WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE ASSEMBLY

Tuesday, 15 April 1997

Legislative Assembly

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

PETITION - REGIONAL PARK, GUILDERTON

MR KOBELKE (Nollamara) [10.02 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned respectfully request that the Government establish a Regional Park immediately to the south of Guilderton in order to protect the mouth and lower reaches of the Moore River and the significant dunes and coastal heathland south of the mouth of the Moore River.
>
> We request that the Government take urgent action to acquire this land before it is further rezoned or developed,
>
> 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 57 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 13.]

PETITION - BIRKDALE PREPRIMARY SCHOOL

DR CONSTABLE (Churchlands) [10.03 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned oppose the closure of the Birkdale Pre-Primary school and its re-location to the Floreat Park Primary School.
>
> 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 285 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 14.]

TREASURER'S ADVANCE AUTHORIZATION BILL

Second Reading

MR COURT (Nedlands - Treasurer) [10.04 am]: I move -

> That the Bill be now read a second time.

This Bill authorises the Treasurer to make certain payments and advances for authorised purposes chargeable to the consolidated fund or the Treasurer's Advance Account within the monetary limit available for the financial year commencing 1 July 1997. The monetary limit specified within clause 4 of the Bill represents an authorisation for the Treasurer to withdraw up to $200m for the financing of payments and advances in the 1997-98 financial year.

The purposes for which payments and advances may be made are set out within clause 5 of the Bill and remain unchanged from those authorised in previous years. Where payments are made in respect of a new item or for supplementation of an existing item of expenditure in the consolidated fund, those payments will be charged against the fund and submitted for parliamentary appropriation in the next financial year.

Members will be aware that a number of activities, such as suspense stores for supply services and rental of government offices, are initially financed by way of Treasurer's Advance which is subsequently recouped from the department or statutory authority on whose behalf the service was performed or rental paid. Advances provided for other purposes are repayable by the recipient.

In addition, the Bill seeks supplementation of $100m against the monetary limit authorised for the 1996-97 financial year. The major factors giving rise to the need to increase the limit by $100m are changed agency structure

arrangements. The relevant expenditure by the Department of Transport and the Department of Contract and Management Services of $86.3m is revenue neutral.

When the 1996-97 Budget was framed it was anticipated that on the transfer of the licensing function from Police to Transport, licensing revenue would be taken directly into the transport coordination fund and netted against the department's expenditure. Transport legislation did not, however, permit the revenue to be paid into the transport coordination fund, and 1996-97 licensing revenue has therefore been paid into the consolidated fund. The additional expenditure of $73.6m is fully offset by this revenue and has no net impact on the consolidated fund.

The 1996-97 Budget was compiled on the basis that the Department of State Services and the Western Australian Building Management Authority would be merged and operate as a single agency from 1 July 1996. As legislative amendments were not in place by 1 July 1996, it became necessary to create the Department of Contract and Management Services to carry out the functions of the former Department of State Services that remained after transfers or privatisation. The additional expenditure of $12.7m is offset by revenue. Other factors contributing to the proposed increase in the limit include overruns in Education of $20.7m; Police of $10.6m; Resources Development of $10.5m; and Agriculture of $9.7m. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ACTS AMENDMENT (MARINE RESERVES) BILL

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [10.07 am]: I move -

That the Bill be now read a second time.

Western Australia's 12 500 kilometre coastline is blessed with an abundant and diverse marine life. It plays a significant part in the quality of Western Australian life through being the focal point for many varied uses from recreation and tourism to conservation and industry. It cannot be overstated that our marine environment is deserving of a comprehensive and effective marine conservation reserve system.

This Bill will enable such a system to be established. It represents an unprecedented strengthening in the protection of Western Australia's marine environment while providing certainty for users. This Bill will provide security for multiple use for future generations while safeguarding conservation, scientific and environmental values. It sets in place a comprehensive framework for the Government's strategy for enhancement, expansion and management of the State's marine conservation reserve system.

The principles of this strategy were announced in July 1994 and published in November 1994 in the document titled "New Horizons in Marine Management". As indicated in that strategy, it is a matter of principle that the wise use of our resources must be balanced and complement Western Australia's high environmental protection and management standards. This will be achieved by providing clear access guidelines for petroleum exploration and production, mining and other industries such as commercial fisheries, aquaculture and pearling and for recreational users of marine reserves. It is also necessary to remove uncertainty for those interests associated with existing and future investment in commercial ventures in marine reserves and to minimise the potential for conflict between conservation and resource management and development. Multiple use of our marine environment both inside and outside reserves and the commitment to conservation of important and representative marine habitats in marine conservation reserves is consistent with the concept of ecologically sustainable development.

To establish the improved legislative framework necessary to put these principles into practice, the Acts Amendment (Marine Reserves) Bill 1997 will amend six acts; namely, the Conservation and Land Management Act 1984, the Mining Act 1978, the Petroleum Act 1967, the Petroleum (Submerged Lands) Act 1982, the Fish Resources Management Act 1994 and the Pearling Act 1990. The operation of the Petroleum Act 1967 and the Petroleum (Submerged Lands) Act 1982 in marine conservation reserves will also be subject to amendments made to the Conservation and Land Management Act.

The Government provided an advance draft of the Bill for comment to key peak interest and industry groups on a confidential basis. Careful consideration has been given to the comments and submissions received and, where possible, the Bill has been amended accordingly.

I now turn to the amendments to the Conservation and Land Management Act as provided in part 2 of the Bill.

Marine Parks and Reserves Authority: It is the Government's view that marine conservation reserves are deserving of, and should receive, more specialised management. This warrants a separate vesting authority for these reserves

with members having skills particularly applicable to marine management and conservation. Response to the "New Horizons in Marine Management" strategy indicates that this view has broad community support.

A new vesting and ministerial advisory body for marine conservation reserves to be known as the Marine Parks and Reserves Authority will be established which will provide not only a focal point for community interest in the management and protection of marine conservation reserves and the marine organisms and habitats that they contain, but also the necessary oversight of the management of the multiple uses and benefits which we all expect to be available to us in the marine environment. It will be a function of this authority to have vested in it all marine nature reserves, marine parks and marine management areas.

The additional multiple-use marine reserve category foreshadowed in "New Horizons in Marine Management" is the marine management area. The existing category of marine park also provides for multiple uses in that recreational and commercial activities may occur provided that they are consistent with the conservation and protection objectives assigned to marine parks. The Marine Parks and Reserves Authority will have a role in marine reserve policy development, and will be responsible for management plans and overseeing their implementation by the Department of Conservation and Land Management and will provide advice to the Minister. The policy functions of the Marine Parks and Reserves Authority will not extend to the development of policies which review or otherwise seek to affect fisheries management.

The Marine Parks and Reserves Authority will have the power to develop policies to preserve the natural marine and estuarine environments of the State, outside marine reserves; however, where these policies may impact on fisheries, aquaculture or pearling, they will be referred to the Minister for Fisheries for his consideration and appropriate action. The Marine Parks and Reserves Authority will comprise seven members who will be appointed by the Governor on the nomination of the Minister. As a result of the significance of the State's aquaculture, fishing and pearling interests and their wide distribution in state waters, the Minister for Fisheries will be provided with the opportunity to recommend two persons for nomination as members of the authority as a matter of policy. Similarly, other portfolios with a significant interest in the marine environment, such as Minerals and Energy, will also be given the opportunity to make such recommendation. This authority's membership will not be representative of sectoral interests or particular portfolios within government. Rather, its members will be appointed on the basis of their knowledge and experience or particular function or vocational interest relevant to the functions assigned to the Marine Parks and Reserves Authority. In considering appointments to the marine authority, every endeavour will be made to cater for all interests.

Public sector employees will not be eligible for appointment as members of the new authority. Although the Chief Executive Officer of the Department of Conservation and Land Management will be able to attend and participate in authority meetings, this will not provide ex officio standing or an entitlement to vote on any matter before the authority. The chief executive officers of other relevant departments, such as Fisheries and Minerals and Energy, will also be able to attend marine authority meetings on the same basis.

If the Marine Parks and Reserves Authority requires independent advice on a matter relevant to particular community interests or sectoral interests in the marine or estuarine environment, it is empowered to form temporary advisory committees of non-members to achieve this end. The schedule to the Conservation and Land Management Act is to be amended to provide this capability to the marine authority.

A key function of the Marine Parks and Reserves Authority will be to provide advice to the Minister and although the marine authority will have a significant measure of independence subject to the general direction of the Minister, the Minister will be able to act independently of the advice provided. However, where the Minister takes action contrary to that recommended by the authority, to ensure that the Minister's actions are fully accountable the Minister will be required to table a copy of the advice provided by the Marine Parks and Reserves Authority and his or her decision in respect of that advice in each House of Parliament within 14 sitting days of the decision. Similarly, where the Minister has given directions in writing regarding the exercise or performance of the marine authority's function, the marine authority will be required to include the text of those directions in its annual report which must be tabled in each House of Parliament by the Minister.

A review clause will apply to the new authority; that is, the need for continuation of the Marine Parks and Reserves Authority will be reviewed by the Minister five years after the amendment Act becomes operational, and a report on that review must be tabled in each House of Parliament.

A Marine Parks and Reserves Scientific Advisory Committee will be established which will have the responsibility of providing both the Minister and the Marine Parks and Reserves Authority with scientific advice on marine matters. This scientific advisory committee will have up to seven members appointed by the Minister. Three government departments will each provide a senior scientific officer for membership of the scientific advisory committee; namely, the Department of Conservation and Land Management, the Fisheries Department, and the Western Australian

Museum. Of the other members, one will be from a tertiary education institution or research institution in the State, one will be a scientist from outside government, and one or two members will be other scientists of abilities relevant to the marine committee's functions.

Notice of intent to reserve: Before establishing any new marine reserves, the Government is committed to assessing biological and other natural resources such as petroleum and minerals in candidate areas and implementing a rigorous process of assessing the impacts of establishing a new reserve before the notice of intent to reserve is published. To enable possible impacts of marine conservation reserve proposals on those interests managed under the Fisheries and Mining portfolios to be properly considered, those relevant Ministers will be provided with a reservation proposal for their consideration and concurrence before a notice of intent to reserve is published.

Safeguards, concurrence and compensation: The matter of compensation has been raised in respect of the continued operation and entitlements of those authorised to operate under the fisheries and pearling legislation and the possible effects the passage of this Bill may have on those operations and entitlements. I have already mentioned that the Minister for Fisheries' concurrence will be required before a notice of intent to establish a marine reserve is published. In so far as the Conservation and Land Management Act is to be amended, this will be the first point at which the Minister for Fisheries will have the opportunity to consider the possible impacts of reservation on fishing, aquaculture and pearling interests and, where applicable, the matter of compensation. Other safeguards will be provided to the fishing, aquaculture and pearling interests in the Bill through similar powers of concurrence afforded the Minister for Fisheries which, in effect, amount to powers of veto. I can assure the House that every opportunity will be given for due consideration of the possible impacts of marine conservation reserves on fishing, aquaculture and pearling interests to be made.

Amendments will add the marine management area to those reserves for which land may be compulsorily acquired under the Land Acquisition and Public Works Act. I assure the House that the Government will give full consideration to all of the implications of establishing a marine reserve before reservation is progressed, as compulsory acquisition of land subject to an existing entitlement is seen as an action of last resort. However, if the acquisition powers are used to resume any pearling or aquaculture land lease, the due process provided in the Land Acquisition and Public Works Act enables compensation to be paid to those disadvantaged by such an acquisition.

I also advise that the Government has agreed that the matter of compensation generally will be addressed in respect of existing rights to renewal of authorisation and leases granted under fisheries and pearling legislation. To this end, the Minister for Fisheries will develop a procedure for dealing with potential adverse effects on the commercial value of such rights through the establishment of a marine nature reserve or an exclusion zone in a marine park. Further legislative amendments will be brought before the Parliament to provide for compensation measures applicable to the commercial value of existing rights under fisheries and pearling legislation that may be affected by passage of this Bill and its operation.

Information available with notice of intent: To provide for a more comprehensive and meaningful public consultation process prior to the establishment of a marine conservation reserve, amendments also provide that more information is to be available at the time notification of a proposal to establish a marine reserve is published. This will enable those whose interests may be affected by a reservation proposal to be better informed about the proposal at the outset of the reservation process. This additional information must include an indicative management plan, a marine reserve's proposed management zones and whether it is intended that the reserve be made class A. Because of the statutory effect of management zones in marine parks, immediately after a marine park is created the management zones will be formally established as classified areas. The Marine Parks and Reserves Authority will have a significant role in the establishment of new marine conservation reserves, with the marine authority being required to advise the Minister before a notice of intent is published and also after the public submission period on proposals has closed but before reservation proceeds. The Bill will extend the minimum period of public consultation on marine reservation proposals from two months to three months. Reservation cannot proceed without the concurrence of both the Minister for Fisheries and the Minister for Mines. This will ensure that any possible adverse effects of reservation on commercial interests will be given full consideration by government.

Access and permissible activities: An important change to be brought about through these amendments is the certainty that will be given to all interests in marine conservation reserves about the activities that may or may not be carried out in those reserves. Marine reserves will be limited to a depth below the seabed of 200 metres. While simplifying access for directional drilling, any activity below the 200m limit will not create any impacts on the sea floor, and the integrity of the marine reserves will be preserved.

Marine nature reserves: In the case of marine nature reserves it will be clearly stated for the first time that neither exploratory drilling for nor production of petroleum can occur in these reserves where no previous rights to carry out these activities exist. Similarly, aquaculture, commercial and recreational fishing, and pearling and hatchery activities

will not be permitted to occur in marine nature reserves. The management of marine organisms in marine nature reserves is subject to the Conservation and Land Management Act.

Marine parks and marine management areas: With regard to marine parks where compatible commercial activities occur, there has been significant concern expressed that such undertakings are not adequately reflected in the purpose of a marine park as presently described in the Conservation and Land Management Act. This situation will be remedied and, in addition, a management zoning scheme providing for exclusion and permissible zones will be established for marine parks in respect of exploratory drilling for and production of petroleum, aquaculture, commercial fishing, recreational fishing and pearling and hatchery activity. This management zoning scheme clarifies the extent of access to marine parks for important commercial and recreational interests while at the same time providing a management framework complementary to the conservation purposes of these reserves. There will be four management zones prescribed that may be applied in a marine park; namely, sanctuary, recreation, special purpose and general use zones.

In marine park sanctuary zones, recreation zones and certain special purpose zones, drilling for exploration and production of petroleum, commercial fishing, aquaculture, and pearling and hatchery activities will not be permitted whereas in general use zones and other special purpose zones they may occur subject to the Acts under which these activities are administered. The special purpose zones where these activities will not be permitted are those where it has been declared by notice that the activity is not compatible with the zones' conservation purpose. In marine parks recreational fishing will only be precluded by zoning from sanctuary zones, such special purpose zones where it has been declared by notice that this activity is not compatible with the zones' conservation purpose and where recreational fishing and another recreational activity are determined to be incompatible.

The operation of the petroleum legislation will prevail outside of the exclusion zones in marine parks that will be established by this Bill in the event that a conflict or inconsistency arises between the operation of that legislation in a permissible zone and the purpose of a marine park. This is consistent with existing provisions in the principal Act. This does not affect the operation of the Environmental Protection Act. It is important to provide security to existing petroleum rights. Specific provision for the continuation of those rights and the expectation that they may, subject to environmental impact assessment requirements, proceed through to the production stage is included in the Bill.

Insofar as the activities of aquaculture and commercial and recreational fishing are concerned the Fish Resources Management Act will prevail as will the Pearling Act in respect of pearling and hatchery activities outside of marine park exclusion zones. In a marine management area, if a conflict or inconsistency between the activities of aquaculture or commercial or recreational fishing under the Fish Resources Management Act or pearling under the Pearling Act and the purpose of a marine management area arises then those Acts will prevail. These provisions for Acts to prevail under certain circumstances constitute significant protective measures afforded aquaculture, fishing and pearling interests in marine parks and marine management areas.

These amendments to the Conservation and Land Management Act will provide standing to aquaculture under the Fish Resources Management Act 1994 and pearling and hatchery activities under the Pearling Act 1990 for the first time. However, I hasten to add that the event of a conflict or inconsistency with a marine reserve purpose will rarely occur, if ever, as I am confident that the significant safeguards provided to enable the Minister for Fisheries and the Minister for Mines to ensure that the interests of their portfolios are not compromised will prevent such situations from arising. These safeguards relate to the establishment of new reserves and management zones and the approval of indicative management plans and management plans in respect of marine parks and marine management areas which require submissions of those Ministers to be given effect in order to proceed.

Marine reserves of the new multiple use reserve category of marine management area will be established for the purpose of protecting the marine environment so that it may be used for conservation, recreational, scientific and commercial purposes. The management zoning scheme for marine parks will not apply in marine management areas but some management zoning may be used to separate conflicting activities and to protect areas of special importance. This will occur only after full consultation with stakeholders in marine management areas and through the management planning process provided for under the Act.

Operation of Environmental Protection Act not affected: It is important to note that these changes will not limit the operation of the Environmental Protection Act and that this is expressly stated in the Bill. This means, for example, that despite a proposal being put forward to carry out exploratory drilling for petroleum in a management zone of a marine park where this may be permissible, the full force of the Environmental Protection Act is not diminished and therefore the environmental impact assessment processes provided in the Environmental Protection Act will apply to such a proposal.

Management responsibilities: Marine organisms that are not subject to the activities of aquaculture and commercial and recreational fishing under the Fish Resources Management Act or to pearling and hatchery activities under the Pearling Act are subject to management under the Conservation and Land Management Act in marine parks and marine management areas. However, responsibility for fish stocks that are the subject of a fishery remains with the Fisheries portfolio irrespective of whether a particular fishery is for the time being operating in a marine park of a marine management area. The Fish Resources Management Act and the Pearling Act prevail in all aspects of the management of recreational fishing, commercial fishing, pearling and aquaculture where those activities are permitted in marine parks. This is confirmed in the Bill. The marine park zoning arrangements have effect despite anything in the Fish Resources Management Act 1994 but in the event of any other conflict or inconsistency with marine park purpose and a provision of or activity authorised by the Pearling Act or the Fish Resources Management Act that relate to pearling, to aquaculture, or to commercial or recreational fishing the latter shall prevail.

For the purposes of the Bill the expressions "and a provision of" or "an activity authorised by" include access to marine reserves for the purposes of fishing and aquaculture, fisheries research, the development of marine and fish related technology, and the management of fishing and aquaculture to address the impacts of fishing and aquaculture on the aquatic environment. Management of nature-based tourism and recreation in marine reserves is the responsibility of the Department of Conservation and Land Management. Management of recreational fishing is the responsibility of the Fisheries Department.

Establishing management zones: Management zones are formally established as classified areas under the Conservation and Land Management Act. These provisions will be amended to provide for the zoning scheme applicable to marine parks. Because establishment of management zones in marine parks can have the effect of precluding activities which are subject to the administration of other legislation, the concurrence of the Minister for Fisheries and the Minister for Mines will be required before a management zone can be formally established as a classified area under the Act. Their concurrence is also required for zone amendment or cancellation. It is also important to note that proposed changes to management zones where the changes are not addressed in a management plan must be publicised and an opportunity given for public comment to be made on the proposal.

Approval of management plans: Under the present management planning provisions of the Act the National Parks and Nature Conservation Authority is required to submit a proposed management plan for a marine park to the Minister for Fisheries. This will change and be expanded so that the new Marine Parks and Reserves Authority will be required to submit proposed management plans for marine parks and marine management areas to the Minister for Fisheries and the Minister for Mines.

At the moment the Minister administering the Conservation and Land Management Act must be satisfied that a submission of the Minister for Fisheries on taking fish in a marine park has been given effect to in a management plan before providing approval to the plan. This provision will be amended so that before approving a plan, the Minister administering the Conservation and Land Management Act must be satisfied that effect has been given to the Minister for Fisheries' submission on commercial and recreational fishing, aquaculture, and pearling and hatchery activities in respect of both marine parks and marine management areas and that consideration has been given to other matters in the submission relating to the administration of the Fish Resources Management Act and the Pearling Act. Similarly, but for the first time, before approving a management plan the Minister administering the Conservation and Land Management Act will have to be satisfied that submissions on proposed plans for marine parks and marine management areas by the Minister for Mines have been given effect to in the plan where those submissions relate to mining and petroleum related activities and the administration of the Mining Act, the Petroleum Act and the Petroleum (Submerged Lands) Act.

These management plans are the final management plans and not those of an indicative nature released at the time a notice of intent to reserve Western Australian waters is published and made subject to public submissions prior to reservation. Therefore, in effect, all those with an interest in the management of marine parks and marine management areas will have a second opportunity to make their views known on management prescriptions, including zoning, for these important marine conservation reserves.

Continuation of the policy of full consultation with relevant portfolios will apply to the development of draft management plans before they are released for public comment and before approval of the final management plan and its publication occurs. In particular, the Fisheries and Mining and Energy portfolios will be fully consulted about these plans.

Regulations: There is presently a qualification on the regulation-making head power which prevents regulations being made under the Conservation and Land Management Act to restrict the taking of fish in a marine park. This qualification will be updated to prevent regulations being made under the Conservation and Land Management Act which would regulate taking relative to aquaculture or commercial or recreational fishing under the Fish Resources Management Act and similarly with respect to pearl oyster under the Pearling Act in both marine parks and marine

management areas. The regulation head power of the Conservation and Land Management Act will not be applied to provide for de facto control of fishing activities; for example, by way of regulating trawling where non-target species may be unavoidably taken as by-catch during trawling operations.

Licences and leases: Improvements will be made to the general procedures for granting and renewing licences and leases which facilitate the entry and use of land and waters subject to the Conservation and Land Management Act. These licensing and leasing provisions cannot apply to the activities of fishing, aquaculture and pearling which are subject to the jurisdiction of the Fish Resources Management Act or the Pearling Act. It will now be possible for broader approvals to be given so that certain kinds and numbers of licences or leases can be granted and, similarly, for renewals, transfers, cancellations, suspensions and variations of licence conditions to be granted and for renewal of leases to be approved where they are equivalent or similar in nature to changes already approved. This will remedy the present situation which requires that each and every one of these matters must be approved for each and every licence or lease even if they are exactly the same as those subject to previous approvals or constitute the most innocuous or minor amendment.

Amendments applicable to the taking of marine flora or fauna without lawful authority in a marine reserve have been made to take into account the operation of the Fish Resources Management Act and the Pearling Act as they relate to the marine reserve purposes provided in the Bill and the operation of the Wildlife Conservation Act, which protects flora and fauna throughout the State. The opportunity has also been taken to increase the maximum penalty for the unlawful taking of flora or fauna in a marine reserve from the present $1 000 to $10 000.

I now turn to the amendments made to the Mining Act provided in part 3 of the Bill. At the moment the Mining Act does not make express provision for dealing with the granting of mining tenements in marine conservation reserves but deals with mining in coastal waters in a general manner. For the first time recognition of the marine conservation reserves established under the Conservation and Land Management Act will be made through the amendments provided in the Bill. For those in the community who are particularly concerned about mining in the marine environment it is important that it be recognised that these amendments are introducing constraints directly applicable to mining in marine reserves which do not exist at the moment. With respect to the operation of the mining industry in the marine environment, the amendments will provide certainty in relation to the availability of access and permissible activities under mining tenements in marine reserves.

In respect of mining nature reserves and marine parks, the Minister for Mines will not be able to grant a tenement in these marine conservation reserves unless that Minister has the concurrence of the Minister responsible for the administration of the Conservation and Land Management Act to do so. Similarly, the Minister for Mines must also consult with and obtain the recommendations of the Minister for Fisheries and the Minister for Transport on mining proposals in marine nature reserves and marine parks. On the matter of granting leases for mining or general purposes under the Mining Act in marine nature reserves or marine parks, the amendments will prevent the Minister for Mines from granting such leases unless both Houses of Parliament have passed a resolution giving their consent to the leases being granted. If resolutions giving consent are passed then the granting of a lease will also be subject to such terms and conditions as may be specified in the resolution giving consent.

In respect of the granting of a tenement in a marine management area, the Minister for Mines will be required to consult and obtain the recommendations of the Ministers administering the Conservation and Land Management Act, the Fish Resources Management Act and the Marine and Harbours Act before granting a tenement in these reserves. It will also be provided that mining tenements and their associated entitlements which existed before a restricted area such as a marine nature reserve or an exclusion zone in a marine park is established will be preserved. Importantly, in restricted areas, any new tenement granted will not enable the seabed, land or subsoil to be disturbed. None of these amendments detracts from the operation of the environmental impact assessment processes under the Environmental Protection Act.

Part 4 of the Bill provides for amendment to the Petroleum Act. A new requirement will be added to the Petroleum Act to provide that the Minister administering the Conservation and Land Management Act must be notified before any petroleum related concession is given for an area in a marine nature reserve, marine park or marine management area. This will ensure that these concessions cannot be granted without the Minister's knowledge. Similarly part 5 of the Bill will amend the Petroleum (Submerged Lands) Act to provide the Minister administering the Conservation and Land Management Act with a similar right to notification about petroleum concessions proposed to be granted under the Petroleum (Submerged Lands) Act in any marine reserve.

Part 6 of the Bill provides for amendment of the Fish Resources Management Act. That Act has a number of provisions which are qualified in respect of marine nature reserves and marine parks, including those addressing designated fishing zones, fish habitat protection areas and exclusive licences. The qualifications placed on the operation of those provisions will now similarly apply to the new marine reserve category of marine management area.

With the introduction of prescribed exclusion and permissible zones in marine parks and formal recognition of aquaculture as a commercial use of similar standing to commercial fishing in the Conservation and Land Management Act, amendments are provided for the Fish Resources Management Act which will prevent authorisations being granted for those areas where aquaculture and commercial and recreational fishing are excluded under the amendments provided for the Conservation and Land Management Act in part 2 of the Bill. The validity of an authorisation issued before an authorised activity is precluded by, for example, the establishment of a sanctuary zone in a marine park will be maintained and an authorisation runs until its designated expiry date.

Complementary to the zoning scheme provided in the amendments to the Conservation and Land Management Act are provisions for the Minister for Fisheries to consult with and consider recommendations from the Minister administering the Conservation and Land Management Act with respect to the renewal of aquaculture licences. This consultation must take place when there is no management plan for a marine park or marine management area in operation when renewal is being considered. The decisions of both Ministers in this instance will take into account indicative management plans developed and approved as a result of the new notice of intent to reserve procedures and management plans developed and approved at a later date under the Conservation and Land Management Act.

In marine management areas and those zones of marine parks where it is permissible, the sites where aquaculture may be carried out may be subject to an aquaculture lease issued under the Fish Resources Management Act. This is a beneficial change to the policy which presently applies to the administration of this Act. This policy was described in the second reading speech presented to this House after introduction of the Fish Resources Management Bill. Now, instead of aquaculture leases being issued under the Conservation and Land Management Act in marine parks, both the lease and the aquaculture licence required to operate in the lease area will be granted under the Fish Resources Management Act. Within these arrangements, pearlers and aquaculturalists will now need to deal with only one agency, the Fisheries Department, for the issue of licence or lease instruments.

Granting of new aquaculture leases in these marine reserves cannot occur without the approval of the Minister administering the Conservation and Land Management Act. Renewal of existing leases may occur in accordance with the reserve management plan or, if no plan is in place, after consultation with the Minister administering the Conservation and Land Management Act. An aquaculture licence attached to a lease may be renewed for the life of the lease.

Licensees who have an aquaculture operation in a site within a permissible zone in a marine park or in a marine management area may be granted a lease over the same site - that is, granted a conversion of their existing entitlement to a lease - provided this action is consistent with the relevant management plan or, if there is no management plan in place, the grant of the lease can be made after the Minister administering the Conservation and Land Management Act has been consulted and that Minister's recommendations taken into account. All existing aquaculture licensees in marine parks are operating in a general use zone consistent with an approved management plan or a proposed plan and will therefore be able to seek the conversion of their licence to a lease with minimal impediment. Some management costs will be incurred by the Department of Conservation and Land Management in respect of the presence of aquaculture and pearling and hatchery activities in marine parks and marine management areas impacting on other users of marine reserves. An amendment is provided in respect of the administration of the fisheries research and development fund which will provide the Minister for Fisheries with the discretion to apply the fund to defray such costs.

I have mentioned earlier with regard to existing provisions and the amendments being made to the Conservation and Land Management Act under part 2 of the Bill, that significant protection is provided to fishing, aquaculture and pearling interests in respect of their operation and the establishment, zoning and management of marine conservation reserves through powers of concurrence afforded the Minister for Fisheries.

The final part of the Bill is part 7, which amends the Pearling Act. That Act applies to all Western Australian waters but does not make any provision for dealing with pearling and hatchery activities in marine conservation reserves. Similarly, the Pearling Act is not presently afforded recognition in the marine conservation reserve provisions of the Conservation and Land Management Act.

I have already mentioned that the Bill will amend the Conservation and Land Management Act to give standing to the Pearling Act in the marine conservation reserve provisions and will include pearling and hatchery activities in the exclusion and permissible zone scheme being introduced for the management of marine parks. The provisions for amendment to the Pearling Act are complementary to the standing of marine nature reserves, the management zoning scheme that will apply in marine parks and the standing of marine management areas. Because of the nature of pearling concessions, the approval of the Minister administering the Conservation and Land Management Act will be required before authorisation is granted for new pearling and hatchery activities under pearl farm leases, licences or permits in those zones of marine parks where this may be permissible. Similarly, that Minister's approval will be required before such concessions are granted in a marine management area. Renewal of pearling concessions in

marine reserves will be subject to the same process as that applying to aquaculture renewals. Licensees or permit holders under the Pearling Act operating in an allocated site within a permissible zone in a marine park or in a marine management area may be granted a pearl farm lease over the same site - that is, granted a conversion of their existing entitlement to a lease - provided this action is consistent with the relevant management plan or, if there is no plan in place, the grant of the lease may be made after the Minister administering the Conservation and Land Management Act has been consulted and that Minister's recommendation taken into account.

The safeguards provided in the Conservation and Land Management Act to fishing and aquaculture interests under the Fish Resources Management Act through powers of concurrence afforded the Minister for Fisheries similarly apply to pearling and hatchery activities under the Pearling Act. The Government's commitment to conservation of the environment and the ecologically sustainable development of our natural resources is reflected in this Bill. The Bill will markedly improve the legislation applying to the protection and management of marine conservation reserves. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

PROFESSIONAL STANDARDS BILL

Message - Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Committee

Resumed from 10 April. The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Progress was reported after clause 10 had been agreed to.

Clause 11: Schedule 2 added -

Mr KOBELKE : Why has the Minister used the device of a code of practice, and to what extent can it be varied by regulation as proposed in new section 97J?

Mr RIEBELING : The Minister has been big on rhetoric on secret ballots. Subclause 1(b) indicates that it is not necessary to hold a secret ballot; that is, it says a secret ballot shall be conducted only so far as is reasonably practicable in a manner that ensures that individuals voting do so in secret. I thought that secret ballots would be exactly that - secret. Does the wording "so far as is reasonably practicable" mean that in some circumstances the Minister envisages that a secret ballot will not be conducted? There do not appear to be any penalty provisions for not conducting a secret ballot. It appears that if people make reasonable efforts a secret ballot is unnecessary and, therefore, the preceding clause 10 is unnecessary. Perhaps the Minister's adviser can tell me whether there is a penalty provision for contravening this clause?

Mr Kierath: It is contained in section 84A of the existing Act.

Mr RIEBELING: The Minister would be hard pressed to mount a prosecution against a person if a ballot was not conducted in secret. People would say it was not reasonable in the circumstances to conduct a secret ballot. Secret ballots are the cornerstone of the legislation. From the beginning of this debate the Minister has said that he wants workers to have a secret ballot; that the call has been for secret ballots. However, the clause has been watered down and there is no great need for a secret ballot because the wording used is "so far as is reasonably practicable" not "shall". Can the Minister give examples of the circumstances in which a non-secret ballot will occur? So far, the rhetoric has been all about penalties. Now we discover some loopholes at this point and a secret ballot is not applicable in all circumstances. Clause 3 of the proposed schedule is acceptable: The purpose of the strike should be set out. It is important that the voters be informed.

Mr KIERATH : The schedule has a different priority from that which is contained in the Act. If a conflict occurred, other clauses would override the schedule. The schedule sets out the necessary standards and provisions. That could be a guide for the conduct of a ballot. The clause is strongly related to costs and other matters. I understand that regulations cannot amend the schedule. Penalties are covered by section 84A of the Act. I will entertain an amendment if the member wishes to delete the words "reasonably practicable". The instructions to the parliamentary counsel were to provide for a secret ballot.

Mr Riebeling: This does not make sense.

Mr KIERATH: My information is that in some circumstances a non-secret ballot may be required. A conflict could involve two parties and, as a result of a ballot, each would be aware how the other voted. The intention of the provision is that there shall be a secret ballot. These are the words provided by the parliamentary counsel, and they will ensure that a secret ballot is held. However, in some circumstances it may not be possible to have a secret ballot. If the member wishes to move an amendment, I will entertain it.

Mr Kobelke: How does section 84A provide penalties if a secret ballot is not conducted?

Mr KIERATH: Section 84A states that if a person contravenes or fails to comply with any provision of the Act that person will be subject to certain penalties. I understand we rely on other parts of the Act for other breaches. We do not propose any amendments to section 84A.

Mr RIEBELING: This clause does not relate to the publication of the results of a ballot. The clause relates to the act of voting, not the later stage of counting the vote and whether people know how other parties voted. These provisions ensure a secret ballot. I will not suggest an amendment to this clause. Clauses 10 and 11 should have been deleted and replaced by a more simple process. The opportunity to amend these provisions disappeared last week when the Minister refused to do so. It is up to the Minister to amend this legislation to allow non-secret ballots to be undertaken. The clause relates to nothing more than a secret ballot.

Mr Kierath: The words used are "so far as is reasonably practicable". Our advice is that this is the way to go about it. Ultimately I am dependent on that advice.

Mr RIEBELING: The Minister has told us that continuously for the past three or four days. I presume the Minister is sufficiently au fait with the legislation because no doubt he assisted in the preparation of the notes on which the draftsman acted to ensure that when the ballot stage was reached it would be a secret ballot. Does the Minister think that the word "shall" should have been used? Does this proposed section allow for non-secret ballots? I am not talking about the vote being counted when two parties only are involved and the result not being published. When the vote is undertaken, will that be done in secret? The crux of a secret ballot is whether an individual is allowed secrecy at the time of the vote. The Minister said that in some circumstances this provision will allow for non-secret ballots -

Mr Kierath: I cannot foresee any such circumstances, but my advice is that there may be some circumstances where it may not be possible to call a secret ballot.

Mr RIEBELING: What is your advice?

Mr Kierath: Except in very exceptional circumstances where it would not be practicable or possible, people are obliged to hold a secret ballot.

Mr RIEBELING: Can the Minister provide an example of those exceptional circumstances? I cannot think of any. After a seven week process - the Minister calls it a seven day process - after a rigorous testing period, why would there not be a secret ballot? At the end of that process, it would be bizarre not to have a secret ballot, which most people in the community support. The majority of unions and employees say that a secret ballot is required. Most people think that a secret ballot means that when people vote, they collect a ballot paper and mark it, and then it is put in a box and taken away and counted. People think we are debating that process. They do not realise that the Minister has provided a loophole to ensure that unions cannot operate correctly. Now, we discover that the Minister is allowing a non-secret ballot to occur.

Mr KOBELKE: The Opposition will be voting against this code of practice. It is just window dressing to create an impression contrary to the provisions of the Bill. The code provides that a pre-strike ballot shall be conducted as quickly as reasonably practicable. In 17 detailed pages, the Minister is trying to stop people from having a pre-strike ballot. There is no guarantee in the legislation that people have a right to a ballot. Every possible measure has been included in the Bill to stop people from having a pre-strike ballot. As the member for Burrup pointed out, it will not even be a secret ballot. The code provides that a pre-strike ballot be conducted as far as is reasonably practicable in a manner that ensures that individuals voting do so in secret. It may not be practicable to put in polling boxes or protect a list provided to the employer to gauge how employees vote. There is no clear intention in this legislation that it should be a secret ballot.

When we ask the Minister where are the penalties to ensure people follow through he refers to section 84A of the principal Act. However, that is a general clause relating to proceedings before the full bench for enforcement of the Act. It contains no specific penalties relating to contravention of the Minister's stated preference for secret ballots. He did not think it was worthwhile. Penalties are included on almost every page of his Bill regarding pre-strike ballots to entrap union members and unions so that a range of penalties may be imposed on them. However, these provisions about secret ballots do not matter because it is not the Minister's intention to allow pre-strike ballots.

The Electoral Act was passed in 1907. Over the past 10 years attempts have been made to make it readable so that citizens can uphold their rights and participate in free and open elections. A union member wanting to understand the law under this Minister's Bill will make no sense of it. It is far too complex and contains provisions incurring a range of penalties which will apply to union members but, in a number of ways, will not apply to ordinary people. It singles out union members.

If a union supports a member involved in industrial action without approval, it will incur penalties. Throughout the Bill, provisions are included which allow the Minister or third parties to frustrate moves for workers to hold secret ballots. Clearly the Minister is trying to prevent people from holding a pre-strike ballot. In that way the Bill is grossly unfair; it does not treat people equally. It places a much greater burden on union members than on employees who are not union members. It does not allow free and proper expression by employees.

My opening question was: Why a code of practice for pre-strike ballots? Judging from this legislation, the Minister hopes they will be secret, inexpensive and will not take too long. This legislation indicates no commitment to enforcement. If the Minister really wanted to allow people the opportunity of holding pre-strike ballots which would reflect their views, why is there no mention in the code of conduct? Why does the Bill not include a statement that the intent of a pre-strike ballot is to enable employees to express their view through a proper process? It is not even shown as a requirement. He does not think their views should be expressed.

Mr RIEBELING: The Minister said that the wording in clause 1(b) of proposed schedule 2 could be read as "shall". The words "reasonably practicable" provide about the lowest possible standard applicable in any legislation. It provides two words to cover the actions of a person conducting a ballot. The person's actions must be "reasonable" and "practicable". There are two outs in this provision which allow for a non-secret vote to take place. If it is the Minister's intention that secret ballots "shall" occur, it is up to the Minister to correct his legislation.

The Opposition believes clauses 10 and 11 should be scrapped and that a simple, workable process be put in place. The Minister knows that the process proposed in this legislation is not workable. These provisions under the code are sloppily put together because he does not expect too many disputes to reach that stage. The Minister hopes that if a dispute reaches a point where these provisions will apply the heat will have gone from the issue.

I do not know how the words "reasonably practicable" relate to time, but surely a week is reasonable. It is not practicable to undertake secret ballots within two weeks. It is then followed up with the sloppily drafted secrecy provision of the Bill. That provision occupies five lines of this 70-page amending Bill. That demonstrates to me that the secrecy provision is an afterthought because the Minister has continually declared that his intention is only to allow workers to hold secret ballots. After providing 17 pages of extensive obstacles to secret ballots, he tacked on that provision. His attitude is: If possible, a secret vote will be held; if not,we do not need one. He has betrayed the public by indicating that the core of his legislation provides for secret ballots. At the end of the day the work force will be disappointed because the only proposed section for which he had support from the public was this one. It is the only proposed section on which he has allowed any leniency on pre-strike ballots. It is also the only provision with which he says it is not necessary to comply.

The second part of proposed schedule 2 covers two unions being involved in a workplace affected by a potential stoppage. I understand from that that two ballots would be taken if two unions were involved in industrial action. My understanding of clause 10 is that all employees to be involved in an industrial dispute must be identified and included in the voting list for a single dispute. Why must two ballots be held on the same industrial action?

Mr KIERATH: In responding to the member, it is difficult not to refer to a clause previously dealt with. However, I wish to point the members in the right direction in respect of penalties. It is stated in clause 10 under proposed section 94G(14) that the provisions of section 70 apply, with such modifications as are necessary, to and in relation to a pre-strike ballot. The penalties for a breach of that section are $1 000 in the case of an individual and $5 000 in any other case. I do not know how much more specific the provision can be. The member for Nollamara will be well aware that if a conflict arises between a clause and a schedule, the provision in the clause will override that in the schedule. The member said it applies only if it is possible to have a secret ballot. The opposite is the case; it shall be a secret ballot unless certain circumstances prevail.

I understand that when drafting this Bill, parliamentary counsel looked at other voting provisions in the Electoral Act. I am sure members opposite know of these provisions. In special institutions there are people who are unable to fill in their ballot papers and it is necessary for someone else to do it for them. Obviously, by definition, that is not a secret ballot because some other party knows how that person voted. The member will be aware that a number of people in his electorate cannot read or write, and such people ask the returning officer to fill in their ballot papers. Even under the current system of election of members of Parliament, which runs on the principle of a secret ballot, some persons' votes cannot be kept secret. I am advised that this provision will ensure a secret ballot is held other than in exceptional circumstances. Obviously, allowance must be made for the circumstances in which it is not

possible, for one reason or another, for persons to cast their votes in secret. It may well be that some people do not understand English and another person must interpret and conduct the ballot for them. These provisions make allowance for that circumstance. I am advised that secret ballots will be held unless very special circumstances apply.

Mr KOBELKE: We always know the Minister has been caught out when he comes out with tripe such as that. Since when can the Minister rewrite the Electoral Act to change its meaning? Section 127 of the Electoral Act under the heading "Vote to be marked in private" states that upon receipt of the ballot paper the elector shall, subject to the provisions of section 129, without delay retire alone to some unoccupied voting compartment and there, in private, mark his vote on the ballot paper in the manner hereinafter described. The elector shall fold the ballot paper so as to conceal the names of the candidates, but to disclose the initials of the presiding officer, and exhibit it so folded to the officer, and then forthwith, without unfolding it, deposit it in the ballot box. He shall then quit the polling place. It is quite clear and specific. Other sections of the Act contain certain requirements for presiding officers, people working in polling places and scrutineers. Perhaps the Minister has never been a scrutineer.

Mr Kierath: I have.

Mr KOBELKE: Does the Minister not remember signing a declaration to the effect that if he disclosed outside the polling place any secret information he would be in contravention of the Act and subject to penalty? That is what is meant by secret. If people need help when casting a vote, the Electoral Act contains specific requirements to enable them to receive that help while still maintaining the secrecy of the vote.

Mr Kierath: You may not agree with the advice, but that is the advice I have been given.

Mr KOBELKE: That is one of the reasons for the great difficulty with this Bill. It is the Minister's Bill. He has put forward a range of draconian measures, but when the Opposition ties him down and presents solid evidence that he is wrong, his escape is that he has received expert advice.

Mr Kierath: Why not read the clause?

Mr KOBELKE: I have read it. The Minister has led us on a wild goose chase with his nonsense in response to the query raised by the member for Burrup. When opposition members have tried to tie the Minister down, he has referred to his expert advice. He cannot substantiate any of his points.

It is also stated in the Electoral Act that to secure the due execution of that Act and the purity of elections, breach or neglect of official duty is prohibited and penalised. If a person does not uphold the principle of a secret ballot, the provisions can be enforced and breach of them will lead to the imposition of penalties. The Minister has inserted in clause 11 of the Bill the provision that a pre-strike ballot shall be conducted so far as is reasonably practicable in a manner that ensures that individuals vote in secret. There is nothing else.

Mr Kierath: Have you read new section 97G(9)(a) and (b)?

Mr KOBELKE: The Minister said in response to the query raised by the member for Burrup that it is in section 70 of the principal Act. Where is the reference in that section to a secret ballot?

Mr Kierath: You must read 97G.

Mr KOBELKE: Where are the offences covered in section 70?

Mr Kierath: Have you read 97G(14)? You must read page 19 of the Bill, otherwise you do not have any hope of understanding it.

Mr KOBELKE: Proposed section 97G(14) states that the provisions of section 70 apply. I have the Act open at section 70. There is no mention of a secret ballot.

Mr KIERATH: This shows the calibre of the Opposition. Proposed section 97G(14) refers to the conduct of a pre-strike ballot. This argument is a device by the Opposition to re-debate a clause already dealt with. The Opposition is filibustering. It is important to put on the record that proposed section 97G(14) states that "The provisions of section 70 apply". That is plain to me, and I am sure it is plain to other members if they view it with an open mind. If they try to play stunts, they will become pedantic, like the member for Nollamara. New section 97G(14) states -

> The provisions of section 70 apply, with such modifications as are necessary, to and in relation to a pre-strike ballot and a contravention of that section . . .

Other provisions in the principal Act do not specify pre-strike ballots because they were drafted when no pre-strike ballot provisions existed. Rather than duplicate those provisions in another section of the Act, it is a convenience

parliamentary counsel use to say that those provisions in section 70 are imported into this legislation via new section 97G(14). That is simple.

I referred the member for Nollamara to new section 97G(9)(b) which states that the person conducting a pre-strike ballot shall take all reasonable steps to ensure that the votes of individual members remain secret. If any conflict arises between the schedule and that paragraph, that paragraph will override the schedule.

Mr RIEBELING: It is interesting that as the Minister goes through the debate he thinks up wonderful new ideas as to why he has done what he has done. Originally when we started debating this new section the Minister said glibly that there "shall" be a secret ballot; however, the words do not say that. He then said that a ballot could occur in which only two people were involved; therefore, the legislation must protect secrecy in that case because it could be a situation in which the ballot would not reasonably be conducted in secret. After half an hour or so of debate, he now claims that we may as well stop talking about this new section; that it does not mean anything because it refers to other sections in the Act. He has raised a third argument. We are still not dealing with what this new schedule is about. New schedule 2 relates to the code of practice for pre-strike ballots. After reading the new schedule more closely I am sure the Minister now understands that this provision does not ensure that a secret ballot will take place when a person has gone through the hoops, as required.

In a fourth defence of the wording of the provision the Minister says that someone who cannot read may seek assistance and, therefore, it will not be a secret ballot. Which clause contains the provision to assist people to vote in a secret ballot? The Electoral Act outlines the conduct of someone assisting a person with a ballot paper - what the obligations are and how the ballot is to be conducted. Nobody would argue that the state Electoral Act under which members are elected to Parliament provides anything other than a secret ballot. The Minister raised the issue of people who have difficulty understanding English. To be a truly secret ballot, provision should be made for that in this legislation. Is that covered in the Bill?

Mr Kierath: It involves the interaction of new section 97G(9), which relates to the person conducting a pre-strike ballot, and new schedule 2, which imposes the obligation, but does so in a way that allows the person conducting the ballot some discretion that is reasonable and practicable.

Mr RIEBELING: The Minister referred members to the Electoral Act and said it would be the same as occurs in an election.

Mr Kierath: I did not refer to the Electoral Act. I gave some examples because I thought members would be familiar with instances of where people might not vote in secret.

Mr RIEBELING: The Electoral Act is a good example of how a secret ballot should be conducted. This legislation contains no provisions to allow for the assistance of people who have difficulty with English. If this clause relates to the giving of assistance for voting, which the Minister said it does -

Mr Kierath: I believe the two provisions together give the person conducting the ballot the flexibility to accommodate people who cannot read or who have some other difficulty that prevents them from casting their vote in secret. I believe that is what they are there to do.

Mr RIEBELING: The purpose of the provisions the Minister refers to in the Electoral Act is to allow secrecy to be maintained.

Mr Kierath: The difficulty is that we are giving flexibility to the person who conducts the ballot on behalf of the Industrial Relations Commission - the commission makes decisions in many industrial relations matters - and are saying that the responsibility, without overprescribing it, rests with the commission.

Mr RIEBELING: Is the Minister saying that the commission can say whether a secret ballot is to occur?

Mr Kierath: It can under its application.

Mr KOBELKE: The Minister says the offences relating to secret ballots are contained in section 70 of the Act. They are not. New section 97G(9) states that a person conducting a pre-strike ballot shall take all reasonable steps to ensure that the votes of individual members remain secret, and new subsection (12) states that a pre-strike ballot shall be conducted in accordance with the code of practice set out in schedule 2. That schedule states that pre-strike ballots shall be conducted as far as is reasonably practicable in a manner that ensures that individuals voting do so in secret. There is a supposed stated intention that it be a secret ballot. However, in light of all the other sections that have been inserted, this provision sticks out. In all the other new sections the Minister has tried to cross every "t" and dot every "i" and tie them down so his intentions will be fulfilled, but his stated public intention is that there be a secret ballot. No provisions in the Bill take that approach on the secrecy of the ballot and we are left with general phrases such as

"as far as is reasonably practicable" and "all reasonable steps" will be taken to ensure that the vote of members remains secret.

It is not tied down in the same way as in the rest of the clause. Supposedly the objective of the Minister in this new schedule is that people will be able to have a secret pre-strike ballot. However, the wording of the code of practice indicates that secrecy will be only as far as is reasonably practicable. When it is necessary for other people to be involved, secrecy provisions will not apply to them in a manner similar to the process that exists under the Electoral Act.

I do not intend to try to amend this clause because the whole provision is such a mess that from the floor of the Chamber we could not stitch it up. The Minister makes a statement so that people reading the debate will believe that on face value he is totally committed to pre-strike secret ballots. The truth is that the secret ballot provision is a device by which the Minister wants to trick people about the effect of the legislation. This legislation does not provide any right for members to have a pre-strike ballot. Further, it does not provide mechanisms for enforcement to ensure they can have confidence that the ballot is secret. I agree that penalties will apply if the provisions relating to that are breached, but they do not have the range of the enforcement provisions we see in the rest of the Bill.

In the other clauses of the Bill the Minister has made sure that what he desires to happen will happen and there are dire penalties if people do not conform with the provisions of those clauses. However, when it comes to whether the ballot is secret, the legislation is wide open. It would be easy for a person to argue the practicalities of not holding a secret ballot. It could be argued that reasonable steps were taken, and on that basis it would not be possible to have a successful conviction.

The Minister's stated public aim of having secret ballots prior to strikes is shown to be deficient in two major ways. The complexity of the whole process means there is no right for the ballot to take place. Anyone can thwart the whole process so that a ballot is not held. When a dispute reaches the point where a ballot must be held, the required hurdles must be jumped over to obtain approval for a pre-strike ballot. However, in trying to determine from the legislation whether the ballot will be secret the Opposition simply finds that the intention is that it should be secret. This suggests that the provision for some sort of polling place or cubicle can be waived on the basis it is not practical and reasonable steps have been taken to ensure people have a right to a secret ballot. The Minister is not talking about a secret ballot in the way that ordinary people understand it when secret ballots are conducted for local, state and federal government elections.

Mr RIEBELING: This clause is the cornerstone of this legislation. The Minister has advised the Committee that one area in which the secrecy provision cannot be complied with is when people need assistance to vote.

Mr Kierath: I gave the Committee examples, but they are not exclusive. There are many other instances.

Mr RIEBELING: I want a couple of examples on the record so that the people reading this debate for interpretation purposes will get some guidance. Does the Minister believe the Bill is designed to assist all disabled people who have difficulty in voting?

Mr Kierath: It is designed to cover a whole range of circumstances. It is not possible to specify all the circumstances. The discretion is with the person conducting the ballot.

Mr RIEBELING: Why is there great flexibility in this provision when the same flexibility is not attached to other offences within the legislation? This is the pinnacle of the Minister's legislation.

Mr Kierath: At the request of the trade union movement, which wants unions involved, we wanted a flexible arrangement which would involve the Industrial Relations Commission, the Electoral Commission or an organisation of employees. Western Australia is a large State and there may be circumstances where that discretion is required. I give the Opposition an undertaking that if, after this legislation is passed, people are found to be using these provisions to avoid the principle of the secret ballot - that is possible - I will be the first person to come back into this place with amending legislation.

Mr RIEBELING: Does the Minister think it can be got around?

Mr Kierath: No, I do not. I have given my interpretation of the clause. I don't believe it is possible. If the member were right, I would be the first person to come back here to change it.

Mr RIEBELING: When will a decision be made on whether it is reasonably practicable? Will it be when a decision has been made to go on strike?

Mr Kierath: The conduct of the pre-strike ballot refers to the person who has been given permission by the commission to conduct the ballot.

Mr RIEBELING: He would not go to the Minister and say he was unreasonable when he made a decision not to conduct the ballot in secret.

Mr Kierath: He is conducting a ballot on behalf of the commission.

Mr RIEBELING: That is right. Presumably a decision will be made my someone other than the returning officer that an offence has occurred under this clause.

Mr Kierath: The registrar is one of the people listed in the legislation.

Mr RIEBELING: When will a decision will be made? Presumably, after the result is known, a complaint will be lodged about the result.

Mr Kierath: I imagine so.

Mr RIEBELING: Therefore, if industrial action is authorised by a ballot, that is when it will be found there has been an attack on the process. Yet again we find in the legislation an obstacle to legitimate industrial action.

Mr Kierath: Section 84A of the Act lists the people who can do it - the Minister, the registrar, the industrial inspector or any organisation associated -

Mr RIEBELING: Therefore, the Minister has that power.

Mr Kierath: It is listed in the Act. I refer the member to page 184 of the blue Bill.

Mr RIEBELING: It is even more important for the Minister to understand what are his powers. Is he saying that under the Act he has the power to instigate procedures to prosecute an offence under the secrecy provision?

Mr Kierath: Yes, if a case established that a person was in breach of the Act.

Mr RIEBELING: The conduct of a pre-strike ballot is a new clause in the legislation.

Mr Kierath: Under section 84A of the Act certain people are given powers to do something if there is a breach of the Act.

Mr RIEBELING: It is important to put on the record under what circumstances the Minister would use his discretion to instigate procedures. I do not understand why the Minister would have that power. It is an administrative function. Perhaps the Minister considers a political decision should be made.

Mr Kierath: It is a general provision throughout the Act and these provisions will become part of the Act.

Mr RIEBELING: Therefore, the Minister has the general power to instigate procedures with reference to the result of a ballot.

Mr Kierath: I repeat, I currently have that power under the Act and when this becomes part of the Act it will give me the power as well.

Mr KOBELKE: The first part of the clause indicates that the person conducting the pre-strike ballot should do so "as quickly as reasonably practicable". Members must accept that, but the wording of the clause reflects that there are many ways the matter can be thwarted. The clause could not stipulate the number of days within which a ballot must be conducted after approval for a pre-strike ballot has been granted because of injunctions and other procedures which the legislation allows. Because of the complexity of the measures required to be fulfilled, members must accept the words "as quickly as reasonably practicable". The requirements of the Bill reflect how cumbersome and drawn out is the process of a secret ballot.

Clause 1(b) states that "so far as is reasonably practicable in a manner that ensures that individuals voting . . . do so without incurring expense by reason of voting". I draw the Committee's attention to the last four words. The union member may find that through his union dues he picks up considerable cost for the administration of the process. The Minister previously pointed out that the Act requires unions to keep up to date membership lists. If they are to be kept up to date in case there is a chance of anyone implementing the provisions of this Bill, there will be a huge administration cost. The Electoral Commission keeps its roll up to date on a regular basis and thousands of Western Australians are not on the electoral roll. The Commonwealth spends a large amount of money once every three years to get people on the roll. For some unions, where their members are scattered and are not in the one workplace, there will be a huge cost in maintaining an up to date list of their members.

I presume from the wording of clause 1(b) members cannot be levied for a particular amount of money for a particular ballot.

Mr Kierath: This provision relates to the person conducting the ballot. If a member was at Balgo Hills, he would not be expected to fly to Perth to cast his vote.

Mr KOBELKE: That person cannot incur a cost for fulfilling his right to cast a vote.

Mr Kierath: This clause means that the person casting a vote should not incur expense by reason of having to vote.

Mr KOBELKE: Exactly; it says "by reason of voting". However, the Minister's provisions in the Bill are so detailed that unions will incur extra running expenses. As they will apply only to union members, voters will indirectly incur extra expense and whether it will be a minor or major expense will depend on how often the provision is used and the steps the union takes to meet the requirements in the Bill.

Mr Kierath: The two elements are the voting system per se, the cost for which will be borne by the organisation. The member asked me about these previously. These are basically directed to the person conducting the ballot, and they should not, by unreasonable practice, impose an additional expense on the person casting the vote.

Mr KOBELKE: I do not think the Minister disagrees with what I say. The provision refers to a person casting a vote without incurring additional expense "by reason of voting". I emphasise that phrase. A person will incur an additional expense through his or her subscription to the union to meet the requirements of the Bill. The Minister has said correctly that no extra expense should be tied specifically to that person's obligation or right to participate in the ballot. They cannot be asked to take unreasonable steps to present for a ballot, and no extra cost can be imposed on union members by reason of the ballot. It makes sense, but it underlies the fact that extra costs will be involved.

The code of conduct in some ways is deceptive because it does not reflect the conditions contained in the other provisions of the legislation. For that reason, it should not be supported.

Mr RIEBELING: Mr Deputy Chairman -

Mr Kierath: You said you were not getting up again.

Mr RIEBELING: I have changed my mind. In relation to information sent out to people about the ballots covered in this section, has the Minister given any consideration to the fact that quite a large proportion of the Australian work force was not born in Australia? How will written information be disseminated to people who do not speak English as their first language and perhaps cannot make an informed decision about whether to vote in favour of industrial action? It is important that a voter understands the consequences of his or her actions and the reasons for agreeing to withdraw labour. When the union movement advises people about industrial action, it goes to exceptional lengths to ensure members understand the action. I want the Minister to place on record the steps he intends to put in place to ensure that people with limited knowledge of English receive information which is relevant and understandable to them. Also, if the Minister states that he will put in place measures to ensure that happens, how does he intend to identify the languages involved and the problems such people may encounter in exercising a secret ballot?

Mr Kierath: I expect the commission to use its current procedures and practices.

Mr RIEBELING: For instance, if a Macedonian attends a meeting at which a secret ballot is to occur, how in these provisions will that person exercise his vote? If a Macedonian and a person from the Philippines both wish to vote, how in the Minister's understanding will the measure ensure that they exercise their right to participate in a secret ballot?

Mr Kierath: I am not a expert on the practices of the commission, but I understand that it must deal with such people through the current provisions. I would expect the commissioners to take it into consideration. One of the difficulties with these sections is that the person conducting the ballot has some discretion and flexibility.

Mr RIEBELING: Does the Minister envisage a how-to-vote card being used?

Mr Kierath: No. I imagine that the person conducting the ballot - I am not an expert in those areas - would try to make provision for people with language difficulties.

Mr RIEBELING: The problem with the Minister's comment is that how-to-vote cards are used in normal ballots so people with limited understanding of English can tell the returning officer how they wish to vote. The Minister wants to make it an offence to produce a document encouraging people to vote for or against an action. The Minister wants to put in place provisions so that a how-to-vote card is not used in relation to a strike.

Mr Kierath: I have also given the flexibility for which you have criticised me earlier today.

Mr RIEBELING: How will a person indicate to the returning officer that he wishes to vote yes or no? It is the Minister's legislation - surely he knows.

Mr Kierath: The commission deals with those issues now. It will use its current practices and procedure and it is to be given extra discretion.

Mr RIEBELING: The Minister keeps saying that, but this will be the first time that secret ballots have been introduced. The commission has never dealt with this procedure before.

Mr Kierath: It deals with various individuals who come before the commission without a command of English. Of course it does.

Mr RIEBELING: Is this new legislation?

Mr Kierath: The commission deals with people with language difficulties now.

Mr KOBELKE: The Minister has been caught out again. We are talking about a new provision for a secret pre-strike ballot, and the commission has not dealt with such practice, which will apply in a number of workplaces. The current provisions could not apply to people who have trouble with English as their second language who wish to vote in such ballots. The member for Burrup is well aware of construction sites in the Pilbara containing a large number of workers who have not been in Australia for long. These people work in remote areas without the creature comforts of metropolitan Perth, and they need to be able to play their role in determining the outcome of a ballot.

The Minister has been shown up: He stated that procedures exist, but they do not address the new requirement of the Bill. They may be adequate to the existing situation, but the Minister has not addressed how people will be helped under the provisions of the Bill.

Mr RIEBELING: I thought the Minister might stand up and try to answer those points.

Mr Kierath: I answered them when I was on my feet.

Mr RIEBELING: Perhaps the Minister will state the answer again clearly so I can understand it. The Minister will place restrictions on publications, so how is a person of non-English speaking background to decide and indicate to the returning officer how he or she wishes to vote? How-to-vote cards, introduced through Labor legislation, enable a person to determine and indicate how he or she intends to vote, but the Minister has gone out of his way to ensure that how-to-vote cards are not used in such ballots.

A large penalty will apply to people who breach the Minister's legislation. If a person with limited understanding of English went to a union official because he did not understand what the ballot was about, the union official would face a $5 000 penalty if he gave the union's view on why a person should go out on strike. Clearly the Minister will create that offence.

Mr Kierath: My understanding, as I have said repeatedly, is that the commission deals with people who do not speak English and makes appropriate arrangements. It will make appropriate arrangements in this case.

Mr RIEBELING: How do you know that?

Mr Kierath: Surely the member has had constituent inquiries, as I have had, from people who do not speak English who have been before the commission and received appropriate treatment. The same situation will apply with this legislation. It is possible that the industrial officer ordering the ballot will present the ballot in a number of different languages.

Mr RIEBELING: Do you think that will happen?

Mr Kierath: I expect in some cases it would.

Mr RIEBELING: The Minister keeps referring to what the Industrial Commission would have done or that it will do this, but not that. The simple fact is that the commission will comply with the regulations, with this particular the code of practice that is being put in place.

Mr Kierath: The schedule, not a regulation.

Mr RIEBELING: This is a new code of practice that is being put in place. The commission will respond to it after it has looked at it and interpreted the meaning of these provisions.

Mr Kierath: It will use its existing practice and procedures.

Mr RIEBELING: The unfortunate thing is that there are no current provisions for the conduct of a pre-strike ballot.

Mr Kierath: It deals with a matter of practice.

Mr RIEBELING: This is new. I am trying to get on the record what the Minister - he has the ability to institute prosecutions - considers should occur which would not breach this provision. If a person from Macedonia was asked to participate in a pre-strike ballot and did not understand what the document said, could that person seek assistance from a union official from his side of the case, presumably, to go on strike?

Mr Kierath: Do you mean seek advice?

Mr RIEBELING: That person would breach the provision which imposes a penalty of $5 000.

Mr Kierath: An individual who intends to vote can seek advice from anyone he likes.

Mr RIEBELING: Can it be given in a written form?

Mr Kierath: As I said, the person who wants to vote can seek advice from anyone he likes.

Mr RIEBELING: Will that power extend to the conduct of the ballot? Is the same situation available when the person goes to vote?

Mr Kierath: What do you mean?

Mr RIEBELING: Can that person seek assistance from another person?

Mr Kierath: I said to seek advice.

Mr RIEBELING: I thought the Minister said to seek assistance.

Mr Kierath: I said advice.

Mr RIEBELING: What about assistance?

Mr Kierath: That would be up to the person conducting the ballot.

Mr RIEBELING: Does the Minister have any view on that?

Mr Kierath: My view is that the commission is well practised in all of these procedures. It has been handling awards for the best part of 100 years. We have given it the power to conduct these ballots on its usual practice and procedures - end of story.

Mr RIEBELING: Does the Minister have any views about whether a person in this situation should be given assistance to vote?

Mr Kierath: I have lots of views. I expect that the commission would do everything to make sure that the question before the person is understood by the parties, and that the person knows what he is doing.

Clause put and a division taken with the following result -

Ayes (30)

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

Noes (19)

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

Clause thus passed.

Clause 12: Consequential amendments -

Mr KOBELKE: This clause inserts a new subclause in section 66 of the principal Act. Clearly, it makes sense to ensure that the rules of unions are not in contravention of the law of the State. The Minister's wish to place within union rules matters contained herein raises another issue; that is, the amount of detail involved. Because the provisions relating to pre-strike ballots are so exact and comprehensive, it is likely that we will end up with union rules being modified in such a way that they will be difficult to understand. I have some apprehension about the effect of this provision because of the complexity of the legislation.

Mr KIERATH: As the member would be aware, a similar procedure was used in relation to officials' financial obligations. Most parties will say that that process has been implemented reasonably well; it has imposed a time constraint, but the interference by the registrar has not been unduly excessive. My office has not had one complaint about the procedure. If one were reading the rules of an organisation, this would assist in showing where it had been crossed out and facilitate understanding of the rules. If the rules were retained, a person reading them might think they applied and that would be in conflict with the law. Ensuring that the rules reflect the law helps those reading them.

Mr RIEBELING: My understanding is that a similar amendment relating to checking the rules of unions was incorporated in the previous amendments to the industrial relations legislation.

Mr Kierath: I mentioned the financial obligations of union officials.

Mr RIEBELING: I understand that that process has taken a long time to implement and still has not been completed. Is that the case?

Mr Kierath: The registrar has informed me within the past year that that process has been completed.

Mr RIEBELING: I understand that numerous unions were required to amend their rules to comply with the previous legislation. Once again, the inclusion of this provision means that the unions must do the bulk of the work. The commission must simply review a completed set of new rules to ensure that they comply with the legislation.

Mr Kierath: The six months' implementation period gives the organisations time to complete this process under their own terms and conditions. They can volunteer to do it, but if they do not, the president will do it for them. There is flexibility in that those who want to make the changes can and those who refuse will have their rules changed for them.

Mr RIEBELING: If a union refuses to amend its rules to comply, the president will amend them and the new rules will apply. Surely the rules of a union are formulated as part of its constitution and voted on by its membership. Amendment to the rules is normally achieved by a ballot of some sort.

Mr Kierath: That would vary from organisation to organisation.

Mr RIEBELING: Most amendments to the rules are made by a decision of the membership.

Mr Kierath: I do not have all the rules of the organisations, but, generally, yes.

Mr RIEBELING: So, the Minister agrees that the process for the amendment of rules has been democratic to this point.

Mr Kierath: Under section 66 of the Act, the president can amend the rules of an organisation; the commission currently has that power.

Mr RIEBELING: That is right. Generally, the current process is democratic; the membership votes and a rule is then changed.

Mr Kierath: It can be changed by the president under the current rules. Ordinarily, if a person lays a complaint against a union rule, that complaint goes to the president. The previous legislation gave the registrar the power to effect changes imposed on organisations by the Act.

Mr RIEBELING: That happens even before the president says that it will. This clause demonstrates that the Minister's public rhetoric does not match what is in the legislation. He has been saying that he wants to put the decision to take industrial action back in the hands of the individual union members. This is similar to earlier clauses in the legislation, where the Minister gives the commission the power to remove union officials. This provision allows the commission to delete the rules of the organisation and replace them with rules that it thinks are more appropriate - not necessarily rules that the members of the organisation are happy to adopt. Does the Minister concede that this is removing some of the rights of workers?

Mr Kierath: It is removing rules that are inconsistent with the legislation.

Mr RIEBELING: Does the Minister concede that he is permitting the removal of rules that have been democratically adopted and allowing them to be replaced by decree of the president?

Mr Kierath: If the rules conflict with the legislation, yes.

Mr KOBELKE: I understand that the changes made in the 1995 legislation did not require any union to change its rules. Is it correct that when the union rules were reviewed six months later the registrar did not find any union rules that needed to be changed as a result of the 1995 amendments?

Mr Kierath: I am not aware of the registrar's response to those requirements.

Mr KOBELKE: I understand that no union was required to change its rules.

Mr Kierath: The member is saying that all unions accommodated the provisions in their rules.

Mr KOBELKE: Their rules already complied or the amendments were accommodated in the processes taking place in the unions. When the review was undertaken six months later, the registrar found no unions with rules that required him or her to direct that they be changed to ensure conformity with the legislation.

Mr Kierath: Let us hope that under this provision the same might apply.

Mr KOBELKE: It might. Without being familiar with the rules of a large number of unions, my concern is that, because of the complexity of this legislation, it might have far greater implications for unions than the previous legislation. Does the Minister have any indication of the costs that could be incurred as a result of the changes required by this legislation and the provision of secret ballots?

Mr KIERATH: At this stage, I am not in a position to work out the costs to the organisations.

Mr BROWN : The member for Burrup asked about the alteration of rules. The process for altering rules is outlined in section 62 of the Act, which provides that the process must allow for alteration of rules in accordance with the union rules and that the obligation is on the registrar to ensure that union rules are being honoured. Section 66 does not deal with that; it refers to complaints to the president and provides that, for a rule to be disallowed, it must be tyrannical or oppressive. There seems to be some misunderstanding about what the Bill does.

The member for Nollamara said that the Minister did not know how much this process would cost organisations. I remind the Minister that small business has consistently argued that Governments establish very complex arrangements that cost a fortune to implement. Attempts have been made by various Governments to remove red tape. Of course, the Minister is now singling out the union movement to deal with even more red tape and he does not take any cognisance of that.

The clause refers to "any of those rules is contrary to or inconsistent with Part VIB". I want an interpretation of "contrary to or inconsistent with". The rules of many unions do not contain any reference to strike ballots; the references are simply to ballots - a whole range of ballots, including secret ballots for officers, voting at general meetings and so on. I doubt that in many union rules there is reference to strike ballots as such. I take it that, if there is no provision relating to strike ballots, the union rules will not be judged to be either contrary to or inconsistent with those provisions of the Act.

Mr KIERATH: We expect so. Without having the rules before us, it is hard to judge, unless some section of the rules contravenes or is contrary to this clause of the Bill.

Mr BROWN: There will be rules for voting procedures at general meetings, which are usually the supreme governing body and are held periodically. Those meetings do not normally deal with, endorse or disendorse strikes. They might have reports but they make no decisions on strikes. There might be voting procedures in large unions for branch, sectional or divisional meetings. I doubt that potentially many rules of an organisation will contain sections which deal with strikes, industrial action or whatever. If a union's rules do not deal with strikes as defined in the Bill, will the registrar be obliged to recommend or implement rule changes where no rules are explicitly contrary to the section in the Act and where they may be silent on the subject of strikes? If a union's rules are silent on this issue, there will be no requirement to incorporate these provisions.

Mr Kierath: We do not expect so, no.

Mr BROWN: Could the Minister be more precise?

Mr KIERATH: The member is asking me a hypothetical question. The rules will be changed only if they are contrary to the Bill. If the rules are silent on the matter, I would not expect any change. I cannot think of any reason for asking that something be inserted.

Clause put and passed.

Clause 13: Part VIC heading amended -

Mr KOBELKE: By changing the reference from "donations" to "expenditure", the legislation introduced in 1995 tried to tie down donations which unions might make to political parties or for political purposes. We see now that the whole thing has been changed in a drastic way. The Bill tries to attack expenditure for political purposes. As the debate goes on we will see the consequences of that change. Because the consequences will be so wide ranging and will put such a constraint on unions conducting their normal affairs and looking after the interests of their members, the Minister can sustain no argument that he has a mandate for the legislation.

Targeting expenditure is far more pervasive in its effect on unions. Although members on this side had problems with the donations approach, that matter was easier to quarantine. By the change from controlling donations to controlling expenditure, this legislation is trying to nobble unions. The Minister might be successful in making it difficult for unions to operate. However, his stated intention of controlling the system will not be picked up by this change. The Bill will open up a whole range of legal problems. Unions may have to expend money defending their members and organisations in court because the legislation is all encompassing. We will not be supporting this change.

Ms MacTIERNAN : The Minister has made much in public of the mandate he has for this legislation. If we go back to his second reading speech, we see he said that the purpose of the Bill was to reintroduce those labour relations legislative reforms which were first tabled in September 1995 but not passed in the previous term of the coalition Government. Let us refer to the document put out by the Minister before the last election to see what he was saying on political donations. It contains a sheet headed "Summary of Major Achievements". It states that the coalition Government has achieved an overwhelming majority of its election policies - jobs and choices - released on 29 October 1992. If we go down the list we see that a key promise in the 1992 policy was that the consent of union members would be needed before political donations could be made. We should match that against this document released prior to the last election. It refers to new laws to ensure that members of unions and employee associations have more control over political donations.

The Minister referred to his policies generally and then wrote that the overwhelming majority of the policy had been introduced and was working very successfully. He also wrote that the Government would conclude the outstanding reforms from the 1992 labour relations policies on jobs and choices. There is nothing left in the policy of 1992 to be implemented. The Minister says it is one of what the Government calls its achievements. It is an achievement for the conservative side of politics in a short term perspective. It has been a powerful weapon for the conservative forces to nobble the unions and the labour movement.

The DEPUTY CHAIRMAN (Mr Ainsworth): I remind the member for Armadale that we are dealing specifically with clause 13. Her initial remarks have been extremely wide ranging. I ask her to confine her remarks specifically to clause 13.

Ms MacTIERNAN: With respect, I am addressing that very key issue. In this clause we see the deletion of the word "donations".

Mr Kierath: This is your second reading speech because you were away for the first one.

Ms MacTIERNAN: I was talking to a few people in Syria. They thought that by their standards the Minister was a complete fascist. They were amazed at these extraordinary provisions.

Several members interjected.

The DEPUTY SPEAKER: Order!

Ms MacTIERNAN: In his post parliamentary life he might find a job as an adviser over there. A few places are keen to employ the Minister and his special skills. He might find a place for himself in Iraq.

The issue raised in clause 13 is the deletion of the word "donation" and its replacement with the word "expenditure", which is much broader. It is a key concept in this legislation. There is absolutely no mandate for this in any way, shape or form. The logic that the Minister has used time and time again to defend his general mandate on this package of legislation does not apply to this provision. The original document of 1992, which he relies on, makes no reference to expenditure and is confined to political donations. I will read the sum total of the statement on

political donations/expenditure. It states that such bodies must obtain the consent of at least 75 per cent of their members before donations to political parties can be made. That is statement No 1. Statement No 2 is found in the 1995 legislation, which refers only to political donations.

[The member's time expired.]

Mr MARLBOROUGH : I oppose this clause. I think the Minister would admit that this clause is such a rewrite of the existing clause within his second wave legislation that it sets out deliberately to change the intent of that clause and, in so doing, to destroy many of the pillars of democracy which have existed in this nation and which are supported by the High Court. The Bill will put in place new clauses which will, firstly, destroy unions; secondly, destroy union organisers; thirdly, destroy any donors; fourthly, ensure that political parties are taken through the judicial process; and, fifthly, and most importantly, single out political candidates, who can also be taken through the judicial process.

Mr Kierath: Are you talking about clause 13 or clause 14?

Mr MARLBOROUGH: I am talking about the general thrust of part 4, and I will come to the specifics within my allocated time. This clause deletes the word "donation"and substitutes the word "expenditure" in order to close the loopholes that the Minister believed existed in the second wave legislation. Under the second wave legislation, a union could take moneys out of its members' union dues for political donations, and "political donations" was defined as money that was expended or given to political parties for the purpose of running elections. However, under part 4 of this legislation, political donations will not be able to be taken out of union dues. The definition of "political expenditure" is found in clause 14(2), which states -

> A reference in this Part to political expenditure is a reference to expenditure incurred for or in connection with directly promoting or opposing a political party or the election of a candidate or candidates in a parliamentary election.

No broader approach could be taken to political expenditure than that. It is in that area that the first pillar of democracy is knocked over by this Minister. It is in that area that in 1995, Chief Justice Mason and other senior judges of the High Court made it clear, in the case of Australian Capital Television Pty Ltd v The Commonwealth, that what this Minister is trying to achieve through this legislation is absolutely illegal.

The Minister should answer the following questions: From where did he get the advice to change the wording to include this definition of political expenditure? Did he seek legal advice that this definition does fit within that High Court decision; and, if so, is he willing to table that advice? What does the Minister believe gives him the mandate to go down this path?

[The member's time expired.]

Ms MacTIERNAN: The latter question asked by the member for Peel is basically the question that I was asking, and it is imperative that the Minister answer that question. Where is the mandate for the change from political donations to political expenditure? It is found in neither the 1992 policy, the 1995 legislation nor the 1996 policy document. From where could any elector get any understanding that this Government intended to make such a fundamental change?

Mr KIERATH: One of the difficulties we have in this Chamber is when members raise the second reading debate at the Committee stage. I have answered all those questions.

Ms MacTiernan: I have read the second reading speech, and it is not in it.

Mr KIERATH: I will send the member a copy and make sure she reads it, because I went through the issue of mandate. There is no doubt that it was in our policy document in broad principle; the details were to be filled in at some later stage. I have never advised to the contrary. I have even cautioned people at various times that they should read policy documents carefully because they indicate the general direction in which we want to go. No party which has ever had a majority in this House has detailed every legislative provision to the people before an election. We try to give an indication of the areas in which we will legislate and the key principles, and the details are worked out later.

The member for Peel asked how does this fit in with the High Court decision. Obviously where there are High Court decisions and we seek advice on drafting, that is considered by the parties and advice is given accordingly. I am not prepared to table Crown Law advice.

With regard to from where I got the information for the policy decisions, I convened a policy group, which I used to deal with the issues and the details of placing those principles in legislation. Members need to understand, and

this is what they are not explaining properly to the public, that this will not prevent an organisation from making political donations.

Mr Marlborough: Yes it will.

Mr KIERATH: No. The difference is that it will prevent an organisation from using members' subscriptions for political donations. It will not prevent it from raising -

Mr Marlborough: Why did you not do that in the second wave?

Mr KIERATH: It was in there. Other than the definition, most of the provisions were part of the 1995 legislation. Clearly, an organisation can make donations to any party on any issue it likes, provided it has the approval of its members. That is where the member for Peel is not telling the full story. It is true that if an organisation tried to use its existing subscriptions or moneys in a way for which it did not obtain approval from members, there would be a restriction, but nothing would prevent an organisation from saying, "We want every member to donate $30 to the ALP." The difference is that members will have the right to say yes or no. It cannot be foisted on members; the organisation must have their approval to do that. These provisions are not designed to stop political donations. They ensure that those people who want to make donations can, and, just as importantly, those who do not want to make political donations have that right. Members will have read the Government's attitudinal polling over the past six months. In excess of 70 per cent of Western Australians want restrictions on political donations from organisations. Information from the Chamber of Commerce and Industry shows that in excess of 70 per cent of people are not in favour of political donations being made out of union funds. I gather that members opposite feel strongly about these provisions.

Mr Marlborough interjected.

The DEPUTY CHAIRMAN (Mr Ainsworth): I formally call to order the member for Peel for the first time.

Mr BROWN: The Minister has not explained the mandate or the reason for the change in the wording. It is the Minister's legislation and he has an obligation to this Chamber to explain it.

There is also the issue of an organisation's operating as an organisation rather than as a collection of individuals. The Minister's legislation proposes that people should operate as a collection of individuals. He bases that on public opinion polling that indicates 70 per cent of people want union members to have a direct choice in this matter. If the Minister were consistent, he would use the same test on government revenues.

I recently carried out a survey in my electorate. I asked questions related to government expenditure on hospital waiting lists, government advertising and government opinion polling. What was the answer? Only 5 per cent of people supported the millions of dollars being spent on government advertising, so 95 per cent were opposed to it. If the Minister believed individual union members' money should not be used for political purposes, he would not use taxpayers' money for the same purposes. The Minister would not use taxpayers' moneys on expensive political advertisements promoting workplace agreements in the middle of Australian Football League matches on television. If the Minister believed in the principle that the people who pay the money should have control of the money - whether it is being paid to the Government or to an organisation - as a matter of conscience he would adopt the same policy for the Government. The Minister uses the argument that if people want to be covered by an award and they want a say in that award, they must join a union. If one takes that argument to its conclusion, the Minister would give people a choice about the taxes they pay. However, their only choice is pay the taxes or go to gaol. One cannot resign from the taxation system. One can resign from a union. If one could resign from the taxation system, there would be mass resignations tomorrow. If the Minister genuinely believed that argument, he would say to people, "We will impose a payroll tax of 5 per cent, but please indicate whether you want part of the money we take used by us to promote our political objectives." That money pays for television advertisements showing the Premier flying around in a helicopter talking about sewerage, and encouraging people to enter workplace agreements. They are the Minister's political objectives. The Minister is entitled to those political objectives. However, if the Minister genuinely believed in this form of direct control, he would apply the same principle to the Government. However, he does not believe in the principle, except as it works to stymy organisations of employees. It has nothing to do with fairness, it is blatant hypocrisy and party political posturing.

Ms MacTIERNAN: The Minister said I should read his reply in the second reading debate if I want to know how he got his mandate for this legislation. I had read that, and that was the basis on which I prepared the argument. This Bill was introduced three months after a general election, and the issue of mandate is relevant. The Minister in his reply on the second reading debate said, "Okay, you might say that I did not mention the provisions of the Bill in the 1996 policy statement. However, I said that I was going to do all those things that I had not managed to do from the 1992 policy." If we follow the Minister's logic on this crucial change from the notion of political donation to this much broader concept of political expenditure, we see the Minister did not specifically mention this change in the

1996 policy document. Sure enough, in the 1992 policy the Minister said there would be political donation legislation. However, in the Minister's assessment in his 1996 document of his 1995 performance he gave that issue a big tick. The Minister had finished with that issue. It was not part of the leftover package of 1992, so there is absolutely nothing in any document that gives any mandate for this crucial change.

Mr Kierath: If I could prove to the member for Armadale we did have a mandate, would she support this clause?

Ms MacTIERNAN: If the Minister shows us, we will consider it. It is being kept a secret. What has happened between the Minister's giving his handling of political donations a big tick and the introduction of this legislation? The Minister found that at the last election unions were outraged by his conduct and the conduct of the Government. They did not donate money to the Labor Party, the Greens (WA) or the Democrats; they ran a campaign along the lines of "Put the Liberals last". That campaign of putting the Liberals last had a massive impact in the election. The Minister referred to the reduction in the Labor Party vote in the upper House, but failed to mention that there was a reduction in the coalition vote in the upper House, so for the first time in 100 years a conservative Government has lost control of the upper House. It is a very significant political change. How will the Minister get around that? The Minister does not only want to stop people giving money to the opposition parties. Having lost control in the upper House he wants to do something more. He wants to stop freedom of political expression. He wants to stop unions from criticising the Government and campaigning against the Government. It is as simple as that. The unions' "put the Liberals last" campaign that sought to show the inequity and often the stupidity of the Government's policies has caused this change.

Several members interjected.

Ms MacTIERNAN: It probably has something to do with the reason this most popular Minister experienced a 9 per cent swing against him!

Mr Kierath: It was a 4 per cent increase.

Ms MacTIERNAN: The "put the Liberals last" campaign was the reason -

Several members interjected.

Ms MacTIERNAN: I know that the Minister for Health is capable of following a logical argument. He stands out on his side of politics -

Several members interjected.

The DEPUTY CHAIRMAN (Mr Ainsworth): Order! The Minister for Lands will come to order.

Ms MacTIERNAN: His premises from time to time might be wrong but his logic is normally quite sound. This provision is directed against the "put the Liberals last" campaign.

Mr MARLBOROUGH: I will try to point out the difficulty this side of the Chamber and the general public will have with this legislation. I have here the blue Bill. Last week the Minister proudly announced that never before had such well documented legislation been brought into this Chamber. This is the document in which the Minister outlines his original second wave legislation and rules out all the areas which are no longer applicable to the second wave and replaces them with the third wave. He seeks to delete the heading "Donations" and replace it with "Expenditure". This will break through one of the characteristics of democracy in this nation. The Minister has set out deliberately to pick one section of the Western Australian community; that is, the unions, because the Professor Nick Blaines of this world, the hidden faces of the Government, the henchmen from the University of Western Australia, advised the Minister that under the second wave legislation unions can still make political donations which could be damaging to the Liberal cause.

Under the second wave, "political levy" means a levy imposed by an organisation on its members, otherwise as a portion of each member's subscriptions, and so on. In other words, under the second wave, unions were allowed to expend money through political donations from a portion of the annual or quarterly dues of the membership. The Minister seeks to delete that provision because he does not want unions to be able to expend money on political matters. He has already broadened the definition of donations, which was all about giving money to a political party. Now, he seeks to include candidates and all written literature that may be deemed to be of a political nature. He seeks to exclude subscriptions. I put to the backbenchers, the public in the Gallery and others: Why would the Minister single out unions, but not the churches? Why not say to the St Lawrence Brethren or the Catholic Church that the new rules next month will be -

Mr Kierath: Are they registered organisations under the Industrial Relations Act?

Mr MARLBOROUGH: The provision will be amended to read so that from now on subscriptions paid by way of donations on Sunday by the Catholic Church congregation will not be classified as donations that can be used by one section of the church - the Brotherhood of St Lawrence. The Government does not want them used for the brotherhood because it is a political arm of the Catholic Church which now and again embarrasses the conservatives federally and at a state level. The spokesperson for the Brotherhood of St Lawrence says that the Federal Government is not meeting its responsibilities when looking after the aged, the infirm and the unemployed in Australia; and that the State Government also is not meeting its responsibilities. What is the difference? Why is the Government singling out the unions, which are doing exactly the same; that is, using the weekly, monthly, or quarterly donations to help an organisation? Why is the Government not singling out the church? One of the reasons is that the 1995 Mason decision of the High Court said that it is illegal to single out any sector of the Australian community to try to prohibit its freedom of speech. Another reason is that the Minister knows that if he tried to take on the Catholic Church in that way, if he tried to close down its political arm by saying that the donations collected on Sunday could not be used by that arm, he would have 15 000 people marching up St Georges Terrace tomorrow, and the Premier would need to decide whether to drop the Minister from the Ministry. The Minister's time is coming. The march is on the way! The people will trample the Minister into the ground, where he deserves to be.

Mr KIERATH: An opposition member referred to our election policies. One policy was to require approval by 75 per cent of the union membership to make a political donation. The requirement for that sort of approval would almost guarantee that no donations would be made.

Several members interjected.

Mr KIERATH: If union members want to expend $10, $50 or $1 000 on a political party, they can, but not from subscriptions. It must come from additional collections by way of a levy or in a voluntary way. If, say, half the membership want to make donations to a political party, they can. However, no union will be able to use subscription fees in that way.

Mr Marlborough: But that was the case under the second wave.

Mr KIERATH: The member for Peel referred to different organisations, and I think he knows the answer. He was playing politics. There is a distinct difference between registered organisations under the Industrial Relations Act and any other organisation operating in this State. Under the Industrial Relations Act an exclusive monopoly is granted to any registered organisation. For example, if organisation A is registered, organisation B, C or anyone else cannot take responsibility for the same workers. Currently, under the Act only one organisation has that capacity; it has an exclusive monopoly. I have told the union movement that if it is prepared to allow a choice, and the workers can choose which organisation will represent them before the Industrial Relations Commission, these provisions would not be necessary. However, while the exclusive monopoly exists and that organisation decides to make political donations, some members of the organisation need to be members to appear before the IRC but may not want to make political donations. The member may disagree with the principle, but these provisions are enshrined in this legislation where it says that an organisation can make political donations on behalf of its members, from the fund set up for the purpose, as long as approval is given by the members. An organisation cannot make political donations in an underhand way. If the union movement does not want these provisions, I will delete them in return for taking away the exclusive responsibility for awards and giving the workers the right to choose between a union which makes political donations and one which does not. I challenge the Opposition to agree to these provisions. If it does, I will agree to remove those provisions. We will not enshrine in legislation a monopoly that grants privileges where there is neither competition nor choice. These provisions will ensure organisations reflect the wishes and views of individual union members.

Ms MacTIERNAN: We are trying to focus on the change of wording from "donations" to "expenditure". The Minister just tried to justify his provision on donations. He is incapable of explaining why he has made a change from "donations" to "expenditure". We gave him a range of options, such as being very grumpy about losing control of the upper House and about people running anti-Liberal campaigns. However, we have not heard any explanation about the change from "donations" to "expenditure".

The Minister also said it was about choice. His 1995 legislation was supposed to be based on choice; that is, that donations could come only from a union fund if the individual unionist agreed to it. Why is that inadequate? In the last five minutes he has rabbited on about giving people a choice because the unions had a monopoly. That was supposedly addressed in the 1995 legislation. If it was not, what did it achieve?

Today we are asking the reason for these crucial changes. The Minister told the electorate that he has done that job; he gave himself a big tick for it. Today we are seeing a substantial rewrite of a provision. The Minister is trying to justify his 1995 Bill. He is talking about donations and freedom of choice. We are not asking about that. We are asking why the wording has been expanded from "political donations" to "expenditure", which is defined to confine

any organisation from exercising any political critique against this Government. I am amazed, not that the Minister wants to put in place a disgraceful provision such as this, but that Government members who have some democratic urges are allowing this change of wording.

The Opposition is becoming very frustrated because the Minister is giving us the standard rhetoric he used in 1995. We want the Minister to focus on why it is different. Why must we now abandon the word "donation" and include the word "expenditure", which is so broad it captures anything a union may do, not in relation to giving money to an opposition political party, but in relation to critiquing the performance of a Government, irrespective of whether it is in conjunction with a declared election?

We also want to understand why it is necessary to change the provisions for subscriptions. On the Minister's own analysis before the election, he achieved that. He said union members' funds could not be used without individual members having the right to determine whether their funds were so used. Suddenly that has been abandoned. Now an entirely new measure has been introduced. The Minister has made no attempt in any of his speeches or his comments to address the change to the legislation between 1995 and 1997.

Dr TURNBULL : Will the Minister please define the limits of "political expenditure", taking into account the examples he gave in proposed subsection (3)? Many people are interpreting the word "expenditure" to extend to things such as policy, particularly in relation to the workplace in which the union may operate.

Mr KIERATH: The word "donation" is a much more precise term. "Expenditure" covers a variety of things. The member for Peel said that there are ways of getting around the term "donation". Financial means could be found to provide facilities such as support equipment, thus escaping the intention of putting restrictions on political donations. I do not apologise for that.

Mr Marlborough: It is illegal.

Mr KIERATH: I think the member for Peel has read only some parts of the Bill.

Mr Marlborough: I will go through the Bill bit by bit.

Mr KIERATH: If unions seek approval from members, they can make donations to whomever they like.

Mr Marlborough: They cannot.

Mr KIERATH: They can. They cannot use that for other purposes.

The member for Collie asked about policy issues. The provision does not stop union members from running policies, echoing views or giving advice. It prevents them from trying to channel resources either by escaping the provisions of the legislation or making donations without the approval of union members. The challenge to the unions is to get approval from members; then they can do anything they like. Members are worried because they know that in some circumstances the unions will not get approval from their members.

Progress

Progress reported.

[Continued on page 1655.]

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

MATTER OF PUBLIC INTEREST

THE SPEAKER (Mr Strickland): Today I received within the prescribed time a letter from the Leader of the Opposition in the following terms -

> Pursuant to Standing Order 82A I propose that the following matter of public interest be submitted to the House for discussion today.
>
> > This House condemns the State Government for imposing savage increases in taxes and charges which will impact negatively on all Western Australians particularly on the living standards of those on low incomes.

The matter appears to be in order. If sufficient members agree to this motion, I will allow it.

[Five members rose in their places.]

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

DR GALLOP (Victoria Park - Leader of the Opposition) [2.37 pm]: I move the motion.

The most important criterion that can be applied to any Budget, particularly a state Budget, is that of fairness; in other words, we must look at a Budget from the point of view of the degree to which the distribution in a Budget of the benefits and burdens or penalties are spread evenly throughout the community. We have a Budget before us that clearly discriminates against people in Western Australia who are on low incomes. To establish the degree to which those people on low incomes are being adversely affected by this Budget, it is important to note that this is the third of a series of slugs that have been sent the way of low income Western Australians. The first was the experience that they had in the first term of the coalition Government; the second came from the Howard Government in its first Budget; and the third has come from this state Budget. We find not only that the coalition likes taxing people - indeed this State Government takes more in taxes than any State Government before it - but also that it likes to ensure that those on the lowest incomes are hardest hit.

Let me first provide the context of this Budget. In the first four years of coalition government we have seen many regressive measures introduced. Of course, these measures have hit all Western Australians, but particularly low income groups in our State, such as pensioners, the unemployed, the working poor and students. It is interesting to note that the working poor is becoming a category in our society. I will talk a little more about that later. Let us quickly remind ourselves of the first four years of coalition. We saw the end of the free allowance for water; the introduction of a supply charge for gas; the introduction of a 4¢ a litre levy on fuel; and the reduction in the patient assisted travel scheme covering travel allowances that people receive. We also saw the introduction of user pays in health and disability services, charges for disability aids and for medication for the mentally ill, higher technical and further education fees, and increases in public transport charges. In the first four years of this coalition Government, people on lower incomes had to use a higher proportion of their income to meet those measures than did people on higher incomes. That is why people took the view in the last election that the Government should provide some gain following the pain that they had experienced.

It is important to provide the context to this debate. How many households in Western Australia are on low incomes? About 150 000 households, or about 28 per cent of the 530 000 households in this State, earn under $20 000 a year, or about $380 a week. About 110 000 households, or about 21 per cent, earn below $16 000 a year, or less than $300 a week. A significant percentage of Western Australian households - between 20 and 28 per cent, or about a quarter - are on low incomes. To narrow it down even further, 308 000 Western Australians rely upon social security for their weekly income.

These Western Australians have been affected adversely by the measures which I have outlined. In 1996, we had a change of Federal Government when the Howard coalition Government came to power. That added to the burdens being placed on low income Australians and, therefore, low income Western Australians. The Australian Council of Social Services has concluded that the poorest households in Australia will lose more than twice as much as will the richest households as a result of the federal Budget. It has calculated that unemployed households will lose approximately $38 a week, households whose main income is a disability or widow's pension will lose $21.50 a week, households whose main income is Austudy will lose $15 a week, and sole parent families will lose $10.70 a week. The end result is that, on average, Australian households will be worse off by approximately $7 a week in disposable income, but the impact on low income Australians will be twice as much as the impact on the richest households. Households with a disposable income after tax and social security of less than $200 per week will lose, on average, 2.2 per cent, or $5.40, of their spending power. Many single pensioners and unemployed people fall within that group. Households with a disposable income of more than $1 200 per week will lose only 0.8 per cent, or $15.10, of their spending power.

The past four years have had a severe impact on low income Western Australians. The first half of the equation came from the four years of coalition Government at state level. The second half of the equation came from the regressive impact of the Howard Budget, which was the most significant feature of the media commentary about that Budget.

Mr Court: Are you blaming Howard for the past four years?

Dr GALLOP: I am not saying that. I am saying that the Howard Government compounded the problems that this Government had created for low income Western Australians.

I turn now to the current Budget. I will remind the Premier of the state of play in Western Australia today. In the past 12 months, bankruptcies have increased dramatically in Western Australia and are now running at about 150 or 200 a month. The demand for financial counselling services has increased, with the waiting list for those services growing considerably. One welfare agency has recorded a 30 per cent increase in clients seeking emergency relief.

Our discussions with the welfare agencies indicate that we are talking not simply about people who are on social security and who for a variety of reasons find it difficult to make ends meet but also about an increasing number of new applicants for assistance from welfare agencies. Almost one-third of the people who are seeking assistance from welfare agencies are new clients. This is the result of the casualisation of employment and the reduced assistance generally from government.

A new category that is now emerging in our society is the American category of the working poor. For over a century, the great Australian tradition of protection for working people has been whittled away gradually and we now have this new category of the working poor. Week in, week out the working poor struggle to make ends meet, and many are now seeking assistance from welfare agencies. What has the State Government done in its Budget to address this situation? The Premier promised the people at the state election that gain would follow the pain and there would be an increase in the social dividend. However, the hopes of those people have been dashed by this Budget, because not only have they not been given a social dividend - in other words, not only has their social wage not improved - but also they have been hit with increases in taxes and charges in both the budget sector and government trading enterprises. It is important that the Premier understand the regressive nature of that impact on low income Western Australians. The legacy of this Budget will be increased homelessness, increased problems in the community, which will have to be tackled by Government, and an increased tendency towards crime in our community. That will be the result of this Premier's pushing people over that line between making ends meet and not being able to make ends meet.

In looking at the impact of the state Budget on Western Australian families, I will look at car licences, drivers' licences, electricity, gas and water charges, the debits tax, public transport and road fines. We need to make assumptions about the impact of these charges on high income families, average income families and low income families. The Budget estimates that the impact of these measures on Western Australian families will result in increased charges of $16 a year for a car licence, $4 for a driver's licence, $21 for power, $15 for gas, $24 for water and, in the case of the debit tax, for families making two withdrawals of over $100 a week the increase will be $36.40 a year. With public transport, if we assume 10 concessions plus five full fares a week the increase will be $104 a year. With road fines, we make the general assumption that it will cost each Western Australian family $15 a year. Some of those figures have come from the Premier's own budget papers and some we have calculated. That is an increase of about $236 a year for those particular budget and government trading enterprise charges. We also know that other changes will impact directly upon people through the government system and indirectly through the impact of the charges on the private sector. The figure of $236 a year, or $4.50 a week, is a conservative estimate.

The National Centre for Social and Economic Modelling, which looks at different family types, has categorised low income families as the lowest 10 per cent of our households, with average disposable income of $332 a week; with the highest 10 per cent, $1 066 a week, and the average, $654 a week. What is the cost of this Budget to those households? We find a regressive impact. This Budget will cost the lowest 10 per cent of our households an extra 1.4 per cent of their disposable income. The highest 10 per cent will pay 0.4 per cent and the average will be 0.7 per cent. In effect, the Premier has taken about one week's spending away from the lowest income earners in Western Australian. We must remember that is on top of the money that was taken away from them in the first four state coalition Budgets, and the federal coalition Budget. This is not a one-off measure; this comes after severely regressive impacts on those people. The Premier has taken about one week's spending away from the lowest income earners who are already struggling under the impact of the first four years of his Government and the federal coalition.

The change that particularly impacts on citizens with low incomes is in public transport. On top of the general increase in the fares there have been two significant changes. The first is that concessions cannot be used before 9.00 am and the second is that the time a ticket is valid has changed from two hours to one and a half hours. Those measures severely impact on two income groups in our community - pensioners and students. I will illustrate with students the change in the use of concessions to after 9.00 am. Many members in this Parliament have children or know of youngsters from their community who catch the bus every morning to go to university or college. Previously students who caught a bus in Mandurah to go to university in Perth - they must come to Perth because there is no university in their city - and left home before nine o'clock could get an all day ticket at the concessional rate of $2. The concessional rate has increased to $2.50, a 25 per cent increase. However, the reality is that they must catch the bus before nine o'clock in the morning to get to Perth. They will now have to pay two one-way concession tickets at $2.50 each. At $5, that is an effective increase of 250 per cent.

The change in ticket validity from two hours to 90 minutes will impact upon the many pensioners in our community who come into Perth for appointments. It will impact upon their lifestyle and their ability to participate in the community and to enjoy shopping. Whereas previously pensioners visiting a specialist in Perth were able to complete their journey within two hours - we can say that it would take 20 or 30 minutes to come to the city, an hour for the appointment, with half an hour up their sleeve to catch the bus or train to go home - and pay one fare, with the time

reduction to 90 minutes they will be battling to pay only that one fare. It will be impossible for them to attend a specialist appointment, sit with their friends to have a cup of tea in the mall - to enjoy their retirement - within the 90 minute period, so they will be paying two fares. In effect, the fare increase for these people will be 100 per cent. Those two specific case studies make it clear that this Government is imposing the burden of its fiscal policy on low income earners in Western Australians. In later stages of debate on the Budget the Opposition will argue that the public transport charges in the Budget are not only mean spirited but also short-sighted. I refer to the impact on the environment of our city.

The point the Opposition is making today is that the impact of this Budget is three times greater on low income earners than on high income earners. That is unjustifiable, but it indicates where this Government's priorities lie. The Opposition will take the opportunity within and outside the Parliament to fight against not only the betrayal of the people through the broken promises of this Government, but also the highly regressive nature of what has been done.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [2.57 pm]: In the past four years a number of increases in government charges have impacted on low income earners, in particular, the abolition of the so-called free water allowance. In my electorate most Homeswest tenants for the first time paid significant water charges to the State Government. If there was a need to control and ration water usage and to conserve water, those people who used significantly greater than the average amount of water should have been charged. Instead, those people who used only what would be regarded as a minimum amount of water found that as well as paying rent they had to pay for water consumption that had previously been included in that free water allowance.

Recently, while cleaning out old material from my office I came across some pamphlets that we had distributed early in the period of the last Court Government. They related to increases in public transport fares. I remember that one thing that particularly angered me then was that the biggest increase in public transport fares was for those people taking advantage of concessional fares; in other words, pensioners, the unemployed, and students faced the biggest increase in public transport charges.

Dr Gallop: They represent 65 per cent of all public transport users.

Mr RIPPER: Those are the people who face the biggest increases in fares. I suppose we should have expected a similar performance by this Government on its re-election. However, when the famous four year financial plan came out during the election campaign there was no indication of this round of increases in taxes and charges that could be expected as soon as the Government was re-elected.

Since its re-election the Government has been complaining bitterly about a revenue shortfall, and particularly about the loss of commonwealth revenue. The complaints about commonwealth revenue have some justice to them, but they are not new. The Government has known for a long time about the way in which the Commonwealth Government behaves. All the reductions have been predictable; they were known before the last election. If the reductions in commonwealth expenditure can justify these taxes and charges increases the Government should have been frank and open with the people before the election.

Although the Government complains about revenue shortfalls we should remind it and the community that there was a very significant revenue increase in the first four years of coalition government. For instance, one can compare the revenue in the last financial year of the first term of the Government with the revenue of the last financial year of the Lawrence Labor Government. The Government had almost $1b per year extra in revenue over that four year term, and although the Government can point to a falling off in revenue growth this financial year and to some reductions in commonwealth grants, that is on top of huge increases in state-sourced revenue over the first four years in office. Despite the huge increase in revenue, the Government imposed these increased taxes and charges which will impact on everyone, but particularly on low income earners. The increases will impact on people for whom every cent counts - those people who notice it when an item increases by 5¢ in supermarkets, and those who are adding to the waiting lists for financial counselling services in Western Australia.

We know that demand for those services and for emergency financial relief is increasing. We are told that one large agency has faced an increase of 30 per cent in demand for emergency financial relief during the last calendar year. Part of the reason for that would be that the Government slashed emergency financial relief early in its first four years in office. These people are not just the traditional poor or people on pensions and benefits. We now have a new category of people who are able to access only casual or part time work and who find they cannot enjoy the opportunities that the rest of us take for granted. These people are among those who go to the welfare agencies for emergency financial relief and seek financial counselling.

It is not only the charges announced in the Budget that are of concern. There are all sorts of hidden mechanisms, some of which the Leader of the Opposition referred to. I refer to the seemingly innocuous changes to public

transport arrangements - the restriction on people who buy tickets valid for a whole day but who cannot use those tickets until after 9.00 am. That arrangement is having an enormous impact on people, in particular students, who use the concession tickets to get to their courses, many of which require travel before 9.00 am. I point also to the reduction in the validity of the multirider ticket from two hours to one and a half hours. Many people on low incomes would have based some of their living arrangements on those concessions. These are the people who have been ringing talkback radio stations. I do not know whether the Ministers have heard those calls, but in a significant number the callers have explained how these seemingly innocuous changes have made a big impact on the way they live.

Mr Pendal: I think they will change the 7.30 am concession rule because it will help many people.

Mr RIPPER: I hope that the member for South Perth will use the five minutes allocated to the Independents to participate in debate. I hope that he will join the Opposition in protesting about the way in which these taxes and charges increases will impact on everyone in the community, but particularly on low income earners.

The Leader of the Opposition outlined the differential impact of these increases on various households. It is always the case that existing state taxes and charges are regressive in their impact but these increases only add to the way in which the State's revenue collection impacts on people on low incomes. As the Leader of the Opposition has argued, the impact on the lowest 10 per cent of income earners is about 1.4 per cent of disposable income, whereas for the highest 10 per cent of income earners it is only about 0.4 per cent of disposable income. Perhaps members need to be reminded of the difference in household incomes. The highest 10 per cent of households have a disposable income more than three times the income of the lowest 10 per cent. The people on the highest incomes are not as severely affected by these increases as the people on low incomes, but they will be affected because there will be an impact on the broader community. As people's financial status worsens, their health status worsens; so we will have more demand on our health system as stress increases. There is also an impact on crime rates.

MR COURT (Nedlands - Premier) [3.07 pm]: Two issues are involved here: One is the effect of increases in taxes and charges, and the second is the Opposition's criticism of these increases - as if there is some magical way we can bring down Budgets without experiencing some increases at times. I will address both issues.

First, members opposite must agree that we have not imposed any increases in electricity charges over the past five years, and that is a good run.

Dr Gallop: It depends on where you are coming from.

Mr COURT: It is from the end of a Labor Party era.

Dr Gallop: We started the process.

Mr COURT: The point is that over the past four years we have not heard members opposite say that it is terrific that there has been no increase in electricity charges. The matter was quietly ignored. The increase of 3.75 per cent in electricity charges is the first for five years. Members opposite must agree that it is not a bad record. The Leader of the Opposition may laugh -

Dr Gallop: That is not the issue. The issue is the overall regressive impact of the increase in taxes and charges.

Mr COURT: There is nothing regressive about not having an increase for five years. We would not want to return to the days when members opposite ran the State Energy Commission of WA and they could not even put together a new power station.

Dr Gallop: That is not true, and you know it. We started the process by which the reductions occurred.

Mr COURT: Members opposite could not even put together a new power station. That was one of the first jobs for our Minister for Energy.

Several members interjected.

Mr COURT: The power station will be opened next year. The member for Nollamara may be allowed to put in the first shovel of coal.

Last year we introduced a service charge for gas -

Mrs Roberts: Another regressive tax!

Mr COURT: As I understand it, the more gas used the cheaper it becomes -

Mrs Roberts: Pensioners do not use very much. Supply charges are a great cost to pensioners.

Mr COURT: Members opposite are arguing about regressive taxes. Large users of gas now pay less for it per unit than small users.

Mr Ripper: A high income household using a lot of gas pays less for additional units; whereas a low income household pays more.

Mr COURT: I am saying that that will change this year. Rather than the cost of gas per unit becoming cheaper the more that is used, it will remain at the same cost regardless of the amount used. In effect that will increase the cost of gas to those large users. Is that the opposite to regressive?

Several members interjected.

Mr COURT: I am now disagreeing with the arguments of members opposite. The Minister for Water Resources will speak about how water charges affect low income families.

I agree with the Opposition's concerns about some of the transport charges. I acknowledge that fares on public transport are a problem. As I said, we collect only 27 per cent of operating expenses from fares. As the Leader of the Opposition said by interjection, 65 per cent of fare paying passengers travel on concession fares. We do not have a strong fare base on which to fund a public transport system. The industry norm of operating expenses from fares is about 40 per cent. I am not saying we will reach 40 per cent.

Mrs Roberts: That is the international norm where circumstances are different from Australia.

Mr COURT: I am not saying we will reach 40 per cent, but we are well below that and we do have an issue. Concessions are usually half fares and, as members opposite know, our concession fares are well below half price.

In relation to motor vehicle licences -

Mr Brown: Public transport fares increased by 35 per cent per annum in the Government's first term.

Mr COURT: And we still collect 28 per cent.

Several members interjected.

The SPEAKER: Order! The member for Cockburn is out of his seat.

Mr Pendal interjected.

The SPEAKER: Order! I formally call the member for Cockburn to order for the first time.

Mr COURT: The Leader of the Opposition referred to the increases in motor vehicle licence fees. Those fees have increased from $72 to $86 for a family car. The fee in New South Wales is $169.

Mrs Roberts: We looked at that; it is part of your budget papers. Look at the whole picture. What is the point in singling out a few cases?

Mr COURT: I am going through each one. If our motor vehicle licences are causing a crisis, there must be hell to pay in the other States because Western Australians pay half as much as they do. We pay the lowest third party insurance premium of $192. In New South Wales third party insurance is almost $500.

Mr Graham: They get paid out if they have an accident.

Mr COURT: We must consider these matters in perspective. Members opposite react with shock and horror at increases in electricity and gas, when they have not increased for five years. Gas is to increase by an average of 3 per cent and electricity is to increase by 3.7 per cent.

Dr Gallop: I suggest another sense of perspective; first, the four years of your Government and, secondly, the Howard Budget.

Mr COURT: I refer to how we are affected by federal Budgets.

Dr Gallop: I am talking about households in WA.

Mr COURT: The Leader of the Opposition made a big point about this Budget being the "budget of betrayal".

Mr Brown: The Premier said it would be "awesome".

Mr Ripper: His word was "wicked".

Mr COURT: As I said on the day, there is no greater betrayal of the working men and women of this State than the Labor Government's losing $1.5b and its members then having the nerve to say they are genuinely concerned about working people.

Several members interjected.

The SPEAKER: Order! I am allowing a fair number of interjections, but I cannot allow four or five people to interject at once.

Mr COURT: I said that the financial deals between the Commonwealth and the States that have been in place for the past 10 or 15 years are no longer acceptable. The Leader of the Opposition wants to push that matter to one side; nonetheless, it is a big issue.

Dr Gallop: I do not. In every public debate I have agreed with the Premier on federal-state finance. He knows that.

Mr COURT: The day after the Budget was brought down a former Labor Premier said publicly that the Premier had it right; the Leader of the Opposition should be supporting him in what he is trying to achieve. It will take us some years to reverse the situation.

Mr Ripper: The former Premier was a day late because the Leader of the Opposition said a day earlier that he supported the Premier.

Mr COURT: Members opposite accused me of criticising the former Federal Labor Government.

Dr Gallop: We have no argument on this issue.

Mr COURT: I have not changed my position. If we do not get a good deal from the Federal Government, we say so and we fight hard to get a better deal. That is exactly what we will do over the next couple of years.

Mrs Roberts: What about kids not being able to get concessions before 9 o'clock in the morning?

Mr COURT: Despite the crocodile tears from members opposite about the Budget, they know that it is a responsible Budget. If they want to spend more money, they should say so. During the election campaign they said they would not increase financial institutions duty or taxes and charges, etc.

Dr Gallop: We know, but did the Premier notice that he won the election and we didn't.

Mr COURT: The Leader of the Opposition said he would operate under certain financial parameters which included restrictions on taxes and the state debt. If members opposite want to spend more money and do not want to see increases in charges, they have a responsibility to say how they will fund those programs.

Dr Gallop: We certainly did that in the election.

Mr COURT: The Leader of the Opposition did not. He budgeted for $1b and then realised that he could not justify where the money would come from.

Dr Gallop: Yes we did.

Mr COURT: Why did he not release policies during the election?

Dr Gallop: We did.

Mr COURT: Come off it! The Leader of the Opposition did not release a page of major policies.

Dr Gallop: Every new commitment we made was outlined.

Mr Ripper: Our savings were specified; yours weren't.

Mr COURT: The Leader of the Opposition took to the extreme Robert Menzies' advice that parties should never release policy. I have never seen so many major policies not released.

Mr Ripper: Such as?

Mr COURT: I will give members opposite a list of them. The policies the Opposition released were very light.

I acknowledge that some taxes and charges had to be increased. The Government has established a record over the past five years of keeping increases as low as possible. We have genuinely tried to keep low charges for services such as electricity, gas and water. Members opposite cannot call modest increases savage, especially when they have not been increased for five years.

Frankly, I think that after members opposite listened to talkback radio this morning they decided that today's matter of public interest would be run on the issues about which the public telephoned. That is the level of their forward planning.

DR HAMES (Yokine - Minister for Water Resources) [3.20 pm]: I shall comment briefly on the area under my control; that is, the water charges increased in the Budget. The member for Belmont referred to the removal of the 150 kilolitre a year water allowance. That occurred prior to my term as Minister and prior to this Budget. There were some increases in charges in my portfolio in this current financial year, and I will detail the extent of those increases so that members opposite can see them in some perspective. There was a 4 per cent across the board increase in rates, applying to the fixed service charge, the volumetric charge and the sewerage and drainage charge.

I noted the comment by the member for Belmont that there should be further increases for those using higher amounts of water. Members opposite will note from the Budget that those using more than 300 kl of water a year will pay a slightly higher rate. The average water consumption a household in Western Australia is just over 300 kl a year. I will go through the detail of the increases involved. The increase in the fixed service charge is approximately $4.85 per annum. The increase in the volumetric charge for an average annual consumption of 304 kl is in the order of $5.49 per annum. Those figures give a total of $10.34. The sewerage charge, which is based on the gross rental value component, for the average household is in the order of $13.80 per annum, and the metropolitan drainage charge increase is approximately $1.64 a year.

The media made a mistake when adding the figures released in the press statement, and quoted an average increase of $30-odd per annum. In fact, the increase is approximately $25 a year, or 50¢ a week. For people living in one of the less affluent areas in the community - I quote an area not far from my home in Dianella - the average increase will be $17.78 per annum or 35¢ a week. A pensioner living in that same area, who gains the benefit of the discount, will face an increase of $10.81 per annum or a 3.3 per cent increase. I am not saying these increases are not significant or that those living on a tight budget will not find them difficult to manage. However, electricity charges have not increased for five years and water rates have not increased for two years, although the allowance was removed. The media calculated that the total increase in charges would be $120 per annum; however, if that figure is corrected by taking account of the error made, the average increase is a little more than $110 per annum or just over $2 a week for the average household. For a pensioner the increase will be less - perhaps just over $1 a week.

Members opposite must have been rubbing their hands with glee when the Treasurer said it would be a tough Budget. They thought that finally they would have something to have a go at. It must have been sad for them when they learnt that the tough Budget results in increases which are about the same as the inflation rate and which will cost the average household an additional $2 a week. How many increases of that size would it take to make up the $1.5b lost by the previous Government? How many times did members opposite criticise those losses? I do not remember that ever happening. Members opposite are now trying to tell people that this is a rotten Government because it has introduced increases of approximately $2 a week after this period.

MR OMODEI (Warren-Blackwood - Minister for Disability Services) [3.25 pm]: I shall refer to some of the increases in transport charges, although I find it galling to be required to defend the increases. The silvertailed Rhodes scholar and chardonnay socialist opposite sallies forth in this place and philosophises about this terrible Government. When the coalition came to government the schools and hospitals in this State were in disrepair, the water tariff situation was in total disarray and the transport area, apart from a new railway line, was in total disarray. The Government currently recovers 28 per cent of costs on transport charges. The recognised industry standard is 40 per cent recovery. The new fares raised this year will increase the recovery rate from 28 per cent to 31 per cent, an increase of 3 per cent. Members opposite acknowledge that 65 per cent of public transport patrons pay concession fares. In zone areas between one and three, more than 40 per cent of the patrons are eligible for concessions, and there are no increases in a large proportion of fares in that area. The Treasurer has acknowledged that a certain issue must be addressed with regard to the concessional day rider ticket, and the Government, through the Minister for Transport, will look into that situation.

Comparisons were made with car licensing charges levied in other States. I invite members opposite to compare the charges in Perth with those in other capital cities. The subsidy in Western Australia is 43 per cent and in all other States it is more than 50 per cent. The standard public transport fare in Western Australia is $2.30 and the concession fare is $1. The closest concession fare to that figure is $1.20 which applies in Hobart and Canberra. All other States have more expensive fares than those in Western Australia and, as a result, the transport system in this State is in disarray. Members opposite fail to acknowledge the Government's 10 year, $1b plan to upgrade the transport system. It will provide 850 new buses, with access for the disabled, new bus lanes will be put in place between Murdoch and the city, five new rail cars have already been ordered, and extension of the rail service to Mandurah is an election commitment. This Government will order a new ferry and it has already introduced the central area transport system. The Opposition does not have a clue about these things and it made no commitment in that area.

Money has been committed in the Budget to the Health area, which will receive a significant increase, and to the Disability Services area, which will benefit people on low incomes.

The SPEAKER: Order! I have allowed too many interjections and I can no longer allow people to interject from both sides of the House across the Chamber. I have given some members a great deal of flexibility, but they can expect to be formally called to order from now on.

Mr OMODEI: The Opposition tries to make capital from people on low incomes. However, if ever one group were disadvantaged or vulnerable in the community, it is those covered by disability services. When members opposite were in government, 400 people with severe disabilities were looking for some sort of accommodation in Western Australia. In this Budget an additional $12m has been provided for accommodation for this group. As a former Minister for Water Resources I initiated the tariff reform package in this State. I note with interest that during the election campaign when a lot was made of the 150 kilolitre free water allowance, which did not exist in country Western Australia, the Leader of the Opposition failed to say that he would reintroduce the free allowance. There is hypocrisy from members opposite.

There must be a renewal program for Western Australia's public transport system and as time goes on increases in charges must be imposed. The Government is concerned about the concessional rate for pensioners and will require that concessions are used only after 9.00 am. That area has represented an anomaly in the tariff charges for quite some time. Members will agree that people have been rorting that charge to a degree. If people catch the bus just before the 90 minute period, they get two hours' travel anyway. That is plenty of time to get into Perth and do what they want to do.

Mr Thomas: Is that what you call a rort?

Mr OMODEI: No, I said the rorts occurred with the day rider passes.

Mr Thomas interjected.

The SPEAKER: Order! I formally call to order the member for Cockburn for a second time.

Mr OMODEI: The fare has increased from $2 to $2.50 and an anomaly has arisen from that. As the Premier mentioned, the Government will look at that issue. Some callers to talkback radio this morning spoke about the day rider concession. Bringing this motion into the Parliament today smacks of the Opposition making comments on the run.

MR BARNETT (Cottesloe - Minister for Energy) [3.31 pm]: I will comment briefly on the energy sector and, particularly, electricity and gas charges. As has been said by the Premier and others, the increase in electricity prices was the first increase since 1991. Over the course of that period, allowing for inflation, there has been a real decrease in electricity costs for householders in the order of 15 to 20 per cent, depending on their consumption. They are significant decreases. Even this year's increase of 3.75 per cent is fairly modest compared with an inflation rate of around 2.5 per cent. However, the reasons electricity prices were increased this year are worth noting. The lack of increase in prices over the past five years has been achieved by improved efficiencies in Western Power. Part of that has been a significant reduction in the order of 10 per cent in staffing levels and from accessing better fuel, more efficient power station operations and the like. Although that process is not exhausted, most of the gains have been delivered and have been returned to consumers through lower real prices.

This year a number of factors will impact on the finances of Western Power. First and most important is that the construction of the Collie coal fired power station will be in its most expensive phase during this year and next year. Western Power will have to increase its borrowings in these two years, compared with its having reduced its outstanding debt over the previous three or four years. Another impact is the decision of the Commonwealth Government to remove the rebate on excise on light fuel, which has increased the losses from remote and regional power supplies from $20m to $40m. That is a $20m extra impost on the operations of Western Power. Other factors that will impact on the finances of Western Power include the effects of increased competition and loss of sales in the goldfields following the construction of the goldfields gas pipeline.

Mr Graham: If that is a factor, why don't you let the others compete? You're the only bloke stopping them. You give them permission to compete, and they will.

The ACTING SPEAKER (Mr Osborne): Order! Member for Pilbara.

Mr BARNETT: That is one of the most spectacularly ill-informed comments I have heard in this Parliament. All those factors have impacted on Western Power. The increase is obviously regretted, but it is modest, and I foreshadow there is likely to be another smaller increase next year. I hope Western Power will then have no further need to increase electricity prices in the remainder of this decade.

Mr Brown: None before the election, anyway.

Mr BARNETT: The member shows by that comment that he does not understand the process of corporatisation and the way energy prices are adjusted. He should look at it, because it is interesting.

Mrs Roberts: When do the prices go up?

Mr BARNETT: On 1 July.

Mrs Roberts: Why did the public transport costs go up yesterday?

Mr BARNETT: If a price increase is announced in public transport, people will purchase tickets for the long term; therefore, issues such as that must be considered.

Gas prices have not increased since 1991. Last year a $30 a year supply charge was introduced. I concede that that charge impacted on low energy consumers of gas. Typically, they were people on low incomes and retired people. However, when that charge was introduced there was a significant decrease in the price of gas for the first 10 units used. The overall impact was in the order of only 2 to 3 per cent - quite modest. The increase in gas prices this year has been largely in the form of restructuring the tariff. A bizarre situation has arisen in which the more gas a household uses, the lower the price of gas. That is entirely the wrong message for energy conservation and the efficient use of that energy resource. This time, instead of the price of gas falling with increasing consumption, the price of gas for householders who consume more will be gradually increased. Eventually there will be an even price for gas, so that the price is the same no matter how much is used. People will pay a certain amount for each unit of gas.

The impact of the changes this year has been no change for households that use minimal amounts of gas; an increase in the order of $3 a quarter for medium sized households; and a potential increase of up to 6 per cent for households that use large amounts of gas. Overall the average impact will be in the order of 3 per cent, broadly in line with the inflation rate. The gas utility will increasingly derive the benefits of lower cost gas following deregulation as it is able to progressively renegotiate its gas supply purchase contracts. It has been a pretty good story with both electricity and gas, and it will continue to be so as competition develops in the industry.

Question put and a division taken with the following result -

Ayes (19)

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

Noes (31)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Pendal
Mr Baker	Mr Kierath	Mr Prince
Mr Barnett	Mr MacLean	Mr Shave
Mr Board	Mr Marshall	Mr Sullivan
Mr Bradshaw	Mr Masters	Mr Sweetman
Dr Constable	Mr McNee	Mr Trenorden
Mr Court	Mr Minson	Dr Turnbull
Mr Cowan	Mr Nicholls	Mrs van de Klashorst
Mr Day	Mr Omodei	Mr Wiese
Mrs Edwardes	Mrs Parker	Mr Bloffwitch *(Teller)*
Dr Hames		

Question thus negatived.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Committee

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

Clause 13: Part VIC heading amended -

Progress was reported after the clause had been partly considered.

Clause put and a division taken with the following result -

Ayes (30)

Mr Ainsworth	Dr Hames	Mr Pendal
Mr Baker	Mrs Hodson-Thomas	Mr Prince
Mr Barnett	Mr Kierath	Mr Shave
Mr Board	Mr MacLean	Mr Sullivan
Mr Bradshaw	Mr Marshall	Mr Sweetman
Dr Constable	Mr Masters	Mr Trenorden
Mr Court	Mr Minson	Dr Turnbull
Mr Cowan	Mr Nicholls	Mrs van de Klashorst
Mr Day	Mr Omodei	Mr Wiese
Mrs Edwardes	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (19)

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

Clause thus passed.

Clause 14: Section 97N amended -

Ms MacTIERNAN : This is the substantive clause relating to political expenditure. Several issues will be raised by the Opposition. I will run through the four principal issues in the hope the Minister will respond to them. The Opposition will deal separately with the remaining issues.

In dealing with clause 13 the Opposition forecast its main concern; that is, why are these changes necessary? Members should bear in mind that the provision in this clause is not part of the Government's 1992 electoral platform which remains unfulfilled. Indeed, the Minister was successful in 1995 in making alterations pertaining to political donations. The Minister has been totally unable to explain to the Committee and has made no attempt to explain to the public why, having successfully implemented a regime for political donations - no matter how flawed or deleterious it may be to the quality of democracy in this State - it was necessary to put this scheme into effect. The Minister should explain why it was necessary to do this.

The second issue is the question of the ambiguity in this notion of political expenditure. Those people who have been listening closely to the debate will note that under this provision there is a change from a limitation on political donations to a limitation on political expenditure. Now political expenditure is drawn incredibly broadly; indeed, it says here that it is to be "expenditure incurred for or in connection with directly promoting or opposing a political party for the election of a candidate or candidates in a parliamentary election".

Over the course of this debate we will try to pin the Minister down on a point, as his coalition colleague tried to do earlier today; namely, what exactly is the range of activity to be caught in this provision? For example, the first part of the definition refers to "directly promoting or opposing a political party", but it is not clear whether that relates only to the conduct of parliamentary elections. The syntax means that the restriction could apply across the board and during a Government's entire four year term, not only in the context of an election.

If that interpretation is correct, it will mean that any union would be prevented from criticising any government policy. The Minister must elaborate on that point. For example, the state teachers' union may decide to criticise a government policy well out from an election in its journal; if so, would it be in breach of this provision as that action would be opposing a political party? In fact, the union might make comments about a political candidate. The matter needs to be squared away much more clearly than the Minister has done to date.

The Opposition is concerned that the definition is drawn so broadly that it will place a fetter on the union movement from criticising the Government at any point in a Government's term.

I am canvassing the major issues here, and I will go into more detail later. I also refer to the change to the provision covering the funds a union can use in order to "engage" in activities; namely, what is now known as political expenditure. Under the Minister's previous format introduced in 1995, and which in 1996 he said was very successful -

[The member's time expired.]

Mr MARLBOROUGH : Clause 14 of the Minister's Bill, taken in the context of his approach outlined in earlier comments, relates to the trade union movement's ability to be involved in any form of political activity at the time of the calling of an election, be it state or federal. The Minister seeks to prohibit that involvement.

The Minister referred earlier to the definition of the use of a union member's subscriptions, so let us consider what he means by that. The Minister has set out to ensure that when a union member pays his or her annual dues, that money cannot be used for any political purpose. When the Minister was asked why he set out to do that, his cute answer was the following question: Why is the Opposition running away from giving union members choice?

Of course, the current situation does not take away choices from union members. Currently, unions are known by their membership to be affiliated or not with political organisations. This is clearly known through a union's rules, demeanour and political statements, and under the present legislation people can, under certain circumstances, opt out of paying union subscriptions. In the present system, unions are known to be affiliated with political organisations and it is appropriate for those union members, either through the management structure of the union, the committee stage or administrative procedure, to make decisions about the expenditure of those union dues in whatever way is necessary. That happens. For the Minister to say that unions give their membership no choice is an absolute fabrication.

The reality is that union members pay subscriptions which are held in a single pot of money. This helps in the administration of the union and its representation in the industrial court, be it state or federal. In some cases, unions may require members' contributions to be used in political activities. Under the present method, the union membership collectively has absolute input in how the money is spent through the union procedure. If current union rules were taken to the courts under this Minister's legislation, the provisions by which unions are responsible to their membership would remain intact. No problem arises with single union members or a collective group saying to the union, "We do not believe you should be involved in that political campaign." That is said many a time.

The Minister knows that that process is in place. However, he wants to bring responsibility for expenditure and the ability to spend money in certain areas down to the individual member's level only because that suits his political position. To meet his purposes, he need find only one dissenter under a set of rules which are designed to capture, charge and imprison. He wants one individual to be able to come forward under this legislation and say, "I am opposed to that political expenditure." The Minister will then be able to trigger a procedure to place the union in front of the Industrial Magistrate's Court. The Minister is not satisfied with taking the union, the union official and the political party to court; he even wants to pull the political candidate or candidates into court, even if they have no knowledge about how the donation came to them.

The only way to achieve the Minister's goal is to bring the process down to the individual member's right to say whether he or she wants to pay that money.

Mr PENDAL : Mr Deputy Chairman, you are aware that at the outset of this debate I said I would support the Bill. However, individual provisions within several clauses are quite repugnant and go to the heart of what might be called offences against people's normal and usual human rights. We have now reached one part of the debate where I want to spell out a couple of those concerns.

I seek an explanation from the Minister, and in the absence of a reasonable explanation I will move and immediately circulate an amendment. I refer to page 236 of the blue explanatory document and page 26 of the printed Bill. For example, as I understand this, we are being asked to strike out the current provision of the Industrial Relations Act, and five examples are to be inserted of what constitute a "political donation". On the face of it, I can understand what those five exmples are. Whether the Minister agrees so far is not the point. Political donations, for example, are where membership subscriptions are involved or where a payment is made to an election candidate, or for payment of expenses directly incurred by a political party. That sounds a reasonable proposition; however, in the rewritten version we find a reinsertion of what we are being asked to strike out, but with several words of preamble which seem to make it a very dangerous clause.

I refer members to page 238 of the blue document. At the top of the page, under paragraph (3), we are told - these are the key words - that some examples of political expenditure are the following. Then the very processes that we are deleting are reinserted. One is left to ask what is the change. The answer is the words "some examples". I will not move at this stage, but I foreshadow deleting the words "some examples of" and also the word "are" to read "is".

The preamble would then read that political expenditure is the following five examples. I stress that I have not moved anything at this stage.

If we do not go down this path, we will have a new Act of Parliament with what I think is a most sloppy provision saying, "Here are five examples of what constitutes political expenditure; we cannot think of what might be the sixth, seventh, or the eighth or the tenth; but here are some and if you generally offend against anything of this nature which is unstated, you will be in a lot of trouble." That seems to be a very dangerous way for us to write the laws.

Previously I have been an opponent of the idea of being too prescriptive in legislation because that has problems down the line, too; however, since the Government is being very prescriptive we should be told why we are merely saying, "Here are some examples of political expenditure; for the time being we cannot think of what otherwise might constitute political expenditure, but we are bunging these in to make it difficult for the parties concerned." That is a bad way to legislate. I repeat: I will move an amendment to strike out those words unless I hear some sensible explanation to the contrary.

Mr RIPPER : Most of the rest of this legislation seeks to restrict the rights of unions to engage in industrial action. Presumably that is because the Minister thinks unions should instead engage in reasoned discussion with employers, no matter how stubborn those employers might be. Perhaps the Minister thinks that, rather than use their industrial strength, unions should be engaged in the political process. Yet in this clause we see a further set of restrictions which will reduce the ability of unions to engage in a political process that might be a substitute for the industrial action which the Minister in the rest of legislation is determined to reduce.

This is a straight-out attack on our side of politics and the way in which we organise ourselves. Unions of all organisations are to be uniquely restricted from making collective decisions about how they might engage in the political process. Everyone else, including the National Farmers Federation and the Chamber of Commerce and Industry of Western Australia - every other lobby group - will be able to make a collective decision about how it might spend its funds in political campaigning terms. We will not find an individual farmer -

Mr Kierath: It is about organisations that are registered and will include employer organisations.

Mr RIPPER: Will the National Farmers Federation be prevented from running its campaign on the Wik decision?

Mr Kierath: If it is registered as an industrial organisation.

Mr RIPPER: It is about organisations that are registered as industrial groups. I do not think the Chamber of Commerce and Industry will be restricted by this legislation.

Mr Kierath: I don't believe it is a registered organisation.

Mr RIPPER: I will interested to hear from the Minister whether the CCI or the National Farmers Federation will be restricted. It might surprise the Minister and the Deputy Premier that sometimes a farmer votes Labor and an employer occasionally favours our side of politics. Are they to have any influence on the ways in which their organisations spend money in the political process? I doubt it. The Minister is making a straight-out partisan attack on the union movement, on the way in which this side organises itself.

Just to see to what extent the Minister will restrict the unions' ability to campaign, I will ask a couple of questions. I take as an example the teachers' union. In 1983 it advertised that people should vote for a party which would increase the relevance of the education system. At that time the Labor Party was promising to do that. I am interested to know whether that sort of advertising campaign, which did not directly advocate a vote for a party, but may by implication have suggested a vote for one side of politics, would have been caught by the definition.

I will take another teachers' union example. Before the last election the teachers' union sent to all of us questionnaires about our attitudes on a range of educational issues. The questionnaires were marked and scores out of 10 were given. I am pleased to say that I scored somewhat higher in that questionnaire than did the Minister. I want to know whether the activity of the teachers' union in distributing questionnaires and recommending a vote for those who scored better on the questionnaire, as opposed to those like the Minister who scored poorly, would be covered by these political expenditure restrictions.

Mr Kierath: It is not intended to cover that.

Mr RIPPER: I ask the Minister to get to his feet and give us an answer that will be clearly on the *Hansard* record. On the face of it, the Minister is proposing a very great, unfair and partisan restriction on people's freedom of expression which does not apply to the sorts of lobby groups that would be happy to support the Liberal Party in an election campaign.

Mr KIERATH : The member for Armadale asked two key questions; first of all, why it was necessary to do this. She also asked about campaigns that were against initiatives, or were criticisms, of the Government.

Ms MacTiernan: Why is it necessary, given the changes of 1995?

Mr KIERATH: It is simply because the changes previously were not our preferred position. They were negotiated and in many ways they removed the key provisions.

Mr Marlborough: Negotiated with whom?

Mr KIERATH: In looking at those provisions, we found they were not acceptable to us. We wanted different provisions in relation to that.

Ms MacTiernan: In what way was it not acceptable?

Mr KIERATH: I have just said that they are not acceptable.

Ms MacTiernan: Yes, but in what way?

Mr KIERATH: It was the style, rather than the issues relating to the political levy; where the individual gets to have the say. We wanted the situation where individuals could remain members of a union, but where they could also retain their right to say that they did not want any of their money to go to a political party. We believe that is right. I said earlier that there is also the right for them to make political donations and not be forced to donate politically to a party not of their choosing; in some cases, to a party they would not want to support under any circumstances.

Nothing in this provision stops a union from donating to a political party if it has the approval of the members for the allocation of money other than subscriptions. It prevents the situation where a group of people make a united donation from the union's subscription funds without allowing individual members to say that they do not want their subscriptions used in that way. If any industrial organisation, whether it be a union or employer organisation, wants the privileges of the exclusive monopoly before the Industrial Relations Commission, it must allow its membership the choice of whether their subscriptions are donated to a political party.

Let us assume that what the member for Peel is saying is correct and people do want to donate to a political party. If the union leadership recommends that the union donate $50 to the Australian Labor Party and the membership agrees, nothing stops that happening. However, under the guise of the membership subscriptions, the union cannot then channel the money to a political party. Nothing in this legislation limits the leadership's choice. However, it does provide that it cannot use union membership subscriptions to make donations to political parties; it needs to be an additional donation over and above that.

Where this involves a registered industrial organisation, which is an industrial component and not a political component, it is inappropriate to use the privileges of that component to transfer funds to the political component. The union leadership is worried that, when members are given a choice, some will say that they want to be a member of the union and are prepared to pay subscriptions but that they do not want to donate to a political party. It is a fundamental human right not to be forced to donate to a political party.

Mr Marlborough: When it suits you in relation to human rights you can support it, but when it does not and the High Court of Australia says that what you are doing you is illegal, you do not want to support it.

Mr KIERATH: That is not true. The member for Peel is saying that he does not believe he can convince the membership of the organisation with which he is associated to donate money to a political party. He cannot use the Industrial Relations Act to force people to pay fees that are then channelled into the political component.

Ms MacTIERNAN: I am concerned that the Minister does not understand how the current legislation operates. Members of the Opposition do not believe that the current provisions are right, but let us be very clear about what they provide; that is, a union cannot use any portion of its subscriptions for a political donation unless it has the express approval of its members. Each and every member must make a nomination before their subscription can be donated to a political party. That being the case, why then do we need to go to this new level, which provides that union funds per se cannot be used? The Minister is saying that the union can operate as a postbox and, separately from any funds it might have that can be described as union funds, the leadership can announce that it is setting up a campaign fund to which members can donate independently and that those funds will be used for political expenditure. However, the leadership can no longer use any union funds, firstly, to criticise the Government, secondly, to oppose any political party or, thirdly, to make any political donations. If this is a question of individual choice, will the Minister explain why this legislation as it stands, which requires the union to get specific authorisation from each member as to whether their moneys can be used, is not adequate?

The DEPUTY CHAIRMAN: The member for Peel.

Ms MacTiernan: Will the Minister explain this? We are trying to proceed on some sort of orderly basis.

The DEPUTY CHAIRMAN: Perhaps the member might take her own advice. She resumed her seat and I gave the call to the member for Peel.

Mr MARLBOROUGH: I will pursue the same question and, in doing so, I will point out what this Minister said in his earlier answer. Firstly, let us not forget that this Parliament has been recalled because the Government has the numbers in the upper House only until 22 May. Already we have seen the bastardisation of the Westminster system by this Minister and this Government. Secondly, in setting out to bastardise the political process, the Minister has told the Committee that this document, which he put together and delivered to members on both sides of the House last week and which outlines word for word the second stage of his industrial legislation that he brought before the Parliament in 1995-96, has been introduced because he did not like the outcome he had achieved. Although he brought this to the Parliament and had it passed in the Legislative Assembly and the Legislative Council, the reason he wants to change it is that that process gave him an outcome he did not like. When I asked him what that process involved, he answered that it involved negotiations. I then asked which parties were involved and he said that I knew what parties he meant. Of course I know. He told the Parliament last year that this process should involve a tripartite discussion; he wanted to get the employers and the unions on side. We gather from that that it involved the Chamber of Commerce and Industry of Western Australia and its representatives and it might well have involved members of the trade union movement. He said two minutes ago that this legislation was a result of negotiations.

Today he is telling the Committee that he bastardised the process of politics last year and that he lied to the people of Western Australia because, even though he had entered into negotiations with the CCI and the trade union movement, at the end of the day he ended up with a document that he - the hit man in this Parliament - was not happy with. Those negotiations did not give him everything he wanted. What he really wants and sets out to achieve by changing one word is to broaden the net so much that it will include a union pamphlet that does not necessarily have anything to do with the calling of an election. His legislation provides that -

> A reference in this Part to political expenditure is a reference to expenditure incurred for or in connection with directly promoting or opposing a political party or the election of a candidate or candidates in a parliamentary election.

In other words, he covers the whole political spectrum: Any run-up to a campaign; any involvement in a campaign or after a campaign; any attack on the Government's role in not paying proper wages to Western Australian workers and reducing their annual leave entitlements; any other attack on the removal of other entitlements; or any attack that members on this side might like to launch. This Government will not allow the trade union movement to attack it in its traditional manner.

The Government knows that the money trail to the union movement is via the quarterly membership fees - just as the money trail into a public business is via the purchase of shares. The Minister has drafted legislation that puts a six-foot fence around that money; it cannot be used for anything other than paying wages and financing matters going to the Industrial Relations Commission.

The Government says, "We will corral that. We will then say to the union movement, 'The only money you will be able to use for any sort of politics is if you go cap in hand to each member of the union and specifically ask the member for a specific donation for political purposes.'" He has choked off the main artery. That is what he set out to do and what this Bill did not allow him to do in 1995 in negotiations with the Chamber of Commerce and Industry and the trade union movement. The Minister thinks that by bastardising the Westminster process he will get away with it. I can assure the Minister that he will not.

[Interruption from the Gallery.]

The DEPUTY CHAIRMAN (Mr Osborne): Ladies and gentlemen in the Public Gallery, many of you may be aware of the gist of what I am about to say; nonetheless, I will repeat it. You are of course welcome to come to the gallery of the Parliament of Western Australia; however, you are not permitted to participate in or interfere with the proceedings of the Parliament. The principle that stands behind this proscription is that all members of Parliament must be able to represent the interests of their constituents without fear of interference. If you continue to interfere with the proceedings of this Chamber, I will give a series of warnings and then I will be forced to order that the gallery be cleared.

Mr KIERATH: Before I ran out of time, I was trying to get an answer for the member for South Perth. If the member for Armadale had been cooperative and allowed somebody else to get up and say something, I would have gone on to answer that question and others.

Mr Marlborough: You would not at all. You were glued to your seat.

The DEPUTY CHAIRMAN: Order! Member for Peel.

Mr Marlborough interjected.

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

[Interruption from the Gallery.]

Mr KIERATH: With regard to the provision about the words to be removed, if the member looks at page 237 of the blue Bill, he will see those words have been taken out in the first part and paragraph 2 has been inserted. That is basically to cover the field of resources, whether it be money directly to a candidate or other resources; in other words, the ways of getting round the provisions. It then reinserts this provision by pointing out that they are some but not exclusive examples. There may be some that have not been seen. Obviously a court would interpret that in line with the wording in here and the provisions. Our advice was that ordinarily if one were to scoop the pool, as it were, and leave it at that, one would have the widest possible options. The field is narrowed down by nominating some examples and saying that they are prime examples. There may be others, but it reduces the number of options by putting those in. There would have been a much wider coverage had I left those examples out. We wanted to indicate to anybody sitting in judgment that that was our primary aim. Those are the main areas upon which we will expect the reader to focus his attention. It is also to ensure that if some creative people find a way of getting round the provisions, they will not be able to do it via a loophole. That explanation has been given to me for the way in which it has been drafted. Reinserting those examples makes the provision narrower.

The member for Belmont raised issues relating to the teachers' union, which said to vote for a party which had certain policies. My advice is that it would not be covered by this provision. It would be able to do all the things to which the member referred. The union could say that the party has policies which it supports and that people should support the party. The union can run questionnaires and recommend that people vote according to those. What it cannot do, as members will see if they look through the major provisions of the Bill, is make payments to a party or candidate, pay expenses directly or directly incurred by a political party, so the party does not run up advertising expenses and send the bill to the organisation to pay.

Mr Ripper interjected.

Mr KIERATH: The member should let me finish because I have a bit to do and I have a limited memory. The Bill goes on to refer to making a payment to a person on the understanding that person will directly or indirectly apply the whole or part of the payment in a way mentioned in paragraph (a) and so on. It is referring to major resources and major payments and the way people might try to get around the provisions.

The member for Armadale asked why the provisions were not good enough. The difference between this and the last legislation is that the first time round basically a union could decide to do something and as long its rules contained the right of an individual to say no, it was okay. We are saying that in this case the unions must ask individuals if they want to make payment.

Dr TURNBULL : Is the extent to which the Minister is trying to limit the expenditure by the union or the registered industrial body applied solely to the five items in the clause? Does it include opposing the policy of the organisation for which the union's members work through pamphlets or criticism of something that the Government is doing, if the Government happens to be the employer, such as was the case with the teachers' strike? In the current dispute with Western Power the union is criticising the way in which Western Power has not adhered to an employment bargaining agreement. I understand that none of those things fall within the Minister's definition here. I would like that to be absolutely clear.

Mr KIERATH: If my memory serves me well, I believe virtually all of the examples the member has mentioned are not covered in here. Nothing would prevent them.

Mr Carpenter: They could issue pamphlets in favour of particular candidates -

Several members interjected.

The DEPUTY CHAIRMAN: Order! Members on my left.

Mr KIERATH: I presume the member has read the provisions.

Mr Carpenter: Yes, I have them before me.

Mr KIERATH: They refer to examples of political expenditure. For example, if the member for Willagee were to issue a pamphlet and wanted a union to pick up the bill, that would be caught by this provision. However, in the case

of a union saying that it wanted its members to vote to support a party that had particular policies, that is a point of view. I am advised is not included.
Mr Marlborough: What?

Mr KIERATH: N-o-t! The issue raised by the member for Collie would not, in my view and on the advice I have been given, be covered by this provision.

Ms MacTIERNAN: During the last election, a number of unions ran campaigns that said, "Put the Liberals last". Those campaigns did not involve donations to any political party. Those campaigns were so successful that they led to the Government's losing control of the upper House for the first time in 100 years. Such a campaign would be caught clearly by the definition of "political expenditure" in proposed section 14(2), which states "any expenditure incurred for or in connection with directly promoting or opposing a political party". However, the "Put the Liberals last" campaign was not included in the examples that the Minister set out in proposed subsection (3). Given that we are talking about real life political campaigns that might damage the Government, will unions now be prohibited from using their funds to run such campaigns?

Mr PENDAL: Mr Deputy Chairman (Mr Osborne), it seems to me that we can discuss the content of clause 15, because that is what everyone has been doing, even though we are on clause 14. If that is the case and if you are being liberal, Mr Deputy Chairman, may I make two comments?

The DEPUTY CHAIRMAN (Mr Osborne): Order! Strictly speaking, the answer must be no.

Mr PENDAL: So far, everyone has been talking about political donations, which are dealt with in clause 15. However, I will accept your guidance, Mr Deputy Chairman.

I asked the Minister why we were legislating in such an imprecise way at page 238 of the blue Bill by reinserting the same provisions but not making them exhaustive. That is a big change. Every Labor member and every government member should support the amendment that I intend to move. The Minister's explanation was that it is all right for us to have that small preamble that "some examples of political expenditure are" and the courts will sort it out. I do not have as much faith in the courts as has the Minister.

Mr Marlborough: The High Court sorted it out.

Mr PENDAL: If the High Court did sort it out, we have no reason to put it in such imprecise terms. I move -

> Page 26, line 1 -
>
> > To delete the words "some examples of" and the word "are" and insert in the place of "are" the word "is".

That would then read "Political expenditure is", and paragraphs (a) to (e) would reflect the provisions of the current Act. We should not do anything that would give the courts undue latitude in interpretation. The member for Peel said that this matter has already been dealt with by the High Court. I do not know whether it has; I accept his word for it. We should not write into a Statute anything that would invite a court of law to say that we have not done our job; and that is what we would do if we left in these words. It is like an essay, where we do not leave in things that might signal a false intent. If other examples of what constitutes political expenditure exist, we should specify what they are. My amendment will ensure that the provisions of the current Act remain as they are, and it will limit the capacity of a court to read into the legislation anything other than what the Parliament has intended.

Mr MARLBOROUGH: It is unfortunate that we on this side oppose the amendment moved by the member for South Perth, for two very good reasons. In the short time that this debate has been under way, we have learnt that it does not matter what the Minister for Labour Relations says; he is unbelievable. The Minister has told this House that this legislation was the result of negotiations in 1995-96 with the key parties involved in industrial relations - the Chamber of Commerce and Industry of Western Australia and the trade union movement. However, certain parts of the document that resulted from that process did not meet his requirements - not that they were not appropriate or that they were not brought about by negotiation - and he is now seeking to withdraw them.

The Chamber of Commerce and Industry must be thinking: Why did we involve ourselves in 1995 in negotiation with the Minister and the trade union movement and agree to this proposal? The Minister argued during those negotiations that we were watering down the proposals and, in the end, as is the case in all negotiations, we had to compromise. This proposal might be a compromise, but it was reached through that tripartite process. The Minister is now saying, "Having gone through that process and having agreed at that time to the outcome, I do not want to use the Parliament to overthrow that outcome. I do not want to go back to the trade union movement or the Chamber of Commerce and Industry. I am the Minister and I will overthrow it because it does not suit my view of how Western Australian workers should be treated."

The second and most important issue is the 1994 High Court decision in Australian Capital Television Pty Ltd v The Commonwealth. We were in government at the time, and we took the Commonwealth Government to the High Court with regard to our decision to try to stop the use of electronic advertising for campaign purposes. That majority decision of the High Court made it quite clear that built into the Australian Constitution is the right of free speech and the right to follow that free speech in whatever way one wishes in a democracy. The High Court has determined that the proposal in new section (14)(2) is illegal. The Minister does not want to take any notice of that High Court decision, yet when it suits him to trumpet the rights of individuals, he takes that on board. I will deal with this decision in more detail, although not for the Minister's edification, because he is like a block of concrete; hopefully, he will end up at the bottom of the pier. These are not my words. These are the words of the High Court. The decision states, under the heading, "The indivisibility of freedom of communication in relation to public affairs and political discussion" -

> The concept of freedom to communicate with respect to public affairs and political discussion does not lend itself to subdivision.

The Minister cannot hive off the rights of the trade union movement and the Western Australian workers as he wants to. To continue -

> Public affairs and political discussion are indivisible and cannot be subdivided into compartments that correspond with, or relate to, the various tiers of government in Australia.

I do not know what clearer statement the High Court can make about the rights contained in the Australian Constitution. There are enough lawyers on the government side of the House to know that any challenge by the trade union movement, or any other body, against this legislation based on that High Court decision will be successful. The Minister knows that too, but it does not worry him that taxpayers' dollars will be wasted in a court action that will see this legislation destroyed in its present format.

Mr KIERATH: What an incredible outburst from the member for Peel. He quoted decisions of the High Court on the freedom of speech provisions in the Australian Constitution, and was silent about forcing members of an industrial organisation to donate to a political party against their will. It is my understanding that this provision will not be caught by that High Court decision. A person can still donate through his or her union to a political party of their choice; however, they must agree to pay additional money and not use subscriptions to an industrial organisation that is registered by the Industrial Relations Commission for that purpose. It does not prevent anybody from making a political donation.

Ms MacTiernan: That was already in the Minister's legislation.

Mr KIERATH: I listened to the member for Armadale carefully. I will contrast the views of members opposite with the amendment proposed by the member for South Perth. He has not tried to gut the provisions of this clause, but to make a constructive suggestion. Ordinarily, I would have sought legal advice before accepting an amendment; however, I am prepared to accept it and obtain legal advice before it reaches the other place to ensure it does not have unintended consequences. The primary aim of this clause is to prevent people from finding sneaky or secretive ways of making donations to political parties that are against the spirit and the intent of the Bill. When this matter was debated in the 1996 Bill no-one came up with an alternative proposal; however, the experience is that people have found loopholes. On behalf of the Government I accept the spirit of the amendment moved by the member for South Perth.

Dr TURNBULL: The member for Peel is correct in quoting the High Court decision that no person in our society can be blocked from holding an opinion on a political issue. We should not stop debate on any issue within our society. Although it hurts me something shocking to agree with the member for Peel, it is a fundamental right and the High Court has agreed to it. As the Minister has already said on a number of occasions today, we are not debating the right to political debate; this debate is limited to donations by individuals to a political party. I intend to second the amendment moved by the member for South Perth, because it is a constructive amendment to show how the issue is limited to the items listed. This clause is not about a political debate. It is not about a union such as the teachers' union wanting to raise an issue about the way in which the teachers' employer, the Government, has been administering the education system in Western Australia. I am pleased that the Minister has agreed to accept this amendment. It is a constructive change that will help to assure all those unionists to whom I have been talking within my electorate that these provisions are limited and refer only to donations to a political party or political candidates.

Mr KIERATH: The member for Collie has hit the nail on the head. She has presented a clear explanation of what has occurred today. Nothing in this clause stops any individual having an opinion, expressing that opinion, voting for a party or making donations. The ALP is prepared to put restrictions on political donations in other areas. It is happy to legislate on that basis. This clause restricts registered industrial organisations from directing their resources,

money and facilities to political parties or candidates. It does not stop the individual, and in many ways, the organisation, from expressing their views; it is designed to stop the transfer of the resources of industrial organisations for the use of a political organisation. The key is that political donations are allowed if individual members are prepared to agree to that. The clause also provides for individual members who are not prepared to agree to that. The Government says that if individuals are not prepared to agree to a donation, their opinion should prevail on their money. People should not be forced into making a political donation that they do not want to make. The Opposition wants unions to be able to tell members they will make a political donation, even when they do not want to. The Government enshrines that decision in the hands of the individual, who can say, "You will not make a donation on my behalf unless I agree not only on how much money I will pay, but to whom it will be paid. I do not trust you to make a decision on my behalf."

The member for Collie pointed out that nothing in this clause stops the individual or the organisation from having an opinion or promoting that publicly. However, it is true that restrictions are imposed on the transfer of industrial resources to political organisations.

Mr KOBELKE : A number of issues have been raised about individual rights. The Minister says that the people should be able to state their individual viewpoint as long as they do not do it effectively. Individuals can express their views on issues as long as they do not band together and do it effectively in an organisation like a union.

Dr Turnbull: The member for Nollamara is purposely distorting the issue. The Minister has already stated that a union can promote a particular position, issue, or policy if it is an organised body.

Mr KOBELKE: The Minister has misled the member and the Chamber. I cannot debate that point now. Proposed subsection (2) will prevent that being done. However, currently we are debating an amendment to proposed subsection (3).

I do not support the amendment because it improves in only a very minor way an horrendous aspect of the legislation. We heard the tragic story today of a very senior lady being knocked over and seriously injured because someone grabbed her handbag. Such events occur every week or two in my electorate; it is not uncommon. One could say that, in this case, an old lady is being bashed and left bleeding on the ground, and we should rearrange her handbag! This amendment amounts to that. It does not address the substance of the issue. This provision is an attack on the rights of ordinary men and women, and on the union movement. The minor modification sought by the member for South Perth does not address the fundamental issues. The member has the best of intentions, but I will point out some of the complexities that would arise were the amendment carried.

Clause 14 deals with political expenditure, which is defined as "the meaning given by subsection (2), some examples of which are mentioned in subsection (3)". If we amend proposed subsection (3), the definition of political expenditure will remain in proposed subsection (2).

Mr Pendal: On advice, I propose to seek leave to withdraw the amendment.

Mr KOBELKE: The Opposition cannot support the amendment being debated because it will make very minor changes to this draconian section of the Bill, and two different parts of the definition which do not fit together would remain.

Proposed subsection (2) is pervasive, but we will return to that later. It goes beyond what could be considered to be a reasonable limitation on unions or individuals being involved in political action. The member for Peel correctly stated that it is contrary to the Constitution and to federal legislation. It would not fit together as amended, and we would end up with the courts having to judge whether proposed subsection (2), which is very pervasive, would apply, or whether proposed subsection (3) would have precedence, with the five examples becoming the definition. The amendment is unacceptable.

Mr PENDAL: The member for Nollamara is correct. I understand that the Clerk is redrafting my amendment - ***

Point of Order

Mr KOBELKE : Has the amendment been formally withdrawn?

The DEPUTY CHAIRMAN (Mr Ainsworth): No. I expect the member for South Perth to do that before the end of his five minutes. That is up to the member for South Perth.

Committee Resumed

Mr PENDAL: I do not wish to withdraw my amendment at the moment, for various reasons. The Minister has indicated that he will accept my amendment, however, if it is accepted, we will have some difficulty with the last five lines on page 25 of the Bill. To make clear what I want to achieve, at page 26 of the Bill or at page 238 of the blue

Bill, we will still be moving down the path of the amendment before the Chair. At page 25 of the white Bill, the entire subclause and some words immediately before that will effectively be deleted. Therefore, when the Clerk returns I will seek leave to withdraw my amendment and move a subsequent amendment which will achieve both ends. I understand that the Minister and the member for Nollamara will agree to this subsequent amendment.

Mr BROWN : I have listened with interest to the Minister's comments this afternoon. Essentially he is talking about the removal of the registration of unions: When a body is registered as a union it is the same as a company being registered, because for all intents and purposes within the law it would be a single entity just like a single person. It is not possible to dissect a person's arm or leg or to poke out an eye or pull off an ear; the body is a legal entity. The Minister wants to pull apart that legal entity.

Mr Kierath: No I do not.

Mr BROWN: The Minister says that the legal entity, as a collective, cannot make collective decisions. It must return to its membership to seek a decision on these matters. The essence of this Bill is to take away the collective decision making processes and to place them with individuals.

Mr Kierath: The first part is right.

Mr BROWN: The Minister's view would have substance if he were putting before this place a similar piece of legislation on political propaganda on which the Government spends taxpayers' money; that is, if the Minister introduced a Bill which provided that each taxpayer in this State could place an embargo on taxes being used for political purposes, such as the Minister's propaganda about workplace agreements currently appearing on television. When I am watching an Australian Football League game on television, which I enjoy immensely on a Saturday afternoon, I object profusely when I see the Government's propaganda and lies for which I am paying as a taxpayer. I object absolutely when the Minister wastes taxpayers' money, but increases taxes and charges for pensioners and others who cannot afford it. The Minister wastes taxpayers' money on these sorts of advertisements.

I repeat: In a recent survey relating to the expenditure of the State Government, 95 per cent of the people who responded in my electorate opposed government expenditure on advertising political propaganda. Where are those people being taken care of in the Minister's Bill? The Minister does not give a cuss about that. He wants a separate rule for unions. The rule for the unions is to make it difficult for them to operate. He says that we will not have the same rule for associations or incorporations under the Associations Incorporation Act; we will not have the same rules for companies or for every other legal entity formed under WA law. We will not require any of them to return to their constituent members to ask for a decision on these matters. We will rest all of that in the hands of the directors and the board; we will vest all that authority in the hands of the management group, except for one group, and that is the union movement.

The reason for this being done has nothing to do with democracy. It is being done because we all know that members of unions have various political persuasions, in the same way that shareholders in companies have various political persuasions, and members of organisations registered under the Associations Incorporation Act have various political opinions. We know that happens, but the Government will say under this legislation we will make the unions simply exercise a financial capacity on behalf of members with the same political opinion, and other organisations would be free to make whatever decision they like.

This provision must be seen for what it is. It is a biased, anti-union, union bashing piece of legislation, formed primarily out of vindictiveness, because the Minister knows that in his attempts to deregulate the labour market and to reduce wages and conditions in this State, the only bulwark against him is the union movement. If the Minister can destroy the unions, he can destroy those conditions. That is at the heart of this legislation.

Ms MacTIERNAN: A minute ago the Minister referred to the notion of industrial, rather than political issues. Fundamental to the Minister's argument is that unions have a limited role and that is to deal with matters of an industrial rather than of a political nature. That distinction is complete nonsense.

Mr Kierath: I did not say that.

Ms MacTIERNAN: The Minister did say that; he said that he wanted the funds of the union movement to be directed towards industrial, not political, purposes. He is making a completely untenable distinction. In fact this whole debate shows that we cannot separate the industrial from the political. The industrial, as is the political, is all about the allocation of resources. It is all about who gets what, how resources are carved up and what rights individuals have. There is no distinction between the industrial and the political in this regard. Over the past four years this Minister has used the political process to destroy the industrial rights of working people.

It is therefore only appropriate that an industrial organisation should have an opportunity and the capacity to operate politically to fight those industrial changes. Indeed the union movement's power, influence and resources to wage

a political campaign to achieve industrial ends has created the Minister's opposition to the union movement. That is how it must be. There can be no separation between the industrial and the political. To say that unions can have subscriptions and make decisions about industrial matters but not about political matters without seeking authorisation for that expenditure from every individual is complete nonsense.

There is no separation between the industrial and the political; they are effectively one. The policies the Minister is putting in place with this legislation and the legislation he introduced four years ago have fundamentally affected the industrial rights of the people in this State. It is no wonder that the union movement wants to campaign against the Government.

I again ask the Minister a question I asked earlier which so far he has avoided answering. It goes to the issue with which the member for South Perth is dealing. The Minister refers to proposed subsection (3) where he set out the examples of mischief he is trying to avoid; that is, unions giving money to political parties directly or indirectly. However, proposed subsection (2) provides that opposing political parties will also be prescribed. Given the reality of the last election and that some of the most powerful union campaigns were directed not in favour of a particular political party, but towards opposing the Government, will this legislation prevent a union from opposing a political party?

Let *Hansard* record that the Minister looks blank and is scratching himself.

Mr PENDAL: I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr PENDAL: I move -

Page 25, lines 13 and 14 - To delete the words ", some examples of which are mentioned in subsection (3)".

Amendment put and passed.

Mr PENDAL: I move -

Page 25, line 20 to page 26 line 1 - To delete all words and substitute "(2) Political expenditure is -".

This amendment does not significantly alter what is in the legislation. However, it removes the uncertainty - some would say the ambiguity - of what could be read into the words that we will delete, "Some examples of political expenditure are". It then limits not just trade unions, but an individual, a court or anyone who reads the plain meaning of the legislation to see a political expenditure has been those things set out in paragraphs (a) to (e) on page 26 of the Bill. It is incumbent on the Committee to be as precise as it can, rather than to be obscure, which would be the case were it to leave the impression that there are many examples of political expenditure, only five of which are mentioned in the Bill.

Mr KOBELKE: The amendment proposed by the member for South Perth removes some of the more extreme elements of this provision, but it still places a great burden on unions and people who wish to be represented by unions. The Minister has no intention of placing those burdens on organisations that support his side of politics or are involved in the political arena in other ways. It is a biased approach which is not reduced by the amendment, although the amendment removes some of the more outlandish possibilities flowing from the legislation. That left open the possibility of not being able to oppose anything done by a political party. To that extent it is an improvement, but it is still improving something that is unacceptable to people on this side of the Chamber.

Amendment put and passed.

Mr MARLBOROUGH: As indicated by my colleague, clearly this amendment goes some way to removing some of the more obnoxious parts of the Bill. It seeks to bring a balance to what is by any definition obnoxious, and creates an escape route for the Minister because this part of the Bill, more than any other, comes into direct conflict with the High Court decision of Chief Justice Mason and others, to which I alluded earlier.

Dr Turnbull: You were not in the Chamber when I pointed out you were correct. You were talking about attitudes and the Mason High Court finding is related to that and to the ability of people to influence other people. You left the Chamber when we all agreed that the High Court is correct. That is why we accepted the amendments of the member for South Perth. I hope you will now desist from saying this is not effectively what the High Court wanted.

Mr MARLBOROUGH: I am overwhelmed by the support of the member for Collie. I am delighted to see she is awake and in touch with some parts of the legislation. Once again she has indicated I was correct, even in my absence. That should send a message not only to the Minister but also to her National Party colleagues on the backbench. If members opposite allow this legislation to stand the test of time through the upper House, they will

not be in government for long. If they want a formula for industrial disruption and political mayhem which will take this State back to the era of section 54B under Sir Charles Court, they will allow this Minister to continue on his merry way. Nobody should have to suffer that.

Proposed section 97N(3)(e) makes it clear that the Minister is intent on closing down the trade union movement and its ability to direct itself in a political manner. The paragraph gives as an example of political expenditure, making a payment to a person on the understanding that that person or another person will directly or indirectly apply the whole or a part of the payment in a way mentioned in paragraphs (a) to (d). I will give the Minister the opportunity to explain his position on that paragraph. He clearly has some understanding of how the trade union movement works and he has received some advice from the faceless people who now run the industrial portfolio and this Government. Many of the state trade unions are part of a federal body. Under this legislation the Minister wants to prevent an attempt by a state union to give money to its federal organisation, which will determine that it may spend the money in Western Australia or in a broader political sense. I note that the member for Joondalup, who was a lawyer in this field, is nodding his head in approval. He knows the reason for including this provision. The Government wants to prevent any union outsmarting this Minister by paying 30¢ instead of 20¢ in the dollar to its federal counterpart, on the basis that the federal body may oppose certain legislation, albeit at a federal or state level. The Minister wants to cross judicial boundaries in the federal arena and use this legislation to capture unions that set out on such action. I once again point out that it is in opposition to the High Court decision and freedom of speech. I will have the opportunity of expanding that line as we proceed through the legislation.

Ms MacTIERNAN: Members on this side of the Chamber have supported the amendment, which certainly removes some of the absurdities in this provision; for example, it would provide protection for unions that want to oppose government policy and oppose a political party without necessarily endorsing any other party. It is a definite improvement, but the fundamental principle is still quite wrong. It makes an artificial distinction between political and industrial matters. The fundamental concept of this legislation is to undermine the capacity of the unions to deliver industrial improvements to their workers through political means. This legislation and this provision are even more iniquitous when one considers that already the Minister has written into the industrial relations legislation in this State a provision that permits any union member to opt out of making a political donation. There can be no argument in support of the legislation. Any argument the Minister may mount, no matter how phoney, on some notion of political freedom or the right to determine where the money is spent in relation to political donations, is already covered by the legislation passed in 1995.

This provision seeks to go one step further and, quite improperly, to prevent unions from using any sort of political muscle to affect their industrial conditions. At the end of the day it is an attempt by the Minister to undermine his political opponents. The Minister thinks it is a smart move, and it is certainly quite possible in the short term that it will advantage the coalition. However, it will not enhance one iota the quality of democracy in this State because it relies on there being some balance between the different interests in society. On the one hand are the interests that support the Minister, such as the Housing Industry Association which has poured millions of dollars into the Liberal Party, and Len Buckeridge who has the capacity and has poured millions of dollars into this Minister and the party in general. Unless there is a balance in society and the interests of those who are not capitalists and who do not have those sorts of resources to direct are able to be represented, we will see a diminution in the quality of democracy in this State - and the State will be the loser.

Today, short term political advantage for the Minister for Labour Relations is being put well ahead of the interests of the State as a whole. This is despicable legislation and I believe it will have extensive ramifications. I only hope the member for Peel is correct: I also have looked at the High Court decision on Australian Capital Television Pty Ltd v The Commonwealth, which is known as the political advertising case. It is arguable that this legislation will run counter to the implied freedoms of speech that were found to exist in the Australian Constitution. If the Minister reads that judgment closely, he will see that much focus is on political groups having the capacity to mount an argument. It is not simply a case for individuals because it is recognised that part of the political reality is that people must be able to combine and present an argument as part of a group.

Mr BROWN: The Opposition cannot support this clause, as amended, because it is antidemocratic and it seeks to remove the capacity of unions to protect their members, as other parts of this legislation do. It is being done deliberately because the Minister and the Government are intent on removing the protection unions can provide their members. One of the protections they can provide is the ability to campaign politically. Let us consider what new section 97N seeks to do. New subsection (3) states that a union is barred from paying expenses directly or indirectly incurred in connection with a parliamentary election by an election candidate or group of election candidates. That is, unless the union obtains authorisation from each member, it is unable to contribute to a political candidate. What does that mean?

A union could have tried for 20 years to achieve an objective and could have been supported by members at general meetings and conferences of the union for those years. The union finally sees an opportunity to mount its own political candidate - not a candidate of the Labor Party, Liberal Party, National Party or happy birthday party, but a person standing as the union candidate for an election. Under this legislation the union cannot support that candidate, but must ask each of its members to sign an authority to support. That means the organisation being recognised as a collective is not recognised, because any individual can make a contribution to a political party or candidate of his or her choice - and until this Bill, so could organisations, businesses, unions, associations registered under the Associations Incorporation Act, and all groups that were recognised as independent legal entities.

As far as I am aware, this is the first time in Australia legislation will require an individual legal entity to go to its members for this form of authority. In the past, decisions of this nature could be made by a general meeting of members. However, this legislation will not allow for what is allowed in other organisations. In other organisations if the leadership puts up recommendations that are accepted by the majority of members, members who are dissatisfied with those decisions can resign and go somewhere else; or, if they disagree with officials or officers of an organisation, they can oppose them in the next election and seek to replace them. That is representative democracy. If people do not like what elected representatives of a group are doing, they can oppose them at the next election. If people are elected to the management committee of a union for three or four years and they do not discharge their functions correctly, members can oppose them at the next election and see whether they have correctly interpreted the mandate of the union and used the union's resources wisely. That will no longer be the case under this legislation. This Bill will take away all forms of discretion of an organisation.

Let us say that tomorrow an organisation is confronted with a new challenge and that it does not have authority to spend political funds on that challenge. Its officials and officers must get each of its, say, 10 000 members to agree on an authority before it can spend money.

This is a stridently anti-union provision. It is designed to destroy the effectiveness of unions. It is a provision to enhance further the agenda of the Minister and the Government to deregulate the labour market so that wages and conditions in this State continue to fall for the most vulnerable. I oppose it for those reasons.

Mr MARLBOROUGH: I am concerned about new section 97N(3)(e) because it attempts to draw into a legal process in Western Australia members of a federal union when state unions give their money to a federal body. If the Minister is allowed to have this legislation put through Parliament and is allowed to pursue the types of charges that could arise from this legislation, it will affect not only democracy, but the running of government in this State and country. A report on election funding and financial disclosure for all political parties in the 1993 election campaign indicates that in that year the Australian Council of Trade Unions made a political donation of $10 000. It may surprise many people that that donation was not made to the Australian Labor Party, but to the Australian Democrats.

I paint the following picture: This Government is elected to office and relies on the vote of a Democrat to run government. Some months after being elected an individual in the trade union movement determines that the union donations given to that political party were not lawful. Under clauses 15 to 17 of this legislation not only will the union and the union official be pulled before the Magistrate's Court, but so will the political party - and the Government will be sitting on a knife edge. Are government backbenchers telling tell me that they will allow the Minister for Labour Relations to put in place a provision on political expenditure that could see the downfall of a future Government? That is what it will do. The ACTU's donation of $10 000 to the Democrats could result in an individual union member complaining that he was part of an affiliated union and that union did not seek permission to give money to an organisation under subclause (3)(e) of the legislation. Both parties could be prosecuted.

In considering political donations let us consider what happens if a body is considered not to be a union under this legislation. In 1993 an organisation called the GST Planning and Coordination Office made a political donation. Does the Minister know which companies were part of that organisation? Does he know whether any Western Australian companies were involved in that organisation? Did he give any money to it?

Mr Kierath: Not that I am aware of.

Mr MARLBOROUGH: This is how honest this bloke is! I asked a simple question and he replied, "Not that I am aware of." That organisation gave $1 613 570 to the Liberal Party of Australia. Is this Minister saying he would like to pursue this legislation to the degree that an individual company, or member of an individual company, who donated to that organisation, but had no input into its decision, should be able to charge that organisation? I suggest he would not. If it was a trade union, he would.

[The member's time expired.]

Clause, as amended, put and a division taken with the following result -

Ayes (28)

Mr Baker	Mr MacLean	Mr Prince
Mr Barnett	Mr Marshall	Mr Shave
Mr Board	Mr Masters	Mr Sullivan
Mr Bradshaw	Mr Minson	Mr Sweetman
Dr Constable	Mr Nicholls	Mr Trenorden
Mr Day	Mr Omodei	Dr Turnbull
Mrs Edwardes	Mr Osborne	Mrs van de Klashorst
Dr Hames	Mrs Parker	Mr Wiese
Mrs Hodson-Thomas	Mr Pendal	Mr Bloffwitch *(Teller)*
Mr Kierath		

Noes (19)

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

Clause, as amended, thus passed.

Clause 15: Section 97P amended -

Mr MARLBOROUGH: Again I refer to the Minister's approach to this legislation. He continues to single out that section of the Western Australian work force which is represented by the trade union movement. Let us draw a comparison between this Minister's approach to the responsibilities of the trade union movement and its ability to participate in democracy in Australia and the organisations which support the Liberal Party. Let us see whether he would apply the same rules to them. Clause 15(4) states -

> An organization shall not credit any moneys to a political fund other than moneys referred to in subsection (2) or (3) and, in particular, shall not credit any moneys from a member's subscriptions to a political fund.

The Opposition has already indicated that there is no apparent reason that subscriptions of members should not be able to be used by a decision of that membership. The decision by that membership is normally made through a state administration or management committee of the union. The Minister wants the individual to make that decision. I said earlier that he wants those individuals to be able to trigger a process of bringing the unions before an industrial tribunal.

I said earlier that in 1993 the ACTU made a political donation of $10 000 to the Australian Democrats. I tried to outline the circumstances surrounding that process if this Minister took action against either that union body or that political party if the Government was relying on the support of the Democrats to control the Treasury benches. I gave another example which clearly demonstrates how unions and their members are being singled out in a way that no other Australian expects to be treated and how companies and their organisations are treated differently by this Government. In 1993 an organisation known as GST Planning and Coordination Office made a $1.613m donation to the Liberal Party and the National Party at a federal election. That organisation was made up of literally hundreds and thousands of companies and business people who wanted another form of taxation imposed on the Australian public. It had a vested interest in driving a political agenda. Neither this Minister nor any other Minister of the Government has suggested that legislation be enacted to stop such a peak body, either prior to or in the atmosphere of an election, making such a donation without seeking approval from the individual members of that body. Is the Minister suggesting that he would support such legislation? Would the Minister support legislation coming into this place which would stop this peak industry body donating to his political party on the basis that it had not received the individual agreement of all its financial affiliates?

Mr Kierath: I have said two things: If unions were prepared to give up the exclusive respondency to awards and allow people the choice, we would not have these provisions -

Mr MARLBOROUGH: This is the blackmail line! The Minister indicates by his answer that he is so convinced that this part of the legislation is needed that he will withdraw it in a flash if the trade unions give up the sole right to represent workers.

Mr Kierath: No, I did not.

Mr MARLBOROUGH: The Minister said he would do that if they give up the sole right to represent workers in the industrial arena.

Mr Kierath: I referred to an exclusive respondency to awards.

Mr MARLBOROUGH: Exclusive. We know that the provision is simply there to blackmail the unions.

Mr Kierath: It is not.

Mr MARLBOROUGH: It is. The Minister has no intention of applying the same rules to industry and his supporters.

Mr BROWN: Clause 15 deals with prescribing moneys which can be paid into a political fund as defined in existing legislation and money which can be paid from that political fund to a political party, candidates or whatever. It is interesting that the point I was making on the previous clause is emphasised in this provision; that is, that under the Minister's legislation a union member can agree to have moneys paid into a political fund, but the amount which is received is subject to the direction of the member.

An organisation of 10 000 employees will be required to keep not only a financial register of the moneys paid into the political fund, but also a record how each member wants the funds expended. In the event that that organisation wishes to make a contribution, it must go back to not only the amount in the political fund, but also to check by some system or other what amount of funds could be used for a particular purpose depending on the authority which is registered. That is a very complex bookkeeping requirement for any organisation. It must determine not simply whether members have paid a contribution, but also how that contribution is to be used.

Secondly, this legislation will preclude an organisation from dealing with challenges that arise. An organisation may face a challenge not met for some time, yet the organisation cannot use its funds to deal with that matter. I put it to the Minister so he can place his comments on the record that, as I understand it, an organisation will not be able to put out a newsletter to its members which costs money and promotes a political party unless those funds come from a political fund.

Mr Kierath: If it is promoting a political party, as distinct from promoting a point of view and going onto the political party?

Mr BROWN: No. Union A may say it has examined the various policies of the parties and recommends that members support a political party and candidates B, C and D in certain seats because these candidates have given unions an undertaking to support changes to, or the introduction of, legislation. Can the union send that newsletter by Australia Post to the homes of all members of the union personally if it will cost the trade union $30 000 to do so?

Mr Kierath: I don't believe that this provision will catch that situation.

Mr BROWN: So, for example, a union may support me as an individual and write to its members on its letterhead expressing support for the member for Bassendean for certain reasons, and it may spend $25 000 of its money doing so?

Mr Kierath: I believe so. A difficulty would arise only if it tried to put out a pamphlet for you, or one of your political pamphlets, as it would need approval to do so. As I said before, a union can indicate a point of view or recommendation.

[Interruption from the Gallery.]

The DEPUTY CHAIRMAN: Order!

Mr BROWN: For all intents and purposes, if the union letterhead is on the pamphlet, and the union says do X, Y and Z, rather than me saying it, and it promotes me and my re-election, the funds need not come out of the political fund?

Mr Kierath: If it is on the proviso you said formerly, yes.

Ms MacTIERNAN: I am concerned about the retrospective nature of this provision. Members will note that it was suggested that the political funds to be established will cover not only subscriptions from this point on, but also other sources of a union's income. Over the years a number of unions have accumulated property in recognition of the fact that the only way to properly protect the industrial interests of their members is to have a well-resourced union which can participate in the political process. Those unions have assets and income derived from those assets.

Mr Shave: Do you support no ticket, no start?

Ms MacTIERNAN: That is irrelevant, even for the Minister for Lands. The issue here, and perhaps the Minister will be interested to hear this -

Mr Shave: Why do you not answer the question?

Ms MacTIERNAN: Because it has absolutely nothing to do with the debate.

Mr Shave: So you support forced membership.

The DEPUTY CHAIRMAN (Mr Ainsworth): The Minister for Lands will come to order.

Ms MacTIERNAN: It is really a very silly comment. I am not scared of you, Dougie, so do not get any ideas about that.

The DEPUTY CHAIRMAN: Order! It will assist progress if the member addresses her remarks through the Chair.

Ms MacTIERNAN: I raise the quite large aspect of retrospectivity in this clause because it is not confined to future subscription; it will cut a union off from the use of funds which it may have accumulated. Many unions have acquired substantial assets in order to enable them to be equipped to fight their members' industrial issues in a political way. The will have invested in property which returns income. These assets were accumulated in a time when it was legal and proper to do so. Conservatives of some 90 years ago recognised that it was proper for unions to operate in the political arena, and stated that the distinction between the two was artificial. Given the legislative framework under which unions have invested in property, will the Minister clarify whether the provision will apply simply to subscriptions gathered from the date on which this Bill becomes law, or will the prohibition on the use of political funds apply to other assets of a union accumulated over time? This is income which has been accumulated over the years and put aside and not separated out for those purposes.

If that is the Minister's intent, it is clear that this legislation is retrospective. Those moneys were gathered at a time when the union membership understood the rules to be different from those which the Minister proposes. If the Minister is concerned to protect the interests of existing members, and to ensure that they are not railroaded, as he likes to see it, into supporting his political opponents, this provision should be confined to subscriptions. It should not apply to income on assets that have been already acquired.

Mr PENDAL: This is the only other clause on which I want to make some remarks. It seems to be one where we should be saying that what is good for the goose is good for the gander. I have absolutely no problem with the principle that has been talked about in this clause, the previous clause and the second reading speech; that is, the right of a member to control where his or her money goes. Broadly, we are seeking to prevent the abuse of a person's funds by an organisation; in this case, the union movement. I have no difficulty with that as a principle. However, it is wrong to impose that sort of scrutiny and regulation over the way in which unions may, or may not, use their members' funds vis-a-vis the way in which public companies can abuse the shareholders' funds by, for example, deciding to make a donation to a political campaign, and in all probability in that case a Liberal Party or National Party campaign.

It is inappropriate that we are dealing with this issue in this industrial relations Statute. Surely it would be more appropriate for it to find its way into the Electoral Act, for example. In this place last year and the year before we spent considerable time debating the principle of political donations. They were dealt with under a variety of sections of the Electoral Act. If the Government wants to put this restriction - I think the Minister is right in doing it - two other things should be done: First, it should include the corporate sector, which would require companies to do the same as we will now require of unions; and, secondly, it should be taken out of an industrial relations Statute entirely and be placed within the confines of the Electoral Act. What we did with the Electoral Act last year was so broad we could drive a truck through it. I am not sure that in the end it will have one meaningful effect on the body politic in Western Australia. Given its broadness, people have already found its requirements are pretty modest anyway.

Insofar as people want to insist on the principle at stake - that is, if I contribute to a union, I must have the right to opt out - and if we are to seek to re-entrench the present provision in law, we should seek to do that across the board with corporate money, because that money is being distributed in no more or no less similar circumstances and with the same sense of trust that is involved with union subscriptions. Above all else we should not be doing it in this legislation. I am interested to know why we must pump up an industrial relations Statute with a whole host of provisions that have nothing do with industrial law and that may well be dealt with more appropriately under electoral Statutes.

Mr RIPPER: In this clause and related clauses the Minister is seeking to impose restrictions on trade unions which do not apply to any other political organisation which participates in the political process - for example, the National Farmers Federation, or the Chamber of Commerce and Industry of Western Australia, or the right to life organisations -

Mr Kierath: They do if they are registered as an industrial organisation.

Mr RIPPER: - or the Conservation Council of Western Australia or corporations. His argument is that it is all about democratic rights. Interestingly, we have had an examination of that and accountability in this State. It was conducted by the Commission on Government. In part 2 of its 1995 No 2 report at page 289 there is a discussion on whether there should be restrictions on who can make political donations. It rehearses some of the arguments put by the Minister this afternoon and also outlines the arguments that have been put from this side of the Chamber. The conclusion of the Commission on Government is very interesting. It states -

> There should be no restrictions placed on political donations from trade unions or corporations provided that the donations meet the requirements of disclosure contained in previous recommendations.

In other words, the Commission on Government is happy with the federal regime regarding the disclosure of political donations. This Parliament has put a very similar regime into state law. The commission did not believe there should be any further restrictions on trade unions or corporations. Interestingly, the commission was not the only body that had that belief. Earlier in the report, on page 308, there is a very interesting part of a submission from a most eminent person, the Deputy Premier, which states -

> Providing there are adequate provisions within companies and trade unions to enable shareholders or members to have the question of making political donations resolved internally, there should be no special constraints on companies or trade unions donating to political parties. They should simply be subject to the same requirements as anybody else.

Mr Carpenter: He is only the Deputy Premier.

Mr RIPPER: That is right and apparently he has been bound by a collective decision of coalition parties to support this legislation. I wonder whether he will be allowed to exercise his individual right to dissent from that collective political decision, whether he will be allowed to opt out of supporting this clause. If he sticks by the sentiments that he put forward in his submission to the Commission on Government, he will not believe democratic rights require the draconian restrictions on unions' participation in the political process that the Minister is a trying to perpetrate on this community.

The Commission on Government did not agree either. Given the Government's lamentable lack of enthusiasm for implementing the recommendations of the Commission on Government, and given that generally it has been criticised for being much less stringent in its approach to accountability, I want the Minister to explain why on this occasion when the Commission on Government has recommended no additional restrictions, he feels the need to be more hairy chested in support of allegedly democratic principles than does the Commission on Government. Did he take account of the recommendations of the Commission on Government before he decided to proceed with this legislation? With this legislation, the Minister is imposing special restrictions on trade unions that do not apply to other people. He has put an argument that it is all about members having some discretion over the use to which their money is put. What about the situation of corporations? It is not just shareholders who have no say when corporations made a donation, because a considerable amount of workers' money is tied up in corporations these days through superannuation funds. Corporations are donating the money held in workers' superannuation funds to political parties, such as the Liberal Party. Does the Minister think there should be a ballot of members of superannuation funds; should they be able to opt out when a corporation in which they have a shareholding decides a donation will be made to support his side of politics? I ask the Minister to explain why he is acting hypocritically in this matter.

Mr KIERATH: Given the comments, I presume that some members do not understand the system before us. If any organisation wants to be exempt from these provisions, it simply does not apply to be registered as an industrial organisation under the legislation.

Several members interjected.

Mr KIERATH: Let me explain.

Several members interjected.

Mr KIERATH: Do members want an answer? The point is that this applies to any employer or employee organisations that are registered under the state legislation. Any organisation that is registered -

Several members interjected.

Mr KIERATH: Because it will be covered by these provisions. They have special privileges. No-one forces anyone else to deal with a particular company; one can choose to buy shares or deal with a company. Under our labour relations legislation, only one organisation can be the respondent to an award. One cannot choose between

organisation A and organisation B - one that makes political donations and one that does not. Under our system, in general terms, the registered organisation has exclusive coverage. In that situation, the Government believes there should be some control. If we wanted to allow people to choose between organisations, we would say that these provisions are not necessary. While we maintain that monopoly, some controls are necessary. We are putting the power back into the hands of individuals to say whether they want to make political donations.

Several members interjected.

Mr KIERATH: It was the Australian Labor Party that gave up the corporations powers to the Commonwealth under the uniform legislation. I was violently opposed to that.

Several members interjected.

Mr KIERATH: I only wish we still had that control. Unfortunately, a Labor Government gave up those powers and now we have no control. Again, that indicates the stupidity of giving up state powers to the Commonwealth.

Sitting suspended from 6.02 to 7.30 pm

Ms MacTIERNAN: Before the suspension, we were discussing the lack of equity in these provisions in that they apply only to the union movement. We pointed out - there is no surprise in this - that by and large the Government is the beneficiary of donations from companies. In particular, the concern was raised that, where donations are from non-registered organisations and public companies, the members and shareholders are not given the same rights to exercise control that the Minister is supposedly seeking to give union members. Reference was made to some of the public companies that have been major donors to the Government and whose members and shareholders are not being provided protection. They include the Electrical Contractors Association, the Commonwealth Bank, which is a publicly listed company, and Heytesbury Holdings. The point was made by the member for Belmont that no protection is given to members of superannuation funds who have their funds compulsorily invested in these organisations - organisations over which they have no control. Yet, we do not find any attempt to afford workers who have shareholdings or superannuation funds in those companies the same sort of protection that the Minister claims he is trying to provide in respect of subscriptions to the union movement.

The Minister then made the most astounding claim - we will put him under pressure on this issue - that it was not his fault; he would have done this, but the Labor Government gave away to the Commonwealth the State's power to control corporations. Doing a Pontius Pilate, he would like to implement these controls, but he is prevented by the actions of the Labor Government.

The Minister has incorrectly characterised what happened. The corporations power has not been given to the Commonwealth; we have a cooperative scheme - a scheme determined by a group comprising all States and the Commonwealth. If the Minister is genuine about the concerns he raised, if he is genuinely concerned to ensure that there is real equity and that it is not only unions but also the supporters of his political party that are subject to these limitations, is he proposing to go, or has the Government or any member of the Government gone, to the ministerial council dealing with Corporations Law and put to it a proposal that we should have those same restrictions on corporations donating funds? Is the Minister genuine or were they crocodile tears? Is he really concerned, as he claimed he was, that corporations should do these things but it is all the Labor Government's fault because it gave the powers to the Commonwealth? On the other hand, is he prepared to acknowledge that the State still has a very active role in the administration of Corporations Law and it is well within the province -

Mr Kierath: States do not have an active role in changing Corporations Law.

Ms MacTIERNAN: They do; it is a cooperative scheme. The essence of such a scheme is that all parties have the right to raise issues and put them on the agenda of the ministerial council dealing with Corporations Law and to have those issues deliberated upon. If a good case can be made then, as a cooperative measure, the legislation is changed. The Minister knows that that is how it works.

Mr Kierath: If the Commonwealth does not agree, we cannot do anything.

Ms MacTIERNAN: We are not up to the point of the Commonwealth's not agreeing.

Mr MARLBOROUGH: It needs to be pointed out clearly to the Minister and his colleagues that the reason for our strong opposition to this clause is that it will lead inevitably to people being charged. This legislation provides that if unions do not meet the requirements of this clause, under existing section 97S - "Offences by organisations and officials relating to political expenditure" - union organisations and individuals, such as organisers will face the Magistrate's Court and, if guilty, will be convicted of an offence and be fined $5 000. If such a decision is handed down, many unions and union officials will not pay the fine and they will be gaoled or their union will be deregistered. It can certainly lead to the union official concerned being removed from office and replaced by order

of the Magistrate's Court. We will come back to the argument the Minister has been putting throughout this debate that this is about giving the right to run the organisation back to the individual members.

Of course, we know that is not the case. We know that giving the right back to the individual member is all about strangling the union's ability to operate democratically in a democracy. With clause 15 the Minister has started to put in the way the hurdles that will take that union and a union official to court. For example, he is so mischievous that he wants to dissect the rights of individuals, so that they could under this legislation continue to cause ongoing problems for a union and for the political process. Proposed subsection (6)(b) refers to money donated by individuals. For those uninitiated members on the back bench who have not bothered to look at this legislation, in its simplest form it means that I could be a member of a union, such as the Metal Workers Union, and I could determine that I wanted to make a political donation to the Labor Party. It may also mean that another member of the Metal Workers Union could decide that he or she wanted to make a political donation to the Liberal Party or the Democrats. Although the central rules of the Metal Workers Union, both federally and throughout the States, clearly indicate that it is affiliated to the Labor Party, under proposed subsection (6) the Minister sets out to put in place legislation which will continue to assist the ferment of aggression and disruption in the trade union movement. The union movement cannot set about its proper job of participating in the democratic process while it is fighting off the sorts of attack that are laid at its feet by this Minister. When we get beyond clause 15, we will see the sorts of penalties the Minister attaches to the legislation if unions and union officials do not follow these guidelines. It is a ludicrous scenario in which the central rules of the organisation are put aside. It is brought down to an individual level and has nothing to do with the rights of the individual but the destruction of their rights and those of the trade union movement.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mr Osborne): Members of the Public Gallery, I have had reason once before today to warn that you may not intervene in the processes of the Chamber. I do so again. This is the second warning. If it is necessary to give another warning, I will have to clear the gallery.

Dr TURNBULL: I will raise and emphasise some points following on from the comments of the member for Peel. The last time I commented on some remarks he made about a decision of the High Court on the rights of an individual, I agreed with him. However, this time I will not be agreeing with what he has just said. The member for Peel has been playing to the gallery of people here tonight who represent a central organisation, as he has just described. In my electorate a section of the Australian Metal Workers Union decided at the time of the election before last that it would not subscribe to the central body's demands. Despite the mutterings of the member for Peel, the central body's demands were that the section would make a donation to the Australian Labor Party to fight the election. The whole of the Collie Branch of the Metal Workers Union disagreed with the decision. I can assure members that it did not have a very nice reception from the central body. The remarks made just now by the member for Peel accentuate the fact that some unionists and branches of unions in Western Australia have an opinion which might be different from that of the member for Peel and the central body.

Mr BROWN: As I have said before, if the Government believed it was wrong for organisations to support political parties where constituent members of those organisations did not hold the same view as the organisation itself, it would bring forward legislation to cover all organisations and not just unions; in other words, it would ensure that the many thousands of unionists out there would have control over the decisions of their superannuation funds to invest in companies.

Mr Kierath: They can do it for all registered organisations before the Industrial Relations Commission.

Mr BROWN: However, they cannot not do it for all organisations incorporated under the Associations Incorporation Act, for companies or any other body that is registered as a legal entity. The Minister seeks to disaggregate. If he were honest in his approach, he would also be introducing in this Parliament citizens' initiated referenda and the opportunity for members of the public to sign petitions to stop the Government imposing certain taxes or spending money, such as that enormous amount spent on the workplace agreements advertising campaign. The Government would be introducing legislation to allow people to say, "Do not spend my taxes on that." The Minister does not believe in that principle; he believes in representative democracy and that an elected person should exercise the powers of the position. Even the Minister with 46 per cent of the vote in his electorate on a first-past-the-post basis - 41 per cent of the vote, if one takes into account all of the people who can vote in his electorate - believes he has a mandate. He does not believe in going back to the people of Riverton and saying to them, "This is what I propose. I will conduct a plebescite on it to ask all of you how you think. I will then introduce only half or quarter of a Bill or not spend a particular amount of money." If the Minister were to do that, it would be pretty ludicrous but there would be some honesty in the debate and the hypocrisy in the way the Minister nails the union movement would not be so sharp. The Minister wants to require the unions to keep very complex records. Under the provisions of the legislation the Minister requires the union to set up a separate fund into which all moneys are paid, and separately

to keep a record of how every member determines his or her contributions to that fund should be used. For example, if a union in the lead-up to an election decided to support an independent candidate who was not from any of the recognised political parties and the union had 10 000 members, two months before the election it would have to ask each of its 10 000 members if he or she would support that candidate. The union could then make a contribution to that candidate's campaign. This legislation is clearly designed to limit the union's capacity in legitimate, democratic decision making processes.

Mr Kierath: Don't they renew their dues each year?

Mr BROWN: They do.

Mr Kierath: This could be done as simply as a tick in a box when they renew their dues.

Mr BROWN: It is not as simple as that. The Minister requires that a union must obtain from a member information as to which political party or candidate he or she wishes to donate money. If a union decided, as some have, that it did not like particular parties but it would endorse individual candidates, but did not know who would be the candidates at the election, it would have to obtain individual endorsements a month or two before the election or whenever the candidate nominated. The Minister seeks to impose massive red tape on organisations to ensure that they cannot participate in the electoral affairs of this State. I ask the Minister to respond to that in detail, because if he cannot explain it and simply regurgitates what he has said, it will prove that this Bill is nothing more than a trampling on the democratic processes that we hope we enjoy in Western Australia.

Mr Kierath: I did point out that it could be as simple as members ticking the appropriate box in their yearly membership renewal to indicate how much money they want to donate and to which political party.

Mr BROWN: What about a candidate?

Mr Kierath: Page 27 of the Bill states, "If an organisation receives an amount from any of its members to be applied for political expenditure and that amount is received subject to a direction from the member as to the political party or parties, or election candidate or election candidates". It would be possible for the member to indicate that the money should go to the ALP, to the Australian Democrats, or to a party as directed by the union executive. It could be any or all of those parties.

Mr Brown: It does not say that.

Mr Kierath: Yes it can.

Mr BROWN: It can say that? Is that what the Minister is saying?

Mr Kierath: It would be a lawful direction if the member said, "I direct that it go to a fund that the union may set up for a candidate of my choice." If that was the direction of the member, that would be carried out.

Mr MARLBOROUGH: The Minister has covered the point I made earlier and is continuing to point out the deception of this clause. The Minister said that an individual member could say, "I want to donate to the Democrats", or to the Liberal Party, or whatever. That is precisely what the Minister is setting out to achieve. I plead with the backbenchers of this Government: Presently trade unions, many of which are not affiliated with any political organisation, and certainly not with the ALP, have a central core of rules. Those rules must be made available to all members of the union and it is an offence to withhold those rules from members. Any union that is affiliated with a political organisation has that specified within its rules. It does that because it lives in the real world. From time to time, as an organisation representing workers, a union may need to address its concerns directly to the political process, as we have seen tonight in the gallery. From time to time, a union may need to run a campaign on industrial matters that affect its members in an unfettered manner, certainly as much as industry is allowed to do.

The Chamber of Commerce and Industry of Western Australia has many affiliated members. When it determines to attack the legislation of a political party and run advertisements in the paper, it does not ask its individual members whether it has the right to spend money in that way. The individual members do not have the right, I presume because of the rules of that organisation, to tell the central executive how to run the organisation. The central executive has the right to make decisions which will improve the running of the organisation and the outcomes for, in this case, Western Australian companies.

Government backbenchers should not be fooled by this pea and thimble trick man into thinking that there is no protection for individual Western Australian workers at the moment within unions which are affiliated with political parties. That is what the Minister wants government backbenchers to believe. I suspect that until the last 48 hours, many government backbenchers had not even bothered to read this legislation. These who have read it will know what a disastrous document it is for both members and officials of unions in Western Australia, because it will not

only attack the democratic rights of unions but also fundamentally undermine the resource development possibilities of this State.

This Minister wants to take away the window of industrial opportunity that is currently on the doorstep of this State and that has been created by the hard work and expertise of Western Australian men and women and by their willingness to work within an industrial system that is accepted by most forward thinking managers and most other States in this nation. We must be able to grasp, at a moment's notice, that window of opportunity to engage in downstream processing of iron ore, gases and mineral sands. This Minister wants to take away at one fell swoop the work that we have been doing for 30 years with regard to exports to Asia, and the work that has been done over the past two and half years by the Deputy Leader of the Liberal Party and the Leader of the National Party in sitting down with the industries and unions in Henderson to try to bring about an industrial situation that will lock away real job opportunities for Western Australians. The Minister wants to make Western Australian workers third class workers. He wants to put them on Asian wages and conditions. That is his ball game. Government backbenchers should not be fooled by the rhetoric. They cannot believe him. We will demonstrate throughout this debate that the Minister is unbelievable.

[The member's time expired.]

Mr BROWN: In answer to my previous question, the Minister said that it is competent under this clause for a member to sign a form which will give the executive of the union the right to pay moneys to a political party or parties, or an election candidate or candidates. Now that the Minister has had time to reflect on those words, and so that he is not misleading the Chamber, I ask him to repeat that that is an appropriate process prescribed by the legislation.

Mr Kierath: Proposed subsection (6)(b) states "that amount is received subject to a direction from the member as to the political party or party, or election candidate or election candidates, to or in respect of which or whom the organisation may pay or apply the amount". That certainly gives the individual member the power to make whatever direction he or she sees fit with regard to a party or candidate.

Mr BROWN: That is not the question. The Minister said in answer to my question that it was competent for a member to make a donation to a political fund and in so doing to authorise the executive committee of the union to pay or apply that contribution to a political party or parties, or election candidate or election candidates. Does the Minister stand by those words?

Mr Kierath: It says "subject to a direction from the member". It does not say what form that direction should take. It is not my job to show the member for Bassendean how to get around these provisions. The direction from the member is fairly broad; it is up to the member to give that direction.

Mr BROWN: This is the Minister's legislation. He is supposed to know what it means. If he does not know what it means, there is not much chance that we will know what it means. The Minister's job is to explain to this Parliament what it means - not talk about what somebody else thinks it means or what parliamentary counsel has told the Minister it means.

Mr Kierath: It states,"subject to a direction from the member".

Mr BROWN: The Minister has read out the section. The *Hansard* will reveal what the Minister said. The Minister said if a person pays money to a political fund he or she can authorise the executive of the union to pay that money to a party or parties or candidates of the executive's choice. Is that the Minister's interpretation?

Mr Kierath: I do not want the member putting words in my mouth. Those provisions allow a union member wide discretion to indicate what direction that should take.

Mr BROWN: The Minister is now backing away from what he said. The Minister is now saying that it is not permissible. The Minister knows it is not permissible; I know it is not permissible; and any reading of the clause tells one it is not permissible. If the Minister continues to seek to mislead the Parliament in this way we will continue to question him on those matters. It does not do the Minister's standing much good - not that we are interested in that - when he seeks to misinterpret those clauses. The record will show that the Minister has inadvertently, or deliberately, sought to mislead this place by his previous statement. The Minister has retracted his statement, not in an open way as other people in this Parliament would do, but in a surreptitious way by referring over and over again to the clause. That is unfortunate. However, on the issue of the time taken to debate this Bill, it does not help debate when the Minister puts forward a wrong interpretation one moment and then changes his mind five minutes later on proper reflection of the Bill. If that is the degree of his competence we will see this evening I am not hopeful that we will get through these provisions quickly, because to do that we need a coherent response, and we are not getting that.

Mr RIPPER: Before the dinner break I referred the Minister to a recommendation of the Commission on Government. I have had no response from the Minister and I remind him again of recommendation 134, which states -

> There should be no restrictions placed on political donations from trade unions or corporations provided that the donations meet the requirements of disclosure contained in previous recommendations.

Why has the Minister legislated against the recommendation of the Commission on Government? I remind the Minister of the submission from the Deputy Premier to the Commission on Government, which reads as follows -

> Providing there are adequate provisions within companies and trade unions to enable shareholders or members to have the question of making political donations resolved internally, there should be no special constraints on companies or trade unions donating to political parties. They should simply be subject to the same requirements as anybody else.

Why is the Minister proceeding against the recommendations of the Commission on Government, and against the view put to the commission by the Deputy Premier?

Mr KIERATH: These provisions will make sure that the rules of organisations allow individuals appropriate controls over political donations. That is what this clause is all about. The only difference between the existing legislation and this Bill is that previously through inertia individuals would go along with the donation because to stop a donation they had to stand up and say no. In effect these provisions reverse that so that the union must obtain approval from the members for a donation.

Dr Gallop: In its report COG specifically rejected the Minister's view.

Mr KIERATH: Does the Leader of the Opposition agree with every recommendation that COG has made?

Dr Gallop: Just about every one, unlike the Minister.

Mr KIERATH: Does the Leader of the Opposition agree with the recommendation to increase the number of members in this House?

Dr Gallop: The Minister should get on to the issue here.

Mr KIERATH: The Leader of the Opposition does not and neither does the Government agree with every single recommendation of COG.

Dr Gallop: That happens to be a substantial recommendation.

Mr KIERATH: It is not my portfolio responsibility to deal with COG. The Government has made a detailed response to COG. Generally, we support its main thrust. This clause is a change in emphasis from what exists in the Act.

Mr KOBELKE: I will take up a few of the points raised in debate which relate to amendments to section 96P - political donations to organisation. This Government's record on the implementation of the recommendations of the Commission on Government is to go exactly the opposite way, whether freedom of information or industrial relations. The Minister says that this legislation contains only minor changes to that which is in place. All of page 239 is struck out, as is most of pages 240 and 241 and a fair bit of 242! This clause changes requirements for political donations which the Minister put in place in 1995. We have not had time to see whether that legislation might be effective. No assessment has been made of whether it will do what the Minister wants it to achieve. The Minister comes into this place striking out pages of legislation without giving any reasoned argument why we should move to the model he is putting forward. What comes through is that the Minister is not genuine with this legislation. The Minister's objectives with this legislation bear no resemblance to his stated objectives. We see an attempt to try to stop unions protecting the interests of their members. That is all it is about.

The Minister's rhetoric about looking after the individual does not stand up. An individual's rights mean absolutely nothing if they cannot be enforced. How do working men and women on $300 or $400 a week enforce their rights? I suppose the Minister will tell them to go to the Supreme Court and pay a lawyer $2 000 a day.

Mr Kierath: This gives them the right to say whether they want to make a political donation. It gives them the right, rather than leave it with the union executive. That is the difference.

Mr KOBELKE: The working men and women of this State have no rights under the Court Government. They have only the rights for which collectively they can fight, and the union does that on behalf of ordinary working men and women. The Minister wants to stop unions from being effective in protecting the rights of working men and women.

Mr Kierath: The member for Nollamara should compare the increase in wages under our Administration with the increase under the last four years of a Labor Government.

Mr KOBELKE: We will debate that another day. The Minister does not have the argument to support that statement or this Bill. If we are to uphold the rights of ordinary men and women we need to enable them to associate in order to achieve their ends. They associate with respect to this legislation through their union. The Minister is denying them that right.

No-one makes them join a union; that is voluntary. The Minister has trumpeted in this Chamber how few people belong to unions, so the Minister recognises that people have the right to join or not to join a union. Once they join a union they have a democratic say in how that union is run. The Minister would also know that many unions in Western Australia do not donate to political parties, because the leadership reflects the view of the union. However, where members of a union decide democratically that they want their leadership to take some form of political action the Minister wishes to deny them that right. The Minister wishes to tie them up with so much bureaucratic procedure that their union leadership cannot effectively pursue their rights.

The other point that gives the lie to what the Minister has been saying is that if he really believes that the individual rights of unionists are somehow paramount, why has he included a clause on federal awards where he can take members out of a union and put them into another union through the Industrial Relations Commission whether they want it or not? The Minister is not consistent or genuine. The Minister is attacking the rights of ordinary working men and women by trying to limit their ability to organise and to campaign through their unions. For that reason the Opposition rejects this clause.

[Interruption from the gallery.]

Sitting suspended from 8.11 to 10.28 pm

The DEPUTY CHAIRMAN (Mr Osborne): I suspend the sitting until 10.00 am tomorrow.

Sessional Orders - Time Management

Mr BARNETT : In accordance with the sessional order for time management, I move -

> That the Labour Relations Legislation Amendment Bill be completed up to and including the stages specified -
>
> > Clause 18 - 12 noon today;
> >
> > Clause 21 - 2.30 pm today;
> >
> > all remaining stages - 4.00 pm today.

It is never easy to progress legislation which is controversial and divides philosophies within this Chamber. Members will recall that the original industrial relations legislation package passed in 1993 was debated for almost 40 hours in this place and received a further 90 hours of debate in the upper House. This Bill was second read in this Chamber on 20 March 1997 - 26 days ago - so in no sense has it been rushed through Parliament. Furthermore, many of the provisions in this Bill were contained in the Industrial Relations Legislation Amendment and Repeal Bill 1995 which was debated in the Legislative Assembly in November 1995 and passed after 17 hours' debate. The Leader of the Opposition wrote to me last week and made an offer and a request that we return this week to debate this Bill. We did that in good faith yesterday and, as members will be aware, the proceedings were disrupted and could not continue after about 8.15 pm. We could have guillotined the Bill but we chose to return today and allow a further five hours' debate.

Since this Bill was introduced this time in 1997, until six o'clock last night we have had 24 hours' debate on the legislation; a further hour and a half could be added to that, and a further five hours today; so this Bill will have received in excess of 30 hours' debate, including the five hours today.

The structure of the sessional procedures not only requires that the legislation pass through all remaining stages by 4.00 pm but also two further steps will mean that it will be impossible for members opposite to simply confine debate to one or two clauses. The procedure will require that at two stages we continue to move through the legislation. There will be more than ample time for members opposite to make their points, and to move their amendments, but there is not unlimited time. Members on this side will agree and I know privately many members opposite will agree that there has been ample debating time on the Bill. We will allow 30 hours' debate. The Bill will then go to the upper House and be subject to even longer debate. It is with some reluctance that I move this sessional order for time management, but the time has passed for that to be done.

The events last night were extremely regrettable. It is appropriate and part of our democratic system that people can demonstrate and express their views. Although that took place, and that is all right in its own sense, it is unfortunate that it went to the extent that it became physically impossible for Parliament to operate last night. To use the police to remove the crowd could have created a dangerous situation. It could have resulted in injury and further disruption. I support the Speaker in the action he took in suspending the sitting and recalling Parliament today.

Time management is in place -

Mr Ripper: It won't be until the vote is taken.

Mr BARNETT: Some people would say that we should have done this a week ago. We have had a long debate, but I hope we will conclude debate. I think five hours further debate is sufficient for that purpose.

Mrs ROBERTS: The Opposition opposes this guillotine motion. The Leader of the House believes we will have had close to 30 hours' debate if we finish at four o'clock this afternoon. Thirty hours is not a particularly long time on a Bill as significant as this and one which will lead to as many changes in the way society operates. He mentioned the fact that the Leader of the Opposition had offered to sit this week. That is exactly what it was. It was an offer to add an additional sitting week to the parliamentary program. It was not just an offer to sit on Tuesday; it was an offer based on the fact that we believed this Bill needed substantial scrutiny; that many clauses should be gone through point by point, issue by issue. We believed it was not appropriate to guillotine this kind of legislation, that members in this place should have the right to go through the Bill clause by clause, to ask questions and to get the Minister on the record on each clause by explaining what he considers their import to be. That was the basis on which the Leader of the Opposition offered to add an additional sitting week to the parliamentary program. To cut debate short after 30 hours is mean minded. I thought we would finish this Bill today in any event, so to cut it short at four o'clock reeks of members opposite having some other business that they want to get on with today, and an unwillingness to sit in this place tomorrow.

Mr BROWN: The Government cannot blame this side of the House for the long time it has taken to debate this legislation. The Minister for Labour Relations persistently refuses to answer legitimate questions relating to the interpretation of this Bill. He refuses to provide on-the-record advice about the intent of the Bill or how it will operate. He continually hides behind the fact that other people have advised him about what the Bill is supposed to do. He evades questions by saying that he is not sure how the Bill will work in practice but that the Industrial Relations Commission will determine matters, and so on. This has been an abysmal performance by a Minister who is either grossly incompetent or simply does not want to debate the merits of the legislation. Therefore he hides behind the lame and inept excuse that someone else has provided advice. It is appalling when the Minister can have experts sitting at the Table with him. That the Minister chooses not to have those experts there, is the height of arrogance. Not only does he refuse to provide answers to the questions but also he says that his information is on the advice of someone else. However, when he could have that someone else sitting beside him providing that information, he chooses not to.

This debate has lasted for a long time. That need not have been the case, but our attempts to extract legitimate answers from the Minister about the interpretation of this legislation, how it will apply, its intent, and so on, have caused an immense waste of time. If some other Minister, or the Leader of the House, were involved, debate would not have gone on for so long. Although they may not share our political opinions, other Ministers at least endeavour to provide answers or to bring in experts to give them advice and they in turn can relay it to the Chamber. However, to treat this Chamber with contempt by repeatedly refusing to answer questions or to provide interpretations of his legislation is the height of arrogance and ignorance by the Minister. Any member, whether a Minister of the Crown or private member, who introduces a Bill into this Chamber should, at the very least, have the courage of his convictions and be able to explain what the Bill means. When a Minister refuses to do that not once, not twice, but over and over again, no wonder it takes us so long to debate a piece of legislation.

The Minister should read *Hansard.* His standard response to questions is to read the clauses in the Bill that we have queried and say, "That is what it means." What arrogance, incompetence and ineptitude, especially when he is able to have his advisers sitting by his side, but chooses not to have them there.

No-one but the Minister is to blame for his government members still sitting here today. If this Bill were being handled competently by a Minister who wanted to debate the essence and the merits of the legislation. he would be demonstrating that he has the courage of his convictions by saying, "Yes, that is what it means, and that is what we want to do as a Government and that is what we believe in." He would not be trying to skirt the issues to avoid being recorded in *Hansard* and we would have been able to debate this legislation more quickly.

I agree with the Leader of the House. Thirty hours is a hell of a long time. We should not need to be here for that length of time. However, I will not agree to any piece of legislation before I at least know the intent of it. If a

Minister cannot explain it because he is incompetent, he should go back to the drawing board, withdraw the legislation, do his homework and then come back and explain it. That is the minimum that the Parliament deserves.

Mr BLOFFWITCH: We just heard five minutes of a classic example of why we have spent 30 hours debating this Bill. Members opposite have talked about everything but the Bill. Their approach is to attack the messenger and say that the Minister has not done his job. I have sat in here during the entire debate. The Minister has answered questions not once but 10 times. Every one of the members opposite debating the clauses has asked him the same question. He has answered each time.

Several members interjected.

Mr BLOFFWITCH: Then we hear, "I don't like that answer; I do not think that is sufficient." That is tough. Members opposite do not like the policy. That also is tough. They have had three-quarters of an hour in which to discuss each clause of the Bill. If they cannot manage their time better, the incompetence belongs with them, not with members on this side.

Several members interjected.

Mr RIPPER: The Opposition strongly opposes this motion. I note with some anger that the Leader of the House said that in no sense has this Bill been rushed through the Parliament. If that is the case, why must it be debated in the upper House before 22 May? Members opposite do not want the will of the electorate to be expressed by the new members in the upper House. Members opposite are not convinced that they can get the Bill through the upper House on the basis of the properly constituted upper House following the election. They want to rush it through this place and the other place before the will of the people is made clear. The Minister is perpetrating a rort. The legislation must be passed by 22 May otherwise never again in the history of this State will a Government be able to pass legislation such as this. This is the last opportunity.

The Leader of the House placed responsibility on the Opposition for the need to move this sessional order. New members on the backbench should know that every time this Minister brings a piece of industrial legislation to the House the same situation arises. As my colleague the member for Bassendean said, the Minister must bear a large responsibility for what is going on. He does not answer questions; he shows no willingness to compromise; he brings to the House partisan, vicious, biased and unfair legislation that is a direct attack on the way in which this side of politics organises itself.

Like the Leader of the House, I regret the great level of division in the community and that industrial disruption and disputation will occur over the next months and possibly years. However, the responsibility for that lies with this Minister because there is no need for this legislation. It is an outright attack on the traditional role of the Labor movement in this country and on the way this side of politics organises itself.

We have not spent an enormous amount of time on this legislation compared with the time we spent on other pieces of legislation. Some members opposite have forgotten what it was like when they were in opposition.

Mr MacLean Interjected.

The DEPUTY CHAIRMAN (Mr Osborne): Order, member for Wanneroo.

Mr RIPPER: The then Opposition and Independents spent three weeks debating the freedom of information legislation when Labor was in power. It is worthwhile having some sense of history about the way in which parliamentary debate proceeds. Of course there should be extensive parliamentary debate on a Bill which directly attacks traditions and which has a very strong bearing on the civil rights of Western Australians. It would be shameful, and we would not be doing our job, if we did not have the lengthiest parliamentary debate on a Bill such as this.

However, members opposite want this Chamber to deal with the legislation as quickly as possible so that it can be debated in the upper House before the will of the people is revealed. Members opposite are trying to foist undemocratic legislation and an undemocratic process on this Parliament and the community. The motion moved by the Leader of the House is undemocratic.

Mr NICHOLLS: I decided to sit here last night rather than leave the Chamber, not because I do not support the Bill, but because I refused to be intimidated by the thuggery I saw in the Public Gallery last night.

Several members interjected.

Mr Marlborough: You have a history of thuggery. We may be able to talk about it one day in great deal.

The DEPUTY CHAIRMAN: Order, member for Peel.

Mr NICHOLLS: That is the sort of response I expected from the member for Peel because he does not know any better.

Mr Marlborough: It is too close to the bone.

Mr NICHOLLS: I have listened to comments and the empty rhetoric of the Opposition about why this legislation is important and why it should have an opportunity to debate it. Last night, when their supporters were running roughshod over this Chamber, I did not see any member opposite attempting to quell the disturbance or reason with those people to leave the gallery or stop interrupting the business of this Chamber so that we could continue with the debate.

I saw a few members on the other side actively showing their support for their supporters. That is fair; it is all part of showmanship that members opposite display. However, it is absolutely hypocritical of members of the Opposition to claim that they need time to debate the clauses of this Bill, when they did nothing in this Chamber last night when their support base ran roughshod and displayed the thuggery that I believe the community rejects.

I understand that members opposite feel strongly about this and that they do not agree with the legislation. However, the way to deal with their views is to allow the debate to continue. They did not display any credibility last night and today they have given up every right to impose on this Chamber an endless period for debate. Members opposite should have a long hard think about the way in which their support base last night displayed absolute disregard for the people of this State. If members opposite are dinkum, they will apply themselves today in an orderly and credible way, debate the clauses of the Bill, and put forward their views, but not prolong the debate by filibustering and totally inappropriate actions to disrupt the business of the Legislative Assembly.

Mr KOBELKE : Two wrongs do not make a right, but if someone hits another person in the face he must expect what comes back to him. The Leader of the House is wrong when he says this Government has a mandate. It does not have a mandate, and that is why it is rushing the Bill through. This legislation is different in major ways from the legislation introduced in 1995, particularly because there was a compromise arrangement between the Premier and the Labor movement which this Bill rips up and throws back at people. When the Government introduces legislation that is so excessive and intrusive, and affects basic civil rights in the community, it can expect people to take the legislation lying down. That is the case with members opposite; apart from the member for Collie not one member opposite has taken any interest in this Bill or has sought any understanding of it whatsoever. They do not recognise that the Minister has totally misled them. Members on this side of the Chamber have taken so long to debate the clauses because the Minister has refused to answer questions or cooperate in any way.

The DEPUTY CHAIRMAN (Mr Osborne): Order! The time allowed for the debate on time management has expired.

Question put and a division taken with the following result -

Ayes (24)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Prince
Mr Baker	Mr Kierath	Mr Shave
Mr Barnett	Mr MacLean	Mr Sullivan
Mr Board	Mr Marshall	Mr Sweetman
Mr Bradshaw	Mr Masters	Dr Turnbull
Mr Day	Mr Minson	Mrs van de Klashorst
Mrs Edwardes	Mr Nicholls	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (19)

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

Question thus passed.

Committee Resumed

Clause 15 put and passed.

Clause 16: Section 97Q amended -

Ms MacTIERNAN : The Opposition is concerned that this provision requires the Industrial Relations Commission to once again go through all the rules of the unions involved to ensure the rules are changed to reflect this new regime for political expenditure. I do not know whether the Minister has any idea of the amount of union and Industrial Relations Commission resources expended during 1996 putting into place the regime introduced at the end of 1995. It was an enormous effort to ensure all the rules were changed in a way that was compatible with the new regulations for political donations. Most of those changes have been completed only in the past three months. The Minister will now require the union movement and the Industrial Relations Commission to again allocate that level of resources to this quite unnecessary and unimportant activity. It will take their eyes off the ball with regard to the real issues with which they should be dealing; that is, protecting the wages and conditions of ordinary working people and making sure the wheels of industry run smoothly.

Has the Minister allocated any additional resources to the Industrial Relations Commission to enable it to take on this project? It must be seen in the context that this is the second time such changes have been necessary in the past year. Does the Minister intend to provide any financial assistance to unions to enable them to undertake their role in this process?

Mr KIERATH : The member is partly right in saying that this clause is similar to previous clauses. I answered this question last night with regard to procedures to be followed. It is true that by using this method the unions will be given the opportunity to change their rules within the constraints of the legislation. In the event that does not happen, the matter will be dealt with by the Industrial Relations Commission. Existing techniques will be used if the rules are inappropriate now, and the Government is not introducing any new form. It is true that the commission last year expended resources on implementing the previous provisions. I assure the member for Armadale that if this imposes any undue obligation on the commission, the registrar or the chief commissioner will be in to see me in a flash to discuss additional resources. Obviously, when impositions have been made by legislation in the past, there has been no difficulty in obtaining the required resources. I have an understanding with the commission and if it has problems with resources, it is quick to talk to me about them. I am aware that in the past year or so the commission has not been excessively busy. Obviously if this legislation imposes an obligation on the commission beyond its capacity, it will contact me to secure extra resources. As part of bringing in this legislation, the Government would make the appropriate resources available to the commission.

Ms MacTIERNAN: The Minister said during debate that he realises he did not get the legislation right in its original format; therefore, he has come back within a short time for a second shot at it. Does the Minister feel it would be only right and proper to provide financial resources to the unions to enable them to go through the processes required in this Bill, which will involve extensive mail-outs to their members? Considering that this Bill has been introduced so quickly on the heels of other legislation, is the Minister prepared to provide financial assistance to unions to enable them to put into effect the measures he desires?

Mr KIERATH: I do not believe these provisions will impose any undue financial hardship on unions. It will, after all, just require that they organise their rules so they are not in contravention of these provisions. If any union feels as though it is in dire straits financially and that this legislation will impose an undue burden on it, I hesitate to invite it to contact me and outline its situation.

Ms MacTiernan: The unions should not have to because it is not their problem.

Mr KIERATH: I am simply saying that if someone experiences dire financial circumstances, I am prepared to consider the case. However, most unions are large, well resourced organisations and will not have any difficulty changing their union rules to accommodate these provisions. As a general rule, I am not prepared to give a commitment to give financial support. When legislation covers other members of the community, most cop it on the chin. However, if special circumstances exist, unions have an opportunity to write to me and I will consider their situation according to the circumstances.

Ms MacTIERNAN: We hear constantly, and appropriately, from the Government that it is keen to take the monkey off the back of small business and remove from small business the undue burden of government red tape. I urge the Minister to consider that what makes this legislation a special case is that this is the second shot the Minister has had at it in less than a year. Over the past year unions have expended an enormous amount of money to put into effect his last regime. We have had one election in the interim and the Minister has decided the Government's industrial relations legislation is not enough and he has returned with a second regime. It seems appropriate that under those circumstances the burden not be borne by the union movement, but by the Government that wants to put this legislation in place. I am sure there are many parallels in the private sector where the Government has made such accommodation. The Opposition is keen to pass on the Minister's comments to the union movement. I am sure he will have some contact from it in that regard.

Clause put and passed.

Clause 17: Sections 97R to 97T repealed and sections 97R to 97U substituted -

Mr KOBELKE : The sections this legislation will repeal have been in place since only 1995, yet the Minister is now redoing them. That reflects the fact that the Minister has not been genuine and has not tried to make the Act work, but is about other objectives. That bias and prejudice is evident in the wording of new section 97R. The new section will not require the auditor to do a proper job in an unbiased way, but is worded in the negative, as though something must be found. New subsection (1) states -

> In reporting on the accounting records of an organization under section 65 the auditor, if able to do so, is to express an opinion on whether or not the organization has contravened or failed to comply with section 97P.

Section 97P of the principal Act relates to the requirements for moneys for political expenditure. In going through the books the auditor is not asked to do a proper job and say whether the requirements of section 97P have been met. That the language is put in the negative and suggests that the auditor must catch out the union reflects the bias in the legislation. It is pathetic that the Minister could not simply require the auditor to look at the books and report whether the books were in conformity with the requirements of section 97P.

New section 97S contains the penalties that will be imposed if organisations fail to do certain things or do things in contravention of section 97P. New subsection (2) states -

> If an organization is guilty of an offence against subsection (1), any finance official of the organization who is in any way, by act or omission and directly or indirectly, concerned in or party to the transaction in question, knowing the transaction to have been made in contravention of section 97P is guilty of an offence and liable to a penalty of $1 000.

That is particularly pernicious because the Minister has expanded the definition of finance official to mean an ordinary employee. "Finance official" is now cast so wide that an employee who has responsibility for financial matters and who has a minor part in the financial decision making of a union could be subject to a penalty of $1 000 because the decision was made and he or she knew about it. Those sorts of penalties should not be included in this Bill. A range of other civil and criminal action can be taken if an employee does something wrong. However, the Minister wants to reach down into the unions and not throw the book just at the leadership if he can catch them out on a technicality; if a technical breach occurs and an employee is involved in any way and knows that a transaction is in contravention of the legislation, he or she will be liable to a penalty of $1 000. Again, this reflects that the Minister is about putting the boot into people. He is not about introducing a Bill that will help industrial relations work efficiently and allow unions to do their job.

I turn to new section 97T. Disqualification for unauthorised political expenditure was raised in debate on another new section and the Minister refused to give any reasonable explanation.

Mr KIERATH: The member said that the wording of proposed section 97P was in the negative. This proposed section will ensure that the auditor makes a judgment or expresses an opinion on whether proposed section 97P has been complied with. I said previously this proposed section is a toughening up of those procedures. The Government wants to make sure that the organisations concerned do not breach that provision of the legislation. I am sorry the member for Nollamara is offended by the wording of the proposed section. The reason it is worded that way is to ensure the organisation complies with proposed section 97P. When this Bill becomes law I am sure everyone will expect organisations to comply with proposed section 97P.

Mr Kobelke: That was not my point; my point is the tone of the language used in this proposed section.

Mr KIERATH: I said that if the member is offended by the wording, I am sorry. The intent is to ensure compliance with proposed section 97P.

Mr Kobelke: Is there any legal reason that it cannot be in neutral language? Why is the wording vindictive against unions?

Mr KIERATH: It is not vindictive and I do not think many people think it is. It will ensure that an opinion is provided.

With reference to proposed section 97S, the Committee has already had the debate on union officials. To refresh the member's memory, I advise him that the Committee discussed this issue at length. This proposed section includes an officer or employee who is entitled to participate in the financial management of the organisation. That person must be directly involved and not just an accident along the way.

Mr Kobelke: Someone who does the banking would be involved.

Mr KIERATH: A person would not be involved in the financial management of the union if he was simply depositing moneys. We have had this debate before and I have put my comments on the record. The proposed section includes an employee who is entitled to so participate in a representative or advisory capacity. It does not include the "ordinary" employee as the member put it.

Mr Kobelke: It could.

Mr KIERATH: It does not. My advice is -

Mr Marlborough: Of course it could.

Mr KIERATH: It does not. I ask the member for Peel to read this provision again. The Committee has already had a lengthy debate on this issue and I have put all my comments on the record. I can only give members the advice which has been given to me. That advice is that it will not include someone who is taking money to the bank. The legislation refers to financial management of the union. If a person is involved in the financial management of a union and has a decision making capacity, he is caught by the legislation. If he is not participating in the financial management of the organisation, he is not caught by it. Most of the people to whom the member for Nollamara referred would be excluded under this provision. However, if a person has decision making or representative powers, he is certainly caught by the legislation.

Mr Marlborough interjected.

Mr KIERATH: The provision contained in proposed section 97T is similar to a disqualification provision the Committee has already debated. The Committee debated at great length when that disqualification should apply. Basically, it applies as a last resort after all other procedures have been followed.

Mr Marlborough interjected.

The DEPUTY CHAIRMAN (Mr Osborne): Order! I advise the member for Peel that the Committee heard his interjection and it is clear that the Minister is not accepting it. I have asked the member to come to order and I ask him to please respond to the request of the Chair.

Mr KIERATH: The member for Nollamara would acknowledge that the Committee has had an extensive debate on when disqualification should apply. From memory, it applies after someone has had an order of the court made against him. Therefore, it involves a very serious breach and not routine or technical breaches.

Mr Marlborough: There are very serious breaches of democracy here.

Mr KIERATH: The member for Peel may say that. Basically, with reference to the provisions the Committee debated previously, one would have to be in breach of an order of the court. If a person is prepared to thumb his nose at the court, it is a serious situation and the penalties are quite severe.

Mr KOBELKE: I will refer to one matter I did not have time to raise in my last contribution and to the Minister's response on my point with respect to a finance official. I am not suggesting that "finance official" means every employee. The Minister has cast this provision in such a way that it will catch employees as finance officials. The real nastiness in this provision is that the people the Minister is setting out to attack do not have the money to defend themselves in court. Even if proceedings are initiated and they do not stand up in the court, those people can be destroyed and they and their union can be threatened because action was initiated against them under this provision. I suspect that is the underlying reason the Minister has cast the net so wide. Any rational discussion on the reason for this provision does not stand up to the light of day. The Minister has failed in this debate to justify the reason that the definition of "finance official" is so wide ranging.

The Minister was right when he said this issue had already been debated, but it has further implications in this clause. The Minister has put in place the requirement that money which is to be used for political purposes must go into a special fund. A requirement attached to some of the money in that fund is that it be expended for certain purposes. Again, the Minister is placing on the union a range of intricate bookkeeping arrangements. It could be, given that unions do not have a lot of money or employ a large number of people, that an employee fulfilling a minor role would become involved in the decision-making process involving financial matters. That person could be trapped by the provisions in the legislation applying to political money and on what it might be spent. These provisions will require a lot of records to be kept on decisions made on whether the money can be spent in accordance with the provisions of the Bill. The Minister cannot guarantee that employees cannot be caught by the legislation. It is likely some people will be caught and, if not convicted, their actions will be sufficient to have charges brought against them. They will be put under threat because of an ulterior motive of the Minister or someone else.

I accept that proposed section 97T will come into play only after a range of other things have taken place. The Industrial Magistrate's Court can, under this provision, disqualify a person from holding or acting in any office in the organisation for three years. In this circumstance a replacement must be found for someone who has been disqualified from holding an office in the union. It is up to the Industrial Magistrate's Court to give an order. It is feasible that the court could give any order for the union to comply with the processes outlined in its rules. The person could be replaced by someone following an election or by someone simply moving into that position, if the union rules allow that to occur. In addition the proposed section includes the phrase "or appoints a person". In earlier debate the Minister was unable to justify why the Industrial Magistrate's Court should be able to appoint a person to an office of a union. Unions are democratic and people are elected to hold office. Why should this legislation give power to the Industrial Magistrate's Court to appoint someone? Can the Minister do better than he did the other day and justify why there should be that power of appointment in a democratic organisation such as a union?

Mr KIERATH: I am not sure whether the member wants me to again respond to the situation about employees. However, it requires those people to have some decision-making or representative capacity in terms of financial management. If they have the power to make decisions, they must be prepared to accept responsibility for their decisions. It does not include someone acting under instructions from someone else. That is the general tenor of the member's comments. It is clear in its definition about who should be involved.

If the member thought I was trying to say we have covered this previously to prevent him talking about it, I was not doing that. I was making the point that my comments are on the record and there is no reason for me to repeat them because basically it is the same argument.

Mr Kobelke: The point I made was that the argument differed because of the part of the Bill to which it applies; do you accept that? It relates to the complexities you have included regarding bookkeeping and the control of money used for political purposes.

Mr KIERATH: Yes, I accept what the member says. It imposes additional obligations for bookkeeping purposes - have not denied that. Why should an industrial magistrate be able to appoint someone? It provides for an appointment which may well be the election of a union official, but the reason given to me is that it will allow industrial magistrates to make such ancillary orders as to give effect to their decisions. For example, one official could refuse to carry out the order, and another official after an election could also refuse to carry out the order, and it would become clear to the industrial magistrate that a campaign was being conducted not to comply with the order. Therefore, he or she would consider whether to appoint somebody to carry out, and give effect to, the order. I imagine it would be only to give effect to the order of the industrial magistrate, not to have a role in the ongoing management of the union.

If someone refused to comply with an order of the Industrial Magistrate's Court, the court entrusted with industrial issues, it would be a very serious situation. In my view, that provision would be imposed by the magistrate only if the organisation obviously intended to disregard these provisions.

Mr MARLBOROUGH : Let us put into perspective the Minister's latest attempt to get everybody before the court. Let us look at his statement yesterday and his original Bill. I know that the Leader of the House has a greater understanding of this matter than many of his colleagues.

In the calm atmosphere today, the Minister for Labour Relations wants to try to slide through the Bill as though it were just another piece of legislation. He said yesterday that he undertook the process with his cabinet colleagues, the Chamber of Commerce and Industry and trade unions in 1995-96, and he had an agreed document which he introduced into the Parliament; however, as far as the Minister was concerned, this was always on the basis that it was not a document with which he agreed. The Minister said, "It was not my document."

Mr Kierath: How many times are we debating this?

Mr MARLBOROUGH: I want to debate it until the Minister drowns in it! I will debate it with him on the steps of the court in St George's Terrace, and I will not leave the Minister alone for the next four years. I look forward to the next election campaign as I will be in the front leading the march up the Terrace with the Minister in my sights. The Minister has misused the Parliament - I am not the only one to say that, as the Minister said so yesterday.

Mr Kierath: No, I did not.

Mr MARLBOROUGH: Yes, he did. The Minister said, following negotiations with parties, he brought a document into the Parliament which did not represent his views. That is why he has changed it. It did not represent the Minister's views because everything in proposed section 97S in the Bill is new. I remind members opposite that everything is new after the heading of "Offences by organizations and officials relating to political expenditure".

That heading and everything following it did not exist in his old Bill, the proposed section 97S of which was headed "Duties of officers relating to political donations". It said -

> If an organization contravenes or fails to comply with section 97P -

That provision outlined the way the Minister wanted the money accounted for and expended; it continues -

> - any officer of the organization who is in any way, by act or omission and directly or indirectly, concerned in or a party to the transactions in question, knowing the transaction to have been a contravention of or failure to a comply with that section also contravenes or fails to comply with that section.

That is where the Minister started and ended in the previous Bill. For example, the only penalty in the previous legislation for politically donating money related to auditing and accounting for expenditure over $1 500. That reference has been removed. We must put this in perspective and talk about the detail.

Everything which follows proposed section 97S, headed "Offences by organizations and officials relating to political expenditure", is designed to bring people before the court. Members should not be fooled by the Minister's rhetoric. He has set in place a drift net - a killer wall - and he intends to catch any fish which comes his way, be it a large shark or a minnow. He will trap it in the killer net, drag it before the judicial system and place it on trial if it does not meet his regulations.

This has been an absolute, fundamental and deliberate change to his legislation. The Minister has set about erecting a wall of prosecutions against officials and members of unions, and this was not part of the second wave changes. The previous Bill contained no such pulling of persons before the Industrial Magistrate's Court, as its wording was far more conciliatory. The Minister was given permission by Cabinet and the Premier to continue to misuse the Parliament, but the true nature of the Minister is now coming through. I will demonstrate this by talking about the Bill clause by clause.

Mr KOBELKE: I move -

> Page 29, line 23 - To insert after " appointment" the words ", in accordance with the rules of the organization,".

The Minister did not give any reason to my satisfaction for the court being given the power of appointment. If the appointment is taken to mean when the union rules apply to a casual vacancy to be filled by appointment for a limited period, I have no problem. I do not see reason for the court to have such far reaching powers of appointment in a general sense. Democratic organisations have rules and should be run by those rules. If a problem arises regarding the replacement of officials in elections, the union rules are likely to allow for somebody to act in that position or for somebody to be appointed. If problems arise with people in an acting capacity, the appointment should be governed by being in accordance with the rules of the union. If it is not in accordance with the rules, the court should have no role with the union body which is democratically elected. The court should not determine who should hold office in the union. The term "appointment" should be qualified.

Mr KIERATH: Would the member be prepared to accept the addition of the words "as far as reasonably practicable" to his amendment? Another clause in the Bill uses that phrase. I agree with the member that the first intention should be to appoint that person in line with the rules of the organisation - he has no dispute from me on that. However, the member for Peel has basically threatened what will happen as people will oppose this -

Mr Marlborough: I have given a promise.

Mr KIERATH: He gave a promise.

Mr Marlborough: I make it my personal promise!

Mr KIERATH: The member for Peel has made it his personal promise that he will -

Mr Marlborough: Disregard all these laws.

Mr KIERATH: He will disregard the provisions. Accordingly, the court may be faced with the situation in which it attempts to appoint an officer according to the rules of the organisation, but the organisation puts up a person who will do exactly the same as his or her predecessor and refuse to comply with the provision. It would be untenable that a court could be forced to accept somebody who refused to comply with the law, and therefore we cannot accept the words in the amendment, especially given the promise from the member for Peel. However, if the intent is not to accommodate potential law breakers -

Mr Marlborough: I promise you I will break the law.

Mr KIERATH: Promised law breakers, like the member for Peel, are a different matter. I hope he understands that a person who is convicted of a criminal offence cannot be a member of Parliament.

The DEPUTY CHAIRMAN (Mr Osborne): I have spoken to the member for Peel about his interjections once before. For his information, the slate for formal calls to order is not wiped clean at the beginning of this day. Currently he stands on two. If he continues to interject on the Minister, who is attempting to relate to the member for Nollamara, I will have to call him formally to order.

Mr KIERATH: The point I am trying to make to the member for Nollamara is that if someone is determined to break the law, there must be must be a mechanism to prevent that from happening. This provision will do that, but -

Mr Kobelke: Just think about what you have said.

Mr KIERATH: What?

Mr Kobelke: You want mechanisms to stop someone who is determined to break the law from doing so.

Mr KIERATH: Yes.

Mr Kobelke: Hitler could not do that. He exterminated millions, but he still could not stop people who were intent on breaking the law from doing that.

Mr KIERATH: I have made an offer to accommodate the amendment, but I think the member is indicating that he is not prepared to be reasonable under any circumstances.

Mr Kobelke: The point the Minister made does not have any logic -

Mr KIERATH: I am offering a provision that would ensure the appointment of officials was in line with the rules of the organisation. The organisation would have had a couple of attempts of going through the process, except in the case of someone such as the member for Peel outlined, who refuses to abide by the law under any circumstances. If the member for Nollamara is prepared to accept those words, I am prepared to accept the amendment. It imposes a tighter constraint on how the magistrate should appoint a replacement, but if people are prepared to thumb their nose at a court of law in this State, there must be appropriate provisions to deal with them.

Mr KOBELKE: I want to get this amendment up and am willing to consider foreshadowing a further amendment. I simply cannot countenance a situation where someone would be put into an elected position by appointment. If the Minister wants to take over control of the union, there is already a provision for it to be closed down; it can be suspended or deregistered. The Minister has not explained to my satisfaction any set of circumstances where it would be appropriate for a court to dictate who would be in a leadership position in a union; that is, who should occupy an elected position as a union official. The Minister is saying the power should be there. My amendment is not about that; it comes from a different direction: I am totally opposed to the court having the power to dictate who should be in a union. That could be someone from interstate who knows nothing about the issue, or someone from a rival union who gets caught up in all sorts of industrial disputation and demarcation issues. It opens Pandora's box. Unions are democratic institutions. Powers should not be given to a court lightly to interfere simply by making an appointment.

We already have in place all the procedures for suspension and deregistration which put the union out of action if problems arise with it. Why should a court in a democracy be able to appoint a person to an elected position?

Mr Kierath: Only to give effect to the decision of the court.

Mr KOBELKE: The court will appoint someone under this rule. I cannot see it being used or understand why it needs to be in the legislation. Why does the court need to appoint someone of its own volition? My amendment talks about appointment by the court in accordance with union rule. The word "appointment" is used in a totally different sense. I accept the word "appointment" only in the sense of the union rules being followed through to allow someone to take on the position in accordance with those rules. As it stands, the word "appointment" has a fiat that the Industrial Magistrate can choose anyone, with no control on the appointment, and put that person into the position of an elected official. I find that totally unacceptable. The word "appointment" can have a whole range of possible meanings. I am willing to accept a meaning that simply says the Industrial Magistrate's Court in its determination will give some form of direction so that a person will be appointed according to the union rules, without going through the election - that is the other option; but I am not willing to accept that the appointment gives a power to a magistrate to take anyone he likes, without guidance, because the magistrate may see it in his judgment as providing some solution and make an appointment that does not meet with democratic processes and the union rules. If the Minister can explain the situations that may arise where that total power of appointment is needed, I will consider the wording of the amendment. So far in this debate - we discussed this in a similar debate earlier - the Minister has

not addressed to the satisfaction of members on this side why wide ranging powers of appointment should be given to the Industrial Magistrate's Court.

Mr KIERATH: I outlined the circumstances in which it may be necessary to appoint a person to effect the decision of the court. Let us look at what we are dealing with. The member is right. A union official, firstly, may be refusing to abide by the law of the land. The unions have an obligation to ensure their members apply the law to the rules of the organisation. If they thumb their nose at it and the court feels there is a campaign to prevent the court order being carried out, it has the power to appoint someone to effect that order.

Mr Kobelke: A union official has been removed. The court can replace that person by election, so that would seem to be the proper process to take. The Minister is saying that in some instances that will not work.

Mr KIERATH: Yes. I can foresee circumstances where it will be required. It could be an election and the union official says - in fact, the member for Peel said that he will make sure it happens personally -

Mr Kobelke: Let us address the specific detail of this clause.

Mr KIERATH: I am trying to be accommodating. I have said that there may be a determined campaign by the organisation to have people thumb their nose at this law. That would be untenable. This simply gives the power to the Industrial Magistrate to appoint somebody to give effect to that decision, as in the Corporations Law where someone gets appointed as a liquidator or a receiver and has certain powers to effect an operation within an organisation. This is here to address that situation. If the member's request is to ensure that those people generally follow the rules of the organisation for appointment, I am prepared to accommodate that, provided there is an out when there is a determined campaign not to facilitate that process. If we can come to that agreement, I can accept the words in the amendment; if not, I must reject them. This would put the magistrate in a straitjacket and he would be concerned to have his decision effected as quickly as is practicable.

Mr KOBELKE: The general statements do not address the issue. I say that quite genuinely. They address it partly and in a roundabout way, but they do not address why there must be powers of appointment. In the Minister's response, he gave an example at which I am looking to try to address why we need an appointment. The trouble is that the example - perhaps the Minister just picked a bad example - just increased my concerns. Let us look at the example the Minister gave.

If I understand it correctly, the example the Minister presented was that the union official had been removed and the Industrial Magistrate's Court was of the view that the people who were likely to be elected by the democratic process, in accordance with the rules of the union, might not keep the law.

Mr Kierath: That is not what I said.

Mr KOBELKE: That is what I understood the Minister to say. The Minister did not refer to the court, but that is the effect of what he is saying. He is saying that a union official is removed and, in order to fulfil its order, the court -

Mr Kierath: I said that there could have been a couple of elections to achieve that.

Ms MacTiernan: What has happened each time?

Mr Kierath: A person has been appointed or elected who thumbs his nose at these provisions of the legislation.

Ms MacTiernan: You do not know that until he has performed; you cannot prejudge that.

Mr KOBELKE: The Minister said that the court will prejudge the result of a democratic union election. We are talking about a properly conducted, fully democratic election to replace a union official. The Minister is suggesting that the court could prejudge that that democratic decision would not be acceptable under the laws of this State and the court must therefore make an appointment. That is nonsense; it is not the role of any court to interfere with a proper democratic process in that way.

The further example the Minister gave in an attempt to explain does not go anywhere. If there had been two previous cases where a union official behaved contrary to the law and he or she had been removed according to this section, the Minister has said that this is the end of the line. This example would have involved a whole range of actions contravening the law finally resulting in disqualification. The second time it happens, powers exist to deregister the union. We do not need to be totally undemocratic and dictatorial through the court and appoint someone; it does not make sense in a democracy. The Minister says that he will accept the words proposed in the amendment as long as they do not have any effect; he still wants the power to appoint. We are not trying to change the words so that the court can still appoint. The Minister has given no explanation as to why the court needs these powers in a democratic system.

Mr KIERATH: I have given an explanation, but the member might not like it. I have tried to give a very detailed explanation -

Mr Kobelke: I do disagree and I do not like it, but I have also put forward rational arguments that you are not answering in a rational manner.

Mr KIERATH: I think I am.

Ms MacTiernan: The analogy with administrators appointed to companies does not work -

Mr KIERATH: The member for Nollamara raised a point about offences under existing section 97S(1). We are referring to someone who fails to credit an amount to a political account as required by section 97P, who credits an amount to a political fund contrary to that section or who makes a payment contrary to that section. The member asks why I do not simply provide for the deregistration of the organisation. Someone commits an offence and the magistrate gives an order to carry out what should have been done in the first place. The law quite clearly provides that the person has the obligation to abide by the union members' wishes. Obviously, if he or she does not do that, penalties may be imposed. This legislation gives the industrial magistrate that authority and he or she is the person who decides whether the offence has been committed given the evidence presented. The industrial magistrate has the ability to make ancillary orders to give effect to those orders. The magistrate might instruct that the money be paid to an account that the member nominates. Perhaps a union official, albeit going through an election -

Ms MacTiernan: You are misreading the Act; the order relates to section 97T(1).

Mr KIERATH: I would like to finish answering the member for Nollamara; I will then address the issues raised by the member for Armadale. At the end of the chain, there must be the ability for industrial magistrates to give effect to the orders.

Mr Kobelke: There is.

Mr KIERATH: The Government does not think so. If the obligation is to ensure that the industrial magistrate should - I deliberately use the word "should" rather than "shall" - do so in accordance with the rules then I will be prepared to entertain something. However, if members suggest that there should be no out, I can see situations where the organisations set up deliberate campaigns to flout this part of the law, and obviously that would not be tenable.

Mr Kobelke: Give one example that makes sense.

Mr KIERATH: I just gave one.

Mr Kobelke: It did not make sense; it was totally anti-democratic.

Mr KIERATH: The member can say that, but because it has been through a court of law and that court has issued an order -

Mr Kobelke: I have no problem with that; it is the appointment of a person to fill the position.

Mr KIERATH: What would the member do in a situation where the parties simply refused to carry out these provisions?

Mr KOBELKE: There are other enforcement provisions in the legislation. If the Industrial Magistrate's Court has given an order and that order is not being carried out, a whole range of provisions in the legislation can be implemented. There is no need to take control of the union in the sense of appointing someone, possibly totally unrelated to the union. If the Minister thinks that is workable, he does not understand how democratic organisations work.

The position of a manager with his own company might be one of dictating to people - they jump or they lose their job. However, unions do not work that way; unions are democratic organisations. From time to time, people might rise to the top of an organisation who have such strength of personality and drive that they can get everyone to follow them. That might be seen to be dictatorial behaviour simply because that person exercises such authority through his or her personality. However, that does not invalidate the fact that unions are democratic. The court cannot make it work by appointing someone else. The Minister is seeking to destroy the democratic basis of the union movement. The examples he has given do not stand up.

Mr Kierath: Only in carrying out the order of the industrial magistrate.

Mr KOBELKE: There are other mechanisms by which the order is carried out. By including this power to appoint, the Minister is intervening in the total organisational structure, management and functioning of the union.

Mr Kierath: I am not; it is the industrial magistrate.

Mr KOBELKE: However, the Minister is including in the legislation the power for the Industrial Magistrate's Court to take total control of the union. It does not relate to fulfilment of a particular order. There are other mechanisms; one should not totally destroy the functioning of the union to have the order fulfilled.

Ms MacTIERNAN: The Minister has misread his own legislation. He seems to think that the sorts of orders contemplated in proposed section 97T(2) are wide ranging, such as paying back money and dealing with a whole range of administrative regimes that an industrial magistrate might want to address. I ask the Minister to read the section carefully. The order being referred to is in proposed section 97T(2), which relates only to the disqualification. Under proposed section 97T(2), a magistrate may determine, as part of a whole range of penalties that may be imposed upon a union official for making one of these unauthorised political expenditures, that that person will be disqualified. That determination is the order referred to in proposed subsection (2). The Minister appears to be genuinely confused. He believes that this might relate to other orders such as directions to pay back money; it does not do that. Of course, once a union official is disqualified -

Mr Kierath: Do not put words in my mouth; I referred to the offences for which people have been found guilty. Do not twist it around and make it appear that I am saying something different.

Ms MacTIERNAN: The Minister was referring to the industrial magistrate's orders and why it was necessary to preserve for the commission the power -

Mr Kierath: I referred to the offence and proposed section 97S(2). I then related it to proposed section 97S(1).

Ms MacTIERNAN: The Minister said that his concern is that the orders of the magistrate might not be implemented unless the Minister has the power to put someone in place. The only order referred to here relates to disqualification; it has nothing to do with other orders that the magistrate might make.

Mr KIERATH: Let us assume a person has been found guilty of these provisions and disqualified. If the magistrate were trying to appoint somebody and was frustrated, the magistrate would be trying to give effect to this provision of which the person was in breach.

Ms MacTIERNAN: The problem is that the Minister is prejudging any person coming after. If, say, Fred was the number one union official, who committed an offence under proposed section 97S, he would be knocked out under proposed section 97T. Is the Minister saying that the magistrate needs this power of appointment because a totally new person, who might be re-elected or appointed by the union under the provisions proposed by the member for Nollamara, might be thought of by the magistrate as likely to be the same sort of person as Fred and will make the same sorts of breaches?

Mr Kierath: I did not say that.

Ms MacTIERNAN: We are trying to make sense of what the Minister is saying. Union official number one breaks the law and is punished and disqualified. Under the amendment of the member for Nollamara, the union's rules would enable it to appoint the next person. What is wrong with that; what sorts of mischief does the Minister want to avoid?

Mr Kierath: What would happen if the person did exactly the same thing as the first one?

Ms MacTIERNAN: The Minister cannot prejudge it.

Mr Kierath: I would not; the Industrial Magistrate's Court would.

Ms MacTIERNAN: This is a ridiculous power to give to anyone. To decide that because one of the membership did it the rest will do it is an absurd proposition.

Mr RIEBELING : Once again this is a provision which flies in the face of what the Minister has said all along is his intention with this legislation. As one of his main thrusts, from day one he has said that he wishes to put the union decisions back into the hands of union members. The public thinks that is what this legislation is designed to do. Under proposed section 97T(2) it does the opposite. For those members on the other side of the Chamber who have not yet looked at the legislation, it removes elected members and gives the magistrate the power to appoint an unelected person. The Minister may have answered this point but I want him to answer it again: Why did he go past the word "election" in this clause? If he wishes the members to take control of their unions because he perceives the leadership has been doing the wrong thing, why go past ordering a new election for a position which has been vacated by an order of the magistrate?

Mr Kierath: Some officials are appointed by the executive and not necessarily by election.

Mr RIEBELING: Is the Minister saying that the appointment power is not for elected positions?

Mr Kierath: Some officials of the union are not elected but appointed.

Mr RIEBELING: I want this on record: The Minister is saying that the power to appoint does not refer to any elected positions in the union movement.

Mr Kierath: I did not say that.

Mr RIEBELING: That is what I thought he said.

Mr Kierath: You asked, why not stop with "election". I said that the reason was that some officials are appointed by the executive and not elected. If we confined the provision to elected officials only, we would limit its coverage of people who are not there by election.

Mr RIEBELING: Therefore, the Minister intends the power to appoint to refer to elected people as well.

Mr Kierath: Elected people would be elected; appointed people would be appointed.

Mr RIEBELING: The Minister's advice is that the power to appoint does not refer to any elected union official.

Mr Kierath: Yes.

Amendment put and a division taken with the following result -

Ayes (18)

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

Noes (27)

Mr Ainsworth	Mr Kierath	Mr Pendal
Mr Barnett	Mr MacLean	Mr Prince
Mr Board	Mr Marshall	Mr Shave
Mr Bradshaw	Mr Masters	Mr Sullivan
Dr Constable	Mr Minson	Mr Sweetman
Mr Day	Mr Nicholls	Dr Turnbull
Mrs Edwardes	Mr Omodei	Mrs van de Klashorst
Dr Hames	Mr Osborne	Mr Wiese
Mrs Hodson-Thomas	Mrs Parker	Mr Bloffwitch *(Teller)*

Amendment thus negatived.

Mr RIEBELING: Proposed section 80(2) in clause (7) is similar to the subclause which we have just debated because it also provides for election or appointment. Is the Minister's interpretation of proposed section 80(2) that the power to order an election applies only to elected members of the union and the power to appoint applies only to non-elected positions within the union movement?

Mr KIERATH: The advice given to me is yes.

Ms MacTIERNAN: I intend to move an amendment that deals with the recovery of unauthorised payments. If a court found that an unauthorised political payment had been made, and presumably the individual who had been found guilty of making that payment had incurred the wrath of the law by way of fines and disqualification, there would then be the question of what should be done with that unauthorised payment. I find it extraordinary that it is proposed in new section 97U that that unauthorised payment be ordered to be forfeited to the Crown when the schema of this section is designed, in the words of the Minister, to protect the position of ordinary union members by ensuring that their funds are not directed to sources which they have not approved. If the Minister's concern was union members and the preservation of union assets, then these "improperly expended" moneys should be returned not to the Crown but to the organisation from which they came.

Penalties can be imposed on unions and on a raft of persons who have been involved in the making of such payments. One of those penalties is disqualification, which for many union officials will mean the loss of their livelihood. Substantial penalties are already in place to act as a disincentive. Therefore, it seems ironic to penalise union members, who are supposed to be the beneficiaries of the Minister's largesse in this legislation, by directing that these moneys not be returned to the union coffers from which they came but be forfeited to the Crown. There is no logic

in that. It is not required as a disincentive, because that disincentive exists already with the penalties that can be imposed. It is contrary to the avowed purpose of this legislation. My amendment will ensure that those moneys are restored to the organisation and constitute a debt due to the organisation, which will set in place various recovery mechanisms.

Mr KIERATH: Obviously if the organisation has decided to make a political donation in deliberate contravention of these provisions, it goes without saying that the organisation can afford to do without that money.

Ms MacTiernan: That is not the argument.

Mr KIERATH: I am working through the argument. Obviously if they intended to make the donation, they can afford to do without the money.

Ms MacTiernan: Who is "they"?

Mr KIERATH: The member knows who "they" is.

Ms MacTiernan: That is the crucial point. The Minister does do not accept the legitimacy of the organisation as a collective. Are we talking about the individual union officials or the organisation as a whole?

Mr KIERATH: It does not matter. If the union official and the organisation have made a decision, or the individual has made a decision on behalf of the organisation, to make a political donation, in contravention of these provisions -

Ms MacTiernan: Why punish the union members?

Mr KIERATH: The penalties are quite small when compared with the amounts of money that might be donated. Donations of $100 000 or $200 000 might be made. One of the largest payments I have seen was $350 000.

Mr Marlborough: How will you get that money out of them? Will you prosecute them?

Mr KIERATH: This provision will allow the registrar, a deputy registrar or an industrial inspector to institute provisions to recover that money. Obviously, because the penalties are so small, an organisation may say, "We will make a donation of $200 000 in contravention of this Act. If we get away with it, we get away with it. If we get caught, we will pay the fine, retain the money, and have another go." That sort of situation is ludicrous. In other areas of the law if a person tries to get around the law, he will forfeit the money. If the donation was $200 000 and the fine $2 000, the union might think it was worth paying the penalty to transfer the money. If a union deliberately contravenes a provision of the Act, that money will be forfeited to the Crown.

Ms MacTIERNAN: This has brought home the complete hypocrisy of everything that this Minister has said in relation to this Bill. All the Minister's statements about political donations have focused on his so-called desire to protect the interests of union members. The Minister said he is not trying to hamstring his political opposition, or to stop the functioning of labour organisations. The Minister said he wants to preserve the rights and the assets of individual union members. In refusing to accept this amendment the Minister has revealed what the Opposition has known all along - that he has no interest whatever in the position or the interests of union members. If the wicked union officials, who have been elected by their members, give money to the Australian Democrats or the Australian Labor Party, the Minister will fine them and disqualify them from office. However, the Minister proposes that all members of the union will pay the price by forfeiting their money to the Crown. That imposes an enormous financial impost on union members. What has happened to the Minister's concern about the interests of individual union members? How can the Minister possibly justify this impost? Fundamental to the Minister's thesis is that the officials of these organisations ride roughshod over and disregard the interests of their members in making political donations. However, the Minister is now saying that he will make all union members suffer a penalty. It is complete nonsense and the Minister has shown his complete insincerity.

Mr Kierath: It is important they should not profit from their crimes.

Ms MacTIERNAN: Who is "they"? We have seen a real change in the Minister's notion of a collective identity. He has previously refused to accept that.

Mr Kierath: I have not.

Ms MacTIERNAN: The Minister said it was not appropriate that democratically elected union officials should have the collective responsibility for deciding where those moneys go. The Minister said we must disaggregate and decollectivise.

Mr Kierath: I did not say that.

Ms MacTIERNAN: The Minister has said that time and again. The Minister has refused to allow the union to act collectively. Now the Minister has decided that he will not only interfere with a decision made by union officials and the collective organisation, but also impose a penalty on the entire organisation. That is contradictory. The Minister cannot on the one hand say that an organisation will not have the normal rights of an organisation, so its normal organisational management structures can make decisions, and then when it comes to imposing the penalty say that he is not interested in the rights of disaggregated members, only the rights and the obligations of the group. That is a total contradiction. If the Minister says that the rights of the individual union member are more important than the collective operation, that same principle must apply at the other end of the equation when he imposes penalties. The penalties should not be imposed upon the entire organisation, on all those individual union members whose interests the Minister says have been disregarded; that is complete nonsense.

Mr KIERATH: I hesitate to read clauses to members, because I get berated for that. I made the assumption that the member has read the clause. Proposed section 97U(2) states -

> If an organization is convicted of an offence against section 97S (1) -

The member should understand the meaning of the word "if".

> - and an unauthorized payment is proved to have been made -

Those conditions must be established.

> - the industrial magistrate's court may -

"May" does not mean "is compelled to".

> - order the unauthorized payment to be forfeited to the Crown by the political party, candidate or candidates . . .

Ms MacTiernan: That is not the issue.

Mr KIERATH: It is the issue. The Industrial Magistrate's Court would take into account whether there has been a deliberate attempt to flout this law to get the money across from the industrial organisation to a political party or by the organisation to a candidate. The court may then order the forfeiture of the money to the Crown; it is not compelled to.

Ms MacTiernan: That is not in dispute.

Mr KIERATH: The member is trying to claim that money would be forfeited if an innocent mistake were made. That evidence would be put before the magistrate. However, if it was part of a deliberate campaign to donate money and avoid the provisions of the Act, the industrial magistrate would order the forfeiture of the money. The magistrate would take into account whether it was a mistake and someone accepted responsibility for it, and it was not a deliberate campaign by the organisation.

Mr MARLBOROUGH: I plead with government members to listen carefully to what this Minister is saying and, for Christ's sake stop him in his tracks. The Minister jumps right into the electoral processes of this nation with this legislation. Does this legislation apply to federal candidates and federal elections?

Mr Kierath: The definition of "parliamentary election" is "the election of a member or members of the parliament of the State, the Commonwealth, another State or a Territory".

Mr MARLBOROUGH: The legislation applies to a union in this State donating moneys for federal elections, or for elections in the States or the Northern Territory and the Australian Capital Territory. I know it is hard for the member for Geraldton to think beyond his Ford dealership, but he should try. The Minister is sneaking into this legislation an absolute attack on the electoral processes of this nation in state and federal elections.

Mr Bloffwitch: The member said he was going to break the law. If he does, he will pay the penalty.

Mr MARLBOROUGH: I am. I would be willing to lead any march up St George's Terrace against this Minister's actions because I would have the High Court of Australia on my side. The High Court states that this proposed section headed "Political Expenditure" is illegal. The charges are predicated on an illegal procedure. The provision will not stand the test of time. However, the Minister will force unions to take matters to the High Court, and pay for that; he will also force the taxpayers to defend a decision which is indefensible.

Mr Bloffwitch interjected.

Mr MARLBOROUGH: The member for Geraldton has missed the argument. I return him to the issue of political expenditure, before turning to an illegal activity which may be carried out by a union official and/or a financial member. At least one member opposite has taken the opportunity to read the High Court decision, but in the past 24 hours he has not come to me and said that my interpretation is wrong, because he knows it is not wrong. The High Court decision in 1995 was that this whole area of the Act, this whole section of industrial law, was illegal. It has no legal standing. It has standing only in the Minister's mind because of the gerrymander which exists in the upper House where the Government has the numbers. That is the reason that the Government must push the legislation through before 22 May.

How does the Minister see the Industrial Magistrate's Court charging a political party which refuses to pay back money? All the triggers in this legislation are for individuals to prosecute unions. Why would the Minister want to penalise the individuals in the union who may want to trigger the prosecution, by not giving the money back? The Minister says that he stands for the rights of individuals, and this legislation provides triggers for members of unions to say that an official made an illegal decision by paying money. If the union official were found guilty, why would the Minister want to penalise the individual union member? Only the Minister's twisted mind would have the logic for that situation.

Mr KIERATH: The member for Peel has quoted selectively from the High Court decision.

Mr Marlborough: I have not. I will bet any money that this is defeated in a court of law.

Mr KIERATH: The member should hang on a moment. I listened to him. The member for Peel has raised a point -

Mr Marlborough: It is your responsibility not to waste taxpayers' money.

The DEPUTY CHAIRMAN (Mr Baker): Order! The member for Peel will come to order.

Mr KIERATH: This is typical of the member's bullyboy tactics.

Several members interjected.

Mr KIERATH: Obviously he would know all about that. I am prepared to respond officially on the issues raised in the High Court. Obviously the theatre of debate in this place colours the member's judgment. I will request Crown Law to look at the judgment and respond in the appropriate way.

Mr Marlborough: Will you table that advice?

Mr KIERATH: If I provide the details by writing to the member, obviously he can do what he likes with it. He can publish it, or do whatever else he likes. I will respond by letter on the issues contained in the High Court decision. The decision talks about the rights of individuals; it does not focus on the rights of organisations. As the member for Geraldton said, the provisions will not prevent anyone from -

Point of Order

Ms MacTIERNAN : As I have formally moved my amendment, should we not be debating that amendment?

The DEPUTY CHAIRMAN : My records indicate that the member has not formally moved the amendment. Is she happy to do so now?

Ms MacTIERNAN: Yes.

The DEPUTY CHAIRMAN: I beg the member's pardon. The Minister has not finished speaking.

Ms MacTIERNAN: I have moved the amendment.

Committee Resumed

Mr KIERATH: I did not hear the member move it. I am sure other members did not hear it either. I have heard most of what the member said this morning.

This provision does not prevent people from acting in that way. It will allow people to act in that way, but under certain conditions. The approval of members must be obtained. The rights of individuals are enshrined in this legislation. The High Court decision does not affect these provisions. I have sought legal advice previously. I am reasonably assured that the provisions do not contravene the High Court decision. The member for Peel is right: If a party feels aggrieved and that the information is wrong, provision is made for a challenge. I feel certain that if the union movement felt that this provision would not stand up, a legal challenge would be made. We have seen legal challenges against legislation by the Federal Labor Government, which was referred to yesterday in relation to

electronic advertising. I daresay that, in this case, if any of the parties felt aggrieved, the proper process would be undertaken.

Ms MacTIERNAN: I move -

> Page 30, lines 10 and 11 - To delete the words "be forfeited to the Crown" and substitute "be restored to the organization".

If there has been a breach of the political expenditure provisions, and if the Minister is keen - as he says he is - to protect the whole rationale of this legislation which is to preserve the interests of the individual union members, it is a complete outrage and a contradiction of that avowed intention to impose the most substantial penalty on the individual union members by way of confiscation of union funds.

Amendment put and a division taken with the following result -

Ayes (18)

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

Noes (27)

Mr Ainsworth	Mr Kierath	Mr Pendal
Mr Barnett	Mr MacLean	Mr Prince
Mr Board	Mr Marshall	Mr Shave
Mr Bradshaw	Mr Masters	Mr Sullivan
Dr Constable	Mr Minson	Mr Sweetman
Mr Day	Mr Nicholls	Dr Turnbull
Mrs Edwardes	Mr Omodei	Mrs van de Klashorst
Dr Hames	Mr Osborne	Mr Wiese
Mrs Hodson-Thomas	Mrs Parker	Mr Bloffwitch *(Teller)*

Amendment thus negatived.

The DEPUTY CHAIRMAN (Mr Baker): The time has arrived for completion of business up to and including clause 18. Under the sessional order every question necessary to complete the business must be put without further debate or amendment.

Clauses 17 and 18 put and a division taken with the following result -

Ayes (24)

Mr Ainsworth	Mr MacLean	Mr Prince
Mr Barnett	Mr Marshall	Mr Shave
Mr Board	Mr Masters	Mr Sullivan
Mr Bradshaw	Mr Minson	Mr Sweetman
Mr Day	Mr Nicholls	Dr Turnbull
Mrs Edwardes	Mr Omodei	Mrs van de Klashorst
Mrs Hodson-Thomas	Mr Osborne	Mr Wiese
Mr Kierath	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (20)

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

Clauses thus passed.

Clause 19: Section 73 amended -

Mr McGINTY : The three clauses in the Bill with which we are proceeding to consider impose a penalty on unions seeking to use their right under the law of the land to seek a federal award. The provisions contained in these clauses can be briefly summarised as follows: Firstly, a federal union acting under section 99 of the commonwealth Act notifies a dispute to the federal Industrial Relations Commission. Secondly, that casts an obligation on related state unions, because they are deemed to have been notified of the application to the federal Industrial Relations Commission by a different body. Thirdly, within seven days the state registered union must notify the registrar of the state Industrial Relations Commission of the application under the federal Act.

Fourthly, within seven days the registrar of the state Industrial Relations Commission is required to advertise the right of employers to apply to have struck out a state or federal union that is related to a state union which has made an application for federal award coverage. In other words, an interested party can apply to have the rights of that State union struck out. In fact the wording of the legislation provides that that union be struck out as a party to the state award purely and simply because another body has made an application to another tribunal.

Fifthly, the Full Bench of the Industrial Relations Commission is compelled to cancel the rights of that state union and the rights of the employees covered by the union - which has not made an application, but its federal counterpart body has.

Interestingly, although the application made to the commission would be to strike out a union as a party to an award, the full bench can relate to things other than the subject matter of the application, such as the rules of the union. The full bench is authorised to change the rules of the union to the detriment of that union. It can change the respondency to the award; in other words the union that is party to that award. It can also cancel applications that union has made on behalf of its members.

The criticism that obviously emerges at this stage is two-fold. Firstly, the relief is far broader than the application. Secondly, the nature of the action by the full bench is mandatory; it is given no discretion to look at the circumstances of the case but is compelled by this clause to act accordingly and cancel the rights of the state union because another body has made an application to another tribunal. It is not because the application has been successful but purely because the application has been made, from which flows certain consequences. I ask members opposite to reflect on what they are doing because these are most serious provisions in the legislation and they offend a number of principles. I suggest they will ultimately be found to be unconstitutional.

The other odious provision we are about to consider is that another union may be ordered to take over the role of the union which has lost its coverage, and that union cannot object in any way at all to its being added as a party.

Mr BLOFFWITCH : I asked the Minister to include this provision in the Bill, and I will give an example which led me to that. The staff at the Returned Services League War Veterans Homes in Geraldton decided to enter a workplace agreement. The executive members of that organisation are working people and all parties were happy with the outcome of the workplace agreement arrived at. It removed some of the award conditions applying after six or seven hours' work, but the staff were happy with the overtime rates and leave entitlements. They consequently attempted to register the agreement. However, the union said it would not have anything to do with workplace agreements and that the agreement should not be signed. The staff voted and agreed to sign it. The union then applied to be covered by the federal award, thus forcing all those members to be covered by the federal award. The staff wanted to sign a workplace agreement but the department, in response to my query, indicated they could not do so because even if they resigned from the union, under the existing system they would still be covered by the award. Once a union has applied to be covered by federal legislation, its members are prevented from entering a workplace agreement. The staff and management wanted another option and the only alternative was to give them this opportunity. It does not apply to those who do not want it. It applies only to those people who want to enter another union on a state award so that they can be part of a workplace agreement. Who can see anything wrong with allowing workers to do whatever they want to do? The current award system, the union system and the change from the state system to the federal system preclude those people from entering an agreement. Not everyone in the union must go to another union; those who are happy with the offer or the conditions -

Mr McGinty: You are wrong.

Mr BLOFFWITCH: I am not wrong. They make a collective decision on whether to move to another union. Anybody who wishes to go to a state award when the transfer is on may do so.

Mr McGinty: You have not read your legislation.

Mr BLOFFWITCH: Yes I have.

Mr McGOWAN : These provisions dealing with federal award coverage are the most difficult to understand in the legislation. The Liberal Party policy document released before the last election predicated all its policies on

industrial relations on the simple matter of choice. It said Western Australian workers should be given individual choice in what they do in their workplace and unions. These provisions change the current system which has existed for a long period and which gives workers a choice between state and federal systems. The state system has two tiers - workplace agreements and state awards. The federal system, following the Federal Government's recent changes, has three tiers - federal awards, enterprise bargaining and the new Australian workplace agreements. It has been a fundamental principle since the establishment of the Conciliation and Arbitration Commission early this century that when an interstate dispute arises, power is given for people under a state award to transfer to a federal award.

The provisions in this Bill attempt to limit choice. They will prevent a worker from choosing to move from a state award to a federal award. Under this Bill as soon as a union makes an application for the workers employed under its award to transfer to a federal award because of an interstate dispute, the commissioner must instantaneously transfer those workers to another organisation. It need not necessarily be a union; it can be any organisation. A state employer may nominate that other organisation to which employees who have elected to join a certain union must be transferred. In effect, if the Amalgamated Metal Workers Union applied for a federal award, its members could be transferred to a local soccer club at the discretion of the commissioner, on the advice of a state employer. Supposing that some reason prevailed and they were transferred to another union, metal workers could still be transferred to the Shop Distributive and Allied Employees Association. The clause provides that employees may be transferred to unions with which they have absolutely no connection and against their will. It denies workers choice about whether to be covered by the state system or the federal system, and they will not be allowed to choose the organisation of which they will be members. That will be at the discretion of their employer. There is absolutely no fairness in the proposal and no choice. It is difficult to comprehend this strange provision which makes no sense with regard to justice, industrial harmony and protection of individuals' rights. There is a strong case that these provisions are unconstitutional because they try to subvert the intention of a commonwealth Act under section 109 of the commonwealth Constitution. One must query why the Government is doing it. Similar action took place earlier this decade when the Victorian Government attempted to abolish state awards and, naturally, many Victorians attempted to flee to federal awards. This may be a lead-in to that.

Mr McGINTY: I will lower my standards and respond to the points raised by the member for Geraldton. I refer the member to new section 84G. Does the member believe that any time a union applies for a federal award it should automatically be rubbed out in the state jurisdiction by force of this legislation?

Mr Bloffwitch: It is; if you go to a federal award, you no longer exist in the state award, so you are going to be rubbed out.

Mr McGINTY: I am talking about making the application, not about succeeding. Nothing happens by simply making an application and notifying a dispute to the Australian Industrial Relations Commission. Once a union has notified the federal commission of a dispute, and when nothing more has happened, the provision is triggered that the full bench shall cancel - there is no discretion - in whole or in part as it considers appropriate the rights of the related state organisations. I cite the example of nurses, who are covered by a federal award. When they applied legitimately for a federal award, should the mere act of making that application to exercise their legal rights have resulted in their being penalised? I do not think even the member for Geraldton will say yes to that.

Mr Bloffwitch: How were they penalised?

Mr McGINTY: They were not, but they would be under this legislation. There will be no discretion for the Full Bench of the Industrial Relations Commission to consider whether a penalty should be visited on a state union because of something a federal union has done. That is one of the big problems with this legislation.

Mr Bloffwitch: How does it help the five workers who want to enter an agreement voluntarily? That is the problem with the centralised system. All the time it is looking at the bigger picture and forgetting about the people in the real world.

Mr McGINTY: Is the member saying that the mere making of an application should result in the imposition of a penalty?

Mr Bloffwitch: The mere making of the application resulted in their not being able to enter into a workplace agreement, so I think we must do something about it.

Mr McGINTY: How will this legislation change the situation, given the existing provisions of section 152 of the commonwealth legislation?

Mr Bloffwitch interjected.

Mr McGINTY: I made a bad mistake in seeking to engage an empty vessel; I should not have done that.

This legislation will impose a penalty on people who seek to exercise a right under law. As we get a little more into the detail of this provision, it will become apparent to members that this presents significant difficulties. Members will find that we are dealing with law that will not withstand scrutiny on its constitutional validity.

Mr KIERATH: The member for Fremantle said the relief was far greater than the application and that it was of a mandatory nature.

Mr McGinty: That is right, isn't it?

Mr KIERATH: Yes, I acknowledge in essence those two points. However, in considering why these provisions are necessary we must look at the interaction of state and federal awards. The member for Geraldton raised the Geraldton Returned Services League case, which is a classic example and sums up everything members need to know about this provision. That case involved five workers, two or three of whom were members of a union. They wanted to be members of a union because they were petrified of workplace agreements or any changes to the state system. They wanted to be represented by the union. They entered into negotiations. There is nothing of an interstate nature about the RSL organisation.

Mr McGowan: Yes there is.

Mr KIERATH: There was nothing of an interstate nature about the RSL hostel or its workers. The interstate nature is that the union was registered in other States. Under ordinary circumstances the entity that runs that hostel is a state-based entity and the workers are state-based. The workers asked the union to represent them and it represented them initially. The workers were happy with the proposition put before them; however, the union did not want them to accept the proposition. The union members then told the union not to represent them; that they wanted to go with the proposition and they did not want to go to a federal award or a certified agreement. I think it was an interim award.

Commissioner Riordon came to Western Australia - I believe on a Saturday morning to watch a football game - and presided over the hearing in the morning. He refused to take any evidence from the employees and made a decision for an interim award. The only interstate nature was the organisation: It had a decision from a compliant federal commissioner for an interim award for employers and employees to override their own unanimous arrangements. I took the time and trouble to talk to each employee. The feeling was summed up by a woman in her mid-fifties who had always been a follower - never a leader. She had been a union member for 30 years and had always gone along with what the union said. She said that for the first time in her working life that she had a working arrangement that suited her family circumstances, the unions said no to it. That is an abuse of the process: It is an abuse of individual rights and of the ability of primary parties to come to their own working arrangements. Why? It was due to a political campaign by that union. That is the sort of thing the Government is trying to stop with this legislation.

The member for Rockingham spoke about the interstate nature of disputes. However, he knows that has been manufactured to incorporate interstate disputes to get people under the federal award system. The Government is not trying to stop that; that is fine. If the unions are so convinced the federal system is better, let them make a decision to go federal and leave their state jurisdiction behind. They are saying they do not think the state system is good any more and that they want to go under the federal system. That is fine; however, many of them want to maintain their state jurisdiction because it has common rule. If they maintain the award at a state level, it scoops up all employees in the industry; whereas federally it covers employer by employer and does not cover a whole industry. The unions want to maintain their state jurisdiction and have their federal jurisdiction as well. They are worried other state organisations may say they are prepared to make a success of working within the state system and have coverage of the state award and that if others want to go federal, they can.

Clause put and passed.

Clause 20: Part IIIA inserted -

Mr McGINTY: I will raise three issues about new section 84C. The first relates to whether there is a drafting problem in this new section. Where is the power in this legislation for the Governor to make regulations relating to the procedure of the commission? I suggest there is no such power and that this is a serious defect. Under section 113 of the Industrial Relations Act the Governor has power to make regulations in respect of the Industrial Magistrate's Court. A majority of commissioners have power to make regulations in respect of the matters proceeding before the commission. There is simply no power to do as the Minister purports will be done under this legislation; that is, to have the Governor make regulations prescribing procedures before the commission. This flaw is evident in a number of clauses in the Bill.

Secondly, I refer to the wording of proposed section 84C(1) and (2) to the extent it refers to regulations made by the Governor. Unless the legislation contains power for the Governor to make regulations covering particular matters,

this proposed section will be a nonsense and there will be no power for the Governor to make regulations of the sort referred to. The wording of this proposed section is provocative and could lead to legal difficulties. It refers to an alleged industrial dispute. Those people who have had some involvement in the state and particularly the federal industrial relations systems know what is an industrial dispute and what is justification of an industrial dispute. The notion of an alleged industrial dispute might be fine as political rhetoric. However, this is a document which will be interpreted and construed by tribunals. Apart from achieving a political purpose why have the words "an alleged industrial dispute", which could introduce a new notion unknown to the law of this land, been included in this proposed section? What the Minister really means is that notification of an industrial dispute in the federal commission will trigger this proposed section. The use of the word "alleged" is pandering to a particular view the Minister has of the world which does not relate to the reality of procedures, practices or dispute finding within the meaning of section 99 of commonwealth Workplace Relations Act.

The third question I pose to the Minister is the appropriateness of prescribing by regulation, subject to the qualification I have already made on the regulation making power, the kernel of this clause. It will lead to very significant, quasi criminal penalties being imposed on people when the substantive matter is not contained in the legislation, but is proposed to be contained in regulations.

I presume the Minister intends by proposed section 84C(1) and (2) that notification of an industrial dispute of a kind that is designed to transfer industrial coverage of employees from the state to commonwealth arena is given under section 99 of the commonwealth Act. It is not what this proposed section states. It fails to define the conduct which will lead to the imposition of criminal charges on people who are a party to it. It is vague and leaves very much to the discretion of the Minister the prescription, by regulation, of the nature of the conduct that then gives rise to criminal offences. That is bad law. If people are to be exposed to criminal sanctions - this clause carries a penalty of $5 000, which puts it at a serious level of quasi criminal behaviour - it should be contained in the legislation and not in the regulations.

[The member's time expired.]

Mr McGOWAN: I refer to the literal interpretation of proposed section 84C(1)(a) in respect to the word "Governor". It states that "If notification of an alleged industrial dispute of a kind prescribed by regulation by the Governor is given under section 99 of the Commonwealth Act . . " It is very difficult to comprehend. If one reads this proposed section literally, as all Acts must be read before they are construed in any other fashion, it implies that under section 99 of the commonwealth Act the Western Australian Governor is given some sort of capacity. Section 99 of the commonwealth Act does not mention either the Western Australian Governor or the Governor General. If members in this Parliament cannot understand this provision, I am at a loss to understand how people outside the Parliament would understand it. It needs a great deal of clarification and I look forward to the Minister's response.

My next point is that section 152 of the Commonwealth's legislation allows for state employment agreements - workplace agreements - to have priority over federal awards. The Commonwealth Government has been subjected to a great deal of criticism over this provision.

Mr McGinty: It puts an end to the member for Geraldton's argument.

Mr McGOWAN: It does and unfortunately he is not in the Chamber.

Mr Kierath: Let the record show the member for Geraldton is in the Chamber.

Mr McGOWAN: He is at the back of the Chamber. I did not have my glasses on; therefore, I did not recognise him.

Section 152 of the commonwealth Act allows for state workplace agreements to have priority over federal awards. It makes a mockery of the Commonwealth Government's so-called no disadvantage test. It also makes it difficult to understand why provisions in the legislation deny federal award coverage. Irrespective of the provisions of this Bill, the commonwealth Act appears to allow for state workplace agreements to have priority over federal awards.

My final point concerns the deeming provision under proposed section 84C. This Bill has a lot of deeming provisions. Proposed section 84D provides for a penalty to be imposed on a person who is deemed to have knowledge of something, even if he does not have the knowledge he is deemed to have. It is unjust.

Mr KIERATH: The member for Fremantle asked whether there was a drafting problem with the Bill. He said there was nothing in this clause which stated that the Governor would be able to make regulations on the procedures of the commission. He then quoted section 113 of the Act. The member for Rockingham made a similar point and said there was no mention of the Governor or Governor General in the federal Act. Let us consider proposed section 84C(1)(a) phrase by phrase. The first phrase is "notification of an alleged industrial dispute". If I had written this provision, I would have inserted a comma there. The second phrase is "of a kind prescribed by regulation by the

Governor". The third phrase is "given under the section 99 of Commonwealth Act" - obviously it refers to the first phrase. The fourth phrase is "by a Federal organization on or after the commencement day".

Mr McGowan: It is very difficult to understand. It implies that the Governor is making a regulation under section 99 of the commonwealth Act.

Mr KIERATH: I am advised that it gives the Governor of Western Australia the power to prescribe regulations relating to the notification of an alleged industrial dispute.

Mr McGowan: It would not be advised of that. If you read it and take the literal interpretation, it says that the Governor is making a regulation under the federal workplace Act. It is entirely ultra vires.

Mr KIERATH: The kind of regulation to be prescribed by the Governor refers to the notification of an alleged industrial dispute, and it is the alleged industrial dispute which is given under section 99 of the commonwealth Act.

Mr McGinty: Where is his power to do that?

Mr KIERATH: This will give it to him.

Mr McGinty: It simply refers to the regulation making power.

Mr KIERATH: Again, I can only give the member the advice I receive. This will give the Governor the power to prescribe regulations relating to the notification of an alleged industrial dispute.

Mr McGowan: If you read it, you must agree: It does not imply; it states categorically that the Governor is given a notification under section 99 of the commonwealth Act. You must see that.

Mr KIERATH: I have just read out the phrase to which the member refers. Obviously, everyone knows that state legislation cannot give powers to the Governor of Western Australia to prescribe regulation under a commonwealth Act. The member knows that is not legally possible, and so does the member for Fremantle.

This is a kind of cute stunt by the Opposition. The member knows that the Governor cannot do what he suggests. If any court sat and looked at the matter, it would state that the Government of Western Australia has no power to regulate on behalf of commonwealth legislation. The regulation applies to the notification of an alleged industrial dispute. It states that the dispute is given under section 99 of the commonwealth Act by a federal organisation on or after the commencement date. I have clearly put on record the Government's position and the advice given to me. It relates to the first part of the phrase, not the second. The first phrase is the notification of an alleged industrial dispute, and the second phrase finishes with "Governor" and gives powers to make regulations under the first phrase. The wording from there on is given under section 99 relating to the dispute to which it refers. That answers that matter.

Mr McGinty: Why do you use the a word "alleged" when it has no meaning, other than perhaps in your mind? There is either an industrial dispute or not; that is a matter to be found once an application is made under section 99 of the commonwealth Act.

Mr KIERATH: As the member knows, there have been a lot of alleged disputes and paper disputes. Sometimes a finding is made that there is no dispute. We wanted to make sure that any alleged industrial dispute for the purposes of going to the federal commission would be caught by this. I accept that it is a bit wider than the words "industrial dispute", but it will ensure that all attempts are caught up in the provision.

[The member's time expired.]

Mr McGINTY: Why does the Minister think section 113 is contained in the principal Act? It is the regulation making power which gives the commissioners, or a majority of them, the power to make regulations in matters relating to the functioning of the commission. Members will find dotted throughout the rest of the legislation reference to the making of regulations or the prescription of particular details to be provided for by the regulations. Section 113 contains the regulation making power.

Where is the power for the Governor to make regulations other than this passing reference to the fact that regulations might be made by the Governor? That is not a regulation making power. As the Minister is a part time student of administrative law, I thought he would appreciate the difference between the capacity to make regulations and the power to make them. The power is contained in section 113, and the Governor has no power to make regulations in respect of the Industrial Relations Commission as the commissioners exercise that power.

The Minister's answers so far have been wrong, and I query the advice he has been given. I ask for a more honest answer regarding where the powers to make regulations reside. Clearly, the Governor has no power to make regulations on matters proceeding before the Industrial Relations Commission. The Governor has power only on

matters before the court. If the Minister's advice suggests that this gives the Governor power to make regulations, I would sack his adviser - he is wrong. The Minister must find both the capacity to make regulations and the power to make regulations in the Act. That is why these matters are left for prescription under section 113, which is the regulation making power.

It is not good enough for the Minister to brush off a significant defect in the Bill which will render invalid the whole of its operation with the statement, "My advice is to the contrary." The Minister's advice is not correct.

Mr KIERATH: I go to the last point first. I think I have already given the answer in relation to proposed section 84C(1)(a) when I referred to a kind of regulation prescribed by the Governor. If that provision passes through both Houses of Parliament and becomes part of the Act, it will allow the Governor to prescribe regulations relating to the notification of an alleged industrial dispute. It will relate to that part, and not be a wide power to make regulation throughout the rest of the Industrial Relations Act.

Page 36 of the Bill refers to proposed section 84D(1)(d), which also contains a regulation power as it refers to "such other details as may be prescribed by regulation by the Governor".

Mr McGinty: It suffers from the same defect.

Mr KIERATH: Let me finish.

Mr McGinty: Come back to the rest of the legislation where the regulations are not made by the Governor as there is no power there to do that.

Mr KIERATH: This will obviously become part of the Act and it can provide the power if it is not in conflict with section 113.

Mr McGinty: No.

Mr KIERATH: Okay. The member for Fremantle said -

Mr McGinty: I am laughing at you, not saying.

Mr KIERATH: Okay. The member also said that I should sack my adviser. However, many of these provisions came through parliamentary counsel and Crown Law counsel, and the person sitting with me today is from the Department of Productivity and Labour Relations to give us the benefit of his experience, as well as an understanding of what advice both parliamentary counsel and Crown Law counsel have provided. I can give the member an undertaking: I do not believe that what the member for Fremantle said is right, but I -

Mr McGinty: You would not know, Minister.

Mr KIERATH: The member can say what he likes. I will obtain further advice on the point the member for Fremantle raised. However, in discussions about other provisions of the legislation, clearly the Bill contains an ability to prescribe an additional power. If the power were just in section 113 of the principal Act, as amended, what the member says would be true. However, provisions of this Bill which amend different sections give the Governor specific regulation making powers -

Mr McGinty: Only in the proposed sections, and not in the existing body of the Act.

Mr KIERATH: The member missed the point I am making.

Mr McGinty: You have missed my point. The fact that you have got it wrong on several occasions does not make it right.

Mr KIERATH: Previous discussions indicate that one can give that power. I have given the member an undertaking, which is perfectly reasonable.

Mr McGinty: I do not accept any undertaking from you because you're not an honourable man.

Mr KIERATH: All right; if the member for Fremantle has difficulty with it, I give the undertaking to other members.

Mr Graham: We don't accept it either.

Mr McGinty: Everybody here thinks you're a ratbag.

Several members interjected.

Mr KIERATH: Mr Deputy Chairman.

Withdrawal of Remark

The DEPUTY CHAIRMAN : Order! I think the member for Fremantle would accept that the term applied to the Minister is contrary to standing orders. I ask him to withdraw.

Mr McGINTY : I withdraw. I presume that comment was "ratbag", not that he is not an "honourable man". Is that right?

The DEPUTY CHAIRMAN: Yes.

Committee Resumed

Mr KIERATH: I guess we are seeing the true colours of the member for Fremantle. He cannot resist making such comments. He cannot debate the issues; he must make personal attacks and be vindictive. He has resorted to the lowest level. I tried to give an undertaking that if the member had made a valid point, I would have the appropriate authorities - that is, parliamentary counsel and crown counsel - look at it and give further advice. I have said that it is my understanding and my advice that that is not the case.

It is perfectly possible to introduce in this part of the Bill those powers which, of course, will form part of the legislation; but if there is some doubt, I have agreed that I will take further advice.

Mr McGINTY: I have two questions. The first relates to proposed section 84, which refers to a maximum penalty of $40 for contravention of the regulations. The proposed penalty is $5 000 for what in many cases might not be any more than a contravention of the regulations. I refer to what in the blue document will be proposed section 84D(d), which states that the penalty for failure to comply with such other details as may be prescribed by regulation is $5 000. How does the Minister reconcile the difference between the two penalties?

My second question refers to the notion in proposed section 84D(2) of being indirectly, knowingly concerned. Can the Minister explain what that means? It is not a phrase that has any great meaning other than an attempt to cast the net very broadly.

Mr KIERATH: The member referred to the previous penalty. I guess the answer to the first part about proposed section 84D relates to what might be behind an organisation not notifying the registrar of these provisions. As I understand it, the member is saying that the penalty has gone from $40 to $5 000. Obviously the other penalties throughout the legislation are consistently $1 000 for an individual and $5 000 for an organisation. In this case it is an offence against an organisation - that is, $5 000 - which is consistent with the other penalties. We consider it to be of a fairly important and serious nature.

The member also asked about paragraph (d), which as I understand it relates to other details. It is a requirement of the way in which the application is brought, the manner in which it is brought, the type of application and the notification details to be provided.

Mr McGinty: The penalty for this breach is substantial. The difference between $40 and $5 000 requires more explanation than that which the Minister is giving.

Mr KIERATH: The penalty of $40 is antiquated and out of step with the rest of the penalties. As I said, the standard penalties have been $1 000 for the individual and $5 000 for the organisation. It is consistent with the penalties in the other parts of the legislation.

Mr Riebeling: It is higher than the penalty for dealing in cannabis.

Mr KIERATH: Maybe we should look at that. If I were asked to review the penalties for cannabis dealers, I would probably support the member. He knows that many pieces of legislation in this State, depending on the era in which they were introduced, will have varying penalties. These are appropriate penalties. In Acts that have not been amended for some time the penalties may well be inappropriate. Nevertheless it is the responsibility of this Chamber when reviewing legislation to make sure the penalties are up to date and consistent with penalties in other Acts. Quite clearly this provision makes the penalty consistent with other penalties in the legislation.

Mr McGINTY: I ask the Minister to answer the question I put to him about this quaint notion about being indirectly, knowingly concerned. I find it quite a humorous notion. Perhaps the Minister can explain how his sense of humour extends to such a quaint notion.

Mr KIERATH: It covers the situation where someone who knew about the action, and perhaps was involved in the action which was a contravention, did nothing about it -

Mr McGinty: That is not being knowingly concerned; it is not being indirectly, knowingly concerned.

Mr KIERATH: The member asked me for an answer, and I am giving it.

Mr McGinty: I am waiting for an answer.

Mr KIERATH: I am giving the answer.

Mr McGinty: No, you are not.

Mr KIERATH: I am; quite clearly I am.

Mr McGinty: What is the answer? There is no such notion as this gobbledegook in this provision. How about justifying it?

Mr KIERATH: I have justified it. It will cover somebody who perhaps has been involved in an action, or knows about it, or is aware of it, and did absolutely nothing about it.

Mr McGinty: That is covered in the law by being knowingly concerned. Again I ask whether, perhaps on the legal advice the Minister has received, there is a legal notion of being indirectly, knowingly concerned.

Mr KIERATH: I have given quite a detailed explanation of the words.

Mr McGinty: You get a fail for this answer.

Mr KIERATH: I think the record will show that I have answered the question in detail. I have nothing further to add.

Mr McGINTY: I move on to proposed section 84E. In light of the definition of a state employer, why has it been repeated in proposed section 84E(3)? It adds nothing to the text. It is covered by the definition and there is no point in having a definition if it is then simply to be put in the text.

Mr Kierath: I ask the member to explain what he is pointing out.

Mr McGINTY: Why is proposed section 84E(3) included, given that it is on all fours with the definition? Surely it is a redundant provision. Under this legislation a state employer is bound by an award. This paragraph states that a state employer shall not make an application unless that employer is bound by the relevant award or industrial agreement. It seems to me as though it adds absolutely nothing, but might lead to confusion and serve no purpose.

Mr KIERATH: I am advised that we have state employers who operate under federal awards.

Mr McGinty: So? Of course we do. A state employer in this provision is bound by an award or order agreement under this legislation. A state employer is bound by a state award. That that employer is also bound by a federal award is irrelevant. Proposed section 84E(3) goes on to say that a state employer shall not make an application unless that employer is bound by the state award. What is the purpose of that? It is very bad drafting.

Mr KIERATH: The member may criticise the drafting.

Mr McGinty: The purpose of a Committee stage is to get the drafting right.

Mr KIERATH: As the member will know, we rely on other people to do that.

Mr McGinty: I suggest that it be amended by taking it out.

Mr KIERATH: The answer is that if we compare the definition in proposed section 84E(3) with that in the other clause at the front, this one specifically says that, but for the terms of workplace agreement, the employer is bound by the relative award or industrial agreement.

Mr McGOWAN: I refer to proposed section 84E. At this stage we have gone through the process. Under this provision a state organisation is deemed to have knowledge that there is an interstate dispute. We then go to the penalties, and the provision states that, if the state organisation does not notify the registrar of that dispute, the penalties will be imposed. If it becomes apparent that that state organisation - that is, a union - is attempting to obtain federal award coverage for its members, proposed section 84E then imposes certain obligations upon the chief commissioner.

The chief commissioner is then required to advertise that a state employer may apply to have the union struck out as a party to the award and another organisation substituted. In effect, a state employer or organisation applies to have a union struck out and that must take place under subsequent provisions. An organisation is then substituted to represent members of a union. There is no guidance in this legislation as to what that organisation might be; it might be some organisation with absolutely no skills or qualities in the area of industrial relations; it might be a social

club, the Chamber of Commerce and Industry of Western Australia, a church or anything else that is deemed to be an organisation.

Mr Kierath: The definition provides that it must be a registered organisation under this legislation. It could not be those things unless it was a registered organisation.

Mr McGOWAN: A "related state organization" is defined, but there is no definition of an organisation.

Mr Kierath: Clause 20 provides -

"**State organization**" has the same meaning as in section 71(1).

Mr McGOWAN: Proposed section 84E(1)(b)(ii) refers to "another organization"; it does not define "state organization".

Mr Kierath: The blue Bill, which is the Act, is important because it has the existing legislation, the deletions and the additions. Page 14 contains the following definition of an organisation -

"**Organization**" means an organization that is registered under Division 4 of Part II;

Mr McGOWAN: Does it specify the criteria for that organisation to be registered?

Mr Kierath: It must be registered.

Mr McGOWAN: Members are transferred to another organisation that is not necessarily of their choice. They join a union voluntarily - that is the law - and, at the discretion of this legislation, their membership is transferred to another organisation. They might not wish to be a member of that organisation. That seems entirely inappropriate.

Furthermore, under subsequent provisions, the rights of the union they joined are cancelled because of the heinous crime of attempting to transfer its members to a federal award when those members wish that to occur. However, those members are not given the choice to do so. Their rights and the rights of the organisation to which they belong are cancelled and their membership is transferred to an organisation with which they might not wish to be associated. That is the crux of this provision and it is inappropriate. The analogy is that I am a member of a soccer club and the Minister comes along and tells me that I cannot be a member of that club and must join a tennis club. That sort of thing does not happen in our society; it is undemocratic and we should not be legislating to achieve that.

Sitting suspended from 1.04 to 2.00 pm

Mr KIERATH: It is important to look at the process. I gave an example of a Returned Services League case in which members at a work place did not want to go to a federal award but were forced into it. This will give the employees a choice as to whether they go to a federal award or stay in the state award. If their union applies to go to a federal award and they remain members, they will continue to be covered whatever the outcome from the federal award application. In the meantime, they will be able for the first time to choose whether to join another union that has been given responsibility. If they transfer their membership, obviously they will be covered by the state award.

Mr McGINTY: The fundamental flaw in this clause is that this law will be bound to offend the Commonwealth Constitution and will be struck down in its entirety. Section 51(xxxv) of the Constitution gives the Commonwealth Parliament the power to legislate to provide for conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State. Pursuant to that power the Commonwealth has enacted the Workplace Relations Act 1986. It represents a code for the notification of federal industrial disputes and the making of federal awards. There would not be too much argument that the Commonwealth has legislated exhaustively in this area and that no room was left for the State to enter the field. Under section 109 of the Commonwealth Constitution any state law is invalid to the extent of its inconsistency with commonwealth law. That inconsistency can be of two types: One is a direct inconsistency or what is sometimes referred to as a textual collision. For instance, one law might say that an act is an offence and another might say it is not. We are not talking about that direct inconsistency. The other form of inconsistency is more indirect and depends very much on a proper construction of federal legislation in order to ascertain whether the Commonwealth Parliament has manifested an intention that the commonwealth law be the exclusive law on a topic.

The area of federal dispute notification and award making is a topic indicated by the Commonwealth. The law we are considering clearly enters into that field and to that extent represents an inconsistency with the federal law because it is legislating in respect of a field which is exclusively covered by the Commonwealth. Section 109 of the Constitution has been considered over the years. Justice Dixon in Victoria v The Commonwealth 1937 said that any law of a State which altered, impaired or detracted from a commonwealth law was bad, because that was the essence of a conflict or inconsistency in this area. Where any entry by a State into a field covered by the Commonwealth alters, impairs or detracts, it is an invalid law. In the earlier case Clyde Engineering v Cowburn 1926, the court said

that the State could not erect any legal bar to the full exercise of the federal arbitral power. Therefore, we have here a proposed state law which impairs or detracts from an area in which the Commonwealth has evinced an intention to legislate exclusively. It does it by prescribing a penalty and a procedure which has as its nub the making of an application for a federal award. Clearly, all of the provisions we are debating relate to the application for a federal award by a union for workers already covered by a state award. The penalty and procedure imposed makes it unconstitutional.

Mr KIERATH: I have been able to obtain advice on the two issues the member raised before lunch. I am advised by parliamentary counsel that the regulation making powers in the legislation are a standard provision which has been used elsewhere. They consulted widely on them before inserting the provision. I asked for further advice on the alleged industrial dispute. The member obviously did not refer to section 99(1) of the federal Act. Members will remember the member for Fremantle berating me about it being a peculiar aspect of my imagination, or words to that effect, whereas they were chosen because they mirror the federal Act.

The member for Fremantle must understand that federal law has changed. One does not automatically escape state jurisdiction. The heads of power, as it were, in the legislation allow state employment law to continue to exist under certain circumstances and make it more difficult to transfer from the state to the federal system. I am advised that the trigger is not the finding of an award but the notification of a dispute.

Mr McGOWAN: We live in a federation in which both commonwealth and state laws apply. The founding fathers of this nation decided, quite rightly, that commonwealth laws should take precedence over state laws in areas where the Commonwealth can legislate legitimately. The Commonwealth has legislated in the area of industrial relations in what was formerly the Industrial Relations Act but is now the Workplace Relations Act. That does not mean that all state laws are invalid, because we have a system of both commonwealth and state laws, which are complementary. The commonwealth Act provides for an award making power, and last year that award making power was amended by the current Commonwealth Government to allow state workplace agreements to take priority over federal awards.

Mr Kierath: It is employment agreements.

Mr McGOWAN: Section 152(1) of the Workplace Relations Act allows federal awards to be made and for state workplace agreements to prevail over federal laws and state awards. That means that workers under state workplace agreements still have the capacity to transfer to federal awards.

Mr Kierath: I do not disagree, but it is employment agreements, not workplace agreements.

Mr McGOWAN: This provision deals with workers on state awards transferring to federal awards. If the Minister wants to apply it just to workers on workplace agreements, that is fine, he has that capacity, but he does not have the capacity to do that for workers on state awards. The member for Fremantle made this provision entirely clear, but he omitted to mention one paragraph of the case of Clyde Engineering v Cowburn (1926) 37 CLR 466, which states -

> In brief, no State law can affect the personal obligations of Australians, with reference to the matters involved in their interstate industrial disputes and awards.

If there was an interstate industrial dispute and award, no state law could affect workers' right to transfer to a federal award. That was laid down by the High Court, in reliance upon this provision of the Act. I find it difficult to understand how the Minister can still think that this part of the Bill is consistent with the federal Act and is, therefore, consistent with the Commonwealth Constitution. I am at a loss to understand why the Minister thinks he can deny workers in Western Australia the rights that are enjoyed by workers in other States across this nation. The commonwealth Act enables every worker in every other State to transfer to a federal award. What the Minister is trying to do discriminates between the States and infringes section 109 of the Constitution. I believe this provision will be struck down by the High Court, at great expense to both this State and the union movement.

Mr KIERATH: The member for Rockingham's argument was very eloquent, but he has misunderstood that under these provisions, a state award will still exist, a state registered organisation will still be able to represent the employees, and that organisation will still be able to go federal, so there will be no loss of rights.

Mr McGowan: You are denying workers the opportunity to go federal.

Mr KIERATH: Not at all. If workers are members of a union that goes federal and if they get the federal award that they are seeking, they will be covered by that federal award. What we are doing for the first time - this I do acknowledge, and the member might disagree - is giving workers a say, rather than forcing them to go onto a federal award against their will.

Mr McGINTY: The Minister said that the trigger for this part of the Bill rests not in the finding but in the notification of an industrial dispute. In other words, this provision turns around a federal union making an application for a

federal award. Under the correct operation of section 109 of the Constitution, the States are prohibited from entering that area because the Commonwealth, with its exhaustive provisions, which start at section 99 of the commonwealth Workplace Relations Act, has legislated in that area and there is no role for the States.

Why is the Government guillotining a Bill about which there is significant doubt as to its constitutional validity? It is highly improper for this Parliament to abuse the standing orders and the processes of this Chamber by using the sheer force of numbers and, therefore, the guillotine, to ram through this Bill. The Government did that with the native title legislation, and it was found by a High Court decision of 7:0 to be 100 per cent wrong. The Government was told that at the time. The Government will be found on this occasion to have passed an unconstitutional law. The precedent, if the Minister would only open his little mind and look at it, establishes clearly that he is intruding into an area into which the State had no legislative competence to intrude. In order to silence the Opposition, the Government will move the guillotine so that this matter cannot be debated properly and so that the Minister will not have the opportunity to bring forward his legal advice. The Minister will probably not do that anyway, because I suspect that the legal advice was, at best from his point of view, equivocal. The Government should not do that.

Why is it necessary to impose penalties on Western Australian citizens who exercise their legal rights? The citizens of this country have the right to seek an award to cover their employment. Why are we passing a law which will penalise Western Australian citizens who seek to exercise that right and choice which they have traditionally enjoyed? I suggest the reason the Government is doing that is simply that there has been a major exodus from the state to the federal industrial relations system since the first wave of industrial changes was brought about by this Minister. Rather than allow people to choose between those two systems, this Minister, in order to prop up his ego, wants to enact a draconian law which will punish workers who exercise their right to move to the federal system. This Bill is all about denial of choice and punishing people who exercise their rights and their liberties. The Minister cannot do that and get away with it.

I want everyone to be acutely aware of what we are dealing with. Most of the workers who are covered by state awards currently have been or are the subject of a federal award application; for example, teachers and public servants. Nurses have already moved. The passage of this legislation will lead an increasing number of people to exercise their choice to move away from what the Minister is trying to impose on them in this Bill. This draconian provision will not work because the Minister is trying to impose enormous burdens on those thousands of workers in Western Australia - maybe more than 100 000 - who are covered by state awards but where applications have been made to obtain federal award coverage. The Minister is seeking to impose enormous administrative burdens and penalties in an area where he does not have legislative competence.

Mr KIERATH: The only doubt is in the mind of the member for Fremantle and perhaps the minds of members of the Opposition. The Government has no doubt about this. The issue has been raised previously and we have received extensive legal advice on it. Our advice is that this is constitutional. The member for Fremantle says that penalties will be imposed on people who exercise their choice. That is not true. It covers a federal organisation that refuses to notify the state organisation of a dispute. The choice is not penalised, but the refusal to notify the state organisation is. The Government is giving workers a choice, whereas previously in the Geraldton Returned Services League case they were forced to go federal. This time they will be given a choice whether they want to go federal or to stay in the state system.

Dr TURNBULL : The Minister has stated that if a union is seeking award coverage under the federal jurisdiction all members of that union who want to transfer to the federal award with their union are perfectly at liberty to do that. A number of unions in my electorate have coverage in both the federal and state arenas. The Minister has indicated in previous discussions with me that there will be no change in that, because no application has been made under section 99 of the federal Workplace Relations Act and, therefore, this requirement to notify is not triggered and members of that union can be represented in both areas

Mr KIERATH: If an application for federal coverage has been made, and the employees want that, they can stay with that organisation and it will be sorted out in the federal arena. Equally, an organisation that has a final award or agreement under the federal jurisdiction will not be caught. A number of unions in the member for Collie's electorate - she goes in to bat for them all the time - have both state and federal awards or agreements. They would continue to have rights in both jurisdictions.

Dr Turnbull: What did the Minister mean when he said that section 99 of the federal Act would not be triggered?

Mr KIERATH: I am not aware of specific cases.

Mr McGOWAN: I will quote from the Minister's second reading speech to get a proper understanding of what this is all about. In relation to federal award coverage the Minister stated -

> In practical terms, it means that a union seeking a federal award cannot "double-dip". These amendments will allow the cancellation of such a state union's eligibility to represent employees in the state system and will facilitate the substitution of another union - one with a greater commitment to remaining in the state jurisdiction.

The intention of this Bill is to force employees who are members of a union who wish to transfer to a federal award, to transfer to another union with a greater commitment to remaining in the state jurisdiction. Any statement by the Minister that they are still given the freedom of choice to go federal is contrary to the Bill and to what is contained in the second reading speech.

Mr Kierath: Does the member acknowledge that if they stay with the federal union they will have federal coverage?

Mr McGOWAN: I acknowledge that in the second reading speech the Minister stated that if they wished to transfer to the federal jurisdiction they would be transferred to another union of the commissioner's choice without any right to refuse.

Mr Kierath: If they choose to stay in the organisation that is applying for federal coverage they will be covered by the federal award.

Mr McGOWAN: The Bill does not say that. It says if their union applies for federal jurisdiction they will be transferred to another union.

Mr Kierath: The member for Fremantle said that we could not legislate for that. Under the federal Act, if they apply for membership of an organisation that is registered federally and they reach a final agreement, the membership will be covered by that arrangement. However, we have power to legislate at the state level for those people who do not want federal coverage. They can resign their membership and join the state based union that was given state award coverage.

Mr McGOWAN: The Bill is explicit. It puts them into an organisation that they do not want to be members of. The Minister should read the Bill.

Proposed section 84L provides that if members are transferred from one union to another union, the union of which they were formally members must provide their names to another organisation, ostensibly a union. The former union, which has now had its coverage cancelled, must provide the names of its members to another organisation which subsequently has coverage of these people. Even if they do not wish their names given to that other organisation, the Bill provides that this is a matter of compulsion and not of choice. That is another indication that these provisions are not based upon choice, but compulsion.

Mr KIERATH: It is difficult to understand how the member could genuinely try to stretch that logic. Let us use the example of the Geraldton RSL case. If that occurred under this legislation and those involved were members of the union that applied for federal coverage, under this clause their state union must provide their names and addresses to a state based union. For example, if the State Distributive and Allied Employees Association of WA were granted coverage, it would be given the names and addresses of those members. The SDA would say to those members that it wanted to represent them in the state system. Those workers would have the choice of maintaining their membership in the federal organisation or joining the SDA, which is prepared to work within the state system. It does not take away their rights. It enhances that choice; it allows them to make a deliberate choice. The union with coverage will stand or fall on the strength of the information it provides to employees to try to entice them to join and not stay with the organisation of which they are currently members.

Mr McGINTY: This part of the Bill contains a number of objectionable provisions. Proposed section 84G provides that individual circumstances shall not be taken into account, that where a union has applied for a federal award, automatically and in a mandatory form the full bench shall cancel the state counterpart union's participation in the state award. It is not dependent on whether a federal award has been obtained. That could be understandable. It is simply an act of making an application to exercise an existing right that incurs this penalty. Proposed section 84G is explicit. It directs the full bench that it shall cancel the rights of related state organisations in respect of employees to whom the application applies. It is interesting that this should occur only a few days after all the Chief Justices around Australia have issued a proclamation regarding judicial independence. It is interesting also that the President of the Industrial Relations Commission bears the same salary, title, position and qualifications as a judge of the Supreme Court of Western Australia. I wonder how the judiciary would take -

The DEPUTY CHAIRMAN (Mr Osborne): Order! The time has arrived for completion of this business up to and including clause 21 -

Mr McGINTY: I wonder how the judiciary would take to this matter proceeding with a direction issued to them as to how they will deal with matters before the court.

The DEPUTY CHAIRMAN: Order! The member will resume his seat.

Mr McGINTY: I will finish making this point. There is still 30 seconds left.

The DEPUTY CHAIRMAN: It is 2.30 pm, and I formally call the member for Fremantle to order for the first time.

Mr McGINTY: Legislation of this nature -

The DEPUTY CHAIRMAN: The member should resume his seat. I formally call to order the member for Fremantle for the second time.

Mr McGINTY: Mr Deputy Chairman, you are party to this. It is an absolute disgrace. This legislation will be thrown out by the High Court, and you know it!

The DEPUTY CHAIRMAN: Member for Fremantle, I have exercised a great deal of forbearance.

Mr McGinty: No you haven't.

The DEPUTY CHAIRMAN: The time has arrived for completion of this business, up to and including clause 21. Under the sessional order every question necessary to complete the business must be put without further debate or amendment.

Clause put and a division taken with the following result -

Ayes (24)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Prince
Mr Baker	Mr Kierath	Mr Shave
Mr Barnett	Mr MacLean	Mr Sullivan
Mr Board	Mr Marshall	Mr Sweetman
Mr Bradshaw	Mr Masters	Dr Turnbull
Mr Day	Mr Minson	Mrs van de Klashorst
Mrs Edwardes	Mr Nicholls	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (20)

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

Clause thus passed.

Clause 21 put and passed.

Clause 22: Section 23AA repealed and transitional -

Ms McHALE : I oppose this clause for a number of reasons which will become apparent during debate. Part 6 deals with unfair dismissal, and clause 22 aims to repeal section 23AA of the principal Act. In his second reading speech the Minister offers two justifications for dealing with this matter: First, the amendment will make Western Australian legislation consistent with the federal Workplace Relations Act. Secondly, and curiously, he provides justification for the amendment by removing from employers the burden of showing grounds that dismissals were justified. The first justification is a lie and it will become clear as we go through the clauses. The second justification is contrary and completely against all sense of natural justice. Once again, this clause is a classic example of the Minister's rhetoric and ideology. It goes to the heart of any power an individual may have and puts the onus clearly on the shoulders of the employee.

The clause tries to do several things: First, it removes the onus of proof from an employer who made the decision to terminate an individual and puts the onus on the terminated employee. Secondly, it removes the distinction between any reason for termination and the concept of procedural fairness of the dismissal. Thirdly, and curiously, it removes the employer's right to terminate an employee for economic reasons or operational requirements. From an employer's perspective that is curious. I emphasise that it removes an employer's right to dismiss in a justified way an employee for economic reasons or operational requirements. Fourthly, it removes the commission's requirement even to determine that a dismissal is justified and to establish that a claim for dismissal is bona fide.

The rationale for this legislation and change is consistency with the federal Act, which we will show is a deceit and a lie; and it removes the burden from the employer, but in so doing places the burden firmly on the shoulders of the terminated employee. In any stretch of the imagination, where is the sense of natural justice and fairness? This legislation is another attack on ordinary working people. During debate over the past week we have been peeling that onion and gradually revealing the layers underpinning the legislation. We have had the pre-strike ballots, political expenditure and federal and state coverage, and now we are focusing on the individual. We are removing from him or her any protection against unfair dismissal.

The consequences of this clause, indeed the whole of part 6, is to limit compensation and the time frame for an application for unfair dismissal; it also denies natural justice. Those three points will be elaborated on further. As to ensuring consistency with the federal Act, it is fair to say that the federal legislation makes major changes to the Australian law on termination of employment, but it goes nowhere near what this legislation will do to the individual.

Mr KIERATH: Members opposite can have a different opinion and say that it is not consistent with the federal Act. However, it is. Under these provisions there is no onus on the employer to justify a dismissal. The onus is on the employee to justify his claim that he was unfairly dismissed, which is how the law was previously. Our legislation was changed only as a result of the ridiculous situation brought about by the Federal Court's rulings that unless the words of our legislation mirrored the federal legislation we were not exempt from federal legislation. I was requested at the time by both the trade unions and the employer groups to amend the legislation so that our Industrial Relations Commission could deal with it as it had been doing effectively for a number of years.

Some would say that in a way the State has been the leader and the federal jurisdiction was the Johnny-come-lately. Changes occurred only when Laurie Brereton brought in his amendments. As the member knows from her experience, the state system was simple, low cost and efficient; whereas all the features of the federal legislation were highly complex, time consuming and expensive and people were making commercial decisions to resolve it. This legislation will once again provide for the normal rules of natural justice. That is appropriate. Although it does not mirror the federal legislation, it is in harmony with it.

The member referred to economic reasons. They were given as justification because of the need to match the federal legislation. That requirement is in this legislation, but the dismissed employee will have to demonstrate unfair dismissal.

Mr KOBELKE: Given the Minister's glowing account of the existing provisions in state legislation he should justify why he needs the changes. He asserted that he was making these changes because the unions asked him to. That is a misrepresentation of the facts. He has not consulted in detail with the union movement.

Mr Kierath: You misunderstood me.

Mr KOBELKE: The Minister was seeking to make a statement which was partially true and therefore open to misleading people. He indicated that because there was a federal case there was some need to address certain aspects of the legislation. He was trying to create the impression that somehow he was making these changes on behalf of the union movement. That is clearly not the case.

Mr KIERATH: The member must have heard only some of the words I spoke. Between the first and second wave of legislation a second industrial relations Bill went through both Houses. It was not called a second or third wave or anything else.

Ms MacTiernan: That was the technical adjustments Bill which would give you the power to have workplace agreements yourself. Even Peter Foss was embarrassed about it.

Mr KIERATH: I was even going to give judges the ability to have workplace agreements.

Ms MacTiernan: You have not finished your constitutional law course and therefore do not understand the concept of judicial independence. It was a joke.

Mr KIERATH: The upper House knocked it out.

Ms MacTiernan: Peter Foss withdrew it because he was so embarrassed.

The DEPUTY CHAIRMAN (Mr Osborne): Order!

Mr KIERATH: Prior to that legislation - with a few modifications - it worked very well for all those years. That is where the Trades and Labor Council and the Chamber of Commerce and Industry of Western Australia said that they wanted me to change our legislation to mirror Brereton's Act because the federal Act overrode it.

Ms MacTiernan: They did not say that.

Mr KIERATH: They did. The member for Armadale was not party to those negotiations. The TLC wanted me to amend the legislation in this State to mirror the federal provisions so that people could use the state commission rather than the federal commission.

Ms MacTiernan: You are writing history. A case in your legislation was held not to provide an adequate alternative and therefore you lost jurisdiction. That is why you made the changes.

Mr KIERATH: The member for Armadale thinks she knows more than everybody else put together.

Hon Alannah MacTiernan: I know when you are lying.

Point of Order

Mr BARNETT : I ask the member for Armadale to withdraw the reference she made to lying.

The DEPUTY CHAIRMAN : Order! I did not hear the remark. If the member for Armadale made a reference to the Minister's lying, I ask her to withdraw.

Ms MacTIERNAN : I did not actually accuse anyone of lying. I simply made the comment that I do know when people are lying.

Committee Resumed

Mr KIERATH: I think the member for Armadale is trying to be technically cute, as usual.

As I said, I was approached by the TLC and the CCI to amend the legislation in the hope that most cases could go through the state Industrial Relations Commission rather than the federal jurisdiction. I think they ended up in the Federal Court. I made it plain in my second reading speech that we did not agree with that, but the changes were made so that people would not again be forced to go federal when they wanted to use the state jurisdiction. Now that the federal Act has been changed we want to change our legislation back to what existed previously when we did not have the provisos.

That is why the member for Nollamara misunderstood me. I did not say that the TLC asked me to change it back, but to change it to what was in Bill No 2.

Ms McHALE: I am astounded that the Minister perceives natural justice to be where a terminated employee must prove that the termination was unlawful. That is contrary to any sense of fairness, equity and natural justice. In a case for dismissal much material must be presented to the court to justify whether dismissal was fair. Who holds that material? It is the employer. A terminated employee must prove whether his dismissal was harsh, oppressive or unfair, but he will not have access to that material. The whole focus is cockeyed. The Minister has claimed throughout this debate that he is genuinely trying to protect employees. To shift the onus of proof from the employer to the employee is no demonstration of that.

Mr KOBELKE: I want it recorded in *Hansard* that members of the Opposition are totally opposed to this and the following sections. We wish to divide on them but the Government has given us so little time to debate such important legislation that we do not have the time to hold a division.

Question put.

Point of Order

Mr RIEBELING : I heard only one voice for the affirmative and any calling of that vote will indicate that the noes clearly have it.

Committee Resumed

The DEPUTY CHAIRMAN: In order to determine the feeling of the House I restate the question.

Clause put and passed.

Clause 23: Section 23A amended -

Ms McHALE: I vehemently oppose this clause. It limits yet again the remedies available to terminated employees who have been found to be unfairly dismissed. This clause proposes to amend the substantive section by allowing compensation to be paid only when "the employer has agreed to pay the compensation instead of reinstating or re-employing the claimant". The current provisions for compensation provide limited powers. Compensation may be awarded in two circumstances; first, where reinstatement or re-employment is deemed to be impractical or inappropriate and, second, where an employer fails to reinstate or re-employ an employee in compliance with a

commission order. The legislation will retain the second limited power but remove the commission's discretion to award compensation where reinstatement is impractical or inappropriate. The power to award compensation in the second circumstance referred to is by no means automatic, and a number of preconditions must exist. The removal of the commission's discretion means that the employer must agree to pay compensation. It may be that an employee wants his or her job back but the employer can determine otherwise. Therefore, if an employee who is found to have been unfairly dismissed wants his job back, the employer may decide he does not want to re-employ that person, and may pay compensation instead. That is the first scenario.

The second scenario involves an employee who, in the intervening period between being dismissed and the finding of unfair dismissal having been made, has found other employment. In those circumstances reinstatement is impractical. Under the current legislation compensation can be paid in those circumstances, but this Bill will remove that provision. The employer may know that the employee involved has another job and offer reinstatement, knowing full well that the employee is no longer available. In those circumstances no compensation will be paid because the employer must first agree to it.

The third scenario is where the employee is found to have been unfairly dismissed and the employer agrees to take that person back. However, the working environment may be hostile. The employer may offer that reinstatement to avoid compensation but the employee could be entering a hostile environment for a range of reasons, and no compensation would be available. The Government is removing a remedy which is already fairly limited and has been on the Statute book only since 1994. There is no evidence that this provision is being abused or is causing pain for employees or employers. There is no justification at all for this amendment, other than squeezing the individual worker. Why is the Government amending the legislation in this way?

Mr KIERATH: It would help to consider the law as it stood prior to 1994, which this Government thought was the most satisfactory version.

Mr Kobelke: Why did you change it?

Mr KIERATH: I have explained previously. There was a two step process which shifted the emphasis from receiving compensation for being unfairly dismissed to reinstating the person. The Government wanted the primary emphasis to be on reinstatement, rather than buying someone out of a job. The first of the two steps was reinstatement and the second, if the parties were not happy with the arrangement because there was a breakdown in the relationship, was an offer of compensation. That legislation was changed in 1994 only because Brereton's legislation was overriding everything in the state system which had been in operation for approximately 40 years.

When I introduced that Bill, it was one of the rare occasions on which I said that I did not agree with its provisions but all the parties involved had requested it. Having said that, the Government wants to go back to the two step process. Instead of opposing everything, as the TLC has done, some groups asked what the Government wanted to achieve. In those consultations they accepted the Government's two step process, but asked what would happen where the relationship had broken down. If an employer recognises that the relationship has broken down, why not pay the compensation at this stage rather than go through the whole process and then pay compensation? This provision will allow that. If there is no chance of the relationship working - the employer must indicate that - the employer may pay the compensation rather than force the parties to go through an unhappy process and pay compensation later on.

Ms McHALE: The Minister makes it sound delightfully simple and cooperative. Unfair dismissal is not delightfully cooperative; it is horrendously uncooperative and incredibly tense and frustrating. There are times when an employee may not want to go back into a workplace for a range of reasons, but this legislation will allow the employer to avoid paying compensation in that circumstance. An employer can, and will, orchestrate the situation so that the employee will be offered only reinstatement.

I also comment briefly on the current federal legislation. This legislation is inconsistent with federal provisions. The federal Act currently provides for compensation to be paid when the commission feels reinstatement is inappropriate. It may make an order for payment in lieu of reinstatement. A number of circumstances must exist before the commission can exercise that discretion, but I understand from the 1997 CCH that there is provision for compensation where reinstatement is inappropriate.

Clause put and passed.

Clause 24: Section 29 amended -

Ms McHALE: The effect of this clause is to remove any opportunity for an extension of time for a terminated or dismissed employee to bring a case before the commission. The Act provides for a period of 28 days and in limited circumstances the commission may on application of the employee extend the time. This provision seeks to remove

that extension so that under no circumstances could an individual be given an extension of time. Members may think four weeks is long enough for terminated employees to realise, first, that they have been terminated; second, that avenues of redress are available; and, third, to prepare themselves for that area of redress. However, 28 days is not a long time and circumstances arise that require an extension of time.

Few cases have occurred in which extensions of time have been requested or granted; however, it is a discretion of the commission, depending on the circumstances that prevail at the time. Given those circumstances, why is the Minister insistent on limiting the opportunities of the terminated employee and removing any extension of time?

Members opposite tell me the reason for these changes is to ensure the state legislation is consistent with the federal legislation. Why is the Government removing any extension of time when the federal legislation provides for 21 days, with the commission having the discretion to extend time? I cannot comprehend the mean-mindedness behind this legislation that seeks to withdraw the right of people to seek redress if for some reason they have not been aware of the commission, which is not beyond the realms of possibility, or have not been able to prepare or lodge their application on time. This provision is mean-minded, unnecessary, not warranted by fact and beyond comprehension.

Mr KIERATH: The 1993 amendments included no extension of time and the extension was added in 1994 to mirror the Brereton legislation. At that time the extension was to cover situations when people went to the federal jurisdiction and that jurisdiction said "no" and referred them back to the State for, I think, an adequate and alternative remedy. When those people got back to the State they had run out of time. Now the adequate and alternative remedy provision has been repealed, the Government wants its legislation back to its original form, which we believe was right and proper.

Clause put and passed.

Clauses 25 to 28 put and passed.

Clause 29: Section 7 amended and transitional -

Mr KOBELKE: This clause is a reflection of the divinely ordained mission of the Minister to ensure union dues cannot be deducted by the employer. The Minister has given his quaint views on why he has included this provision; however, I see no rational reason for it. The Minister has argued on many occasions that workplace agreements are about the employer-employee relationship; that is, keeping everyone else out so employers and employees can sort it out between themselves. However, the Minister says employees and an employer cannot enter into an award or industrial agreement the fact that they agree on an arrangement for the deduction of union dues, because it is against his religion. That is the only reason the Minister gives: His religion does not allow union dues to be deducted by an employer, regardless of how happy the employer is with the arrangement and how much it is required by the employees who are members of a union.

Mr Bloffwitch: Do you think it is right that if someone says he has joined the union, I have to get my bookkeeper to do the work and to send a subscription to the union? Let me tell you, that is crazy. The rest of the world does not believe it is right.

Mr KOBELKE: The point I make is that even when an agreement exists between the employer and employee, this Minister will not allow it. If the member for Geraldton as an employer does not wish to cooperate, that is not subject to the clause before the Chamber. We are not talking about a form of compulsion, but about an arrangement that has been agreed to by an employer and a group of employees. This Minister says that is something he will not allow to happen. The requirements are expressed in clause 29(2). The clause does not allow an employer who wishes to do that to be involved. The legislation states further that the matter is to be reviewed so that when it is taken out of an agreement, the rewriting of that agreement will come before the commission, which can hear any matters relating to that. However, subclause (2) makes such an agreement unacceptable. Why does a latter part of the legislation allow the awards or agreements to be varied and provide for a process of assessment of them when the Minister says this matter cannot be part of any agreement?

Mr KIERATH: I am more than happy to explain the clause to the Chamber. I must admit that the Government did not get this provision right the first time. In the Government's first set of industrial relations reforms it removed the collection of union dues as an industrial matter. It was the Government's firm intention to remove it as an industrial matter in awards or agreements, but allow it to be an administrative matter. The difference is that although it is part of an award, if one of the parties ceases it, it is a breach of that award. If it is done by administrative arrangement, instead of being a right it is a privilege: Parties come to an agreement and the fees are deducted. I reassure the member for Nollamara that all this clause will do is remove the provision as a right from awards and agreements, but allow it to be reinstated if the parties can agree by administrative arrangement. The Government could have followed Victoria and simply banned it altogether. We did not go that far. We said the deduction of union dues should not

be part of agreements or awards, but that if the parties could agree, they should be able to make administrative arrangements to deduct them.

The member for Geraldton does not want to do that, but perhaps the member for Wagin is of a mind that he would like to do it for his employees. In that situation he could still do it administratively, but it would not form part of an award or agreement before the commission. Should one of those parties break its word and the practice ceases, it cannot be hauled before the commission. I make it clear that it does not prevent it. When this clause was drafted the Government thought it covered all these positions, but on seeking legal advice on another matter it was found the drafting was not right. I have not got to the bottom of how that occurred. Nevertheless, it was the Government's intention that it should be taken out of all existing agreements and awards and should be reinstated only as an administrative matter. Therefore, I move -

Page 46, line 12 - To insert after "industrial agreement" the following -

> dealing with the restoration of a practice of collecting subscriptions to an organization of employees where that practice has been ceased by an employer or

Mr KOBELKE: Good laws, particularly in an area such as industrial relations, cannot be built on the basis of prejudice. A system of laws cannot be put in place when one takes up one side of the argument and considers those who take up the other side of the argument to be the enemy. Clearly, that has occurred in this instance. The Minister believes it is a mortal sin for an employer and an employee to include in their industrial agreement or award a condition relating to the deduction of union dues. It defies the understanding of anyone who is not totally prejudiced how such an agreement cannot be entered into. It does not force an employer to enter into that agreement; it simply forms one of the factors that could be part of an award or an agreement. The Minister considers that by holy writ it must be extracted and cannot be allowed. He admitted that is what he wanted to do, but he had to draw back a fraction. What he wanted to do was so totally outlandish that he had to dress it up in the hope it would achieve the same effect. He cannot rule it out altogether and is now saying it can be done as an administrative matter. That means it still cannot be part of the agreements which are negotiated between a group of employees and an employer if there is some form of disputation in the workplace.

Surely in industrial relations legislation one would try to ensure cooperation so that people dispute issues of any real substance on a minimum number of occasions. A set of procedures should be in place which try to resolve problems in the workplace before they become major issues. The Minister uses this jargon in discussing the Bill, but the Opposition knows he does not believe it. His bias and prejudice are evident in the legislation and it is obvious he is opposed to any cooperative form of industrial relations. Again, it is obvious in this clause. The Minister will, if possible, ensure maximum disputation to prove that the award system does not work. He wants everyone to be on a contract so that they will be singled out individually. It will break down their ability to negotiate in a cooperative way. The potential for people to form a group to look after their interests is being undermined. The power of money, employers and the Government will result in the Government reducing wages and conditions and further reducing the living standards of families in Western Australia. That is the Minister's agenda. We have seen it reflected in so many clauses and it is evident in this clause.

Ms MacTIERNAN: The industrial relations system in Australia has been very successful because it recognises industrial realities. We have seen not only in this Bill, but in a raft of legislation which has come into this place under the aegis of this Minister, an attempt to define industrial reality and reconstruct the real landscape with a pretend landscape by saying that regardless of the reality in the workplace, there will be a new reality; that is, the reality that is formed upon legal definition.

In a raft of legislation the Minister has said that by statutory definition these will no longer be industrial matters regardless of how important they are at the workplace. A classic example is the whole area of occupational health and safety where the Minister believes that just by deeming in a Statute that something is not an industrial matter it will cease to be a matter of concern, agitation and conflict between employee and employer.

This clause is another example of the Minister's absolutely misguided attempt to change the reality that exists in the workplace and to pretend that in some way, if we introduce all these artificial definitions, we will be able to offer real solutions to real problems and real disputes in the workplace.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 30 to 32 put and passed.

Clause 33: Section 49AB inserted -

Ms MacTIERNAN: This clause concerns the power of entry. The Minister tried this on in 1995 and it was ultimately withdrawn after negotiations between the unions and the Premier, with input from the Opposition. In this clause the Minister is seeking to limit the power of entry that unions have to the workplace to deal with industrial matters. It is a very significant matter. In fact, it goes right to the heart of this Minister's approach to industrial relations and much of the inspiration he has for these changes.

The clause states that there will be a power of entry but that power may be exercised only by a representative for the purpose of dealing with an industrial matter involving that member. There must be a declaration that there is an industrial matter concerning a particular member or former member and that the right of entry relates only to that member. The very real problem it poses is the question of confidentiality.

In 1994 the Opposition had access to the Cabinet minute that went forward to justify this Bill. As with much of what the Minister writes, it was a totally misleading document. One thing that was revealing in the Cabinet minute, which was where the Minister first dealt with his desire to alter the right of entry and inspection, was the representations which had been made to him by a certain religious group; namely, the Exclusive Brethren. Members have seen that they have been very much a part of the Graham Kierath fan club and have attended the debate on this Bill.

Mr Bloffwitch: They have been more orderly than the other crowd.

Ms MacTIERNAN: They certainly have been more orderly, but Adolf Hitler was orderly too. I indicate to the member for Geraldton that order is not of itself a positive characteristic.

Mr Day: Are you comparing them to Adolf Hitler?

Ms MacTIERNAN: I simply said that order in itself does not indicate virtue.

Mr Wiese interjected.

The DEPUTY CHAIRMAN: Order!

Ms MacTIERNAN: It was probably done with ruthless German efficiency.

The DEPUTY CHAIRMAN (Mr Ainsworth): Order! If the member would address her remarks to the Chair, more progress would be made.

Ms MacTIERNAN: My point was that it became very evident -

The DEPUTY CHAIRMAN: The member took her seat when I called order. Technically that concluded her time allocation. However, if she took it to be necessary to be seated while I called order, I accept that her contribution may continue.

Ms MacTIERNAN: I did; I apologise.

It became very evident in the 1994 minute that the great motivating force for the Minister's actions was the position taken by the Exclusive Brethren. Extraordinarily for Christians, they are opposed to the very concept of unionism. They have taken numerous cases before the Industrial Relations Commission to claim exemptions so they do not have to comply with various provisions of industrial relations legislation. Indeed, they have been very keen on this matter, and over the years have made many representations to the Minister, even before he was a Minister, to alter these provisions.

An attempt was made in 1995 to make these changes. It was one of the provisions which was knocked on the head as part of the negotiations between the union movement, the Opposition and the Government. We see them returned in this provision.

These are not just theoretical problems, but very real problems for union members. If one was concerned about the rights of individual union members, one would understand the need for confidentiality of membership in many instances, particularly for those people employed by an Exclusive Brethren and a raft of other people who are opposed to unionism. People must have the real right to join a union and they need to have that protection of confidentiality. This clause blows that protection right out of the water and exposes union members to the wrath of employers who will have access to the knowledge that a particular employee is a member of a union.

Mr KIERATH: It is interesting to reflect that we have already passed clause 30 which will not allow the commission to grant unions and officials the right of entry. These provisions simply restrict the right of unions' entry to a workplace containing members of those unions. Interestingly, unions always say they want to offer people a benefit or advantage in membership; this obviously will be one such benefit. I recently had some research conducted which indicated that three of the most prominent unions spouting off at the moment against this legislation use right of entry as a procedure for recruiting members, not checking the details. With declining union membership - membership

is 25 per cent across the State and 17.1 per cent in the private sector work force - the vast majority of employees are not union members.

The Government believes it is right and proper that the right of entry be given to unions and its members, but a union should not have that power of entry without members in the workplace. The services provided by unions will still be provided in such circumstances by industrial inspectors in all other conditions.

Ms MacTiernan: Have you had representations from the Exclusive Brethren in relation to rights of entry?

Mr KIERATH: Absolutely.

Ms MacTiernan: Too right. I have had representations from their employees who are petrified by the provisions.

Mr KIERATH: I do not think so because -

Ms MacTiernan: You do not care about union members!

Mr KIERATH: Of course I do.

Ms MacTiernan: Why not protect that confidentiality? Why expose them to the sack?

Mr KIERATH: What do you think union fee deductions do to union members? They expose them as being members.

Ms MacTiernan: A union cannot take away a livelihood!

The DEPUTY CHAIRMAN: Order!

Mr KIERATH: It is all right to expose members when collecting money off them, but not in other circumstances; that is the trouble. The member seems to have a double standard. If she has specific questions in relation to the clause, I am happy to answer them.

Ms MacTIERNAN: I have specific questions which go to the nub of the matter. Does the Minister accept that this provision requires that a union must reveal its membership at a particular workplace, and in making that revelation it is required to breach the confidentiality of employees? Does he agree that in many instances, including those involving persons employed by the Minister's friends the Exclusive Brethren, employees will be liable to discrimination and dismissal at the workplace?

Mr KIERATH: I believe that a union wanting to go into a workplace will have to indicate whether it has members in that work force, or has had members there in the past.

Ms MacTiernan: Will it have to name them?

Mr KIERATH: My advice is probably, but not necessarily - it depends on the matter being investigated.

Ms McHALE: Will the Minister clarify that statement? Proposed section 49AB refers to entry for the purposes of dealing with an industrial matter involving that member. Therefore, that member must be identified before the union organiser can gain power of entry.

Mr KIERATH: The industrial matter could be a broad item and it may be accepted that a member or some members are already at the workplace. The union may enter the premises to discuss those issues, and that is why they would not necessarily have to identify the employees.

Ms McHALE: Will the Minister clarify that position and make it clear that if an issue involves two or more union members, those members need not be named?

Mr KIERATH: I did not say that at all. I said it depends on the nature of the issue. It may involve a broad, general issue for which the union wants entry to talk to people. It may be established to the satisfaction of the parties that some of those people are union members, so it might not be necessary to identify the members. The answer I gave to the member for Armadale was "probably, but not necessarily".

Ms MacTIERNAN: Unfortunately, we are unable to take this debate as far as we wish, but it is clear from the structure of the clause and the Minister's response that if the employer requires it, the union must nominate the member or members on whose behalf it is entering the workplace in order to gain entry. There is no other way around this. It is a massive breach of confidentiality and erosion of the privacy of union members. It is motivated entirely by a desire to erode union membership and to frighten off employees from joining unions. The Minister knows that employers, like his friends the Exclusive Brethren, have no hesitation whatsoever in giving their employees who are union members a hard time. It is a complete disgrace! Like many other provisions we have seen

today, this shows that the Minister is not the slightest bit concerned about the interests of union members. This is the biggest lot of cant and hypocrisy ever presented in this place. The Minister is as phoney as those people themselves.

Mr Kierath: If there is any dispute, they can go to the commission.

Mr KOBELKE: People do not have to be total ratbags or unscrupulous employers, who will break the law and take advantage of people to put this proposal forward, but they are the people who benefit from what the Minister is doing here. He is saying that ordinary workers who might be on only $300 or $400 a week, perhaps supporting a family, are to be subjected to intimidation, standover tactics and theft of their wages by their employer, and the Minister will not offer them protection. Let us not beat about the bush - that is what the Minister is doing here. He cannot tell us he does not know that is what he is doing, because that is what it is all about. If this clause is passed, he will be held responsible for low paid workers who are abused by a small percentage of totally unscrupulous ratbag employers, who under this provision will not be brought to justice. It will go down in the annals of this State as being the way in which ruthless, unscrupulous ratbag employers can subjugate lowly paid employees by the worst possible forms of exploitation - and we will call it the Kierath amendment.

Mr KIERATH: That was simply rhetoric. It obviously shows a gross misunderstanding of the situation. Where the workers are members of the union, it has those rights of entry. Conversely where people have chosen not be a member of that union, it does not have those rights of entry. That does not mean to say that we have abandoned those people. In fact, in some ways we have given them greater protection, and I will explain why. The industrial inspectorate still has full rights of entry. If the employees want to remain anonymous, they can ring up an industrial inspector and have that person go into the premises and talk to the parties. The difference is that I have had people, for whom the union has found "mistakes" in their pay, and the first thing the union says is, "Join the union first and then we will take up the matter on your behalf."

We have given more power to the industrial inspectorate in this State and tried to improve its resources. We believe the industrial inspectorate should provide proper processes for those who have made a deliberate decision not to join any industrial organisation of employees. Often I am asked why non-union members should have access to pay rises. The argument is run that they are not a part of the union and the union negotiates that pay rise. If the Labor members feel strongly about this situation, it will be a selling point they can put to workers, telling them the benefits of belonging to an organisation of employees and saying that if employees join the union, it will have the right of entry. I remind the Chamber that, equally, the industrial inspectors have that right of entry. We imagine those people who are not members of a union will use the industrial inspectorate to gain right of entry to a workplace.

Mr BROWN : The clause is being included to ensure that those who are underpaying workers their legal entitlements can get away with it. This is about denying access for union representatives to inspect books. The fact of the matter is that the Department of Productivity and Labour Relations has received numerous inquiries about underpayment of wages. I will be interested to know from the Minister just how far inspectors are behind in carrying out this role. People are worried about their jobs these days. It is not unusual for officials of unions to be approached by members and asked to inspect members' time and wages records, particularly where they do shiftwork or work overtime under a complicated arrangement. They are asked not to disclose to the employer which employee's records they are inspecting, because that worker is worried that he will be singled out or victimised by the employer. It does not happen with every employer.

Many decent employers do not have a problem with someone inspecting their books. If they are doing the right thing, there is nothing to fear. If they are paying award wages - an inspection cannot take place when people are covered by a workplace agreement - and award conditions, there is nothing to fear. They do not mind the inspectors coming in, because they can prove they are doing the right thing. If they are underpaying and running a deliberate anti-union policy to keep out the union, or not accommodating members who want to join a union, they do not want their books inspected by anybody. If we include in this legislation a prohibition on one group that currently has access to the books, it will be better for the very small proportion that cheats and deliberately steals from its employees by underpayment of wages.

On many occasions the unions are asked to do these inspections by the employers' competitors. Employers will know the cost of a job and say that a competing employer cannot be paying award rates to its workers. The employers are expected to provide a safe workplace for employees; yet they cannot compete because someone down the road is cheating. They know that is the case because they have evidence to that effect. This will protect the very small proportion of the ratbags, those who seek to intimidate their work force and to pay them below the entitlements. This Minister can be very proud of himself in seeking to protect that very small minority of employers who do not do the right thing, and who cheat and steal from their employees.

Mr KIERATH: I totally reject those comments. I place on record that I stand with the Opposition in condemning any ratbag employer who cheats or deliberately steals from employees. I agree with the member for Bassendean. This is not about people cheating and stealing; it is about rights of entry. Let us get some things clear. The industrial inspector has full powers of right of entry. The member for Bassendean raised some issues. In the past 12 months I have allocated an additional five liaison officers to the Department of Productivity and Labour Relations

Mr Brown: They do not inspect books.

Mr KIERATH: Yes, they do. They do a whole range of things. Those opposite have not caught up with the latest changes. The department has been allocated five new positions, of which three have been filled permanently, and additional resources have been given to the industrial inspectorate to make sure it enforces the law as it stands. I give the Chamber this undertaking: If more people are required to beef up the industrial inspectorate, I will be the first person to put up my hand for more resources to do that. The reason we have the additional five inspectors is because I did exactly that. We are not about downgrading them, but about ensuring that those who choose not to be union members do not have the union putting pressure on them to join it and to do things it wants them to do.

Ms MacTIERNAN: I have just had a very useful discussion with the member for Wagin. The agrarian socialists have shown once again that they have some sympathy with the working people of this State, unlike their coalition partners. The suggestion has been made that if the Minister wants to preserve this notion that the right of entry will be confined to situations where a union has members on site, which we do not believe is right, we could legislate that the union official present the employer with a statutory declaration stating that a union member was on site but not indicating the name of that member. If that were contested, it would be up to the employer to take the issue to the Industrial Relations Commission. The commission, in confidence, could check the records to establish proof that the union official's declaration was correct. While it would not be a complete answer to all our concerns about this limitation on right of entry, it would at least protect the confidentiality of union members and ensure that the fact of their membership did not become an issue about which they were discriminated against and penalised by their employer. Given the arguments that he has presented, I cannot see how the Minister can oppose that very sensible suggestion.

Mr KIERATH: Do I take it then that if I were to agree to that suggestion, the Opposition would support the clause?

Ms MacTiernan: No, we will not support the clause, but we will support an amendment along those lines because it would be a lesser evil.

Mr KIERATH: If I were to agree to the amendment now, the member would not necessarily agree to the clause. There is some sense in part of that suggestion. To simplify the procedures, I am prepared to seek advice about the statutory declaration where there is a union member on site. If it does not have any adverse effect on other provisions of this part, I am prepared to consider it. If I can, I will include it in the legislation to be introduced in the other place. Members opposite will vote against it anyway; so I am not doing this to curry favour or get any advantage. However, it is a fair suggestion and I will have it considered by the appropriate people and try to deal with it before the legislation is introduced in another place.

Clause put and passed.

Clause 34: Section 49B amended and transitional -

Ms MacTIERNAN: The effect of this clause has already been mentioned by the member for Bassendean and it relates to the right of inspection. The Opposition has two great problems with it. Firstly, it opens up the opportunity for the employer to cook the books. One of the essential aspects of the right of entry provisions was that a union representative or an industrial inspector could attend upon a workplace without prior notice to inspect the books. That was a very important measure. I am sure that no-one more than the Minister for Labour Relations, from his own experience as a businessman, would know that to some extent the possibility of a random inspection keeps in check those employers who might otherwise not have a legitimate set of books. We know that by giving 48 hours' notice we are simply providing rogue employers with the opportunity to cook the books. The fundamental concept here is flawed.

Secondly, union officials will no longer be entitled to look at the books; they will have to wait on the industrial inspectors. The Minister often touts that the Department of Productivity and Labour Relations has these industrial inspectors who will do the job; it does not need union officials. The poor performance of these industrial inspectors is no reflection on them; it is simply a result of their massive workload. One of the consequences of the decline in union membership is that there has been a much greater reliance upon and need for the services of industrial inspectors. Although the Minister said that he had employed five new inspectors, those appointments followed a devastating report by the department condemning its own performance in respect of recovery of wages.

The workload is simply increasing. We know that people who contact DOPLAR - believing the Minister's statements that there is a department ready, willing and able to take up their case - are routinely told that a file cannot be opened for nine months. Time and again we have raised in this Parliament cases of people who have been waiting up to two years for the officers of the department to do their job. We also know from statistics presented to Parliament from time to time that the rate of prosecution and recovery has dropped dramatically because officers have been instructed to sell the virtues of deregulation and workplace agreements.

The Minister has acknowledged in answer to questions in Parliament that a young prosecutor was the subject of an approach by the Chamber of Commerce and Industry of Western Australia. It asked that this man be moved because he was so good at prosecuting. Of course, our very obliging Minister ensured that he was moved out of that post.

Mr Kierath: What are you saying?

Ms MacTIERNAN: The Minister has acknowledged this.

Mr Kierath: No, I have not acknowledged what you have said.

Ms MacTIERNAN: I accept that. However, the Minister has acknowledged that representations were made to him by the Chamber of Commerce and Industry in relation to a particular officer and his performance as a prosecutor. I then say that he was moved to another section.

Mr Kierath: Not by me in any way, shape or form.

Ms MacTIERNAN: We now know that CEOs of DOPLAR are on five year contracts, renewable at the discretion of the Government. I say no more. However, it is undeniable that officers of the Department of Productivity and Labour Relations simply cannot cope with their current workload. It is absurd to suggest that in any way, shape or form they will be able to take over this role.

Clause put and passed.

Clause 35: Section 7 amended -

Mr KOBELKE: Proposed section 35 contains the definition of "strike" as -

> "**strike**" means any action by 2 or more employees, or by an organization of employees, that involves a stoppage of, or ban or limitation on, the performance of work required under an employee's contract of employment;

That definition is so wide ranging that it picks up almost anything. In fact, it is picked up in a whole range of provisions in this Bill and workers could end up facing dire consequences because an insignificant little incident occurred in the workplace. If a strike as defined in this clause takes place without workers going through the pre-strike ballot requirements, they are liable for a whole range of fines.

This could lead to action to deregister the union, even though the union may not have been aware that two of its members were involved in a strike. We find here that almost any action could be taken as a strike. In the first instance it is tied to the requirements under an employee's contract of employment. If the form of contract of employment is "all work as and when directed by the management", simply not fulfilling the management's requirement can be deemed a strike, as long as two or more people are involved and they are union members. This definition will make the whole system unworkable. People may wish to say that a strike took place because two or three union members of an employer were involved in limiting what was considered to be the work that had to be done. Even if the definition of the work to be required is not as specific as that instance, a whole range of very minor actions could be taken by employees.

All the conditions in the Bill are far too complicated for them to know. They may be threatened by employers and told that they can no longer do certain things without being subject to a whole range of dire consequences. The fact is that many employees who are union members may not be aware that minor action that they might take in the workplace could under this definition be construed as a strike and that action could therefore be picked up by one of the many provisions of this Bill.

I suggest that we rework the word "strike" to mean the complete withdrawal of labour of a specific number of employees. I picked up 15 employees because the Commonwealth has indicated in recent weeks that it will use 15 as a deciding number in respect of unlawful dismissal in small businesses. The number 15 could be changed. The Minister's current definition of "strike" is simply not workable. It is far too pervasive and could pick up a whole range of events in the workplace which by no means could be construed as a strike. They could be very limited forms of industrial action. Two members in a workplace may not even consult their union representative but unilaterally decide that something is not acceptable. They might take some limited form of action which might come within the

definition of "strike". Then all these provisions in the Bill will apply should people take steps based on what they believe may be a way of taking action. That does not provide for good industrial relations. A competitor or maybe a disgruntled member of the work force may want to cause disputation.

[The member's time expired.]

Mr KIERATH: We have had this debate previously. I said to the member for Bassendean that I would have a look at this issue during the time this Bill passes from this Chamber to the other place. I am examining the provisions.

As to the issues raised by the member for Nollamara, he should read the clause again because it states that a strike means any action by two or more employees. It does not state that they are union members or organisations. It says "or by an organization of employees, that involves a stoppage of, or ban or limitation on, the performance of the work required". The crucial words are "under an employee's contract of employment". Quite clearly a strike can apply to non-union members. I do not know where the member has plucked the figure of 15 from.

Ms MacTiernan: He explained it.

Mr KIERATH: Nothing in the federal industrial relations legislation explains the figure of 15. A press release issued by the federal Minister refers only to the new, small business-friendly policy on unfair dismissals. The Commonwealth does not have the legislative right to legislate for most small businesses because the majority are not covered by the Corporations Law.

Ms MacTiernan: That is not true.

Mr KIERATH: It is, because the Minister has written to me asking whether I would consider legislation at this level. He acknowledges he does not have the legislative power to do it. He does not exempt them totally but gives them only the first 12 months, which is like a trial period. Therefore, the figure of 15 does not hold any substance for the number of employees. Obviously, individuals can do whatever they like. If two or more individuals collectively take action obviously it forms the definition of strike.

Mr KOBELKE: I find the Minister's response pathetic. I was trying to raise very serious deficiencies in the Minister's definition. He has sought to go off at tangents on aspects I alluded to. I indicated where the figure 15 came from. I said that we were not wedded to changing the figure to 15. We simply indicate that two employees are so few that it makes the whole thing a joke. One cannot have a strike being defined as two employees in a workplace taking some action which could be construed as a ban, or where the limitation on performance of work or a minor refusal by two members to comply with an instruction in a workplace is taken to be a strike. It throws up a whole range of problems which the Minister has not been willing to address.

Mr Kierath: It would not affect the performance of work required under the employee's contract.

Dr TURNBULL: I am pleased that the Minister has indicated that he is prepared to look at the definition of the word "strike" before the legislation arrives at the other place. The reason is that in Western Australia the conditions under which people work, the types of workplaces and the work conducted are so wide that it is really impossible to make a definition in this present legislation which will cover all the permutations and possibilities. During that time of consideration I ask the Minister to consider the issue of a short stoppage by workers in which to discuss the possibility of taking strike action. It is usually called a stop work meeting. In workplaces with continuous operation, such as power stations or hospitals, a short stop work meeting of a defined time could be about the best way of people in the workplace gaining an impression of the strength of feeling of the employees. I ask the Minister to consider not having a short stop work meeting regarded as part of strike action.

Mr KIERATH: I said at an earlier stage of this debate that I was seeking advice, as the member for Collie quite rightly pointed out. I have since been advised that if the employer is prepared to agree with it, it forms part of the contract of employment and therefore employees would not be covered by this legislation.

Ms MacTiernan: That is not true.

Mr KIERATH: My advice, which I sought between the earlier debate and now, indicates that if the employer is prepared to agree to it, this part would not prevail. I said that I was happy to consider small stop work meetings as long as they were not used as an industrial weapon or in place of strike or bans and limitations. I gave the Chamber that assurance. I believe that I will have a position which will be acceptable to most people.

Mr KOBELKE: I thank the member for Collie for taking an interest in this legislation. It is of great regret that no other member on her side has said anything and that the few things that have been said by interjection have reflected a total misunderstanding of the Bill. While I do not agree with the member for Collie, she is the one member on the government side who has taken an interest in the legislation and tried to understand what it means. The definition

of "strike" is totally unworkable, but all the Minister will say is that he will look at it. Will the Minister now make it a requirement that all small businesses report when an event occurs which is a strike under this definition?

Mr Kierath: Nothing in the Bill requires them to report.

Mr KOBELKE: The Minister will not try to determine the amount of industrial disputation that occurs under his definition of a strike?

Mr Kierath: I have given an undertaking to look at stop work meetings.

Mr KOBELKE: That is not what I am asking. The definition of a strike is two or more people in the workplace not doing the work that they are told to do. Will the Minister now ask businesses with two or three employees to report every time there is a strike?

Mr Kierath: There is no provision for that at present.

The DEPUTY CHAIRMAN (Mr Ainsworth): The time has arrived for completion of all remaining stages of this business, and under the sessional order every question necessary to complete the business must be put without further debate or amendment. The question now is that clause 35 stand as printed.

Division

Clause put and a division taken with the following result -

Ayes (26)

Mr Baker	Mr Kierath	Mr Prince
Mr Barnett	Mr MacLean	Mr Shave
Mr Board	Mr Marshall	Mr Sullivan
Mr Bradshaw	Mr Masters	Mr Sweetman
Dr Constable	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*
Mrs Hodson-Thomas	Mr Pendal	

Noes (18)

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

Clause thus passed.

The DEPUTY CHAIRMAN: The question now is that clauses 36 to 40 and the title of the Bill be agreed to, and that I do now leave the Chair and report the Bill, with amendments.

Division

Question put and a division taken with the following result -

Ayes (26)

Mr Baker	Mr Kierath	Mr Prince
Mr Barnett	Mr MacLean	Mr Shave
Mr Board	Mr Marshall	Mr Sullivan
Mr Bradshaw	Mr Masters	Mr Sweetman
Dr Constable	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*
Mrs Hodson-Thomas	Mr Pendal	

Noes (18)

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

Question thus passed.

Report

Bill reported, with amendments.

The SPEAKER: The time has arrived for completion of all remaining stages of this business. I am required under the sessional order to put every question necessary to complete the business without further debate or amendment. The question now is that the report be adopted.

Division

Question put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Pendal
Mr Baker	Mr Kierath	Mr Prince
Mr Barnett	Mr MacLean	Mr Shave
Mr Board	Mr Marshall	Mr Sullivan
Mr Bradshaw	Mr Masters	Mr Sweetman
Dr Constable	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (18)

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

Question thus passed; report adopted.

Third Reading

The SPEAKER: The question is that the Bill be now read a third time.

Division

Question put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Pendal
Mr Baker	Mr Kierath	Mr Prince
Mr Barnett	Mr MacLean	Mr Shave
Mr Board	Mr Marshall	Mr Sullivan
Mr Bradshaw	Mr Masters	Mr Sweetman
Dr Constable	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*

Noes (18)

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

Question thus passed.

Bill read a third time and transmitted to the Council.

ADJOURNMENT OF THE HOUSE - SPECIAL

MR BARNETT (Cottesloe - Leader of the House) [4.14 pm]: I move -

That the House at its rising adjourn until Tuesday, 29 April at 2.00 pm.

Adjournment Debate - Labour Relations Legislation Amendment Bill - Guillotine

DR GALLOP (Victoria Park - Leader of the Opposition) [4.15 pm]: We have seen a travesty of the parliamentary process. The Labour Relations Legislation Amendment Bill is a spectre haunting Western Australia in 1997. This legislation is not only dividing our community but also creating real tension within the coalition Government. We have seen that tension reveal itself in the past couple of weeks with the hesitation and prevarication of the Minister for Resources Development, because he is concerned about what this legislation will mean for the State of Western Australia. He took the guillotine off last week. He saw the consequences within the community. Now the Government is trying to shut down Parliament quickly so the public of Western Australia cannot have a continuing say on the clauses of this Bill through the duly elected State Opposition.

Let us go outside the Parliament into the community. This legislation is causing massive division in our community. Western Australia will see industrial action like it has never seen before as a result of this Bill. This Bill is opposed not only by the Western Australian trade union movement, but also the national union movement. The Australian Council of Trade Unions has come into this issue.

It is obvious to anyone who knows anything about this legislation that it is flawed on three grounds. For those reasons, if for no other, we should be continuing to debate this legislation clause by clause. The first and most obvious feature of the legislation that this Government has guillotined today is that it was conceived in prejudice and bias against one group in our community. It is legislation that cannot create the basis for trust in the community or for consensus in industrial relations. It cannot create the basis for the State of Western Australia to go into the twenty-first century with employer and employee working together to increase productivity. It is legislation that has come from an extreme element within the Liberal Party. It is the sort of thing they talk about in their right wing powwows. However, when it comes to the crunch, it cannot work.

The Minister for Resources Development and others on his side in this Chamber are concerned about this legislation and where it will take this State. The Opposition hoped that members on that side of the House would join with the Minister for Resources Development and put pressure on the Government to take the heat out of the situation that is developing. Unfortunately, they did not.

The second problem, and why we should not be adjourning the House but debating this legislation, is that this legislation does not have a mandate from the 1996 election. In December 1996 when the people went to vote, the one issue that was on the agenda was a general proposition that there should be secret ballots before strike action. It is true that issue was put on the agenda by the Government; however when the Opposition said, "We agree with that principle, give us the detail", no detail was forthcoming from the Government. None of the other issues that have been raised in this Parliament in recent days - the right of trade unions to enter workplaces and of trade unionists to participate in the political process; federal-state relations and how they impact on state unions; the right of unionists to choose their union; and the impact of this legislation on the federal Constitution - was on the agenda when the people voted on 14 December 1996. Not only were those issues not on the agenda, but also the Government went out of its way to give every impression that the industrial relations conflict of 1993 through to 1996 was a thing of the past and we would have a new era of consensus. If it was not bad enough that this legislation was conceived in bias and prejudice, that this legislation has no mandate from the recently conducted state election, the Government is rushing it through the Parliament before 22 May.

If the first two issues are not enough to convince people that we should not adjourn today, the third issue should be the one that clinches the argument. When the people voted on 14 December 1996 they voted twice: First, they

showed they wanted a Liberal-National Government in the Legislative Assembly, and that choice was made on the basis of the policies put by the parties in the election. We acknowledge that. However, the second vote, for the Legislative Council, was a clear indication that the electors wanted a proper check and balance introduced in our political system after 22 May. We can forget about the fact they had no mandate for this Bill! We should consider that point on its own. This Government is deliberately, and with clear conscience, trying to push this legislation through Parliament before 22 May when the numbers will change in the upper House. It is a brazen attempt to undermine the democratic will of the Western Australian people indicated in the election on 14 December last year.

On the one hand, this extremist Government is trying to introduce legislation which, first, no-one wants, and, second, is undesirable for the future of the State. It is inevitable that this legislation will finish up in the High Court and we will see, as the member for Fremantle said, another $6m go down the gurgler courtesy of hick legal advice on which this Government bases its decisions in this Parliament. I call it hick legal advice because that is what it is. We all know that this legislation contains serious flaws in its constitutionality, and that more taxpayers' money will go down the gurgler as a result of the Government's failure to consider the issues.

The Government says that the trade union movement should sit back and cop this. The Government is whacking the trade union movement in the face and telling it that it should sit back and enjoy the oppression which is about to come its way. Any person who understands human nature knows that when a person is whacked in the face that person will respond. That is the situation today in Western Australia.

I recall only too well when Portugal was moving from an authoritarian system to a democratic system, there were extreme elements within the Portuguese movement for change that wanted to prove the state in Portugal was an oppressive apparatus. People went around whacking policemen and the police reacted to being whacked, and then it was said that proved that an extreme, oppressive state apparatus existed. This Government goes around whacking the trade union movement and expects it to sit down and cop it. It will not. The trade union movement will resist this legislation, and we know what the consequences will be for Western Australia. Therefore, on the one hand, we have an extremist Government, and on the other, the union movement reacting to the agenda that the Government is setting. What should happen in this situation? Let us first ask ourselves what is happening. First, the Premier with his public relations advisers around him -

The SPEAKER: Order! It is very difficult to stick to the point on an adjournment motion. I have allowed a fair bit of latitude, and the Leader of the Opposition has skilfully managed to include an adjournment motion as part of his speech on a couple of occasions. However, I remind him that he should be talking to the adjournment.

Dr GALLOP: We are adjourning this debate at a crucial time in the State's political history, when we should be debating this legislation in this Parliament. I return to the point I was making: On the one hand, we have an extremist Government; on the other, we have a reaction by the trade union movement. How do we deal with the situation? First, how is the Government dealing with the situation? The Premier surrounds himself with public relations advisers, because we do not have a Government of substance; it is one of public relations. These advisers are telling the Premier to be strong; they say that he must show that he is in charge of this State. Then, the Premier states that the Government will not stomach this union reaction; he says this is a strong Government and it will resist all efforts to change the course of events in this State. Inevitably we are drifting along into conflict and it will do no-one any good.

The ball is in the Government's court. There is an alternative, and I urge all members, particularly members of Cabinet, to give it serious consideration. Let us start with democratic principle. The only issue on the agenda during the last state election was ballots before strike action. The Opposition and the trade union movement had no objection to the principle of pre-strike ballots. However, we asked for some detail, which we did not receive because the devil is always in the detail. The second point is that there is no democratic mandate from the recent election - only four months ago - for any of the other clauses in this Bill.

There is a way through this impasse: The Government should say to the trade union movement that the Government will withdraw all the details of this legislation, all the substance of it except secret ballots for pre-strike action - the one issue the Government will leave on the table. The Government should then invite the trade union movement - given that it and the Opposition support the principle - to sit down and talk seriously about achieving a resolution on the issue. As a result of that offer, democratic accountability would be preserved, because this Government was re-elected - we acknowledge that - and that one issue raised during the election campaign would be on the table for consideration by the Government and the Parliament after the election. Secondly, an immense sign of goodwill would be shown towards the trade union movement. Instead of whacking the trade unions the Government should take seriously the concerns raised about many issues which we believe will end up in the High Court. All members know that, and that it will cost us money, time and effort which should be spent on other things.

Thirdly, and most importantly, some degree of trust would return to the political debate in Western Australia. I can assure members that there is no trust at the moment. We know there is no trust because the nature of the calls coming into our electorate offices on this legislation have changed dramatically over the past few days. People are now concerned about what will happen. They are aware of the strength of feeling in the trade union movement and they are concerned that the Minister for Labour Relations and the Government have set upon a path of destroying a group of voluntarily registered organisations. The end result will be authoritarian rule. I urge members opposite to look deeply into their consciences on this issue. Once we set on this political course we will end up with trade union officials being arrested and sent to gaol. We will end up with decent people going about their ordinary business, defending the interests of their fellow workmates, being thrown into gaol. Most members of the Government do not want us to end up like that. They will say it is not their intention, but serious political analysts are not interested in intentions; they are interested in consequences. Once we set on such a course, the consequence will be hatred and division within the community. What will result from the fact this debate was guillotined and the issues of the Bill were not seriously debated? Yet another can of kerosene has been thrown onto the fire. It will inflame the situation even more because the trade union movement has been told time and time again by this Government, "We are not interested in your ideas; forget about it. You are irrelevant; you are no longer part of the body politic in Western Australia; and you are no longer part of our community." When people hear something like that they react.

I hope Mr Howard will take that into consideration in his approach to Wik. When we say to people that they are not part of our community and that although they live here they are not one of us, they are being categorised as non-persons. The member for Bassendean gave a very good speech about that during the second reading debate on this legislation. First one group is isolated, but one's appetite cannot be satiated by isolating just that group, so there must be another group. The dynamic of that scenario results in authoritarian rule. I can give hundreds of examples of how that has happened. Little bits and pieces of apartheid legislation in South Africa gradually resulted in an apartheid system. In Australia in 1951 when legislation was passed banning one political party, step by step we could have become an authoritarian society.

Is it not interesting that coalition members talk about how they believe in the rights of individuals and a free and balanced society? That should be something we share across the Table.

Members opposite should make no mistake whatsoever about our opposition to this legislation. It goes very deep. It is not just a matter of our being frustrated with the parliamentary process. This legislation goes beyond that and undercuts the very trust that makes a community work.

If the Government wants to have on its hands huge disruption and a gradual drift into an authoritarian system, I predict that next on its agenda is how it must deal with the trade union campaigns against it. The Minister for Resources Development may not like this legislation, but he should wait until he hears what he must do to deal with the disruption that will result. I am not saying that because I know anything special. It is inevitable that the police in this State will become a ramrod for a Government rather than a general defender of law and order in our community. When this legislation is resisted, the Government will be forced to take another step. At the end of the day we will have a major crisis in our State with which we must deal.

It is extremely disappointing that the Government has chosen this course of action today. It means that one group in the State of Western Australia has been told that it is not part of our community; the Government does not care about its aspirations or institutions; and it is simply irrelevant. The Government is saying, "We have the numbers boys and girls of the trade union movement and we will drive right through you." All members opposite know that the unions will react accordingly. I ask them to do something about it, and to do it now.

Question put and passed.

House adjourned at 4.34 pm

QUESTIONS ON NOTICE

PUBLIC SECTOR MANAGEMENT ACT - CODES OF CONDUCT

24. Dr CONSTABLE to the Minister for Public Sector Management:

(1) Which agencies have finalised their codes of conduct as required under the Public Sector Management Act 1994 ?

(2) How many agencies are yet to finalise their codes of conduct?

Mr COURT replied:

(1)-(2) The Ministry of the Premier and Cabinet is devising a code of conduct to be completed this financial year which will apply across the ministry. The Public Sector Management Office is finalising a separate code of conduct.

MINISTER FOR POLICE - PORTFOLIO RESPONSIBILITIES

35. Dr CONSTABLE to the Minister for Police; Emergency Services:

What is the name of each committee, board, tribunal and all other similar bodies within the Minister's portfolios?

Mr DAY replied:

State Emergency Service: The Western Australian State Emergency Service has a ministerially appointed committee called the Volunteers Consultative Committee.

Police Service:

Police Appeals Board (Disciplinary).
Community Policing Crime Prevention Council of Western Australia (Inc).
Police Minister's Council on Aboriginal, Police and Community Relations.

Bush Fires Board: Bush Fires Board.

Fire and Rescue Service: The Western Australian Fire Brigades Board.

Emergency Management: State Emergency Management Advisory Committee.

GOVERNMENT PROPERTY - DISPOSAL

48. Dr CONSTABLE to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) In relation to all real estate (land and buildings) sold within the Premier's portfolios in the 1995-96 and 1996-97 financial years -

(a) where was the real estate situated (giving the actual address of the land and building);

(b) for what amount was the real estate sold;

(c) when, if ever, was the most recent valuation of the real estate conducted; and

(d) what was the value of the real estate according to the valuation?

(2) What real estate within the Premier's portfolios is currently for sale or in the process of being sold?

Mr COURT replied:

(1) Sales for 1995-96 are detailed below -

Address	Sale Price	Valuation Date	Valuation
Lot 164 Lisa Rd, South Australind	$225 000	12.1.95	$450 000 (1)
Railway land, Giblett St, Manjimup	$300 132	Various (2)	$439 500
Lot 3007 Quarry St, Geraldton	$190 000	10.5.95	$190 000
Lots 319 and 428 Evan St, Morawa	$10 000	4.11.94	$52 000
Lot 285 Oatlands Rd, Mt Barker	$70 000	1.8.94	$70 000
Portion former WABMA depot, Star St, Carlisle	$470 0000	30.6.95	$470 000

There are no sales for 1996-97.

(2) The Australian Gold Refineries refinery site, 144 Vivian Street, Kalgoorlie, Western Australia.

Notes on Table:
(1) Sale to former owner in accordance with the Public Works Act. The sale price was reduced by the same concessional rate of 50 per cent which applied when the land was acquired by the Government.

(2) The Manjimup property involved the formal subdivision and sale of railway land and separate valuations for each lot were undertaken prior to sale.

POLICE - LIE DETECTOR TESTS

84. Mr GRILL to the Minister for Police:

(1) Do the police use polygraph or lie detector tests in Western Australia?

(2) If not, why not?

(3) If they do, in what circumstances are they used?

(4) In what other police jurisdictions in Australia are lie detector tests used in investigations or in court proceedings?

(5) Is the Minister giving any consideration to lie detector tests in Western Australia?

(6) Is the Minister giving any consideration to allowing lie detector tests to be brought into evidence in criminal cases in this State?

(7) If not, why not?

Mr DAY replied:

(1) The Western Australia Police Service does not use polygraph or lie detector tests.

(2) Several important issues need to be addressed before polygraphs and the related evidence are likely to be accepted. These are the science of the human nervous and cardiovascular systems; the availability of properly trained operators; the need for appropriate legislation to provide for the use and acceptability of polygraph evidence; and the need for jurisdictions to have in place clear policy relating to the use of this equipment.

(3) Not applicable.

(4) Lie detector tests are not used in investigations or court proceedings by any police jurisdictions in Australia.

(5)-(6) No.

(7) See (1) and (2).

HEALTH- DIALYSIS MACHINES

Mr Saverio Frisulli

115. Mr THOMAS to the Premier:

(1) Has the Premier received a letter from Saverio Frisulli who is a constituent of mine, and is a home dialysis patient?

(2) Does Mr Frisulli explain in the letter that he needs a Fresenius dialysis machine, as opposed to a Gambro unit which he has hitherto used, to maximise his quality of life while on home dialysis?

(3) Was Mr Frisulli denied access to a Fresenius machine for home dialysis because they are expensive and are being kept for sick people?

(4) How sick does a person have to be to get the quality and type of equipment that is necessary to maintain a reasonable quality of life?

Mr COURT replied:

(1)-(2) Yes.

(3) The hospital has given priority to replace outdated dialysis equipment and to upgrade the equipment in the incentre and satellite dialysis centre. The life expectancy of these dialysis machines is 10 years. Mr Frisulli will be eligible for a replacement in due course under the normal replacement protocols.

(4) Dialysis machines are allocated on the basis of clinical need.

SCHOOLS - HIGH

Hampton Senior - Policing Officer

141. Mr BROWN to the Minister for Police:

(1) Have any arrangements been made for a community based policing officer to be stationed at the Hampton Senior High School?

(2) Will a community based/school based policing officer be made available to the Hampton Senior High School?

(3) If not, why not?

Mr DAY replied:

(1) No.

(2)-(3) The appointment of community based-school based police officers is the prerogative of the district superintendent. Current staffing levels preclude the allocation of any additional officers to the school based program.

FIRE SERVICES - PRIVATISATION

153. Mr BROWN to the Minister for Emergency Services:

(1) Is the Minister aware of the Victorian Government's report which recommends the privatisation of the fire services?

(2) In this term of office, does the Western Australian Government plan to privatise, or partially privatise, fire services or contract any work out currently performed by paid members of the fire service?

Mr DAY replied:

(1) Yes.

(2) There are no current plans to privatise or partially privatise the operations of either the Fire and Rescue Service or the Bush Fires Board. However, both services are subject to ongoing review to ensure effective and efficient service delivery.

LOCAL GOVERNMENT - PERTH CITY COUNCIL

Weekend Markets

175. Mr BROWN to the Treasurer:

(1) Has the State Government been approached by the Perth City Council about the possibility of providing funds to establish one or two weekend markets in Perth?

(2) Has the Government been asked to make a financial contribution to establishing the feasibility of the proposal or the proposal itself?

(3) How much has the Government been asked to contribute?

(4) Has the Government made a decision on whether to contribute?

(5) If so, what is that decision?

Mr COURT replied:

(1) Yes. The City of Perth has requested a meeting to discuss this particular initiative in detail and to assess the opportunity for the project to be considered under the "Perth - A City for People" program.

(2)-(3) The Government has not been asked to make a financial commitment to establish the feasibility of the proposal as this study was prepared for the City of Perth and was financed directly by them. The "Perth -

A City for People" program is a joint initiative by the city and the State Government on a 50:50 basis. No specific amount has been suggested.

(4) No.

(5) Nil.

EMPLOYMENT AND TRAINING - TRAINING PROGRAMS

Funding

177. Mr BROWN to the Minister for Employment and Training:

(1) Did the Minister release a media statement on 2 February 1997 in which an $800 000 package was allocated to increase workers' skills and address skills shortages in remote areas?

(2) Did the Minister say that $600 000 would be spent on upgrading the skills of workers in the metals and engineering industry and $200 000 for remote communities for training in essential services, health services and local enterprise?

(3) Did the Minister say the program's precise training activities will be determined after consultation with the relevant enterprises and communities?

(4) Have the precise training activities been determined?

(5) If not, when will they be determined?

(6) If so, how will the money be used?

(7) What training providers/companies/individuals have been provided with funds?

(8) For what purpose has each organisation/individual been provided with funds?

Mrs EDWARDES replied:

(1)-(3) Yes.

(4) No.

(5) The successful tenderer/s will be required to consult with companies and communities to determine specific training needs.

(6) To pay for training delivery and management costs.

(7) None as yet. The tender selection process has not been completed.

(8) Not applicable.

CENSORSHIP - NATIONAL AGREEMENT

Music Industry

193. Mr BROWN to the Minister for Family and Children's Services:

(1) Have State and Commonwealth Ministers reached agreement on the organisation/body to determine censorship in the music industry?

(2) What is the nature of the agreement that has been reached?

(3) Has any agreement been reached that ARIA should have the final say on censorship in the music industry?

(4) Has the Western Australian Government accepted and/or agreed to this arrangement?

Mrs PARKER replied:

(1) State and territory Ministers have agreed to accept the code of conduct prepared by ARIA on a trial basis for a period of 12 months.

(2) A self-regulator scheme, which came into effect on 1 October 1996, has been endorsed by Ministers. ARIA has been requested to provide a report on levels of compliance and the number of complaints received

during the first six months of the scheme. This information will be available to Ministers at their July 1997 meeting.

(3) Notwithstanding that a self-regulatory scheme has been endorsed by Ministers, ARIA has been advised that the endorsement of the scheme will not preclude persons from being prosecuted if they sell or distribute indecent or obscene recordings.

(4) Yes.

LEGAL AID - FUNDING

Commonwealth Cuts - Compensation

211. Dr GALLOP to the Treasurer:

(1) Given the Commonwealth's decision to slash legal aid funding by $33m nationally, has the Treasurer been advised of any other reductions in funding in any other areas?

(2) If so, what are they?

(3) What steps has the Treasurer taken to ensure Western Australia's best interests are protected?

(4) What alternative areas of funding will need to be found by the State to compensate for these reductions by the Commonwealth?

(5) Does the Treasurer guarantee not to increase any state charges or taxes in the forthcoming budget?

Mr COURT replied:

Please refer to response to question on notice 210 of 1997.

COMMITTEES AND BOARDS

Membership

223. Dr CONSTABLE to the Minister representing the Minister for Finance:

(1) With reference to the Minister's answer to question on notice 36 of 1997, who are the current members and chairpersons of each of the following committees and boards -

(a) Western Australian Exim Corporation;
(b) Western Australian Development Corporation;
(c) Land Valuation Tribunal;
(d) State Government Insurance Commission;
(e) State Government Insurance Corporation; and
(f) Government Employees Superannuation Board?

(2) When was each member appointed and for what period of time?

(3) How much remuneration is each member paid?

Mr COURT replied:

The Minister for Finance has provided the following response -

(1)-(3) [See paper No 346.]

ENVIRONMENTAL PROTECTION AUTHORITY - FOREST MANAGEMENT PLAN

Advisory Committee

306. Dr EDWARDS to the Minister for the Environment:

Who are the members of the advisory committee appointed by the Environmental Protection Authority to assist in compiling the progress report on the Department of Conservation and Land Management's forest management plan?

Mrs EDWARDES replied:

The members of the advisory committee appointed by the Environmental Protection Authority to assist in compiling the progress and compliance report on the Department of Conservation and Land Management's forest management plan are as follows -

Mr Bernard Bowen	(Chairman) Deputy Chairman of the EPA
Mr Noel Fitzpatrick	Australian Academy of Technological Sciences and Engineering (past Director General of Agriculture WA and past Deputy Secretary of the Department of Primary Industries and Energy in Canberra)
Dr Elizabeth Mattiske	Ecologist (Mattiske Consulting & E.M. Mattiske & Associates)
Mr Warren Murphy	Managing Director (Wesfarmers Bunnings Ltd)
Professor John Pate	Botanist (Department of Botany, University of Western Australia)
Mr Gerard Rayner	Environmental Manager (Worsley Alumina)
Mr Leon Watt	Chairman of the Lands and Forest Commission
Dr Joanna Young	Forest Pathologist (formerly of CALM Science and Information Division)

Terms of Reference:

1. To liaise with CALM to develop an agreed approach to the preparation by CALM of the 1997 progress and compliance report to allow the EPA to evaluate CALM's performance and compliance with the ministerial conditions to date in relation to the forest management plan 1994-2003.

2. In developing the agreed approach, to give attention to the scope and content of the report, and the definition of terms, and specifically the manner by which each of the ministerial conditions will be reported upon.

3. To liaise with CALM during CALM's writing of the report to ensure that the report covers the scope and content agreed upon.

4. To evaluate and report to the EPA on the CALM progress and compliance report, including CALM's performance in compliance with ministerial conditions, recommend changes to procedures where shortcomings exist and adjustments to ministerial conditions where appropriate.

PAWNBROKERS AND SECOND-HAND DEALERS ACT - EFFECTIVENESS

Study

342. Mr BROWN to the Minister of Police:

(1) Has the Government undertaken a study on the effectiveness of the Pawnbrokers and Second-hand Dealers Act 1994?

(2) If so -

- (a) who undertook the study;
- (b) when was the study completed;
- (c) what did the study reveal;
- (d) did the study make any recommendations;
- (e) what recommendations; and
- (f) does the Government intend to further amend the Act to take into account concerns raised by small business?

(3) If not, why not?

(4) If so, when?

Mr DAY replied:

The Commissioner of Police has provided the following advice -

(1) The Western Australia Police Service is currently undertaking a review of the Pawnbrokers and Second-hand Dealers Act 1954.

(2) (a) See (1).

(b)-(f) The review was completed at the end of March 1997.

(3)-(4) Not applicable.

OCCUPATIONAL HEALTH AND SAFETY - WORKSAFE

Police Inquiry

350. Ms MacTIERNAN to the Minister for Police:

What is the outcome of the police inquiry into the adequacy of the investigation of the bribery allegations against WorkSafe officers conducted by Senior Detective Lyall Cubbage?

Mr DAY replied:

The Commissioner of Police has provided the following advice -

The Western Australia Police Service inquiry into the investigation by Senior Detective Cubbage of a bribery/corruption allegation against a Department of Occupational Health Safety and Welfare - now WorkSafe - employee, Mr Brian Tolmie, found it to be both adequate and complete. In addition, papers relating to this inquiry have been referred to the Anti-Corruption Commission for oversighting. To date a response from the Anti-Corruption Commission has not been received.

STATE SETTLEMENT PLAN - STRATEGIES

Minister for Lands

380. Ms WARNOCK to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) What are the objectives of the Minister's departments' state settlement plan?

(2) What -

(a) internal; and
(b) external

access strategies have been developed and implemented?

(3) What -

(a) financial; and
(b) human

resources have been allocated to implement the state settlement plan?

(4) What consultation process has been undertaken by the Minister's department?

(5) Who from the -

(a) community;
(b) business sector; and
(c) academic sector

has been consulted?

Mr SHAVE replied:

Not relevant to LandCorp, Department of Land Administration, Western Australian Electoral Commission.

Ministry of Fair Trading:

(1) The aim of the state settlement plan is that migrants are able to participate fully as soon as possible in the community through the provision of necessary settlement services for the community to reap the economic and social benefits of the immigration program.

(2) As part of the continuing evaluation and review of the plan, a range of internal and external access strategies has been developed and implemented appropriate to the agency delivering the services. These include -

(a) Internal Strategies: Collection of ethnicity data; cross-cultural training including interpreter and translator awareness; and consultative mechanisms.

(b) External Strategies: Language services policy; provision of information to the community; and use of ethnic media.

(3) (a) Agencies allocate resources for services to migrants as part of their annual budget planning process.

(b) Each government agency represented on the State Settlement Planning Committee has allocated an officer with responsibility for state settlement planning issues.

(4) The ethnic community is represented on the State Settlement Planning Committee and wider agency-specific consultations are undertaken by agency working parties to establish issues and evaluate the strategies developed to address those issues.

(5) (a) Ethnic Communities Council Inc.
Migrant Resource Centres.
Non-government service providers.
Migrant clients.
Migrant Women's Interests Committee.
Western Australian Council of Social Services.

(b) Not applicable.

(c) Edith Cowan University.
Research related agencies: Bureau of Immigration, Multicultural and Population Research.
Australian Bureau of Statistics.

STATE SETTLEMENT PLAN - STRATEGIES

Minister for Local Government

382. Ms WARNOCK to the Minister for Local Government; Disability Services:

(1) What are the objectives of the Minister's departments' state settlement plan?

(2) What -

(a) internal; and
(b) external

access strategies have been developed and implemented?

(3) What -

(a) financial; and
(b) human

resources have been allocated to implement the state settlement plan?

(4) What consultation process has been undertaken by the Minister's departments?

(5) Who from the -

(a) community;
(b) business sector; and
(c) academic sector

has been consulted?

Mr OMODEI replied:

Local Government:

There is no settlement plan initiative in the Local Government portfolio.

Disability Services:

(1) The aim of the state settlement plan is to enable migrants to participate fully as soon as possible in the community through the provision of necessary settlement services so that the community can reap the economic and social benefits of the immigration program.

(2) As part of the continuing evaluation and review of the plan a range of internal and external access strategies has been developed and implemented appropriate to the agency delivering the service. These include -

(a) Internal Strategies: Collection of ethnicity data; cross-cultural training including interpreter and translator awareness; and consultative mechanisms.

(b) External Strategies: Language services policy; provision of information to the community; and use of ethnic media.

(3) (a) Agencies allocate resources for services to migrants as part of their annual budget planning process.

(b) Each government agency represented on the State Settlement Planning Committee has allocated an officer with responsibility for state settlement planning issues.

(4) The ethnic community is represented on the State Settlement Planning Committee and wider agency-specific consultations are undertaken by agency working parties to establish issues and evaluate the strategies developed to address those issues.

(5) (a) Ethnic Communities Council Inc.
Migrant Resource Centres.
Non-government service providers.
Migrant clients.
Migrant Women's Interests Committee.
Western Australian Council of Social Services.

(b) Not applicable.

(c) Edith Cowan University.
Research related agencies: Bureau of Immigration, Multicultural and Population Research.
Australian Bureau of Statistics.

FIREARMS - BUYBACK SCHEME

Ammunition

395. Mr BROWN to the Minister for Police:

(1) How much ammunition, in dollar terms, has been purchased or acquired under the gun buyback scheme?

(2) Was any consideration given to on selling the ammunition purchased under the scheme?

(3) If not, why not?

Mr DAY replied:

(1) Ammunition is not purchased under the buyback program; however, it is surrendered if the licensee does not own other weapons of the same calibre or has no further use for it. People also routinely surrender ammunition to police where they have no further use for it. The quantity of ammunition individuals have surrendered is not readily available. All ammunition handed in, for whatever reason, is destroyed at a military destruction site as its quality or safety cannot be guaranteed by the Police Service.

(2) No.

(3) See (1).

UNEMPLOYMENT - WORK FOR THE DOLE SCHEME

Government Position

405. Mr BROWN to the Minister for Employment and Training:

(1) Is the Minister aware of an article that appeared in *The Australian* on 14 March 1997 concerning the Federal Government's work for the dole scheme?

(2) Is the Minister aware the Victorian Premier, Mr Kennett, has expressed reservations about the scheme, claiming that "children will be having experience on community projects for which there are no long-term employment prospects"?

(3) Has the State Government -

(a) supported;
(b) supported with reservations; or
(c) made no comment,

on the Federal Government's work for the dole scheme?

(4) What attitude has the State Government taken towards the scheme?

Mrs EDWARDES replied:

(1)-(2) Yes.

(3) (b)

(4) The State Government has expressed support in principle for the scheme; however, has requested that close liaison occur with the State Department of Training to ensure maximum employment and training outcomes for Western Australians and that any proposals are customised to suit the appropriate labour market conditions in Western Australia.

GOVERNMENT PROPERTY - SALE

417. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) How many State Government assets of the value of $200 000 or more have been sold by each of the departments or agencies under the Minister's control in each of the last four financial years?

(2) What is the total value of the assets sold?

(3) What have the moneys realised from the asset sales been used for?

Mr SHAVE replied:

Western Australian Electoral Commission:

(1) Nil.

(2)-(3) Not applicable.

LandCorp:

(1)-(3) LandCorp is the State Government's land development arm and is in the business of acquiring, developing and selling land and associated infrastructure. LandCorp's role as a land developer generates a large number of transactions for the sale of real estate. While records are maintained they are voluminous and would require the application of significant resources to generate the requested information. I am not prepared to commit the required resources to research the extensive details required. However, should the member be more specific in his request then I may be able to provide the information.

Department of Land Administration:

(1)-(2)

1992-93	19	$13 068 166
1993-94	25	$11 579 164
1994-95	15	$8 744 591
1995-96	15	$9 808 297
	74	$43 200 218

(3) All proceeds were paid into consolidated revenue for appropriation by Parliament.

Ministry of Fair Trading:

(1) Nil.

(2)-(3) Not applicable.

SHARK BAY - MARINE RESERVES MANAGEMENT PLAN

Exploration Licence

463. Dr EDWARDS to the Minister for the Environment:

(1) Was the Minister aware of the granting of the local exploration licence at the time of the launch of the Shark Bay marine reserves management plan?

(2) If yes, why is the lease not shown in the document?

(3) If not -

(a) why not; and
(b) when did the Minister become aware of the exploration licence?

(4) When was the Department of Environmental Protection made aware of the exploration licence?

(5) What action occurred following this?

(6) What consultation took place between the Department of Minerals and Energy and the Department of Environmental Protection prior to the exploration licence being granted?

(7) If none, why not?

(8) When was the Federal Minister for the Environment or his department notified of the granting of the exploration licence?

(9) Why did the Government not release this information during the election period?

Mrs EDWARDES replied:

(1) No.

(2) Not applicable.

(3) The Shark Bay marine reserves management plan was approved by the then Minister for the Environment on 18 July 1996 following consideration by the National Parks and Nature Conservation Authority and endorsement by the Ministers for Fisheries and Mines. Printing of the plan was completed in October 1996 in accordance with those approvals. The plan therefore does not show EP406.

(4) On 20 December 1996.

(5) No action was necessary. The granting of an exploration permit does not give approval to exploration. In all areas of the State any program of exploration activity, be it seismic survey or drilling, would be subject to the Environmental Protection Act. Only if it can be demonstrated that exploration would not affect the environmental values of the area would such a program be approved.

(6) None. However I have instructed the Department of Conservation and Land Management and the Department of Environmental Protection to liaise with the Department of Minerals and Energy to put in place new arrangements for prior notification in respect of grant of exploration permits in environmentally sensitive areas such as Shark Bay.

(7) The grant of an exploration permit has no environmental impact of itself and any proposed program of exploration is subject to the Environmental Protection Act.

(8) Environment Australia was advised by fax in early January 1997.

(9) The notice of intent to grant the permit area EP406 was served on the applicant on 28 October 1996, prior to the election being announced. Under the petroleum legislation, once an offer is accepted, the title is bound to be granted. EP406 was granted to commence from 29 November 1996. The title instrument was not issued until the end of December 1996 and the notice of grant was published in the *Government Gazette* in January 1997. This was in accordance with normal procedures.

WORLD HERITAGE - LISTED AREAS

Government Obligations

467. Dr EDWARDS to the Minister for the Environment:

(1) What are Australia's obligations in relation to World Heritage listed areas?

(2) What are the State's obligations in relation to World Heritage listed areas in Western Australia?

(3) What are the criteria an area must satisfy before it is World Heritage listed?

(4) How many of these criteria did the Shark Bay area satisfy and, if not all of them, which ones?

(5) How many of the other World Heritage listed areas in Australia and the world satisfy the same number of requirements as the Shark Bay area?

(6) How unusual is it for an area to satisfy the number of requirements that the Shark Bay area did?

(7) What does this mean in terms of the significance of the area in terms of both Australia wide and world wide?

(8) What steps will the Government take to provide greater understanding?

Mrs EDWARDES replied:

(1) The Commonwealth of Australia is a state party to the "Convention for the Protection of the World Cultural and Natural Heritage" - the World Heritage Convention. Australia's obligations in relation to World Heritage listed areas are set out in the convention and include the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage of listed sites. The text of the convention is included as a schedule to the commonwealth World Heritage Properties Conservation Act 1983.

(2) Western Australia is not, and cannot be, a state party to the World Heritage convention and therefore has no direct obligations under the convention. However, the State is responsible for the management of Shark Bay and works with the Commonwealth to assist in meeting Australia's obligations.

(3) The criteria an area must satisfy before it is World Heritage listed are defined in the UNESCO "Operational Guidelines for the Implementation of the World Heritage Convention". These include criteria for inclusion of cultural and natural properties on the World Heritage list.

(4) Shark Bay satisfied all four criteria for natural properties that were in operation at the time of listing, as well as the criterion of integrity described in the UNESCO guidelines.

(5) The commonwealth agency Environment Australia has advised that Shark Bay is one of four sites in Australia and 12 in the world that satisfied all four criteria for listing as a natural property.

(6) Environment Australia has advised that of over 469 properties on the World Heritage list there are only 12 that satisfy all four natural criteria.

(7) The national and international significance of Shark Bay is apparent from the answers to (5) and (6).

(8) The Government is promoting and facilitating greater understanding of the significance of Shark Bay through plans, interpretive displays and other published and printed materials.

ENVIRONMENT - DEPARTMENT OF ENVIRONMENTAL PROTECTION

Feedlots - Buffer Zones

480. Dr EDWARDS to the Minister for the Environment:

(1) Does the Department of Environmental Protection have a code of practice regarding buffers between feedlots and residential housing?

(2) What does the code of practice recommend?

(3) What advice did the Department of Environmental Protection provide Harvey Shire Council concerning the proposed feedlot near Kemerton?

Mrs EDWARDES replied:

(1) Yes.

(2) The Environmental Code of Practice for Cattle Feedlots recommends a buffer of at least 1 000 metres between a cattle feedlot and a residence or public amenity.

(3) The Department of Environmental Protection was not consulted on the proposal by the Harvey Shire Council but has spoken with the proponent on the need for environmental approvals.

ROYAL COMMISSION INTO CITY OF WANNEROO - INTERIM REPORT

Action

522. Mr MacLEAN to the Minister for Public Sector Management:

In reference to question on notice No 786 of 1996 (*Hansard*, page 5606) in the Legislative Council, and to the Interim Report of the Royal Commission into the City of Wanneroo, can the Minister advise, in view of the number of courses of action he has undertaken, what progress has been made in relation to this serious matter?

Mr COURT replied:

Further to question on notice 786 of 1996 - *Hansard*, page 5606 - in the Legislative Council, and the interim report of the Royal Commission into the City of Wanneroo, I have received responses from the Public Service

Commissioner, the Public Sector Management Office and the Public Sector Standards Commissioner. The Public Service Commissioner has received legal advice that these issues fall outside his jurisdiction and that the employing authority, being the Director General, Ministry of Justice, is responsible for these matters. The Ministry of Justice has a new executive team who are working with the Public Sector Standards Commission and the Public Sector Management Office to facilitate positive workplace reform. This will include the matters raised in the interim report of the Royal Commission into the City of Wanneroo. Accordingly, it would be inappropriate to prejudice any action the organisation intends taking. Nonetheless I will advise the Parliament when the matters have been concluded.

FREQUENT FLYER POINTS - ACCUMULATION

Official Business Use

584. Mr CARPENTER to the Premier:

(1) Do public sector employees accumulate, for personal use, frequent flyer points when they are travelling on Government business?

(2) Do politicians accumulate, for personal use, frequent flyer points when they are travelling on official Government business?

(3) Has the Premier or any of his staff, or any Ministers or any of their staff, used frequent flyer points accumulated during travel on official business to discount the cost of personal travel?

(4) Should frequent flyer points accumulated during official travel be used only to discount the cost of further official travel?

Mr COURT replied:

(1) Public sector employees are subject to the provisions of Circular to Chief Executive Officers No 21/91. This specifies that officers should not utilise frequent flyer points, accumulated on government business under frequent flyer and other programs to acquire benefits such as upgrading of tickets above their normal travel entitlements, or for private travel or gain.

(2) While members of Parliament are not bound by the public sector guidelines they are expected to abide by the spirit of the policy.

(3) I certainly have not and to the best of my knowledge neither have any Ministers or their staff.

(4) Frequent flyer points accumulated during official travel should be used in accordance with the provisions of the Circular to Chief Executive Officers.

RACING AND GAMING - TAB AGENCIES

Number and Turnover

587. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) How many TAB shops are there in -

(a) Western Australia;
(b) Perth and suburbs?

(2) What percentage of them have increased their -

(a) turnover;
(b) profit in the 1995-96 financial year?

(3) What percentage have experienced a downturn in turnover in 1996-97?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) As at 3 April 1997 -

(a) 277 agencies.
(b) 152 agencies.

(2) (a) Of the 232 agencies operating for the full period of the 1995-96 financial year, 60.34 per cent showed an increase over the previous corresponding year.

(b) Profit for individual agencies is not calculated by the TAB. Annual profit reporting is based on corporate income, costs and expenses.

(3) For the 34 weeks of this financial year 43.6 per cent have experienced a downturn in turnover compared to the corresponding period in 1995-96.

RACING - COUNTRY

Funding

652. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

When will the Minister increase the distribution of funds to country racing to 36 per cent as promised in 1995?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

The Minister is not aware of promising to increase to 36 per cent the allocation to country racing of the Western Australian Turf Club's TAB profit distribution.

TOTALISATOR AGENCY BOARD - COSTS

Increase

653. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) Is it true that the operating costs of the Totaliser Agency Board went up in 1995-96?

(2) If so, by how much and for what reason?

(3) Does the Government expect the TAB's operating costs to increase in the present financial year?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) Yes.

(2) $4.1m for the following reasons -

Agent's Commission: New agents agreement from January 1996; increased turnover - including impact of additional new PubTABs.

Casual Wages: Additional new agencies managed by TAB.

Depreciation: New terminals and growth in network to service new agencies.

Tickets: Increased cost of thermal tickets for new terminals; increased turnover.

Broadcasting, Communication and Marketing: Expansion of network and increased marketing expenditure in accord with industry requests.

Maintenance of Property and Occupancy: Continued upgrade and maintenance of agencies including relocation into prime retail locations.

(3) Yes, based on the TAB's 1996-97 budget.

TOTALISATOR AGENCY BOARD - ADVERTISING CAMPAIGN

654. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

What has been the outcome of the Totaliser Agency Board's advertising campaign and refurbishment of agencies in financial terms - that is, turnover - and in terms of the number of customers?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

1995-96 6.28 per cent increase in sales.
1995-96 3.61 per cent increase in tickets processed.

TOTALISATOR AGENCY BOARD - TURNOVER

Reduced

655. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) What is the explanation for the reduced Totalisator Agency Board turnover in the first six months of the present financial year?

(2) Were the race clubs in Western Australia consulted about the change in TAB distribution of funds?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) Not applicable as sales have not fallen in 1996-97.

(2) Yes.

TOTALISATOR AGENCY BOARD - TURNOVER

Turnover

656. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) What percentage of the Totaliser Agency Board's turnover is represented by sports betting?

(2) Are there any plans to increase this?

(3) If so, what changes are likely to be introduced?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) 1995-96 - 0.22 per cent.

(2) Yes.

(3) As market research is currently being carried out the changes have not been finalised by the board.

TOTALISATOR AGENCY BOARD - PRIVATISATION

657. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

Does the Government intend to privatise the Totaliser Agency Board?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

No.

RACING - COUNTRY

Government's Plans

658. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) Will the Minister provide assistance to country and provincial race clubs to enable them to raise stake money?

(2) What is the Government's plan for country and provincial racing in this State?

(3) Will the Government consider any form of tax relief for the racing industry?

(4) Will the Minister consider concessions to horse owners to enable them to stay in the industry?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) No because responsibility for the distribution of TAB profits to country and provincial thoroughbred race clubs to fund stakes rests with the Western Australian Turf Club. The Government's tax relief package to the racing industry presently amounts to approximately $12m annually, of which the thoroughbred code receives in excess of $7m.

(2) Planning for country and provincial racing in Western Australia rests with the Western Australian Turf Club as the principal club.

(3)-(4) The Government is prepared to consider any submission on how to improve and progress the racing industry in Western Australia.

LICENSED PREMISES - PUBLIC TELEPHONES

675. Dr CONSTABLE to the Minister representing the Minister for Racing and Gaming:

(1) Following the murders of Jane Rimmer and Ciara Glennon, and the disappearance of Sarah Spiers, will the Government legislate for the compulsory installation of public telephones in licensed premises?

(2) If no to (1) above, why not?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

(1) No.

(2) It would not be practicable to require all licensees, approximately 3 000 in the State, to install public telephones when there is already sufficient authority under the Liquor Licensing Act 1988 for the Director of Liquor Licensing, where necessary, to order a licensee to install a public telephone on the premises. The licensing authority can also make it a condition of the licence or the permit that a public telephone be installed on the premises. Furthermore, a feature of some of the responsible service of alcohol programs and the "Accords" focus on safety aspects in relation to licensed premises and the provision of a public telephone on or immediately adjacent to licensed premises.

QUESTIONS WITHOUT NOTICE

STATE FINANCE - TAXES AND CHARGES

Increase

185. Dr GALLOP to the Treasurer:

Given that the Premier and Treasurer knew last year of the impact of the commonwealth funding cuts on Western Australia this year -

(1) When did Treasury first advise of the need for increased taxes and charges?

(2) Did Treasury formally recommend the need for specific increases and, if so, when?

(3) When did the Minister for Finance first advise of the need for increased taxes and charges?

(4) When did the Government reach the conclusion that rises were needed?

(5) When did Cabinet formally decide to increase taxes and charges?

Mr COURT replied:

I thank the member for some notice of this question.

(1)-(5) The first point I make is that a number of the charges have nothing to do with the commonwealth financing situation. Western Power, AlintaGas and the Water Corporation have boards which make recommendations that go through the Minister. The increases are made accordingly. I cannot give a precise date with regard to those trading enterprises but it all happened within the past three weeks.

Dr Gallop: Was it on the agenda last year?

Mr COURT: These matters came forward within the past three weeks. With regard to part (1), advice was received on 29 January - this does not cover the government trading enterprises - and formal recommendations were made in a number of areas. The Minister for Finance did not prepare a separate submission from that presented by Treasury.

On 13 February lengthy discussions were held about the taxes and charges, and formal approvals went through on 12 March. I repeat that government trading enterprises are separate from the process for preparation of the Budget.

STATE FINANCE - TAXES AND CHARGES

Increase

186. Dr GALLOP to the Treasurer:

Were any informal presentations made to the Premier and Treasurer from State Treasury or from Ministers in off-budget areas, such as electricity and gas, about the need for increased taxes and charges before the last election?

Mr COURT replied:

In relation to the government trading enterprises, I understand that each year a statement of corporate intent is prepared. I certainly did not have any discussions about the charges of those trading enterprises. The first time I saw those recommendations was in recent weeks.

Dr Gallop: What about generally?

Mr COURT: Generally the budget committee meets on a fortnightly basis. However, since Christmas it has met almost on a daily basis to discuss budget matters. I cannot be specific. If the member is asking whether decisions were made prior to the election, the answer is that they were not. Prior to the election I said, as I did in 1993, that the Government would not give a commitment that there would be no increase in taxes and charges. I can remember Carmen Lawrence saying there would be no increase in taxes and charges under her Government and I said that was irresponsible. A Government cannot say four years in advance what will happen with those charges.

HOSPITALS - MANDURAH DISTRICT

Accident and Emergency Services - Treatment of Elderly Lady

187. Mr MARSHALL to the Minister for Health:

Last night an 83 year old Coodanup lady in my electorate was treated by accident and emergency services at the Mandurah District Hospital for a suspected broken arm and, despite persistent pain, was sent home. Why was this procedure adopted? Why was overnight observation not recommended?

Mr PRINCE replied:

The lady concerned was on her way home from the Mandurah shopping centre yesterday - I gather she lives close to it - when she was accosted and assaulted by a group of thugs who stole her handbag and shopping and knocked her to the ground. The woman fell on a water meter and landed on the top of her left shoulder, suffering a fracture of the bone close to the shoulder joint. She was taken to the Mandurah hospital by her grand daughter, who was present during the subsequent attendance by doctors. The first doctor saw her within 10 or 15 minutes and ordered X-rays. A second doctor then came on duty. These are general practitioners who are rostered to cover the hospital. After looking at the X-ray the second doctor was unsure about the exact nature of the injury and what the treatment should be. He properly contacted a consultant at the emergency department of Fremantle Hospital and spoke at length with that gentleman.

The diagnosis at that time was a break to the humerus - the bone close to the shoulder joint. The treatment of such a break is to put the arm in a collar and cuff sling and to administer pain killers, which was done. There was some suggestion that the lady should be admitted to Fremantle Hospital; however, she was not. She was sent home with the advice to see her general practitioner this morning and was told that the X-rays would be looked at by a specialist radiologist today to ensure that no damage had been sustained other than that which was apparent to the general practitioner. She went with her grand daughter back to her home, outside which she had been attacked, and stayed there the night. Overnight her arm swelled considerably and she has been in a great deal of discomfort.

This morning she was seen by her general practitioner who confirmed the diagnosis of a break in the bone in that place. The consultant radiologist also confirmed that was the nature of the break. The treatment - that is, the immobilisation of the arm with a collar and cuff sling and the treatment with analgesia - was also confirmed. In other words, a number of doctors have said this is the appropriate way for a break of that nature to be treated.

I go no further with regard to that matter for I am not in a position to comment. However, although treatment of the arm may have been appropriate, an 83 year old lady who was dealt with in such a savage way would obviously have been suffering from shock and a great deal of stress and would have required somewhere safe to go overnight. Whether that was the hospital or another place is a moot point. When the matter was brought to my attention this morning, in consultation with the Commissioner of Health I directed an investigation into the matter. That is being conducted now. When the inquiry reports to me it is my intention to consider what further action should be taken. I offer no criticism of the treatment of the break, but the treatment of the lady in a holistic sense should be looked at because a lady who has been dealt with in this way should perhaps not return to her home.

GOVERNMENT INSTRUMENTALITIES - RESTRUCTURING

Expenditure

188. Dr GALLOP to the Premier:

I refer the Premier to page 2 of budget paper No 3 which indicates that $20m in new expenditure will be spent on agency restructuring.

(1) For what purpose will the $20m be spent?

(2) Which agencies will be involved?

Mr COURT replied:

(1)-(2) I thank the member for the question. I did not receive any notice of the question so far as the detail of the agencies is concerned. The Under Treasurer is heading a committee which is looking at the restructuring. The committee comprises a number of senior public servants and I am sure the Leader of the Opposition would find them to be credible. The committee has put forward recommendations following negotiations the Government has had with chief executive officers. Workshops have also been held. I cannot give specific details of the restructuring which will occur this year. The committee has reported to me and the Government will assess that report over the next couple of weeks.

Dr Gallop: What is the $20m for?

Mr COURT: It is specific detail and I will get the information for the Leader of the Opposition.

Dr Gallop: It is a huge amount of money.

Mr COURT: I said I would provide the Leader of the Opposition with the specific information and I am quite prepared to have him fully briefed on the proposals of the restructuring the Government is looking at.

WESTERN AUSTRALIAN FAMILY COURT ACT - AMENDMENT

189. Mr BAKER to the Minister representing the Minister for Justice:

(1) When will the Western Australian Family Court Act 1975 be amended so as to validate consent orders made by judicial officers of the Family Court of Western Australia in chambers and thereby overcome the problems that arose in the Horne decision?

(2) In addition to passing the requisite amendments, is it the Minister's view that a High Court challenge or appeal from that decision may also be necessary so as to give validity to all such consent orders?

Mr PRINCE replied:

I thank the member for some notice of this question. The Attorney General has provided the following answer -

(1)-(2) A Bill was introduced in the upper House of this Parliament on 9 April 1997 to address the invalid or ineffective consent orders made by registrars of the Family Court of Western Australia. The approach in the Bill has not been to validate the procedures leading to the past effective orders, but rather to give substantive rights and liabilities akin to those in the purported orders. Importantly, the Bill provides that the substantive rights and liabilities have effect both for past and future purposes. The solution requires a combined approach by the Commonwealth and the State to address the problem of ineffective orders. The commonwealth Attorney General has agreed to the need for a joint approach and has approved the drafting of commonwealth and state legislation to complement each other. It is important that the Bill is introduced now so that affected people in Western Australia are made aware of the approach proposed by the State and the Commonwealth and of the respective Governments' determination to act. Even though the

Commonwealth Government's legislation is still being developed, family lawyers in Western Australia will now be able to advise their clients on the basis that the Commonwealth will be legislating in substance similar to Western Australia. Given this cooperative approach, a High Court challenge is not considered to be necessary.

SHIPBUILDING - BOUNTY

Abolition

190. Mr MARLBOROUGH to the Premier:

(1) How does the Premier explain his inability to convince his federal colleagues to maintain the shipbuilding bounty?

(2) What credibility does the Premier have in attacking his federal colleagues' decision to abolish the shipbuilding bounty when his Government has promised only miserable support for infrastructure of $4.3m as against the promised $36m for Jervois Bay in this year's Budget?

Mr Minson interjected.

Mr MARLBOROUGH: It may be that all the money is now going to Oakajee instead of to Henderson.

The SPEAKER: Order! Perhaps the member will continue.

Mr MARLBOROUGH: To continue -

(3) Does his failure to properly support Jervois Bay mean that Western Australians will continue to miss out on jobs created by the development of Western Australian resources?

Mr COURT replied:

(1)-(3) I thank the member for this question. When the coalition was elected to Government the first thing it did was to move to assist that industry by enabling it to have freehold land on its waterfront properties. It is something the industry had tried to obtain when the Labor Government was in office, but it was unsuccessful.

Mr Marlborough: Will that stop them losing 200 jobs in the next few weeks?

Mr COURT: The member asked what support the Government is giving the industry and I am giving the answer. The Government assisted with the freeholding of that land, some financial support towards the provision of larger sheds which the industry required as its ferries increased in size and specific support the industry needed for specialised equipment. The industry then put a proposition to the Government to build its northern breakwater, which cost $7.9m. I understand it will be completed this year and it will shelter that facility from the westerly gales. That is what we have done to date, and the member might want to get up and say -

Mr Grill: You know that they need $180m, so what are you doing about its delivery?

Mr COURT: The ferry industry does not need $180m.

Mr Marlborough: The second part of the question dealt with the offshore facility, which requires those resources.

Mr COURT: I have not finished with the first part of the question yet, which asked about what the Government was doing in relation to the Federal Government. I made it clear in the budget speech that the Commonwealth's decisions would destroy the industry.

Mr Grill: You will destroy the area through your lack of resources in the Budget.

The SPEAKER: Order!

Mr COURT: I have just explained that we have done something for the industry.

Several members interjected.

The SPEAKER: Order! I have allowed a fair number of interjections because of a great deal of interest in the question. However, too many interjections are being made and the Premier is entitled to give his answer.

Mr COURT: The Federal Government fails to understand this issue. It thought it was a big deal to give the industry an extension until 31 December to complete the works it has under the current bounty arrangement. However, the fact of life is that the European manufacturers have been given three years to complete all orders taken up until 31

December. Even if the Federal Government changed its decision tomorrow, it has already done the damage. We are trying to explain that point to the Federal Government. These ferries take a year or 18 months to build.

Mr Grill: Why couldn't you convince them of that? It was not a priority.

Mr COURT: I will tell the member about the level of priority we gave it; we lobbied directly. During the election campaign, the Prime Minister came across and we said, "We have one thing we want you to do; sit down with representatives of the industry and let them tell you their plight first hand." That was done, and to date nothing has been done to resolve that situation.

Mr Brown: What about a public campaign like "Fix Australia, Fix the Roads"?

Mr COURT: I do not think one could get more public than I have been in criticising this matter. Again, I will be meeting the Prime Minister on Friday regarding this issue, along with others. This will go down, as I said in the budget speech, as a classic example of an industry being destroyed.

Mr Brown interjected.

The SPEAKER: Order!

Mr COURT: In answer to Jervoise Bay -

Mr Brown interjected.

The SPEAKER: Order! I formally call the member for Bassendean to order for the first time.

Mr COURT: Regarding the building facilities that can be used for offshore platforms and the like, we have made it clear to the industry that we have every intention of building a facility large enough to take the largest production ships to work offshore.

Mr Grill: Too little, too late.

Mr COURT: Just let me finish. We have been dealing with the industry, including Woodside, and we have said to the company that we would very much like to see the Laminaria contract using that facility. We have made it clear that if a large part of the contract is to be carried out with construction at Jervoise Bay, we will meet our side of the commitment to ensure that suitable infrastructure is in place for the project. This year we have two platform production facilities coming in which will use Fremantle for maintenance work. We want to encourage more of that type of work so we can justify the commitment. The member for Peel said it was $100m, and the estimates we have are that it is between $100m and $200m, depending on the scale of the facility to be built.

The Minister for Commerce and Trade has ensured that the planning process has commenced. We will be relocating the main road shortly, and undertaking the environmental clearances. I hope we will get the member's support for this process, as a huge breakwater will go a long way into Cockburn Sound. I hope we have support from the Opposition. As with all these projects, the Government has a tendency to do them, not simply to talk about them.

SHIPBUILDING - BOUNTY

Abolition

191. Mr MARLBOROUGH to the Premier:

As a supplementary question, in view of the Premier's answer that the Federal Government's action regarding the bounty for shipbuilding has damaged the industry irreparably, I have a letter here dated 8 February 1990.

The SPEAKER: Order! Perhaps the member will ask the question or I will rule it out of order.

Mr MARLBOROUGH: In the light of that statement, does the Premier see any hope of saving this 14 vessel contract, which is to be agreed to within the next 14 days, from being taken away from the Henderson shipbuilding area, and what chance does he have of convincing the Federal Government that the damage has been done already?

The SPEAKER: Order! The member for Peel did his best to get me to rule the question out of order. With supplementary questions, members should ask the question, without lots of argument and toing-and-froing around the point.

Mr COURT replied:

To the best of my knowledge approximately four of those vessels could be built inside the date, but that is not acceptable. This is one of the issues I will raise with the Prime Minister on Friday. It highlights how ludicrous the situation is. If a special exemption can be provided, and we will certainly be pushing for that, surely we should

simply go along with the European scenario; that is, to take three years to build all orders accepted up to 31 December. That is a commonsense approach. We will then have a level playing field at the end of three years.

MOTOR VEHICLES - THEFT

Immobiliser Subsidy Scheme

192. Mr MacLEAN to the Minister for Police:

I ask the Minister to inform the House of the latest actions being taken in Western Australia to combat car theft.

Mr DAY replied:

I thank the member for some notice of this question and the opportunity to inform the House about the latest initiatives being taken by the Government to combat car theft in Western Australia. Members will recall that during the recent election campaign the Premier made a commitment, which was announced in Midland, for the Government to institute an $18m scheme to provide a subsidy as an incentive to private motorists to install immobilisers in their vehicles. The subsidy amounts to $30 per vehicle. I had the pleasure of launching the scheme last Saturday. Western Australia is the first State to institute such a scheme and it is occurring following cooperation between the industry, the police, the community generally and the Government.

The Insurance Council of Australia is administering the scheme and the Royal Automobile Club of WA has undertaken to test immobilisers to ensure they meet a minimum standard. The scheme is backed by the Western Australia Police Service, which hopes that resources which would otherwise be directed to tracking down stolen cars can be diverted into other much needed activities.

The response so far has been encouraging with about 42 authorised installers having been appointed and motorists having been able to claim the subsidy since 1 March. With immobilisers now retailing from $125 as the gross cost - in other words, $95 after the $30 subsidy - it is a very inexpensive means of preventing car theft. I encourage all members of the community to get behind the scheme and to work with the Government and the police in promoting this scheme to reduce car theft in Western Australia.

DEPARTMENT OF TRAINING - FEES

Increase

193. Mr KOBELKE to the Premier:

Given that the Budget last week reflected a real reduction of more than 4 per cent in recurrent expenditure for the Department of Training -

(1) When will the threatened fee increases come into effect?

(2) What will be the average percentage increase in technical and further education student fees?

(3) Can the Premier guarantee there will be no other increased departmental or agency fees hidden in the Budget?

Mr COURT replied:

(1)-(3) In relation to TAFE, I said in the budget speech that there would be some small increases over the next three years. I am not aware of any increases that will take place in this calendar year. No propositions have been put to me about changes. I will certainly inquire from the Minister to see what is projected in that three year period. I am not aware of increased departmental or agency fees hidden in the Budget. As the member will know, there are thousands of fees and charges covering a whole range of areas.

Mr Ripper: Is there a general increase in those fees and charges?

Mr COURT: I cannot give a blanket answer. I will provide the answer, hopefully at the conclusion of question time.

COLLEGES OF TAFE - FEES

Increase

194. Mr KOBELKE to the Premier:

Surely, in his role as Treasurer, the Premier could have given at least a partial answer about something which was in the budget speech and about which he was given four hours' notice. If as Treasurer he accepts responsibility for

the Budget and for the speech he gave to this House, will he provide some indication of the size of the increase in TAFE fees and when it will be imposed?

Mr COURT replied:

I answered the question and said that no proposition had been put to me in relation to a specific increase. We have said that over a three year period there will be some small increases -

Mr Kobelke: It was in this year's Budget.

Mr COURT: Three years is three years.

INDUSTRIAL RELATIONS - DISPUTE

Kwinana - Staffing Levels

195. Mr OSBORNE to the Minister for Labour Relations:

(1) Is the Minister aware of a grave misrepresentation of a recent industrial dispute?

(2) Will the Minister present the facts to the House to correct this misrepresentation?

Mr KIERATH replied:

(1)-(2) I will highlight some comments made by the Leader of the Opposition recently. A dispute has been under way at Kwinana for over a week. According to an article in *The West Australian* - I know that members opposite read it because they quote its editorials - it was a dispute about staffing levels and it stated that a picket had been set up and the workers were told that if there was no work, there would be no pay because of new federal legislation. I emphasise that it referred to federal legislation, not state legislation. That is why the south west of Western Australia suffered blackouts.

However, the Leader of the Opposition could not help himself and tried to make a cheap political point on radio. He said that it was unfortunate that the dispute had resulted in power cuts and that the Premier should intervene because of the Government's new industrial relations reforms. It is fascinating; he wanted the Premier to intervene and negotiate with Tony Cooke. He cannot have it both ways. Those workers are under federal awards, and the Leader knows that. This is an attempt to score political points. I ask the Leader of the Opposition whether he is aware of what is going on, or does he have the same attachment to the truth that Madonna has to modesty?

MEAT - INSPECTION SERVICES

Privatisation

196. Mr McGINTY to the Minister for Health:

I refer to the Minister's new policy of privatising meat inspection services and warnings from government health inspectors that this will allow potentially diseased meat onto Western Australian dinner tables.

(1) Were the cuts to the public health and environmental health budgets made with the hope of savings in meat inspection services?

(2) In the light of the Victorian and South Australian experiences, which have seen the health of hundreds of innocent people endangered, will the Minister scrap this dangerous policy today?

Mr PRINCE replied:

(1)-(2) I thank the member for the question. This is an interesting area that has been subject to development for some years. As the member might know, the Agriculture and Resource Management Council of Australia and New Zealand met in March 1995 and resolved that a discipline called "Hazard analysis: Critical control point quality assurance" would be implemented throughout all meat processing establishments. Previously, only red meat establishments have been subject to inspection. Those principles were applied as of December 1996, with quality assurance procedures to be implemented as soon as possible after that date. The Western Australian Health Department had direct input into the council's decision.

In August 1995, the council considered a range of issues relevant to food safety in the meat industry, including residue management, meat industry codes of practice, livestock accreditation, vendor declaration and so on. Much of this has been driven by the Garibaldi experience. This was as a result of there not being

complete quality assurance over all the handling of all meats. The hazard analysis critical control point discipline is internationally recognised and documented. The system identifies hazards in the process from beginning to end. It puts in place preventive measures to control hazards. It is documented and monitored daily by industry and is regularly audited by the Health Department and local government, which did not apply before to all meat processing. The Australian standard for the hygienic production of meat for human consumption allows abattoir operators to employ their own meat inspectors. However, in this State, although a company like Watsons Foods can employ its own meat inspectors, it has one meat inspector who is employed by the State. That regulatory inspector is the final decision maker on inspection and compliance.

Mr McGinty: How long will he be there?

Mr PRINCE: The present policy will be reviewed in 1998. The system will stay as it is until 1998 and then will be looked at again. Watsons' proposal was approved by the Health Department and has operated since 1 April. I am informed by the department that all the inspectors there are appropriately qualified, designated by me as Minister, and the departmental officer is stationed there to oversee the entire program. Audits carried out to date have shown that Watsons is managing its quality assurance program in a very responsible manner. The department is very satisfied with the result.

A problem exists with some very small abattoirs in the wheatbelt which may supply only their local areas. A similar problem exists in similar areas throughout the rest of Australia. It is being looked at as a separate exercise. Absolutely no suggestion has been made that these changes are in any way likely to bring down the quality of the inspection.

Mr McGinty: It is exactly what happened in Victoria.

Mr PRINCE: It is not the same. We are talking about processed meats in Victoria, which are quite different. This system which comes into place to a certain extent prevents that. The system we have in the Health Department here picked up the recent problem with products from Don's Smallgoods, which came out of Victoria. There is no suggestion of any change at all. The public health budget has not been reduced. Some money in the public health budget had not been spent.

The SPEAKER: Perhaps the Minister could bring his answer to a close.

Mr PRINCE: Certainly, Mr Speaker. All the programs run by public health continue to be run very well indeed.

HEALTH - INSPECTORS

Meat Industry - Budget Cuts

197. Mr McGINTY to the Minister for Health:

As a supplementary, the first part of my question asked the Minister whether the cuts in the public health and environmental health budgets were made with meat inspection services cuts in mind.

(1) Has there been a reduction in the Health budget for meat inspection services?

(2) Was the reduction in the budget allocation for public health and environmental health made with that in mind?

Mr PRINCE replied:

(1)-(2) I will try to explain it again. Meat inspectors are employed by local authorities and funded by the industry, not the Health Department.

Mr McGinty: You said that there was no cut in the public health budget.

Mr PRINCE: The member's question about a cut was based on totally wrong information. The money that was the subject of a question from the member a couple of weeks ago is not a cut at all and never was. The Health budget has an extra $54m in it. It has more money in 1997-98 than it had in 1996-97, including a nominal increase of 3.5 per cent and a real increase of 0.6 per cent. There is no effect at all on public health. It will remain as it is.

LOCAL GOVERNMENT ADVISORY BOARD - BOUNDARY CHANGES

198. Mr BLOFFWITCH to the Minister for Local Government:

Will the Minister advise of the process and time frame for the Local Government Advisory Board to determine what boundary changes, if any, are needed to councils in the Geraldton region?

Mr OMODEI replied:

I thank the member for some notice of this question.

Council boundaries in the Geraldton region along with those in the Northam, Narrogin, Albany, Bunbury and Mandurah regions were identified in the structural reform advisory committee report as requiring some examination. As Minister for Local Government I referred the recommendation to the Local Government Advisory Board for assessment with a report due by the end of August 1997. At the same time the board was asked to report by the end of March 1997 on the feasibility of splitting the cities of Stirling and Wanneroo. The board met with councils in the Geraldton region on 7 April to discuss its terms of reference and processes. After the board reports at the end of August, and if I as Minister believe a particular recommendation should be formally assessed as a proposal, a further consultation process begins. At this stage there is a mandatory consultation with affected residents and councils. When the board reports, probably in early 1998, as Minister I can only accept or reject its recommendations on the proposal. A further safeguard remains for residents or ratepayers where the board recommends an amalgamation of two or more councils. If sufficient electors petition for a poll and if a majority vote at the poll opposes the board's recommendation, it is vetoed. As Minister I can also call for an indicative poll on any proposal. There is no doubt that some change is needed, but any such change will be measured and carefully analysed before decisions are made.
