said, it is important that that be included in the Bill.

Clause put and passed.

Clauses 8 to 17 put and passed.

Clause 18: Division 1A inserted in Part III -

Dr EDWARDS: I refer to proposed section 5E and the civil remedy where unlawful taking of water affects rights. I assume that if someone contravened this provision, the Water and Rivers Commission would take action.

Dr Hames: No, that is not correct; it is a civil action for someone affected by those changes.

Clause put and passed.

Clauses 19 to 43 put and passed.

Clause 44: Divisions 3C and 3D inserted in Part III -

Dr HAMES: I move -

Page 37, lines 20 to 21 - To delete paragraph (d) and substitute the following -

(d) other provisions relating to its membership, constitution and procedures, including providing that the terms of members' appointments are to be varied, so that the terms of all members do not expire at the same time.

Dr EDWARDS: As the minister will be aware, there has been quite a bit of consternation about these local water resource committees. Can he explain how they will operate in respect of the current local management groups, how there will be a transition from one to the other, and whether they will perform similar duties?

Dr HAMES: The question relates more to the clause than to the amendment. The amendment relates to the construction of those committees. That matter was raised by the Water Users Coalition and is mostly standard practice, but was not in the Bill. We have varying terms for the committees so they do not all go ahead at the same time.

Dr TURNBULL: Local water resources committees are very important. The area that they cover must be identified as being not so big that they are not local committees, yet not too small to deal with only a small tributary. I seek an assurance from the minister that under the proposed concept - that is, it will deal with the issues in the local area - such a committee will not deal with an area that is so big that it cannot be considered to be a local body. I notice the establishment of these committees referred to in this clause. This is another question people are very concerned about. What issues will trigger that establishment? Will people go to the minister and call for a committee, or will the Water and Rivers Commission call for a committee, or will special interest groups be able to do that, or will a combination of all those groups be able to trigger a call to the minister to establish a local water resources committee?

Dr HAMES: Once again, this issue does not relate to the amendment, but to the content of the clause. I am happy to answer both those matters when we move to debate on the clause.

Mr GRILL: I have a fairly basic question about the jurisdictions of these local water resources committees. I refer to proposed section 5A relating to ownership and control of waters that are natural waters vested in the Crown; that is, a watercourse, wetland and underground water source. Will these local water resource committees make recommendations and have jurisdiction in respect of underground water? Will they apply, say, in the goldfields where there is a huge amount of pumping from old aquifers and fossilised waters from deep under the ground? Will they have jurisdiction over those water rights, and how will they operate in those circumstances?

Dr HAMES: Once again, this relates not to the amendment, but to the clause.

The SPEAKER: Order! I assume that the minister is suggesting that we deal with the amendment and then he will answer all of questions that have been asked.

Amendment put and passed.

Dr HAMES: I will answer the matters in reverse order. As to the matter raised by the member for Eyre, yes, it does relate to underground water supplies. It can apply in the goldfields. It depends a lot on local demand. That also answers the question of the member for Collie. These things can be initiated by the ministry, if required; however, often it may be the result of a local issue or a series of local issues where there is conflict between water users within an area. It will often come from an advisory group initially. The size is critical. I think this answers the question of the member for Maylands. We do not want the committees to be too big or too small. We see about 20 people being in a committee that would cover a region. All the committees will not be created at once. There are advisory committees already.

When there is a need for a local area water resource management committee to be developed, it will be created to deal with those issues. Often there will be a rollover of the existing committee into the new one. All these committees cannot be created at once. It must be done gradually. In the goldfields, the issue will depend on the use of that underground water resource and the mining company using it. In most cases, the water is on an area provided with a licence where a mining company is the only user of that resource. As the member will know, the palaeochannels now contain sufficient water for 30 or 40 years. Let us suppose the mining company's area is next to a town or there are competing interests between different mining companies for the same water and, more particularly, if the mining company is extracting water that affects the town supply which is close by. Under those circumstances, there is an opportunity to create a regional management committee to negotiate those issues between the mining company and other users within that area. If aggrieved parties do not like the findings of the local management group, there is a mechanism under which they can appeal on whatever decision is made. The findings are not decided in isolation; the committees are provided with the support and advice of the commission. As I said, the decisions can be channelled through the appeal system or to me, as the minister, if aggrieved parties are not happy with the allocation of the water resource.

Mr Grill: Will these committees be set up in the goldfields in the near future?

Dr HAMES: There is no need urgent requirement to do that. No conflicting issues have been raised with me that must be resolved. It may be that in the future they will be required. Perhaps those water resources will be reduced if we, as the

Government, cannot do something about this issue. The member will have seen my opinion on that matter reported in the local newspaper in the past few days: I believe a pipeline will take water to Kalgoorlie within the next five years. That will not necessarily address all the needs of the water users in the Kalgoorlie and northern goldfields regions, and their use of the palaeochannel water. If there are conflicting interests among the mining companies over the use of palaeochannel water, either between themselves or between them and other users, there is an opportunity for us to create a structure that will help them to resolve that. The whole point of local area management bodies is that government will not come in and say what will be done and for the parties to go to the courts and fight for the use of the water, but to have a local body with local knowledge.

Mr Grill: If you see a problem arising you will move in, take the initiative and foster the setting up of a committee?

Dr HAMES: That is right.

Dr EDWARDS: My question relates to the composition of the local resources water committees. Proposed section 26GL provides that collectively members of the committee must know about the management and development of water resources and the use of water resources in local government. It also states they must know about the conservation of ecosystems. However, the list from which the minister selects does not necessarily include a person who would know about the conservation of ecosystems. How does the Bill provide for the conservation of ecosystems and how many people he appointed to a local resource committees would come from either the staff or the board of management of the Water and Rivers Commission?

Dr HAMES: I am advised that one person will come from the staff of the Water and Rivers Commission. Proposed section 26GL(1)(b) refers to the qualities that a person should have. These qualities are optional. They are not "and", they are "or". It can be a person from local government, officers of public authorities or members of the board of management of the commission. Proposed subsection (2) says that members of a committee, so far as practicable, be collectively persons who have knowledge of and experience in a number of matters, which are listed. That list includes management of the ecosystem. We want people on the committees similar to those who are on the current advisory committees who have experience in a range of those areas - for example, the Leschenault Inlet Management Authority and catchment management groups. They are often farmers who have local knowledge or previous involvement, perhaps as local government members. We will try our best to appoint people with knowledge of ecosystems on the committees. We would expect that the Water and Rivers Commission representative would have significant knowledge of ecosystems, and if he did not he would have access to that knowledge through the resources of the Water and Rivers Commission. That would be essential for the development of decisions by those local committees, because the management of the ecosystem is the key to the Bill and to the management of the region.

Mr GRILL: The clause sets out the requirements for members of the committees. However, it does not appear to set out whether there would be any expert or administrative support for these committees. I notice that other clauses provide for the remuneration of committee members.

Dr Hames: I refer the member for Eyre to proposed section 26GQ which says the commission is to provide a committee with such administrative support and facilities as it requires for the performance of its functions.

Mr GRILL: Does that extend to consultants and people with expert knowledge in the range of areas that might be considered by that committee?

Dr Hames: Yes, it does.

Dr TURNBULL: Proposed section 26GL(3) is an important clause. As I mentioned earlier, an enormous number of landholders and water users have been afraid that special interest groups may dominate local management committees. When one takes into account that many areas such as Ferguson Valley and Henty Brook have an enormous number of small landholders who only have interest in riparian rights and are not water users on a larger scale, new subsection (3) is important because it says -

> If the functions of a committee relate mainly to the use of water resources, and persons who are users of those resource are, as far as practicable, to form a majority of committee members.

In all of the meetings I have attended and all of the people with whom I have communicated in my electorate and in many other electorates feel this is a good clause and they trust that this will help to ensure a balance and focus of the local water resources committee.

Clause, as amended, put and passed.

Clause 45: Sections 26L, 26M and 26N inserted -

Dr EDWARDS: My question relates to proposed section 26L, which refers to local by-laws. A number of concerns have been expressed by people about local by-laws. People feel that they may not have enough say when these by-laws are made. The Bill spells out complicated processes for that. Can the minister reassure people that their local input will be taken into account? Can the minister comment on the costs likely to be incurred by the Water and Rivers Commission given that the commission must ensure that there has been sufficient consultation and the committees have been notified? That will involve a lot of advertising and costs in taking public submissions. To what extent will this add to the work of the officers of the commission and is there any great cost attached to that?

Dr HAMES: As I said earlier to the member for Eyre, they are all part of the three key components of the legislation. The

legislation will provide the opportunity that does not exist currently to have local solutions for local problems. These management committees will have one representative from the Water and Rivers Commission and the rest will be local people from that area. The local people will have every opportunity to have their say to a peer group to ensure their situation is well understood.

Dr Edwards: How "local" will that group be? Will it be a regional group?

Dr HAMES: We have already discussed this at length. We have not specified a size. We do not want it so small that it is one stream with a dozen owners with a dispute, because that is too local and there would be conflicting interests among the owners which would make it hard to resolve the dispute. If that small stream is part of a regional management group that comprises 20 people from that region, that would be the best size. It would be like a sub-catchment area group. It would not be as big as a full catchment area group, but a local area group. If one of those people who has a dispute is on that committee, it will be easy for him to air his concerns. If not, the dispute can be presented to the group. That is one of the variations that we made to help the Water Users Coalition. It was concerned that if someone was an aggrieved party within the process, they did not have appeal rights, and that arises later in the Bill. If that person is not satisfied with the decision by the management group - it must be remembered that the management group can make a decision that impacts on a local user only with the support and cooperation of the commission - he can appeal to the commission expressing dissatisfaction with a decision of the management group. The Water and Rivers Commission can discuss that with the management group to assist in reaching agreement if somebody thought he was being badly treated, or that person would have access to an appeal mechanism. That is one change I made. It is the right of any individual to demand an appeal. Under that appeal system the committee will still come to me at the end of the day for a decision on its recommendation. An aggrieved person can appeal through the appeal system.

Mr GRILL: Once again in respect of these by-laws the minister has indicated that an aggrieved party can appeal. Will the by-laws be laid before each House of Parliament and can they be disallowed?

Dr Hames: Yes, they can be disallowed in both Houses of Parliament.

Mr GRILL: Then they will be like regulations and be laid before Parliament. Will they follow the same procedure that is followed for regulations under legislation?

Dr Hames: I am advised that they will.

Mr GRILL: Will the same timetables be involved?

Dr Hames: I understand it is exactly the same process that applies for regulations, and I presume the same timetable.

Clause put and passed.

Clauses 46 and 47 put and passed.

Clause 48: Division 3E inserted in Part III -

Dr HAMES: I move -

Page 57, lines 7 to 15 - To delete proposed section 26GZK and substitute the following -

26GZK. Transfer of licence to be recorded

Where a transfer of a licence or a water entitlement under a licence is approved by the Commission under clause 31 of Schedule 1, the Commission is to amend the Register to accurately reflect the transfer as soon as practicable.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 49 and 50 put and passed.

Clause 51: Schedule 1 added -

Dr HAMES: I move -

Page 71, line 4 - To delete the words "the licensee is" and substitute "the licensee and the new owner or occupier are".

Page 71, after line 20 - To insert the following -

(2) Clause 14(1)(d) does not apply if the new owner or occupier has informed the Commission in writing that an application will not be made under clause 14(1)(c) to transfer the licence to him or her.

Page 81, lines 4 to 6 - To delete the lines and substitute the following -

(2) Subclause (1) does not apply to a licence of a particular kind to the extent that a relevant local by-law prohibits the transfer of licences, or water entitlements under licences, of that kind.

Page 81, lines 25 to 27 - To delete the lines and substitute the following -

(3) If the Commission would approve the transfer of a licence to a person but for the fact that the person is not a person who is eligible in terms of clause 3 to hold the licence, the Commission may undertake to approve the transfer of the licence to the person if the person becomes eligible to hold the licence within the period of time specified in the undertaking.

(4) Subject to subclause (2), the grant, or undertaking to grant, approval to the transfer of a licence or water entitlement or the refusal to do so is at the discretion of the Commission.

Page 81, lines 31 to 34 - To delete the lines and substitute the following -

(6) Without limiting subclause (4), the Commission may refuse to approve the transfer of a water licence or a water entitlement, or to undertake to approve any such transfer, to a person who has committed an offence against this Act.

Amendments put and passed.

Mr GRILL: These provisions relate to applications for licences and decisions in relation to the granting of those licences. People have the right to make representations and then the commission can either grant or refuse the licence at the commissioner's discretion. Is there a timetable for those procedures? A commission could simply frustrate an application by not making a decision at all or not making a decision within a certain period. A matter could be left in abeyance for month after month. Is there any redress in those circumstances or any timetable that the commission must follow when making a decision on an application for a licence?

Dr HAMES: No, there is no specific timetable for these matters, nor has there been with the legislation in the past. The granting of licences is at the discretion of the Water and Rivers Commission. That is because of the variations in complexity of the issues. A good example at the moment is in the regions around Gingin, and the sub-areas within those areas of water allocation. The growers of olive trees are requesting significant amounts of water and other horticulturists in regions close by want the same water. A study is being carried out to assess the best allocation process. In some areas there have been delays, and sometimes that occurs because a better assessment is needed of the volumes of water available. It is not possible to apply a strict timetable. Since I have been Minister for Water Resources, I have had very few complaints about delays. The only recent complaint related to a delay that occurred when I wanted a study done because I thought the Water and Rivers Commission had allocated the water too fast and that other issues and possible users needed be considered. If someone feels frustrated about delays, that person can appeal to the minister who has the power to direct the commission to hasten the delivery of a licence.

Mr Grill: Where is that in the Bill?

Dr HAMES: It is not in this Bill; it is in the Water and Rivers Commission Act, and it gives the minister the power to direct in these matters.

Mr GRILL: I take it there is no way an applicant for a licence can force the issue. If, for example, a commercial buyer wanted a water allocation to set up an orchard, made an application and, for some reason or another, the commission sat on the application, I take it from the minister's response that there is no way the applicant could bring the matter to a head and force a decision to be made. Have I correctly understood the minister?

Dr HAMES: The person could take action through me or his or her local member. A person in the member's area would obviously go to the member, and the member would come to me, or the person could come directly to me. However, there would be no reason for the Water and Rivers Commission to do that, and that is one of the benefits that has resulted from the splitting up of the former Water Authority. The Water Corporation is the regulator and supplier of water and acts on a commercial basis. The Water and Rivers Commission has an environmental management job. It has no self-interest in delaying an application and its role is not to make political decisions or decisions based on commerce or on the sustainability of whatever business is involved, so at the end of the day it is no skin off its nose if someone gets an allocation. It looks at the availability of the resource, and if there is sufficient water, it grants the application. I did interfere in one case where it granted an application from an olive farmer that gave that olive farmer the bulk of the water in that region, because I believed other factors needed to be taken into consideration, such as whether that was the best use of that resource, and whether it was fair to the other farmers in that area to give all of that water resource to that one farmer. Those are more broadly political decisions, and that is why in that case I interfered by getting the Water and Rivers Commission to do a study of those things. However, in general, there is no reason for the Water and Rivers Commission to delay in making a decision, and I have the power to change its decision if a party is aggrieved.

Dr EDWARDS: An interesting statement is made on page 69 of the Bill that a licence may be granted or renewed for a fixed period or an indefinite duration as stated in the licence or the renewal. When will a licence be granted for a fixed period and when will a licence be granted for an indefinite duration? Will a licence for a fixed period be for a longer period than is the case at present, because people argue they want a long-term licence so that they have some security in their planning and when they go to the bank? It has been argued also that COAG requires long-term water security and long-term licences, and there is a view in the community that this statement dealing with the duration of licences reinforces the current system where licences tend to be of short duration.

Dr HAMES: The reason for the difference between the two periods is that in instances where we are certain about the long-term availability of the water resource, it is safe to grant a licence for an indefinite duration, but in other circumstances the availability of the water resource is less certain, particularly if environmental factors impinge on it, there is variable rainfall or a change in irrigation, or other industry has the potential to use that water resource. A licence which has been

issued for a shorter period has a right of renewal, but the Water and Rivers Commission must re-assess the available water supply and ensure that the environmental considerations have been taken into account. That gives the Water and Rivers Commission some protection and the opportunity for review, particularly if it had made an error in granting an allocation by believing that it had the environmental flow right, perhaps in an area that has been newly licensed, and found that the environmental water flow was insufficient through either over-allocation or a change in the weather pattern.

Mr GRILL: I presume that when a licence is renewed, the licence holder pays a fee to the commission. On what basis is that fee set?

Dr HAMES: We have the option to charge a fee, but in most instances we do not. In a few small areas, particularly around the Canning River, a fee is charged - I am not certain why - and that fee is in the order of $70 per licence. It is not a significant amount, and those licences are for about 10 years.

Mr GRILL: Those water rights will become very valuable as time goes by and will be traded from one person or company to the next, probably at an escalating price. Taxi licences and craypot licences can be very expensive. Is the minister contemplating a situation where part of the transfer fee will be returned to the people of the State, who at the end of the day are the owners of that resource?

Dr HAMES: The member is correct in that there is an opportunity for government to recoup some of the costs that will be incurred by the Water and Rivers Commission in time and manpower. The option exists for licence renewal and transfer fees to be charged, but that has not been considered by us at this stage, for two reasons. The first reason is that I wanted to get this legislation in place, because I regard it as vitally important for the better management of our water resource, and I wanted to resolve that issue without any fear of a change being made to the process. However, even without this legislation, a change could be made to the process and we could charge a fee if we were of a mind to do so. We are not saying we will hang off and charge a fee later, because we can do that now. The return to the State will be more in the better use of our water resources. A good example is the introduction of trading rights. In areas where licences are in place, I have the power to take water from people who are not using it properly and give it to people who will use it more effectively, and that is for the benefit of the State because those people will produce a lot more. The introduction of trading rights will also benefit the State, because the people who purchase that resource will be producing assets, particularly horticultural assets, that are for the benefit of the whole community. Therefore, the community will gain from these changes through the better management of a precious resource. The opportunity exists for either this Government or a future Labor Government to charge a fee, and that applies to any area to which the Government may apply fees. However, that is not being considered at this stage because we do not believe it is necessary.

Mr GRILL: In some respects, it is a threshold question, because although the minister has indicated that he does not want to deal with it now, we have been faced with a problem when licences have been issued in other jurisdictions. The minister contemplates under this legislation that if a licence is reduced or taken away for a public purpose, the commission will pay compensation to the party from whom that allocation has been reduced or taken. However, the irony of all that is that the value of the allocation is created in the first place by the commission. If the commission does not issue the licences, they simply would not have value. The Government through its agencies issues the licences for the taxi and fisheries industries. There is then an escalation in the prices of those licences. Where licences are transferable, the escalation in prices is very obvious. The cost to the Government of setting up the scheme to cut back on the number of pots in the rock lobster industry or alter the system under which taxis operate, and allowing the trading and introducing the compensation is immense. If the Government is to set up a system of trading and compensation under which an owner would compensate another in certain circumstances, or the State would compensate an owner, it should think about the situation which will develop over time whereby the rights are very valuable, as they are with the rock lobster, taxi and other licensed industries. The legislation as it stands does not address that problem. The problem has arisen in the other industries to which I have referred, and inevitably it will arise in this industry.

Dr Hames: Does that mean that your side may move an amendment in the upper House to bring in fees for water licences?

Mr GRILL: I am not saying that. However, it is something that the Government should address now rather than later.

Dr HAMES: I did not think the member would volunteer for his side to introduce in the other place fees for licences. One of the criticisms that was thrown at us when we first introduced this legislation, particularly by the Water Users Coalition, was that this was merely another method of taxing water users and making more money.

Mr Grill interjected.

Dr HAMES: No, I will get onto that in a short time. There is no significant increased cost to government through this legislation. The Water and Rivers Commission has resources to manage these issues. It is managing catchment groups now. To some extent the local users group will be funded through the same funds that fund the catchment groups and water resource management committees. The licensing mechanism is already funded by the Water and Rivers Commission through taxpayers' dollars. The value of the water is already there for those farmers in the value of their property. In a sense, we are separating the two values to allow owners to trade in one component of them. The price of a farm in a horticultural area in which there was no water allocation would be significantly lower than the price in an area that had that allocation. The value is already there, unless obviously there is an unlimited supply of water. With tradeable water rights, perhaps the values will change depending upon supply and demand and the use to which that water can be put. At the end of the day, the value is there already and not something that has been added by us.

Mr KOBELKE: I beg to differ with the minister's last remarks, although I am not totally contradicting him. I accept that what he says has a large element of truth attached to it. However, it is not the full picture. The minister is suggesting that

the enactment of this legislation will not create any additional value of the water for landowners. I will put a contrary position. I agree to a certain extent with the situation that the minister has outlined; that is, for many people the current market value of their land takes into account the availability of water. That water may currently be licensed because it is in an area in which there is a restricted or limited supply of water. Therefore, the availability of that water under the current regime is a component in the value of that land. As the minister has quite rightly pointed out, an adjoining property which did not have access to such water would have a lower value. To that extent I would agree with the minister. However, this legislation goes one step further; it creates a value in the water, which would be held apart from the value of the land.

For the assessment of most pieces of land, the two components may be taken as one. In such cases, the minister would be right and I would agree with him that he is not increasing the value of that particular piece of land from what it would be under the current regime to what it would be under the new regime, even though under the new regime the components may be split into the land value and the value attached to the right to water. However, because the right to water now stands alone, situations will arise in which the value of that water will be taken in a different sense than it was previously when it had to go as a single package with the land. Therefore, in that respect, as the minister has acknowledged, a tradeable right to the water is guaranteed or available through the licence. That is a new value. In some circumstances, I suggest that plus the land would exceed the value of the current land and access to water package. We will be seeing the right to water as a value in itself; that is, the creation of a value for the owner which in some instances - I will not hazard a guess whether in a minority, a substantial minority or even a majority - the minister will have established an additional value to the holder of the right to that water. That right is tradeable.

As the member for Eyre has quite rightly pointed out, there will arise in the future a very considerable cost to government of managing the system. It may not be a recurrent, annual cost, such as already exists with managing the system through issuing the licences or policing compliance with licences. Those costs are there and being met by the taxpayer. There will be the additional cost of paying compensation. I see that in division 9 of this schedule. That cost to government of paying compensation could be quite substantial at times. The taxpayer will have to meet that additional cost. It would seem not to be exactly prudent to embark on a scheme in which potential compensation costs could run into hundreds of millions of dollars without having thought of a financing scheme for such compensation. I understand the minister's position. If we were in government, we would be similarly hesitant about introducing a fee for licensing, which would be perceived as an additional form of taxation. We certainly would not want to be encouraging this Government to impose an additional tax because it has too good a record of increasing and adding taxes. However, we want to encourage the Government to be prudent in its financial management. With a Bill introducing a compensation system which opens up a very large potential liability to the State, we need some answers as to how that is likely to be met, not merely treated as an unfunded liability that the taxpayer will meet as and when it arises.

Dr HAMES: I will deal with the last issue of compensation first. I accept some of the points that the member has made about the value of licences and I will get back to that. Mostly the Bill provides mechanisms for compensation, which in most instances will be compensation between owners of land and not from government to owners of land. The Government will be liable for compensation payments in two areas. One area is when the Water and Rivers Commission has estimated the availability of water which is not the full availability and it is the commissions' mistake. That is an unlikely scenario as the Water and Rivers Commission is super conservative in its water allocations. No compensation will be payable when the reduction in water allocation is due to environmental factors, such as reduced rain. Compensation will be paid for a reduction in available water volume, and there will therefore be a reduced allocation of water. The value of water as a tradeable commodity is only in the value placed on the water, which varies enormously in other States, depending on seasonal factors, availability and location. Availability of water can be reasonably high in some areas. However, whoever buys the water must use it to produce crops to make an income. Given that the market does not produce huge incomes without large volumes of water, the actual kilolitre value of water is not great. A small reduction therefore will not incur a large cost. The only other time that the Water and Rivers Commission might need to compensate is when it wants to take back water for the good of the State. The circumstances under which that occurs may be when it has to buy out a farmer's allocation because the State requires the water; that is not quantifiable currently. However, a decision will be made by Cabinet and Treasury at the time it occurs as part of the normal budget process. The Water and Rivers Commission does that now when buying land, particularly over the Jandakot mound where it bought a few properties as part of the protection of that mound. I believe about $4.5m was allocated in this year's budget for land purchases over the mound to protect that water resource. The Opposition talks about compensation being hundreds of millions of dollars, which will not be the case. If it were to be the case, the Government through Cabinet and Treasury will decide the value of that water at the time it is to be taken back. The cost of managing tradeable water rights is minimal and is little different from what we do currently. Those costs will be absorbed in the normal budget of the Water and Rivers Commission. The large costs for the Water and Rivers Commission - where most of its budget goes to now - is in managing the resource, as we do; this item therefore will be very small.

I accept the point made by members opposite, probably stated better than I have, about the value of water. The value of the property versus the value of the water is incumbent on the property and depends on water availability. In some areas where we license water but there is still plenty of it, the value of that water will not be as great because people can buy other land with a water allocation. Where the water is fully allocated already, the value of that water resource as part of the land is very high. I accept what members opposite say that once the two values are split, there will be opportunity for those values to increase but only as much as the market will bear. As members opposite said, those values will increase but at no cost to the Government. We are not putting in any dollar value for which we will need to charge licence fees to provide a return. The water resource belongs to the State. However, currently, if people buy land with water under it, they can receive an allocation and that becomes their water and they benefit from the value of their licences.

Dr EDWARDS: I refer to page 85 on the same matter of compensation immediately following on from what the minister said. Given that he is talking about the value of licences, can he confirm from whom he has sought advice regarding capital gains tax? Did the minister write to the Australian Taxation Office or the federal Treasurer? Can the minister tell us either whether he has had an answer or when he expects to receive an answer?

My second question relates directly to two public interest provisions of schedule 1 on page 85. In division 9, clause 39(1)(a) and (b) refers to compensation if a person suffers damage, including loss of profit "due to the exercise of a power under clause 24(2)(e)(i)". Can the minister explain the definition of "public interest"? Is it right that although the minister said that the Government will not be compensating anyone, the mechanism will provide for someone who has benefitted to pay moneys to the commission which will, in turn, pay those moneys into the consolidated fund? Someone who has lost out then will receive compensation from the commission through the consolidated fund with the commission acting, not as a broker, but as a receiving point.

Mr Grill interjected.

Dr EDWARDS: The minister said that the commission would not compensate people as the money would come from the person who made the gain. However, I assume the money will not go directly from Mr A to Mr B, but through the Government.

Dr HAMES: The Water and Rivers Commission wrote to the Australian Taxation Office seeking a ruling on capital gains tax and has not yet received a response. Subsequently, I wrote to the minister seeking his views and asking him to liaise with the Australian Taxation Office. Once again, there has been no response to that letter. We debated the effect of capital gains tax with our own experts and advisers on taxation. We have asked other States about how their systems work, although they were not keen on our asking the Australian Taxation Office because, as members know, trading in water has been going on in other States for a long time with no capital gains tax levied.

Mr Kobelke: Let sleeping dogs lie.

Dr HAMES: Yes, they wanted to let sleeping dogs lie. However, the Western Australian Water Users Coalition was keen for the Government to gain an answer so we had to make that inquiry. Unfortunately, the Australian Taxation Office will prick up its ears at a new source of taxation. The advice we received is that it is already within the ATO's power, without this legislation, to rule as separate the values of the water and the land. To some extent, this legislation makes it easier for the ATO to make that ruling as we are more clearly defining that value.

To clear up the matter of capital gains tax, anyone who has a pre-1985 water licence is exempt from capital gains tax, which applies to nine of the areas that will be licensed. Only two areas, Wanneroo and Cockburn, have post-1985 water licences. It will be to the advantage of licensees in the Cockburn region to sell that water to industry or other alternative users as the metropolitan area moves in that direction. Wanneroo will be in a post-1985 position, but capital gains tax relates only to an increase in value above the consumer price index if the water is sold.

Mr Kobelke: The Federal Government is currently considering changes to capital gains tax which will make it somewhat more progressive.

Dr HAMES: Yes, it is considering those changes. We therefore believe that the issue of capital gains tax has a bit to run yet, but should not hold up the passage of this Bill. As I said, trading has been under way in other States for 10 years, which States say they would not live without it as it has been essential to their development.

Mr Kobelke: Can you indicate the dates of those letters?

Dr HAMES: The letter to the Treasurer was sent about four weeks ago. The letter to the Taxation Office was sent about six months before that. That leads me to believe they have been sitting on them.

The member for Maylands asked about the public interest. In an area in which water is fully allocated and on which the Government wants to build a hospital for which it requires a water allocation, it may take away some of that allocation from the local users, but quite rightly it must pay compensation for the value of that water. Alternatively, it could buy a water allocation from somebody who is willing to sell his water allocation at the going market rate.

Mr KOBELKE: I refer to clause 39 in the schedule at page 85 and clause 24 at page 77. Clause 39 reads -

> (1) If a person suffers damage, including loss of profit -
>
> (a) due to the exercise of a power under clause 24(2)(e)(i) . . .
>
> (b) due to the exercise of a power under clause (25)(2)(e)

Clause 24 is headed "Commission may amend licence" and subclause (2)(e) reads -

> in the opinion of the Commission, the exercise of the power is necessary or desirable -
>
> (i) in the public interest.

That was the point the minister just made. Paragraph (e) continues -

> (ii) because the water resource to which the licence relates is insufficient to meet demand or expected demand; or

(iii) otherwise to more effectively regulate the use of that water resource;

I seek clarification of the explanation the minister gave about the public interest. Do we take paragraph (e) to mean that where the commission exercises its powers to reallocate the water resource to meet demand or expected demand or to more effectively regulate the water resource, that is exclusive of the public interest, or does the public interest have a broader extent?

The minister gave an example of olive farming just outside Perth, where the water allocation took most of the water resource. If the minister thought it was in the public interest, but not for a hospital or a public institution, to allocate water across more users to ensure greater use of the land in that area, would subparagraphs (ii) and (iii) cover the situation? Could it also be done under subparagraph (i) in the public interest?

One could make a bush lawyer's argument to say it is in the public interest to have maximum horticultural and agricultural production in that area and that without allocating the water resource the area to come under cultivation could not be extended.

Does the public interest mean for a specific public purpose as in a government use, or does public interest potentially have a wider definition which could cover some of the uses under subparagraphs (ii) and (iii)?

Dr HAMES: I am advised that it can have that broader use. I guess it depends on the Government's views on compensation. The circumstance the member for Nollamara described could be addressed under part (iii), which is to more effectively regulate the use of the water, in which case compensation would not need to be paid.

If, for example, an olive grove was using significant amounts of water and it was seen to be in the public interest for a number of horticulturalists, who individually use less water for a far greater produce, to have that water, the Bill provides the power under the public interest clause to achieve that. However, the Government would not pay the compensation. Those who would gain from that - that is, the horticulturalists - would have to pay the compensation.

In response to the member for Maylands, compensation would not be paid through the Commissioner for Water Resources. We can direct that the compensation be paid by the person who gains to the person who loses. As the member for Nollamara said, the power exists for compensation to be paid under the public interest clause. However, at the end of the day that would be a difficult decision to make. To some extent it would mean picking winners, which would not be regarded too favourably by most and it is not something that I would be keen to do. A few of those clauses could be used if desired.

Mr KOBELKE: If a user of water had the right to most of the total supply available in one area and a range of smaller users of water, the expansion of whose horticultural and agricultural pursuits were limited due to lack of water, wanted to increase their access to water to expand their production and livelihoods, as the minister explained, the first option would be to trade on the market with the person who had the larger supply of water.

If that proved to be unsatisfactory and the larger number of people applied political pressure in seeking what they saw was a more equitable distribution of that right to water, from what the minister said, it seems that the Bill provides the power for the minister of the day to intervene and to remove from one player a portion or all of his right to water and to reallocate it to the other landowners in the area. Where in this Bill do those powers reside? The minister earlier suggested that compensation would pass from those gaining access to the water, and therefore the value from it, to the person whose asset was being reduced or removed by the removal of his right to water. I am not clear by which mechanism that could be done, other than by agreement to trade. If they did not agree to trade, and the minister of the day thought that equity demanded it, he could use this legislation to intervene and to reallocate that water resource from one group to another group. What mechanism would be available and how would compensation be handled to match that? The Government may need to contribute in some way to reach an equitable outcome.

Dr HAMES: Although, on the one hand, the member is highlighting the opportunities for government in the reallocation of the water -

Mr Kobelke: I am interested in the way in which the legislation handles the difficult cases. I realise the minister will say that that is not what is normally expected, but what happens with difficult cases under this legislation?

Dr HAMES: I understand the member's point. However, I will deal with that, because the whole purpose in creating tradeable water rights is so that the Government does not have to interfere and a free market situation is in place. If some other development had a greater opportunity to use the water, one would presume that in most cases that development would have a greater financial ability to use the water because it would be more valuable to it. It would sell or produce more and therefore be better able to afford the water. That development would purchase those water allocations, and no intervention from government would be required. A person, or his family, may have perhaps been a farmer in an area for tens or even hundreds of years, with water allocations and water licences, and for the heavy hand of government to take that away, because the Government perceives in its wisdom some better public use, would be unjust for that person who had had that water allocation for so long. It would not be reasonable for a Government to do that, and it would suffer the consequences of the ire of not only that person but also others who thought that it was harsh to do that. Therefore, I want to play down that component.

As the member knows, close to his electorate, in the heart of Noranda, approximately where the Noranda shopping centre is located, there was previously a poultry farm for egg production. The farmer did not want to move; he wanted to stay there forever. That is now a thriving suburb with a shopping centre. If the farmer had had his way, he would still be there. Obviously, the Government, through the planning process, had the power to move that farm, and that is what happened. There may be circumstances in which similar actions would be taken in the future. Most of these cases are dealt with through

the planning process, and in similar cases here that might apply. However, as the member said, the Government has the opportunity to take that action. I do not see any process whereby the Government would then pay additional compensation. A value is placed on the water, and that would be the amount paid by those coming into it.

The compensation payment works through the licence process. The person to whom the water is being transferred must have a licence. The compensation payment is made a part of the conditions of the transfer of licence from one person to another.

Mr Kobelke: So it can be laid down as a condition?

Dr HAMES: That is right.

Mr GRILL: Dealing with transfers of licences and compensation, the minister indicated that he saw this as a process that is mainly at arm's length from government and that operates through the third parties themselves. What has been the experience in the eastern States in this situation? I think my colleagues here are suspicious that the Government will be dragged into these processes and that ultimately it will pay out compensation as a result. As a former Minister for Fisheries, I can attest clearly to the fact that fisheries departments, both state and federal, have set up management regimes for different parts of the fishing industry. In many instances, if not most, they have overestimated the resource and underestimated the efficiency of the fishermen. Therefore, they have had to modify these schemes. In modifying them, they have had to take back allocations. In the case of fisheries, it is an allocation of a right to fish a particular stock of fish. In the case of water resources, it would be the allocation of water that would be taken back.

The minister said that there is a situation in which compensation would not be paid in respect of environmental factors, if environmental factors brought about a reduction in the amount of allocation in a certain area. However, the experience in the fishing industry has been that inevitably Governments get dragged into these matters, and inevitably they must come to the party to reallocate resources. In reallocating resources, Governments must compensate people who are squeezed out of the industry or who have a lesser share. There is case after case of this happening in the fishing industry. I am used to that and I understand how it works. It works in the way that I have indicated. I do not have the experience with water resources. However, once a licensing system is created - the minister has now conceded that in creating a licensing system for allocations of water separate from land he can see an escalating value in those allocations - how does one ensure that at the end of the day the Government is not dragged in? What is the experience in other States? Have Governments there been dragged in? Have large amounts of compensation been paid, or is that a developing area?

Dr HAMES: The experience in other States is different from the situation here, in the sense that there has been a significant over-allocation of water in other States, particularly in the Murray-Darling Basin. The compensation mechanism and the way the calculations are made are also different in the other States. To a large extent, they are not paying compensation for most clawbacks, even when some over-allocation may have been made. Today, I read an article from Queensland that dealt with those issues of compensation.

Mr Grill: In this legislation the Government is clearly opening up liability of the State for payment of compensation. It will be there.

Dr HAMES: That is true. However, the big advantage that this State has over other States is that other States have never done a proper environmental allocation. We have been doing that from the start. We have a significant environmental allocation that is preserved and protected from the very beginning; therefore we do not have to claw those back. Dealing with whether one over-allocates the rest of the resource, the Water and Rivers Commission has been exceptionally conservative. It has had a long period of experience with this. It must be remembered that these allocations are only in limited areas throughout the State. If the Water and Rivers Commission over-allocates in certain areas, sure, there will be a liability. However, when one looks at the amount of reduction that may be needed, it is not a huge liability in dollar terms when one compares the values in other States. Built into those environmental quantities that are put aside by the Water and Rivers Commission is a fair bit of fat to make sure that the commission does not get into trouble. This State was making environmental allocations in the 1970s.

I understand what the member said about fishing licence allocations and the Government getting dragged into the process. As to whether somebody needs compensation, the Water and Rivers Commission provides the licence. It provides the allocations that are available. The trading will occur between those groups. If there is a requirement for compensation to be paid in those instances in which someone gains and another loses, that compensation is part of the licence agreement that is just issued by the Water and Rivers Commission.

Mr Grill: I understand that. I am not talking so much about that situation.

Dr EDWARDS: On page 86, clause 39 of schedule 1 refers to the local by-laws. It states -

> (3) Local by-laws may prescribe -
>
> (a) the time within which compensation may be claimed and the procedures for making claims;
>
> (b) the types of damage . . .
>
> (c) how compensation is to be assessed.

When I read that baldly, there is some concern that a local committee could be making these by-laws about the time, the types of damage and how compensation is to be assessed. Presumably, there would be a lot of guidance from the Water and Rivers Commission to make sure all of this is done with regard to natural justice and the ways in which compensation is normally administered. The clause also states that a dispute about the amount of compensation is to be determined by an arbitration process. However, if there is a dispute about when the compensation is to be paid, the type of damage or anything

else to do with the compensation, how does a person get redress? I understand that there is no appeal over compensation. Presumably, under the Commercial Arbitration Act, this arbitration covers only the amount of compensation rather than for what it might be.

Dr HAMES: That was one issue raised by the members of the water users coalition group. It was concerned that if someone were aggrieved by a process of the local committee, that person had no avenue of appeal. I have reassured them, and I will place it on record as well, that whatever process gives instructions in whatever way to someone within that catchment, the Water and Rivers Commission, by being on the committee, is part of the decision that is made. That person can come back to the Water and Rivers Commission and say, "I am not being treated fairly." The Water and Rivers Commission will look at it or that person can come to me and I will look at it.

Dr Edwards: That has no legal status.

Dr HAMES: That will be a decision by the minister of the day.

Dr Edwards: I mean the right to go to you.

Dr HAMES: It does not have a legal status. I have made it clear that it is my belief that the Minister for Water Resources should be making that opportunity available.

Dr Edwards: That is fine while you are minister, because you want to solve problems. However, if we had a dreadful minister, it could be disastrous.

Dr HAMES: It is at the discretion of the minister. It is like a lot of other issues that relate to the water industry. In fact, that is what I am doing at present with the disputes over a water licence in Carnarvon. I have appointed a committee to manage that. The local groups do not make the decisions; they make recommendations to the commission and the commission makes the decision. Under the Water and Rivers Commission Act, the minister of the day has the power to set up an appeal system or to direct the commission. It is just one of those normal rights of a minister in managing his department. They do not have an appeal by right to those sorts of decisions.

Mr KOBELKE: I will return to the matter of compensation, which was being discussed with the minister by the member for Eyre, and approach the matter from a totally different basis. My understanding is that the water remains owned by the Crown. Is that generally correct?

Dr Hames: It is vested in the Crown.

Mr KOBELKE: With which agency or department does that water ownership vesting rest?

Dr Hames: It is vested in the Crown and is administered by the Minister for Water Resources. The Water and Rivers Commission has the responsibility for the management of that water.

Mr KOBELKE: Last week we dealt with the amendment to the Financial Administration and Audit Act, which made it clear that, with the Government's accrual accounting, all assets should be brought to book. With respect to the Education Department, it means that all the properties and assets in all the schools must be taken into account; in fact, it must pay a levy to the consolidated fund which, it is anticipated, could be about 8 per cent on that asset. That is quite removed from the value of water. An issue which is a bit closer is the Department of Conservation and Land Management and the native forest, which clearly has a value for logging. It is required to place a value on that native forest. That is a difficult thing to do, because there is a range of models and one can make various judgments as to the most appropriate way of valuing that forest. Clearly it is a liability to the extent that it must be cared for and maintained. That is a cost that CALM meets in looking after that forest. It is also a very valuable resource and it earns huge amounts of money from the royalties collected on selling that resource.

If the Government is to be consistent, the Water and Rivers Commission must, now or at some time in the near future, look at putting a value on that water resource which it is required to manage. If that water resource simply was an asset which could be exploited, one might say that it is too complex and too vast and that there are too many ways in which it can be assessed to put a straight value on it. However, with the compensation, we now know that the water not only is a valuable asset, but also has potential liabilities attached to it. In licensing that water, in many instances, there will be a quantifiable value on it for specific users. If a situation arises in which that water must be reduced in quantity to that user or that right removed from the user, there is a liability presumably on the Water and Rivers Commission. In that sense, a liability flows through to the Government. It seems to me that if we are to be consistent in this area with the accrual accounting procedures that have been set for the whole of government, we must look at the extent to which water resources must be valued. I presume it will go into the Water and Rivers Commission's accounts as a value which it must manage. We will not enter into the next question about whether an annual levy will have to be paid by the Water and Rivers Commission to consolidated revenue, but one could proceed with that if we are to be consistent.

However, it seems to me that if we are looking just at the compensation side, there will be a requirement on the Water and Rivers Commission to fall into line with this whole-of-government policy and look at the potential value which can be realised from that water resource and also the potential liabilities that might flow from any compensation which must be paid. I wonder whether the minister will comment on what I have said and go one step further and say how far the Water and Rivers Commission has gone in looking at what accounting procedures it might need to establish to fall in with this requirement of all other arms of government.

Dr HAMES: The member must be from the right side of the Labor Party given the comments he is making - he wants me to levy a charge on everything. The argument the member mentioned has been floating around for a while.

Mr Kobelke: It was a Bill that went through this House last week.

Dr HAMES: Not that part of the argument. I am talking about a value for water. Obviously the member would support those who argue that the issue with water is -

Mr Kobelke: I am saying the Government supported it.

Dr HAMES: Let me finish. The argument is that the water is owned by government, and therefore, it has a value for everybody who uses it and they should pay something for that use. That argument has been circulating for some time. If one accepted that argument, everyone who puts down a bore for their garden should pay a licence fee to use that water. Unfortunately, the member for Eyre has left the Chamber; he would be horrified to think that if that were the case, all the miners who have found water in channels - albeit hypersaline water - would have to pay a levy because the water was in the ownership of the general public, of government. Mining companies would have to pay a water levy for using the water resource on top of the gold levy they pay for using the gold resource. I have resisted that argument particularly given the difficulties the mining companies are facing. Also, most bore water users in this State would be horrified if they suddenly had to start paying for the use of that water.

To return to the first part of the member's argument, the value of that water to the Water and Rivers Commission is zero because while it is a valuable resource in the sense of having that water in government or public ownership, it is not a value the Water and Rivers Commission can sell as in the Department of Conservation and Land Management selling its timber resource. It is a resource which is of value to the person who uses it but not to the Water and Rivers Commission, which is not selling it or getting any value from it as a revenue source. The member may argue that the Water Corporation which takes that water, makes use of it and gives it a value, should pay a levy. However, in effect it pays a levy through its profits and the funds which go through the consolidated fund to the Water and Rivers Commission to cover the cost of managing that resource. In effect, the Water Corporation pays a levy for the management of that resource. I do not think that asset can be compared with the other issues, particularly something like CALM and the forest resource, because no dollar value can be allocated to that water which affects the Water and Rivers Commission in any way.

Mr KOBELKE: I thank the minister for his response. However, either I did not put my concerns clearly or he misconstrued them. I was reflecting on government policy. Last week in this place I raised my grave concerns about this whole process. It is the Government's policy to put a value on all assets belonging to government agencies. The Government is moving to establish a levy on those agencies for holding those assets. I would like to make clear a couple of points the minister made in response. It does not apply to private ownership. If a forest with value in the timber is privately owned, the Government is not seeking to tax that through this process of accrual accounting. However, if it is owned by a government agency such as CALM or another government department which owns land with valuable timber on it, it will be valued as an asset belonging to that agency and a levy will be placed on it. That levy will need to be paid into the consolidated fund. That is the Government's policy and the legislation which has passed through this House and is now in the other House.

The second point that the asset does not earn income and is not saleable in the normal sense is not the issue. This will apply to government schools which are not there to earn money. If a government school comprises land and buildings as we would expect, it is a capital asset on which, under the Government's policy, the Education Department will need to value and carry in its accrual accounting procedures. It is likely under the legislation which has passed through this Chamber that the department will be required to pay an annual levy into the consolidated fund. That is the point I am making and I have raised concerns about it. It is this Government's policy to do that. It seems that the water which is owned by the Crown and vested in the Water and Rivers Commission is likely to be treated in the same way. If it is not, the minister will need to fight with his cabinet colleagues to get it treated separately. In debating this issue last week, the Treasurer gave an answer which suggested that roads would not be treated in this way. I was not convinced by his argument because it seemed to be inconsistent. The Treasurer also said that the land on which roads are built would not be treated in this way and I accepted his argument there. I accepted that that was too difficult to do and that there was no point in pursuing a valuation on all road reserves which would need to be carried on the books of Main Roads Western Australia. However, I was not satisfied by the Treasurer's arguments about the built roads, bridges and tunnels themselves. We know that things like the tunnels associated with the Subiaco station have been transferred to Westrail as an asset of $40m. That boosted Westrail's assets in its annual report. That argument is one to which the minister has yet to direct his attention and take up with his cabinet colleagues.

I raise a couple of points to assist the minister. If there is no realisable value in that water for the Government - I think that is the position the minister is putting - that would be a strong argument to say that an exception should be made for the Water and Rivers Commission and it should not be required to try to value that water asset and carry it in its accrual accounting system. On the other side, there is clearly a potential liability through compensation. It seems that the minister cannot get out of that argument as easily if he is to meet his own Government's accrual accounting standards. The minister will need to accept that there is a potential liability. His officers will have to do their best to put some form of valuation on that liability and once the minister has entered a liability into the books, it will be more difficult to argue that the asset on which that potential liability can be drawn should not be taken into account. The minister faces a vexed question. His Government's accounting standards have taken us down this road. I expressed my concerns last week that they would not necessarily produce the outcomes we hoped for and that they could end up with many officers in government departments being distracted into a paper chase with the required accounting processes. I have grave concerns about those accounting processes. I ask the minister to reflect on his Government's policy and how he will argue that the Water and Rivers Commission does not need to meet this standard. If it will need to meet the standard in full or in part, what action is the minister taking to do that?

Dr HAMES: I have not been involved in the debate on the other matter as the member obviously has been involved. I was not in the Chamber when it was debated. However, I am affected to a degree as Minister for Housing. We have that issue and we do not see a problem with it. It concerns accounting practices rather than management and ensuring proper management of government assets. It is my understanding that water will not be included in the list of assets. It is not something to which the legislation applies. I will clarify that and get back to the member to ensure my understanding is correct. While that asset is vested in Government, most of the time it is allocated to others and licensed and under the management of either the Water Corporation or private owners. It is not as though the Government, through the Water and Rivers Commission, has an asset which has been created with any capital expenditure on its part as one could say schools, roads or plantations have been created - obviously natural forests are a different matter. Nothing has been created by government and there is no return by government. Accrual accounting is not so impracticable as to include something like this.

Mr KOBELKE: I hope the minister is correct. I have one last point and I will try to be brief. The minister indicated that compensation would be paid when there was an error by the Water and Rivers Commission in making an allocation which then proved to overdraw on that water resource and because of that error any withdrawal of volume under a licence would potentially open up the Water and Rivers Commission to compensation. Counter to that, the minister stated that a change resulting from a reduction in rainfall would not be grounds for compensation. Correct me if I am wrong. However, it seems that it is not so clear-cut because the Water and Rivers Commission's assessment must take into account what it regards as a long-term cycle in rainfall, or long-term trend if it does not work on a cyclical model, and the contribution it will make to the water resource. It may not be a simple linear relationship. It may be that a licence holder's right to water is reduced or withdrawn, and he will mount an argument that the Water and Rivers Commission did not do its work properly even though the reduction clearly resulted from a reduction in rainfall.

Secondly, does the minister see the rise in salinity levels in the same way? We have a major problem with salinity, and we are well versed in the problems with good water irrigation supplies becoming increasingly saline so that agricultural use of the resource is reduced or removed altogether. Is the expectation that salinity will lead to a reduction in the availability of water? Must users then contend with that situation, or will they expect to have some comeback to the commission for not adequately assessing potential increases in salinity when making a water allocation?

Dr HAMES: Compensation is not a statutory requirement in the Bill. The Government chose to include it to create the opportunity to pay compensation where it was thought to be justified. The only time the Government should pay is where, in the opinion of the minister, the Water and Rivers Commission makes an error in its allocation which causes significant financial hardship. Someone may have based his development proposals on an allocation by the commission, but the commission's assessment turned out to be wrong. This could have a significant effect on the business and create a financial difficulty. The minister can look at that circumstance and say that the Water and Rivers Commission made an error. The minister can then pay compensation. It is not a requirement or a right, but an opportunity. I deliberately included that possibility because I have seen circumstances in other places where errors were made. However, it is extremely unlikely to occur in most instances. The Water and Rivers Commission is extremely conservative in its allocation. Although the commission must take into account changes in weather, if it can be clearly demonstrated that no significant reduction in rainfall occurred, yet the commission significantly reduces its allocation, compensation may apply. It is reasonably clear-cut.

Issues relating to the quality of water have nothing to do with this provision, as I am sure the member suspected. Salinity is caused by a range of things. Compensation is not available because that is part of the normal process of managing the water allocation.

Clause, as amended, put and passed.

Clauses 52 to 68 put and passed.

Clause 69: Schedule 2 added -

Dr HAMES: I move -

Page 100, line 31 to page 101, line 2 - To delete the lines and substitute the following -

(1) If the appellant so requests, on receiving a notice of appeal the Minister is to cause an inquiry to be conducted concerning the matters raised in the appeal by 3 or more persons appointed in writing for the purpose by the Minister including -

(a) a nominee of the appellant approved by the Minister; and

(b) a nominee of the Commission approved by the Minister.

Page 101, line 17 - To delete "person" and substitute "persons".

Page 101, lines 29 to 32 - To delete the lines and substitute the following -

(3) The persons conducting an inquiry are not bound by any rules of evidence and, subject to subclause (2), may conduct the inquiry and obtain information in any manner they consider appropriate.

Page 102, lines 1 to 3 - To delete the lines and substitute the following -

(4) On completing the inquiry, the persons conducting it are to report to the Minister giving their findings and recommendations in respect of the appeal.

Page 102, lines 4 to 10 - To delete the lines and substitute the following -

7. Appellant to be given copy of report

The persons who conducted the inquiry are to give the appellant -

(a) a copy of the report referred to in clause 6(4); or

(b) if they consider that the report contains confidential information, an edited copy from which that information has been deleted.

Page 102, lines 12 to 18 - To delete the lines and substitute the following -

(1) If the persons conducting an inquiry consider it desirable to do so, they may -

(a) of their own initiative; or

(b) on the application of the appellant or the Commission,

refer a question of law arising in the inquiry for determination by the District Court.

Page 102, line 28 - To delete "person" and substitute "persons".

Mr KOBELKE: The inquiry under these amendments will not be bound by rules of evidence. I seek some assurance that the inquiry will be required to treat people in a fair and open process, even if we do not want to be as strict as complying with the rules of evidence. What is the minister's response? Given that a report is to be made to the minister, will it be available under freedom of information, or will any exclusions contained in this Bill or the principal Act mean that such a report will not be subject to the Freedom of Information Act?

Dr HAMES: Regarding the inquiry not being bound by terms of evidence, I give the assurance that the inquiry will be fair and open. The process for appointing people to head an appellant inquiry is similar to that I have just undertaken in Carnarvon; that is, we appointed a retired magistrate to chair the inquiry and a second person with local experience. The appellant had a choice of a third person, provided it was not a family member, who was a respected person in the community. While it is not bound by the rules of evidence, they have that requirement to conduct a fair and open inquiry. If I as minister, or any other minister, felt it had not been fair and open, we would be free to hold a further inquiry. It is up to the minister to decide on the recommendations made by that committee. As with any information that comes to a minister, he or she must make a judgment. If the complainant makes a case that it was not fair, he or she can make that suggestion to the minister.

Mr Kobelke: That is often difficult if they do not have access to the information.

Dr HAMES: The result of that appeal is available to the person who lodged it. The information will be available under the Freedom of Information Act, but commercial-in-confidence will be protected.

Mr Kobelke: So the existing 14 exemptions under the FOI Act will still apply, and commercial-in-confidence is one of those. However, it would not have any different status or protection other than that which is already contained in schedule 1 of the FOI Act.

Dr HAMES: That is correct.

Amendments put and passed.

Dr EDWARDS: I understand that Alex Gardner is doing a review of the appeals process. I am told the Water Reform Council recommended a year ago that the Water and Rivers Commission conduct a full review of the appeal process during 1999-2000. Can the Minister highlight the terms of reference of the review, when it is likely to report, how the public will have input, whether it relates directly to this Bill and whether changes are likely to be made to the appeals process as a result of the review? I was still getting correspondence on Friday from people unhappy that the appeals system is not as independent as it could be. In terms of being helpful to people if they are aggrieved by the process, what would the difference be between complaining directly to the minister, who presumably would seek advice, and complaining and having an appeal undertaken that then makes a recommendation to the minister that he or she may or may not accept?

Dr HAMES: This has been a slightly difficult issue.

Dr Edwards: In what regard?

Dr HAMES: Because my opinion and the opinion of the Water and Rivers Commission are not in accord on this issue.

Mr Kobelke: Tell us more.

Dr HAMES: The review has been initiated as part of the consultation phase of the state water reform process. I have been happy for it to continue because it is part of a public consultation process. The report, which has a series of recommendations, will be available shortly. Those recommendations will again be available for public consultation. That process will take some time.

Dr Edwards: Is it broader than this legislation?

Dr HAMES: The appeals process I use at present allows what I did in Carnarvon. In that case, the person came to me and presented an argument. He had been arguing with the Water and Rivers Commission for a long time, he was not satisfied with the result and he came to me. I listened to his argument, but it was very difficult to make a determination. Instead of doing that, I set up an appeal committee with three people to listen to his arguments and to make a recommendation to me.

I am sure I will accept that recommendation. I had the Water and Rivers Commission saying one thing and the complainant saying something different and I wanted an impartial umpire to arbitrate for me. I see the same situation applying in this case. If someone has a complaint, he or she can come to me and I might be able resolve it. If he or she is arguing with the local committee or the Water and Rivers Commission, and it cannot be resolved, I might be asked to arbitrate. I have said I will do that in respect of certain issues, or I will establish an appeal committee to resolve the issue for me.

I like that process, but the Water Users Coalition does not. I have said that is one area in which we will have to agree to disagree. It wants a process similar to the Warden's Court or the Town Planning Appeal Tribunal process that we have just dismantled. I do not like those systems; they are very confrontational and litigious and they involve lawyers. I prefer the system that we are putting in place.

However, because of those concerns and because of the state water reforms we have already undertaken, I have said we must go through that process. When the recommendations are presented, we will consider them. Whoever is minister at the time will determine whether we stick with the appeal process in this legislation or go to a more general reform process. That process will take at least six months. The Water Reform Council is very happy for us to go through the process of passing the legislation and resolving the issue later.

Dr EDWARDS: I appreciate what the minister is saying. However, the Commission on Government very strongly recommended that ministers get out of this area. It argued that it is better to move to systems with administrative review at arm's length from a minister. Although the minister makes those criticisms of the Town Planning Appeal Tribunal, its recent history of mediation and removal of the lawyers has seen that system improve markedly. What the Minister for Planning has put forward is very similar to the new model Town Planning Appeal Tribunal. Does the system the minister envisages, with the minister as the final determining body - unless it involves a point of law and it goes to the District Court - provide enough protection for a minister?

Dr HAMES: The minister has discretion; there is no exposure for the minister other than his requirement to make a decision, as has been the case with all ministers responsible for water resources, and particularly Ministers for Planning who are required to make those decisions all the time. In the planning process, people have the option of going through the tribunal process or the standard appeals process. I do not think that is as good as this system. Under this system, there will be senior people with local experience. The appellant can also nominate a person on the committee of three to ensure that all arguments are heard. The minister is the adjudicator in the end. That system provides very good protection and a great opportunity to have the issues heard fairly. That is why I am willing to let this go ahead. If smarter people than I think there is a better system, I am happy to have that raised during this consultation process and to make a decision at the time.

Dr EDWARDS: Perhaps it is time to back up what the minister is saying. A body of thought seems to be saying that when an appeals body makes a recommendation, it tends to be accommodating of the circumstances. That is what the minister wants when he talks about the local impact. When a body is determinative in making the final decision, it tends to become much more legalistic. It is aware that its decision might be challenged on a legal basis. I have seen that happen on a number of occasions when appeal bodies and tribunals have moved from being recommending, advisory bodies to determinative bodies, and the plight of the individual may suffer. I have some sympathy with the argument, but I will be interested to what see Alex Gardner comes up with.

Dr HAMES: The downside with what I am proposing is that the minister, who is a politician, is susceptible, I presume, to political influence. Without meaning any offence, when those opposite were in government and I was on the Bayswater City Council, I felt some of the decisions by certain planning ministers were very political.

Dr Edwards: You have a previous minister who wasn't even a member determining appeals.

Dr HAMES: That is right. That is the downside. The upside significantly outweighs that. That is why I do not agree with the points made by the Coalition of Water Users in this matter. It wants a system that it sees as being much better for the local community it represents. A litigious system is not in those best interests. Having local people make local decisions is always in the best interests of the local people. We must remember that they are likely to be complaining about a decision by a group of other local people. We do not want too much interference in that system by some legalistic process.

Mr KOBELKE: I seek clarification of some matters with respect to the appeal procedures. First, who will administer the appeal process: Will it be the Water and Rivers Commission, the minister's office or, in the situation of the Minister for Planning, will it be a committee which is established with responsibility to the office of the minister?

Dr Hames: I am advised that it could be either. The Water and Rivers Commission manages that process now. In the other case I spoke of earlier, I said I wanted an appeals committee. The Water and Rivers Commission went away and came back with the suggested names of local people. As I said, we invited the local person to put up the name of a person he would like to see on the committee.

Mr KOBELKE: Under what head of power was that investigation held?

Dr Hames: It was held under my head of power, as the Minister for Water Resources. I was doing that as a mechanism to resolve a dispute.

Mr KOBELKE: We have a legislative provision, rather than the minister seeking to mediate and put in place a proper process to resolve a problem. Under this legislative arrangement, appeals can be made to solve a complaint or a problem. That takes on a whole new meaning, as we have found with planning.

Another point I wish to raise is in the last part; that is, the decision of the minister. In clause 9 of proposed schedule 2, we

find that on receipt of the report, the minister is to consider and make a decision upon the appeal and may allow the appeal wholly or in part, dismiss the appeal, or may refer the appeal back to the person conducting the inquiry with a request for further consideration of some fact or issue. Subclause (1) gives the minister wide powers to take up all the recommendations, have them reconsidered, totally dismiss them, or take them up in part. Subclause (2) provides that, in deciding an appeal, the minister is to have regard to, but is not bound by, the findings and recommendations of the inquiry. That places a further emphasis on the fact that the minister has a total out with respect to what might be the recommendations of the report on the appeal. My concern is that that can mean people do not have confidence in the system.

In his earlier contribution, the minister pointed out some advantages and disadvantages of this model over other models. I have a liking for one which is less legalistic, is easier to access, has lower costs and where a minister can have a say about what he believes is the best way of upholding the rights of the individuals involved. The major flaw I see in the model - as the member for Maylands has reflected, it is very similar to the planning process - is that there is a lack of openness and accountability. There is not even the requirement that the minister post his decision and reasons for it. The minister can correct me if I am wrong, but I see nothing in the Bill to make that a legal requirement on the minister, having formed his or her judgment which may be totally contrary to the recommendation of the report, and I do not take issue with that. At times the minister may wish to override the recommendation.

To ensure people have confidence in the system, it is imperative that the minister actually publish the decision and reasons for it. I understand it has become the practice in planning appeals that the minister now issues a letter which is made public. Four or five years ago, the minister did not even do that very often. He simply said that he had made his decision, and then sent a letter to the successful appellant. He did not always tell the council of the decision made. It seems to me that a minimum requirement of openness and accountability is that the minister give an undertaking - I would prefer to see it in the legislation - that, in making a determination, it be made public and reasons for the decision given.

Dr HAMES: I think the member has raised a good argument on this issue. The first part is left open because the system is set up to be, in effect, an arbitrary body to try to resolve the dispute and to come to me with recommendations. I do not want it to provide me with a direction to tell me what I must do. I want the opportunity, as I do with the recommendations from the Swan River Trust or any other body that reports to me, of being able to make the final decision. I take the member's point that it is unreasonable for the appellant not to know why a decision is made, if it is contrary to the recommendations.

Mr Kobelke: The appellant may know, but other parties who had their rights infringed are not necessarily told about it.

Dr HAMES: There is nothing for the appellant to have any knowledge about. If I accept the decision, he knows the decision because he gets a copy of report. If I decide for some reason, as in the first part, that I will allow only a part of the appeal, he will know the decision, but not the reasons for why I disagreed, either wholly or in part, with the recommendation. I do not think that is reasonable. As the minister, I should not have to tell the appellant the reasons for any disagreement I may have with the recommendation of the committee I set up. To resolve that issue -

Dr Edwards: I am horrified that it is not in there.

Dr HAMES: Through the other House, I will seek to have included in this legislation a provision that requires the minister to let the appellant know the reasons for the decision. I am not so convinced by the argument that the reasons for the decision should be made public for everybody else. I can accept that somebody could be disadvantaged by that decision, and we will give some thought to the notification that I should make when we prepare an amendment for the other place.

Mr KOBELKE: I thank the minister for being so open, and for considering that request. I look forward to the form the amendment might take in the other place. Parallels and comparisons can be made with the planning appeals system that will give us some understanding of how this might work. There are obvious differences. The planning system is generally open and accountable through local government. People can go along to their council meetings or subcommittees of the council and put a point of view, hear the council discussing the issue and have some understanding of why the council makes the decision. They can then appeal to the Minister for Planning if they disagree. The Minister for Planning, when making that decision, has a similar model to this in that a committee examines the matter, prepares a report, which the minister can accept, vary or totally overturn, and the minister's decision is not reviewable. In the planning process if the minister writes to the appellant or the council, the decision generally becomes known through the forums of the council. The difference in this situation is that although we have the Water and Rivers Commission, there is no local representative body which could be the avenue through which the decision becomes public. I accept the minister's reticence in giving an undertaking or requiring as a legislative provision that a number of people be informed. However, the minister accepts that the appellant should be informed not only of the decision but also of the reasons for the decision. There should also be a requirement that the decision be made public. I am not suggesting there should be a requirement on the minister of the day to inform every person who may be involved in that issue. The requirement for that information to be available could perhaps be addressed simply by having an appeal book.

Dr Hames: We have discussed that. The person who is appealing is appealing against the decision of the local management committee. We have set up a committee to review that.

Mr KOBELKE: Would the minister inform the management committee as well?

Dr Hames: The decision, though not necessarily the details, and the reason for any change in decision will be made available to the appellant who could certainly make it public. It would be made available to the appeals committee and to the local committee which can then incorporate that in the minutes of their meeting. All of those people who had been involved would have that decision available - not necessarily all the associated matters behind it, but certainly the decision.

Mr KOBELKE: I thank the minister for that. It is a step in the right direction. The legislative framework needs to take account of not only the way things would normally work or how the minister, as a rational and considerate minister would handle it, but the difficult cases involving running into problems with the appeal system; that is, when parties may not be satisfied with the decision of the minister of the day. It is then that we need an open process so that people have some confidence in the process. If parts of the information are hidden away, those people who feel aggrieved will jump to conclusions about the decision making somehow being contrived, improper or corrupt and that will bring down the whole appeal system. We need to establish in the process, procedures that will give people respect for the system. Even though they may not agree with the decision of the minister, they can have some understanding and therefore some respect for the decision. Although I accept that the minister does not want to make a watertight commitment that everything must be laid out for everyone, I am putting as the minimum that anyone who feels he has an interest in the issue should be able to get the decision and at least a brief statement by the minister on the reasons for the decision.

Dr HAMES: We will consider that in the amendment that we are proposing and we will let the Opposition see that before we put it up.

Clause, as amended, put and passed.

Clauses 70 to 85 put and passed.

Title put and passed.

TITLES (VALIDATION) AND NATIVE TITLE (EFFECT OF PAST ACTS) AMENDMENT BILL 1999

Returned

Bill returned from the Council with an amendment.

House adjourned at 9.56 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GLOBAL DANCE FOUNDATION, LEGAL ADVICE ON RECOVERY OF FUNDS

382. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Did the Western Australian Tourism Commission receive legal advice recommending against action being taken to recover funds from the Global Dance Foundation for the World Dance Congress?

(2) If so, was the legal advice not to try and recover funds based on the fact that Global Dance Foundation and/or its associated identities did not have any funds/assets?

(3) Was the legal advice not to try and recover funds based on the fact that the contract between the State Government and the Global Dance Foundation was deficient in that it did not require the funds to be repaid or was drafted in such a way that the funds could not be recovered?

(4) Did the legal advice cover the question as to whether Mr Reynolds was personally liable to repay the funds?

(5) If not, why not?

(6) Did the Western Australian Tourism Commission enquire or seek legal advice on whether Mr Reynolds had any personal liability with respect to the loss of the funds?

(7) If not, why not?

(8) Will the Western Australian Tourism Commission seek legal advice whether Mr Reynolds has any personal liability to repay the funds?

(9) If not, why not?

Mr BRADSHAW replied:

(1) Yes.

(2)-(9) The Western Australian Tourism Commission received legal advice in respect of Global Dance Foundation. However it is not customary to reveal the content of legal advice.

TOURISM, FUNDING

494. Mr McGOWAN to the Parliamentary Secretary representing the Minister for Tourism:

How much tourism funding has been allocated to the following towns in each financial year since 1 July 1993 -

(a) Manjimup;
(b) Pemberton;
(c) Bridgetown;
(d) Walpole;
(e) Denmark;
(f) Margaret River;
(g) Greenbushes;
(h) Nannup;
(i) Dunsborough;
(j) Busselton;
(k) Bunbury;
(l) Yallingup;
(m) Augusta;
(n) Mt Barker;
(o) Yarloop; and
(p) Northcliffe?

Mr BRADSHAW replied:

The table below sets out the amount of funding paid by the Western Australian Tourism Commission (WATC) to tourist bureaux in the towns listed. Prior to 1996/97 the WATC had a regional payments system which allocated funds direct to both tourist bureaux and the Regional Tourism Associations (RTAs). During 1996/97 and 1997/98 the WATC moved towards a rationalisation of regional funding. Instead of paying both the tourist bureaux and RTAs a system was introduced where only the RTAs received funding from the WATC. The RTAs then determined which tourist bureaux in their regions received financial support and also to what level. It should be noted that between 1994/95 and 1998/99, total regional funding increased by 56 per cent from $910 000 to $1 419 351. Most RTAs continued to pass funds from the WATC on to Tourist Bureaux as the agreement between the RTAs and WATC determined they were responsible for visitor servicing support. In 1996/97 only five of the ten RTAs were operating under the new funding mechanism. From the amounts listed below for that year only Denmark and Mt Barker tourist bureaux received funds from their RTA while the remaining tourist bureaux still received funds direct from the WATC. In 1997/98 all RTAs were operating under the new funding system with all bureau funding coming direct from the respective RTA.

TOWN	93/94	94/95	95/96	96/97	97/98	98/99
MANJIMUP	$18 536	$18 536	$14 136	$ 9 427	$ 1 991	$ 1 991
PEMBERTON	$18 536	$18 536	$17 302	$20 436	$13 000	$13 000
BRIDGETOWN	$18 536	$18 536	$12 346	$16 335	$10 835	$10 835
WALPOLE	$ 4 300	$ 4 300	$ 5 432	$ 4 008	$ 4 008	$ 4 008
DENMARK	$18 536	$18 536	$20 436	$20 436	$20 436	$14 842
MARGARET RIVER	0	0	$ 2 500	0	0	0
GREENBUSHES	0	0	0	0	0	0
NANNUP	0	$ 6 687	$ 1 452	$ 2 178	$ 2 178	$ 2 178
DUNSBOROUGH	0	0	0	0	$ 6 500	$ 6 500
BUSSELTON	$18 536	$18 536	$20 436	$20 436	$ 6 500	$ 6 500
BUNBURY	$19 436	$19 436	$21 826	$20 436	$13 000	$13 000
YALLINGUP	0	0	0	0	0	0
AUGUSTA	0	0	0	0	0	0
MT BARKER	$18 536	$16 006	$18 436	$18 456	$18 456	$12 902
YARLOOP	0	0	0	0	0	0
NORTHCLIFFE	$ 2 470	$ 2 470	$ 4 960	$ 6 207	$ 6 207	$ 6 207

FORESTS AND FORESTRY, SWAN, CENTRAL AND SOUTHERN FOREST REGIONS

496. Dr EDWARDS to the Minister for the Environment:

For the Swan, Central and Southern forest regions -

(a) how many hectares of forest are in each region;

(b) how many hectares of forest are available for logging and how much is reserved in each region;

(c) how many hectares of forest are old growth in each region;

(d) how many hectares of old growth are available for logging and how much is reserved in each region; and

(e) how many hectares of -

(i) jarrah forest; and
(ii) karri forest,

are in each region,

(f) how many hectares of -

(i) jarrah forest; and
(ii) karri forest,

are available for logging and how much is reserved in each region;

(g) in the last three financial years, how many cubic metres of -

(i) jarrah sawlogs; and
(ii) karri sawlogs,

were harvested from each forest region;

(h) in the last three financial years, how many hectares of -

(i) jarrah forest; and
(ii) karri forest,

were harvested in each forest region?

Mrs EDWARDES replied:

Areas reserved and available for logging are as defined in the Regional Forest Agreement, and beyond that boundary, as proposed in the Forest Management Plan 1994-2003. The figures provided relate to forest and woodland on public land only as estimates for private property are incomplete. Old growth is as mapped for the Regional Forest Agreement Process (RFA). Although not mapped outside the RFA boundary, the area of candidate old growth in the remainder of the three forest regions is considered to be insignificant. It should be noted that as a result of changes announced by the Hon Premier on 27 July 1999, all harvesting plans beyond 1999 are currently under review. Consequently areas available for logging may change.

(a)

Swan	615,000 ha
Central forest	707,000 ha
Southern forest	665,000 ha

(b)

	Available	Reserved
Swan	326,000 ha	259,000 ha
Central forest	468,000 ha	223,000 ha
Southern forest	322,000 ha	331,000 ha

(c)

Swan	14,000 ha
Central forest	62,000 ha
Southern forest	270,000 ha

(d)

	Available	Reserved
Swan	1,000 ha	13,000 ha
Central forest	19,000 ha	43,000 ha
Southern forest	77,000 ha	189,000 ha

(e)

	Jarrah	Karri
Swan	474,000 ha	
Central forest	680,000 ha	6,000 ha
Southern forest	481,000 ha	174,000 ha

(f)

	Available	Reserved
Jarrah		
Swan	287,000 ha	175,000 ha
Central forest	460,000 ha	206,000 ha
Southern forest	229,000 ha	242,000 ha
Karri		
Swan		
Central forest	1,000 ha	5,000 ha
Southern forest	91,000 ha	81,000 ha

(g)

	Jarrah	Karri
Swan	352,720 m^3	
Central forest	634,640 m^3	12,200 m^3
Southern forest	206,920 m^3	617,920 m^3

(h) Areas harvested are for the three calendar years 1996-98.

	Jarrah	Karri
Swan	24,960 ha	
Central forest	30,480 ha	100 ha
Southern forest	4,370 ha	5,040 ha

RESIDENTIAL UNITS, FINNERTY LANE, HANNANS

616. Ms ANWYL to the Minister for Health:

(1) Will you withdraw the appeal lodged in relation to the development of 13 residential units at Finnerty Lane, Hannans?

(2) If the answer to (1) above is no, why not?

(3) What discussions have you or your staff had with the Planning Minister on this issue and what were the dates of each?

(4) Will you provide a copy of all relevant documents?

Mr DAY replied:

(1)-(4) On 1 November 1999, the Minister for Planning upheld the appeal, which I submitted on behalf of the Kalgoorlie-Boulder Health Service Board (KBHSB). Ongoing discussions are now being held between the KBHSB, the City of Kalgoorlie-Boulder and the Department of Land Administration (DOLA) for a proposed 3 way land swap. The KBHSB has agreed to place the Finnerty Lane development on hold to allow the City of Kalgoorlie-Boulder the opportunity to prepare and advertise a business plan for the proposed 3 way land swap (for public comment) pursuant to the Local Government Act 1995. If negotiations between the three parties are successful, it will result in the Finnerty Lane site being vested in the City of Kalgoorlie-Boulder for the purpose of "Parks and Recreation", the City of Kalgoorlie-Boulder land in O'Connor being transferred to DOLA, and DOLA land in Addis Street being vested in the KBHSB for unit development.

ELLE MACPHERSON ADVERTISEMENTS, INDONESIA

628. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the Government's "Elle" tourism advertising campaign and ask -

(a) how many television advertisements were run on Indonesian television as part of this campaign;

(b) on which channels were they run and at what times and on what dates;

(c) in which cities and Provinces did these TV advertisements run; and

(d) what was the total cost of the Indonesian part of this campaign?

Mr BRADSHAW replied:

(a) As a result of the Asian economic restructure and the political instability in Indonesia during this period, no component of the Elle Campaign has been shown in Indonesia since the initial campaign in July 1997.

(b) A mix of 45-second brand commercials, and 15-second product tags were placed in targeted programs on the RCT1 and SCTV networks. In total 160 commercials appeared between 6 July and 7 September 1997. The television commercials were scheduled across peak and non-peak viewing times to maximise coverage of the target audience.

(c) The campaign was limited to Jakarta.

(d) Total campaign spend was $541 897 of which $420 634 was television placement and the balance printed press support.

GOVERNMENT CONTRACTS, WESTERN PACIFIC CONSULTING

711. Mr RIPPER to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) Has the company 'Western Pacific Consulting' provided any form of service for departments under the Deputy Premier's control?

(2) If yes -

(a) what was the nature of the service;
(b) when was the service provided; and
(c) what was the cost of the service?

Mr COWAN replied:

Department of Commerce and Trade
(1) Yes.

(2) (a) Training of a departmental officer, “Contracting for Consultancy Services”.
(b) 4-8 September 1995.
(c) $575.00.

(a) Training of a departmental officer, “Contracting for Consultancy Services”.
(b) 5 December 1995.
(c) $150.00.

(a) Training of departmental officers, “Contracting for Consultancy Services”.
(b) 5 December 1995.
(c) $450.00

(a) Training of a departmental officer, “Simple Procurement”.
(b) 7-8 December 1995.
(c) $150.00

(a) Training of departmental officers, “Contracting for Consulting Services”.
(b) Exact date unknown but around December 1995.
(c) $300.00

(a) Training of a departmental officer, “Simple Procurement”.
(b) Not known.
(c) $150.00.

(a) Training of a departmental officer , “Contracting for Consultancy Services” .
(b) 2 February 1996.
(c) $150.00.

(a) Training of a departmental officer , “Contracting for Consultancy Services” .
(b) 19 January 1996.
(c) $150.00.

(a) Training of a departmental officer , “Contracting for Consultancy Services” .
(b) 19 January 1996.
(c) $150.00.

(a) One-day in-house presentation for “Contracting for Consultancy Services” and provision of training manuals.
(b) Exact date unknown – around February 1996.
(c) $1,750.00.

(a) Training of departmental officers , “Contracting for Consultancy Services” and provision of training manuals.
(b) 13 March 1996.
(c) $1530.00.

(a) Training of a departmental officer , “Competitive Tendering and Contracting”.
(b) 27 March 1999
(c) $210.00.

(a) Training of a departmental officer , “Competitive Tendering and Contracting” .
(b) 11-13 September 1996.
(c) $300.00

(a) Training of a departmental officer, “Simple Procurement”.

(b) 19–20 September 1996.
(c) $240.00.

(a) Training of a departmental officer, "Simple Procurement".
(b) 21-22 November 1996.
(c) $240.00.

(a) Training of departmental officers , "Purchasing Environment" and "Operational Purchasing" and provision of training manuals.
(b) 9-11 March 1998
(c) $3,195.00.

(a) Review of the Department of Contract and Management Services Common Use Contracts for Information Technology services.
(b) Exact date/s unknown but around June 1998.
(c) $6,550.00.

(a) Review of the Department of Contract and Management Services Common Use Contracts for Information Technology services – report writing and presentation phase.
(b) Exact date/s unknown but around June 1998.
(c) $7,575.00.

(a) Training of departmental officers , "Specification and Tender Development".
(b) Exact date unknown but around September 1998.
(c) $1,700.00.

(a) Training of a departmental officer , "Specification and Tender Development".
(b) Exact date unknown but around September 1998.
(c) $425.00.

(a) Training of an officer from Western Australian Technology and Industry Council, "Purchasing Environment" and "Operational Purchasing".
(b) 17-19 November 1998.
(c) $355.00.

(a) Training of a departmental officer , "Operational Purchasing".
(b) Exact date unknown but around February 1999.
(c) $310.00.

(a) Training of a departmental officer , "Purchasing Environment".
(b) Exact date unknown but around February 1999.
(c) $125.00.

(a) Training of a departmental officer , "Contract Management".
(b) 8 July 1999.
(c) $190.00.

Pre July 1997 records on corporate credit card transactions from the department's previous card provider, Westpac Bank, are not accessible and it is unknown if departmental cardholders utilised the services of Western Pacific Consulting during this time.
From July 1997 to the present, the department has used ANZ as its corporate credit card provider. During this period and in addition to the information contained above, the services of Western Pacific Consulting have been used, with payment made by corporate credit card. The ANZ Bank has verbally advised the department that its electronic reporting platform is not structured to retrieve information to respond to this Parliamentary Question in the format requested.

Small Business Development Corporation
(1) Yes.

(2) (a) Training course placement for one staff member.
(b) April 1997.
(c) $370.

Kimberley Development Commission
(1) Yes.

(2) (a) Training Simple procurement
(b) 29/5/97-30/5/97
(c) $240.00

(a) Training Competitive Tendering and Contracting
(b) 6/10/97-8/10/97
(c) $528.00

Peel Development Commission
(1) Yes.

(2) (a) Training in procuring.
(b) July 1997
(c) $240

GOVERNMENT CONTRACTS, WESTERN PACIFIC CONSULTING

714. Mr RIPPER to the Minister for Primary Industry; Fisheries:

(1) Has the company 'Western Pacific Consulting' provided any form of service for departments under the Minister's control?

(2) If yes -

(a) what was the nature of the service;
(b) when was the service provided; and
(c) what was the cost of the service?

Mr HOUSE replied:

Fisheries Western Australia:
(1) Yes.

(2) (a)-(c) Payments to Western Pacific Consulting to 5 October 1999: the services of this company were not used during the period January 1993 to 26 June 1995.

	Nature of Service	Cost of Service
1994/95	Training	150.
1995/96	Training/ seminar	2884.
1996/97	Training/ seminar	3940.
19997/98	Training	1288.

Agriculture Western Australia replies:
(1) Yes.

(2) (a)-(c) Information for the financial years 1993/94 and 1994/ 95 is not readily available and is contained under a previous accounting system and would require considerable resources to search the data from archival records. From 1 July 1995, the commencement date of the new financial management system, the agency is able to provide the following information:

	Nature of Service	Cost of Service
1995/ 96	Training seminars/ workshops	57,875.
1996/ 97	"	153,602.
19997/ 98	"	6,333.
1998/ 99	"	62,438.

GOVERNMENT DEPARTMENTS AND AGENCIES, GRANTS, LOANS AND FINANCIAL ASSISTANCE

740. Mr RIEBELING to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

Will the Minister provide the following details of all grants, loans and any other form of financial assistance, offered within the Minister's portfolio -

(a) the name of the financial assistance;

(b) the purpose of the assistance;

(c) the eligibility criteria for assistance;

(d) the actual expenditure in -

(i) 1997-98;
(ii) 1998-99; and

(e) the budgeted allocation in 1999-2000?

Mr SHAVE replied:

I am advised:

Western Australian Electoral Commission
(a)-(e) Nil.

LandCorp
(a) The Authority does not provide any grants, loans or any other financial assistance other than normal terms of credit provided in the course of conducting commercial transactions.

(b)-(e) Not applicable.

Ministry of Fair Trading
Real Estate and Business Agents Supervisory Board Education and General Purpose Fund -

(a) Financial assistance is provided from the Education and General Purpose Fund. The Fund is established under Section 124A of the Real Estate and Business Agents Act 1978.

(b) The purpose of the assistance is to enable real estate industry education providers to promote and conduct real estate education projects and continued professional development for industry members. Education providers must make applications in writing.

(c) The Real Estate and Business Agents Supervisory Board (the Board) currently operates in accordance with a set of seven principles relating to the funding of real estate education projects. These funding principles were approved at the Board meeting of 29 March 1996 - [See paper No 412.]

At the Board meeting of 6 November 1998, the Board determined that certain areas and projects were to be of a higher priority for funding purposes - [See paper No 412.]

Board precedents also provide a guide for decision-making with respect to education funding. Approved applicants must enter into a Funding Agreement with the Board.

(d) (i) Actual expenditure in 1997-98:

Actual Expenditure in 1997-98	
TAFE	$51,260.00
REIWA	$132,548.00
Total Amount	$183,808.00

(ii) Actual expenditure in 1998-99:

Actual Expenditure in 1998-99	
TAFE	$39,204.00
REIWA	$348,812.78
Total Amount	$388,016.78

(e) Budgeted allocation in 1999-2000 is $350,000.00.

Real Estate and Business Agents Supervisory Board Home Buyers Assistance Fund -

(a) The Home Buyers Assistance Fund is established under Section 131B(1) of the Real Estate and Business Agents (REBA)Act 1978.

(b) To grant the whole or any part of the incidental expenses incurred or to be incurred by the person in connection with the purchase of an established (or substantially completed) property, through a licensed real estate agent.

(c) Legislated Criteria

property must be bought through a licensed real estate agent. (*Section 131L(1) of the REBA Act*);
first dwelling to be owned by the person(s) in the State. (*Section 131L(1)(a) of the REBA Act*);
finance through an authorised lending institution. (*Section 131L of the REBA Act*);
application to be lodged no later than ninety days of acceptance of offer. (*Section 131L of the REBA Act*);
property must be principal place of residence. (*Section 131L (2) of the REBA Act*).

Real Estate and Business Agents Supervisory Board/Home Buyers Assistance Fund Advisory Criteria

must be no other property owned elsewhere
maximum purchase price of dwelling - $85,000.00 metro and country; $120,000.00 remote areas; $140,000.00 North West and Kimberley region.
special criteria for persons with disability purchasing in a shared equity arrangement with the Ministry of Housing.

(d) (i) Actual expenditure in 1997-98 was $2,490,291.00.
(ii) Actual expenditure in 1998-99 was $2,586,179.00.

(e) Budgeted allocation in 1999-2000 is $3,420,000.00.

Settlement Agents Supervisory Board Education and General Purpose Fund -

(a) Financial assistance is provided from the Education and General Purpose Fund. The Fund is established under Section 102A of the Settlement Agents Act 1981.

(b) The purpose of the assistance is to enable providers to promote and conduct settlement education projects and continued professional development for industry members. Providers must make applications in writing.

(c) The Settlement Agents Supervisory Board currently operates in accordance with set principles relating to the funding of settlement education projects. These funding principles were approved at the Board meeting of 28 May 1996 - [See paper No 412.]

(d) (i) Actual expenditure in 1997-98:

Actual Expenditure in 1997-98	
TAFE	$9,000.00
*AIC	$6,620.00
Conveyancing Education Committee (via AIC)	$7,880.00
Total Amount	$23,500.00

* Australian Institute of Conveyancers

(ii) Actual expenditure in 1998-99:

Actual Expenditure in 1998-99	
AIC	$4,500.00
Conveyances Association of Western Australia	$850.00
Total Amount	$5,350.00

(e) Budgeted allocation in 1999-2000 is $50,000.00.

Rental Accommodation Fund Grants -

(b) Grants are available to assist organisations which provide educational or advisory services to tenants.

(c) Grants are payable pursuant to clause 3(3a) of Schedule 1 to the *Residential Tenancies Act 1987*. Under the Act, payments must be approved by the Minister; be made to non-government bodies; and be made to organisations which provide educational or advisory services to tenants.

For the 1999-2000 financial year, applications for grants were made following a tender process. The tender was based on a network model, consisting of three metropolitan and four regional local service providers as well as a resource unit to support the local service providers.

(d) (i) $341,799
(ii) $232,000.

(e) $625,000

Department of Land Administration
One
(a) AURISA sponsorship.

(b) Provide DOLA with the opportunity to obtain advertising of its presence to a national audience of professionals dealing with Land Information at a level consistent with DOLA's image as a key agency in WA for land information. Customer impact is to increase awareness of DOLA and its objectives.

(c) The policy links with DOLA's Code of Business Conduct and the State Supply Commission's " Sponsorship in Government Best Practice Guidelines"

(d) (i) Nil.
(ii) $6,515.85

(e) Nil.

Two
(a) 6th South East Asian Surveyors Congress

(b) Provided an opportunity for DOLA to promote its presence to a national and international audience of professionals dealing with survey and land information. To showcase DOLA's International programme in the South East Asian Region and highlight DOLA as a key agency in land registration, land information and land administration systems. This is consistent with DOLA's Sponsorship policy.

(c) The policy links with DOLA's Code of Business Conduct and the State Supply Commission's " Sponsorship in Government Best Practice Guidelines"

(d) (i) Nil.
(ii) $4,000

(e) Nil.

Three
(a) Spring Performing Arts.

(b) A shared project with the Shire of Swan to support the local community and to enhance DOLA's corporate image.

(c) State Supply Commission's " Sponsorship in Government Best Practice Guidelines"

(d) (i) Nil.
(ii) $500

(e) $1,500

Four
(a) Curtin University – Research Position.

(b) Part sponsorship of a research position in Land Policy and Administration, to support an independent land administration teaching program.

(c) Still under consideration by the Department.

(d) (i)-(ii) Nil.

(e) $5,000

Five
(a) Land Surveyors Licensing Board.

(b) To assist the Board with the administration costs of licensing surveyors, to maintain an affiliated body independent from DOLA operations.

(c) Statutory obligation for government (DOLA) to support the running of the Board.

(d) (i) $10,000
(ii) $10,000

(e) $10,000

ORGANIC WASTES, STORAGE, PROCESSING AND RECYCLING GUIDELINES

815. Mr KOBELKE to the Minister for the Environment:

(1) Was a booklet headed *Guidelines for the Storage, Processing and Recycling of Organic Wastes* issued as a draft document for public comment in December 1997?

(2) If so, then when did the public consultation period finish?

(3) Has a policy been adopted for the establishment of formal guidelines for the storage, processing and recycling of organic wastes?

(4) If so, then when was it done and what is the status of such guidelines?

(5) If not, then why have such guidelines not been established for the storage, processing and recycling of organic wastes?

(6) Will the Minister table a copy of the guidelines, laws or policies which now apply to the storage, processing and recycling of organic wastes?

Mrs EDWARDES replied:

(1) Yes.

(2) 28 March 1998.

(3) No, but in the period leading up to the eventual adoption of the Draft Guidelines as an industry best practice document, industry instigated those Guidelines as a standard for development.

(4) Not applicable.

(5) The Guidelines are being developed as an adjunct to the Draft Strategy for the management of green and solid organic waste, which is currently being reviewed by the DEP and relevant work groups before its release. The Draft Guidelines and Strategy is tabled. [See paper No 413.]

(6) The draft copy of the *Guidelines for the Storage, Processing and Recycling of Organic* Wastes is tabled. [See paper No 414.]

PRISONS, SELF-MULTILATION BY WOMEN

879. Ms WARNOCK to the Minister representing the Attorney General:

(1) How many women -

(a) in remand; and
(b) prisoners,

have been injured through self-multilation in -

(i) 1993-1994;
(ii) 1994-1995;
(iii) 1995-1996;
(iv) 1996-1997;
(v) 1997-1998; and
(vi) 1998-1999?

(2) In which prison did these injuries occur?

(3) What steps are taken to prevent such injuries?

(4) What action is taken when such injuries are inflicted?

(5) Is there a peer support group at Bandyup to help support prisons at risk?

Mr PRINCE replied:

(1)-(2) The data available does not distinguish between women on remand or sentenced. The following figures are for women both on remand and sentenced.

BANDYUP WOMENS PRISON

Year	Amount
1993-1994	Nil
1994-1995	1
1995-1996	10
1996-1997	11
1997-1998	7
1998-1999	34

EASTERN GOLDFIELDS REGIONAL PRISON

Year	Amount
1993-1994	Nil
1994-1995	Nil
1995-1996	1
1996-1997	8
1997-1998	2
1998-1999	2

GREENOUGH REGIONAL PRISON

Year	Amount
1993-1994	Nil
1994-1995	Nil
1995-1996	1
1996-1997	1
1997-1998	Nil
1998-1999	6

ROEBOURNE REGIONAL PRISON

Year	Amount
1993-1994	Nil
1994-1995	Nil
1995-1996	1
1996-1997	Nil
1997-1998	Nil
1998-1999	3

(3) Upon reception into prison each prisoner undergoes a comprehensive physical assessment and assessment for suicide and/or self-harm potential. Prisoners who are assessed as being at risk of suicide/self-harm during this process, or at any other subsequent time in their sentence, are made subject to the At Risk Management System (ARMS). ARMS is a 'whole of Centre' approach to the management of such offenders and uses a multidisciplinary team called the Prisoner Risk Assessment Group (PRAG) to develop individual treatment and management plans. The PRAG is made up of custodial officers, Prisoner Support Officers and various health professionals, registered nurses, mental health nurses, and Forensic Case Managers (psychologists and social workers), dependent upon availability, together with a senior member of prison administration who chairs the group. The ARMS process has been in operation for less than twelve months but the indications are that it is proving very successful in reducing the number of critical incidents involving self-harm and attempted suicide.

(4) Self-harm episodes are immediately referred for any required medical attention. This may require the prisoner being transported to an external health provider, more commonly in locations without 24 hour nursing cover. If the prisoner had not previously been identified as being at risk of self-harm, ARMS documentation is completed incorporating an interim management plan designed to keep the prisoner safe until a more comprehensive plan can be developed by the PRAG team. A Health Services member of the PRAG team is then assigned to complete a thorough assessment of the prisoner and the incident to identify where possible any precipitating factors, and to enable such stressors to be mitigated.

(5) A peer support group functions at each prison location, including Bandyup, and utilises carefully selected prisoners to provide a listening and support service to fellow prisoners who may be experiencing difficulties. The peer support group at Bandyup is coordinated and managed by a Prisoner Support Officer who receives professional supervision and direction from a Senior Social Worker member of the Forensic Case Management Team (FCMT).

TAX REFORM, REQUIREMENT FOR AN AUSTRALIAN BUSINESS NUMBER

881. Mr BROWN to the Premier:

(1) Is the Government aware of the Federal Government's tax changes which involve the requirement for businesses to have an Australian Business Number (ABN)?

(2) Has the Federal Government had any discussions with the State Government about people having to have an ABN before being able to obtain business registration?

(3) Have any discussions or communication been held between the Federal and State Governments on the interaction of the ABN and business registration?

(4) What proposals and/or suggestions have been made by -

(a) the Federal Government; and
(b) the State Government,

in those discussions or in that communication?

Mr COURT replied:

(1) As part of the GST tax reforms the Federal Government is putting in place a number of measures to make the tax system easier to deal with. This includes introduction of the Australian Business Number (ABN) allowing each business to have only one number to identify a business for all Commonwealth purposes. This means that businesses will only be required to quote one number for their public dealings under Commonwealth tax and corporation laws. The number will not be their Tax File Number, ensuring that existing privacy safeguards are maintained. A business must have an ABN in order to be able to claim GST input tax credits so it will be in each business's own interests to have an ABN to get these GST refunds.

(2) The Australian Tax Office will create and maintain a register of ABNs for Australian businesses for Commonwealth purposes. The Commonwealth has indicated that this system will also be available to State, Territory and local government regulatory bodies to reduce the multiplicity of government registrations.

(3)-(4) ATO officers have provided general briefings on the establishment of the ABN register to relevant State officials as well as to the wider community. As far as I am aware there have been no specific proposals or suggestions as yet regarding the interaction of the ABN and State registration systems.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONSULTANTS' REPORTS

891. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) Since 1 January 1999, what reports has each department and agency under the Deputy Premier's control received from consultants employed by it?

(2) What is the title of each report?

(3) In brief terms, what is the subject of each report?

(4) What recommendations are contained in each report?

Mr COWAN replied:

(1)-(4) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on consultants.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONSULTANTS' REPORTS

898. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) Since 1 January 1999, what reports has each department and agency under the Minister's control received from consultants employed by it?

(2) What is the title of each report?

(3) In brief terms, what is the subject of each report?

(4) What recommendations are contained in each report?

Mr SHAVE replied:

(1)-(4) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on consultants.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXPENDITURE

978. Mr RIEBELING to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

What was the total expenditure for each of the Departments within the Deputy Premier's responsibility for the financial year 1998-99 on -

(a) consultancies;
(b) contracts and services; and
(c) overseas travel and accommodation?

Mr COWAN replied:

(a) Six monthly reports providing information on consultants engaged by Government agencies are tabled in Parliament. The member should access these reports to obtain details of total expenditure on consultants.

(b) Annual reports tabled in Parliament in accordance with the Financial Administration and Audit Act contain the agency's operating statement, which discloses a total incurred on administrative expenses including contracts and services. The member should access these reports to obtain information on costs of services.

(c) Quarterly reports detailing overseas and interstate travel undertaken by Ministers and government officials are tabled in Parliament. The member should access these reports to obtain information on total expenditure for overseas travel and accommodation.

GOVERNMENT DEPARTMENTS AND AGENCIES, EXPENDITURE

985. Mr RIEBELING to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

What was the total expenditure for each of the Departments within the Minister's responsibility for the financial year 1998-99 on -

(a) consultancies;
(b) contracts and services; and
(c) overseas travel and accommodation?

Mr SHAVE replied:

(a) Six monthly reports providing information on consultants engaged by Government agencies are tabled in Parliament. The member should access these reports to obtain details of total expenditure on consultants.

(b) Annual reports tabled in Parliament in accordance with the Financial Administration and Audit Act contain the agency's operating statement, which discloses a total incurred on administrative expenses including contracts and services. The member should access these reports to obtain information on costs of services.

(c) Quarterly reports detailing overseas and interstate travel undertaken by Ministers and government officials are tabled in Parliament. The member should access these reports to obtain information on total expenditure for overseas travel and accommodation.

WOMEN'S PRISON, LONGMORE SITE

1003. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Is the Director General, Ministry of Justice, totally opposed to the use of the Longmore site for a women's prison?

(2) If yes, does the Minister agree?

(3) If yes, is it because the land has previously been promised to former Liberal colleagues at Swan Cottages?

(4) Would the approval of a purpose built female prison on the site alleviate the intolerable conditions at Bandyup Women's Prison?

(5) Is the Director General failing to address issues relating to female prisoners?

Mrs van de KLASHORST replied:

(1) No, it is the Ministry's intention to retain the Longmore site within its buildings portfolio at least until a final decision is made regarding the long term accommodation needs of women prisoners in this State.

(2)-(3) Not applicable.

(4) Additional secure accommodation for women is being progressed at Bandyup. However, approval for a minimum security prison for women would also help alleviate the current conditions at Bandyup Women's Prison.

(5) No.

NATIVE TITLE LEGISLATION, LEGAL COSTS

1009. Ms ANWYL to the Premier:

(1) What amount of money has been spent by way of legal costs relating to native title litigation by the State Government for each of the years -

(a) 1996;
(b) 1997;
(c) 1998; and
(d) 1999 to date?

(2) In regard to each year will the Premier specify which Government Department budgets have received specific budget allocations for legal costs associated with native title litigation?

(3) What amount of money has been allocated from the budget of the Office of Premier and Cabinet for the purposes of -

(a) legal costs associated with native title litigation;
(b) mediation costs associated with native title;
(c) development of protocols associated with native title;
(d) legal costs associated with the appeal against the Miriuwung Gajerrong decision;
(e) counsel or other legal opinions related to native title matters; and
(f) consultants fees or salaries associated with native title matters?

Mr COURT replied:

(1) (a) 1996/97 - $2,313,895 (CSO)
(b) 1997/98 - $3,351,206 (CSO)
(c) 1998/99 - $2,745,535 (CSO)
(d) 1999/2000 (1 June to 31 August 1999) - $970,182 (CSO)

This is expenditure on all native title matters (not exclusively litigation).

(2) The State Government is represented by the Crown Solicitor's Office, with native title litigation being funded from its CSO budget.

(3) (a) None.
(b) $300,000 for mediation and negotiation.
(c)-(e) None.
(f) $90,000.

GOVERNMENT DEPARTMENTS AND AGENCIES, NATIVE TITLE RESOURCES FUNDING

1031. Ms ANWYL to the Minister for Water Resources:

(1) How much funding has been allocated from the Minister's Department's budget for each of the years -

(a) 1996-97;
(b) 1997-98;
(c) 1998-99; and
(d) 1999-2000,

for the purposes of -

(i) Native Title litigation; and
(ii) legal opinions and advice (relating to Native Title issues)?

(2) How many staff are or have been employed by the Minister's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(3) How many consultants are or have been employed by the Minister's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(4) What is or has been the cost of each such consultant and the name of each and period of tenure?

(5) In the case of an existing contract what is the length of each such contract?

Dr HAMES replied:

Office of Regulation:
(1) (a)-(d) Nil.

(2)-(3) Nil.

(4)-(5) Not applicable.

Water and Rivers Commission:
(1) Nil. The Water and Rivers Commission has not been directly involved in Native Title litigation. No allocation has been made for legal opinions and advice in relation to Native Title, as distinct from legal opinions and advice generally.

(2) (a) Nil.
(b) A number of staff have Native Title issues to deal with in the ordinary course of their work. Approximately six staff have worked on Native Title policy issues for short periods within the last 12 months. The Commission has also obtained on contract the services of a legal officer who, amongst other issues, provides some legal opinions and advice on Native Title issues.

(3) Nil.

(4)-(5) Not applicable.

Water Corporation:

(1) (i) (a)-(d) Nil.
(ii) (a) $30,000 approximately.
(b) $190,000 approximately.
(c) $207,000 approximately.
(d) $35,000 approximately.

(2) (a) Nil.
(b) 0.8 over many projects.

(3) (a) Nil.
(b) Six consultancies.

(4) Freehill Hollingdale & Page.

1998/99	$45,000 approximately	Service as required
1999/00	$5,000 approximately	Service as required

R & E O'Conner

1998/99	$74,000 approximately	Services as required
1999/00	$23,000 approximately	Services as required

Quartermain Consultants

1998/99	$8,000 approximately	Contract (November 1998/99)
1999/00	Nil	

Australian Interaction Consultants

November 1998 – Present	$71,000

McDonald Hales & Associates

November 1998 – Present	$81,000

MacIntyre Dobson and Associates

November 1998- Present	$33,000

(5) The Water Corporation does not have any specific consultancy on the issue of Native Title. Consultants are employed on a project by project basis as needed.

GOVERNMENT DEPARTMENTS AND AGENCIES, NATIVE TITLE RESOURCES FUNDING

1032. Ms ANWYL to the Treasurer:

(1) How much funding has been allocated from the Treasurer's Department's budget for each of the years -

(a) 1996-97;
(b) 1997-98;
(c) 1998-99; and
(d) 1999-2000,

for the purposes of -

(i) Native Title litigation; and
(ii) legal opinions and advice (relating to Native Title issues)?

(2) How many staff are or have been employed by the Treasurer's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(3) How many consultants are or have been employed by the Treasurer's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(4) What is or has been the cost of each such consultant and the name of each and period of tenure?

(5) In the case of an existing contract what is the length of each such contract?

Mr COURT replied:

(1) Nil.

(2)-(3) None.

(4)-5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, NATIVE TITLE RESOURCES FUNDING

1036. Ms ANWYL to the Minister representing the Minister for Mines:

(1) How much funding has been allocated from the Minister's Department's budget for each of the years -

(a) 1996-97;
(b) 1997-98;
(c) 1998-99; and
(d) 1999-2000,

for the purposes of -

(i) Native Title litigation; and
(ii) legal opinions and advice (relating to Native Title issues)?

(2) How many staff are or have been employed by the Minister's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(3) How many consultants are or have been employed by the Minister's Department to work on issues relating to Native Title either -

(a) totally; or
(b) partially?

(4) What is or has been the cost of each such consultant and the name of each and period of tenure?

(5) In the case of an existing contract what is the length of each such contract?

Mr BARNETT replied:

(1) None.

(2) (a) Currently there are 16 staff employed to work totally on issues relating to native title.

(b) In addition to the 16 staff in (a), another 17 staff have a partial involvement to varying degrees on issues relating to native title.

(3) None.

(4)-(5) Not applicable.

REGIONAL PURCHASING COMPACT

1052. Mr BROWN to the Premier:

(1) Does the Government have a regional purchasing compact?

(2) What is the purpose of the compact?

(3) What benefits are provided under the compact?

(4) When the Government enters into arrangements with a head contractor for work in a region, is that head contractor required to apply the regional compact benefits to sub contracts it offers in the region?

(5) What arrangements does the Government have to enforce its regional purchasing compact on head contractors when allocating contracts in regions?

(6) Does the Government check to ascertain that head contractors have complied with the regional purchasing compact when allocating contracts in the regions?

(7) What is the nature of the check carried out by the Government to ensure head contractors apply the regional purchasing compact?

Mr COURT replied:

I am advised that:

(1) Yes - the Government has the *Regional Buying Compact.*

(2) To promote economic development through the use of Government buying in regional areas.

(3) The benefit is a preference to regionally based contractors and for the use of regional suppliers and services in order to achieve increased economic activity, employment opportunities and small business participation in the Government buying process.

(4) Generally, the *Regional Buying Compact* is only applied to the head contractor at the point of tender evaluation. In most circumstances it is beneficial for the head contractor to use local contractors to obtain a Local Content Preference.

(5)-(6) The obligation is on the Head Contractor to apply for the preference and for Government agencies to manage performance.

(7) Regional content is assessed at the point of tender evaluation, as part of the contract terms and conditions, and through reporting during the contract management process. The obligation is on Government agencies to ensure that Head Contractors deliver on any commitments outlined in their contracts.

CHANNEL 31

1065. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) Is the Minister aware of the service provided by Channel 31 in terms of it being a completely local service and providing opportunities for local talent, ideas and Western Australian content?

(2) Is the Minister aware that Channel 31 programs reach a diverse range of specialist audiences nearly impossible to reach through other media?

(3) If so, what efforts has the Minister and/or the Minister's departments/agencies made to place Government advertising or paid community announcements with Channel 31?

(4) Since it commenced broadcasting four months ago, how much Government advertising and paid community announcements have been allocated to Channel 31?

Mr SHAVE replied:

(1)-(3) A few months after Channel 31 commenced on air, a comprehensive dossier on its activities was requested by Government and distributed to each Ministerial office for information. Through the publication "Preferred Position", every Government Department was advised of the Channel's services and that it should consider making use of them.

(4) The State Government's master media agency Media Decisions is responsible for purchasing all advertising for Government Departments and advises that, to date, there has been no expenditure on Channel 31 by Departments under the Minister's responsibility. However, it has advised that it has held discussions with a number of Government agencies regarding the possible future inclusion of Channel 31 in up-coming media schedules.

PROFESSOR JOEL BRIND, FUNDING OF SPEAKING TOUR

1085. Ms WARNOCK to the Minister for Health:

In relation to question on notice No. 547 what assurance will the Minister give that no public money has been used to facilitate the speaking tour of Professor Joel Brind, who visited Perth lecturing on his disputed claim that there are links between induced abortions and breast cancer?

Mr DAY replied:

No public money has been granted by the Health Department of Western Australia for the purpose of facilitating the speaking tour of Professor Joel Brind.

BED AND BREAKFAST INDUSTRY, SUPPORT FROM WATC

1095. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is Western Australia missing out on potential business and job opportunities in Western Australia because at present there is no support or investment from the Western Australian Tourism Commission (WATC) for Bed and Breakfast accommodation?

(2) What support is the WATC providing to the bed and breakfast industry?

(3) Does the Commission have any reason to doubt that tourists looking for low cost holidays prefer bed and breakfast accommodation?

(4) If so, why?

(5) If there were more people working to promote bed and breakfast in Western Australia with the help of Local Government as is done in country towns like Margaret River and Bunbury, would this result in a rise in visitors that would eventually benefit the whole State economy?

(6) How much is spent on bed and breakfast promotions by the WATC?

(7) What co-ordination is there between the WATC and Local Government to assist bed and breakfast style accommodation to establish?

Mr BRADSHAW replied:

(1) The Government, through the WATC, provides considerable support for those wishing to explore the business opportunities Bed and Breakfast accommodation can present. WATC further supports the existing Bed and Breakfast sector by providing these businesses with a variety of marketing programs and opportunities.

(2) The WATC has 10 Tourism Development Managers situated throughout regional Western Australia, providing business development and marketing advice to both potential and existing Bed and Breakfast operators. This support also extends to cooperative marketing opportunities and market support through advertising campaigns.

(3) Visitors to Western Australia desire a range of accommodation options. Bed and Breakfast accommodation is but one of many low cost options the visitor can choose from. It would be presumptuous to generalise and suggest that visitors prefer one mode of accommodation to another.

(4) Not applicable.

(5) The Bed and Breakfast Association of Western Australia has over 90 members (19 in the South West region) throughout Western Australia and plays a significant role in positioning the Bed and Breakfast Industry within the greater tourism market. The WATC already provides some $1.4 million to Regional Tourism Associations who by and large work in cooperation with the regional local governments to market regional tourism products. This of course includes Bed and Breakfast establishments and many regions already have a focus on Bed and Breakfast promotions as part of this funding initiative. It should be pointed out though that these are regional board decisions made by the local members of the RTA and not the WATC.

(6) The WATC promotes Bed and Breakfast accommodation through its various marketing campaigns such as its "Winter Breaks" campaign, as in all marketing campaigns, the WATC encourages the involvement of all industry sectors in marketing opportunities appropriate to their business needs.

(7) As I mentioned previously, the WATC's Tourism Development Managers provide expert advice and assistance to those exploring the possibility of starting a tourism business such as a Bed and Breakfast. The proponents are encouraged to liaise directly with their particular Local Government body to assess their compliance with the local statutory requirements. Tourism Development Managers work closely with local government authorities in their area.

LANE POOL FALLS AND MUIRILLUP 3 AND 4 COUPES

1100. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Has the Minister brought Lane Pool Falls to the attention of his cabinet colleague, the Minister for the Environment?

(2) On what date did the Minister do so?

(3) Has the Minister received any response from his cabinet colleague on stopping logging in the Muirillup 3 and 4 coupes?

(4) If so, what response has been received?

(5) If not, will the Minister confer with the Minister for the Environment on preserving these coupes?

(6) If so, when?

(7) If not, why not?

Mr BRADSHAW replied:

(1) No.

(2)-(4) Not applicable.

(5) This is an operational matter under the jurisdiction of the Minister for the Environment.

(6)-(7) Not applicable.

TOURISM, REGIONAL ASSOCIATIONS, ALLOCATION OF FUNDS

1113. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Further to question on notice No. 318 of 1999, do regional tourism associations have the authority to allocate some of the funds received from the Government/Western Australian Tourism Commission (WATC) to any tourist bureau in their area of responsibility?

(2) Has the Government/WATC placed any impediments on regional tourism associations giving Government provided funds to any tourist bureau?

Mr BRADSHAW replied:

(1) Yes.

(2) No. WATC contracts with the Regional Tourism Associations require them to support and facilitate an appropriate level of visitor information servicing in their region. The RTAs make decisions in relation to the funding allocation in respect of each tourist bureau. In fact, the agreements are specifically designed to provide greater autonomy to the RTAs and regional tourism in general.

PUBLIC TRUSTEE, ADMINISTRATION OF ESTATES

1123. Mr PENDAL to the Minister representing the Attorney General:

(1) Is the Attorney General aware of the Public Trustee's views on the administration of the estates of some deceased people, conveyed to him by memo on 28 October 1997, that there was understandable public dissatisfaction over some matters of the law relating to deceased estates?

(2) Is the Attorney General aware that the Public Trustee expressed the view that a change in the law was needed to require all applicants for a "grant of administration" to swear by affidavit whether or not they were a creditor of the estate?

(3) Did the Public Trustee also recommend that such an administrator of an estate should declare the extent to which he or she claimed the estate to be indebted to them?

(4) Did the Public Trustee also recommend that the Non-Contentious Probate Rules be amended to ensure that a suitable alternative person was used over and above an applicant who was claiming to be a significant or substantial creditor?

(5) Will the Attorney General inform the House whether any changes to the law have been approved in the two years since this advice was received?

(6) If the answer to (5) above is no, why has no action been taken on a matter which seeks to ensure that the law is administered in such a way as to protect the legitimate rights of creditors of a deceased estate?

Mr PRINCE replied:

(1)-(4) Yes.

(5) There have been no changes to the law in the past 2 years.

(6) There may be sufficient safeguards in place at present. However, it is proposed to seek further advice on the matter from the Registrar Probate Jurisdiction Supreme Court.

HOSPITALS, MAGNETIC RESONANCE IMAGING UNITS

1138. Ms McHALE to the Minister for Health:

(1) How many Magnetic Resonance Imaging units (MRI) were bought, leased or ordered by public hospitals during the 1998-99 financial year?

(2) On what dates were they purchased, leased or ordered?

(3) Is the Minister aware of how many MRI scanners there are in private hospitals?

(4) If so, is the Minister aware when they were purchased?

(5) Did the Joondalup Health Campus purchase, lease or order an MRI scanner in 1998-99?

(6) If so, on what date?

Mr DAY replied:

(1) None.

(2) Not applicable.

(3) The Commonwealth Department of Health and Aged Care has publicly released information on the MRI equipment in private facilities that are eligible for Medicare benefits. In WA these are -

Magnetic Resonance Centre, Cnr Hamersley Rd and Rokeby Rd, Subiaco
St John of God Hospital, 175 Cambridge St, Subiaco
St John of God Hospital, 100 Murdoch Drive, Murdoch.

(4) No.

(5) I am advised that the Joondalup Health Campus currently has no MRI scanners located on site. I am further advised that Health Care of Australia had placed orders for MRI scanners in 1998, and that, as a result of the Federal Minister's recent announcement changing the funding provisions for MRI scans, the most appropriate locations for those machines not yet installed are currently being reviewed.

(6) Not applicable.

GOVERNMENT CONTRACTS, IN EXCESS OF $50 000

1159. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) How many contracts of $50,000 or more (excluding employment contracts) has each department and agency under the Deputy Premier's control entered into between 1 August and 30 September 1999?

(2) What was the amount of each contract?

(3) What is the name of each person/entity with whom the contract has been entered into?

(4) What is the nature of the work or service required by the contract?

(5) What is the completion date of each contract?

Mr COWAN replied:

Department of Commerce and Trade
(1) One.

(2) $53 117

(3) Corporate Theatre Productions Pty Ltd.

(4) Staging and management of the 1999 Western Australian Industry & Export Awards.

(5) 15 October 1999.

Small Business Development Corporation
(1) Nil.

(2)-(5) Not applicable.

International Centre for Application of Solar Energy (CASE)
(1) Nil.

(2)-(5) Not applicable.

Technology Industry Advisory Council (TIAC)
(1) Nil.

(2)-(5) Not applicable.

Gascoyne Development Commission
(1) Nil.

(2)-(5) Not applicable.

Goldfields-Esperance Development Commission
(1) Two.

(2) (a) $150 000 (Partnership contribution of $50 000 each from the GEDC, the Kalgoorlie-Boulder Chamber of Commerce and the Kalgoorlie-Boulder City Council.)
(b) $54 710.

(3) (a) Flame Consultants.
(b) The Strategy Centre.

(4) (a) To act as Adviser for the Industry Development Centre.
(b) To develop a Regional Marketing Strategy for the Goldfields-Esperance region.

(5) (a) 9 May 2000
(b) 1 March 2000.

Great Southern Development Commission
(1) One.

(2) $120 000.

(3) Coney Stevens.

(4) To determine the optimum configuration of resources to maximise the development of tourism attractions and tourism services, including maritime infrastructure in and around the main waterways of Albany.

(5) 31 December 1999.

Kimberley Development Commission
(1) Nil.

(2)-(5) Not applicable.

Mid West Development Commission
(1) Nil.

(2)-(5) Not applicable.

Peel Development Commission
(1) Nil.

(2)-(5) Not applicable.

Pilbara Development Commission
(1) Nil.

(2)-(5) Not applicable.

South West Development Commission
(1) One.

(2) $82 000 per year (2 year contract).

(3) Terry and Angela Lewis – NetFX Pty Ltd

(4) South West Information Technology Advisor.

(5) 9 August 2001.

Wheatbelt Development Commission
(1) Nil.

(2)-(5) Not applicable.

MINING, SAFETY AND JOB SECURITY

1182. Mr BROWN to the Minister representing the Minister for Mines:

Further to question on notice No. 819 of 1999, in what respect is the article inaccurate?

Mr BARNETT replied:

The article is inaccurate in several respects in that it presents inferences by the author which are not conclusions drawn in the report. The most evident of these are:

(1) The claim that the survey "showed there were high levels of risk taking in the industry as workers cut corners to maintain jobs they saw as insecure". This conclusion is not drawn in the survey.

(2) The claim that the survey found "most WA miners believed they were taking more risks than other Australian mine workers and thought safety was somebody else's problem". This is not explicitly stated in the survey report. These deficiencies apparently result from attempting to summarize a 50 page report into a few paragraphs.

ROYAL PERTH HOSPITAL, MS K. MORRISON

1202. Ms McHALE to the Minister for Health:

I refer to question on notice No. 920 of 1999 and ask -

(a) what is the duration of Ms K Morrison's short term contract; and
(b) what is the rate of pay for the position?

Mr DAY replied:

(a) The contract is for 16 weeks and expires on 7 January 2000.

(b) Level 9 HSOA. That would be $68 461 per annum.

ROCKINGHAM-KWINANA DISTRICT HOSPITAL, CLOSURE

1206. Mr McGOWAN to the Minister for Health:

(1) Does the Minister plan to close the Rockingham/Kwinana District Hospital because it does not have the critical mass to survive?

(2) Does the Director of Health, Mr Andrew Weebes, have any plans to close the Hospital?

Mr DAY replied:

(1) No.

(2) No. Mr Weeks is not Director of Health but CEO of the MHS.

MUSIC FOR YOUNG PEOPLE, FUNDING OF PROJECTS

1238. Ms ANWYL to the Minister representing the Minister for the Arts:

What amount of money was allocated to support or sponsor projects involving music targeted at "young people" in the following years -

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;

(d) 1998-99; and
(e) allocated in the 1999-2000 budget?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response -

(1) The Western Australian Music Industry Association (WAM) has received support through ArtsWA. Projects within WAM's program are targeted towards young people. The funding amounts are:

(a)	1995-96	$45 000
(b)	1996-97	$59 900
(c)	1997-98	$45 000
(d)	1998-99	$40 000
(e)	1999-2000 budget	$40 000

The amount of funds awarded to support projects involving music targeted at young people is:

(a)	1995-96		$83 148
(b)	1996-97		$92 595
(c)	1997-98		$88 045
(d)	1998-99		$126 340
(e)	1999-2000 budget	Music -	$268 050 Total
		Young People & the Arts -	$246 750 Total

Funds to support projects involving music targeted at young people are just one component of the allocations to be made from the music, and the Young People & the Arts 1999 – 2000 budgets.

YOUNG PEOPLE'S MUSIC ADVISORY COMMITTEE

1240. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) What is the role and what are the objectives of the Young People's Music Advisory Committee?

(2) Has the committee made any recommendations?

(3) If yes, what are they?

Mrs EDWARDES replied:

(1) There is no Young People's Music Advisory Committee. ArtsWA will be establishing a music reference group in 2000. This reference group will incorporate Government Department representatives, young people, musicians and private organisations working in the area of contemporary music. Contemporary music objectives and specific recommendations will be outcomes of this reference group.

(2)-(3) Not applicable.

BANDS, CONCERT TOURS

1241. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) Does the Ministry of the Arts seek to provide touring opportunities to regional Western Australia for bands?

(2) If yes, what concert tours supported or sponsored by the Government were held in the following years -

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) so far in 1999-2000?

(3) Of these concert tours, how many - in each of the above mentioned years - were held at country schools and what are the names of the schools?

(4) How much money was allocated to sponsor such concert tours to regional Western Australia in the following years -

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) in the 1999-2000 budget?

Mrs EDWARDES replied:

(1) All touring funding is devolved to Country Arts (WA) Inc.

(2)-(4) Not applicable.

RADIO RTR'S FRESH BLAST CD LAUNCH PROGRAM

1242. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) Does the Ministry of the Arts support Radio RTR's Fresh Blast CD Launch Program?

(2) What are the objectives of the program?

(3) What was the funding allocated to the program in the following years -

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) 1999-2000?

(4) What do bands participating in the program receive in terms of funding and support?

(5) How many schools and how many bands participate in the live concert program?

Mrs EDWARDES replied:

(1) No.

(2)-(5) Not applicable.

MOBILE PERFORMANCE FACILITY, COST

1244. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) Has the Ministry of the Arts investigated the option of Western Australia having a mobile performance facility to be used for concerts or cultural activities?

(2) If yes, what was the outcome or recommendations made in response to the investigation?

(3) What is the estimated cost of a mobile performance facility?

(4) Is there an existing rock rig in Western Australia which could be purchased by the Government?

Mrs EDWARDES replied:

(1) Yes.

(2) A mobile stage proposal was developed by the Department for the Arts in 1990. The Department then prepared a submission for support for the construction of this stage to the Lotteries Commission. The submission was unsuccessful.

(3) The proposal for the stage was costed at $237,000.

(4) The Ministry is aware of a 'rock rig' which is owned by an independent, commercial sound and lighting hire company based in Perth. The Ministry has not investigated purchase of this rig.

COMMUNITY-BASED ROCK CONCERT PROGRAM, SPONSORSHIP

1245. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) Has any Government authority investigated the feasibility of supporting or sponsoring a community-based rock concert program aimed at young people, aged 14 to 18, similar to the FreeZa Program as held in Victoria?

(2) If yes, what was the outcome or recommendations made in response to that investigation?

Mrs EDWARDES replied:

(1) Yes.

(2) Through a strategic alliance between ArtsWA, Office of Youth Affairs and Healthway, the Victorian FreeZa Coordinator will travel to Perth on 1 December 1999. The coordinator will conduct presentations on 1 and 2 December 1999 aimed at the music industry and young people. The presentation will act as a feasibility study into the implementation of a similar model in Western Australia.

YOUNG PEOPLE'S MUSIC ADVISORY COMMITTEE

1256. Ms ANWYL to the Minister representing the Minister for the Arts:

(1) What is the role and what are the objectives of the Young People's Music Advisory Committee?

(2) Has the committee made any recommendations?

(3) If yes, what are they?

Mrs EDWARDES replied:

(1) I refer the member to my answer to Question on Notice 1240.

(2)-(3) Not applicable.

QUESTIONS WITHOUT NOTICE

VIP AIRCRAFT FOR MINISTERS

478. Dr GALLOP to the Premier:

(1) Why is the Government planning to spend scarce taxpayers' dollars on the provision of not one, but two VIP aircraft for ministers?

(2) Is it because the Premier wants extra capacity to campaign in the months leading up to the next election?

(3) Was a cost benefit analysis undertaken before the tenders were called?

Mr COURT replied:

(1)-(3) I would not have thought that the Leader of the Opposition would be so silly as to ask a question about the availability of aircraft for ministerial travel. I do not have a difficulty with it, because we have gone through a completely open process. The Labor Government let a contract for one King Air plane for $1.76m a year - nearly $2m. However, there was no tender process. When we came to government, we put it out to tender. We got exclusive access to a similar plane - the Super King Air - for just over $1m. At the same time in the contract we had priority access to a jet aircraft. For the three years that the plane was available, the average cost was $314 000. If the two planes are added together, we had access to two planes at a cheaper price than the Opposition had let a contract for one plane. Six years later, the total cost of the current contract is still cheaper than the Opposition was paying when it was in government.

Mr Kobelke: Per hour of use.

Mr COURT: Again, I would not think the Leader of the Opposition would be silly enough to ask that question, because the Opposition paid $1.76m for its contract which required opposition members to pay for 70 hours a month, whether or not the plane was used. They averaged 51 hours. They were paying for 70 hours on a $2m contract, but they were not even using it. If members want me to go into more detail -

Dr Gallop: I want to know about the cost benefit analysis. Answer the question!

Mr COURT: In relation to travel, this Government has effectively had the use of two planes and ministers use other planes when those two are not available. We have proved that, by going out to an open, competitive tender process, we can basically get two planes for the price of the Opposition's one. With regard to what types of planes should be available, when the Opposition was in government, a King Air was a suitable plane for most travel, and that is still the case. The King Air is an ideal plane for travelling in this State, particularly for landing on gravel airstrips, etc. It makes sense to use a jet for longer trips - that is, most Kimberley trips - because it can do those trips without needing to stop. In a State of this size, the Labor Government used those different types of planes extensively. The only difference is it paid a lot more for them.

With regard to Queensland, there was a report in the paper that we will have access, because the contract has not yet been completed, to a luxury jet. That jet is the smallest commercial-type jet that one can get. The Labor Government in Queensland uses a large, luxury VIP jet. The reason is that when Joh Bjelke-Petersen was using a jet many years ago, it said that the first thing it would do when it came into government would be to sell the jet. However, when it came into government, it sold it and bought another jet - a Westwind jet - and the then Premier said it was the most stupid thing it had done. Now, of course, the Labor Government in Queensland flies around in the latest model of the bigger jet.

With regard to the use of funds, we went to an open tender process, and, yes, we compared all of the other options available, all of which were put forward in the tender process. The Labor Party has suggested that members should fly on commercial flights rather than charter. When a commercial flight is available, that is the policy. I put it to members opposite that if they were in our position, as they were when they had 10 years in government, would they go out to a competitive tender?

Dr Gallop: If you want me to answer all those questions, I will be happy to go and sit on that side.

Mr COURT: The answer is the Leader of the Opposition has had his opportunity. Members opposite had a process when they were in government of not going out for tender, there was no competition, and they were ripped off.

VIP AIRCRAFT FOR MINISTERS

479. Dr GALLOP to the Premier:

I ask a supplementary question. Will the Premier table the documents which he claims establish the need for such an extra service?

Mr COURT replied:

With regard to the comparisons that were made of the requirements, the different types of services, etc, I do not have any difficulty in providing that information. These people were in government for 10 years. They went through a similar process of determining what sort of charter access was required. I would have to say, and I think I am speaking for a lot of ministers, flying is not the flashest part of the job, and in a State as large as this, we need to travel long distances, and it is appropriate that -

Mr Ripper: The real perk will be ringing the bells!

Mr COURT: That is pretty funny! It is appropriate that members of Parliament, including members opposite, travel in appropriate and reasonably safe planes.

TOBACCO, SALE TO MINORS

480. Mr OSBORNE to the Minister for Health:

Can the Minister advise the House what action has been taken by the coalition Government to reduce the sale of tobacco to minors in Western Australia?

Mr DAY replied:

I thank the member for some notice of the question. It is illegal to sell or supply tobacco to people who are under 18 years of age. There is a very good reason for that: Tobacco is addictive and carcinogenic and is strongly linked to a higher incidence of heart disease, cancer, emphysema, cerebro-vascular disease and other diseases. It is also the cause of 1 500 preventable deaths in Western Australia each year. Therefore, we need to do whatever we can to ensure that we reduce the incidence of the uptake of smoking in our community, particularly among our young people.

A survey undertaken by the Australian Council on Smoking and Health earlier this year indicated that about half of all retailers who were approached in the survey were prepared to sell cigarettes to a child aged 14 years. That applied to small and large retailers. In response to that concern, I have established an advisory committee to recommend to me what further steps can be taken through amending legislation, public education campaigns or in some other way to be more effective in reducing the supply of tobacco to children under 18 years of age. That advisory committee is to be chaired by Mr Barry MacKinnon and will comprise representatives of large and small retailers, the Health Department, the Australian Council on Smoking and Health, and the Western Australian Drug Abuse Strategy Office. I have asked the committee to report to me within four months with recommendations about how we can be more effective in this very important area.

MAROOMBA AIRLINES, AIR CHARTER CONTRACT

481. Dr GALLOP to the Deputy Premier:

I refer to the awarding of an air charter contract to Maroomba Airlines.

(1) Did the Deputy Premier give approval for this contract to be re-tendered following the failure of Maroomba Airlines to meet the deadlines set out in the original contract?

(2) Why was Maroomba Airlines allowed to re-tender after having failed to meet the requirements of the contract when it was first awarded in July this year?

(3) Which of the six published criteria for allowing the recalling of tenders applied in this case?

Mr COWAN replied:

(1)-(3) The Leader of the Opposition has made a small mistake in respect to one of the issues. I met with the Director General of the Ministry of the Premier and Cabinet who indicated to me that Maroomba Airlines had sought a variation to the original tender price - nothing more, nothing less. The Ministry of the Premier and Cabinet gave me a briefing and indicated a course of action which should be taken. Obviously that course of action had been presented to the Ministry of the Premier and Cabinet by the Department of Contract and Management Services. I agreed with that course of action and on the memorandum that came to me I said that the action as outlined was approved by me.

Dr Gallop: Which of the six conditions applied?

Mr COWAN: I am making the point that Maroomba Airlines came to the Department of Contract and Management Services and sought a variation. That variation having been sought, the Department of Contract and Management Services made a recommendation to the Ministry of the Premier and Cabinet and the Director General of the Ministry of the Premier and Cabinet came to me and said that was the recommendation made by CAMS and I agreed with that recommendation. Members need to bear in mind that a week prior to this request for variation, a variation to a catering contract for Royal Perth Hospital was agreed to and that created waves around the traps. Therefore, CAMS felt that it would not be appropriate to agree to the variation and that the three preferred bidders should be requested to submit a new bid. As a consequence of a complaint by one of those three bidders, CAMS recommended - I think the recommendation came through the State Supply Commission - that all five companies which submitted a bid in the first instance should be asked to resubmit a tender rather than just the three preferred bidders.

MAROOMBA AIRLINES, AIR CHARTER CONTRACT

482. Dr GALLOP to the Deputy Premier:

I have a supplementary question. Why did the Deputy Premier not exclude himself from that process given his long-standing friendship with the proprietors of Maroomba Airlines?

Mr COWAN replied:

There was no reason for me to do so. Simply knowing somebody does not mean one should exclude oneself from a process. As far as I am concerned, the process was done properly.

Dr Gallop: Tell us again which of the six conditions applied? You signed off on it. Which of the six conditions?

Mr COWAN: I wonder whether the Leader of the Opposition could spend a little less time interjecting at question time and a little more time listening because if he listened, he would learn and understand that there was a request for variation.

Dr Gallop: You are obliged to act under the law. That is the law.

Mr COWAN: That was the only request made, and because that request for variation was not agreed to by the Department of Contract and Management Services and accepted by Ministry of the Premier and Cabinet -

Dr Gallop interjected.

The SPEAKER: Order! I think we have got the gist of the Leader of the Opposition's interjection. The Leader of the Opposition has had a fair go with that interjection.

Mr COWAN: I will conclude very quickly. There was only one request for variation, which was refused, and tenders were reopened. I remind the Leader of the Opposition again that when his party sought to secure an aircraft charter service for the Government of the day, it did not put it out to tender.

CITY OF JOONDALUP, SECURITY LEVY

483. Mr BAKER to the Minister for Local Government:

I refer to the recent decision by the City of Joondalup to strike a security levy, similar to the levy absorbed into the rates notices issued by the City of Bayswater. Does the Government intend that the power to raise this levy under the Local Government Act can also apply to vacant land?

Mr OMODEI replied:

I thank the member for some notice of this question.

Section 6.38 of the Local Government Act 1995 allows a local government authority to impose a prescribed service charge on land to meet the cost of services provided to the land. It would be a matter for the local government to justify how vacant land may be receiving the security service. The local government would need to ensure that the land actually receives the service, otherwise it may be possible for a person to appeal to the Land Valuation Tribunal, under section 6.82 of the Local Government Act 1995, against the principles of the service charge.

PETRELIS, MR ANDREW, CIRCUMSTANCES SURROUNDING DEATH

484. Mrs ROBERTS to the Minister for Police:

(1) Why does the minister continue to undermine public confidence in the Police Service by refusing to give a frank and open account of the circumstances surrounding the death of protected witness Andrew Petrelis?

(2) Has the minister been fully briefed by the Commissioner of Police on this issue; and, if so, when does he intend to, in turn, brief Parliament?

(3) Does the minister accept that his continuing failure to be open and accountable on this issue gives the impression that the Government would rather cover up potential police corruption than confront and expose it?

Mr PRINCE replied:

(1)-(3) Nothing could be further from the truth. Any allegation of police corruption is taken extremely seriously and investigated by the appropriate authorities, whether they be internal affairs, the Anti-Corruption Commission or anybody else. The Petrelis matter occurred four years ago; it is not something which occurred last week or in some recent time, but some considerable time ago. As the member knows, Mr Lienert, the assistant commissioner in charge of professional standards has been reviewing the matter. I have not spoken to him but I have spoken to the Commissioner of Police, who has been in constant contact with Mr Lienert. I spoke to the commissioner late last night about this subject, and I shall be speaking to him again tomorrow. As soon as the review by Mr Lienert is completed, I expect that the commissioner and I will make a statement and lay some facts out before the public. When that can be done, it will be done. I hope that will happen within the next few days. It is up to the commissioner and his assistant commissioner in charge of professional standards to review what has happened and to answer questions which have been raised in the public arena. As soon as that can be done, it will be. There is no want of leadership, only a lack of going out and looking for slogans, or of shouting things out before being completely informed of what happened.

The SPEAKER: Order! Two members seek the call, which I give to the member for Midland who has a supplementary question. The member for Armadale has interjected for the third time.

PETRELIS, MR ANDREW, CIRCUMSTANCES SURROUNDING DEATH

485. Mrs ROBERTS to the Minister for Police:

(1) Will the minister move immediately to restore public confidence in the Police Service by calling for an open, judicial inquiry into the circumstances surrounding the death of Andrew Petrelis?

(2) If not, why not?

Mr PRINCE replied:

(1)-(2) That is an option which is yet to be considered. I shall make a judgment on that question, and others, as soon as the assistant commissioner for professional standards has made a report to the Commissioner of Police and to me, and we have had an opportunity to consider what action should be taken. The member refers to one option; it is not the only option.

Mrs Roberts: You're trying to keep it in-house.

Mr PRINCE: I do not intend to try to keep it in-house or under wraps. None of that will happen.

Dr Gallop: Do you promise to report to Parliament on Thursday?

Mr PRINCE: I will report to Parliament if I have the information by Thursday - I hope I do.

BARRACK SQUARE, PROPOSED HOTEL

486. Dr CONSTABLE to the Premier:

I refer to the article on page 7 of today's *The West Australian* regarding the plans to build a three-storey hotel at Barrack Square. In view of my question to the Premier last Thursday, I ask -

(1) Does the Premier support this proposal?

(2) Does he agree with remarks by Professor Dolan of Curtin University that "a big building of the wrong scale in a sensitive riverside location could create the same uproar as the apartments of Sydney's East Circular Quay"?

(3) Does the Premier acknowledge that his views about developments at Barrack Square are important given that his push for a belltower at the site was subsequently given approval by all the relevant planning authorities?

(4) Who are the financial backers of this project?

(5) Has a lease over the proposed site of the hotel been granted, and if so, to whom?

Mr COURT replied:

(1)-(5) The member asked a question last week about the proponents of the hotel. The proponent is Country Lodgings Australia, which is a division of Country Inns and Suites, which I am told is one of the largest hotel chains in the world. In answer to the questions about the comparisons to "The Toaster" building in Sydney, yes, any building down at Barrack Square that is out of context, out of proportion, etcetera, would be totally unacceptable. The lease and lands I understand are with a company which I think is called -

Mr Kobelke: Swan River Pty Ltd.

Mr COURT: It is Swan River WA Limited, which is the new name of Barrack Square Limited.

Mr Kobelke: Does your brother have any association with the lease?

Mr COURT: No, he does not. I hope I have answered the questions asked by the member for Churchlands.

I now comment on this matter: Members opposite have made a big fuss about the fact that Bob Shields is involved with the Barrack Square developments. Mr Shields is involved, as he has been involved since 1987 when this project was first put forward. I have with me a copy of the front page of *The West Australian* from 1987.

Dr Gallop: Are you a bit nervous about this one, Premier?

Mr COURT: No, I just want to place something on the record: Mr Shields did all the negotiations to put in place the arrangements for the development between 1987 and 1993 with a Labor Government. Members opposite are pretty good, but they cannot accuse me of being involved in negotiations for this project which all took place with members opposite.

Mr Kobelke: That is nonsense, Premier, and you know it! What Shields gave to the former Government fell over because we were looking after the public interest. You took no account of the public interest, and you handed it to your brother's company. That is what you did! You handed it to Paramount!

Mr COURT: The Labor Government encouraged that development at every stage. Members opposite should not try to rewrite history.

Mr Kobelke: But they were going to pay for the public infrastructure. When your brother took over, the State paid for the public infrastructure; it handed over a jetty worth hundreds of thousands of dollars with no compensation to the State. It was a gift to the company in which your brother had an interest.

Mr COURT: In 1987, the Government said it was keen for that project to proceed ensuring that the Barrack Street jetties area provides a suitable water gateway to Perth for tourists. As I understand it, Mr Shields has been the project manager for 12 years.

Mr Kobelke: When you came into government, he rubbed his hands with glee. He knew he was on a winner.

Mr COURT: Members opposite cannot have it both ways. They wanted this project to proceed, and for six years they did all the negotiations. The member left that out when the issue was raised.

BARRACK SQUARE, PROPOSED HOTEL

487. Dr CONSTABLE to the Premier:

The main part of my question has not been answered. It was: Does the Premier support this proposal?

Mr COURT replied:

I would not support any proposal that did not have the approval of all the appropriate authorities. I am not aware of the detail of the plan -

Dr Gallop: Have you met the developers?

Mr COURT: I met them some years ago when they made a presentation on the site. I will table the 1987 plan, which shows this development.

[See paper No 417.]

SOUTH WEST HIGHWAY, PINJARRA TO WAROONA UPGRADE

488. Mr BRADSHAW to the minister representing the Minister for Transport:

(1) Has the tender been let for the upgrade of the South West Highway from Pinjarra to Waroona?

(2) If not, when will the tender be let?

(3) When is the upgrade expected to start and finish for this stretch of road?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1) Tenders were advertised on Saturday, 6 November 1999 and will close on 7 December.

(2) The contract is expected to be let in late January or early February 2000.

(3) The upgrade is expected to commence in February 2000 and to be completed by April 2001.

CHILDREN, NUMBER OF DROWNINGS

489. Ms McHALE to the Premier:

I refer to two very important reports launched today by the Child Health Research Institute and ask -

(1) Is the Premier aware that under his Government drowning has become the principal cause of death for preschool children in the metropolitan area?

(2) Does the Government accept any responsibility for the alarming increase in child drownings given its decision in 1993 to repeal legislation requiring isolation fencing around backyard swimming pools?

(3) Will the Premier give a commitment to reintroduce this legislation before more Western Australian children drown in backyard swimming pools?

(4) If not, why not?

Mr COURT replied:

(1)-(4) I am not aware of the detail of the reports, but I am very much aware of the issues relating to drowning. My wife has taken a direct interest in promoting increased awareness. A recent launch of this summer's awareness campaign sadly attracted very little media interest. I do not support the member's implication that that one bit of legislation is the reason there has been an increase in the number of drownings. Children of friends of mine have drowned in backyard pools, and in each case the proper fencing was in place. These drownings take place for a number of reasons. One of the biggest concerns is that parents can be inside a swimming pool area but doing something else and in only a matter of seconds a child can quietly fall into the pool and drown. Another major problem is the dangerous practice of leaving older children to supervise younger children in swimming pools.

Dr Gallop: What about the legislation which your Government passed?

Mr COURT: Tragically, there are a number of reasons for children drowning.

Dr Gallop: Your Government made a decision and must carry the responsibility. You were warned in this Parliament about what would happen.

Mr COURT: No. The Leader of the Opposition should look at the reasons for that drowning and then he will have a better understanding.

SMALL TOWNS

490. Mr MASTERS to the Minister for Commerce and Trade:

I refer to a recent meeting of the Busselton Chamber of Commerce at which concern was expressed about the difficulties

that shops in smaller towns face when trying to compete with those in large towns like Bunbury. Does the minister know of any schemes operated by his department which provide advice to smaller communities about how to meet the challenges faced when competing with large towns.

Mr COWAN replied:

Some programs are conducted through the Department of Commerce and Trade and the Small Business Development Corporation. The Small Business Development Corporation provides core funding and support services for a network of business enterprise centres, 27 of which centres are in regional Western Australia. The Busselton Dunsborough Business Enterprise Centre recently published an extensive guide for small retailers on competing with retail stores.

Mr Graham: That was one of a number of good Labor initiatives.

Mr COWAN: They were good initiatives, which we have expanded. For example, the SBDC, through those business enterprise centres, delivers a range of enterprise development programs targeted at individual enterprises, which programs are designed to assist in meeting challenges from competition. I will provide three examples: The Small Business Improvement Program provides a dollar for dollar subsidy to assist businesses to develop business plans or marketing strategies; the Aussie Host Customer Service Program is a subsidised workshop which helps to equip operators and staff in best practice techniques of customer service; and Marketing Plus is a newly developed one-day marketing workshop for small business operators to be delivered throughout the State.

One of the most successful operations of the Department of Commerce and Trade is the Main Street Program, which focuses on economic development of the town's central business district and provides assistance to small businesses. In addition, there is the Small Town Economic Program, which provides grants to smaller towns that may not be eligible under the Main Street Program, to examine how businesses can be supported in those towns. I am aware that the South West Development Commission has been assisting towns like Busselton, Bridgetown, Donnybrook and Harvey through either the Main Street or STEP programs.

BUSINESS EXIT ASSISTANCE

491. Dr EDWARDS to the Minister for the Environment:

I refer to the minister's comment in this place last week when she asked who had sought Regional Forest Agreement structural adjustment funds and had not received them, and ask -

(1) Is the minister aware that Mr Mike Webb of Albany, who lost his contract as a truck driver for Bunnings Forest Products Pty Ltd as a result of the revised RFA, has been asking for business exit assistance and has not received it?

(2) Is the minister also aware that Mr Webb cannot get access to his repossessed truck and take the work that has been offered to him, carting grain, because he is still waiting for government business exit assistance to get back his truck?

(3) Why was Mr Webb told as recently as the end of the past week by Steven Fewster of the Ministry of the Premier and Cabinet that the business exit assistance application forms had not even been printed then?

Mrs EDWARDES replied:

(1)-(3) Mr Webb operates a haulage business in Albany. He had contracts with the Bunnings group, for inside and outside the Regional Forest Agreement area. As I have said in this House and publicly, we knew this agreement would have an impact on industry. The Government has a very strong commitment to assist businesses that will be affected directly by the outcomes of the RFA. Consultation has taken place with Mr Webb, as well as with the relevant agencies and departments. His situation will be used as an opportunity to apply for assistance under the joint forestry industry structural adjustment program. We are waiting for the processing of his business exit application.
