Legislative Assembly

Tuesday, 5 April 1994

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

PETITION - POLICE STATION, BASSENDEAN, ESTABLISHMENT

MR BROWN (Morley) [2.05 pm]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned people of Western Australia call on the State Government to establish a police station in the Town of Bassendean.
>
> The people of Bassendean and surrounding suburbs believe action needs to be taken in the area to reduce the incidence of crime as well as provide protection to the public. A constant police presence will act as a powerful deterrent thereby protecting residents.
>
> 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 997 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 286.]

PETITION - ROAD TRAINS, METROPOLITAN AREA, OPPOSITION

MR BROWN (Morley) [2.06 pm]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned people of Western Australia request:
>
> 1). There be no road trains permitted in the Metropolitan area.
>
> 2). All road train trails in the Metropolitan area forthwith cease.
>
> 3). Road safety be given top priority.
>
> 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 194 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 287.]

PETITION - MOTOR VEHICLE REGISTRATIONS, $50 LEVY; REMOVAL OF FREE WATER ALLOWANCE

MR BROWN (Morley) [2.07 pm]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned people of Western Australia wish to express our opposition to the unnecessary and unwarranted increases in government charges in the form of the fifty dollar levy on motor vehicle registration and removal of the free water allowance. We believe these increases place an unfair financial burden on ordinary citizens.

We therefore call on the Government to:

a) abolish the fifty dollar levy on all vehicles;

b) reinstate the free water allowance of 150 kilolitres.

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 13 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 288.]

PETITION - MOTOR VEHICLE REGISTRATIONS, $50 LEVY; CHANGES TO COMMON LAW RIGHTS UNDER THIRD PARTY INSURANCE DAMAGE CLAIMS

MR BROWN (Morley) [2.08 pm]: I present the following petition -

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

We, the undersigned people of Western Australia wish to express our concern of the illegality of the Government's introduction of a fifty dollar levy on all vehicle registrations. We also wish to express our concern about the equity of changes to the Common Law rights of citizens under the third party insurance damage claims.

We therefore call on the Government to:

a). abolish the fifty dollar levy on all vehicles because it is illegal;

b). follow the correct processes in setting Third Party Vehicle Insurance premiums;

c). reconsider changes to Common Law rights under third party insurance damage claims and to improve the effect on women at home, children, the unemployed, the retired and pensioners.

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 59 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 289.]

PETITION - COLLIE POWER STATION PROJECT, 600 MW CONSTRUCTION

MR D.L. SMITH (Mitchell) [2.09 pm]: I present the following petition -

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

We, the undersigned petitioners, respectfully request that the future of Collie be secured, the efficient extraction of coal and the most cost effective method of power generation be brought about so that coal is competitive against gas, by the immediate commencement on the construction of a 600 megawatt coal fired power station in Collie AND the undersigned also request that Parliament should not accede to the repeal of legislative requirements for SECWA to take a reasonable amount of underground coal from Collie until such time as the Government formally commits to the 600 megawatt station.

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 219 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 290.]

MINISTERIAL STATEMENT - MINISTER FOR PRIMARY INDUSTRY

Meat, Pesticide Residues Report

MR HOUSE (Stirling - Minister for Primary Industry) [2.10 pm]: Media reports of pesticide residues in meat available for purchase in Western Australia have raised unnecessary concerns which must be addressed immediately so that consumers can continue to purchase meat with confidence. It must be restated that Western Australia is a model for the rest of the nation in the reduction of, and testing for, pesticide residues in meat. The State is also acknowledged as an international leader in this field. Western Australians eat what many industry authorities regard as the cleanest beef in the world. This continues to be the case and consumers can continue to buy their meat with confidence.

In Western Australia, as in other States, the organochlorine pesticides DDT, chlordane, heptachlor and dieldrin were removed from agricultural use after the United States started rejecting consignments of Australian beef in 1987. Since then management plans have been developed between farmers and the Department of Agriculture. Properties which have been too severely affected, or are too small for such a management plan, have been placed in quarantine and require a special certification to dispose of stock. Once at the abattoir, the carcasses become the subject of a health inspection system which operates to standards set by health authorities. Any substandard carcasses are removed and are not available for human consumption. I might add here that the testing regime in domestic and export abattoirs is identical. Information from abattoir sampling and the use of registered tail tags means that cattle which exceed maximum residue limits can be traced and the management plan revised. The procedures have reduced the detected incidence of meat with higher than acceptable levels of pesticide residues from four in one thousand to one in one thousand. However, there is no room for complacency.

Our record of low pesticide residues is the result of continuous stringent testing under a coordinated management system which involves the two portfolios of Primary Industry and Health. Neither the Health Minister nor I have any hesitation in subjecting this integrated management system to rigorous scrutiny. Health Minister Foss and I have agreed to former industrial relations commissioner Eric Kelly carrying out an immediate investigation of the current system. I expect Mr Kelly's report to be available by the end of next week. In the meantime, I reassure consumers that, from the agricultural perspective, the fact that since 1987 pesticide residues in meat have dropped dramatically is an indication of the effectiveness of the management programs in place.

In relation to a report in *The West Australian* that I had been asked to look at the problem in December and had not acted, I advise the House that this is simply not the case. In fact, the Capel Shire Council's principal health officer, Colin Dent, contacted my office today to apologise for giving that impression. A letter was sent by the Capel Shire Clerk to the Director General of Agriculture on 29 November last year, to which the director general responded on 21 December. The Capel Shire had concerns about 11 bodies of beef seized and detained at the Capel meatworks from a quarantined property, without the correct paperwork. In addition to supplying information requested by the shire, the director general made the very valid point that while he could understand the shire's disappointment that quarantine cattle had been sold for slaughter, he noted -

> ... the fact that they were detected prior to entering the food chain shows the effectiveness of the system that is in place.

The factually incorrect nature of the reporting of this incident is irresponsible not only from a public health perspective but also from the point of view that it could have serious consequences for the international standing of the Western Australian beef industry. I will provide the House with the results of Mr Kelly's investigation once it is complete.

[Questions without notice taken.]

PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Member for Ashburton, Discharged; Member for Pilbara, Appointed

MR C.J. BARNETT (Cottesloe - Leader of the House) [2.44 pm]: I move -

> That the member for Ashburton be discharged from the Public Accounts and Expenditure Review Committee and the member for Pilbara be appointed in his place.

MR RIEBELING (Ashburton) [2.45 pm]: I do not resign from the Public Accounts and Expenditure Review Committee willingly; I do so reluctantly and I hope that I will be able to adequately explain the reasons for my decision. To do that I will outline the past 12 months' history of the committee. At the time the five members of the committee were appointed it was of some disappointment to Opposition members that the Government maintained control of the committee. It had been accepted by the Government, when it was in Opposition, that it was in the best interests of this place that the Opposition control this committee. However, in spite of the make-up of the committee it was pleasing to me that the member for Avon was appointed to it. I moved that he be appointed as chairman of the committee. I did that not because I have any great affection for the member for Avon but because I thought that the member for South Perth would probably receive a ministerial appointment in the very near future.

When the Labor Party was in Government I witnessed the way in which the member for Avon pursued the then Government when he thought that a matter of public interest was worth pursuing. He pursued the previous Government ruthlessly and did his job on the Public Accounts and Expenditure Review Committee to the nth degree. For that reason, I felt no embarrassment in nominating him to the position of chairman and on that occasion the Opposition was fortunate to win that ballot. I was convinced that with the member for Avon as the head of the committee he would not allow it to become a lame duck committee but would make sure that it pursued matters of public interest and that the recommendations in the Auditor General's report would be pursued.

Mr Bradshaw: There was only one reason you moved for the member for Avon to be appointed as chairman to that committee; that is, it would cause a split in the coalition Government.

Mr RIEBELING: The furthermost thing from my mind was that my nomination would cause a division in the coalition Government. I was putting forward the name of the person I thought was the best man for the job.

My view when I was elected to the committee was that it was a vital part of government and, with the member for Avon as chairman, it would pursue matters of public importance. Up to December last year I attended as many meetings of the committee as I possibly could. However, early this year the committee started its inquiry into the Totalisator Agency Board. This inquiry is important because it affects a very important industry in this State - the racing industry - and it should be carried out correctly and as comprehensively as possible. I am sure the committee will do that. As I am not a resident of Perth it meant that I had to travel for two days to attend one day's hearing. In effect, I was away from my electorate for three days. By the time January and February had come to an end I was of the view that I was not putting in sufficient time on the committee to allow me to adequately discharge my duties to this House. I made the decision to resign from the committee as quickly as I could so that the member for Pilbara could take my place; I know that he will do the job that this Parliament demands of him.

The other reason for my not wishing to remain a member of the committee is that I have felt some disappointment about two of the matters dealt with in the past 12 months. I am sure I am not the only member of the committee who feels that two of the committee's inquiries could have been dealt with differently, and that some of the valuable time of the Public Accounts and Expenditure Review Committee was wasted to some extent. The first of the reports to which I refer was the result of an inquiry into the Rottnest Island Authority. A problem was correctly identified, the public accounts committee set about its task in an efficient and proper manner, took verbal evidence, received a mountain of submissions, and came up with some solutions to the problem identified. However, it was of great concern and disappointment to me - and I know to some other members of the committee - that after the committee presented its report, which gained quite a bit of notoriety, the Government in its Budget papers addressed the problem identified by the committee and solved it to a certain extent. It struck me that it had not happened by accident, and perhaps the Government had been inquiring into the same points without our knowledge and had to some extent set up the committee to create the publicity the Government wanted.

Point of Order

Mr C.J. BARNETT: I suggest the member is straying from the motion, which is simply to request that another member be appointed to this committee to replace him. Everybody appreciates hearing his reasons, but he is now debating a series of reports published by the public accounts committee. Other opportunities are available in which to do that, and these reports have been debated and can be debated on other occasions.

The SPEAKER: I was distracted while reading a message from another place that needed to be attended to. If the member for Ashburton had wandered from the point of the motion, I ask him to return to it.

Debate Resumed

Mr RIEBELING: I wish to make only a couple of comments in relation to the Rottnest Island Authority inquiry. It struck me and other members of the committee that we had been used to promote the issue so that the Government could be seen to solve it.

The second of the inquiries which caused me some concern, and still does, was the inquiry into the Port Hedland Port Authority. The Minister for Transport came to the committee and said it was vital for the committee to drop everything else and to inquire into the allegations that had been made about missing money and other matters. The committee put aside everything it was doing, went to Port Hedland, took mountains of submissions, and inquired into lots of different tendering procedures and the like. At the end of the day I came to the conclusion that it was an administrative problem which the Minister could have, and should have, solved himself without needing to bring the public accounts committee into the matter. In fact, I think it wasted a great deal of our time and effort. In mentioning those two areas of concern, I do not suggest that the committee has knowingly misused its powers and has avoided inquiring into issues that would hurt the Government. However, the committee now constituted must be ever-vigilant that the Government does not misuse it and that it does not become a lame duck committee.

Mr Bradshaw: That is part of your job as an Opposition member of the committee. When I was a member of that committee the Opposition had a good case for putting up points to be raised, and the Government generally supported them because it knew that it would get bad publicity if it did not do so. I think your views are unfounded.

Mr RIEBELING: It is of no concern to me that the member for Wellington thinks my views are unfounded. If the members of this committee are not ever-vigilant, the Government could make extra work for the committee to ensure that it does not inquire into serious issues such as the power blackout which occurred; whether the State Energy Commission has cut too much of its maintenance funding; and the problems facing our rivers and the Police Force. These are current issues which the committee should inquire into, and not whether the Rottnest Island sewerage system is adequate. I urge the committee to ensure that the issues of the day are looked into.

Question put and passed.

BILLS (2) - INTRODUCTION AND FIRST READING

1. Iron Ore Processing (BHP Minerals) Agreement Bill

2. Acts Amendment (Mount Goldsworthy, McCamey's Monster and Marillana Creek Iron Ore Agreements) Bill

Bills introduced, on motions by Mr C.J. Barnett (Minister for Resources Development), and read a first time.

PETROLEUM ROYALTIES LEGISLATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr C.J. Barnett (Minister for Resources Development), read a first time.

Second Reading

MR C.J. BARNETT (Cottesloe - Minister for Resources Development) [2.59 pm]: I move -

That the Bill be now read a second time.

The Bill proposes amendments to the Petroleum Act 1967 and the Petroleum (Submerged Lands) Act 1982 related to treatment of Federal duty in the calculation of petroleum royalties. The Bill is for an Act which is deemed to have come into operation on 1 March this year.

Under Western Australian petroleum legislation, the wellhead value of petroleum recovered forms the base upon which royalties are calculated. The amendments ensure that no allowance is made for Federal duty in the calculation of wellhead value for royalty purposes. This has been achieved by creating a new base on which royalty is to be calculated. This royalty value is defined in the amendments. The Commonwealth Government has always argued that excise payments should be deducted in the calculation of the value at the wellhead. Allowing payments such as excise to be treated as a deduction prior to the royalty calculation not only gives these payments a higher priority than the State's royalty payment, but also leaves the way open for a considerable erosion of the State's revenue base should these payments be increased by the Federal Government.

The State view is that royalty is the payment for a community-owned resource and this purchase price must be paid before the payment of any Federal excise. There are Federal taxes and charges which are legitimate deductions in the calculation of royalty liability, and these will be prescribed by way of regulation following consultation with petroleum producers.

Debate adjourned, on motion by Mr Grill.

MOTOR VEHICLE (THIRD PARTY INSURANCE) AMENDMENT BILL

Second Reading

Debate resumed from 31 March.

MR GRILL (Eyre) [3.00 pm]: It is pretty well established that this legislation will confiscate retrospectively rights of citizens of Western Australia which have been held for hundreds of years, if we go back through common law. Therefore, it is an understatement to say that this legislation is harsh, regressive and insensitive. Although the Treasurer states in the first paragraph of his second reading speech that "The Bill is being introduced to ensure that the burden of high compulsory third party premiums on more than one million Western Australian motorists will reduce", that is all that the Treasurer has to say about third party premiums. The Treasurer then launches into a diatribe about losses made during the WA Inc period. I do not know why he launched into that diatribe because it is clear from the outset that if there were such losses and if they do impact upon the State Government Insurance Commission, that impact would

have been taken care of by the $50 premium levy. The first three and a half paragraphs of this short second reading speech, which comprises only two pages, is taken up with this not particularly honest diatribe about WA Inc losses. I do not know why that is the case, particularly as there is so little information in this second reading speech to justify the regressive nature of this legislation which will take away people's rights. There is virtually no discussion about those particularly pertinent matters. One must ask why there is no discussion of those issues at the second reading speech level. Let us go back to the so-called WA Inc losses.

Mr Pendal: They are not "so-called". You surely are not denying that they are there?

Mr GRILL: I would like to know just what the WA Inc losses are.

Mr Bloffwitch: I would have thought you would have a better idea than most!

Mr Pendal: Of all the people on that side of the House, you would have been best served to stay out of this, but you have still got a smile on your face.

Mr GRILL: The small part that I might have played in that era related not to losses but to gains; but they are matters which we can debate elsewhere, and if the member has a substantive motion that he would like to put on the Notice Paper in regard to these matters, I would be more than happy to debate that with him at any time, and he might be surprised at the nature of that debate.

Let us return for a moment to the figures that are used by the Treasurer. I do not know why the Treasurer talks about the WA Inc losses in regard to third party premiums; a large part of his speech is taken up with this diatribe. He states in the third paragraph -

> I remind the House that the transfer of assets from the Motor Vehicle Insurance Trust to the State Government Insurance Commission on 31 December 1986 was $475m. As at 30 June 1993 assets in the compulsory third party insurance fund were only $220m with liabilities of $550m. Liabilities for outstanding claims have remained at around $500m for the last seven years. Property now comprises 56 per cent of the investment portfolio resulting in low returns due to a downturn in demand for central business district properties; that is, either leasing or purchase. At 30 June 1987, the property component was only eight per cent.

It is all very well to mention those figures, and they paint a very damning picture of the previous Government, but in doing that the Treasurer is not comparing apples with apples. When the division of the assets of the SGIC was made by the previous Government some time ago, the State Government Insurance Office picked up 28 per cent of the assets and the SGIC picked up 72 per cent of the assets. Most of the 28 per cent of the assets picked up by the SGIO comprised equities - that is, shares tradable on the Stock Exchange - and other securities, which by and large were liquid assets. The SGIC picked up the central business district and commercial properties. Over the last 12 months, those properties have diminished in value, as have the properties of almost every other -

Mr Lewis: Come on! They were inflated, and you know it.

Mr GRILL: I am saying that over the last 12 months or more, the value of those central business district properties has decreased. I do not think anyone could argue about that. According to the Treasurer, the value of the property assets that were transferred to the SGIC was written down by $273m in the three years from 30 June 1990 to 30 June 1993, whereas the equities and securities taken over by the SGIO in the majority of cases increased in value because the equities market has increased dramatically and the securities have more than held their value. Therefore, the Treasurer was not comparing apples with apples, nor was he presenting the picture honestly, because had he done so he would have included the profit of some $33m that was made on the sale of the BHP shares. The SGIC, as it then was, also retained an additional 100 000 of those shares. The Treasurer does not mention that profit and those shares, nor does he take into account the $129m that the SGIC will receive from the proceeds of the sale of the SGIO. All of those things must be taken into account, but they are not taken into account by the Treasurer in his second reading speech.

The Treasurer states that the Bill was introduced to reduce the burden of compulsory third party premiums. There is some history to that. An actuarial report commissioned by the former Government in 1991 recommended that premiums be increased by 30 per cent in 1992 and by 12 per cent in the following year. The 30 per cent increase went ahead. The 12 per cent increase, which would have taken effect in the last period of the Lawrence Government, did not go ahead, on the basis of Treasury advice that, given the state of the funds and the assets within the SGIC, it was not necessary for a further 12 per cent increase at that time. I do not know whether the advice was right or wrong, but I do know that the Lawrence Government acted upon the advice from the Treasury officials, and that they were the same Treasury officials by and large that are now advising this Government. I have not seen any criticism directed at those officials. If the present Government thought that the advice given to the previous Government was incorrect, criticism should have been directed at the people giving the advice. One could assume that the advice probably was correct - that the 12 per cent increase in premiums the year before last was not essential, and that the funds of the SGIC did not indicate it was necessary to increase the premiums.

The Treasurer's second reading speech states that this Bill is being introduced to ensure that the burden of high compulsory third party premiums will reduce. If that is true, by how much will they be reduced? Can that question be answered by the Minister for Labour Relations, who is standing in for the Treasurer?

Mr Kierath: I will see if I can get the answer for you shortly.

Mr GRILL: What is the justification for the extinguishment of these long held rights? On what basis is the $10 000 threshold being introduced, and being euphemistically called "nuisance claims"? Are the premiums too high now? Is the Government able to make comparisons between the premiums presently applied and the premiums that apply in other States? Lastly, can the Minister handling this legislation in the absence of the Treasurer tell us how much is being saved by the Government's introducing these measures? Can the Minister answer those questions when he sums up? The member for Victoria Park says that it is about $50m. The calculations I made relating to the previous proposed legislation to come before this House suggested a figure of $50m.

Dr Gallop: It might be lower now.

Mr GRILL: We are not dealing with identical legislation. I would like to know how much money this legislation is saving. I expected that the Minister would be able to supply this information almost immediately. My basic question is whether this legislation is really necessary. Is it essential for the Government to pass this legislation? Why should liability for a negligent driver be arbitrarily reduced by $10 000? In many cases it will be wiped out entirely, so why should the negligent driver - in some cases, the grossly negligent driver - be excused from responsibility altogether? Is there any justification for that? If so, why should persons not have the right to insure for the gap in any event? We have heard conflicting reports in legal circles regarding the number of people that might be disadvantaged as a result of this legislation. Why should anyone be disadvantaged? But having asked that rhetorical question I now put the substantial question: What percentage of claimants will be affected by this legislation? Many lawyers have told me that something like 50 per cent of claims will be knocked out as a result of reducing the liability of a negligent driver by $10 000; and that something like 65 per cent or 75 per cent of claims could be reduced as a result of other changes which would lift the threshold in some respects up to $40 000. In other words, lawyers are saying that something like 50 per cent of claims are for amounts of less than $10 000, and something like 75 per cent of claims would be for less than $40 000.

Nowhere in the second reading speech have I seen answers to these questions. Nowhere can I see any reason or justification for any of the measures that are about to be put in place. Given that these measures are harsh and regressive, one would expect to see a fair deal of justification for these measures with some figures to back them up. I see no such figures, nor any reason or justification for the harsh measures being introduced. Those basic questions need to be asked.

What is the essential duty and job of the Government? Is it not where possible to increase the quality of life for the citizens of this State? If that question is to be answered in the positive, would it not be part of that responsibility to ensure that people injured innocently in a motor vehicle accident involving less than $10 000 or up to $40 000, are properly compensated? This legislation clearly reduces the quality of life of the citizens of Western Australia. In that respect, this Government is not doing its duty. The Minister handling the legislation salivates about the prospect of reintroducing the death penalty and the use of the birch -

Mr Bradshaw: He did not mention reintroducing the birch.

The SPEAKER: Order! The member should not be interjecting when sitting out of his place.

Mr GRILL: I understand also that this Minister has wet dreams about pulling the lever of the gallows. I mention that because I believe that this motor vehicle third party insurance legislation is part and parcel of the face of a harsh and insensitive Government. This Government does not care a lot about people's lives. It cares not about the loss of limbs or the quality of life for people at the bottom end of the social spectrum. All the measures to which I have referred are connected and are relevant to the type of Government we have in Western Australia today.

In his second reading speech the Treasurer indicated that the average cost of claims during the last four years had increased by 53 per cent. However, he did not mention whether that increase could be borne by the State, premiums or the current fund. He simply embarks on the process of reducing benefits. Questions must be asked about alternatives to this policy. If a problem exists regarding motor vehicle third party insurance in this State, it could be solved in different ways. Limiting the liability under the third party policy is different from removing rights. Nevertheless, this legislation removes individual rights, which have been in place for hundreds of years. A $10 000 threshold, I am told by lawyers, will extinguish claims for many people who have suffered bodily harm, loss of amenities of life, loss of enjoyment of life, curtailment of expectation of life, pain and suffering. What is the point of that?

Perhaps other action could be taken. A person with a scarred face, whiplash or a lost finger may well come under the $10 000 threshold - certainly the $40 000 threshold. Such claims may be extinguished in whole or in part as a result of this legislation. How can that be justified? A lawyer gave me an example recently of a person with a whiplash injury who may be totally unfit for three weeks, be partially unfit for two months and still suffering pain in movement after two years. This person may also suffer headaches periodically over that time. I am told that that claim would come within a range of $7 500 to $12 500, depending on the person's age and other factors. That person's claim would be extinguished or reduced dramatically. A $7 500 claim would be extinguished completely, and a $12 500 claim - the top of the range - would result in a payment of $2 500. Lawyers have suggested other options, such as a $5 000 threshold - which would affect fewer people - or a percentage reduction across the board, or a combination of both. It is submitted that these options would be far more equitable than the drastic measures outlined in this legislation.

Government members refer to these claims, which are to be extinguished or dramatically downgraded, as "nuisance claims". That says a lot about this Government. To use that description reflects this Government's view regarding citizens in this State, especially those at the lower end of the socioeconomic scale. The claims will be extinguished in a discriminatory manner, and it will discriminate against those who can least afford to lose this money. Therefore, the Government should not be proud of the use of the terminology "nuisance claims".

The Treasurer's second reading speech states -

> As stated, the problem in relation to the multitude of small claims has been compounded by unrealistic expectations for minor or relatively insignificant injuries.

Who is hurt by "unrealistic expectations"? Is it the Government, the SGIO or the insurance industry generally? Should unrealistic expectations be confiscated along with the claim? The only people who are hurt by those unrealistic expectations are those who hold them. In due course, such people will go before a judge and will be disappointed. Is that a great problem for the State or the SGIO? Is that something for which we should be legislating? Not at all. Why does the Treasurer refer to the unrealistic expectations in such derogatory terms? Why are we legislating against these expectations? It is a nonsense. People with unrealistic expectations do not receive more money; they are simply disappointed. Such people will certainly be disappointed by this legislation as it removes their chance to have unrealistic expectations, which will be wiped out in a manner which should be condemned.

One would expect that people of a Liberal persuasion would condemn the confiscation of people's rights, especially when done retrospectively. When such action is taken in relation to taxation, people of a Liberal persuasion are incensed. However, when this action is taken in relation to motor vehicle third party claims or workers' compensation, people of a Liberal persuasion seem happy to go along with it. Therein lies the contradiction, hypocrisy and irony.

This Bill introduces not only claim thresholds but also caps. The Treasurer indicated in the second reading speech that a cap of $200 000 is not really necessary because it has never been reached or exceeded in the past. If circumstances arise in which $200 000 is reached or exceeded, it will have very good reason or justification. Why legislate for that cap? Again, it is an unjustified nonsense. This legislation should be condemned. It discriminates against the aged, the young, the unemployed, and women; it attacks injured people. Therefore, the legislation should be rejected by this House.

DR GALLOP (Victoria Park) [3.29 pm]: In Western Australia, 1993 and 1994 have not been very good years for common law. Firstly, changes were introduced to our system of workers' compensation that, essentially, mean people cannot bring a negligence action unless there is a 30 per cent disability. That represented a major change in the way our workers were treated in the event employers were negligent. Secondly, last year we saw the Government's response to the High Court's Mabo decision which was to abolish common law rights and replace them with what it called satisfactory statutory rights of traditional usage. Of course, the validity of the Western Australian legislation will ultimately be determined in the High Court, but there is no doubt that the Government's whole thrust was to obliterate the common law entitlement that had been building up and was finally put together in the Mabo decisions. Thirdly, we now see the motor vehicle third party insurance changes which resulted from an announcement that was made way back on 29 June 1993. It was not a statement to the Parliament but a media statement by the Treasurer who said that his strategy to overcome what he called WA Inc losses involved a levy of $50 on motor vehicle third party premiums and a cap on claims payments. We are dealing with the second part of that equation today.

Back in June 1993 the Government's proposal was different from today's. At that time it was being proposed that general damages claims be limited for pain and suffering by applying a $15 000 threshold and a $200 000 cap on all claims that arose from accidents after 1 July, that awards of up to $40 000 would be reduced by $15 000 and the reduction would be scaled down for awards between $45 000 and $50 000, and no reductions would apply to awards over $50 000. At that time the Government estimated that as a result of these changes to the motor vehicle third party laws in this State, claim payments would be reduced by about 25 per cent and the savings would amount to about $50m. It was pretty clear then that the Government's strategy in relation to the gap of about $300m that had developed between the SGIC's assets and liabilities in its third party fund, was to focus on two particular aspects: First of all, to eliminate the gap as soon as possible - in other words, to minimise the time that would be taken to overcome that gap between assets and liabilities - and secondly, to overcome that gap with as much pain as possible on ordinary working people in Western Australia. The political aspect of the strategy was to put statements on the motor vehicle licence forms describing the $50 levy as a WA Inc levy and to blame all of this on the previous Government.

If we look at the figures that applied in 1993 it is clear that an alternative strategy was available to the Government of the day. The projections revealed that in the SGIC's motor vehicle third party fund - its operating revenue and expenditure with net earned premiums and income on the one side and administration costs and claims incurred on the other side - there would be a deficit of $40m. There was little doubt that some increase in premiums was required, but it was not clear how much would be needed because the sale of the SGIC's major asset - that is, the SGIO - was being undertaken and, secondly, there were alternative ways in which revenue might be able to be raised by the SGIC. I refer to the deterrent system that applies in Saskatchewan where a premium is imposed for every demerit point lost by a driver. The figures show it was necessary for the Government to provide some income to the motor vehicle third party fund so it could overcome its operating deficit, and also that a longer term strategy was needed to overcome the assets-liabilities gap. However, this Government chose the strategy of doing all of that as soon as possible and with maximum pain. At the time the Government made the announcement in June 1993 the proposals were estimated to raise $100m for the SGIC - that is, the levy and the caps - and indeed over a six to seven year period with the imposition of that levy the deficit could be removed. The Opposition believes the whole situation that was faced by the SGIC could have been handled differently and in a way that did not put undue pressure on those least able to pay. We do not question the figures that the SGIC has provided to the Government, the need for the short term gap between the SGIC's operating revenue and operating expenditure to be dealt with, and the need for a strategy for the long term problems of the SGIC, but from the Labor point of view that strategy should have been devised in a way that did not place undue pressure on those least able to pay.

Essentially, the Government has done exactly the opposite of what Labor believes should be the proper strategy. It has imposed a flat levy of $50 on all Western Australians who have motor vehicle licences - that is, no matter what their income, where they live or who they are. I make the point that there is one concession for pensioners.

Mr Grill: As I understand it, if one pays half yearly premiums one is hit twice.

Dr GALLOP: And of course if a family has two motor vehicles it is hit twice. The first part is the flat levy and the second is the cutback in the range of claims that can be made by the SGIC. This is a Government that in all its economic forecasts predicts a major upturn in the Western Australian economy, an upturn that we are already seeing reflected in increases in State Government taxes and which will be ultimately reflected in improvements in the value of the properties that are held by the SGIC and in the increased income that it will have through increases in the number of motor vehicles that are owned in Western Australia. The Government does not focus on that, it tries to bring about the maximum pain for those least able to pay.

Since June 1993 there has been a good deal of argument within the Liberal and National parties on this issue and this argument has come about as a result of a couple of factors. Firstly, there has been strong campaigning by the Law Society, which quite properly has pointed out some of the weaknesses in the Government's position. More importantly, as a result of the publicity that has been given to this issue by the Opposition, the Law Society and other organisations, constituents have been saying to members opposite, "We cannot afford this type of measure." As a result of that there has been a minor softening in the Government's position on this question. I will read from *The West Australian* newspaper - unfortunately I do not have the date of this article - which is entitled "Government softens third party changes." It states -

> After weeks of pressure from a hard core of backbenchers opposed to the plan, Finance Minister Max Evans yesterday announced a compromise.

I do not know who some of those hard core backbenchers were, but at least they managed to achieve a mild change in this legislation. However, from the point of view of the Opposition those changes do not make this legislation acceptable. If we look at the reality of the legislation, we see that for pain and suffering for non-pecuniary damages claims of less than $10 000 there will be no award. For claims over $10 000 and up to

$30 000, $10 000 will be deducted. For claims over $30 000, the $10 000 deductible reduces by $1 000 for each $1 000 awarded over $30 000. For claims of over $40 000, there is no deduction. There is a $200 000 cap on all awards and a $5 000 threshold on gratuitous services. I will come back to that issue.

Those restrictions are placed upon claims for non-pecuniary damages. Those non-pecuniary damages, as we know, deal with pain and suffering, the loss of amenities of life, the loss of enjoyment of life, the curtailment of expectation of life and bodily or mental harm. It is interesting to note that not many Western Australian citizens have not made a claim at some stage or another under the heading of non-pecuniary damages. Many of us have been involved in motor vehicle accidents in which the driver of the other vehicle was negligent. We can claim for those aspects of the accident.

In the second reading speech and the broadsheet that was put out by the SGIC entitled "The Facts" about the Motor Vehicle (Third Party Insurance) Amendment Bill 1993, and in the comments that have been made in the media in recent times, it is clear that the Government's strategy for dealing with the issues it faces on the motor vehicle third party insurance fund have been broken up into two aspects. First of all, there is the $50 levy which is to apply for about six or seven years. The Government hopes to use the levy to bring about the end of the deficit between assets and liabilities. It is a very crude and insensitive approach to the question. Members must remember that the motor vehicle third party insurance fund, which is part of the SGIC's overall operation, is not out there in the marketplace competing with other insurance companies as is the SGIO in its current corporatised and about to be privatised form. The SGIC is a Government agency providing whole of government insurance services to government and, very importantly, providing motor vehicle third party insurance for all Western Australians. It is capable of carrying that gap between its assets and liabilities and, as the economy picks up in Western Australia, we will see much more revenue flowing into the SGIC. But for very narrow political reasons the Government has chosen to reduce that gap as quickly as possible and in a way that brings about maximum pain for ordinary working people, because it wants to make a political point rather than act responsibly on behalf of all Western Australians. The levy is designed to deal with the assets-liability gap.

The changes in the law that have been dealt with in this Bill deal with a different problem. That problem is outlined clearly in the facts sheet that has been put out. According to the Government, there is an overservicing of third party insurance claims. The reason for that is -

> Whilst the public is entitled to be aware of its rights, heavy promotion of the compensation services of lawyers (by various means) has been primarily responsible for creating the need, rather than simply servicing it.
>
> This has led to serious distortion in the third party compensation system, whereby lawyers are promoting and encouraging claims from people who have received minor or relatively insignificant injuries.

Those injuries may be minor and relatively insignificant to the Government, but they are certainly not minor and certainly not insignificant for those ordinary citizens of this State who make claims under the heading of non-pecuniary damages.

Let us come to the four objections that the Opposition has to this legislation. The first objection is that a significant number of claimants will have their claim reduced by $10 000 or, in the case of those claims below $10 000, reduced to zero. It has been estimated by the Law Society that between 40 per cent and 50 per cent of all claims will be affected by the deductible contained in this legislation.

When one considers an individual claim for $2 000, $3 000, $4 000 or even $8 000 or $9 000, it might not look like a lot of money, but we must keep reminding ourselves in this International Year of the Family that we deal with families, not individuals. We can give examples in which a significant financial impact will be made on ordinary families.

Let us take the case study of a family of four, involving a husband, a wife and two children who are enjoying their normal Sunday afternoon drive and are involved in a

serious motor accident. All four members of the family are injured and require hospitalisation. Both the mother and the father miss several months of work and the children miss several weeks of schooling. Both the children suffer serious injuries which will affect their ability to enjoy future sporting and social activities. If we look at the compensation that might have been payable to that family before 30 June 1993, we could estimate that the father would have received $40 000, the mother $18 000, the first child $25 000 and the second child $20 000. In other words, $103 000 in non-pecuniary damages would have been paid to that family. As a result of this legislation, with the deductibles that have been introduced, that would be reduced to $73 000. The father would still receive $40 000, the mother $8 000, the first child $15 000 and the second child $10 000 - a reduction of $30 000 to that family. That family believes that it is their right to claim those damages. Before 30 June they had that right and it has been taken away from them.

To add insult to injury, this legislation puts in place a new policy on gratuitous services of a domestic nature that relate to nursing attendance provided by a member of the household or family of the injured person. The Bill proposes a $5 000 threshold and also that claims over $5 000 be limited to average weekly earnings, which are currently estimated at $571. We can estimate that about eight weeks of assistance would be provided to a husband or a wife who need those gratuitous services. In other words, if we take $571 as the average weekly earnings for about eight weeks, we reach the $5 000 threshold.

We could imagine many cases in which gratuitous services will not reach the threshold but where a significant financial impact will be placed upon the family. Let us imagine a housewife being involved in a motor vehicle accident while en route to the supermarket to do the family shopping; she receives relatively minor injuries but they prevent her from looking after the young family. She is unable to get the children to school. She is unable to cook the meals. She is unable to clean the family home. So her husband, who more than likely is on average weekly earnings, goes home to fill in the gap for the wife in those weeks that she experiences problems as a result of the accident. She does not qualify for any Government assistance and the husband has to take part of his annual leave to look after his family. This Bill places a threshold on the money that can be paid under gratuitous services and takes away a portion of the family's common law rights regarding motor vehicle injuries where the other driver is negligent. The Government should look at its own morality in introducing such a threshold.

The second problem relating to the gratuitous service threshold is the use of average weekly earnings. The Law Society of Western Australia points out that average weekly earnings are $571, and the document states -

> This is a grossly unfair provision, particularly for seriously injured claimants such as paraplegics, tetraplegics, quadriplegics who may, for the rest of their life, require home care for long hours at any time of the day or night. To limit this to the average weekly earnings and not to a commercial rate for home help/nursing help is unfair. At present 40 hours gratuitous care at $20.00 per hour achieves an award in the Courts at the rate $800.00 per week. For an injured person who requires such care for the rest of his or her life, the amendment will have a substantial effect on awards.

That is the first objection to this legislation. It severely restricts the rights of ordinary families to be justifiably compensated for accidents in which the other driver is negligent. It has been established that the impact can be quite significant on family income, especially when the family is asked to pay a $50 increase in its levy.

The second point, as stated by the member for Eyre, is that these changes discriminate against housewives, children and pensioners as they will not be able to claim for any loss of earnings. The Opposition does not dispute that this legislation does not take away from someone their entitlement to claim for hospital expenses, medical expenses and loss of earnings. However, housewives, children and pensioners are not in the labour market and can be very seriously affected by the loss of rights in this Bill.

Previously when this matter has been debated we have referred to the case of the housewife who has been involved in an accident while picking up her children from school. She may have sustained a whiplash injury to her neck, with soft tissue injuries to her back and shoulders. As is common with such injuries, it is likely that she will suffer symptoms such as pain, restriction of movement, stiffness and headaches for about two years following the accident. She will most likely have difficulty performing household tasks such as vacuuming, hanging out the washing, gardening, and cleaning, and she will be put to a good deal of inconvenience and may require some ongoing medical and physiotherapy treatment. That person will have her medical expenses paid but if her claim does not reach the $10 000 threshold she will not be compensated for the effect of the accident on her way of life and enjoyment of life. Mr Deputy Speaker, put yourself into the position of those people who do not earn money from the labour market. They are discriminated against by this legislation.

My third point is that the changes will be retrospective from 3 July. It is clear that retrospective legislation is undesirable. The Opposition has had this legislation for about nine months now and it has yet to pass through the Parliament. That is a most undesirable state of affairs. People are paying their premiums and are being affected by proposals from the Government, but the Parliament of Western Australia has still to pass these proposals.

The fourth objection to this legislation is that it is unnecessary. The Opposition believes that common law rights can be exercised in full and reasonable premiums charged in the State of Western Australia. If one looks at the last premium table for the States of Australia, one sees no thresholds exist in the Northern Territory, Tasmania, Queensland and the Australian Capital Territory. South Australia, New South Wales and Victoria have introduced different forms of threshold and now Western Australia is to do so. In the Northern Territory, Tasmania, Queensland and the ACT, premiums are reasonable. There is no reason for thinking that as the economy of Western Australia picks up, and as the State Government Insurance Commission improves its investment performance, a turnaround in performance will allow premiums in Western Australia to be reasonable and on the low side of those charged among the Australian States. This legislation is being introduced despite the long-term historical evidence and evidence from other States that it is possible to run a third party insurance policy without placing restrictions of this nature.

I conclude by stating that under the Liberal-National Party Government we are back on the old merry-go-round. In 1976 there was a 50 per cent increase in premiums; in 1978, a 33 per cent increase in premiums; in 1980 a 50 per cent increase in premiums; in 1981 a 25 per cent increase in premiums; and in 1982 a 10 per cent increase in premiums. Whenever the SGIC approached the Government for an increase, it received it. In the years of Labor Government, in 1986 there was a 10 per cent increase in premiums; in 1990 a 12 per cent increase in premiums, and in 1991 a 30 per cent increase in premiums. In the first year of Liberal-National Party Government a $50 levy has been imposed on premiums and the benefits that the citizens of Western Australia can derive from their motor vehicle third party insurance scheme have been reduced.

It all comes down to philosophy. The Opposition does not deny the financial situation that faces the SGIC, but says this: It is possible to move into the future and deal with both the short run and the long run problems faced by the motor vehicle third party fund in a time span and manner which does not impose unfair burdens on ordinary working people in Western Australia. The Government has chosen not to do that. It has chosen to adopt a blatantly political strategy. It also makes it easier for the SGIC as revenue flows to it without too much trouble. There is a real difference in philosophy between the Labor side and the conservative side of this Parliament. The SGIC should be subject to Government restraint in respect of its policy, and if one looks at premiums in the 1970s as opposed to the 1990s, one can see that different philosophy. The second difference relates to imposing premiums, new taxes and levies. The Opposition believes that those people who are least able to pay should be protected in the process. The attitude of this Government is to impose flat increases without considering the needs of ordinary working families in Western Australia.

MRS HENDERSON (Thornlie) [4.00 pm]: Like the former speaker I believe this Bill is one of those which clearly delineates both sides of the House and the philosophy that underpins the reason we are here. A number of features of this Bill are particularly offensive and obnoxious to members on this side of the House and to the vast majority of Western Australians who, in increasing numbers, will become aware of what this Bill is about. Those members opposite who do not speak up in their party rooms and caucus meetings will long live to regret that. I know a number of members opposite did speak up and their actions led to some of the proposals being made less severe. I give credit to those members opposite who took the trouble to do that. However, it was not good enough because the basic injustice of what we are debating today still remains.

I will dwell on three or four features of this legislation which are particularly offensive. First is the prospect of a $10 000 deduction: Anyone who makes a claim up to an amount of $10 000 for pain and suffering or up to $40 000 will lose the first $10 000 of their claim. The Government has been quite clear about the reasons behind this provision. I have been surprised by the Government's frankness in openly admitting that the reason it is including this provision in the Bill is to reduce the payouts made by the State Government Insurance Commission and to increase its profitability. I thought the Government would have searched for another reason. It has been open about the fact that it is taking money away from injured people to bolster the position of the SGIC. In effect, it has introduced a tax which does not fall fairly on all members of the community, but disproportionately on those who can least afford it.

It is very disappointing for those members in this House who, through their work as members of Parliament, have come to appreciate that $10 000 to one family can be enormously different from $10 000 to another family. I guess that members in this House have found, as I have, that for some families the difference between $3 000 and $4 000 can mean the difference between staying afloat and going under. The people who are most likely to be affected by taking away this opportunity to claim damages for pain and suffering up to $10 000 are those who are the poorest in our community - the elderly, pensioners, retirees who are living off their superannuation or savings, the unemployed and housewives. The people who do not have the opportunity to claim damages for loss of income because they do not have substantial incomes are the people for whom the amount that is awarded for pain and suffering has the greatest significance. In fact, that is mostly all they get unless they suffer such horrific injuries that they go over the amount affected by the deductible. The ordinary person who suffers an accident that causes pain and interrupts the flow of his life for some time - the unemployed and elderly - will be disproportionately disadvantaged by this legislation.

Let us consider the person who spends most of her time looking after the family - it is usually a female although the number of males doing this is increasing. No advocates have been louder than the Government, particularly when it was in Opposition, in claiming that more credit and attention should be paid to those persons who choose to spend their life looking after others in their family. The contribution they make to society is enormous, and I agree. Nothing undermines the position of those people more than this type of legislation. For all the noble words members opposite utter about their concern for the family, it is these measures which undermine the very foundation of what holds families together.

If a mother has an accident and is unable to do the normal things she does for her family - for example, cooking, cleaning and caring for them - that family is under enormous pressure. The fact that she was able to make a claim for her pain and suffering, small though it may have been by comparison to what some members may think was a large sum of money - it may have been $5 000 or $6 000 - would mean the difference between being able to cope and not being able to cope for that family. That has gone under this legislation. It is the injured mother who may have to spend her time in bed recuperating from her accident who drives her children to school, sporting functions and friends' homes. Under this legislation she will not receive any compensation, but under the existing legislation she may receive something. That something might have enabled her either to engage someone to do the housework and cook the meals or buy ready cooked

meals and call up an agency that provides domestic help at short notice to assist by keeping the house clean, doing the washing and other daily chores.

Members opposite severely underestimate the importance of those factors in the smooth functioning and the health of a family. Some of the normal things that will be thrown into chaos for a number of weeks while the mother is unable to do them could prove the final straw for a family which is already under strain. If the SGIC is in a position where it needs money it surprises me that these are the sorts of examples of from where money will be taken; that is, injured elderly folk, injured mothers and injured unemployed persons. These small amounts of money might have made the difference between their being able to cope and not being able to cope.

From the explanatory notes put out by the SGIC on this legislation headed "The Facts", one could have gained the impression that pain and suffering below $10 000 was some kind of optional extra - people should be able to get it at the moment but it is a bit of a luxury and the Government will take it away. It also gives the impression that it is a kind of claim that is manufactured by the lawyer and thrown in at the end of the day which becomes an extra burden on the whole motor vehicle insurance scheme. I have no doubt that there are some cases where the lawyer seeks to finalise everything in one hit and throws in an amount for pain and suffering. That ignores the reality that this kind of harsh and inflexible rule which applies to everybody will impact on thousands of ordinary Western Australians who are not seeking to rort the system, but who are trying to get financial compensation for pain arising from an injury to enable them to make it through the recovery period.

These moneys that will be restricted by this deductible are allocated not only for pain and suffering, but also for loss of amenity of life and loss of expectation of life. "Loss of amenity of life" means something that gives meaning to a person's life. I know a large number of elderly folk to whom this could apply. Perhaps their weekly game of bridge means more to them than anything else they do. It is a social occasion and it presents them with an intellectual challenge. For other elderly folk it may be the opportunity to potter in their garden and watch plants grow and be in a position to follow the cycle of the seasons. For others it may be the opportunity to play tennis or golf. It does not take a very big injury to make it impossible for people to do these things. It might be uncomfortable for a person who suffers an injury to his wrist to hold his cards to play bridge. It may be just as difficult for some injured people to hold a book. People who suffer any injury to their knee or back may find it difficult to garden. Similarly, they may find it difficult to play golf or tennis. Their whole quality of life may be destroyed because they can no longer do the one thing that means more to them than anything else. It is very difficult to measure in money terms how much a game of bridge or the opportunity to garden is worth to people, but that is a significant part of their lives, and the courts have sought to work out a reasonable way of calculating the amenity of life that those people have lost and of awarding some financial compensation. That does not bring back to those people what they have lost, and perhaps their losses are permanent, but it is one way of saying to them that the community will compensate them out of the insurance pool for the losses that they have suffered. For many people, that is the way in which they recognise that they have lost something and that they may have to think about some other form of social interaction or whatever may give them pleasure. That loss of amenity of life takes into account people's expected length of life and the things they will be able to enjoy while they are alive. The courts have found it difficult to measure loss of amenity of life and to convert it to money terms, but they have done that.

In this legislation we are being asked to wipe out the loss of amenity of life where it is valued at less than $10 000. People who have suffered whiplash injuries or injuries to their elbows or knees which mean that they can no longer do the things which they enjoyed most and upon which their lives were focused, and whose injuries are assessed at $10 000, or thereabouts, will be most affected by this legislation. The Law Society states that almost half of all claims for pain and suffering will be wiped out by these provisions. That is not as many claims as were wiped out last year, when the Minister for Labour Relations introduced measures to wipe out 90 per cent of all workers' compensation

claims. However, that is an indication of how far reaching these changes will be. Let us not forget that we are talking about people who are injured, often as a result of the negligence of other drivers. People who are injured unexpectedly, when they are obeying all of the road rules and are driving carefully and considerately, often have their lives thrown into turmoil. This Government is now proposing to remove from those people the right to claim damages at common law, which they have enjoyed for a long time.

People who want to establish that their claims exceed $10 000 often have to go far and wide to obtain medical reports. They probably have to engage legal assistance to enable them to put together their claims and to present them in the strongest possible manner. However, if their claims are under or spot on $10 000, they will have to meet out of their own pockets the costs of putting together their claims and obtaining the necessary medical reports, X-rays and doctors' opinions, which do not come cheaply. Therefore, not only have their lives been put into turmoil, but also they have to meet those costs.

A number of members have said that another of the repugnant features of this legislation is that it is retrospective. Retrospective legislation is anathema to the principles of democracy, is an affront to this Parliament, and takes for granted the parliamentary process. It expects people within the Chamber and in the community to accept that a Government can legislate retrospectively to confiscate people's rights. This Government has no difficulty in spending taxpayers' money on advertising. The Minister for Labour Relations is a past master of advertising. The Budget papers state that he spent over $500 000 to advertise changes to legislation which he believed were for the good of the community.

Where are the advertisements to tell people that their rights will be lost retrospectively under this legislation? Why has the Government been hiding this policy under a bushel? Where are full page advertisements in *The West Australian* similar to those that we saw for the changes to the workers' compensation and industrial relations legislation? If there was ever a case for the Government to advertise, it is to warn people who have been injured in motor vehicle accidents since 1 July last year that they will lose the first $10 000 of any damages that they may be awarded. I have not seen any advertisements, and I would be interested if the Minister handling this legislation could present some evidence to the House about why he has not advertised to tell people that their rights will be taken away. Like me, most members in this House will have had constituents come to them who are distressed and irate at discovering that they have lost these rights without their knowledge.

I find very miserly and repugnant that part of the Bill which states that those people who provide gratuitous services will receive nothing if those gratuitous services are worth less than $5 000. Gratuitous services are provided where one family member - the husband, the wife, the sister, the brother, the aunt or the uncle - undertakes to look after a family member who has been injured. There is a strong body of medical opinion that people recover more quickly if they are looked after in their own homes. It is a measure of the bonds within families that people are prepared to give up work and to forgo opportunities at work in order to look after other members of their family for a short time. Those people would be better off under this legislation if they sent injured family members to hospitals or to convalescent nursing homes, but at the end of the day that would cost the taxpayers more because there is no question that it is cheaper for taxpayers to have other members of the family look after injured members at home. I find it beyond belief that this Government has sought to penalise those family members in this way.

Secondly, where the cost of home care exceeds $5 000, or where people have been injured seriously and will perhaps be confined to bed for a lengthy time, the people who care for those family members can claim, as a maximum, only average weekly earnings. What on earth do average weekly earnings have to do with the cost of a nurse providing care to a family member? The same question would apply to a physiotherapist or an occupational therapist. Cases are documented of nurses or physiotherapists giving up their jobs to stay at home to care for others. Such people, under this legislation, will be able to claim only average weekly earnings, and they are skilled for earnings well above that figure. If this person was unable to provide services for 24 hours a day and other

caregivers were brought in to assist, the person would be able to claim no more than $500 a week although the total cost of the care would be much more.

Who will be affected most by that provision? As the previous speaker said, it will be quadriplegics and tetraplegics who are in need of 24 hour care. This legislation will result in these people staying in hospital and institutions at which 24 hour a day care is available. The families of these people will be counselled against home care as they will be out of pocket for all costs involved in that care above average weekly earnings.

During the debate on workers' compensation we had the same discussion about gratuitous services. At that time I was amazed that the Government could be so miserly in disadvantaging families who seek to care for members. I waited for one good reason for this Government taking this action, and not a single answer was forthcoming. The promotional material provided for this legislation is titled "The Facts", and reads -

> Whilst the public is entitled to be aware of its rights, heavy promotion of the compensation services of lawyers (by various means) has been primarily responsible for creating the need, rather than simply servicing it.
>
> This has led to serious distortion in the third party compensation system, whereby lawyers are promoting and encouraging claims from people who have received minor or relatively insignificant injuries.

Mr Deputy Speaker, you would know, as would most members, that the community has become better educated in recent times; therefore, people have become more aware of, and will pursue, their rights. For the fact sheet to give the impression that somehow people create injuries or accidents in order to claim the benefits is beyond belief. No-one would dispute that accidents occur and that people are injured, as people must obtain medical certificates to prove their injuries. The fact sheet appears to avoid the point that more people are aware of their rights than was the case in the past, and they are now claiming benefits for injuries, pain and suffering. People now know that it is not necessary to suffer in silence at their own expense. The Government claims that lawyers are encouraging claims from people with minor injuries. However, the fact is that more people are becoming aware of their rights.

This situation reminds me of the Federal Government's famous tax pack. People were encouraged to assess their own tax returns, and suddenly the Taxation Department found that it had to pay out more refunds than was the case previously. This was because people discovered that they could claim more tax deductions than in the past; they were previously unaware of these deductions. The Taxation Department decided to change the system again due to the unwanted result. The Government in this case is doing exactly the same type of thing.

As our community becomes better educated in every respect, people become more aware of their rights and put in more claims for compensation when injured. However, the Government is saying that that must stop. I wonder which groups were least likely to submit claims in the past. It was probably the least educated, the poorest and those with least access to lawyers. Such people pay their vehicle registration fees like everyone else, and if more people are making claims than in the past it is because they are better educated. This is their right, and the rest of the community must pay the appropriate premium to ensure that people receive that to which they are entitled.

The third page of the legislation supporting document, under the title "Threshold/Deductible and Capping", reads -

> As the major problem focuses on general damages awarded for injuries such as bruising, lacerations (in particular minor soft tissue whiplash injuries), which cause a drain on the third party insurance funds, threshold/deductibles for non-pecuniary damages have been introduced.

It is highly offensive to talk about people suffering whiplash injuries as causing a drain on the third party insurance fund. We pay our insurance for precisely the reason of covering ourselves from such injuries.

Mr Tubby: You are not insuring yourself. It is to prevent a third party from suing you for negligence.

Mrs HENDERSON: That is right. As this is compulsory, every driver is insured against every other driver on the road. Therefore, every person who pays the premium expects to be insured against every other driver, and through that process he or she insures himself or herself.

Mr Tubby: It is not insuring himself or herself.

Mrs HENDERSON: Technically, the member is right, but everyone pays and everyone is covered.

Mr Tubby: Everyone does not pay. A pedestrian or a pushbike rider does not pay, and that person can sue a driver for an injury.

Mrs HENDERSON: Right. Regardless, the person is insuring himself or herself against others who are negligent. Anyone referring to whiplash as a minor injury, or as a drain on the system, could not have suffered that injury. I have not had whiplash, but plenty of my constituents have been unable to live their normal lives due to the injury; their life and pleasures are destroyed due to the constant pain in moving their neck. Fortunately, many people recover from this injury. The fact that they cannot claim some damages to offset the expenses incurred in continuing - not improving - their lifestyle, is contrary to the very reasons that insurance premiums are paid. This legislation is regressive and harsh; it is an assault and an affront to this Parliament because it is retrospective. Therefore, the legislation should be thrown out.

DR HAMES (Dianella) [4.28 pm]: Undoubtedly, speaking to this legislation today is one of the hardest things I have had to do in this Parliament. It is no secret that I was one of those who opposed this legislation at an early stage because of the onerous effects I believed it would have on people involved in motor vehicle accidents. Members will appreciate that as a doctor I have had a fair amount to do with people suffering that type of injury. However, at the end of the day I am happy to support this legislation. I do so for three reasons: First, I know who is to blame for its necessity; second, I know what the alternatives would be to this legislation; and third, I support it for medical reasons, on which I will expand later.

Who is to blame? There is no doubt in my mind who is to blame - members on the other side. In the early stages of the Burke Government the SGIC was seen to be the fatted calf with over $450m in funds. In splitting up the organisation, those funds were freed so that when the former Government fell upon difficult times, they could be used to save the bacon of some of its mates.

I will refer to the details of some of the funds that were lost by the Labor Party when it was in Government. The levy that we brought in is now well-known as the WA Inc levy. It was brought in because the SGIC was insolvent and could not make the payments for motor vehicle claims in the year. A letter from the chairman of the SGIC stating that was brought into this Parliament. This $50 WA Inc levy is to cover all of the money that was lost. I am not happy with the levy and would do anything possible to reduce it. But what is the alternative? The $50 levy will be in place for a long time because of the previous level of claims for motor vehicle accidents which would have meant that premiums would increase more and more. A member earlier spoke about the percentage increases in premiums in previous years. He referred to an 11 per cent increase in 1989-90 and a 30 per cent increase in 1990-91; that is, a 41 per cent increase in premiums in the two years during which the SGIC got into difficulties because of the money that had been lost. We would have been faced with similar increases to try to cope with increasing demand as a result of motor vehicle accidents. The system would have had to increase fees to enable the SGIC to cope.

The transfer of assets - the sum of $475m - from the Motor Vehicle Insurance Trust to the State Government occurred on 31 December 1986 by the then Burke Labor Government. The SGIC assets at June 1993 were valued at $220m with a staggering $550m in liabilities. The $475m that was transferred should have been used to cover liabilities, but

was no longer available because of the transfer. I will tell members what the Labor Party did with those funds and how they were lost. From that $475m the Labor Party made investment losses totalling $451m with $358m from an investment in Bell Group shares and notes. Seventeen million dollars was lost following an investment in Spedley Securities; $70m was lost after the investment in Rothwells; and $6m was lost by investing in Paragon shares. Those funds were lost just from the cash assets that were held by SGIC.

Further losses of the property investments were instigated by the Labor Party. The SGIC was encouraged to invest in Westralia Square, in which it owned 70 per cent, and in the Forrest Centre. The purchase price of Westralia Square was $239m. Its current value is $72m. The 70 per cent share of the loss by the SGIC is therefore $116.9m. It also invested in the Forrest Centre at a cost price of $111m. The current value of that building is now $66.7m, resulting in a $31.01m loss. When we add the total cost of those losses, it comes to an amazing $1.071b. The Labor Party lost that money just through bad investments. Some of that money will be realised only if those properties are sold. It is a staggering loss. We are trying to fund a sewerage program over 10 years at a total cost of $800m. The Labor Party could have done that and had $200m to spare just from the losses from the SGIC investments. That figure does not take into account the losses it incurred in so many other areas. I certainly know who is to blame for the fact that I have to support this legislation. If I do not support this legislation, the premiums will rise and everyone will be badly affected. If I support this legislation, we will be able to reduce the $50 WA Inc levy.

Several members interjected.

The DEPUTY SPEAKER: Order!

Dr HAMES: I will refer to my patients in a minute. As I was saying, we will be able to reduce the $50 WA Inc levy and thereby give savings to over one million people who currently have to pay that levy. That levy will be reduced. But the only way we will be able to reduce it is to change the operation of the SGIC in terms of the $10 000 threshold for claimants.

I now refer to the medical side of the issue. I also support this legislation based on my medical knowledge of how it will affect some people. I have to admit some reluctance to supporting this legislation. I remind members of the things that are not included in this legislation: Medical and hospital expenses; loss of earnings; care costs; travelling expenses; aid and appliance costs; and out of pocket expenses. What do people with less than $10 000 worth of injury lose? Those people will lose the pain and suffering component for their injury. They will not lose anything other than that. All of the other things previously covered will still be covered. I agree that the pain and suffering component is one of the most significant aspects affecting people who have sustained a whiplash injury. I have had one and I know what it is like. That has a significant effect on those people. It is reasonable to assume that an injury that falls below the $10 000 limit will not be a longstanding one. A whiplash injury to people who will recover over a one or two year period will almost certainly fall below the $10 000 limit; whereas a permanent injury will fall into the level above the threshold and those people will, therefore, receive a component for pain and suffering.

Mr Leahy: Less $10 000.

Dr HAMES: That is true. Those people still get paid for any loss of wages, medical bills, hospital bills -

Mr Leahy: That is the most significant part of this injury.

Dr HAMES: Yes. But I do not think we can say that, because someone is involved in an accident and suffers the tragedy of all it entails, that necessarily denotes the Government should provide, as part of an insurance package, compensation covering that aspect. People are injured participating in all sorts of other activities.

Mr Leahy: They do not have to pay compulsory third party insurance like we do with motor vehicle insurance.

Dr HAMES: I will get to the member's interjection later. He is right. It is a tragedy, nevertheless, that these people are injured and that the pain and suffering component is not there in the same way as it is not available in sports injuries or other injuries where people are just as badly affected. People do have to pay third party insurance. This Government's role is to choose the level of that insurance, the package that we can afford. This Government, the SGIC, can no longer provide the insurance package that it has provided; that is, to include compensation for those people who have sustained an injury which falls under the $10 000 limit. Because of the moneys that the former Government lost, we must provide a package that will not be so expensive to the purchaser but will not provide the former level of cover. If desired, people can purchase extra insurance to provide cover for the occasions when they are unlucky enough to sustain not only a motor vehicle injury but also a sporting injury or an injury they receive from participating in any other activity that they might want to undertake.

It is right that people will pay less money for less cover. That is the only way we could get the State Government Insurance Commission out of the hole it is in. The premiums will be reduced when this legislation is passed and the $50 WA Inc levy will be able to be reduced. The SGIC will be able to cover because there will be fewer claims. At the end of the day I have to make the difficult decision of the greatest good for the greatest number, who are the one million people who have had the WA Inc levy put on them by the disgraceful actions of the Opposition in losing over $1b in funds. The only way that can be done is by passing this legislation, which I commend to the House.

MR BROWN (Morley) [4.41 pm]: I oppose the Bill. I wish to look at a number of issues. First, I wish to examine the rationale of the change to see if it stands up and whether it is based in equity. I will look at what the Government claims is the motivation for the change and examine the costings and the debate which took place in the coalition. Finally, I wish to look at whether this is the imposition of a tax by way of a lottery. Firstly, looking at the rationale for the change, I was interested to hear the member for Dianella say that it was to cover the losses from the WA Inc period.

Dr Hames: I said it is to help reduce the levy that is being put on to cover the loss from WA Inc.

Mr BROWN: That is an interesting comment, but it does not reflect what the Treasurer said. As shown in *Hansard* the Treasurer said when introducing this Bill that it is for the sole purpose of reducing the cost of compulsory third party insurance. That is a very clear, unequivocal, deliberative statement. To reduce the cost of insurance is a laudable objective, because in seeking to do that one might look at how to prevent the number of accidents; how to make the road safer; how to provide better driver training; how to provide better vehicles, and how to improve medical techniques for treating people quicker and less expensively. How does one do the whole range of those things in order to reduce the cost of third party insurance? Many of those initiatives would be laudable, but what is the motivation of the Government in seeking to reduce the cost of third party insurance? What imagination has been shown here, and what deliberative processes nave taken place on the Government side to investigate this? What pearls of wisdom do we hear from the Government benches in order to be able to reduce these costs? Is it a new initiative that will benefit the whole of the motoring public? It is none of those things. It simply goes back to what we are used to hearing from conservative Governments, whether in this debate, the workers' compensation debate or other debates; it is the argument of let us save the money by lowering the benefits. That is essentially the hub of this Bill. It takes great intellectual understanding and imagination to bring down a Bill which says that we will simply reduce the benefits in order to bring down the costs.

What does that mean in terms of equity? It means that one group in the community, the accident victims, those people who did not want to get involved in accidents but who have been injured and have suffered as a consequence of somebody else's negligence, are made to pay. The Government says to them it is unfortunate that they have been involved in an accident, that they are injured and are now required to meet the incidental costs. The Government says it is unfortunate their family circumstances have been interrupted, but by virtue of the lottery in this Bill they will now subsidise the broader

community because the Government does not want the community to have to meet that cost. One might understand that rationale, because it is not based on equity, if one were talking about the well-heeled in society who have adequate personal resources. The top 10 per cent, even if they were injured, could afford to look after themselves. Those people would not really need any assistance from the State or any insurance fund if the system were based on the capacity to pay.

Let us look at whom this legislation directly affects and on whom it will impact. Even in the coalition party room I understand there has been an acceptance that this Bill will impact most on the unemployed, on women or men who stay at home to care for their children, on seniors not in the work force and on children. It is a pretty courageous Bill which attacks those people and this is a pretty courageous Government which attacks those people who are most vulnerable. The Government should feel pretty proud of itself for attacking that group. That is why there was the debate in the party room, and why a different proposition came back from the Government to this House. Those with a little compassion and understanding who were prepared to stand up and speak up for the less fortunate in our society were not prepared to see this proposal simply rolled through the party room with endorsement. It is unfortunate for the public of Western Australia that those on the Government benches who have that compassion were rolled by the hard heads, the economic rationalists. They said that it was important to examine this issue in global, economic terms rather than consider the individual circumstances of some of the victims who will be caught by this change.

Mr Osborne interjected.

Mr BROWN: The member for Bunbury was talking about the treatment of red meat. There will be much which will not be treated properly after this Bill goes through. This Bill is a great piece of rationale! First, it is about the insurance fund; that is, a pot of money which is collected from the population and allocated to people who are unfortunate enough to be injured in road accidents by virtue of another's negligence. The Government says the demands on the pot were getting a bit too great.

Dr Hames: You spent the pot.

Mr BROWN: The member for Dianella should take notice of what I am saying. The Government's motivation is contained in the Treasurer's second reading speech which is three pages long, although intellectually that may be a bit demanding for some members opposite. The Treasurer makes it very clear what this Government Bill is for.

Mr Thomas: Does it have any pictures?

Mr BROWN: We can draw a few pictures, but we will not be able to include too many words at the bottom of the page. However, it is not too intellectually difficult to understand what the Treasurer has said. We are debating an insurance fund, generated to provide compensation to accident victims, to which all the motoring public are required to contribute. However, in this wonderful piece of legislation the Government is legislating to curtail the amount needed by this fund; therefore it will not allocate funds to accident victims, rather it will allocate savings back to the general community! If one follows the rationale to its logical conclusion there will be no fund because it is about compensating people unfortunate enough to be involved in accidents and who sustain injuries. One can see on examination that the Bill lacks any rationale.

As the Government is weak and does not have a rational and equitable explanation for this Bill, one must search for other reasons for its introduction.

Mr Pendal: You said it was clear from the Treasurer's statement. Now you say you cannot find a rationale.

Mr BROWN: I said the Treasurer's statement was clear -

Mr Kierath interjected.

Mr BROWN: If the Minister for Labour Relations wants to makes a wonderful contribution he will no doubt have an opportunity.

Mr Kierath: I will do the summing up.

Mr BROWN: We will be listening carefully to those pearls of wisdom.

Mr Tubby: You always enjoy his speeches.

Mr BROWN: They are always factual and to the point; they never contain too much rhetoric!

Mr Tubby: You have never learnt as much in your life as you have in the past 12 months.

Mr BROWN: I have learnt from some Ministers how, when one has one point to raise, one can take 30 minutes to speak about it and return to it on many occasions during the same laborious speech.

Mr Pendal: You have caught on pretty quickly!

Mr BROWN: I am learning the process.

Dr Hames: If you doubled the premiums you could significantly increase the amount of money you can pay when people are injured. That does not make right any of what you are saying. It means you can adjust the charge according to what you must pay out.

Mr BROWN: That would be correct if we were talking about a workers' compensation system which had prescribed limits on the payments. However, this system is one of common law; therefore, currently the amounts being awarded are determined by the courts. We are not talking about increasing compensation payments, as was the situation with the workers' compensation system. This system is simply required to remain commensurate with the amounts awarded from time to time as determined to be appropriate by the courts.

The Government is endeavouring to argue the unarguable, by doing two things: First, it says that the real problem with the existing arrangements is the avaricious public. In other words, those people who have minor injuries are seeking to claim more than is reasonable. The Treasurer said in his second reading speech -

> As stated, the problem in relation to the multitude of small claims has been compounded by unrealistic expectations for minor or relatively insignificant injuries.

That is, the first reason advanced by the Government in support of this Bill is that the avaricious public will seek huge amounts of damages and claims from the fund. It is the public's fault!

Dr Hames interjected.

Mr BROWN: That is right. We are used to the Government's "blame the victim" syndrome. It claims that this change is brought about because of the very greedy people who see a wonderful opportunity by virtue of an accident in which they were involved. After this Bill is passed, I will tell the constituents who are denied payments that they are in this situation because the Government considered them to be avaricious in their claims.

The second justification given by the Government for the change - we have heard this many times - is the greedy lawyer syndrome. We heard it in the workers' compensation debates and we hear it again now. It is interesting that after the Minister for Finance had been put under some pressure in another place he was referred to in *The West Australian* of 9 September as follows -

> Mr Evans said lawyers might need to be investigated because they were responsible for the growing costs of claims against the SGIC.

The West Australian also referred to him the previous day as follows -

> Mr Evans said claims of less than $15,000 needed to end because lawyers made the most money on the smaller claims.

Again, the lawyers are being blamed for milking the system.

Dr Hames: You must admit that the current system encourages both doctors' patients and shrewd lawyers' clients to do everything possible to enhance their claims by making the biggest noise to maximise the amount of money they receive.

Mr BROWN: In any process involving litigation one is required to present the best case for oneself - that is what the courts are for. As the member for Dianella knows, insurance companies employ investigators to sit outside people's homes for days on end photographing and videoing them. They place 20c pieces on their driveway to see whether the victim will pick them up so that the company can say that the victim does not have a back injury. Insurance companies engage orthopedic surgeons who have their offices on the second floor of buildings which do not have lifts. The injured workers are told that unless they can visit them, their payments will be cut off. When the worker does go, the orthopedic surgeon says there is nothing wrong with the patient because he can climb the stairs. We are all aware that it is a pretty murky business and that not everyone in the system is pure. This Bill disadvantages those with the least.

Mr Day: Do you agree with the insurance company investigating a claim which it believes may be fraudulent?

Mr BROWN: I do not have a problem with that, and guidelines are drawn up on how that can be done ethically. However, I have spoken to investigators on many occasions and they have spoken honestly about how they investigate claims. Some are just and fair, but others seek to serve their masters well.

Dr Hames: This doesn't disadvantage those with the least, but those with the least injury.

Mr BROWN: Why should they be disadvantaged?

Dr Hames interjected.

Mr BROWN: That is not what the system provides. The Government uses the lawyer bashing syndrome because it is searching for justification. It makes a range of claims, such as lawyers being responsible for this and getting a lot more money out of the system than they deserve, yet where is the investigation? Has the Government launched an investigation and what are the results? There are no results, and there has been no investigation. There are no facts for the House to examine. It is simply an excuse - an excuse which the Law Society is finding quite tedious and to which it is objecting more and more. An article in *The West Australian* of 9 September states -

> Law Society of WA executive director Peter Fitzpatrick said yesterday lawyers were sick and tired of being targeted by a government defending unpopular decisions.

What do we see? Firstly, we see a Government claiming that it is an avaricious public that is blowing out the costs in the system; and secondly, we see the Government blaming the legal profession. If all of that is true, where is the investigation, even in terms of costs? Has there been any real investigation into the costs of the existing system, how they may be reduced, and alternatives to that costing?

The Treasurer referred in his second reading speech to the situation in New South Wales and Victoria. I took the opportunity of examining the second reading speech delivered by Mr Dowd, the then relevant Minister in New South Wales. That is an interesting speech for a number of reasons. The first point in his speech about changes in that State is that they were examined in detail by a committee that comprised Mr John Coombs, QC, representing the New South Wales Bar Association; Mr Bill Jocelyn, General Manager of the Government Insurance Office; Mr Neville King, company solicitor for the National Roads and Motorists Association; Mr Maurie Stack, representing the Law Society of New South Wales; Mr John Walsh, representing the Australian Council for Rehabilitation of the Disabled; Mr John Westmore, Assistant Chief Executive of the Insurance Council of Australia; Mr Dallas Booth from the Attorney General's department; and a couple of other departmental officers. I do not agree with what was done in New South Wales. However, at least one could say that that State carried out a reasonable investigation of the changes which were then introduced.

Additionally, at least New South Wales carried out some actuarial testing and gathered the information as a minimum: It at least did the homework before it rushed legislation into the House. However, none of that has been examined in this State. If it has, where are the documents? The Bill before the House is a compromise that has been struck within the coalition. The original proposal as announced by the Treasurer last year was different from what is before the House today. I am sure members opposite are well aware of what was then proposed. An article in *The West Australian* states -

> Mr Court also announced that anyone awarded less than $15,000 compensation for an injury inflicted in a motor accident would get nothing. Victims awarded up to $50,000 would have the first $15,000 deducted under the planned changes.

There has been some modification to what was originally announced by the Government. One could say that is pleasing because it is not as severe. However, what is the basis of that change? What is the rationale for it? The Treasurer is silent. The second reading speech does not explain the rationale or the differences. Has further investigation been carried out that shows it was inequitable to proceed on the original basis? One is left to ponder. The Bill before the House probably arises not out of any intellectual rigour by the Government, but rather as a consequence of a compromise made within the Government ranks.

The other information I sought prior to today - I am sure someone from the Government can help me - was exactly where in the coalition's policy this matter was announced prior to the last election. I looked through a number of documents that were released to the public prior to the last election to see whether the public of Western Australia was told that the benefits under the motor vehicle third party accident insurance would be changed; however, I could not find that policy document. No doubt it existed, because we often hear from Government members that we have an open and accountable Government, a Government that does not believe in hiding anything from the public. Therefore, it is probably in a policy document somewhere! It is just that it may not have come out of the bottom drawer before the election. This is not a new matter.

Another issue I considered during my examination of this Bill was what the Liberal Party proposed in other States and what the longstanding view of the Liberal Party has been in those States. It is instructive to consider a debate that occurred in Victoria in 1986. It is interesting to observe the view of the Liberal Party on this matter. A member of the then Opposition, now Government, is reported in *Hansard*, 28 October 1986 as follows -

> Central to the reforms proposed by the Liberal Party is the concept of a threshold on common-law claims - two types of thresholds. The lower threshold is a monetary threshold which would exclude all common-law claims and settlements below $15 000. That is very significant because that is an area of substantial cost; the area in which abuse and fraud proliferate and the area where the fastest growing number of claims are located.

Certainly this was the Liberal Party policy as long as eight years ago in Victoria. No doubt someone on the other side has investigated the situation and the policy in Victoria, and no doubt some of the proposals emanating from Victoria, which are contained in this Bill, were used for the purpose of drafting this Bill. It is interesting for me to find no mention of that in the documents I examined in relation to the Liberal Party platform prior to the 1993 election. This Government has no mandate or rationale for the change. It is flawed in equity and the only basis upon which the change has been promoted, to deny the avaricious public and place a curb on lawyers, is discredited immensely when one examines the facts. With those words I oppose the Bill.

MR STRICKLAND (Scarborough) [5.11 pm]: In speaking to the Motor Vehicle (Third Party Insurance) Amendment Bill, firstly I indicate to the House that I am one of the members on this side of the House who had difficulty supporting the legislation. However, in the context of changes made, I intend to support the Bill. I have heard many of the comments in the second reading debate from members opposite before. This matter was the subject of wide ranging debate between coalition members and, as in all matters, members had many different opinions. However, in the end any Government

must take the responsible approach and if one considers the financial side of the matter, the Government really had little option. A couple of coalition speakers have indicated that some of us are very angry that we have been placed in this situation. I do not think one person in this House wants to introduce legislation that impacts in a negative way on the community. However, certain things must be faced.

In his second reading speech the Premier and Treasurer indicated the reasons for the introduction of this Bill. The main reason, listed first, was that more than one million Western Australian motorists will see a reduction in their compulsory third party insurance premiums. Other information I have been able to obtain with respect to the financial side is that in 1992-93 the State Government Insurance Commission had a negative cash flow, underwritten to an amount of approximately $50m. In other words, the moneys collected for compulsory third party insurance were $50m short of funding the outgoings. That caused the State Government Insurance Office to sell liquid assets so that it could pay its claimants. Any business in a situation where the income is not sufficient to meet the outgoings must do something about it, otherwise it will go broke. It is understood on this side of the House that, had the SGIO been a private insurance company, it would probably have been wound up a long time ago and been declared insolvent.

Other members have raised the matter of the $50 WA Inc levy. I do not like people paying that levy, but this Government had to ensure that the assets which had been wound down because of investment losses of $451m were replaced, because they are needed to meet the liabilities of the insurance company. I have received telephone calls in my office from people who do not like paying the $50 levy - as I am sure every member has - but the simple situation is that something must replace those losses to rebuild the assets. I hope as time goes by the situation will be recovered.

One of the main reasons for the loss of value of the assets of the SGIC is its heavy and unusual investment portfolio, a large percentage of which is property investment. In June 1987, just before the introduction of the new legislation, the property component of its investment portfolio was eight per cent. That property component is now 56 per cent and, of course, in a recessional climate when most assets are tied up in property and the bottom falls out of the market, substantial losses are incurred. That creates a situation in which assets do not produce income and the organisation forgoes the opportunity of income from its capital until the value of those assets recovers. I hope things will turn around - the signs are very positive - and those properties will return to their previous value so that some of the losses can be reduced. However, the prime reason for this Bill is that the cash flow, which is $50m a year short of the outgoings, must be made up somehow. The Government must replace the assets to find extra income for long term liabilities, and it must also improve the cash flow of the SGIC. It has chosen to do this by adjusting the money going out rather than adding to the cost of insurance premiums. It is simply a matter of balance. Approximately one million people pay premiums for third party insurance, and the alternatives for the Government were to make those people pay more and spread it among those who made the claims, or to cap and put thresholds on the claims. This Parliament may well need to face up to thresholds on all sorts of things, because professional people - doctors, accountants, engineers and so on - to whom I have spoken are terribly concerned about the indemnity they must carry. That is not part of this legislation, but there is some talk about the need for thresholds in other spheres.

One of the difficulties facing us arises because with third party insurance the driver is insured against the consequences of an accident. Therefore, people who own motor cars pay the premiums. But there are many non-payers in our system. I have mentioned already pedestrians and children. Would it not be nice if the whole system was different? People subject to accidents would be required to insure - that is, everyone - and people could be offered a system of choice. Would it not be nice to say to people that they can have, first, a cheap option or, second, a maximum cover? Members on this side of the Parliament would love to extend that opportunity, but it is not practical and not in line with the system. How would we make children pay? How would we make all the people

capable of making claims pay? They are the difficulties, and perhaps that is one of the reasons that the system exists in its current form. The Government has the responsibility to get the balance right. One million motorists are paying premiums and the impact on 8 000 people -

Several members interjected.

The ACTING SPEAKER (Mr Johnson): Order!

Mr STRICKLAND: I am advised that the legislation will impact on something like 8 500 claimants. Members opposite have been claiming that it will be the disadvantaged groups that will be affected. That is not true.

Several members interjected.

Mr STRICKLAND: It is not only the disadvantaged people who have accidents. Anyone can have an accident. It is not only the disadvantaged who have been putting in claims. A range of people in society have been putting in claims.

An Opposition member: An economic wash up. Get your money back. It is pain and suffering.

Mr STRICKLAND: I am sure that people who are not disadvantaged have pain and suffering also. This legislation has the potential to affect everyone. I do not like it, but I am prepared to support it because it is a responsible action that must be taken by a Government faced with picking up the pieces left by the previous Administration.

It has been mentioned this evening that in New South Wales the threshold levy is $17 500 and in Victoria $29 000. Here we are talking about a substantially reduced threshold because of the action of a reasonably large number of backbenchers on this side of the House. The headline in the newspaper, "Government softens third party changes" reflects what has happened. The Government has softened the third party insurance changes. It has listened to the debate and the arguments put forward by many Government backbenchers.

A letter from Mr Ross Lonnie was sent to me on behalf of the plaintiff lawyers group. It states -

> This group was formed recently to oppose the government's changes to the Motor Vehicle (Third Party Insurance) Act . . .

And further on -

> A reduction of $7,500 is recommended rather than $15,000 on the basis of the New South Wales Law Society's submissions.

The remark is self-explanatory. The Government decided it would move from $15 000 to $10 000. The change reflects in a financial sense the size of the problem that the Government must address. A serious imbalance exists in the system; it must be corrected to allow a reduction of up to 15 per cent in the premiums. The one million motorists who have found it difficult to pay the $50 WA Inc levy to cover the reduced value of assets will receive some sort of reduction in premiums because, as stated by the member for Dianella, the Government is prepared to change the package. Although some of us do not like it, we accept that the balance is reasonable. We are prepared to support the legislation, in that case.

Mr Trenorden: Somehow the decision was not ours. They made it for us!

Mr STRICKLAND: We are the Government. We will be responsible. One of our concerns is that the previous Labor Government was very fond of writing cheques but it hardly ever bothered to collect the money to ensure that the cheques would be honoured. This Government will be financially responsible, and if it must introduce tough measures the general public have indicated that they are prepared to accept those tough measures provided that they are convinced it will improve the situation in this State. I admit there will be some disadvantage to some people as a result of this legislation. I do not like it but I am prepared to support the measure because it is financially responsible and will do a reasonable job to achieve a balance.

MR RIEBELING (Ashburton) [5.26 pm]: I oppose the Bill. The impact of this legislation will be manifold. The obvious impact of this measure is that it will be a tax on those people in the community who can least afford it. It is a tax of $10 000 or a contribution to the State that the Government has decided those in the worst situation - the injured and the suffering - will pay. It is not that these people have done anything wrong. The nature of any damages claim is that one must prove that the other party is negligent. The Government is saying that the poorest in the community, those who can least afford it, those who have done nothing wrong other than be involved in an accident, will be forced to pay the price for what the Government thinks is fair and reasonable. An amount of $10 000 paid from an unemployed person's pocket will leave a huge hole, especially considering the person's future.

The second impact of this legislation is the $50 levy; people will pay more for their insurance cover and receive less. I suppose this is all part of the better management policy promised by the Government. The Government should be honest enough to say what it is doing; it should be honest enough to say that it is taxing and penalising the poorest and most vulnerable people in the community. This action should not be a surprise to anyone. Certainly it is not a surprise to members on this side of the House after witnessing changes to the workers' compensation and the industrial relations legislation. The Opposition expected this move. However, we live in hope that the Government will consider the plight of those who will be punished by this legislation. We should consider and identify the people who will suffer most from these harsh and vicious changes to their premiums.

There is no avenue for anyone in our community to say that they do not want that coverage and to go elsewhere; they are forced to take out this coverage if they wish to drive on our roads. The benefits that flow to the policy holders in our State should represent a cover for which the average person would want to pay. It is a tax on the poorest and most disadvantaged in our community. The comments of some people on the Government benches indicate that a number do not understand the legislation and upon whom it may impact. For people of that mind I will go through a list of the people who will be affected. I suggest people on the Government benches take note of what I am saying so that during the next election campaign they can tell the truth to their constituents about why they have chosen to destroy the lives of many people in their electorates. Those who will be most adversely affected are those who are in the weakest employment position of all: Men and women in home duty occupations, pensioners, the unemployed, and students. If members on the other side were to add those up, in excess of half the population will be victims of this legislation. The simple reason for these people being on the impact list is that their ability to claim for pain and suffering is reduced because their income is either nil or negligible. These people have done nothing other than to drive on a roadway where someone else has committed some misdemeanour and collided with them. Many of their claims will not exceed $10 000, so the Government has wiped out a large proportion of claims from people who would normally claim up to $10 000. If an unemployed person is involved in an accident through no fault of his - for instance, a vehicle has failed to give way to another vehicle or has failed to stop at a stop sign, or run into the back of another car - and the pain and suffering caused by the actions of the other person are such that the person can prove damages of $11 000, if the accident occurred on 2 July 1993, that $11 000 claim would result in a $1 000 award to that person. That is a situation which this Government is readily accepting and in fact encouraging - that is, it cannot afford to pay any more to those who deserve to get it. If the same person had been involved in exactly the same accident and received exactly the same injuries but the accident occurred on 30 June 1993 he or she would receive $11 000.

I am advised that up to 50 per cent of all claims will be affected in some way by the new compensation rules. It appears that this Government is hell bent on changing a number of things. The new philosophy in the Government is, "Do unto the injured as Kierath would do unto workers." This Government is having a staggering impact on all sections of the community, especially those who cannot afford to fight for their own rights. This is simply a tax on the injured population of this State.

I wish to go through a number of quotes from a document headed "The Facts". It states -

> This has led to serious distortion in the third party compensation system, whereby lawyers are promoting and encouraging claims from people who have received minor or relatively insignificant injuries.

It is an amazing statement, an unbelievable statement, especially when the claims are successful. This document is really saying that small claims from poor people or people in disadvantaged situations should not be allowed to be heard by the courts. Another version of what it is saying is that the courts are not able to sort out the genuine claims from the bogus claims. In essence the Government is saying, "If they cannot do it we will." It is an insult to the current judicial system. The document continues -

> Because of both plaintiffs and lawyers having abused the system with unrealistic demands, the only way to rectify the situation is to introduce measures such as the imposition of thresholds/deductibles and capping.

That is another unbelievable statement. The statement that plaintiffs and solicitors have abused the system is an outstanding insult. The Government has stated that it knows they have abused the system and that this legislation will fix this abuse of the system. It does not mention that those lawyers have proved in a court of law that the plaintiffs have suffered damages. The Government is saying that all these people have been cheating and it will catch them all with this blanket legislation. However, the last paragraph of the first page of this document seems to back away from that statement, but the effect is the same. It states -

> Regrettably, some genuine claims may be wrongly affected by the imposition, however that is the price that will be paid in order to minimise the cost of a large majority of small claims.

That is an interesting statement and one which I cannot pass up without making some comment. This seems to be the crux of the problem. It says that even though the Government admits that some people with genuine claims will suffer unjustly, that is the price that the whole community must pay. That is an outstandingly bad statement from a Government that is supposed to rule this State for the benefit of all.

I hope that every person who is adversely affected by this legislation writes to Government Ministers and backbenchers pointing out to them how this decision has influenced their lives and how they will pay the consequence in the ballot box at the next election. The obligation that is placed upon people who are elected to this place is to govern for all. This legislation identifies the poorest in our community, picks them out and suggests they should forgo the first $10 000 of their claim. It is a voluntary excess that they do not want and for which there is no reduction in the price of the cover. The Government says that a number of people are cheating the system and it will fix the problem by imposing this $10 000 threshold rule. That decision will come back to haunt the Government, and correctly so.

I will restate how these proposals will impact on people who suffer injuries in motor vehicle accidents. The first and most dramatic impact is that for claims of less than $10 000 there will not be any award; for claims over $10 000 and up to $30 000 there will be a reduction of $10 000; for claims over $30 000 the $10 000 deductible reduces by $1 000 for each $1 000 awarded over $30 000; and for claims over $40 000 there is no deduction. That is pleasing for claimants who reach that level, but it is inadequate for people who do not reach that level of compensation.

My last point relates to the impact on amounts to be paid for nursing. Many people who have long term problems with paralysis will be affected badly by the legislation. Sums awarded for nursing assistance for people who will have to rely on care for the rest of their lives will be restricted by the average earnings of workers in the State. My figures indicate that, based on the average wage, nursing care for a person who is acutely injured would fall $300 short of the amount that should be paid to a person to provide adequate care.

The legislation has all the hallmarks of the Government's intention to damage workers

and those in the community who are least fortunate. Members of this place have an obligation to ensure that the weakest in the community are looked after by the State to the best of its ability. This legislation turns its back on the weakest in the community.

MR CATANIA (Balcatta) [5.42 pm]: I oppose the legislation. I am surprised that Government members have not received visits from people who are very concerned at the impact this legislation will have on their lives and have not reacted accordingly.

Mr Bloffwitch: They were until I told them the whole story of why it was happening, and then they had a different attitude.

Mr CATANIA: Any person who came to the member's office looking for sympathy would go away sad. He does not have any sympathy for people who suffer from car accidents and the like. He does not have much sympathy for anyone. Motor accident victims suffering from whiplash, fractured or broken ribs, fingers and toes and bodily bruising and the thought of those people not receiving an appropriate payment is a matter that all members should take up with gusto rather than emulate members opposite who rant and rave to ease their consciences. The Government is taking away from people the ability to claim for pain and suffering, to be hospitalised and to enjoy life. It is a tragedy that this legislation will take away the ability of most people to make claims worth less than $15 000. The Government has set its sights on eliminating the bulk of the claims.

Government backbenchers have been hoodwinked by the Minister and the Treasurer to make all sorts of excuses why they should support the legislation. They have been hoodwinked into saying that it will allow for better management. They have been hoodwinked into justifying their action by claiming that we cannot afford a better system because the previous Government spent the money and that we need to put money into the coffers of the insurance companies. To achieve that, they have been hoodwinked into accepting that people who are injured in motor vehicle accidents will not receive any payment. Any Government or jurisdiction should be ashamed to consider this proposition. When people are injured, they will be further traumatised by the knowledge that they will not receive any payment. The Government claims that the reason for the legislation is to reduce the cost to the insurers who cannot afford to continue to pay claims. That is not good enough. The Government is reducing benefits to save money. If it is intent on showing the people of Western Australia that it is a better manager of finance than the previous Government was, it should find another way to do it than by using accident victims.

Mr Pendal: It won't have to demonstrate too much to be better than the last lot.

Mr CATANIA: The Government's claim of better management is based on sacking people and taking away the benefits of people who suffer injuries in motor vehicle accidents.

Mr Kierath: Where are people getting sacked?

Mr CATANIA: The Minister has a short memory. He should ask the people from Westrail.

Mr Kierath: They were not sacked.

Mr CATANIA: They were offered voluntary redundancy and pushed over the side.

I turn to how the legislation will affect police officers. During the course of their duties, police officers have high exposure to injury. Under this legislation, if police officers sustain an injury in a motor vehicle accident - common injuries include whiplash, fractured and broken ribs and bones, and lacerations - they will not receive any payment. A firm of solicitors which deals with many police claims has advised -

> A claim previously worth the sum of $25,000.00 by way of loss of amenities would under the proposed regime entitle the Claimant to the sum of $10,000.00 only. We would estimate that more than 50% of the motor vehicle accident claimants assisted by our office would fall into the category of claims in which the loss of amenities component was $25,000.00 or less and clearly each would suffer a significant loss under the proposed system.

Prior to the last election and throughout the 15 wobbly months that members opposite have been in Government, they have stated categorically on many occasions that they support the police and will give them better resources.

As stated, there is high exposure to accidents in the small payment category. What will happen if police officers are refused their claims? The Government will be inundated with a variety of claims for compensation by way of ex gratia payments. There is no recourse for the police officers who suffer injuries, who are not able to get their payments, other than ex gratia payments. Here is the false economy that this Government presents. The Government will refuse the police officers' claims and the police officers have no option but to ask for ex gratia payments. This is the better management that this Government is preaching. Police officers sustaining injuries in car chases is a very emotional issue in Western Australia. Statistics show that the majority are in the under $15 000 category and therefore will not be paid. This is the Government's response to the law and order problem. It beats its chest and says to the people of Western Australia that it is the Government of law and order. It is revealed daily that it is not prepared to increase the size of the Police Force; we see the promise of 800 has yielded only 43 officers; we see the promise of more resources and we find that the Police Force is being starved of funds.

Now we find with this callous, obnoxious legislation that motor vehicle insurance claims will be refused to police officers with small claims. They have no option but to take the course they have threatened; that is, to present the Government with bills for ex gratia payments. This Government will find that the economies that it wants to obtain through this legislation will not come about in the area of claims through the Police Department. Only today the Police Department has been to the Industrial Commission to claim its ability to obtain non-work related payments from the commission. That too was thrown out because the Government stated that police officers who are on 24 hour duty will be insured only for 10 hours and those payments will not be paid. The sorts of actions the Government takes are revealed daily. The Government's pure economic rationalist approach cares for the dollar more than for the people. The Police Department will be adversely affected by this legislation to the extent that the already low morale will become lower. I hope the backbenchers on the Government side will show a little compassion and will not believe in the Minister; nor in the Treasurer, who states that due to the Labor Party's excessive spending the Government must recover this money and take out all those claims below $15 000 - that is, the majority of claims - because it is good economic sense. The only good economic sense will be that the Government will save some money; the poorer people who will not be able to obtain the claims under $15 000 will be adversely affected. I hope that Government members put pressure on the Minister and his frontbench colleagues to ensure that this legislation is changed. If better management is needed it can be achieved by adopting a different approach to that taken in this callous piece of legislation.

In opposing this legislation, I am deeply concerned at its effects on the community, and I am sure most of us have had visits from people who fear the effect it will have on them. I am deeply concerned about the adverse effect it will have on police officers in a high risk category who will suffer greatly if they cannot make the claims under pain and suffering, hospitalisation and loss of enjoyment. I appeal to the goodness of some members on the Government side to put pressure on their colleagues to ensure that this legislation is amended and is not passed as proposed.

MR LEAHY (Northern Rivers) [5.56 pm]: I oppose this legislation. I raise as illustrations the cases of my wife and my eldest son who were injured in car accidents at different times. My wife's accident occurred 13 years ago and she suffered from a whiplash, soft tissue injury as well as a fracture to two vertebrae in her neck and scarring to her face and shoulders. She was then working part time as a cleaner, and raising four young children. Under this Bill she would get very little, if anything, from third party insurance. Her claim was mainly for pain and suffering. She was off work for a couple of weeks, still suffers from migraine headaches, and has not been able to resume playing squash, which she played at the time. She is a good potter and if she sits at the wheel she

suffers from headaches and pain in her neck. She still attends physiotherapy and the chiropractor for manipulations. The sum she received was $6 000. I am told that now that would be in the vicinity of $12 500, maybe $14 000; when that is reduced by $10 000 from the upper range, she would have received something like $4 000. If someone told my wife that is fair compensation for the injury sustained she would laugh in his face. She certainly does not think that the amount paid then was fair compensation. For somebody compelled to take out third party insurance, which I agree with, the recompense for injuries such as hers was then very little and is now nil. That was about 12 or 13 years ago. Some three or four years ago, my eldest son was injured in a car accident and he was recently involved in another car accident. My wife and son sustained back and neck injuries. My son is not affected by this legislation because the injury occurred prior to it. He was once an amateur footballer and cannot play football now without suffering discomfort in his neck. He played squash like his mother and cannot do that. For two years he has suffered ongoing pain. He has refused to settle the case because he wants to find out what sort of injury he has and what sorts of restrictions it will place on his life. Under the present legislation he would receive very little, if anything.

I cannot understand why members opposite think the legislation is fair and equitable.

Mr Bloffwitch: No-one said it is fair and equitable; it is necessary.

Mr LEAHY: It is not necessary. The Government has already brought in a $50 levy and sold off the State Government Insurance Office, which raised $150m.

Sitting suspended from 6.00 to 7.30 pm

Mr LEAHY: Before the dinner suspension I referred to the effect this legislation would have had on my wife and elder son who both had accidents in which they sustained soft tissue injuries which were difficult to diagnose. Both have undergone manipulative therapy and their treatment is ongoing. With this type of injury the major component of a damages claim is for pain and suffering and that is not recognised by this Bill. Previously a whiplash injury may have resulted in a claim in the vicinity of $15 000, but under this legislation it will be for $5 000 even though the victim's sporting and business activities have been severely curtailed and he could suffer from the pain of that injury for the rest of his life. This legislation impacts on many people, the majority of whom can least afford to lose money. Most of them are in jobs which are not very well paid so they will not be fully compensated for the loss of wages and legal and medical fees.

The upper limit of $200 000 will not affect many people and previous speakers have outlined their scepticism of the reason this provision has been included in the legislation. The Treasurer said that he did not know of anyone who had reached the upper limit of $200 000. The Opposition questions why that clause has been included in the legislation if nobody has reached that limit. It is a red herring and it is not necessary. Of particular interest is the impact this legislation will have on people in lowly paid jobs and those who do not have a job; for example, married women who take on the onerous task of staying at home to raise their families. Under this legislation a woman's worth in raising a family is severely discounted. If she were injured it would be necessary for her to employ someone to do the household duties and to look after the family.

Any fair minded person in this House would oppose this Bill. I certainly hope that there will be amendments to it from the other place, but I will not hold my breath waiting. It is obvious that those members opposite who have concerns about the legislation will agree to it in its present form. I understand that their reason for voting for it will be on economic grounds. We have already seen the sale of the State Government Insurance Office and the $150m raised from it could go into the State Government Insurance Commission. The Government has raised in the vicinity of $50m by way of a $50 levy on motor vehicle licences. Although I abhor the idea of a levy, this levy applies to everyone and not only to the lower echelon who can least afford it.

Mr Strickland: Neither does the cap.

Mr LEAHY: The cap applies to those who are receiving the least amount of money. A person who makes a claim, including pain and suffering, of $100 000 does not lose any money at all.

Mr Strickland: I thought you were referring to the disadvantaged.

Mr LEAHY: A person whose claim for $12 000 is successful will lose $10 000 and a person whose claim for $100 000 is successful loses nothing. How can that be fair and equitable?

Mr Bloffwitch: That is the way insurance works.

Mr LEAHY: I said that the person whose claim for $100 000 is successful does not get an excess, but a person whose claim for $12 000 is successful does. What insurance policy states that a person does not have an excess if he receives more money? Not one that I know of. The Government has invented this and it will disadvantage those who can least afford it.

Mr Bloffwitch: Are you saying that the person with the smallest claim is the one who can least afford it?

Mr LEAHY: I am saying that a person who is not employed and stays home to look after his or her family cannot be recompensed for loss of earnings. In other words, all those people who are raising their children will have their worth discounted.

Mr Bloffwitch: I do not agree.

Mr LEAHY: If the member reads the legislation he will have to agree.

Mr Bloffwitch: You are assuming that it will affect only housewives.

Mr LEAHY: I said that housewives do not have a high income and this legislation does not give any consideration to their worth or to loss of income. It concerns me and that is why I oppose the Bill.

Mr Bloffwitch: Some people are squandering the SGIC's assets.

Mr LEAHY: The member cannot make that claim because the SGIC now has a portfolio of properties, mainly in the central business district, and we all know they are discounted in value. I bet that in three years when the value of those properties increases by 40 per cent or 50 per cent, the Government will not come into this place and say "We no longer need this legislation and we will pay back the $50 levy". Pigs would fly, because the Government would not do that. The Government is now taking advantage of depressed property values, which we all know will, like the wheel of a car, go around. Those same property values in the CBD will rise within three or four years, and if this Government is still in office - God help us if it is - it will take advantage of that rise. The State Government Insurance Commission has not been disadvantaged. The SGIC has a portfolio of long term investments - CBD properties - because it is a long term insurer, and it handed over to the SGIO the short term investments - stocks and shares - which are more buoyant at the moment, although they have not been in the last few weeks. We all know that stocks and shares are short term investments, and that was the reason for transferring properties into the SGIC and stocks and shares into the SGIO. However, the Government brings up this smokescreen and says it was for a different reason.

Mr Bloffwitch: Were the SGIC a private company, it would have been put into liquidation and you would not be able to say "Let us wait for five years for property values to increase".

Mr LEAHY: How many banks in Australia have discounted the values of prime properties?

Mr Bloffwitch: How many private people have been sent to the cleaners?

Mr LEAHY: Many people have, and many people are looking now at a return to profitability in property values. The SGIC will get an injection of $50m per year - not one off - from the levy and at least $100m, and probably $150m, from the sale of the SGIC, yet members opposite still cry foul and say the SGIC is poor. I would love to see

any other insurance company that gets such a one off payment; no other insurance company can and no other insurance company does. I implore the Government to reconsider this legislation and to look at the people whom it will disadvantage, and to move amendments so that the pain can be shared by all and will apply equally to those who claim $100 000 and those who claim $5 000 or $10 000. I oppose the legislation.

MS WARNOCK (Perth) [7.42 pm]: I oppose this legislation and join my colleagues on this side of the House in making a few comments about some of the provisions of this Bill which we regard as grossly unfair. Third party insurance money is held in trust for those people who are injured. That is why we all pay this compulsory third party insurance premium. To try to improve the profitability of the State Government Insurance Commission by imposing a deductible on claims made by injured people - in effect, to tax the injured - seems to be a betrayal of the intent of the law dating back to the original Motor Vehicle Insurance Trust law. That money does not belong to the taxpayers or the Government. It is held in trust for the injured. That is the money that this "back to the future" Government is trying to prevent being paid to some injured people. If that is not economic rationalism run riot, I do not know what it is. It seems to me that certain provisions of this Bill deny help to the very people who need help most. Insurance companies must have lobbied this Government very hard to achieve a Bill that is so manifestly unfair to people who need help at a very vulnerable time of their lives when they are recovering from a car accident. Those people will be doubly punished in this Bill: They have had an accident, and they will now be refused compensation. I indicate, as have many of my colleagues, that I am speaking about a particular group of people who expect to receive some compensation for pain and suffering at the lower end of the scale - for minor claims.

One of the most unfair provisions of this Bill is that clause which limits the small claims payouts for general damages by imposing a deductible of $10 000. Those people who can never claim for loss of income after a disabling accident - housewives, pensioners, people on low incomes, the unemployed, students - will be the most discouraged and disadvantaged by this Bill. I understand that the Government hoped to reduce by one-third the number of small claims. I am sure the Government thinks of them as nuisance claims. I and my colleagues find that term offensive. I am told that the number of claims has reduced by about 50 per cent since last July. That means that many people who should receive some support for pain and suffering and loss of quality of life are not receiving and are not likely to receive any support. That is inequitable.

I turn now to the almost identical cases of two women who receive the same sort of soft tissue injury in a car accident and experience pain and loss of quality of life for about two years. They cannot do the things that they would normally do, either about the house or when out with their family and friends, and they have pain which has to be treated. One woman is a housewife who has no income of her own, and the other is a dentist or a hairdresser, whose ability to earn a living is affected by this injury. The female dentist or hairdresser who has experienced a loss of earning capacity can make a claim, but the housewife cannot. The housewife may make a claim, but under this new system that is knocked out by this deductible and comes to virtually zero. The housewife has experienced the same pain and suffering and loss of quality of life, but her claim is swept aside because it is too small for her to end up with any form of compensation. Is that fair? Is that a nuisance claim, as some people persist in calling it? I do not think it is, but it seems to me that under those circumstances that housewife will not receive a red cent.

Another major change is the limit of $5 000 for gratuitous services. In speaking about this Bill with a number of people - I know that my colleagues on both sides of the House have done this also - I heard of a case which involved an elderly couple. The husband was working overseas when his wife was injured in a car accident and suffered broken ribs and a smashed knee, among other things. The husband came home from overseas to comfort his wife, and he soon realised that he would have to retire much earlier than he had planned because he had to care for his wife, who was physically and psychologically shocked by this accident and clearly would need his gratuitous services. It seems to me that these gratuitous services are worth more than $5 000. The husband did the right

thing by giving up his job and coming home to look after his wife. There is no doubt that they will both be penalised. It seems manifestly unfair that people in this position, or the unemployed, pensioners, or the housewife whom I described, should be affected adversely by this law. This Bill is particularly repugnant because it will hit those who are least able to afford it.

I turn now to a document which was waved around several times in this House by other members, particularly those on this side of the House, entitled "The Facts - Motor Vehicle (Third Party Insurance) Amendment Bill 1993 Threshold/Deductible and Capping", which was put out by the State Government Insurance Commission. The fact sheet attempts to argue the case for this Government's proposal, and it makes fascinating reading. The introduction states -

> Whilst people interested in justice are concerned about the prospect of under-compensating some genuine claims, the real question is "Why has the current situation, which results in the need for the proposed amendments, come about?"

The question described by the paragraph relates to the need for the amendments, but the real question relates to justice. Bills coming before this House relate to justice for the people, or nothing. The insurance companies, and their friends and supporters opposite, are happy to gloss over the matter of justice. They ignore the fact that this proposal will lead to injustice for ordinary Western Australians who are unfortunate enough to be involved in minor claims for compensation following a car accident. The real question for this Government is profit for insurance companies. The Bill is about anything but justice - it does not get a look in. It is simply not good enough to throw all the costs onto the backs of minor claimants; namely, those least able to afford it.

The Opposition has said that this issue must be addressed. Nobody wants to place the blame on either the claimants or the legal profession - members opposite have indulged in a great deal of exaggeration regarding rip-offs in the legal profession. Nobody wants to see third party insurance premiums skyrocket. We want a fair scheme for the community at large. If there is to be some justice in this Bill, subtlety should be involved in arriving at a solution. The State Government Insurance Commission fact sheet contains a simplistic argument that the weakest in our community must pay. It is fascinating. It seems to claim that everybody is at fault, from the grasping lawyers to the awful people who inconvenience the insurance companies by making so-called "nuisance claims". The fact sheet continues -

> Because of both plaintiffs and lawyers having abused the system with unrealistic demands . . .

This does not refer to some plaintiffs and lawyers; therefore, by implication, it refers to all plaintiffs and lawyers. The document would appear to suggest that apart from insurance companies everybody has dubious motives in this matter, especially those who interfere with the insurance companies' ability to enjoy untrammelled profits. The next extract indicates the Government's motives in this exercise. It reads -

> Regrettably, some genuine claims may be wrongly affected by the imposition, however that is the price that will be paid in order to minimise the cost of a large majority of small claims.

This is horribly reminiscent of the unfortunate way that a Minister opposite spoke about the death penalty: "Regrettably, some innocent people may be caught up in the death penalty, but that is the price of law and order." The Government is indicating a simplistic attitude in this legislation. It is a crude measure.

Like my colleague from Northern Rivers, I emphasise that some consideration should be given to other arguments when amendments are moved during the Committee stage. It is too crude to have some arbitrary figure at which the line is drawn, below which people will receive no compensation. It is saying, "Bad luck; you have a small claim so you miss out. Never mind the pain and suffering as you will be left out in the cold. Never mind justice. Keep it simple. The bottom line must be profit."

The fact sheet indicates the insurance company's attitude on this matter, as follows -

> As the major problem focuses on general damages awarded for injuries such as bruising, lacerations (in particular minor soft tissue whiplash injuries), which cause a drain on the third party insurance fund -

That is an offensive phrase. It continues -

> - threshold/deductibles for non-pecuniary damages have been introduced.

It appears to suggest that soft tissue whiplash injuries are regarded as minor injuries, and that people who claim on such injuries are indulging in some sort of rort. The insurance company seems miffed at possible lost profits and is claiming that this type of injury is not serious. I wonder whether members opposite have had a whiplash injury. I am sure electors have been in members' offices describing the pain of a whiplash injury. The suggestion in this document that they are always minor injuries is erroneous and offensive. Do members opposite really agree with this claim? We know from comments that some members have had reservations about this Bill, and I wonder whether those reservations related to this aspect. Maybe some members opposite have had a whiplash injury and know the pain and inconvenience caused by such so-called minor injury. People suffering this type of injury will be hit by an arbitrary $10 000 limit under this Bill. It is a crude, accountant's approach to legislation. When dealing with compensation for people injured in car accidents intelligence, reasonableness and justice must be involved. It is a complex problem; it does not require a simple bottom line, chosen because it is the easiest place at which to put the barrier.

The suggestion has been made already today that many variations in approach could be adopted. For example, the cost could be spread across all contributors rather than being placed on those least able to afford the burden. The Government must go back to the community to take note of what can be achieved to make a complex Bill work in the best interests of the community. The Government should not follow the fact sheet and set justice aside in the interests of making the sums add up. We hear enough of those simplistic arguments from members opposite. We offer them an opportunity to prove that they can consult and take advice to produce a sensible Bill which will be just and fair to people who need our help. This Bill should aim to help people rather than cause pain. I oppose the legislation.

DR CONSTABLE (Floreat) [7.58 pm]: Two or three aspects of this Bill are particularly worrying. The second reading speech states -

> The Bill is being introduced to ensure that the burden of high compulsory third party premiums on more than one million Western Australian motorists will reduce.

This does not tell us the other, and possibly most important, side of the equation; namely, although we are told that at some point in the next few years premiums may drop - we are not told when and by how much - we are not told that benefits will fall as well. If premiums are reduced people may expect that benefits will reduce as well. Somehow, I doubt that that is what the motorists of Western Australia will be looking for.

Last year we all saw the third party insurance premium increase with a $50 levy. Many people have telephoned or written to my office explaining how appalled and angry they are about this levy. However, at the same time, I feel some sympathy for the Government in finding ways to overcome the extraordinary losses of the 1980s. Levies and extra taxes are perhaps the only way it can go. In this case it is not as the member for Northern Rivers has just told us, that if we are to have a levy we might as well have one like this because it applies to everyone. In fact, it does not apply to everyone - only those people who own a car pay the levy. If people are silly enough to own a trailer, they pay the levy twice. I do not think this is a particularly fair levy at all, although I have considerable sympathy for the Government.

Mr Kierath: I think you will find it is not on trailers.

Dr CONSTABLE: I think the Minister will find that it is. Some people who have telephoned me about the registration fees think that the levy applies to trailers.

Mr Kierath: It does not matter what people think; the fact is that it does not apply.

Dr CONSTABLE: I am trying to say that many people are very angry about it and in their anger they have misinterpreted what is happening. Recently I asked a question on notice regarding this levy. As part of my question I asked how many people had refused to pay the levy by deducting the levy from their registration payment. The answer I received was nil.

In the past few days I have had over 30 calls and faxes at my office telling me that people had done that. Many people in their anger about this levy have done just that. I have some considerable sympathy for the Government in trying to find ways to overcome the excesses of the 1980s. The problem is that the Government seems to have mixed up the issue of trying to solve the problems of the excesses of the 1980s, which are considerable, with that of third party insurance premiums which are compulsory. In the end, the motorists of Western Australia will miss out. In the second reading speech the Treasurer said -

> The objective is to maintain and reduce the costs of compulsory third party insurance premiums to Western Australian motorists, thereby assisting families and small business.

I am not too sure how this levy will assist many families and many small businesses. Although they might be paying less in the end, it will cost many dearly, especially those many people with so-called minor injuries who will no longer receive benefits. It might assist people in the short term but in the long term those people who do sustain injuries in motor vehicle accidents will receive lower benefits; hence, they will miss out. The whole point of insurance is to cover people for these things.

One of the fundamental flaws in this Bill is that it will affect those people who suffer pain from the injuries; who have certain expectations of life curtailed; and who over many years, through the processes of our courts, have believed they had a right to receive some compensation when injured in a motor vehicle accident. Only those people who are employed or who will suffer some sort of pecuniary loss will benefit in this situation. Many people, such as students, women who are not employed, disadvantaged people, pensioners and others will suffer because of this legislation. They are asked to pay the $50 levy over seven years with the promise that their premiums will drop at some point in that time; but they will not get the benefits that they might have expected. Those people who are unable to make claims for loss of income because they are not employed will suffer under this legislation. In bringing forward this Bill the Government is proposing to remove a long established right for general damages for injuries, regardless of financial need. This is a right that has been developed through the court system so that matters such as pain and suffering, scarring, loss of enjoyment of life and so on, have been seen to be important areas for which people involved in motor vehicle accidents should get compensation.

I am particularly offended that this legislation is retrospective. It is now April 1994 but the legislation is backdated to apply from 1 July 1993. On that ground alone I find it difficult to support this legislation. The Bill is said to be necessary to alleviate the burden of the State Government Insurance Commission debt. I say again that here we seem to have a real mix-up of the issues. If that is the real issue, another way could have been found to overcome that problem which was created in the life of the previous Government; but it should not be at the expense of people injured in motor vehicle accidents. Can we expect - this question has been raised by other speakers - that once the SGIC debt is covered by the $50 levy, this legislation will be amended again? Is this just a closed window for a few years while that wrong is righted and while motorists suffer, or will it continue in the future?

The Government has indicated on a number of occasions that it is concerned about nuisance claims. If that is the case, it does not have to go to such an extreme to deal with them. There could have been an easier way to limit those claims, without limiting or removing the rights of all injured people. That is rather like chopping down a whole forest to deal with a few diseased trees. The chief injustice in this Bill is that a large

number of people, estimated at about 40 to 50 per cent of motorists - some people have suggested it would be the majority of motorists - pay a compulsory third party premium for the very purpose of protecting themselves on the roads. Then they are denied access to the system of compensation. A large number of people will be denied access to the system of compensation because their injuries are considered to be minor.

We see a total mixing up of two very important issues. One of those issues is how the State can overcome the enormous debt that was inherited from the previous Government. The other is how we can run our third party insurance system. They are two quite separate issues that have been combined in this Bill. That is an horrific way for a Government to be thinking. Many people, when they are forced to pay their insurance, if they wish to have their motor vehicles on the road, will find that this is a Clayton's insurance if they are involved in a motor vehicle accident. I will not support this legislation.

MR RIPPER (Belmont) [8.08 pm]: The theme of this Government's legislative program has been a removal of rights. We have seen the rights of workers in employment matters removed; the rights of workers who are injured as a result of their employer's negligence removed; the rights of Aboriginal traditional landowners threatened; the rights of ratepayers and residents in the City of Perth attacked; and now we see the rights of people injured as a result of the negligence of others in traffic accidents under threat. In a sense it was easier for this Government before because it could always find some reason to stereotype or stigmatise people whose rights it had attacked. Now, with this legislation any of us could be disadvantaged.

Perhaps that is why there has been some trouble in the coalition parties when this legislation has been debated. Not only does this legislation attack people's rights, but it is also retrospective legislation, as has just been pointed out by the member for Floreat. This House is asked to endorse a retrospective removal of people's benefits and people's rights to take legal action. This Government would have us shrug off our responsibilities to care for our fellow citizens. I am not talking about people who have been reckless or irresponsible; I am talking only about those people who have been unfortunate. We might expect the conservatives to reduce benefits to people against whom they have some ideological prejudice, people who can be stigmatised or stereotyped on social grounds. These are not people in that category but road traffic victims. As I said, anyone can be a victim and subject to this law. We are not talking about victims of misfortune alone but victims of other people's negligence. That after all is the basis for claiming under the principal legislation. The Government is redistributing benefits from the injured few to the fortunate many, and it is instructive to look at the benefits that are being redistributed; what values are demonstrated in the Government's legislation; and what benefits are protected or attacked. Income is protected. What is attacked and what losses will not be properly compensated? Pain and suffering, the loss of the amenities and the enjoyment of life, curtailment of expectation of life and bodily or mental harm are the losses which will not be properly compensated as a result of the Government's legislation. As has been pointed out by many of my colleagues, those people who will feel most the effects of the legislation are those who do not have an income to protect.

It is instructive of the Government's values and the way it has approached this issue that it has attacked those non-income related losses. The Government has attacked not only benefits but also people's rights, because this legislation does not affect only the third party insurance fund. The rationale the Government has put forward is the need to protect the financial position of that fund. The legislation goes beyond people's rights to claim benefits from the fund. Proposed section 3B says that if proposed sections 3C and 3D apply, the court is not to award damages to a person contrary to those sections. In other words, a person cannot claim from anyone else damages which are denied to him from the fund as a result of this legislation. It might be the case that an extremely wealthy person has negligently injured a member of one's family in a traffic accident, but under this legislation one cannot sue them for the damages which are denied to one from the third party insurance fund as a result of the Bill this House is asked to pass. It might be that a multimillionaire has committed a gross act of irresponsibility resulting in pain

and suffering and a loss of the amenities of life. The deductible amounts will still apply, despite the fact there would not be any threat to the financial position of the fund. Under this legislation one could not take legal action to make a claim for those amounts to which one would previously have been entitled but which under this legislation one will not receive.

Of course, this section of the legislation will also stop people taking out some other form of insurance to cover themselves for the amounts which they are denied here. People will not be able to take other actions to protect themselves and others whom they might injure as a result of the operation of proposed section 3B. What are the Government's reasons for this denial of rights and benefits to those people who are unfortunate enough to be injured as a result of other people's negligence? The Government's reasons are based on the stereotyping of members of the public who might make a claim and those professional people who might represent them in their claim. The Government has the view that members of the public are greedy and lawyers are aggressive, and that the combination of greedy members of the public supported by aggressive lawyers poses a threat to the third party insurance fund. That ignores what we have here, which is court decisions or settlements based on likely court decisions. The unspoken assumption underlying the Government's legislation is a lack of confidence in the courts' handling of these issues. At base the Government's rationale must be that people are not entitled to the amounts which would have been paid out under court decisions or on the basis of predictions of likely court decisions. Perhaps the Government holds the only other alternative view - that they are entitled to the decisions made by the courts previously but it is okay to take those benefits away for the ultimate advantage of people who have been fortunate enough not to be injured. Whichever option the Government adopts, it says that $10 000 worth of pain and suffering caused by someone else's negligence, as determined by a court, means nothing; a court's determination that someone is entitled to compensation of $10 000 for pain and suffering is a light matter. A court would not decide that on the basis of a small or trivial amount of pain and suffering. This legislation undervalues the sorts of experiences people have had which have entitled them to these amounts of compensation.

Another area of the Bill which greatly concerns me is the limit on domestic services which happen to be gratuitous services. I see that as an attack on family members who are caring for people often severely disabled as a result of traffic accidents. This Bill continues our traditional but very regrettable exploitation of family members acting as carers for other family members who suffer some form of disability. Most of those family members happen to be women, and the legislation in my view grossly underestimates the level of care that must be provided in some cases. When I was Minister for Disability Services -

A Government member interjected.

Mr RIPPER: One of the member's colleagues was kind enough to make complimentary remarks about my period as Minister for Disability Services.

Mr Pendal: Who was he?

Mr RIPPER: The former Leader of the Opposition.

Mr Pendal: It may be the kiss of death for him too.

Mr RIPPER: I am not sure it did me any good with my colleagues, but he seemed to be happy with at least some of the aspects of my administration.

Mr C.J. Barnett: It must have been in a generous moment when he was leaving the House in one of those nice farewell speeches.

Mr RIPPER: I was not even there to receive the compliment, but someone was kind enough to draw it to my attention in *Hansard*. It did markedly improve my estimation of his judgment.

When I was the Minister for Disability Services I visited a nursing home and met a young husband and father who had been in a traffic accident and had severe head injuries. I also

met his wife, who was very keen to have him at home despite the severity of his injuries, and he did indeed need round-the-clock, 24 hour treatment. I hope she has been able to fulfil her aspirations to have her husband at home. Were she to have him at home and an award be made under this legislation, the award would be reduced because, as I understand the legislation - the member for Albany might correct me - the basis of the award would be a 40 hour week at average weekly earnings.

Mr Prince: That is the normal way the courts decide it.

Mr RIPPER: That is what this legislation is doing. In the case of this young man, I imagine the amount of care required would be fairly extraordinary and the wife would have to provide care and other services in the middle of the night, at weekends and at any time during a 168 hour week.

Mr Prince: The person you described could be awarded damages significantly greater than the amount we are talking about and there would be a component for nursing. If the person is that badly injured compensation takes care of the welfare of that individual.

Mr RIPPER: If she must provide the nursing and other domestic help, there is a limit on the amount that can be awarded for her services.

Mr Prince: If that were all that were required the person's injuries would be very minor and the nursing care would not be very long lasting.

Mr RIPPER: Would an award not cover both the provision of specialist support services and the gratuitous services for a severely injured person?

Mr Prince: Gratuitous services would be unlikely under the award because specialist support services would be required in the home. It is built into the general damages award for that particular brain injured person.

Mr RIPPER: Perhaps the Minister might explain to me why it is necessary to have this sort of restriction in the legislation. If the courts are as limited in the amounts they will award, why are we going to the trouble of legislatively restricting what they can award?

Mr Prince: It is because there have been a large number of very small awards of a few thousand dollars which eat up the totality of the amount being paid out. It comes back to what happened to the $400m.

Mr RIPPER: The Minister is making a point about small claims. I am not talking about the section which says one cannot get an award for gratuitous home support unless that is assessed at more than $5 000. I think that clause deals with small claims. My understanding is that the levy is supposed to deal with the financial position of the fund and this legislation is supposed to deal with the level of future premiums. The Opposition is arguing that the unfortunate few injured as a result of other people's negligence are being asked to take less compensation, so that the fortunate many who are not injured, but who pay premiums, can pay less. That does not seem to be fair.

Mr Prince: A reasonable man like you would accept that this would not have been necessary if the fund were still financially healthy.

Mr RIPPER: I understand the levy, which is another measure altogether, is justified on the basis that it deals with the financial position of the fund.

Mr Prince: That is already in the system which otherwise would be paid out of the 10¢ in the dollar.

Mr RIPPER: We could argue about the levy on some other occasion. My suggestion is that the Minister has justified the levy on the basis of the financial position of the fund. He must justify this legislation on another basis because it is additional to the levy. It seems to have been justified by the need to restrict premiums in the future.

Mr Prince: I suggest it is both.

Mr RIPPER: The Minister may make that argument. It is unfair to disadvantage the unfortunate injured few in order to restrict premiums for the fortunate majority who have not been injured or who will not be injured in traffic accidents.

One of the problems with this legislation has just been made apparent by the interchange between me and the Minister for Aboriginal Affairs and Housing; that is, the need for a more sophisticated rationale and justification for this legislation. The second reading speech does not provide a very sophisticated justification for this legislation. Where are the actuarial reports relating to the impact of this legislation on the future of the fund? How many claims will be affected by it? What will be the impact on the fund? We do not have any of that accounting information which I think would enable a better judgment of why this legislation is needed. The Government has provided rhetoric and prejudice and yet another attack on people's benefits and legal rights. I oppose the legislation.

MRS ROBERTS (Glendalough) [8.24 pm]: This is a callous, uncaring and unfair Bill. It targets the less privileged in our society. It is not just retrospective but also, in terms of social justice, completely regressive. Sure, it is a simple solution to a financial problem, but it is a particularly nasty solution. It victimises those least able to defend themselves. It concerns me greatly that non-pecuniary losses are targeted. Those non-pecuniary losses entail the loss of enjoyment of life, the loss of the amenities of life, the curtailment of the expectation of life and bodily or mental harm. It is alarming that non-pecuniary losses are not given the same regard as pecuniary losses. Are non-pecuniary losses any less real? Do they affect people any the less? Not everything can be reduced to just dollars and cents.

A trite argument has been trotted out many times during this debate that financial losses have occurred as a result of WA Inc and, therefore, the State is short of money and any way of making money is therefore justified. It is a ridiculous argument; it justifies nothing. To say that, because there have been financial losses to Government, any way of making money is justified is not true. The Government has tried this in a number of areas. It has tried to justify cuts to education, schools and hospitals, to increase taxes and charges, and to commercialise Kings Park - a multitude of ills. The Government has espoused development at any cost because it has some financial problems. It must look at the true justice of this.

In reality, the Government's plan is for a redistribution of wealth, to advantage the wealthy at the expense of others. If one is wealthy, not receiving a $10 000 payout for non-pecuniary losses may not be particularly significant. If one is on a high income one will probably be able to justify a big pecuniary loss payout in any event. Not receiving a small amount of compensation for non-pecuniary loss may hardly affect a high income person one way or the other.

As I have listened to this debate, I have noted that many members of Government have had some difficulty accepting this Bill. Those comments were made by the members for Collie and Scarborough. They say this Bill has been watered down or amended to suit them somewhat. However, there has been no real change to what they originally opposed. The member for Collie seemed satisfied that the threshold had been reduced from $15 000 to $10 000. It should not be a matter of dollars but of principles. The principles and the morals behind this Bill remain the same. The Bill still fails to acknowledge non-pecuniary losses. It does not compare non-pecuniary losses with pecuniary losses. It still advantages the well-off and disadvantages the poor. It is okay if one is a doctor or dentist or other professional who can justify a high level of pecuniary loss. What if one is unwaged or occupied solely or mainly in home duties, if one is a pensioner or, worse still, if one is a student or a child?

Mr Prince: Where is the justice giving a person like that compensation and not giving a well-off person compensation for injury?

Mrs ROBERTS: It should apply to both. I am saying that a pensioner or a student or someone on a low income is further disadvantaged because they do not have the opportunity of claiming pecuniary loss.

Mr Bloffwitch: It is an insurance, not a charity.

Mrs ROBERTS: How can a child claim a pecuniary loss? It is a matter of whether one

is acting as a Government or as an insurance company. Is this Bill just about dollars and cents or is the Government concerned for the welfare of all people?

The member for Scarborough says that it is not only the financially disadvantaged who have accidents. I agree. Everyone has accidents, but they are not disadvantaged to the same extent. The member for Scarborough also says that the legislation has been softened because of the imploration of the backbenchers. Big deal! It is still bad legislation. Some members opposite try to ease their consciences by saying that the Bill was forced on them or that it is a financially responsible measure. Even if one were to accept the financial argument of members opposite, which I do not, one could not accept their callous targeting - the choice to make those with non-pecuniary losses pay the financial burden. That is their choice, no-one else's.

The member for Nollamara correctly asserted that whatever a person was paid for non-pecuniary loss, it was never sufficient compensation for the injury and suffering sustained. He further contended that it was ludicrous for Government members to imply that ordinary people would hope to have a motor vehicle accident to pick up money. When he originally made that statement I did not really believe that the Government could be alleging that. However, the member for Avon interjected and asked whether the member knew that in Victoria dozens of people had been caught doing exactly that. One can only ask: Does this Government believe that people are doing that in this State? To my knowledge, no-one in the debate thus far has given evidence that people in Victoria are deliberately having accidents to be paid out a non-pecuniary loss.

Given that we do not have that evidence, is there evidence that it is happening in this State? Is the suggestion really that in Victoria or Western Australia kamikaze or sadomasochistic drivers are deliberately inflicting pain and injury on themselves so that they can claim damages? What does the member for Avon intend now? Is he suggesting that perhaps these kamikaze or sadomasochistic drivers could do a really good job so that their damages go beyond the threshold? Perhaps the member will encourage them to go up to the Government threshold and save the Government some money. It would be laughable if it were not so serious.

Later in debate the member for Dianella informed the member for Morley that lawyers and doctors enhanced people's claims. One can only wonder what the member for Dianella meant by that. Are doctors, for example, really enhancing or exaggerating injuries? If the Government believes doctors are involved in enhancing or exaggerating injuries, it should cite those rorts and deal with that issue, instead of penalising those least able to defend themselves.

Dr Hames interjected.

Mrs ROBERTS: If people do not have a job, a financial background or a capacity such as the member for Dianella to be able to make a substantial claim for pecuniary loss, a claim for non-pecuniary losses becomes all the more important.

Dr Hames: It should cover people from all walks of life.

Mr D.L. Smith: Except that those on high incomes get more than anybody else.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Interjections are quite acceptable to me provided they are not multiple. However, conversations between members which have nothing to do with what the member on her feet is saying are totally intolerable.

Mrs ROBERTS: This issue really gets down to what importance the Government places on those non-pecuniary losses. What value or importance does it place on people who cannot carry out everyday activities which we take for granted? Does the Government care about mothers having difficulty caring for their children, doing the washing or ironing, or hanging clothes on the line? Does it care about mothers who cannot participate in playgroup or sporting activities? Does it care about pensioners or the unwaged who cannot do everyday household activities such as gardening or other chores around the house? Does it care about the disadvantage that students and children may

suffer? Other references have been made today to people who may be disfigured as the result of an accident, which may not be adjudicated to be a $10 000 loss. However mild that disfigurement is, it has a great impact on the life of a child or a student. Children with any small disfigurement feel they are social outcasts. They lose their self-confidence and that can have an irreparable effect on a child or adolescent. The message the Government is sending is that unless that can be adjudicated above $10 000, it does not matter.

The Government has placed too much focus on business, and not enough on the proper social responsibility of Government. Many people who are injured in accidents are affected through no fault of their own; they are not to blame. They may well have been innocently caught up in an accident, yet they are penalised. However, many of them will no longer be able to claim what they previously could. A civilised society should be judged by how it treats the less fortunate within that society. Among those who are financially less fortunate in our society are women, because far more women than men carry out unpaid work in the household. One must also consider pensioners, the unemployed and children. The Law Society paper makes it clear that these people will bear the brunt; they will be the losers. This Government will be judged by this kind of legislation which is typical of other legislation that it has introduced in the past year. It will be judged by its total lack of social responsibility and its callous negligence of those who are least able to defend themselves.

MR KIERATH (Riverton - Minister for Labour Relations) [8.38 pm]: Mr Acting Speaker -

Point of Order

Mr TAYLOR: Is the Minister for Labour Relations about to reply to the second reading debate?

Mr Kierath: Absolutely.

Mr TAYLOR: Given that the Treasurer introduced the Bill to this House and gave a second reading speech for the legislation, is it appropriate for the Minister for Labour Relations to handle the Bill and reply to the second reading debate?

The ACTING SPEAKER (Mr Ainsworth): The point of order raised by the Leader of the Opposition is incorrect. Similar situations have occurred in the House on many occasions where a different Minister has done the final wrap up of the legislation. It is in order for that to happen on this occasion. The Minister indicated to me earlier in the day that he would do so. It is in order and is not a precedent by any means.

Debate Resumed

Mr KIERATH: I assume the Leader of the Opposition was not in the Chamber last Thursday when I made it plain I would sum up the debate and handle the Bill in this House. I am absolutely amazed that the group of members opposite should stand in this place and complain about these changes. I am absolutely amazed that they have the gall to do that when they are the real cause of these changes because of their incompetence when in Government. That is why the coalition Government is doing the dirty work - cleaning up the mess left by the previous Labor Government. It is a tradition among Labor Governments to become involved in financial scandals, and a tradition of coalition Governments to clean up the financial mess left behind. This Government has had 12 months of going through the sordid and sorry details of the Labor Party's incompetence when in Government. Members opposite must give us credit for not having ducked our responsibility to sort out the mess they left behind, no matter how difficult it is. Other members of this House have outlined the difficulties Government members had agreeing to this legislation. I will now place my comments on the record.

I am not proud to stand in this House and deal with this Bill. I would have preferred not to do anything of the sort, but the conduct of members opposite when in Government is the reason for this Bill. I listened to the member for Eyre use the word diatribe, and I tried to refrain from commenting despite the baiting from members opposite. As I listened to members opposite, I did not hear one of them apologise to this House or to the

people of this State for their conduct when in Government. If members of the Opposition do not have the decency to apologise to the people, they forfeit their right to complain about the actions of this Government in attempting to deal with the mess. I appeal to members opposite to think deeply and, before this Bill is passed, to apologise to the people of this State for the conduct of the Labor Government.

I now propose to answer some of the misconceptions portrayed by the Labor Party in relation to this Bill. I am not surprised by those misconceptions, because they are similar to those relating to the workers' compensation and industrial relations legislation. When I point out the error of their ways, members opposite still will not acknowledge them. They have their heads buried in the sand.

Mr Bloffwitch: And they will not acknowledge the successes of this Government.

Mr KIERATH: Exactly.

Mr Leahy: Which ones?

Mr KIERATH: There are more than 3 000. The trade unions are telling the commission not to listen to individual workers because they do not know what they are doing. That is how ludicrous members of the Labor Party are becoming.

The member for Nollamara made the point, and a number of members reiterated it, that the people worst affected will be those not in the work force, who can least afford to lose out. People who are working are affected by the $10 000 threshold deductible as well. It applies to both groups, and does not favour the workers and penalise those who are not working. Damages forgone in this case are simply costs that are not incurred because they are intangible; they are not costs incurred by the parties. Unfortunately, members opposite are enthusiastic in running that line through their argument when it is simply not true. All moneys spent by an injured person in connection with the injury are still recoverable. Only the intangible costs cannot be recovered. It is difficult for this Government to deal in the fairest possible way with the problems left by the former Government, and Government backbenchers acknowledged that it did not seem fair. However, when they considered the alternatives, they accepted that in the absence of a better system this would be the best of a bad job, and had to be accepted in order to fix the problem. This measure would not be necessary in an ideal world, and the Government would prefer not to have introduced it.

I agree with the member for Nollamara that between 40 per cent and 50 per cent of the current number of reported claims will not receive an award for non-pecuniary loss, although they may do so for other losses. I note the Leader of the Opposition, having made a strike, has left the Chamber again. I will refer to the issues he raised in the hope that he will read *Hansard* at a later date. He referred to home care and said the amount payable would be limited to the minimum wage. That is true only if someone within the household provides the gratuitous service; it does not apply if an outside agency is used. Of course, an injured person cannot manufacture a use for an outside agency but must obtain a doctor's opinion or medical certificate stating that an outside agency is needed. In that case, the costs are compensatable. The restriction to the minimum wage applies only if somebody in the household already providing other services cares for the injured person on a fee for service basis. Looked at in that light, it is a relatively sensible way of dealing with this area and does not warrant the so-called claims people have become so upset about. The Opposition was running the line that these people would not receive any payment until the compensation claim was settled. That is not so; they can seek payment during the course of the claim. An alternative is for the claimant to seek periodical payment under section 16 of the Motor Vehicle (Third Party Insurance) Act. Another claim by the Opposition was that workers' compensation legislation has eliminated certain journey claims and, therefore, people would miss out on weekly payments, and this legislation would make it worse. That is not so. The State Government Insurance Commission makes advance payments if the liability is admitted and if loss of earnings has occurred. This legislation will not make the situation worse. Any solicitor who does not remind his clients or make a submission on behalf of his clients is remiss in his obligations. That is why I intend to wade into the legal profession

again. Some of the legal profession have not given advice to their clients about their full rights and entitlements. That is a fault within the legal profession and cannot be pinned on the Government. I can only sympathise with the SGIC because the same situation occurred with workers' compensation; that is, the legal profession favours that part of the legislation from which it can obtain lucrative fees, and does not advise its clients of their legal rights in other areas.

The member for Mitchell made the point that the policy is not the same because of reduced benefits. That was one of a number of arguments run by the Opposition, and it simply is not true. The policy simply covers the owner-driver for unlimited liability. It is not to provide benefits per se; it is to protect the owner-driver from being sued for unlimited liability.

Mr D.L. Smith: This is the sort of nonsense we will receive from you with the rest of the Bill.

Mr KIERATH: That is not true. The member chose to misrepresent the situation. The legislation is about limiting the liability of the owner-driver; it is not about additional benefits for certain areas. The member for Mitchell said that the Bill constrained legal advice because of the provisions of the Legal Practitioners Act. The SGIC does not benefit from that. Any changes in the relationship benefit the injured persons because they are limited to a scale of fees, and this prevents the side agreements where lawyers take from the money paid to the injured party. That is the distorted logic of the member for Mitchell. He tries to say that this is of some benefit to the SGIC. That is rubbish. The provision was included to protect the injured workers and the amount of money they are paid in damages; to avoid the side agreements, evidence of which I have given before, where some solicitors have claimed up to 50 per cent of a payout. That situation is restricted. I thought members of the Labor Party would support any initiative to increase the amount of money in the pockets of the injured party that has not been syphoned off by a lawyer through some side agreement. The provisions in this area will help the claimant, not hinder him as claimed by the member for Mitchell.

The member for Collie made the point that if premiums became too high some owner-drivers would not pay third party insurance; therefore more people would be uninsured, thus injured claimants would not be entitled to claim. After she had made that comment, the member approached me and pointed out that she had not placed all her comments on the record. For her benefit, and perhaps for others who may read her comments, it is important to correct the record. The SGIC will pay whether a person is insured or not, then the commission will attempt to recover the costs from the uninsured owner-driver. Again a furphy has been run by members opposite to try to frighten people, but that is not the true situation.

The member for Eyre said that the proceeds from the sale of SGIC Insurance Limited is not included as part of the decision making process relating to third party amendments. I expected the member for Eyre to make different comments because the proceeds belong to a separate fund - the insurance commission general fund. The fund was $78m in deficit on 30 June 1993, even after valuing the SGIO at $52m at that time. The fund relates to the pre-1987 State Government Insurance Office claims liability run-off which includes the Wittenoom mine claims. The member for Eyre asked how much the premiums would be reduced by the changes. Based on the preceding three years' experience, an estimated saving of about 20 per cent has been calculated; in other words, $45m to $50m. But because of slippage we cannot be sure of the outcome until after one year's experience with small claims. We understand that small claims have been over-inflated.

The member for Eyre asked whether the premiums were too high now. We can act only on the advice we have received. We cannot be certain until we have had one year's experience with claims. We do not believe the premiums are too high, but we must wait and see. The member also asked whether we had made a comparison between Western Australia and the other States. We are the third dearest for private car insurance compared to other States. He asked why we had provided the $200 000 capping. I

outlined that aspect in the workers' compensation legislation, where no-one faced an amount in excess of that figure. It was about setting the limits at which other judgments will be compared. Other judgments relate to the maximum, and prevent the court having almost unlimited powers to vary the figure at will.

The member for Victoria Park referred to retrospectivity. His claims are not true. This provision is different from the workers' compensation legislation. This measure was announced by public statement on 29 June and related to all accidents after that date. The member pointed out that the Northern Territory had cheaper premiums than did this State. That is interesting because the reason the Northern Territory premiums are lower is that that Territory has abolished common law. It has followed the path of other debates in this House; it has deleted common law altogether. If we could do the same we would substantially reduce our rates as well.

The member for Thornlie made the point that the legislation had been brought in to increase the profitability of the SGIC. I disagree completely. The profit will fund the shortfall in assets to pay claims. That has been reported already, and perhaps some people have forgotten.

Several members interjected.

Mr KIERATH: The bottom line is that the SGIC does not have enough money to pay a full year's claims. When there is not enough money to go around, a variety of things can be done. We could pay the first few hundred people who claim, and everyone else would receive nothing. However, when short of money, we must try to devise a system to spread the funds as evenly as possible. The member for Thornlie also pointed to a situation of gratuitous services - that no-one is paid under $5 000; it is limited by the minimum wage. To some extent I agree, but outside agencies can be engaged if the doctor approves. In that situation, the doctor does the justifying. Basically, neither the $5 000 threshold nor the minimum wage applies in that situation. That is fair. Limits are placed on situations generated in a household where there is some fabrication.

I have some sympathy in other areas. The member for Thornlie said that in other areas under my control, $500 000 had been spent here and there to publicise certain changes. Were I the Minister responsible for the SGIC I would have asked it to spend that sort of money publicising the changes as well. But seriously, the Law Society has been briefed and has had a great deal of input. It has been active in the media. The media have been active also. Statements have been made by the Treasurer and others, and generally a lot of attention has been paid to the changes by the newspaper, and on the radio and television. Most people in this State are aware of the major changes occurring in this area.

The member for Thornlie said also that claimants would be required to meet the costs of medical reports and legal fees if the claim did not exceed $10 000 for non-pecuniary loss. That is incorrect. Reasonable costs will be paid by the SGIC for both items. It is important to understand and accept that aspect. The member for Morley asked why not have preventive measures instead of legislation. Of course preventive measures are in place, such as youth-driver education, participation by the Road Safety Select Committee inquiry and others. But to put it bluntly the situation has gone beyond preventive measures. We have a cash crisis and something must be done.

The member for Floreat commented about policy holders. I remind her that the policy goes to the owner. It is not to provide an entitlement to claim. It is to protect people against being sued for damages.

The member for Belmont raised the situation of a personal accident claim of $10 000. This legislation does not prevent a person from taking out additional insurance. It provides limited liability to the owner and states that he cannot be sued for less than $10 000. This legislation covers claims over $10 000. Nothing is stopping anybody from taking out additional insurance, or some other form of policy. This legislation does not give anyone the right to sue for damages of less than $10 000.

Mr Ripper: They cannot claim against the person who was negligent.

Mr KIERATH: They cannot be sued for that amount, but nothing is stopping a person from taking out personal insurance cover for that amount. I was trying to advise the member for Mitchell that the third party Bill is structured to prevent a law suit for damages against the owner-driver. Preventing that does not stop creative insurance companies coming up with a package to insure people for those amounts; those people are simply stopped from suing.

Mr Ripper: They would have to pay for their own insurance coverage; they could not sue anyone else.

Mr KIERATH: Yes. I have covered the major issues raised by individual members. The Government would have liked a better way of addressing the crisis facing the SGIC. This Bill is an attempt by the people involved to come up with the best way of overcoming its cash and asset crises. Perhaps in a number of years there may be further changes to try to make these changes more equitable. The Government could not turn its back on this issue which, I confess, I would rather not have faced. However, if members opposite had not left us with the mess they did, we would not be in this position. But they did, and we would be totally irresponsible if we had not done something to fix the system. Given those constraints this is the fairest possible way of doing so.

During the Committee stage I invite members opposite to apologise, and to put their position on the record. I hope that their amendments will be constructive. We have tried to outline the reasons this legislation is necessary, and why we have had to take this action. I hope members opposite will not try to move amendments that would undo the thrust of the legislation, but will participate in a constructive way during Committee. I thank members for their comments and I hope my comments have dispelled some of their doubts. I commend the Bill to the House.

Division

Question put and a division taken with the following result -

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Ayes (28)

Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Strickland
Mr Board	Mr Marshall	Mr Trenorden
Mr Bradshaw	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Cowan	Mr Nicholls	Mrs van de Klashorst
Mr Day	Mr Omodei	Mr Wiese
Dr Hames	Mr Osborne	Mr Bloffwitch *(Teller)*
Mr House	Mr Pendal	
Mr Johnson	Mr Prince	

Noes (20)

Mr Brown	Mrs Hallahan	Mrs Roberts
Mr Catania	Mrs Henderson	Mr D.L. Smith
Dr Constable	Mr Hill	Mr Taylor
Mr Cunningham	Mr Kobelke	Mr Thomas
Dr Gallop	Mr Marlborough	Ms Warnock
Mr Graham	Mr Riebeling	Mr Leahy *(Teller)*
Mr Grill	Mr Ripper	

Question thus passed.

Bill read a second time.

Referral to Select Committee

MR D.L. SMITH (Mitchell) [9.06 pm]: I move -

That the Bill be referred to a select committee.

The reason we seek to move consideration of this Bill to a select committee is the disgraceful way in which the Government has treated this Parliament and the public at

large. This is a Bill that significantly takes away the rights of people to sue others for negligence. We have had a great many speakers on this side, including the member for Floreat. We then had the shortest possible speech, not from the Treasurer who introduced the Bill, but from the Minister for Labour Relations. Members on this side know how the Minister for Labour Relations will treat the Committee stage of this Bill. He will treat it in the same way as he treats all Bills that he handles. We know from his performance in relation to the workers' compensation legislation, and the industrial relations Bills, which similarly took away people's rights, that he gives us dissembling nonsense. He gives us no substance, no explanation of clauses. He does not understand the meaning of clauses when they are his own legislation, and this legislation is not his, it is the Treasurer's.

It has been noteworthy that none of the members on the Government side who have legal training has chosen to speak in this debate. The Minister for Housing contributed some material by interjection, on which, quite frankly, he was wrong. The Attorney General, someone who we think might be interested in retrospective legislation, legislation that takes away people's rights, and legislation that impacts upon the relationship between solicitor and client, has had absolutely nothing to say. She is as much a sham as is the Minister for Labour Relations. She has no ideas of her responsibilities as Attorney General to stand up for people's legal rights, to protect due process, and to protect the ability of the legal profession to represent their clients in relation to any matter.

Mr Strickland: That is only your view.

Mr D.L. SMITH: That is not just my view, my friend, it is the view of a former Attorney, Mr Ian Medcalf, who has written to the Premier on the question of retrospective legislation and has made his views very clear to the Attorney General that, in respect of her conduct in Cabinet, she has failed to speak up when the Attorney should be obliged to speak up.

Mr Court: Do you think former Attorney General Ian Medcalf is a good person?

Mr D.L. SMITH: In relation to the question of retrospectivity and his understanding of his role as Attorney General, Ian Medcalf was exemplary. It is time the Premier started to take some of his advice and allowed someone to perform the role of Attorney General who will do the job properly.

Mr Court: I agree with the member for Mitchell that Hon Ian Medcalf's performance as Attorney General was exemplary.

Mr D.L. SMITH: It is about time that the Premier gave the job to someone - perhaps the Minister for Health - who understands something of the obligations of the Attorney. It is not merely a ministerial sinecure; it is a position in which she is the first law officer of the land.

Points of Order

Mr COWAN: Mr Acting Speaker, I am sure that, if you are not aware of the standing order under which a Bill can be referred to a select committee, the clerks will have informed you that when it is sought to refer a Bill to a select committee the mover can talk only about the reasons why that should be done. In this instance, it would be appropriate if you would draw that to the attention of the member who is speaking to this motion.

Mr D.L. SMITH: Much of what I have been talking about are the reasons - the fact that we have had no real explanation and that those on the other side who might have some understanding of the effect and intent of the legislation have failed to contribute. I do not think I have wandered; however, as always, I will accept your direction, Mr Acting Speaker.

The ACTING SPEAKER (Mr Ainsworth): I have been listening with great interest to the points made by the member for Mitchell. It is my belief that he was beginning to stray from the subject matter before the House, which is consideration of the motion which he moved. Although I have allowed him to develop some arguments as to why that motion

should be accepted by the House, the member for Mitchell would agree privately, if not publicly, that he certainly has gone a bit further than even my leniency could allow. Therefore, I ask him to confine himself to the subject of the motion and not develop the argument too widely, as he was doing.

Debate Resumed

Mr D.L. SMITH: The reason that we refer matters to select committees in this place is that the Parliament needs more information about a particular subject and more time to consider the particular aspects of the legislation and to understand its intent and effect. I made the point, which was to some extent picked up by the Minister in his response in the second reading debate, that in terms of the justification of this legislation the Parliament has not been given the benefit of any substantive reason other than some loose allegation that it has something to do with WA Inc and current deficiencies within the SGIC third party fund. It is clear that there must have been actuarial advice to the Government as to why legislation of this kind was necessary; what the impact of the $50 levy would be in restoring solvency to the fund, and what effect this legislation would have in further improvement of the fund. That actuarial advice has not been provided to us at any time. We have been provided with no advice that could be understood by anyone on this side as to the financial justification. The Government leaves us to rely on what the Treasurer had to say in introducing the legislation, the very brief contributions that were made by some members opposite, and the response. There was no information about the financial information and calculations, especially the actuarial reports which must have been part of any submission to the Government on these matters.

We know that the combination of these things was never suggested by the directors of the SGIC as being necessary to restore solvency to the fund. Their original recommendation to the previous Government was that a 30 per cent increase in premiums was needed, which was approved by the previous Government, followed by a further 12 per cent increase, which was not approved by the previous Government. What the impact of those increased premiums was on the solvency of the fund has not been conveyed to this Parliament. We have previously had the quite illegal imposition on people of the $50 levy which we know, on the basis that there are more than one million policies current, will contribute $50m extra to the third party fund. We have had no explanation from the Government as to how long that levy will stay in place and we have had no actuarial report from people opposite as to what the impact of that $50 levy will be on the solvency of the fund. As well, we have had no information as to why this additional withdrawal of people's rights is necessary.

One of the tasks of the select committee would be to ensure that the personnel responsible at the SGIC were called before the committee and asked to provide the actuarial information which would indicate the current status of the fund, the effect of the $50 levy, and what the effect of this additional withdrawal of people's rights will be. No real information of any substance has been provided to the Parliament as to what percentage of all claims for non-pecuniary loss will be eliminated as a result of this legislation. We do not know how many claims were made last year in which the non-pecuniary loss award was less than $10 000. That information would have been valuable to this Parliament in assessing how many people will be affected next year as a result of this legislation's being passed. None of that information has been provided to us. No information has been provided to us as to what the impact of the original proposal of $15 000 would have been and what the actual impact of $5 000 instead of the current $10 000 would be. A select committee would be able to go through all the information and figures to be provided by the officers and staff at the SGIC, which would enable us as a Parliament to make a proper judgment on behalf of the people whom we are supposed to represent as to whether these measures are justified.

As to the prohibition on lawyers' being able to charge anything more than they are allowed under part 58W of the Legal Practitioners Act, there are very few lawyers on the other side and none has contributed to this debate. We have received no explanation from the Treasurer or the Minister who purported to respond on his behalf as to what the impact of that will be in terms of lawyers being willing to undertake work and being able

to charge clients a reasonable fee for seeking the pecuniary losses that will result when they make small claims.

One of the issues that intrigues me about the legislation is that, despite the suggestion by members opposite that they have some concern about the victims of crime, we know that one of the impacts of this legislation will be that, if people are injured in the course of a juvenile driving a car at speed and coming across onto the wrong side of the road -

Point of Order

Mr C.J. BARNETT: Further to the point made by the Deputy Premier, the member for Mitchell is effectively making another contribution to the second reading debate and arguing his opposition to the Bill, which he has done earlier and which he will no doubt do during the Committee stage. He is not arguing the case for referring this Bill to a select committee.

The ACTING SPEAKER: I agree that the member for Mitchell has again strayed from the subject matter which should be discussed. I ask him to remember that, although his enthusiasm for putting his motion is understandable, he must not stray beyond the point of explaining the reasons for the motion. He must not embark upon debating the legislation.

Debate Resumed

Mr D.L. SMITH: The principal reason that we have moved this motion is that in the second reading debate we made a number of points and expressed a number of concerns which have not been dealt with by the Treasurer, who introduced the legislation, or by the Minister who purported to respond. In that position, where the Government is not prepared to provide the Parliament with information as to the effect of its legislation, we must refer the legislation to a select committee so that we can be properly informed as to its effect.

One of the tasks of the select committee will be to call members of the legal profession who are experienced in motor vehicle accident claims to explain the impact in terms of their willingness and ability to work for people who want to make claims relating to this type of legislation. One of our concerns which has not been answered is the impact of this legislation on the victims' ability to claim - victims of crime who are run down by criminals using stolen vehicles in a way which could only be called criminally negligent. Are we right on this side when we state that the effect of this legislation will be that people will not be able to make any claim when they are the victims of criminally negligent drivers - drivers who are being pursued by others or who are driving stolen vehicles, under the influence of speed or otherwise?

I want to refer to the select committee the question of what the effect of this legislation will be on the criminal injuries compensation claim. When I was Minister for Justice a claim was made by one person who was successful in relation to a breach of regulation in the keeping of bees. In most cases people who claim against a third party fund will be relying on some breach of a regulation or legislation under the Road Traffic Act as the basis of their claim. What will be the role of the criminal injuries compensation legislation? Are people who could currently make a claim precluded by this legislation from making a claim if it involves the driving of a motor vehicle? Will that become the uninsured fund?

Mr C.J. Barnett: What relevance has this to the select committee?

Mr D.L. SMITH: This will need to be explained. The Opposition raised the issues in the second reading debate. They were not responded to. When Parliament does not have the information the correct procedure is to refer legislation to a select committee, which can report to Parliament after it has taken evidence from the relevant people. Only then will we be in a position to properly understand the legislation that is being proposed. It is just not good enough as it stands. Fifteen months after the election, the Minister for Labour Relations tells us that this legislation is all the Opposition's fault; and that is all he tells us. He offers no explanation as to the substance of the legislation, nor any response to the issues raised in the course of the second reading speech except in the most flimsy

way. The Government is leaving the Minister to handle the Bill in the Committee stage - and we know from experience that the Minister will just dissemble, ramble and talk nonsense, and not really get to the substance of the legislation.

Mr Kierath: You have said this before. You are repeating yourself.

Mr D.L. SMITH: I may be repeating myself, but one of the reasons it is being repeated is that the public are entitled to understand what the Government is about. The Government is not trying to provide a proper understanding of this legislation. It is not willing to take proper responsibility for decisions in relation to the imposition of levies or the taking away of people's rights.

Mr Kierath: Have you apologised to the House for your actions in Government? No, you haven't, have you?

The ACTING SPEAKER (Mr Ainsworth): Order!

Mr D.L. SMITH: The Government should give us more substance than the three page explanation by the Treasurer when he introduced the legislation and a 12 minute response by the Minister for Labour Relations which dealt with none of those issues.

Mr Kierath interjected.

Mrs Hallahan: Don't be pathetic. Do you want to hear this in a royal commission? They expect something different of the Government.

The ACTING SPEAKER: Order! The member for Armadale will come to order.

Mr D.L. SMITH: The member for Armadale raised a valid point. This State has recently held a royal commission. One of the royal commission's principal recommendations was about restoring the role of this Parliament to make the Government of the day accountable through the Parliament. The way in which this Parliament - and, by proxy, the people we represent - have been treated by the miserable response by the Minister for Labour Relations highlights that this Government has not read the royal commission report, or if it has it has no intention of implementing any part of it. The royal commission emphasised that a way in which the Parliament can play a better role is by the better use of its committee system to ensure that legislation is properly scrutinised; to make sure that the issues of the day impacting upon the State and the people of the State are properly considered by this Parliament.

Accountability is relatively simple. The principles involved in it are set out in the introduction to the freedom of information legislation which concerns the key role that information provides. If Governments are to be accountable the people must have information. It is important that this Parliament have the information and the justification, and not just get nonsense from the Minister for Labour Relations who says, "It is all your fault. We don't have to explain what it is all about. The people out there will cop it because we are better than you are." That is not the role of this Parliament. We all took an oath when we were re-elected. I want the parliamentarians here to respect that oath and to make sure that we do our duty. We cannot move on to the Committee stage of this Bill with the paucity of information that has been provided by this Government - the lack of actuarial reports, consultation, or input from anyone on the other side who has legal training. If members opposite think they are performing their role of making themselves as a Government accountable to the people, then I hope we soon have another royal commission that can examine their conduct in relation to these matters. It will find them culpable in the extreme, including this Parliament as an absolute rubber stamp for their Executive.

Mr Kierath interjected.

Mr D.L. SMITH: This legislation is at least nine months retrospective and yet we have had no real justification for its retrospectivity. Retrospective legislation is used by Executives which think the Parliament of the day is their rubber stamp and that members who sit behind the Cabinet Ministers are simply there to cop what the Executive deals out. I will not allow the Executive to act in that way.

MR C.J. BARNETT (Cottesloe - Leader of the House) [9.29 pm]: The Government does not support the referral of this legislation to a select committee. Debate on this goes back some time. The legislation was introduced by the Treasurer on 1 December 1993, so it has been in the public arena for some time. There has certainly been much public debate over it. This debate started last Thursday and since then we have listened with patience to 14 speeches against the legislation by members of the Opposition, one by the member for Floreat, a summing up by the Minister for Labour Relations, and three supporting speeches by members of the Government.

Mr Blaikie: One thing for sure is that the member for Mitchell certainly captured the imagination of the Press. They are riveted by what he said - look at them!

Mrs Hallahan: Who wants to listen to members opposite?

Mr C.J. BARNETT: Members opposite certainly will not have to listen to me for very long. Twenty members in this House have expressed their point of view on this legislation. The Minister for Labour Relations gave what I considered to be a very good summing up. He took the time to respond to the points raised by members on both sides of the House and he did so succinctly and to the point.

The legislation has not even reached the Committee stage in this House. After going through that process it will go through a similar process in the upper House. However, before the Bill goes through the normal processes of this Parliament members opposite want to hive it off to a select committee. They say they do not have sufficient information.

Mrs Hallahan: That is right.

Mr C.J. BARNETT: The Minister for Labour Relations outlined what the Bill is about. The Minister made it clear that no-one wanted to introduce this legislation into the Parliament. As an incoming Government we were faced with $451m-worth of losses of which 80 per cent could be attributed to this fund. What were those losses? The House has just listened to the self-righteous, pious speech from the member for Mitchell. However, $350m of those losses went on the Bell Group shares; $17m on Spedley Securities Ltd; $70m on Rothwells Ltd and $6m on Paragon-Rothwells related shares. Yet members opposite can stand in this House and talk about the role of Parliament and the need to scrutinise legislation! I cannot take the member for Mitchell seriously and for as long as he sits in this Chamber I will not take him seriously when he talks about the role of the Parliament and the responsibility of Government. He is forever condemned by his behaviour as a Minister, as is the member for Armadale and other members opposite. They did not perform when they were in Government. The Western Australian public does not take them seriously when they come into this place and make self-righteous and pious addresses. Those members to whom I have referred would be better off quitting Parliament and getting new Labor members, who would be taken seriously by the public, to take their place. None of the crowd opposite will ever be taken seriously.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order!

Mr C.J. BARNETT: This Bill must complete its passage through this Parliament. We have proceeded through the second reading debate. We have the Committee and third reading stages to go through and then it must go through the various stages in the upper House. There is ample opportunity for questioning and scrutiny. I reiterate that we have listened to 20 members' points of view on this Bill. Let us debate the Committee stage - members opposite can ask the questions and the Government will endeavour to answer them. Let us get on with the role of this Parliament. The Opposition should not continue with its delaying tactics to refer this Bill to a select committee. The Government does not support the Bill being referred to a select committee.

MRS HALLAHAN (Armadale - Deputy Leader of the Opposition) [9.33 pm]: This Bill deserves to be referred to a select committee for a number of reasons. The first is the widespread effect of this legislation. It will adversely affect many people in the

community and it will impact disproportionately on various groups. A number of Opposition members made that clear and based their speeches on their concern for the constituents they represent who will be seriously disadvantaged. The legislation contains a denial of rights which have prevailed in the community for as long as I can recall and there is no reference to that in the second reading speech or the Minister's summing up which, we were told, was very comprehensive. It was not comprehensive. I came from another place and I can tell members -

Mr Kierath: You were not here.

Mrs HALLAHAN: Did the Minister hear all the speeches? One does not have to be in this House to actually hear the speeches. This is typical of the red herrings that members opposite come up with when they do not want to genuinely deal with the content of the speeches made by Opposition members. I advise the invisible member for Cottesloe that the community of Western Australia does not see him as representing their interests. After his interjections on this diabolical Bill tonight, they will never see him as representing their interests. The member for Cottesloe made comments about the speeches made by Opposition members which were not responded to in a comprehensive way. However, this cavalier Government thinks it will push through retrospective legislation which will take away people's rights and impact disproportionately on the community. On those grounds alone the Bill should be referred to a select committee. Those people who are concerned about justice will agree with me. It would be an unexpected turn of events for the Government to agree that the Bill be referred to a select committee where it could be dealt with thoroughly. We would then be in a position to know that the public had been given the opportunity to comment on it. By "the public" I mean the legal profession and the public which stands to be disadvantaged by the limits of $10 000 and $5 000 which will effectively wipe out their rights.

The member for Mitchell was absolutely right when he said that nothing in the Government's contribution to this debate gives an analytical basis for the reasons supporting this legislation.

Mr C.J. Barnett: Four hundred and fifty-one million dollars.

Mrs HALLAHAN: This interjection from the crazy member for Cottesloe is just one reason why he believes this legislation is justified. There are many ways in which this Bill impacts on the community. I do not know whether the Government saw the briefing notes put out by the State Government Insurance Commission but it assumed that small claims are nuisance claims. It said it was regrettable that valid claims which may be genuine will be disallowed by this legislation. That is a regrettable and untenable central effect of this legislation. There could be a schedule to assist in determining which claims will be approved or ruled out of order. The blanket ruling impacts disproportionately on certain sections of the community not only with regard to income, but also in terms of the claims. On this basis alone the Bill should be referred to a select committee for it to determine how it should impact on the community.

When I was a Minister in the upper House I had to put up with the then Opposition members putting forward their view of the great value of select committees. They put such cogent arguments that I am converted to the view that they are a useful mechanism for examining legislation. In this case it is a legitimate use of the select committee process. The briefing notes from the SGIC included not only an extraordinary statement about people who had legitimate claims being ruled out by the $10 000 limit, but also conflicting information on the reasons for this legislation when compared to the Government's reasons. The Government, for political motives, included the reasons for the impost of a $50 levy on motor vehicle licences. That levy, we are told, was adopted to deal with the excuse now given by the member for Cottesloe.

That is a separate issue from the one dealt with in this legislation. The mishmash of argument and blurring by the Government of the reason for this legislation should be reason enough to refer this legislation to a select committee. I say that particularly in view of the fact that we have been given no answers by the Minister handling this Bill. I make it very clear to Government members that we do not appreciate, nor do we think it

is in the best interests of Western Australians, that every time we make a point in this place, we are faced with accusations about the difficulties associated with WA Inc.

Mr C.J. Barnett: It is entirely about the former Government's poor performance.

Mrs HALLAHAN: If the Government has nothing to say about its role in the present and about the impact that this Bill will have on people's wellbeing, then let us consign it to the past Ministers who take no responsibility from the Government that cops out every time. This legislation will impact upon people adversely. We should be able to say that it will impact upon people in the future, but because it is retrospective it will impact in that way also. I cannot see why the Government would resist referring this Bill to a select committee for full consideration.

The member for Mitchell made an excellent speech about the reason that this Bill should be referred to a select committee. I hope that those members on the Government benches who have a genuine concern about the people whom they represent and who realise the impact that this legislation will have on their constituents will consider the advised course of action of sending this Bill to a select committee. At least at the end of that process we will know that this matter has been dealt with in a more comprehensive and thorough way than has been the case to date. It will be possible for people to give evidence to that select committee. There is no opportunity for that in this place. Sadly, we have not heard members opposite argue what will be the impact of this Bill on individuals and families. I guess they are under some pressure, and some of them appear to be embarrassed, so few members opposite have spoken in support.

We understand the difficulty that members opposite may be faced with. We do not want rhetoric about a Bill so likely to affect people's lives and we do not want legislation which will deprive people so ruthlessly of rights which they have taken for granted until now. We appreciate that to refer this Bill to a select committee means reconsideration, but it will not be detrimental in the handling of this Bill for it to go to a select committee and come back to this House with, hopefully, a consensus report which gives alternative directions for the future.

MR GRILL (Eyre) [9.43 pm]: I support the motion. It is a most unusual motion on the part of the Opposition. I cannot remember when we have used this mechanism previously. This is not a mechanism of delay. I will be the last speaker on this side of the House and I will not use all of my time, but I want to respond to the remarks made by the Leader of the House about this motion. The Leader of the House launched into an unjustified attack on the Opposition for suggesting that this legislation be referred to a select committee for the purpose of bringing down better legislation. I cannot be convinced that everyone on that side of the House is happy about this legislation because I know that not everyone is happy. I know that those members who have some background in the legal profession are not at all happy with this legislation. Therefore, in many ways we are doing the Government a favour. We are offering the Government an opportunity to bring forward some legislation which has the agreement of both sides of the House and which has some concurrence of the legal profession and other interested parties. It certainly does not have the concurrence of the legal profession at this stage. It does not have the agreement of the wider public, nor of all of the members of the Opposition. There could be better legislation. We make that offer to the Government in all good faith.

Mr Kierath: Is this a demonstration of good faith?

Mr GRILL: Members opposite can perform as facetiously as they like, but this is an attempt to bring some sanity to this legislation.

Mr Kierath: It is ludicrous.

Mr GRILL: Is the Minister saying that he agrees it has some merit; he just thinks the timing is wrong?

Mr Kierath: Were you serious about this and had you approached this matter earlier last year, we might have been able to accommodate you.

Mr GRILL: Essentially the Minister is saying that the suggestion has some merit but the timing is wrong. Why worry about that triviality? Let us get back to the issue. The Leader of the House did not respond in a rational and reasonable fashion. He launched into an attack on the Opposition for putting forward a suggestion which the Minister for Labour Relations now says has merit. The timing may be wrong, but he thinks it has merit. What did the Leader of the House do? He said "You have all had a chance to speak on this legislation. You have spoken on this legislation for some hours now. There have been 20 speakers. That should be the end of it." Our complaint is not that we have not been able to speak on this Bill, because we have.

Each member of the Opposition who has wanted to make a contribution has made that contribution. We are complaining that we have made that contribution in the absence of any figures, any proper argument, and any justification or philosophy which supports this legislation. What we got from the Leader of the House, apart from an attack, was the same old justification: As soon as the Government gets into a corner in this House, it degenerates into another worn out attack on WA Inc. That is the Government's philosophy. It is pretty threadbare. There is not much to it. Every time the Government gets into a corner, it says "Your Government lost all of this money; therefore, whatever we do as a Government is justified."

Mr Kierath: Have you apologised to the people of this State? No, you have not. You of all people have not even apologised.

Mr GRILL: As I said this afternoon, if members opposite want to have a debate about WA Inc, let us have that debate. I am more than happy to accommodate members opposite. However, members opposite do not want to have a debate about WA Inc. They want to trot out the same old arguments.

Mr C.J. Barnett: Let us debate it tomorrow in private members' time. Bring it on, and we will debate it.

Mr GRILL: It is members opposite who want to bring it up. If members opposite want to bring it up, they should bring it up in the right fashion and in the right forum and we will debate it.

Mr Pendal: It is a pity *Hansard* cannot record your smiles!

Mr GRILL: There is an obligation on the Government to introduce legislation which is justified by facts and figures. What did we get with this legislation? We received two pages of explanation, and half of the first page was taken up with inaccurate and dishonest diatribe about WA Inc. This legislation has nothing to do with WA Inc; the $50 levy may, but not this legislation. Whether or not the Leader of the House likes it, the legislation retrospectively extinguishes people's rights which have been held for a long time. The Leader of the House may like to hide from that fact and use semantics to obfuscate the situation, but that is the case.

What did we have in response to the debate from the Government? We had an attack from the Leader of the House in which he claimed that we should not be moving this motion in the first place. We were told that we had been allowed to speak on the Bill, and we were then subjected to diatribe about WA Inc. We were insulted and the Leader of the House then sat down. He expected us to accept that, but we do not; we will never accept that his response was good enough. He did not address the merits of the motion before the Chair. He never will. The Leader of the House always returns to the worn out argument about WA Inc, and that will not wash. The Leader of the House said that this Opposition will not be accepted by the citizens of Western Australia.

Mr Kierath: You're discredited; the lot of you!

Mr GRILL: That is what the Minister may like to think. However, in two recent by-elections Labor candidates have been returned with increased majorities. The Government may be a little shocked by the performance of the Opposition in the next two weeks. The Government had its nose bloodied last week and we will do the same this week. We will dish it up tomorrow and the day after.

Mr Lewis: You're smiling.

Mr GRILL: I am enjoying it.

Mr Lewis: You have had a holiday for six weeks. It is about time we heard you.

Mr GRILL: I spoke this afternoon and I will be speaking on the next Bill. The Minister need not worry; he will hear plenty from me.

When I spoke this afternoon I asked the Minister for Labour Relations some questions. They were not particularly hard questions. I was not in the Chamber to hear the totality of his response to the debate, but I did not hear the answers to my questions. These questions were: If the object of this legislation was to reduce premiums, by how much will the premiums be reduced? The Minister said solemnly that he would answer my questions, but that question was not answered. What is the state of solvency of the fund at the present time? We were not given that detail. I asked whether he thought premiums were too high, and what he regarded as an adequate premium. As yet, we have had no answers.

Mr Kierath: I did answer it; you were not here.

Mr GRILL: I also asked the Minister how much was to be saved through this measure.

Mr Kierath: It is between $45m and $50m.

Mr GRILL: So it is similar to the previous proposed amendment.

Mr Kierath: It is an estimated saving of 27 per cent, which is between $45m and $50m.

Mr GRILL: The Minister got one question right out of four.

Mr Kierath: I answered all your questions, but you were not here to listen to the answers.

Mr GRILL: I will check *Hansard* tomorrow to see whether the Minister is right; if he is, I will apologise.

Mr Blaikie: That was similar to the performance you gave us on the coal deal when you were in Government. You were not here during that debate.

Several members interjected.

Mr GRILL: The member for Vasse's Government sold out the south west, and it is now selling out the general citizens of the State. We deserve a better response than that received from the Government. If the Leader of the House had any regard for himself, he would have given a better response in this debate. We have offered the Government something which the Minister for Labour Relations concedes is worthwhile.

Mr Kierath: I did not concede that it was worthwhile. I said that we might have been able to accommodate you if you had approached us last year. I said it was a stunt that you were pulling it out now. If you were serious you would have put it to us earlier, and we might have accommodated you.

Mr GRILL: I said that I would not use the debate as a method of delay. In conclusion, the Government should give serious consideration to the motion before the House.

Division

Question put and a division taken with the following result -

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Ayes (20)

Mr Brown	Mrs Hallahan	Mrs Roberts
Mr Catania	Mrs Henderson	Mr D.L. Smith
Dr Constable	Mr Hill	Mr Taylor
Mr Cunningham	Mr Kobelke	Mr Thomas
Dr Gallop	Mr Marlborough	Ms Warnock
Mr Graham	Mr Riebeling	Mr Leahy *(Teller)*
Mr Grill	Mr Ripper	

Noes (28)

Mr Ainsworth	Mr Kierath	Mr W. Smith
Mr C.J. Barnett	Mr Lewis	Mr Strickland
Mr Blaikie	Mr Marshall	Mr Trenorden
Mr Board	Mr McNee	Mr Tubby
Mr Bradshaw	Mr Minson	Dr Turnbull
Mr Court	Mr Nicholls	Mrs van de Klashorst
Mr Cowan	Mr Omodei	Mr Wiese
Dr Hames	Mr Osborne	Mr Bloffwitch *(Teller)*
Mr House	Mr Pendal	
Mr Johnson	Mr Prince	

Question thus negatived.

Committee

The Deputy Chairman of Committees (Mr Day) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Clause 1: Short title -

Mr KOBELKE: Clause 1, being the short title, gives me the opportunity to make a few general comments. The title appears in a number of clauses throughout the Bill. One of the problems in addressing this Bill is that clause 5 goes on for seven pages. Therefore, clause by clause it will be difficult to draw out of the Government a response to a number of issues contained there. We have a number of problems with this Bill in that the Government has not been willing to put up any arguments of substance in support of it. It has given reasons as to why it needs to take action but the Government has refused to put a point of view about why this Bill is the best form of action. While members on this side of the House have very serious concerns about the nature of the actions taken in this Bill, we have found that the Government is not willing to take up the points that have been made from this side and to respond with any substance to those problems which we see in this Bill.

Our ability to deal with this legislation by sending it to a select committee has been denied us. Under this legislation we will impose on the victims of traffic accidents in this State a range of quite pernicious actions which will very much disadvantage these innocent people. In giving its arguments for the reasons for this legislation, the Government has been caught between two different sets of logic. One concerns the past losses of WA Inc for which a levy of $50 has been imposed; the other concerns a distortion of costs for small claims which will be outlawed by this legislation. The document by the State Government Insurance Commission in respect of the reasons for this move states -

> The multitude of small claims puts a drain on the overall third party insurance fund by creating a serious imbalance in the system which must be corrected.
>
> Given the distortion created by such claims, the imposition of the proposed threshold/deductible/capping is justified.

The Government is shifting between two different rationales about why it is necessary to bring in this Bill, but it has been steadfast in its refusal to give any substance for the proposals in this Bill as being the best way to proceed. As has been indicated by other members, no statistical tables have been provided to show why this set of claims can no longer be allowed. Categories of injuries and types of claims have not been presented by the Government to show that these moves will be the best way of addressing the problems that it sees. The costs that have been given as savings by this Government are simply an aggregation, a total, of what these savings might be. There has been no justification of how that figure has been arrived at. No actuarial advice has been presented in support of the arguments by the Government. It is imposing a burden, what might be seen to be a taxation measure, on the victims of motor vehicle accidents, but is not willing to substantiate the reasons for these moves.

Given that I am speaking to the short title of the Bill, I will be brief in providing an

example of why the Government has failed to give any substantiation. Of the many points made by members on this side, one point I tried to make in the second reading debate was that the doing away with non-pecuniary damages under $10 000 was unfair to certain sections of our community. In his reply the Minister indicated that that was not the case. His argument was put very simply and briefly because it was an argument without substance. That is, both those people who lost income and people who did not lose income lost any claim to non-pecuniary damages under $10 000; therefore, they would be treated the same way. That one point illustrates very clearly the inability of this Government to come to grips with the real issues that are involved and its total lack of any understanding, any compassion, for the innocent victims of traffic accidents who will simply be disfranchised, who will lose their rights under this Bill.

We cannot compare two groups whose means of financial support are so different. I will give two examples. There are many different roles and types of employment and families in our community. Let us compare a family whose breadwinner is in a full-time, professional occupation who is involved in a traffic accident with a family where both parents are unemployed and one of those people is involved in a traffic accident. In the first case the professional person will gain compensation for the loss of income. That is not affected by this Bill. That person will also lose the $10 000 for non-pecuniary loss if that were applicable to the level of injuries. In the family where the parents were unemployed the compensation for lack of income is of no consequence because it remains the same. However, the possible compensation that could have been paid for non-pecuniary loss would be absolutely fundamental to this family. In both cases myriad little things that need to be done are no longer able to be done, and there is no financial compensation to help the second family cope. The family that has a professional in employment is likely to have finances in reserve and not likely to have to meet a lot of the fundamental costs which the family with the unemployed parents will have to meet. This system falls far more harshly on those people who are not well endowed financially, those who might be considered to be pensioners or those who are generally seen to be the poor in our community.

Both families must meet certain fixed costs, but one family has the financial wherewithal to cope; the other family that is on the breadline would struggle to exist. The second family would have the added burden of the suffering that they must incur due to the loss of that non-pecuniary compensation and would find it much more difficult to cope. Each family may have to pay rent. While one may live in a suburb where the rents are higher, both families must meet a certain fixed cost. The same applies to fixed costs that must be met for schooling, even though the children attend different schools. This applies to motor vehicles. Although there may be a difference in the value of the vehicles, they are both hit with a $50 levy. This Government cannot differentiate between the income types in our community and cannot provide some support for those who are most in need.

The DEPUTY CHAIRMAN (Mr Day): Order! Could the member for Nollamara please resume his seat. We are considering clause 1 which relates entirely to the short title of this Bill. While I am prepared to give the member some latitude, I am concerned that his arguments are straying very much from the short title of the Bill and into much more general areas. I ask the member to bring his comments back to the short title.

Mr KOBELKE: I accept your guidance, Mr Deputy Chairman. I will make the rest of my points fairly briefly. In bringing forward this Bill, this Government is showing its total lack of compassion and understanding for people of this State who are the victims of motor vehicle accidents. It is an appropriate time to make the point which with forbearance, Mr Chairman, you have allowed me to make, because the clauses of the Bill are so structured that it is difficult to do it within individual clauses. We have found that whenever this Government is under pressure it has an automatic response, rather like Pavlov's dog. When there is a certain stimulus it suddenly starts to salivate. We find with this Government that when it is under pressure and does not have arguments in support of its case, it simply reverts to blaming WA Inc. That is the only reason we have been given for this Bill. Therefore, it is an indictment of this Government that it will

impose these penalties on the people of this State but is not willing in this Parliament to argue its case in any straightforward and reasonable way.

Mr D.L. SMITH: The title and citation for this Bill is a misnomer. In our community we have come to accept that motor vehicle third party insurance is about a compulsory form of insurance that enables drivers of motor vehicles to be indemnified against claims against them arising out of their negligence, except in a limited number of cases dealing with drunk driving and the like. This legislation is not about insurance against that risk but a very substantial change to the common law which our ancestors brought to this country and which has been developed by the courts over a lengthy period. It is about removing the ability to sue of people who could previously sue in an action for a tort based on negligence unless their damages fit into the limited categories available after this legislation has been passed. Legislation that removes people's rights and makes a substantial change to the common law should have a title which identifies what it is doing and not simply deal with the question of indemnity of people who are negligent in the course of driving. In addition, this legislation not only takes away rights to sue in negligence but also affects the ability to engage lawyers, and effects some amendment to the Legal Practitioners Act by way of charges which may be made by a lawyer acting for a client in a motor vehicle claim. Again, a change of that kind should be revealed in the title, and people who think that third party insurance legislation is about the right of drivers to an indemnity rather than the removal of people's rights should have that clearly identified both in the short title and in the long title, which will become the way the legislation is referred to in future.

Mr BROWN: I rise on a similar point to that raised by the member for Nollamara, because it is important to clarify at the outset exactly what is the motivation of the Government in bringing this Bill before the Chamber. The Treasurer made it fairly clear in his second reading speech, but since that time the rationale used by him appears to have been somewhat confused. He said in that speech that it was regrettable that the Government had the problem of dealing with a disproportionate number of small claims which impacted on the third party insurance fund and created a serious imbalance in the system which must be corrected to abate any further escalation in premium costs. He went on to say that the objective of introducing the Bill was to maintain and reduce the costs of compulsory third party insurance premiums to Western Australian motorists. He said later that the problem in relation to the multitude of small claims had been compounded by unrealistic expectations for minor or relatively insignificant injuries. Lastly, when talking about the changes envisaged by the Bill, he referred to the intent of those changes being designed to help to balance the compensation system through amendments that would provide a financial benefit to a broad range of Western Australians and at the same time retain an affordable and equitable compulsory third party insurance system.

The Treasurer suggested in his second reading speech that this Bill was being brought here in order to reduce the costs of motor vehicle third party insurance; that is, it was not being brought to this place to offset any losses or alleged losses incurred through WA Inc dealings. That is the essence of what the Treasurer said. It is important to clarify that point at the outset, because if it is the intention of the Government to seek permanently to lower insurance premiums under the third party arrangements, then the proposed amendments are designed to stay in place ad infinitum. The rationale would be that these amendments will remove a certain number of claims from the system forever, which will have the effect of reducing the insurance premiums that would otherwise be necessary. However, if those amendments are brought forward for the alleged purpose of recouping WA Inc losses, one assumes that those losses will be recouped after a period. If that is the case the question the Government needs to answer is whether, when those losses are recouped or allegedly recouped, the Government will bring back a Bill to this Chamber revoking these amendments. It has been said that the $50 levy will be in place not forever but for a period until the losses are recouped. If this Bill is designed to assist in that process the same logic should apply - the legislation should be revoked once the losses have been recouped. Alternatively, if it is designed to reduce insurance premiums

the rationale is that these changes will remain permanently in place. If the question of why these amendments are brought before the Chamber is answered by saying that it is to recoup WA Inc losses, the corollary of that is that the amendments now before the Chamber must be revoked once those losses are recouped. If these amendments are simply to reduce insurance premiums, the corollary of that is that they remain in place ad infinitum. I would be interested to hear what the Minister for Labour Relations has to say about that. The Government is on the record as saying that the $50 levy will be in operation for about seven years. If that is the case in relation to this Bill, let us hear from the Minister for Labour Relations that it is the intention of the Government to revoke this Bill after the losses have been recouped.

Mr KIERATH: For the benefit of a couple of members opposite I will put some comments on the record, some of which have been put before; but for consistency I will put them in order. I will not go through all the capping and thresholds, but the $5 000 threshold on gratuitous services was needed because it was used in some cases to inflate damages for minor claims. That is why that provision was put in the Bill. Assets of $475m were transferred from the Motor Vehicle Insurance Trust to the State Government Insurance Commission on 31 December 1986. That excludes the $38m worth of assets to cover unearned premiums. At 30 June 1993, assets in the compulsory third party fund were only $220m with liabilities of $550m. That excludes the effect of $84m worth of unearned premium. That leaves a shortfall of $330m. The $50 levy was to overcome that shortfall of assets to the year 2001. The property comprises 56 per cent of the investment portfolio, which simply produces low returns due to the downturn in demand for central business district properties irrespective of whether they are leased or purchased. At 30 June 1987 the property component was only eight per cent. There is a huge increase in dependency on the property component which is at the heart of the problems we face. Apart from the SGIO Atrium, the State Government Insurance Commission owns 70 per cent of Westralia Square plus the Forrest Centre. Westralia Square was purchased for $239m and its current value is $72m. The Forrest Centre was purchased for $111m and its current value is $66.7m. The SGIO Atrium and regional offices have not been detailed as these were owned by SGIO prior to the creation of the State Government Insurance Commission.

Negative underwriting cash flow in 1992-93 of almost $50m resulted in the need to sell some of those liquid assets. That has been going on for some time. The liabilities for outstanding claims have remained at around $500m for the past seven years. The points regarding investments and losses of the SGIC since 1988 of which approximately 80 per cent has been borne by the third party insurance fund are as follows: The investment losses total $451m comprising $358m Bell Group Ltd shares and notes, $17m Spedley Securities Limited, $70m Rothwells Ltd, and $6m Paragon Resources NL, which is Rothwells related.

Mr D.L. Smith: How much of Spedleys has been recovered?

Mr KIERATH: About $13m.

Mr D.L. Smith interjected.

Mr KIERATH: I am giving the member for Mitchell the total losses and shortfalls - the estimated opportunity cost on lost capital was between $200m and $300m over the five years.

Mr D.L. Smith: So why you are using the gross figures? You are misleading the Parliament.

Mr KIERATH: I am not misleading. Three central business district properties valued at $420m at 30 June 1990 were written down over the following three years by $273m to a 30 June 1993 value of $147m. Then there was the additional Holmes a Court related investments in the Broken Hill Proprietary Co Ltd shares of $284m and $164m worth of St George's Terrace properties. The $10 000 threshold deductible is expected to save $53m during 1993-94. Only $2m will be cash savings; the balance will simply reduce the provisions for outstanding claims. Since the Treasurer's announcement, the claims

reported after 30 June 1993 are down 48 per cent on forecasts. That is in line with the 40 per cent to 50 per cent I mentioned. Expected claims reported will not dramatically reduce because of the entitlement to claim medical expenses and loss of earnings, which are the things I reminded the member of during my summing up of the second reading debate. The $10 000 threshold will affect about 8 500 claims and, I hope, provide the opportunity to reduce premiums by approximately 15 per cent after there is an established claims record.

We believe that when we can finally achieve that, the premium reduction will apply to about 1.2m Western Australian motorists and the constraint on legal costs will not directly benefit the third party insurance fund, but will discourage those minor "nuisance" claims. An explosion of those claims in the system by about 50 per cent over the past three years is the reason we have had to put in the deductible threshold. The fact that the two amounts are very similar - the amount relied on for the levy and the amount relied on for the threshold deductible - is purely coincidental. There is no relation between the two. It is hoped that one day we will remove the levy, but the threshold deductible will stay in the system.

Mr D.L. SMITH: I was not going to rise further in relation to the title, but the Minister has drifted into the arena of a list of current outstandings and liabilities for outstanding claims. One of the factors which neither he nor the Premier indicated in introducing this legislation was that one of the reasons for the claims increasing this year in terms of the outstandings from $533m to $550m, from my understanding, is nothing more than a change of the method by which the gross amount of claims is discounted. For instance, in 1992, the gross amount of discount on present value of liabilities was $88m because it used a variety of rates ranging from 5.5 per cent to 10 per cent; whereas the rate of discount for the current year is down to $72m, because it uses a rate of discount from five to eight per cent. I make no complaint about the change in the method of calculating the discount to take account of inflation and current interest rates. However, where it arises from a mathematical calculation of that kind, the Minister owes a responsibility to the Chamber to explain the way the net asset position and the net loss were approached.

The Minister talks about the SGIC having suffered an asset loss for Spedleys. The report of the SGIC in relation to the current year states -

> The investment in Spedley Securities Limited of $31,131,000 was written down to $1,743,000 as at 30 June 1992. Amounts recovered by the Commission during 1992/93 amounted to $14,332,000 of which nearly $12,588,672 was treated as abnormal income.

In addition there is a note that they expect further distributions from Spedleys in the future; but they currently have the Spedleys' asset listed as zero.

Mr Trenorden interjected.

Mr D.L. SMITH: The report reads -

> The Spedley Securities Limited Liquidator has announced in August 1993 a further distribution payable in 1993/94 with additional distributions expected after June 1994.

They go on to say that despite the fact that that announcement was made they are treating the asset as being of nil value because payment may be uncertain, even though the Spedleys receiver has already announced that those distributions will be made. It is wrong of the Minister to list items of that kind without providing the supplementary information which is clearly available to him because it is present in the SGIC annual report. My understanding also is that an arrangement has been made with Mr Packer in relation to the Anderson debt, which I think relates to Central Plaza, under which an amount is to be paid. I would like to know from the Minister whether the amount that has been agreed to be paid is equal to the discounted value of the debt shown in the accounts of the SGIC. Is it higher or lower?

Mr Kierath: It has already been paid and it is better than the discount.

Mr D.L. SMITH: The Minister should provide that information. Again, if he is going to give us facts and figures as evidence of the financial state of the SGIC it is appropriate he give us the latest available information, rather than the worst case scenario. In relation to the discount, does the Minister agree that part of the increase in liabilities is due to the change in the discount rate? Does he think it is fair to blame the change in the discount rate on WA Inc? What would be the share of the dividends which have been announced by the receiver of Spedleys, if it is to be received? So that members can have a better understanding of the accuracy of some of the Minister's other information, what is the net result of the Andersen deal?

The DEPUTY CHAIRMAN (Mr Day): I remind members that we are discussing the short title of the Bill. Other matters have been raised and I realise that it will be necessary for the Minister to respond. After that I ask that members confine their remarks to the short title of the Bill. Other matters should be raised at a more appropriate stage.

Mr KIERATH: The answer to the member for Mitchell's question about the increase in liability is no.

Mr D.L. Smith: Why is it no?

Mr KIERATH: Because there are other factors, such as a year's extra claims experience.

Mr D.L. Smith: In terms of the increase of the amount outstanding?

Mr KIERATH: It is independent advice received by the Government. It is the potential investment on returns and is used consistently for all the funds under the control of the State Government Insurance Commission. There are other factors which control the outstanding liabilities.

Mr D.L. Smith: The annual report indicates that before discount, the amounts outstanding this year are within $12 or $15 of the amounts outstanding last year.

Mr KIERATH: That is coincidental.

Mr D.L. Smith: How can the amounts outstanding have increased dramatically if the undiscounted amount has increased only somewhere in the order of $12? We are not talking about the size of a claim, but the net deficiency which is calculated by taking the actual estimated value -

Mr KIERATH: We are talking about the amount of claims during the year.

Mr D.L. Smith: We are talking about the outstanding claims. The amount paid out goes to the question of the loss.

Mr KIERATH: In 1992 the Government paid out $190m and in 1993 it paid out $241m, which is a further $50m-odd. I have answered the question about Spedleys. The Andersen deal has already been paid. I am advised that the net value is $58m. An amount of $40m was due in June and a further $20m-odd will be due in June 1995.

Mr D.L. Smith: What is the actual value? How much would be received? The debts that are given in the book of accounts are as discounted figures.

Mr KIERATH: The Government received $58m last week.

Mr D.L. Smith: The Government is going to receive another $20m-odd next year.

Mr KIERATH: An amount of $58m was for settlement; $40m was due this year and $20m will be due in June 1995. It was basically discounted by $2m.

Mr D.L. Smith: It was discounted. The figure that appears in the book of accounts is a discounted figure.

Mr KIERATH: The $58m received last week would not appear in the books.

Mr D.L. Smith: The asset does, though.

Mr KIERATH: The figure of $58m is the gross figure. Seventy-two per cent is in the SGIC and the other 28 per cent is in the GESB.

Mr D.L. Smith: What is the position in relation to the SGIC? How much has it improved the position of the SGIC from that shown in the books?

Mr KIERATH: The figures I gave are right.

Mr D.L. Smith: It is a simple question. Is the amount that is to be received from Mr Packer greater or less than the amount shown in the books?

Mr KIERATH: The amount of $58m is the total. The SGIC's share of that is 72 per cent.

Mr D.L. Smith: What is the current value shown in the SGIC accounts of that debt?

Mr Trenorden: It would be $60m.

Mr KIERATH: It was $40m in June this year and will be $20m in June next year.

Mr D.L. Smith: It was a discounted figure, not the actual figure.

Mr KIERATH: Page 33 of the report indicates that the secured loan for Consolidated Press in 1993 was $27.122m and page 34 indicates that the secured loan for Consolidated Press Holdings was $12.687m. When added together that makes $39.9m. The 72 per cent applied to the $58m equals $40.6m-odd. As I said before, that is greater than was shown.

Mr D.L. SMITH: The Minister said that the change in discount rate had no impact on the expected future claims. Unfortunately the copy I have of the report is the Chamber's copy and the pages do not seem to be numbered. Where it deals with the third party insurance fund, the expected future claims payment undiscounted is shown as $622 000 598 in 1992. In the current year it is shown as $622 000 681, a difference of $83. There has not been a substantial increase in the expected future claims difference. The only reason there is a difference of $17m in the bottom line figures is that the discount has been changed from $88.941m to $72.075m, a difference of $16m. The reason for that is that the Government has changed the discount rate from a range of 5.5 to 10 to a range of 5.1 to 8.8. To measure the current deficiency in terms of the comparison between 1992-93, a substantial part of that difference, $17m, comes from nothing more than change in the mathematical formula used to calculate the discount. It has nothing at all to do with WA Inc, but relates to the way the Government calculates the liabilities rather than calculates the assets.

Mr KIERATH: At page 40 reference is made to expected future claims and undiscounted amounts. The fact that the figures are so close is a coincidence.

Mr D.L. Smith: It is more than a coincidence.

Mr KIERATH: At page 51 the claims expenses are $241.337m and the figure for 1992 of $190.503m relates to claims that have been settled.

Mr D.L. Smith: Claims expenses are those settled in the current financial year and they do not remain owing at the end of the financial year. Your deficiency is not calculated by reference to the current claims but by reference to expected future claims payments and current assets.

Mr KIERATH: I am advised that they are less the claims outstanding.

Mr D.L. Smith: The $220-odd million is the amount of claims paid during the current year. They are not outstanding.

Mr KIERATH: The amount of $241m has been settled in that year so it must be taken off the other figure.

Mr D.L. Smith: They have been paid out of assets and income from last year. They have nothing to do with the current deficiency in the fund.

Mr KIERATH: At page 40 the 1992 claims amount to $622.598m which relates to approximately 17 000 claims. The 1993 figure of $622.681m relates to approximately 16 000 claims.

Mr D.L. Smith: It is not 1 000 claims less, but 670 less.

Mr KIERATH: At page 51 the member will see the amount paid out has been settled and is reflected in the 1 000 fewer claims. The similarity in the amounts is purely coincidental.

The DEPUTY CHAIRMAN (Mr Day): I remind members that we are discussing the short title and they should confine their comments to that.

Mr BROWN: The Minister made two observations in his reply; firstly, in time it is envisaged the premium will be reduced by 15 per cent. I would like to know when. Secondly, the Minister made the observation that the threshold deductible will remain in place. I, therefore, draw from that that the Minister concurs with the Treasurer's view that this Bill has been introduced for the sole purpose of reducing premiums and not to recoup any so-called WA Inc losses. That is a matter on which I seek clarification for the purpose of the record, as it is extremely important in the consideration of the Bill and any later amendments.

Mr KIERATH: I said that the reduction of 15 per cent was a prediction and that before it could be applied we needed one year's experience. I said in response to the member for Eyre's questions - he has not been in the Chamber to hear my response to those questions - that the Government could not give accurate answers until it had had some claims experience. The reduction is the best estimate although I am advised that prior to 30 June this year we must review the situation before finishing the books of account. I cannot give a categorical deadline when the 15 per cent reduction will apply. After a full year's claim experience we will be in a better position to predict when the reduction will apply.

Mr BROWN: Given the Minister's answer about a year's claim experience, is it envisaged that the reduction in premiums will take place from the 1995-96 financial year?

Mr Kierath: It will depend on the outcome of that year's claim experience. If it confirms the 15 per cent reduction, it will be done in that year but if it is less than expected, the reduction will not be as much.

Mr BROWN: I also ask the Minister to clarify whether the purpose of this Bill is to reduce the premium cost to Western Australian motorists rather than recoup WA Inc losses.

Mr Kierath: It is both. It is about arresting a fairly dramatic increase in claims, and then bringing down the premium rates. It is also to overcome the shortfall in assets to meet the claims. In the past that shortfall has been met by selling off assets, but there are not enough assets left and we must look at alternative means of raising money.

Mr BROWN: If it is for the purpose of recouping losses, one would envisage these changes being in place for a specified period, after which the losses would be recouped and the changes would no longer be required.

Mr Kierath: The loss of assets was associated with the $50 levy. The fairly dramatic increase in claims is associated with the threshold and the deductible. These are the two elements and I tried to explain them at the beginning.

Mr BROWN: I understand the $50 will remain in place for a period, after which the levy will be removed; that is, once the losses have been recouped, a judgment will be made and the $50 will no longer be claimed.

Mr Kierath: The forecast is the year 2001 but when people ask me the date, I say I have nothing to do with it. I think it will be removed, but when was the last time that taxes or levies imposed were removed? I am inherently a cynic and although I would like to say the levy will be removed, I fear that in years to come other people will decide it is easier for it to remain than to be removed.

Mr BROWN: Given the Government's current position the $50 levy will be removed at the time that the losses are recouped -

Mr Kierath: We expect it to be in the year 2001.

Mr Court: When the capital base was restored.

Mr BROWN: If this Bill was designed to improve the capital base, the same rationale would apply; that is, the Government would simply rescind the amendments when the capital base was restored.

Mr Kierath: Two elements are involved. The $50 levy relates to a lack of assets. The threshold and the deductibles relate to an explosion of any claims or new developments with a certain style of claim. It is to prevent the premiums being blown through the roof and to negate any effect the $50 levy might have. The two are related.

Mr BROWN: I am not sure I will get the answer I am seeking. On the basis of those statements, the primary motivation for the Bill is to reduce the cost of insurance rather than to clear any debt. If that is the case, obviously the amendments are intended to remain in place ad infinitum. I seek clarification because when people come to me I want to be able to tell them honestly - because I have heard it from the Minister - whether it is intended that the amendments will remain in place ad infinitum. Currently, people come to me about the $50 levy week after week, and I tell them that the intention of the Government is to remove the levy in due course, as I understand it.

Mr Kierath: In the year 2001.

Mr BROWN: I think it will be before that time; it will be removed sometime before 1997.

Mr Kierath: You are not suggesting that it will be before the next election!

Mr BROWN: We will wait and see. Some people say that it will not be removed then, but at least we are able to tell them what the current Government is thinking. I understand the Minister to be saying that the Government's thinking is that the amendments will become a permanent part of the landscape; the threshold and the caps will become a permanent part of the third party insurance landscape which will be used to adjust premiums and payments in future.

Mr Kierath: I have already said yes.

Mrs HENDERSON: During debate, before the motion by the member for Mitchell to send this matter to a select committee, the drift of the answers by the Minister were that without the WA Inc losses none of this legislation would be necessary, and that we would not be debating this Bill if not for those losses. The Minister was at the forefront of calls across the Chamber directed towards members of the Opposition who had made detailed speeches. He called for apologies for those losses because they were the fault of the Opposition.

Mr Kierath: Are you going to apologise?

Mrs HENDERSON: A moment ago the Minister said that the legislation, including the deductibles, does not relate to WA Inc losses at all. These provisions relate to a change in the kinds of claims being made under the motor vehicle insurance scheme. A couple of moments ago the Minister said that WA Inc losses are to be reduced by the $50 levy.

The DEPUTY CHAIRMAN (Mr Day): Order! I remind the member that we are discussing clause 1, the short title of the Bill. I ask her to confine her comments to the subject.

Mrs HENDERSON: I am basing my comments on the response by the Minister, and the significance of that response to the comments made by the previous two speakers. His response to our comments not only trivialises our arguments but also it is an incorrect response. He is saying effectively that it is the Opposition's fault that we are dealing with this legislation; it is the fault of WA Inc losses. Now he is saying that the deductibles and the caps are here to stay; they are a permanent part of motor vehicle third party insurance. They are here to stay because there has been a change in the style of claims. He called it an explosion. Either the Minister was giving a misleading answer earlier, or all responses from that side of the Chamber were wrong, because the answer to issues we raised only related to WA Inc. On every single issue raised that was the

response. Now the Minister has scuttled that response and has said that it has nothing to do with the Bill but only to do with the $50 levy.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Long title amended -

Mr D.L. SMITH: The long title is to be amended by deleting "to amend the Traffic Act 1919-1941" and substituting "and in relation to the awarding of damages in respect of such bodily injuries". If we were serious about amending the long title in a correct manner we would not be using the proposed substitute words, but rather the words "and in relation to the removal of certain rights to the awarding of damages in respect of bodily injuries". The Opposition does not intend to move any amendments to this legislation because this is bad legislation. The Minister's explanations by no means justify the change in relation to awarding damages for bodily injury. In response to earlier questions the Minister said that one of the reasons for the changes in the awarding of damages is a deficiency in the fund's current losses. My understanding is that the $50 levy will bring in at least $50m a year, and that $50m is to be used for additional capital contributions which will over time remove the deficiency between the outstanding claims and the assets of the fund. My understanding of the position in relation to the third party insurance fund last year is that there was a loss of $43.3m. That is, not the deficiency of assets over liabilities, but in terms of premiums and income received last year as against claims paid out last year the difference was about $43.3m. Was the $43.3m loss before or after the write-off on property values?

Did the further write-off last year of $27.6m by way of reduction in the value of properties held by the fund lead to a reduction in assets or was it part of the calculation used in calculating the loss of $43.3m? If the loss last year was only $43.3m and the Minister expects the change in these types of claims to save the third party fund about $50m, does not that imply changes go beyond what is necessary in the annual loss situation of the commission? Again it raises this issue of how long the Government will leave these amendments in place. In response to speeches in the second reading stage of this Bill the Minister said he regretted the necessity to introduce these amendments and that it was unfortunate the Government had to take people's rights away in this regard. If the levy is to be used to redress the capital funding problem, and this legislation will address the loss of that surplus situation in the third party fund to the extent of $50m, is not the Government going too far in what it is trying to achieve? The Minister will understand that the current claims are made up of medical expenses, wages and other financial loss in the nature of special or general damages apportioned to future economic loss and some to what are called non-pecuniary losses in this legislation. In taking all those types of claims, how will the gross number of claims be affected? What will the number come down from, and to what? How many of the remaining claims will be affected by this legislation in achieving a reduction?

Mr Kierath: I said that between 40 and 50 per cent of claims would be affected.

Mr D.L. SMITH: Could the Minister crystalise the gross number of claims that will be affected by this legislation, and compare 1992-93 with 1993-94?

Mr Kierath: At the time I said that those claims would still include medical and other related expenses, so they will still be there as a claim even though they do not include a non-pecuniary loss.

Mr D.L. SMITH: That is part of the Opposition's argument. The Minister has been putting to us that the object of this legislation is to remove all the small claims. I believe that one of results will be an increase in the number of small claims because claims will be effectively reduced by up to $10 000 and we will just have claims for loss of wages and medical expenses, which will be very small. Rather than reducing the number of small claims it will increase the number. It will not reduce the number of claims at all, because people will still have some medical or special damages loss. The legislation will affect the size of the payments, not the number of claims.

Mr Kierath: I made that clear before.

Mr D.L. SMITH: Why say in the second reading speech that somehow or other the legislation is intended to get rid of the small claims? It will not.

Mr Kierath: It will not get rid of them, but it will contain some of them.

Mr D.L. SMITH: The Minister did not seem to understand what I was putting to him in the second reading debate; that is, in the past we might have had a claim for one week's wages, an x-ray, short admission to hospital and the like -

Mr Kierath: The Government still believes the growth in the claims will be retarded or held back, that we will not have to have that continuing growth.

Mr D.L. SMITH: Very few claims lead to an award of general damages of any description without some medical accounts.

Mr Kierath: They will still be there.

Mr D.L. SMITH: I want the Minister to understand why there will be some impact on the number of claims and why some of those claims will go. In the past if there was a claim of $500 for out of pocket expenses, the claimant's lawyer would make a claim for that $500 and a claim for general damages. If it was a relatively minor accident that might be $750 or $1 000 for non-pecuniary loss, but the total amount going into the pocket of the person who was to get that money, notionally would be of the order of $1 700 or $ 1 800. Then the lawyer's bill would come in and the difference between party and party, and solicitor and client costs, even if one sticks by the rules under this legislation, would lead to a payment of $250 to the lawyer over and above what the trust contributes. In future that $250, instead of being borne by the $1 750 total, will be borne by the special damages elements only. I believe that many people, rather than go to a lawyer and not know whether they will make a claim, will simply write off the special damages claim on the basis that it is not worth spending $250 for a lawyer to act for them in order to recover $500.

Mr Kierath: We do not think that will be the case, because the medicos bill the SGIC in any event.

Mr D.L. SMITH: They refer them to the SGIC in many cases, but in many cases people are not aware of their rights or they seek legal advice in relation to them. Previously the claimant was awarded a total of $1 750, of which he would pay $250 to the lawyer over and above that which the lawyer recovered from the trust. In future it will be $750, with $250 going to the lawyer because he will be doing the same amount of work - that is, getting the same medical reports and trying to assess whether there is a claim.

Mr Kierath: The SGIC gets the medicos' reports so they will know what is occurring.

Mr D.L. SMITH: The Minister seems to deal with a much more kindly SGIC than most of us are used to dealing with. Most people who previously went to lawyers to handle those small claims will not deal with them by somehow dealing with the trust direct; they will simply write them off. They will say, "It is not worth it. I would rather claim medical expenses out of Medicare cover, and wages loss out of my sickness leave from my employer."

Mr Kierath: You cannot do that, you have to sign a declaration you are not entitled to Medicare.

Mr D.L. SMITH: That is all right, a person can say he does not intend to claim.

Clause put and passed.

Clause 5: Sections 3A to 3D inserted and application provision -

Mr KIERATH: I move -

Page 8, after line 33 - To insert the following -

Causes of action to which restrictions on damages apply

3E. Sections 3A to 3D do not apply to causes of action arising before

> 1 July 1993 but apply to causes of action arising on or after that day and before the commencement of section 5 of the *Motor Vehicle (Third Party Insurance) Amendment Act 1994* in the same way as they apply to causes of action arising after that commencement.

Page 9, lines 1 to 4 - To delete the lines.

The two amendments are related and are included to clarify the situation.

Mr D.L. SMITH: This amendment shows the sloppiness of the Government in the drafting of this legislation. It has always been the intention of the Government to make this legislation retrospective, yet the Bill as presented to the Parliament in December last year did not achieve that. This amendment is to guarantee the retrospectivity of the legislation. I make the point again that we on this side regard retrospective legislation as always being abhorrent.

Mr Kierath: We wanted to make sure it didn't go back past 1 July.

Mr D.L. SMITH: The intention of section 3E is twofold. It states -

> Sections 3A to 3D do not apply to causes of action arising before 1 July 1993 . . .

If it were only going to have the effect that the Minister mentioned, the clause would have stopped there. However, it expressly goes on to state -

> but apply to causes of action arising on or after that day and before the commencement of section 5 of the *Motor Vehicle (Third Party Insurance) Amendment Act 1994* in the same way as they apply to causes of action arising after that commencement.

It is presumed that the amendment Act 1994 is the Bill with which we are dealing currently. It is on the notice paper as being the amendment Act 1993, but I presume we are talking about the same amendment. This clause is about making sure that not just claims before that date were not affected but also that the legislation is retrospective and that all claims arising after 1 July 1993 in relation to non-pecuniary loss and legal liability -

Mr Kierath: That is to be accepted, but we were committed to the principle that the announcement was made and then the commitment to give the legislation a high priority and get it in here as soon as possible.

Mr D.L. SMITH: I remind the Minister of some of the reasons we are against retrospectivity. Making an announcement that something is going to operate on a certain day shows an enormous disrespect to the Parliament and is an abuse of the Government's right as the Executive.

Mr Kierath: Then why did your party use it in Government on several occasions which I outlined?

Mr D.L. SMITH: I will not go back and excuse the Federal Government, any other State Government or any other past State Government about retrospectivity. To make an announcement that something is going to happen from a certain day, to introduce the legislation six months later, and pass the legislation nine or 12 months later displays an attitude of arrogance. The attitude is that the Executive does not have to bother about the Parliament; all it has to do is make an announcement in the Press that something is going to be and it will be. Backbench members must cop that and they expect the Opposition to cop it. That is not the way it should work. The whole idea of good legislation is that it has propriety and ethics behind it and never takes effect until it is considered and passed by the Parliament. This is the sort of thing that the royal commission warned against - that the Executive should not make that assumption and that any decision that impacts upon the rights of people and has the effect of changing the law is properly a matter for this Parliament and should take effect only from when this Parliament considers it and not from some earlier date.

Apart from anything else, my belief is that this legislation must have created a huge amount of uncertainty. I do not know the nature of the claims that have been made this

financial year, but I can guess that people are still making claims for non-pecuniary loss; that they are still seeking advice from lawyers about non-pecuniary loss; and that those lawyers had been telling them up until December last year that they could not provide advice to them but that they should lodge their claims, anyway, until they found out what the legislation was about. I believe also that people who would previously have settled their claims quite quickly would not have settled them this year because they would be wanting to see the outcome of this legislation; that all the claims for non-pecuniary loss are probably at this stage in the "cannot be resolved until legislation passed" category in terms of both the lawyers who are handling the claims and the position of the SGIC. I would like advice from the Minister in that regard. What has been the impact on the number of outstanding claims as at the end of the last financial year?

Mr Kierath: I outlined that earlier. I said we would need some sort of experience or else we are crystal ball gazing.

Mr D.L. SMITH: The annual report reveals the number of outstanding claims at the end of the last financial year. I want to know what was the situation with outstanding claims as of 31 March.

Mr Kierath: About 2 000 down.

Mr D.L. SMITH: The number of outstanding claims is down notwithstanding the uncertainty about this legislation?

Mr Kierath: Yes.

Mr D.L. SMITH: I am surprised by that. I thought the number would increase because people would not have been settling claims until they knew the outcome of the legislation. It worries me, because the initial talk of the limit was that it would be $15 000.

Mr Kierath: The actual claim numbers are about the same but the number of outstanding claims is down by 2 000. It shows the exact opposite; there has been some degree of certainty.

Mr D.L. SMITH: One aspect that worries me is that, in the course of discussions on the legislation, the figures have varied. Some people who read the initial press release, sought advice in the first couple of months and settled claims, may have settled them to their detriment because the legislation has been slightly modified and made less severe than was originally intended. If they have settled claims before the legislation has gone through and before the announcement was made about the amelioration, they have suffered greater loss than the people who will settle after the legislation has gone through. It is an example of the sorts of problems that Governments create for people when they use retrospective legislation. People do not know where they are.

Mr Kierath: Point taken.

Mr D.L. SMITH: They read press releases; they know it has to go through the Parliament; they know there may be changes in the course of its passage through the Parliament; and they know that there may be changes because of political reaction. But in many cases, they still want to resolve their claim as quickly as they can because it is cash in their pockets with which they might be able to do something. It places them in an awful conundrum when it comes to making decisions that they should not have to make, and would not have to make if the Government showed proper respect for the Parliament and did not introduce retrospective legislation in this way.

Mr Kierath: To some extent, we accept the principle; but, equally, we argue that if we had not spent so much time on repetition at the end of last year we might have been able to resolve this earlier. That is not being provocative; it is putting the point.

Mr D.L. SMITH: Nothing prevented the Government debating this last December, other than its decision to let the House rise. If the Government had decided to continue sitting to deal with the question of this legislation we could have sat and got rid of it.

Mr Kierath: My side did not want to sit on a week after and neither side wanted to sit on past that week.

Mr D.L. SMITH: The Government made the decision this year to delay the sitting by a further week because of the Glendalough by-election. It could have got this earlier in the legislative timetable if it had wanted to. The question of the legislative timetable is always a matter for the Government. If it had wanted to, we could have sat in the first six months after the election and it could have included this legislation in the last sitting of the Parliament. It chose to wait until March, or April as it is now, for it to be debated some 10 months after the legislation purports to come into effect. Retrospective legislation is bad in any circumstances, but it is especially bad when the only reason it is so late is that the Government chose not to sit in the first six months after the election and did not choose to bring on this legislation as a matter of priority in the legislative timetable of last year. If we were not going to sit in those first six months, it might have been advisable to make people aware of what was intended so there could have been more public consultation about the issue in a better attempt to draft legislation than the fact that this amendment has to be moved indicates.

I do not really want to say very much beyond that, other than to re-emphasise that when it comes to retrospective legislation which does not amend the law in some procedural way but goes to the heart of people's rights as this does, I will always speak out against it no matter what Government introduces it. The Minister has attempted to play it down by saying that people will still be able to get their out-of-pocket money, but when it comes to the substantial part of the Bill he will indicate to us the large area of claims that will be lost as a result of this reprehensible form of retrospective legislation. This is not fixing up some little error in past legislation in order to give it its true effect. Rather, the Minister is taking people's rights and tearing them up by way of press release, and not giving due deference to this Parliament to be able to debate whether it thinks those rights should be confiscated in the way this legislation does.

Amendment put and passed.

Mr D.L. SMITH: This clause is another example of the current style and arrogance of this Government. It purports to insert into existing legislation five proposed sections as a result of the amendment which we have just moved. Multiple amendments and proposed clauses of this kind should not have to be debated with the rights that go to one clause only of a Bill. This is a splendid example of why this should not be the case, because in almost every one of the five proposed sections being added to the principal Act there are substantial impacts of this legislation. The first is proposed section 3B, which talks about the limits on the powers of courts. It reads -

> If sections 3C and 3D apply a court is not to award damages to a person contrary to those sections.

That clause is the essence of the entire Bill, which prevents people being awarded damages in various circumstances. Proposed sections 3C and 3D insert a number of proposed definition clauses into the legislation. They deal with "Amount A", which deals with the cap on the amount of non-pecuniary loss awards that may be made in the future. "Amount B" deals with the threshold requirement, which must be of a greater value than $10 000. "Amount C" deals with the gradation from $30 000 to $40 000 currently and then goes on to determine how those amounts will be adjusted in the future. Quite frankly, those definitions by themselves warrant a full-scale Committee debate with the opportunity for members to speak as they are normally entitled to on clauses, rather than being limited in the way they are forced to be because these provisions are all thrust into one clause of the amending Bill. It is arrogant for the Government to do it in that way, as it withdraws from the Parliament the opportunity properly to scrutinise the legislation in its entirety and does not give it anywhere near enough time to discuss the matters it wants to discuss. If the Government continues to use these catch-all clauses, we need the standing orders committee to look at amendments which could be introduced to overcome the withdrawal of rights of members to speak to clauses.

I have a number of questions for the Minister on proposed section 3C, the first of which relates to the definition of "non-pecuniary loss", where expressions are used like pain and suffering, loss of amenities of life, loss of enjoyment of life, curtailment of expectation of

life and bodily or mental harm, for all of which there will be no future pecuniary claims. I would like the Minister to give a definition of what he understands by each of those subclauses in relation to the curtailment of expectation of life and bodily or mental harm in particular. I ask him to clarify that none of those elements affects the ability of people to claim for future economic loss arising from the future curtailment of expectation of life and from loss of a limb, hand or finger or the like in relation to the bodily or mental harm element.

Mr Kierath: My understanding is that it does not.

Mr D.L. SMITH: Proposed section 3C(2) on its own, in normal circumstances would warrant a Committee debate. I want the Minister to indicate what impact that proposed subsection will have on the amounts that might be awarded for lower claims. In other words, apart from the threshold, how much savings will result from the inclusion of proposed section 3C(2)? Also, is the threshold of $10 000 based on the current calculation of non-pecuniary loss, or is it based on the after effect of the application of that provision? There might have been a claim in the past for $15 000 which, as a result of a cap being introduced and proposed subsection (2) being used, cannot be awarded because that is too much of a proportion of $200 000 so only $9 000 is awarded. Does that mean that claim is lost altogether? Does one calculate the threshold amount according to the old method or is it after the effect of proposed subsection (2)? The same applies in proposed subsection (3) in relation to amount A. Proposed subsection (4) relates to amount B and so on.

The next proposed subsection I bring to the Minister's attention is (7) of proposed section 3C. What are some examples of the things contemplated by proposed subsection (7) and does it have any additional curtailment over and above those which might already operate?

The question that has been put to the Minister by the member for Morley is appropriate to be asked under this general heading on the non-pecuniary loss; that is, in all the explanations the Minister has given, he has blamed WA Inc type losses. If that is the case, why must these provisions be of permanent effect? If he thinks this legislation is unfortunate, why is the Government not willing to give a commitment that it will have effect only as long as WA Inc type losses continue to have an impact on the financial situation at the SGIC? If he is not prepared to give that commitment, is the real intention of this legislation, as I suspect it is, to simply put the SGIC third party fund into a comfortable surplus situation so that it can be broken up and passed off to collective private insurers as used to be the case in WA? It looks as though it will be the case in some of the other States. Is this about a genuine regard for the problems of WA Inc or is it really about making sure third party insurance in Western Australia becomes very profitable? In other words, will it be simply carved up for the Minister's mates among the private insurers so they become the third party insurers under private insurer legislation, rather than remain a common pool under the SGIC where it is run as a Government authority, not as a private enterprise for profit?

If the Minister's intention is to consider at some stage in the future privatising the fund in that way, what sort of profit rake-off from the top is reasonable for the private insurers who will be involved in that kind of operation? Can we expect that these limitations on the rights of people to claim are not only permanent, but also likely to be extended in the future, as the Minister seeks to do the bidding of the insurers who seem to support his political party.

The other aspect of clause 5 is that it contains the restriction on damages for the provision of home care services which is provided for in proposed section 3D. I have read and re-read that a number of times. It is not an easy clause to understand. I have come to exactly the same conclusion about that matter, as has the Law Society of Western Australia. I am sure the Minister has seen the various submissions it has made concerning this legislation where it makes the point that the real intent of that is to provide a threshold of $5 000 before any claim can be made for those kinds of home care services. The rest of the proposed subsection deals with average weekly earnings and the

like relating to the question of how the amounts are calculated, but it does not change the basic fact that one cannot claim for less than $5 000 where it is appropriate to provide those services.

Mr BROWN: I have concerns in relation to clause 5. The first matter to which I refer is contained in proposed section 3C relating to amount A defined as $200 000. That places a cap on the maximum that may be awarded for non-pecuniary loss. It has been said that this is necessary due, as I understand it, to the court possibly awarding sums in excess of that amount. I ask the Minister to clarify that, particularly in light of the precedent that exists here in Western Australia in the landmark case of Farr v Schultz which set out the criteria to be used by the court in assessing non-pecuniary loss. It is important that we understand the type of person to whom this cap would apply. The case of Farr v Schultz involved an appeal to the Supreme Court in relation to the person who suffered tragic injuries and finished up a tetraplegic. Their Honours refer in their decision to the circumstances in which the young person found himself. They had this to say -

> He is now a 20-year-old tetraplegic described by the learned judge as a good looking teenager and a truthful witness, who suffered grievous injuries in a motor vehicle accident on 26 August 1984 when he was aged 16. As a result of his injuries the respondent has no lower limb function and grossly limited upper limb function.
>
> His mobility is severely restricted, even requiring assistance to get from a lying to a sitting position. He is able to lift objects from the table to chin level with the assistance of splints on both arms. He has no voluntary hand function but if the splints are placed upon his arms and items such as a comb or toothbrush are placed therein, he can comb his hair and brush his teeth.

Members can see by the description given by their Honours that we are talking about a young person who has suffered horrific injuries, resulting in his being a tetraplegic. In that case their Honours adjusted the compensation that was awarded to the individual. However, in making that adjustment they awarded $200 000 for non-pecuniary loss. That was in an horrific case. Their Honours went on to specify the criteria that should be used by the court in assessing damages for injuries of that nature. They made a number of important observations in the examination of the criteria that should be used. Firstly, they said there was an obligation on the court to examine each case coldly and logically. In particular, they said -

> You must endeavour to look at the matter coldly and logically and to pay due regard to the point of view of the plaintiff who has been injured, on the one hand, and those who are called upon to pay money, on the other.

The court has been quite clear about that first criterion. Secondly, their Honours said that claims of this nature must not be influenced by prejudice, passion or misunderstanding; that is, they must be looked at objectively and dispassionately. Thirdly, they said that the courts were entitled to award only reasonable expenses. Fourthly, they said that the criteria applied by the court must be exercised in a balanced way. That was a major case determined by the Supreme Court in this State which has set the criteria for assessing similar claims of a non-pecuniary loss nature. It has not resulted in a significant increase in claims for non-pecuniary loss. This State is not faced with a United States style of claims or with the decisions of US courts where similar claims have increased dramatically over the past two or three years. Considering the criteria the courts have set in this State it is unlikely that claims of this nature will increase dramatically for people who are unfortunate enough to become quadriplegic or tetraplegic after a motor vehicle accident.

Given all of that, what motivates the Government to cap the maximum amount that can be paid? We are talking about very few cases; about people who suffer the most horrific injuries; only about people who are quadriplegic or tetraplegic. What is the basis upon which this cap is inserted in this Bill? Why is there no trust by the Government in the Supreme Court of this State following the criteria that it has set for itself?

Mr Kierath: It is not designed at the top end; it is designed proportionally further down. When there is a threshold a temptation exists to upgrade claims. By putting in the cap the enlargement of some of those smaller claims are prevented from overcoming the threshold.

Mr BROWN: I am concerned about the $200 000 cap that will apply to the most severely injured.

Mr Kierath: Clause 5(2) relates to the proportion of that cap. The cap is necessary to ensure that all the other claims are in proportion and that there are no artificial increases to overcome the threshold; in other words, to ensure that one does not go to the courts to try to overcome the legislators' intent.

Mr BROWN: The court has set down the criteria to be applied.

Mr Kierath: It really is for the legislators to state those sorts of things. In this case, the key aim is to ensure that the lower end of the claims below the threshold are not inflated above the threshold.

Mr BROWN: I understand that the purpose of that provision is to cut out those claims where there are minor injuries, to ensure that those people no longer have a claim. That is another matter which I will address in a moment. My concern here is for the severely injured at the top of the scale, because if this cap is put in place it is a legislative cap. The court cannot go further than what is provided in this Bill. My concern is that that could unduly work against the best interests of those who find themselves the most severely injured.

Mr Kierath: The Government gives the same assurance as it did in the workers' compensation legislation. The Government is advised legally that it does not affect those people, nor does it affect those at the other end who are trying to find ways to overcome the threshold. That was the factor behind it in both situations.

Mr BROWN: I note that the amount in this Bill is the same as in the workers' compensation legislation.

Mr Kierath: It was drafted by the same people.

Mr BROWN: I raised a similar point in the debate on the workers' compensation legislation because of the concerns I have, particularly for people who find themselves in this dreadful situation after an unfortunate accident.

The second matter I raise is the concern expressed by the Government about the way the courts have assessed smaller claims for damages. I took it from what the Minister said that there was a concern that the courts had been increasing the amount of damages awarded for small claims in recent times; that is, the courts adjusted the criteria they use to assess such claims. Will the Minister explain how the courts have changed that criteria and what has been the basis for that change?

Mr Kierath: You are trying to put words into my mouth. I didn't say that. I am just repeating myself here.

Mr BROWN: I am not talking about what the Minister just said; I am talking about what he said earlier about an explosion in claims and the need to restrict that explosion. If the Government is concerned about those claims escalating rapidly, what criteria are being used now by the courts, that were not used six months to two years ago, which are giving added impetus to those small claims? If that is the motivating factor behind this Bill it should have been examined by the Government and the Minister handling the Bill should have a reasonable understanding of it.

Mrs HENDERSON: My first query relates to proposed new section 3D which is headed, "Restrictions on damages for provision of home care services". The Minister has not explained how the Government calculated what would happen in the case of damages claims which exceed the threshold of $5 000. How many claims for home care services is the Government expecting this proposed section to wipe out? Secondly, what is the total cost of those claims that the Government is expecting will no longer go ahead

because of this threshold? Thirdly, has the Government done any calculations on the alternative cost of caring for those people?

I put the argument today and when we debated the workers' compensation legislation that it is more expensive to care for people who need constant care in an institution than it is to have members of their family caring for them and for those people to claim these gratuitous services. What calculations have been done in this respect, or is the Government saying that it is prepared to off-load this cost onto the Federal Government in the way of beds in convalescent or nursing homes rather than to the insurance pool?

I refer also to the 40 hours per week provision and the calculations the Government has done in regard to average weekly earnings. Is it anticipated that it will lead to lower costs for people who require 40 hours a week of service? On what information has the Government based the 40 hours a week on average weekly earnings? I have not heard a reasonable explanation for why the Government is moving from the current system. I understand the value of each independent service provider is calculated on the number of hours per week that person cares for the injured individual. Under this Bill it is limited to average weekly earnings. On what basis were those calculations made and what amount of money will be saved by using the calculation of average weekly earnings? How many claims will be affected and what amount of money is the Government talking about in relation to the $5 000 threshold?

My next question follows on from the member for Morley's comments on the $200 000 cap. He drew to the Minister's attention the significant case of Farr v Shultz. My recollection is that the case goes back to 1988 and it reached the upper limit of $200 000 and the member adequately outlined the details associated with that case. Since then there has been a considerable movement in the cost of the items the court took into account when it assessed the damages. Was the $200 000 cap included in the Bill to prevent that threshold increasing the other claims? I will be interested to hear the Minister's comments in relation to the case outlined by the member for Morley. There are plenty of figures to show the number of young men who suffer head injuries from diving into shallow water and motor vehicle accidents and who end up as quadriplegics or tetraplegics. The case to which the member for Morley referred resulted in a $200 000 damages award by the court for non-pecuniary loss. Will the Minister indicate what provision will be included in the legislation to ensure that that sum increases in accordance with inflation? If, five or six years after the maximum amount was awarded in the courts, we are starting with a figure which was used as the uppermost limit in the worst possible case, when will it be reviewed? Will it be 10 years after the court awarded damages of $200 000 before the amount is adequately reviewed? I am talking about the worst possible kind of injuries a person can sustain.

Mr KIERATH: The member for Mitchell asked about the definition of "non-pecuniary loss". This clause defines it by identifying the heads of losses. The amendments to the legislation do not limit pecuniary loss; that is, the right to compensation for such things as medical expenses, loss of earnings, care costs, excluding gratuitous services, travelling expenses, medication costs, aids and appliances costs and out of pocket expenses. In the case of proposed section 3C(2) except in the most extreme cases damages will be assessed as a proportion of the maximum amount determined by the severity of the loss, compared to a most extreme case. This proposed section is aimed at preventing minor claims being inflated disproportionately to the maximum. I am trying to incorporate two or three issues.

Mr D.L. Smith: Your coverage of my question in relation to non-pecuniary loss is totally inadequate. Either you do not know what the words mean or you are not prepared to tell this Parliament or the public what types of claims you intend to deprive people of as a result of this legislation.

Mr KIERATH: The legislation clearly outlines this and I am advised by Parliamentary Counsel that the definition is clear in its meaning.

Mr D.L. Smith: People do not know what is the meaning of the loss of amenities of life; the loss of enjoyment of life; the curtailment of expectation of life; and bodily or mental

harm. I asked you to give an example of the kinds of claims that will be covered by those elements.

Mr KIERATH: The member for Mitchell is asking me to give him a legal lesson.

Mr D.L. Smith: To give the Parliament a legal lesson.

Mr KIERATH: The member should calm down. I am advised that in legal terms the phrases have a meaning. If I had suffered a loss I would seek legal counsel and it would be up to that person to develop the claims under those heads of losses.

Mr D.L. Smith: They use these debates to determine what the clauses mean and you should explain them. You do not have an understanding of this Bill and you should not be handling it.

Mr KIERATH: Unlike the member for Mitchell, I do not claim to have a brilliant legal mind. The member knows full well there are established legal precedents and I am sure this Committee does not have sufficient time to go through them. Parliamentary Counsel has provided the advice, clear heads of powers and the heads of losses. I gave some examples that it does not include. The member referred to proposed subsection (7). The owner-driver cannot be sued for these damages in relation to proposed subsection (7) but, to put the member clearly in the picture, I am advised this clause does preserve the common law in relation to establishing a right to damages, as well as the defences of contributing negligence and volenti non fit injuria. The claimant is not able to recover from the owner or other funds - for example, the Criminal Injuries Compensation Act - and the rights are preserved under the Workers' Compensation and Rehabilitation Act to claim common law damages where the law is the same as provided by these amendments.

The member then referred to proposed section 3D. I am not quite sure what he said. Basically proposed section 3D restricts the damages that may be awarded for the value of gratuitous services performed for the injured person by a member of the same household or family as the injured person. The type of services referred to are of a domestic nature, including those relating to nursing and attendance. The member for Thornlie also raised that question but, as I pointed out before, it does not apply to outside services but basically to those provided from within the family. In that situation the Government wants to ensure that the value of the services is not inflated to overcome the thresholds. Proposed section 3D(2) prevents an award being made for gratuitous services, if the services would have been or would be provided, even if the person had not been injured.

In reply to the member for Morley, I tried to interject about the proportion of the amounts and to explain the reason for the cap. It is to prevent creative manipulation to get around the threshold, which could occur. The member for Thornlie also raised a series of questions in relation to proposed new section 3D about the number of claims for home services that would be wiped out. We anticipate that the number of claims will be similar because this proposed section will prevent an inflated amount being claimed to overcome the threshold. We do not anticipate the number of claims dropping dramatically.

Mrs Henderson: You are cutting out all claims below $5 000.

Mr KIERATH: Usually the claims are not just for gratuitous services but also include other things, so we do not expect a huge number to be wiped out. The member for Thornlie also asked about the total cost of claims which would be eliminated. It is not being off-loaded onto the Federal Government. Any outside charge needs a doctor's certificate so an injured person who requires home help can still get it. We want to restrict the ability to massage the gratuitous services to overcome the threshold. Many of these measures are trying to prevent claimants finding vehicles to overcome that threshold, as has happened in other States.

Mrs Henderson: You have no understanding of the legislation and you have not answered my questions.

Mr KIERATH: The member may not like the answers, but many of these provisions have been included to prevent people finding alternative ways of getting around the

threshold. It is apparent from the comments of members opposite that given half a chance, a number of people would use these areas to inflate their claims, and those provisions are to contain that practice.

Mr D.L. SMITH: We have just heard a splendid example of why this legislation should be referred to a select committee. It is also proof positive of the disservice this Treasurer does to the Parliament when he absolves himself of responsibility for presenting his own legislation and responding in Committee, and puts this Minister in his place. This Minister simply dissembles, tells half-truths, gives half-answers and provides no information. It is not worth going into Committee with this Minister. He is not prepared, and does not have the courage to give examples of his understanding of the claims being removed. I refer, for example, to pain and suffering. In many common law claims for third party damages people - especially children - make very good recoveries from quite horrific injuries. As a result, they very rarely have substantial claims for future economic loss as part of their claim. They will go through a series of stitching, operations, insertion of screws, and corrective surgery, involving substantial pain and suffering. Under this legislation, because their general claim for non-pecuniary loss will be quite small as a result of their recovery, the amount they may receive for pain and suffering will probably be less than $10 000. Those children and adults receiving treatment and recovering from their injuries will receive no compensation for their shock, trauma, cuts, bruises, broken bones and the like; in other words, their loss of amenity of life. Again, absolutely no explanation of the kinds of claims covered by the loss of amenity of life. It is the capacity to enjoy one's life to the full and to do things for oneself to make life more pleasant than it would otherwise be.

I refer to the loss of enjoyment of life. If a person can no longer dance but is not a professional dancer, can no longer run but is not a professional sprinter, can no longer play football but never earned money from playing football, used to get on very well with his wife but becomes uncommunicative because of the injuries he has suffered, he cannot be rewarded unless the damages exceed a value of more than $10 000. Members opposite may think $10 000 is generous. However, in relation to all the items I have listed, it would be unusual for an award of $10 000 to be made for loss of amenity or enjoyment of life. Yet this Government is not prepared in Committee to give examples of what it has taken from people. The Minister tells me that I am a lawyer and I should understand it. I may understand it, but I am damn sure many people on the Government side have not been given a proper explanation of this legislation. I am also damn sure that many of those same members do not understand how far-reaching this legislation is. The net effect of this legislation is to take $50m from the victims of crime and accidents next year and the year just passed. How many claims are made? This Government is taking a total of $50m from people who cannot play football, dance, fish, walk with their wives, or communicate with their wives and children. The Government is not doing that on a temporary basis. It is still trying to hide behind WA Inc. If this were about WA Inc, it would be a temporary taking away. This is a permanent taking away of all of those things.

Curtailment of expectation of life: If people are unemployed and will not suffer any financial loss, but their life expectancy will be reduced by 10 years as a result of the injuries which they have suffered, the chances are that they will not qualify for compensation under this legislation. People certainly will be paid if the injuries will affect their economic opportunities in the future, but if the injuries will simply shorten their life expectancy by a few years, they cannot expect any compensation. Bodily or mental harm: If people cannot open and close their hands properly, if they have a degree of arthritic pain which they never used to have, or if they are not able to sprint when they used to be able to sprint, unless some economic loss is entrenched with those injuries, they cannot expect any compensation as a result of this legislation. The Government cannot reach its figure of $50m without that having a substantial impact upon Western Australians. The number of claims resolved each year is in the order of 15 000 or 16 000, and when we divide that $50m across those claims, anyone who has been involved in third party claims knows the enormous impact that this legislation will have. The Government may be able to justify the $50 levy, for however many years it intends

to have that levy in place, by saying that it is because of WA Inc, but this legislation is necessary not because of WA Inc but because of a deliberate decision by the Government to castrate the third party damages system that we used to have in this State.

This legislation is the result of the Government's desire to maximise profits for the insurance industry. I guarantee to this Chamber that as soon as the third party fund becomes profitable, this Government will seek to bring in private insurers. Let no member opposite think that the SGIC will be expeditious or refreshingly generous when it comes to considering any of these claims. Anyone who is currently dealing with the SGIC, whether for third party insurance or asbestosis, knows that it is now a lot tougher to get anything out of the SGIC. It is now a lot tougher to deal with the SGIC's lawyers. I am advised that the Crown Law Department, whether because of its desire to compete with the private profession or because of some instruction given to it by the SGIC, is deliberately delaying claims and seems to find it impossible to reach reasonable settlements in the course of actions which were quite properly able to be settled in years gone by. There has been a substantial change in the attitude of the SGIC and the Crown Law Department, and I believe they have been driven by this Government, which has no regard for people's rights and suffering. This Government is what we have always believed Liberal Governments to be; namely, interested only in helping those who are well off and in helping those who are rich to get richer.

This Government is not interested in the needs of ordinary Western Australians. All it is interested in is taking away people's rights retrospectively, in a way which will hurt those people who are down. This legislation is about taxing the victims in our society. We used to be a civilised community where we accepted third party insurance claims. We pooled all our premiums, we indemnified ourselves, and, most importantly, we provided a fund whereby people who were injured as a result of the negligence of others could claim compensation for whatever pain, suffering, curtailment of life, loss of amenity of life or bodily or mental harm they might have suffered. As a consequence of this legislation, more than half of the 16 000-odd people who claimed last year under those headings will lose their claims altogether, and $50m will be taken by way of a hidden tax on victims, which will go into the Government's insurer's coffers.

Mrs HENDERSON: When I rose a few moments ago, I asked the Minister some questions, which related specifically to gratuitous services. I asked the Minister how many claims the Government expected would be wiped out by establishing a $5 000 threshold and whether the Government had calculated the costs that the insurance pool would save by wiping out those claims. The Minister said that no claims would be wiped out because those people could still make claims. I guess that is a smart alec way of saying that a claim for gratuitous services is part of a broader claim which will include other elements. However, the Minister ignored the intent of my question, which was how many claims for gratuitous services, as part of larger claims, currently fall below that $5 000 threshold so that, under this legislation, those persons will no longer be able to claim for gratuitous services. I am sure the Government has done the calculations. The Government would not have set a threshold without working out on some modelling device how much money would be saved by setting the threshold at that level.

I then asked the Minister what cost to the community generally would be incurred if those individuals who were being cared for by members of their families still needed care. There is no question that those people do need care. The courts do not award those sums of money for nothing. A person cannot go to the court and say, "My husband is in bed with a headache and I need to look after him and bring him drinks." The courts require more than that. I asked the Minister what calculations has the Government done to determine the cost of keeping those injured people in convalescent or nursing homes. The Minister ignored that question.

I also asked the Minister a question about the $100 000 cap, which related to a case that the member for Morley cited from 1988, where $200 000 was awarded for non-pecuniary loss. I asked the Minister what measures did he plan to put in place to ensure that the cap was increased in line with inflation, because it is already five years since that maximum amount was awarded.

Mr Kierath: It is in the legislation. It is fully indexed. Section 16 of the principal Act states, at page 26, that -

> (4) On the hearing and determination of any action of proceedings a Court shall, without in any way limiting its usual powers in relation thereto, have the following further powers -
>
> (a) to award by way of general damages either a lump sum or periodical payments or a lump sum and periodical payments, such periodical payments to be for such period and upon such terms as the court determines . . .

The $200 000 is indexed.

Mrs HENDERSON: This clause does not include indexation.

Mr Kierath: No; it is part of the parent Act.

Mrs HENDERSON: The clause states that the court has the capacity to award the amount. That is true. This amending legislation puts a cap on the amount that the court can award. Where is that indexed?

Mr Kierath: Proposed section 3C(11) states that -

> On or before 1 July in each year the Minister is to publish a notice in the *Gazette* setting out Amounts A, B and C as they will have effect on and from that 1 July.

Mrs HENDERSON: I am asking the Minister for some commitment, because the amount that has been set is already five years out of date. The Minister had a case put to him this evening which was, without question, at the upper end of the scale; nevertheless, the award that the court considered to be appropriate for that sort of injury was $200 000 in 1988. The Minister has set a cap of $200 000 five years down the track since that decision was made.

Can the Minister give an undertaking regarding how the Government will carry out that variation each year? What will it be based on? If a cap is set, how will the Government know that the court will award $210 000 or $215 000? It is an artificial cap. On what basis will it be adjusted?

Mr Kierath: It is part of the strategy that the $200 000 has been set as a ceiling, in today's terms. It is consistent with changes to the workers' compensation legislation. The figures will be fully indexed. I am advised that in a recent case a limit was set; it was a worst case scenario. It was around that figure, so it is not four or five years out of date.

Mrs HENDERSON: I know the figures are consistent. I am trying to find a logical basis. On what basis will the adjustment be made? The Government may tell the courts that they may not award more than $200 000. On what basis will the Minister determine that the figure needs to be upgraded?

Mr Kierath: It relates to the average weekly earnings.

Mrs HENDERSON: The Bill says that on or before 1 July the Minister will publish a notice; it will have effect from 1 July.

Mr Kierath: Proposed section 3C(8) reads -

> By operation of this subsection and subsection (9) or (10) each of amounts A, B and C is recalculated annually with effect from 1 July, commencing on 1 July 1994, in accordance with such percentage change in the weighted average minimum award rate for adult males under Western Australian State awards published by the Australian Statistician as occurs between 1 April in the calendar year preceding the recalculation and 31 March in the calendar year of the recalculation . . .

That is a similar clause to the provision in the workers' compensation legislation. Whatever is published, it will increase by that amount; we will not doctor it in any way.

Mrs HENDERSON: I remember that clause, and the Minister will remember the complaints about that method of calculation. The Minister sought to introduce a new method of wage determination which he hoped would become the norm -

Mr Kierath interjected.

Mrs HENDERSON: The Minister should listen. If that system fell into less use - and that was the plan under the workplace agreements legislation - the amount by which it varied would not be the best indicator. A better indicator would be something more closely tied to average weekly earnings.

Mr Kierath: Rightly or wrongly, it is important that the systems be consistent.

Mrs HENDERSON: But that does not make it right. Because it is consistent with workers' compensation provisions does not make it a good system. We should have something that genuinely reflects movements in the consumer price index. The Minister has chosen a measure - the average minimum wage rates for adult males - which would have been an excellent measure two or three years ago. Whether it will be a good measure in two or three years, given the workplace agreements legislation, remains to be seen. This may not be the best measure.

I would like the Minister to answer the questions I have raised regarding gratuitous services.

Mr Kierath: I answered that. I said that we do not accept the principles, and that I could not give an answer on the total figure.

Mrs HENDERSON: The Minister tried to give a smart alec answer by saying that there will still be claims; that they will not receive gratuitous services; that it might be an economic loss. How many claims for gratuitous services below $5 000 will be wiped out by this legislation?

In the remaining minute, I will take up the point raised by this side of the Chamber which someone opposite tried to rebut. Opposition members mentioned that this legislation will disproportionately affect people on low incomes, the elderly, the unemployed, and women at home. A member opposite said that that was not the case; anyone can have a car accident. The point was made that if a person has an income and has injured an elbow, that person can make a claim and receive damages relating to loss of use of the elbow; but an unemployed person could not make a claim. This is a disproportionate difference between people who work and those who are not working.

Mr D.L. SMITH: Mr Deputy Chairman, I did not rise immediately you put the question because I expected the Minister to respond.

Mr Kierath: I have responded all the way through.

Mr D.L. SMITH: This is another example of the Minister's disgraceful conduct.

Mr Kierath: I have responded, but the member did not like the response. It seems the member likes the sound of his own voice, but no-one else does.

Mr D.L. SMITH: The Minister is not prepared to accept responsibility for what he is doing. The Committee stage of debate is all about the examination of clauses in legislation so that the Parliament understands what they mean, and so that the courts later in interpreting the legislation can obtain guidance on what the Parliament intends. Having listened to the Minister and noted his lack of coherent response to questions properly put, we do not know the intent of the legislation and the courts will be left with no guidance at all on the interpretation of the legislation.

To support comments by the member for Morley regarding the unfairness of the impact of the legislation, to which there was no response from the Minister, the Law Society had this to say -

> The proposed deductible has the most severe impact on injured people such as women engaged in home duties, parents on supporting benefits, pensioners, unemployed, students, children and the poor. The reason for this is as follows:

(a) The majority of persons injured as the result of the negligent driving by another person of a motor vehicle, and who have a claim for damages for personal injuries limited to general damages for pain and suffering and loss of quality of life (but not for, in addition, economic loss) are women, pensioners, unemployed, students, children and the poor;

(b) The above is the case because the majority of the people who have a claim for economic loss i.e. loss of income caused as a result of the injuries suffered, are persons in employment;

(c) There are more women than men in the community who do not earn an income e.g. housewives;

(d) In many cases claims for general damages alone amount to less than or not much greater than, $10,000.00;

It simply does not do the Minister or this Parliament any service at all for the Minister not to respond. Why is the Government legislating in this discriminatory way? What does the Government have against pensioners, the unemployed, students, children and the poor?

Mr Kierath: I have explained, but you do not listen.

Mr D.L. SMITH: What does the Minister have against pensioners, the unemployed, students, children, the poor and housewives?

Mr Kierath: Non-pecuniary loss affects everyone. It does not target one group.

Mr D.L. SMITH: For one group, it takes away any claim at all. For the other group, it reduces the amount of the claim. We both know that if Dr Hames gets injured he is likely to have a claim in the order of $100 000 a year for economic loss, and his missing out on the $10 000 by way of general damages for non-pecuniary loss would hardly be felt by him at all. Anyone in the community who has no claim for economic loss, and whose only claim is non-pecuniary loss for less than $10 000, will receive absolutely nothing. This will be the pensioners, the housewives, the unemployed, students, children and the poor. Where are we as a community and as a Government that those disadvantaged victims of the negligence of others are not protected? How is the Government and its backbench willing to accept that the disadvantaged should be the victims of this legislation?

Also, this legislation has no financial justification. This Parliament has been provided with no actuarial justification. The $50 levy is more than enough to make up for the aspects claimed by the Government. As the Minister is not prepared to deny it, it would seem that once the scheme is profitable upon the backs of pensioners, the unemployed, students and the poor, the scheme will be hived out to private insurers. I have asked the Minister to make it clear on a number of occasions that that is not his intention. He has failed to do so. The Minister has an opportunity to make a declaration that this Government has no intention at any time of hiving out the third party insurance scheme to private insurers.

Mr Kierath: You can only give a commitment at this time. You cannot give commitments for the future and all time. That is where your Government got into trouble.

Mr D.L. SMITH: The Government can give a commitment in the short or long term.

Mr Kierath: The current view is that it is not feasible to hive out the scheme to private industry.

Mr D.L. SMITH: I want to know whether it is the Government's intention to do so.

Mr Kierath: You do not want the answer. You want the answer you want to hear.

Mr Pendal: Just ignore him.

Mr Kierath: I will but he will criticise me for doing so.

Mr D.L. SMITH: I criticise the Minister for not giving a direct answer.

Mr Kierath: I was trying to give an explanation.

Mr D.L. SMITH: Hon Max Evans is the responsible Minister; however, the Minister for Labour Relations should be able to give a commitment on the future in this regard.

Mr Kierath: On this issue I have had a lot of discussion with Hon Max Evans. His view is that the private sector cannot produce an equivalent policy for the price we are paying. He gives examples from New South Wales of the level of third party premium as a comparison with what we pay here.

Mr D.L. SMITH: The Minister is exactly right. That is the case as a result of the current scheme. When these amendments are put in place, the situation will change dramatically. Another $50m will be in the pool available for the profits of private insurers. I make the declaration now that within five years from today, if this Government remains in office, this scheme will be in the hands of the private insurers. These are the mates of the Government who contributed substantially to the Liberal Party election campaign. The Government has spent more time in this Parliament working for the advancement of that group than any other group I can remember. Talk about WA Inc! At least we did not put out $50m and give it to our mates.

Several members interjected.

The DEPUTY CHAIRMAN (Mr Johnson): Order!

Mr D.L. SMITH: I suggest that members opposite read the royal commission report regarding the intentions of the then Government. The deliberate intention of this Government under its employer liability cover was to generate substantial profits for private insurers, the very people who contributed greatly to the Government's election campaign. This Government intends to make legislation to ensure that third party insurance is profitable so that it can hive it off to its friends. This Government is not 15 months old, yet its record in those 15 months is worse than that of the previous Government in its first 15 months in office. If this Government continues to behave in this way, people will recognise that we on this side of the House have much to learn from the present Government regarding feathering the pockets of mates. Whether it is a former president of the Liberal Party branch in Dalkeith or people appointed to boards, many more of the Government's mates have benefited from its corrupt practices during its first 15 months in office than ours did in that time.

Clause, as amended, put and passed.

Clause 6: Section 27A inserted -

Mr D.L. SMITH: This clause is an example of this Government's attitude to lawyers and to anyone who is interested in protecting the rights of individuals. The Government regards anyone who is in the business of protecting individual rights as the enemy. This Government is willing to publicly malign anyone who is prepared to stand in its way. The Minister for Labour Relations has targeted the legal profession. Members opposite have no guts and are not prepared to make their own legislative decisions. They are not prepared to form their own ideas, philosophies and policies, and implement them in legislation. Members opposite always seek a scapegoat, whether it be WA Inc or lawyers.

I have mentioned that the State Government Insurance Commission handout on this legislation claimed that lawyers generated fictitious claims. However, one only has to consider the number of claims over recent years to see that they have not been escalating. The SGIC annual report indicates that lawyers are not protracting or delaying matters excessively. The report refers to the success of pre-trial conferences and indicates that more claims are settled out of court than ever before. Lawyers in Western Australia have taken the opportunity presented by pre-trial conferences and early settlement for the benefit of their clients.

I now relate an experience of my nephew in relation to a claim. He was happily driving along the South West Highway in the course of his work as a tree pruner and yard cleaner. A truck coming in the opposite direction was carrying a load of pipes. One of

the long thin pipes detached itself from the back of the truck and went through the windscreen of the truck driven by my nephew. The pipe effectively speared him through the head. This dreadful injury put him in hospital for a number of weeks.

One would have thought that in a situation like that, in which my nephew was driving on the correct side of the road, and an object came off a truck travelling in the opposite direction, it would be a clear case of negligence in the loading of the pipes. For nearly three years following that accident arguments raged between the SGIC and the company insuring the pipe truck regarding who would accept responsibility. It was not the lawyer acting for the claimant who sought to protract the matter, but the lawyers acting for the insurers. Any suggestion that claimant lawyers are delaying matters is simply, in the main, untrue.

They do seek to settle matters as expeditiously as they can; but insurers have a direct financial benefit to be gained by delaying the claim. They have a tactical advantage in trying to create frustration on the part of claimants, fear in those people that they will lose the claim, fear that the advice given by their lawyers is incorrect. Insurers will use every tactic available to them. The State Government Insurance Commission is no different. The decision making on claims rests with the insurers. It appears that the lawyers who act for them are deliberately told to delay and frustrate the finalisation, rather than to advance settlement, of claims. Ridiculously low offers are frequently made and not moved from, not because the lawyer acting for the insurer thinks that an offer should be made. Many lawyers for insurers will tell us privately that, when they are acting for the SGIC and other insurers, the matter should be settled and settled expeditiously; but their instructions are not to offer beyond a certain amount. The consequence of not offering beyond a certain amount is that the matter will never be settled. It is a disgrace for this Government to come here in this unequal way and try to shove all of the blame for delay and legal costs on those who act for claimants.

This legislation is discriminatory. On my reading of it, it does not prevent the insurer - the SGIC - from entering into whatever arrangements it likes with the lawyers who are engaged to defend claims. I certainly want an assurance from the Minister whether that is the case. Does this legislation apply just as much in terms of clause 6 and proposed new section 27A to the legal representatives, investigators and others who act on behalf of insurers? Will there be some limit on the fees that will be charged by the investigators who hang around outside people's houses hoping to take videos of them? Will it apply to various specialists who are in the pocket of the SGIC and are prepared to give medical opinions on the basis of the flimsiest of personal examinations and the like? No. This is a targeted attempt not just to ensure that people do not have a free right to negotiate how they would choose with their lawyer but it has been done in quite a discriminatory way where any assistance that the lawyer can offer will be restricted to what can be claimed validly under section 58W of the Legal Practitioners Act 1893.

In relation to common law claims, the Government's efforts were quite obvious. The Minister was prepared to say that he would ban those claims and ban lawyers from being involved with the new procedures which would apply to the making, assessment and processing of claims by workers. This legislation seeks to do it by stealth. It seeks to do it by providing a form of remuneration for the legal practitioners where the number of people who are willing to undertake third party work, and the qualifications and ability of the people who undertake that work, will be limited by their opportunities to earn more money elsewhere. No lawyer who is able to earn more money in other areas of the law will do third party work under these arrangements. People will find that there will need to be some adjustment as to the quality of the service received and the work done by those lawyers. If people currently complain that they cannot talk to their lawyers when they want to, after this legislation they will find lawyers even more restricted in the way in which the cases are conducted. It really is not about cutting out claims or cutting out rip-offs.

Mr Kierath: Of course it is.

Mr D.L. SMITH: It is about making sure that victims of other drivers' negligence are not given a free opportunity -

Mr Kierath: Who decides these costs? The legal costs committee. Who is on the legal costs committee? Basically lawyers who sit in judgment of lawyers. They establish a reasonable fee. It is not even me who is setting the fees.

Mr D.L. SMITH: The Minister should talk to the Law Society of WA if he thinks that is the view of the lawyers. Does the Minister want me to read to him the various comments that the lawyers have made about this provision?

Mr Kierath: I am simply pointing out that the legal costs committee sets the rate. My experience of watching what the legal costs committee has handed down is that it has always been pretty generous.

Mr D.L. SMITH: The intention is to make sure that this is an uneven fight. A lawyer acting for the claimant will have restrictions placed on him. That will reduce the quality of the people who are doing the work and of the service provided under these arrangements.

Mr Kierath: It is an intention to prevent them from doing the side agreements.

Mr D.L. SMITH: The whole objective is to do what the SGIC really wants.

Mr Kierath: Does your professional allegiance override your moral principles? Maybe that is what you are really on about.

Mr D.L. SMITH: The SGIC wants lawyers out of the scheme. The Minister has already told us that payments are referred directly to the SGIC, that reports are provided directly by the doctors to the insurer. People who sit in electorate offices, who deal with constituents who are attempting to deal with their own claims, know that those claimants are encouraged by the SGIC to settle as early as possible and for as little as possible. There is no explanation or advice about their entitlements. The insurer says, "Just sign here and we will post you a cheque. Sign here and we can get the reports direct from the doctors, but we will ask the questions that we choose. Sign here and we will refer you to doctors who do our bidding in relation to their comments. If we still think that you will get too much, we will send around a private investigator with a camera and we will catch you out. Sign here and you will not have to worry about all that; we will just give you the money that you desperately need to get by during this week and we will have no regard to your future or to your real entitlements. Do not go to see a lawyer. They are costly; they are rapacious; their real interests are their own pockets and not looking after the client's rights."

Mr Kierath: I think, by the noise in the gallery, that someone is trying to give you a message.

Mr D.L. SMITH: That just may be the case.

Mr Kierath: The question is whether you are listening.

Mr D.L. SMITH: The message may well be that people are simply trying to say to this Minister, "We may as well knock down this Parliament because it is no longer interested in our rights; no longer interested in making sure that we get justice before the courts; no longer interested in making sure that we get justice in dealing with insurers." I cannot fathom the attitude of this Government. The attitude is: Trust the insurer; it is a good Government organisation and it will always act in the interests of the claimants; it will always maximise and make sure that claimants get all of their entitlements.

All people who have ever dealt with an insurer on their own behalf, whether it be for a claim in relation to a house, a car or injuries suffered in a motor vehicle accident, know that the one objective of an insurer is to squeeze claimants as much as possible and to try to encourage them to settle, without having legal advice, for as little as possible. Proposed new section 27A will have exactly that effect. It states -

> This section applies to an action for damages in respect of the death of or bodily injury to a person directly caused by, or by the driving of, a motor vehicle.

It is not about some general redress in relation to the conduct of lawyers; it is aimed specifically at advice on the question of whether a person is negligent or otherwise. It

provides that no agreement can be made with a legal practitioner which applies any greater reward than is provided for in the Legal Practitioners Act 1893. The report of the Trade Practices Commission about reducing the costs of law in Australia and increasing access to justice was just released. One of its recommendations is that there should be such agreements; yet this Minister seeks to legislate away the ability of lawyers in Western Australia to act in accordance with the recommendations of the TPC report. All of that is an attempt to blame lawyers for what is no fault of theirs and to preserve the protection that is there for the insurers and their lawyers, but not for the claimants.

Mr BROWN: In his second reading speech the Premier spoke about the purpose of this clause and the need to provide some measure of consumer protection. I was particularly interested by that comment as I am not exactly sure what additional measure of consumer protection is necessary in the area of legal costs and charges. I assume that the Government believes that there is insufficient consumer protection in the arrangements which exist at present; that is, in the tax scales that are laid down or recommended by the legal costs committee and endorsed by the Attorney General, in the taxing powers of the courts, in the ability of the courts to review cost agreements and in the capacity of the law complaints officer to take up matters where individuals have complaints against costs imposed on them either through the scale or through costs agreements. I would be interested in the Minister explaining what additional consumer protection is necessary? What is it, and why is it necessary? In other debates in this place we have been told ad nauseam by the Government that if two adult people consent to an agreement, there is no question of any bargaining power; it is simply an agreement that is made by the free choice of both individuals. The Government has told us that it does not accept that any individual has an advantage in bargaining power. If that is the case and the Government genuinely believes what it told us ad nauseam last year, why is it necessary in this Bill to restrict legal costs to those prescribed in the scales? Why is it necessary to outlaw agreements between legal practitioners and their clients made in accordance with the Legal Practitioners Act?

Mr Kierath: They have special Acts that govern their registration and the way they operate in all of those things. They cannot have it both ways.

Mr BROWN: The Legal Practitioners Act contains an explicit provision for lawyers to enter into costs agreements with their clients. Why is it necessary for the Government to move to prohibit costs agreements between lawyers and clients? What is the additional consumer protection that is necessary?

Mr Kierath: We have found that those costs agreements are taking money out of injured people's pocket. The legal costs committee takes into account all the factors relating to the schedule of costs. I would prefer to remove the legal costs committee, but that is another question for another day. At the moment we are stuck with that body that sets the legal fees. It takes into account all of those legal considerations and comes up with a schedule of legal fees, and we will not allow people to bypass that and come up with these side agreements.

Mr BROWN: The legal costs committee has been established in the framework of the Legal Practitioners Act, which makes specific reference to fees being set in one of two ways, either according to scale, which the legal costs committee establishes or recommends and the Attorney General can enforce, or by way of costs agreements. That has been the case for a number of years. What now causes the Government to move to prohibit costs agreements in relation to client and solicitor where it concerns a matter relating to third party insurance? It cannot be based on the fact that there is a legal costs committee because that has been there for some considerable time. Presumably it cannot be based on the belief that legal practitioners have an unfair bargaining power over clients because the Government has previously rejected that. Its view is that when two adult people deal with one another there is no unfair advantage given to one party, that both are adults, and intelligent enough to represent themselves and enter into an agreement that suits their own devices. The basis upon which this clause is predicated is flawed.

Could the Minister expand on what the Premier said in his second reading speech about the need to provide additional consumer protection? It seems the Premier was suggesting there is insufficient consumer protection for clients of lawyers. If that is the case should any changes apply only in the area of injuries arising out of motor vehicle accidents or should any new consumer protection apply across the board to other areas where the client solicitor relationship exists? The Minister can enlighten us on this if the rationale for the clause as originally proposed remains the same, and if the words then uttered now reflect the Government view. That is of course unless the words then uttered were simply a meagre excuse for introducing this provision rather than being a thought out reason. I invite the Minister to comment on that matter and to the extent the Minister does I welcome it and to the extent the Minister refuses to do so, it indicates clearly that the clause is based on a false premise. I also join the member for Mitchell and ask the Minister to comment on whether this clause will apply to both parties - the insurer and the person who has been injured.. The Minister's answer will indicate the Government's weakness on this point.

I ask him also to advise the Committee whether the implementation of this clause will result in lawyers, particularly those who are more skilled and can acquire a higher fee, withdrawing from this field of practice. I ask him to comment on the extent to which that will impact on people who find themselves injured and requiring legal representation. I ask the Minister also whether any consideration has been given to the criteria that will be used by the legal costs committee in assessing scales once it is advised that the scales it sets are both minimum and maximum fees.

Mr Kierath: My understanding of the situation - my colleagues may be able to help me - is that the legal costs committee sets a schedule of costs for various people. If they need to use a QC, there are costs schedules associated with that. My understanding is that there are fees and costs which are established only through the courts. They have their own schedule of fees and costs. I do not accept your claim that good people will get out of the field, because they will not. There is a variety of legal costs. It is pretty loose in some areas. It is not that tight that it causes hardship on certain legal people.

Mr BROWN: I am not arguing the hardship question. I am saying that different criteria are used in the assessment of scales and the taxing of scales from what is used in the setting of costs agreements. Many costs agreements are set on the basis of the efficient use of time and many costs scales are set on the basis of functions. There are quite substantial differences between the costs scales and the taxing of the costs scales and the setting of costs agreements and an examination to see whether lawyers -

Mr Kierath: You are missing the point. The legal costs committee can award, and has awarded, a higher cost level for areas that are more complex and consume more time.

Mr BROWN: That is right. The scale sets a series of charges depending upon an assessment of the amount of time.

Mr Kierath: Not fixed charges; there are ranges. They are pretty loose.

Mr BROWN: That is right. There is a range of charges, but the Legal Practitioners Act also provides for costs agreements.

Mr Pendal: Will you pass back an answer through the Minister to me about your colleagues who are missing tonight? I think your questions are very good ones, but 13 members on your side will not hear the answers.

Mr BROWN: Picking up the point raised by the member for South Perth, I am sure that the members who are not here tonight will read *Hansard* so that they can better comprehend the debate. The point on which I ask the Minister to comment concerns the important issue of costs, and particularly the use of the scales versus costs agreements.

I am interested to hear the Minister respond in detail to the important questions that I have raised. They go to the issues that govern the relationship between legal practitioners and clients in this State and to the issues of assessing costs. If there is a need for additional consumer protection to protect the clients of solicitors, it is needed in more than one area. If the Government genuinely believes that, its bona fides are tested

to bring forward that consumer protection it believes is necessary. If it is necessary, it is in more than this narrow area. Let us see whether the Government is genuine or whether this is an excuse to carry out a bit of lawyer bashing in order to get through some unpopular changes for which the Government does not wish to take the blame.

Mr D.L. SMITH: Again, the Minister has not sought to respond to either my contribution or the contribution by the member for Morley. It is an indication of the attitude of the Government and the Minister to the Parliament and to the recommendations of the royal commission on accountability.

For the record, I will read the Law Society's comments on this matter.

> The proposal to limit legal costs to the Scale discriminates against injured persons and lawyers acting for injured persons. Injured persons may not be able to obtain appropriate legal advice in view of this proposed measure. The Law Society considers that there are currently in place sufficient regulations governing lawyers' fees and that there is no justification in imposing further restrictions of lawyers' fees.
>
> The Bill does not address the apparent exclusion of Order 24A of the Supreme Court Rules which allows a successful Plaintiff to seek indemnity costs in the event of the Plaintiff obtaining a Judgment equal to or greater than an Order 24A offer. Nor does it cater for the operation of Order 66 Rule 12 which allows the Court to make special orders as to costs in unusually complex or important cases. Again, the proposed Bill works to the disadvantage of injured persons.

The objective of Order 24A of the Supreme Court Rules is that, if the insurer has been misconducting itself, refuses to settle and the claimant gets an order of the court in excess of the amount for which the insurer was willing to settle, it is open to the court to require the insurer - the SGIC in that situation - to indemnify the claimant completely in respect of all the legal costs. The effect of this clause will be to prevent such orders being made. It is legislation by stealth. It is putting the insurers in a privileged position in which they cannot be punished by the courts.

Mr Kierath: I am advised that in the case of the SGIC the insurance company's solicitors do not charge more than the scale fees.

Mr D.L. SMITH: I do not want to do any research of my own. All I can say is that that is not my personal understanding or experience.

Mr Kierath: I am just giving the advice that has been passed on to me.

Mr D.L. SMITH: The Minister did not mention the exclusion of Order 24A in his second reading speech, but that will be one of the effects of this legislation. In terms of insurers not being willing to settle, all that lawyers acting for those claimants will be able to claim is what is provided for under section 58W of the Legal Practitioners Act. That kind of thing should not be allowed to happen. It is another example of how the Government is willing to advantage the insurers against the claimants.

If the Minister's view is that lawyers acting for the SGIC do not charge more than they are allowed to under section 58W, why not make it absolutely clear in the legislation that this restriction applies to the insurer's lawyers as well as to the claimant's lawyers? Let us not leave it to past experience or the comfortable advice that the Minister provides us that it is not the situation they charge for. Let us legislate for it in the same way as the Government is willing to legislate for the way in which people who are acting for claimants should be legislated against. The Law Society continues -

> These proposed costs limitations will place personal injury lawyers in Western Australia in a unique position. The Law Society understands that there is no such similar provision in any other state. In fact, the movement in some other states is towards allowing conditional costs agreements (such as in New South Wales) or "uplift fees" (such as in South Australia). The basis of this movement -

As I have already said, that is recommended by the Trade Practices Commission.

> - is that legal practitioners and clients are allowed freedom of contract to enter into agreements whereby the legal practitioner agrees that no charge will be raised if the action is unsuccessful however if the claim is successful the practitioner is entitled to charge a fee comprising up to a certain percentage over and above the Scale fee.

As the Minister will know, the Law Society conducts a scheme which is an extension of legal aid, whereby if a lawyer acts for a person under that scheme and is successful that person is required to contribute a certain amount over and above ordinary legal costs to the fund, not so that the lawyer profits but so that other people in future can be aided by that same scheme. I have a suspicion that that kind of scheme under this legislation would be prohibited, and certainly anyone who had agreed under those sorts of arrangements to pay a higher fee, whether to the lawyer or to the fund, would be able to get the money back under this provision. There are certainly many cases where people may be able to get a lawyer to act for them in difficult and doubtful cases where they have no money and cannot get legal aid or assistance from the Law Society fund and the opportunity is given to them by the lawyer simply reaching an agreement and saying, "I will act for you on the basis that if we recover nothing then I get nothing but if we recover something then I want something over and above my normal fee." Then the parties can sit down and negotiate. I have some reservations about those arrangements because in America they have given rise to ambulance chasing by lawyers and like practices. Nonetheless the experts, including the Trade Practices Commission, who have looked at those arrangements in relation to opening up access to courts and justice by people have recommended that we re-look at those. I am sure we can devise ways of protecting clients and preventing ambulance chasing while preserving access to justice by people. The Law Society continues -

> Clearly the Bill discriminates against injured persons in Western Australia, and their legal advisers, and appears to go against an Australia wide trend to allow freedom of contract between legal practitioners and their clients to enter into costs agreements.
>
> 13. An alternative may be the provision of a standard form costs agreement for personal injury actions with a statutory cap. This could be inserted as a Schedule to the proposed Act.
>
> CONCLUSION
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> The Law Society considers that the proposed Bill should be deferred until the Law Society has had the opportunity of discussing the matter with Government representatives.

That is simply another reason why we should have referred this legislation to a select committee, where people like lawyers and those who are disadvantaged by this legislation could have explained their concerns, and we would have had the opportunity of examining the SGIC and its personnel as to the real need for this legislation and its real intent. We could then say that we as parliamentarians understood our obligation as the auditors for people for the accountability of Government. In this instance we have gravely failed the people in our responsibility as parliamentarians, especially those who have participated in introducing this legislation in the way they have, with the paucity of information in the second reading speech and the even greater paucity of information provided by the Minister in the course of this Committee debate. I said a couple of times in relation to matters like the adoption legislation that I am quite ashamed of where we are as a Parliament, because we do not understand our proper duties as parliamentarians. This legislation compounds the shame I feel about being a member of this Parliament while this Liberal National Party Government continues its course against the interest of Western Australians.

Mr BROWN: Mr Deputy Chairman (Mr Johnson), it would be possible for the next 10 minutes to elaborate further on the points I have made. I do not intend to do that but will sit down to give the Minister an opportunity to respond to those points.

Clause put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr C.J. Barnett (Leader of the House), read a first time.

House adjourned at 1.19 am (Wednesday)

QUESTIONS ON NOTICE

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2037. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Insurers Advisory Committee?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Insurers Advisory Committee?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) Mr A. Carter.

(2) Three years.

(3) K. Mettam; one position currently vacant.

(4) Up to three years.

(5) Approved insurers under the Workers' Compensation and Rehabilitation Act 1981.

(6) $73 per half day and $108 per full day.

(7) K. Mettam - 3 March 1987; A. Carter - 9 January 1992.

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2044. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Occupational Health, Safety and Welfare Commission?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Occupational Health, Safety and Welfare Commission?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) Neil Bartholomaeus.

(2) The term of appointment of the Commissioner for Occupational Health, Safety and Welfare is not to exceed five years. The current term of appointment expires on 9 July 1994.

(3) (i) Representatives of the Government: Peter Shaw, Department of Occupational Health, Safety and Welfare; Jeff Radisich - Department of Productivity and Labour Relations.

(ii) Chamber of Commerce and Industry nominees: Anne Bellamy; Pat Gilroy; Doug Lambert.

(iii) Trades and Labor Council nominees: Rob Meecham; Amanda Keynes; Stephanie Mayman.

(iv) Expert nominees: Dr Phil Carrivick; Barry Chesson; Mike Phillips.

(4) All members are appointed for a term not exceeding three years. The current term expires on 3 April 1994.

(5) The Commissioner for Occupational Health, Safety and Welfare is appointed by the Governor in Executive Council.

(i) Two Government representatives were nominated by the respective departments as per section 6(2)(b) and (c) of the Occupational Health, Safety and Welfare Act.

(ii) Three members representing employers were nominated by the Chamber of Commerce and Industry of WA.

(iii) Three members representing employees were nominated by the Trades and Labor Council of WA.

(iv) Three persons having knowledge or experience in occupational health, safety and welfare were appointed after consultation between the Minister for Labour and both the Chamber of Commerce and Industry and the Trades and Labor Council.

(6) The Commissioner for Occupational Health, Safety and Welfare receives remuneration in accordance with the Salaries and Allowances Tribunal determinations. The commissioner does not receive additional remuneration for performing the task of chairperson. All members, other than Public Service appointed members, are entitled to receive entitlements in accordance with the schedule of fees determined by the Public Service Commissioner. Currently these fees are set at $108 for a full day and $78 for half a day. All members except Stephanie Mayman have declined to receive payment for attending commission and advisory committee meetings.

(7)

Neil Bartholomaeus	4 November 1987
Peter Shaw	4 April 1985
Jeff Radisich	3 February 1993
Anne Bellamy	9 March 1993
Pat Gilroy	9 June 1986
Doug Lambert	4 April 1991
Rob Meecham	9 March 1993
Amanda Keynes	7 July 1992
Stephanie Mayman	4 April 1985
Dr Phil Carrivick	4 April 1991
Barry Chesson	4 April 1985
Mike Phillips	4 April 1985

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2050. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Premium Rates Committee?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Premium Rates Committee?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) Mr D. Pearson.

(2) Three years.

(3) Mr P. Burgess - Insurance Council of Australia
Mr A. Cooke - Trades and Labor Council
Mr V. Evans - Statutory appointment under section 147(2)(b) of the Workers' Compensation and Rehabilitation Act
Mr T. Matyear - Chamber of Commerce and Industry of WA
Mr H. Neesham - Statutory appointment under section 147(2)(b) of the Workers' Compensation and Rehabilitation Act.

(4) Up to three years.

(5) See answer to question (3).

(6) No remuneration is paid to public servant members. All others receive $73 per half day or $108 per full day.

(7)

Mr Burgess	14 September 1992
Mr Cooke	30 November 1987
Mr Evans	6 April 1993
Mr Matyear	3 May 1982
Mr Neesham	3 May 1982

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2061. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Western Australian Tripartite Labour Consultative Council?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Western Australian Tripartite Labour Consultative Council?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

This question is three years late. The Western Australian Tripartite Labour Consultative Council was abolished with the expiration of the Western Australian Tripartite Labour Consultative Council Act in 1991.

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2062. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Workers Compensation and Rehabilitation Commission?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Workers Compensation and Rehabilitation Commission?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) Mr N. Bartholomaeus.

(2) Three years.

(3) Mr H. Neesham - Statutory appointment under section 95(1)(b) of the Workers' Compensation and Rehabilitation Act 1981

Mr V. Evans - State Government Insurance Commission
Mr T. Matyear - Chamber of Commerce and Industry of WA
Mr A. Carter - Insurance Council of Australia (WA Chapter)
Mr A. Cooke - Trades and Labor Council
Dr R. Gillett - Commissioner for Occupational Health, Safety and Welfare.

(4) Up to three years.

(5) See answer to question (3).

(6) No remuneration is paid to public servant members. All others receive $73 per half day and $108 per full day.

(7)

Mr Bartholomaeus	14 August 1989
Mr Neesham	3 May 1982
Mr Evans	24 February 1993
Mr Matyear	3 May 1982
Mr Carter	16 September 1991
Mr Cooke	26 October 1987
Dr Gillett	20 May 1991

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2063. Mr GRAHAM to the Minister for Labour Relations:

(1) Who is the Chairman of the Workers Compensation Board?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Workers Compensation Board?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

The Workers' Compensation Board was abolished by the Workers' Compensation and Rehabilitation Act 1993 on 28 February 1994.

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2098. Mr GRAHAM to the Minister for Multicultural and Ethnic Affairs:

(1) Who is the Chairman of the Advisory Council to the Minister for Multicultural and Ethnic Affairs?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Advisory Council to the Minister for Multicultural and Ethnic Affairs?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

The Advisory Council to the Minister for Multicultural and Ethnic Affairs was appointed by the previous Government and has ceased to operate.

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2223. Mr GRAHAM to the Minister for Seniors:

(1) Who is the Chairman of the Advisory Council to the Minister for Seniors?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Advisory Council to the Minister for Seniors?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr NICHOLLS replied:

(1) The advisory council is currently suspended due to the restructure of the Office of Seniors Interests. The make-up of a future advisory council will be determined once the restructure is completed.

(2) The chairperson of the previous advisory council was appointed by the Minister for Seniors for a one year period.

(3) See answer to (1).

(4)-(5) Not applicable.

(6) Standard sitting fees - half day - were paid to the members of the 1992-93 council for each meeting attended by them: Chairperson - half day $97, full day $145; deputy chair and other members - half day $73 each, full day $108 each. Each member was required to complete an employment declaration form.

(7) Members of the 1992-93 advisory council appointed in June/July 1991 -

Mr John Willcock, Chairperson
Dr Louis Goodman
Mrs Joy Clapham
Mr Stan Davies
Ms Iren Hunyadi
Ms Barbara Ling
Ms Gloria Walley

Members of the 1992-93 advisory council appointed in July 1992 -

Ms Margaret Ellis
Ms Merva McMorrow, Deputy Chairperson
Mr Vin Holland
Mr Shri Manohar
Ms Nan New

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2250. Mr GRAHAM to the Minister for Works:

(1) Who is the Chairman of the Architects Board?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Architects Board?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) John W. Koivisto.

(2) Twelve months.

(3)

Member	Nominated by	Initial Appointment
G. Lawrence	Elected by registered architects	1989
R. Mollett	Elected by registered architects	1980
J. Koivisto	Elected by registered architects	1987
B. Wright	Elected by registered architects	1993
F. McCardell	Elected by registered architects	1977
G. Banham	Elected by registered architects	1994
W. Kerr	Royal Australian Institute of Architects	1992
A. Casella	Appointed by the Governor	1985
J. Coleman	Appointed by the Governor	1987

Note: One position is currently vacant and is to be filled by appointment by the Governor in Executive Council.

(4) Three years for all members except the nominee of the WA Chapter of the Royal Australian Institute of Architects which is for one year only.

(5) Please refer to (3).

(6) None.

(7) Please refer to (3).

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2251. Mr GRAHAM to the Minister for Works:

(1) Who is the Chairman of the Committee of Architectural Education?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the Committee of Architectural Education?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

(1) Professor L. Hegvold.

(2) Twelve months.

(3)

Member	Nominated by	Initial Appointment
L. Hegvold	Curtin University	1.1.89
G. London	Royal Australian Institute of Architects	1.1.89
A. Casella	Architects Board	5.6.84
S. Deykin	Architects Board	1.1.89
J. Koivisto	Architects Board	1.1.92
S. Anderson	University of WA	1.1.93

Note: Three positions on this committee are currently vacant.

(4) Twelve months.

(5) Please refer to (3).

(6) None.

(7) Please refer to (3).

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

2252. Mr GRAHAM to the Minister for Works:

(1) Who is the Chairman of the State Engineering Works?

(2) What is the term of the appointment of the chairman?

(3) Who are the committee members of the State Engineering Works?

(4) What are the terms of appointment of each member?

(5) By whom was each person nominated?

(6) What remuneration is paid to each member and the chairman?

(7) When was each member first appointed?

Mr KIERATH replied:

This question is five and a half years late. The State Engineering Works was abolished by the Labor Government in September 1988.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - FOSTER CARERS
Recruitment Statistics

2288. Mr BROWN to the Minister for Community Development:

With reference to the 1992-93 annual report of the Department of Community Development could the Minister advise:

(a) how many foster carers were recruited in the 1992-93 financial year;

(b) how many foster carers have been recruited since 1 July 1993;

(c) what percentage of foster carers recruited since 1 July 1992 -

(i) are fully registered carers;

(ii) presently care for children?

Mr NICHOLLS replied:

The department collects information on foster carers registered within the department. Such information includes the date from which a carer was registered; however, there are no aggregated figures which identify length of registration across all carers or the number of carers who were registered within specific time frames. Therefore, specific responses to these questions are unable to be provided.

NURSING HOMES - BEDS
Private and Voluntary Sectors, Numbers and Location

2321. Dr GALLOP to the Minister representing the Minister for Health:

(1) How many nursing home beds are provided by the private and voluntary sectors throughout Western Australia?

(2) At which locations are these beds located?

(3) How many beds are available at each location?

(4) Who monitors the standards of care throughout the private and voluntary sectors?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1) 4 910 nursing home beds are provided by the private and voluntary sectors throughout Western Australia.

(2) The beds are provided at the following locations -

Metropolitan -

Statistical local areas	Beds
Belmont	113
Canning	128
Gosnells	40
South Perth	393

Bayswater	146
Perth: North	202
Perth: Outer	65
Perth: South	657
Perth: Wembley-Coastal	90
Stirling: Central	140
Stirling: South-eastern	335
Stirling: West	24
Cockburn	49
East Fremantle	46
Fremantle - remainder	198
Melville	300
Claremont	29
Mosman Park	89
Nedlands	131
Subiaco	187
Wanneroo	207
Bassendean	44
Kalamunda	115
Mundaring	42
Swan	210
Kwinana	30
Rockingham	105
Armadale	80
Total	4 195

Country - Statistical Local Areas	Beds
Northam	40
Manjimup	30
Esperance	25
Geraldton	85
Albany	52
Kalgoorlie/Boulder	107
Mandurah	138
Bunbury	144
Busselton	44
Narrogin	50
Total	715

(3) As in answer (2).

(4) The standard of care in private and voluntary sector nursing homes is monitored by the Commonwealth standards monitoring teams. These teams operate in all States and monitor the quality of life and care standards in nursing homes against the Commonwealth nursing home outcome standards.

SCHOOLS - TEACHERS, EMPLOYMENT

Preprimary, Primary, Secondary Subject Areas, Youth Education, School Psychology, Special

2332. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Education:

(1) How many full and part time vacancies for teaching positions have been filled for the 1994 school year in the following areas -

(a) preprimary;

(b) primary;

(c) secondary subject areas;

(d) youth education officers;

(e) school psychology;

(f) special education?

(2) How many applications were there for each of the areas listed in (1) above?

Mr TUBBY replied:

The Minister for Education has provided the following reply -

(1) (a) 163

(b) 640

(c)

Agriculture	6
Library	46
Computing	6
Science	126
English	190
Reading Resource	28
Alternative Upper School	16
Business Education	42
LOTE	49
Social Studies	95
Mathematics	164
Physical Education	97
Youth Education	25
Art	40
Manual Arts	54
Low Achievers	10
Home Economics	75
Total	1 069

(d) 25

(e) 86

(f) 459

(2) (a)-(b) 3 127

(c)

Agriculture	5
Library	58
Computing	20
Science	194
English	327
Reading Resource	24
Alternative Upper School	16
Business Education	81
LOTE	93
Social Studies	203
Mathematics	223
Physical Education	193
Art	74
Manual Arts	93
Low Achievers	63
Home Economics	1
Total	1 761

(d) Youth Education Officer positions filled by application from teachers already employed in other subject areas.

(e) 91

(f) 499.

POLICE - STATIONS
South Perth, Mends Street, a Registered Heritage Place

2334. Mr PENDAL to the Minister for Heritage:

Is the South Perth Police Station in Mends Street, South Perth a registered heritage place?

Mr LEWIS replied:

No. The South Perth Police Station is not entered in the Heritage Council's Register of Heritage Places under the Heritage Act. Neither has it been classified by the National Trust.

DESIGNERS - KEY ROLE IN ECONOMIC FUTURE

2365. Mr GRILL to the Minister representing the Minister for the Arts:

(1) Does the Minister recognise the key role designers play in Western Australia's economic future?

(2) If so, what action does the Minister intend to take over the decision by the R & I Bank to employ interstate designers to redesign the bank's corporate livery?

Mr NICHOLLS replied:

The Minister for the Arts has provided the following reply -

(1) Yes.

(2) This is an internal management decision by the R & I Bank.

ELEPHANT BIRD EGG - GOVERNMENT PAYMENTS

2366. Mr GRILL to the Minister representing the Minister for the Arts:

(1) What payments have been made by the Government to the finders of the elephant bird egg?

(2) Does the Government intend to make any further payment?

(3) How much has been raised to date by public subscription?

(4) Who legally owns the egg?

Mr NICHOLLS replied:

The Minister for the Arts has provided the following reply -

(1) $25 000 - ex gratia.

(2) No.

(3) Unknown. This information can only be assessed by the trustees of the trust set up for the Andrich and Rew children, the finders of the egg. The trustees are Mr and Mrs D. Andrich and Mr and Mrs L. Rew, the parents of the children.

(4) Legal advice is that the egg is owned by the State.

KEMP HALL COLLECTION - SALE

2367. Mr GRILL to the Minister representing the Minister for the Arts:

(1) Has the Kemp Hall collection been sold?

(2) If so, to whom, and when?

(3) What was the price received?

(4) Did the Western Australian Museum undertake a detailed assessment of the collection?

(5) What was the Museum's assessment?

(6) Did the Museum make an offer for all or part of the collection?

(7) Did the Western Australian Museum successfully acquire any part of the collection?

(8) If so, what was acquired?

Mr NICHOLLS replied:

The Minister for the Arts has provided the following reply -

(1) It is understood that the Kemp Hall collection has been sold privately.

(2) Details of the buyer and the date of purchase are not known.

(3) The price received for the collection is not known.

(4) Staff of the Western Australian Museum's History Department undertook a detailed assessment of the collection.

(5) The evaluation of the collection concluded that most of the items were unprovenanced and not of a value or significance warranting preservation within the State collection but that a small number of items were of such significance.

(6) The Museum discussed with Mr and Mrs Hall both the possibility of a donation under the Taxation Incentives for the Arts scheme and also of acquiring the material identified by the Museum as of interest. As it appears that the collection has been sold as a whole the opportunity to acquire individual items has not arisen.

(7) The Western Australian Museum has not acquired any part of the collection.

(8) Not applicable.

INDUSTRIAL RELATIONS LEGISLATION, FEDERAL - GOVERNMENT'S CHALLENGE, FUNDING

2396. Mr GRAHAM to the Minister for Labour Relations:

(1) How is the Government's challenge to Federal industrial laws being funded?

(2) What is the estimated cost of the challenge?

(3) Which department is responsible for the challenge?

(4) How many officers of that department are allocated to preparing the case?

(5) How long is the case expected to take to prepare?

(6) Are any legal practitioners from the private sector being used to assist with the case?

(7) If so, who and what will be their cost?

Mr KIERATH replied:

(1)-(2)

The challenge will be funded through the budgets of the various departments involved and there are no funds specifically set aside.

(3) The Ministry of Justice.

(4) Two, at present.

(5) Indeterminate, depending on High Court availability.

(6) No.

(7) Not applicable.

QUESTIONS WITHOUT NOTICE

SINGAPORE - CANING OF YOUTH SENTENCE
Law and Order, Premier's Support

617. Mr TAYLOR to the Premier:

I refer to the Premier's apparent fondness for the Singapore system of justice and ask -

(1) Does the Premier support the Singapore Government's decision to sentence a youth to caning by a martial arts expert, a $3 000 fine and four months' gaol for an act of graffiti vandalism?

(2) Does the Premier support the Singapore Government decision to bring 11 charges against public officials who unofficially released data to a newspaper?

(3) When does the Premier intend to introduce similar penalties into Western Australia?

Mr COURT replied:

(1)-(3)

The Opposition can do better than this. The Leader of the Opposition knows that we do not interfere in the domestic politics of other countries. Why does not the Leader of the Opposition ask me about Bolivia or Argentina?

Mr Taylor: You are bringing Lee Kuan Yew to Western Australia to advise on law and order.

Mr COURT: The Australian Government is bringing Senior Minister Lee Kuan Yew to Australia for some two weeks. He will be the official guest of the Australian Government. When he comes to Western Australia he will certainly be accorded all the courtesies that we give to visiting heads of Government. I make no secret that I have a lot of respect for Lee Kuan Yew and what he has done for Singapore. It would be a pretty foolish Government that did not look at what all Governments are doing in the law and order area. We do not have all the answers, but we are prepared to learn.

INDUSTRIAL RELATIONS COMMISSION - COMMISSIONER MERRIMAN'S DECISION

618. Mr OSBORNE to the Minister for Labour Relations:

Can the Minister comment on the bases of a decision made in the Federal Industrial Relations Commission recently by Commissioner Merriman?

Mr KIERATH replied:

When I read the article in today's newspaper I had three areas of concern. The first is that late last year the Full Court of the High Court of Australia handed down a decision that ambit claims should not proceed where disputes were fanciful or lacking in industrial reality. In this case a commissioner ruled on a dispute, which was based on representations made by the union, not individual workers. Of the three companies named, only one company was in the process of registering workplace agreements. One of those agreements was refused by the commissioner because the person did not understand the conditions. The people whose workplace agreements were approved did understand their terms and conditions, so we do not know from where the commissioner has been getting his information. In his decision the commissioner stated that the Minimum Conditions of Employment Act did not contain dispute

settlement procedures. The Minimum Conditions of Employment Act has never contained procedures for dispute resolution; they are contained in the Workplace Agreements Act. The federal Industrial Relations Commissioner does not appear to have read the legislation involved, and hands down a decision like that. That type of decision puts in a poor light the decisions of the federal commission. The commissioner went on to discount individual employees' evidence that they were happy, informed and knew what they were doing.

The commissioner's real agenda comes later in his decision. He wants to rope workers into the federal system - that is the real problem. I will make it plain to members of this House that in regard to workplace agreements this Government and the people of Western Australia will stand by employees and employers who want to enter into workplace agreements. We will look after them. If members opposite think that a renegade commissioner can do something otherwise, they are wrong. In order to have workplace agreements registered individuals must establish that they know what they are doing, that they want an agreement and that they understand its terms and conditions. That is in complete contrast to the commissioner's decision. The Transport Workers Union has said to the commission that it knows better than the individual workers. In the case of the only company that had workplace agreements registered, it was established in all but one agreement - which was refused - that workers understood their terms and conditions. In this decision, the Federal commission believes the TWU knows better than the individual workers. We will not tolerate that situation.

PARLIAMENT - MEDIA ACCESS, ADDITIONAL REPORTER
Televising Approval

619. Mr TAYLOR to the Premier:

Perhaps having not answered my first question, the Premier might be able to answer this one. I refer to the high farce surrounding the question of media access to Parliament.

(1) Given that the action - or rather inaction - by the Government, when will the Premier display some leadership and resolve the issue that will allow *The West Australian* to have another reporter accredited to the Press Gallery?

(2) When will the Premier honour his undertaking to allow the televising of Parliament, given that 10 months is surely enough time to resolve all the technical issues?

Mr COURT replied:

(1)-(2)

That is a classic example of a Labor Party which does one thing in Government and another in Opposition. In Government, members opposite did not see a need for accountability.

Dr Gallop: You did not support much of my legislation that would have improved accountability.

Mr COURT: I do not support many things the member for Victoria Park puts forward. Members opposite know this matter is under the control of the Presiding Officers in this Parliament, but I would like to put a few things on record. The first is that the rules today are no different from two years ago when members opposite were in Government.

Mr Taylor: *The West Australian* needs another accredited member of the Press Gallery.

Mr COURT: Why did the Labor Government not give them one?

Mr Taylor: They are asking for one now.

Mr COURT: It was okay two years ago, but it is not acceptable now! I am sure that you, Mr Speaker, and the other Presiding Officer, in conjunction with the journalists will work something out to the satisfaction of all parties involved. I am not being critical of the former Speaker but, as I understand it, approaches were made to him by the media for some sort of control in the Gallery. Was that the situation?

Several members interjected.

Mr COURT: It was not. It is proper for the media to have plenty of access to the Gallery. I also realise there are some anomalies in relation to the ABC, for example, having a lot of journalists. I find it quite amusing that the Leader of the Opposition when in Government did absolutely nothing about the situation and, as usual, this Government will change the situation.

BROOME CROCODILE FARM - CLOSURE, MEDIA REPORTS

620. Mr MARSHALL to the Minister for Aboriginal Affairs:

Is the Minister aware of what is happening to the Broome Crocodile Farm in view of the media reports on its closure?

Mr PRINCE replied:

At 12 o'clock today it was reported that Mr Douglas had closed the Broome Crocodile Farm. Members should recall a little of the history of this matter. Mr Douglas has for some time run a crocodile farm on a limited area of land in Broome. In February 1992 he negotiated with the Department of Land Administration for more than 26 ha of land on Crab Creek Road. The department applied on his behalf to the Aboriginal Cultural Material Committee for consent under section 18 of the State Aboriginal Heritage Act. That was duly given by the Minister in the then Government, now the Opposition. That consent gave permission for the crocodile farm to be re-established and expanded. In July 1992 the High Court handed down the Mabo title decision and the Kimberley Land Council then brought a native title claim. On five occasions from then until December last year it sought declarations in the Supreme Court or the Federal Court to prevent the crocodile farm going ahead. It was unsuccessful. The sworn evidence in the court from the Department of Aboriginal Sites and other anthropologists was that there was no site on the land. Notwithstanding that, Mr Douglas was prepared to excise part of it for a track. However, that was not enough and in January this year the Federal Minister Mr Tickner issued a declaration, which expired yesterday, prohibiting any work on the land at all. It was initially for a period of 30 days. When the first 30 days was about to expire my office was given two hours to respond. We were asked to make a submission which had to be in Canberra within two hours. This was totally impossible.

The declaration was obviously going to be extended, and it was. It expired yesterday. It is with a great deal of regret that Mr Douglas is closing down. There were five court declarations. The evidence is quite conclusive. No grounds exist for any heritage declaration on this property. Mr Chaney was commissioned by the Federal Minister to try to mediate a settlement. I understand that he has reported to Mr Tickner, but I do not know what the report contained nor what the result is. We have here a small businessman carrying on a viable business and trying to expand, and he has been overridden by the politicking of Canberra. This can be nothing more than a foreboding of things to come. I suggest that this is the Prime Minister's agenda and not that of anybody else.

LANDCARE - FUNDING, PEMBERTON SEWERAGE SCHEME
Documents Tabling

621. Mr RIPPER to the Minister for Water Resources:

I refer to the Minister's misuse of Commonwealth Landcare funds to pork-barrel his own electorate and to the Minister's pledge last week to table all documents associated with the Pemberton sewerage scheme.

(1) Has the Minister tabled all the documents?

(2) If so, where are the copies of correspondence with the Manjimup Shire Council regarding -

(a) council's proposed one-third contribution to the scheme, and

(b) council's subsequent $300 000 windfall following the Minister's decision to waive the council's contribution?

(3) Why are there significant gaps in the sequence of folio numbers on the documents tabled?

Mr OMODEI replied:

(1)-(3) As the member opposite knows, last week in Parliament I agreed to table papers relating to Pemberton.

Mr Ripper: All the papers?

Mr OMODEI: To my knowledge, all the papers were tabled.

Mr Taylor: All of them?

Mr OMODEI: All the papers. To my knowledge, all the papers were tabled. If the member believes papers have not been tabled, he can inform me of them and I will ensure that they are. On Thursday of last week, the member went both on radio and in the newspaper accusing me of misleading the Department of Primary Industry on national Landcare funds. It has been described pretty well to the Opposition spokesperson on water, the member for Belmont. As well, the member has been offered a briefing. Three of four weeks ago, he wrote to me asking for a briefing on water related matters. I acceded to that request but, to this date, he has not taken up the opportunity. If he were to do that, he might find that his allegations would be cleared up to his satisfaction. It is important that members of the House realise what the member is doing in relation to what has been a major breakthrough for this State in acquiring national Landcare moneys for the first time ever.

Mr Ripper: In your electorate.

Mr OMODEI: For my electorate. I had no part whatsoever in an application for funds for national Landcare moneys for sewerage in this State.

Mr Taylor: You asked the Water Authority to approve it.

Mr OMODEI: I did that. I asked the Water Authority to scrap the rural sewerage strategy because it was not working.

Mr Taylor: Did you ask it to approve it for Pemberton and Dardanup?

Mr OMODEI: I did not. My responsibility is to attract moneys to this State through the Water Authority and the national Landcare scheme. On 24 September I stated -

> In view of our successful submission to the Commonwealth for funding for Pemberton sewerage under the national Landcare program, I believe that both Pemberton and Dardanup should now proceed without a shire contribution.

I had made that decision well and truly before this correspondence. A few days after that, on 28 September, the Commonwealth acknowledged that the Water Authority could proceed with the project without the shire's contribution. The member opposite has been shooting off his mouth around the State.

Mr Ripper interjected.

The SPEAKER: Order!

Mr OMODEI: However, he does not know that the whole of Dardanup is being sewered, to which the Dardanup shire is making a part contribution. The application by the Shire of Manjimup concerning Pemberton was for stages one and two of a four stage project. Even if the Commonwealth were to double its allocation of funds to that specific project, it would still not be contributing anywhere near one-third of the cost. If the member opposite wants a full briefing on the Pemberton sewerage project, my office or the Water Authority will be more than happy to give him one. He will find there are no sinister connotations to the application for funds.

NATIONAL ACCOUNTS - QUARTERLY FIGURES

622. Dr HAMES to the Premier:

Will the Premier comment on the latest national accounts figures released by the Australian Bureau of Statistics?

Mr COURT replied:

The latest Australian Bureau of Statistics figures were released last Thursday and showed that the economic growth in Western Australia was continuing to lead the other States. Most importantly, the new levels of private sector investment are continuing to grow strongly. Last year they grew at 10 per cent. This compares favourably with the national average of approximately 2.1 per cent. With the strong level of private sector investment, that will flow to the employment growth area.

The results of a number of recent surveys point to an optimistic outlook in Western Australia. The Telecom small business index indicates WA has "the strongest expectations on profitability of all States for the current three months". The Master Builders Association consumer confidence survey showed consumer optimism at a new record and that "higher confidence levels will transfer into an economic bonanza for business in 1994 after many years of hard times". The CCI survey of business opinion showed improved trading, profit and economic conditions for Western Australia in the March quarter, plus a positive outlook in the June quarter and a very strong 30 per cent of respondents expect an increase in investment during the next 12 months. Business confidence has certainly returned in this State. The Leader of the Opposition was the Minister for State Development for many years. During that period this State suffered years of stagnant investment. It showed that when members opposite were in Government they did not have the political will to turn around a situation. This Government has introduced industrial relations reforms, transport reforms and public sector reforms.

All of those reforms, which were designed to make the economy more efficient, are being opposed by members opposite. What is the best the Leader of the Opposition can do? He has asked for more resources for the office of the Leader of the Opposition. That must have been done tongue-in-cheek. He knows what took place for the 10 years we were in Opposition. While a small business is being closed down in Broome as a result of declarations made by Federal Government Minister Tickner, the Leader of the Opposition is silent.

Mr Marlborough interjected.

The SPEAKER: Order! Member for Peel.

Mr COURT: Now the member for Peel is saying the Broome crocodile farm has closed because of bad management. It is run by the owner, Malcolm Douglas; members opposite know the man. My advice to members opposite, for what it is worth, is to get out of Parliament House and find out what is happening in the real world.

LANDCARE - FUNDING, PEMBERTON SEWERAGE SCHEME
Documents Tabling

623. Mr RIPPER to the Minister for Water Resources:

I refer once again to the Minister's misuse of taxpayers' funds in his own electorate, his pledge to table all the documents, and the meagre collection of documents he has tabled. Why has the Minister not tabled the documents related to the role of the Western Australian State assessment panel -

Point of Order

Mr NICHOLLS: I thought I heard the Opposition Leader of the House make an allegation that the Minister has misused taxpayers' money. However, I did not hear him use the word "alleged". If that is the case I ask that he withdraw that allegation as it has not been substantiated.

Mr Taylor interjected.

The SPEAKER: Order! Leader of the Opposition. If the member for Belmont accused the Minister of misusing public money, that would not be appropriate. I ask him to modify his question to make it admissible.

Questions without Notice Resumed

LANDCARE - FUNDING, PEMBERTON SEWERAGE SCHEME
Documents Tabling

624. Mr RIPPER to the Minister for Water Resources:

I moved a substantive motion to this effect last Thursday. I refer again to the Minister's alleged misuse of taxpayers' funds in his own electorate. The Minister has pledged to table all the documents; yet only a meagre collection of documents has been tabled. Why has the Minister not tabled the documents relating to the role of the Western Australian State assessment panel in giving the Pemberton sewerage project priority over other Western Australian applications for Landcare funding?

Mr OMODEI replied:

As I said to the member in response to the previous question, to my knowledge all the papers relating to the Pemberton sewerage scheme have been tabled -

Mr Ripper interjected.

Mr OMODEI: They were provided. If papers exist of which the member is aware, I would like to know. Between question time last week and the time of the House rising I issued instructions to the Water Authority to table all documents. These allegations still persist. The member stated that on 24 April I issued instructions to waive the rural sewerage scheme. I explained last week during debate on the motion the reason it was not working. Mr Doug Edgar, who is the engineer for the south west region, received a verbal response from John Davis, the national Landcare coordinator on 28 September -

Mr Ripper: Is that the Commonwealth department?

Mr OMODEI: It states that provided the State does not renege on its contribution - that is, provided the Commonwealth does not have to contribute the greater proportion - there would be no problem with the allocation of those funds. The member is trying very hard to discredit me as a Minister and as a local member. He knows full well that priorities were set by the Labor Government.

Mr Ripper: Why didn't you table the documents?

Mr OMODEI: I have nothing to hide; as I told the member before, the national Landcare application was made by the Water Authority for Commonwealth funds.

Mr Ripper: Can I go through the files and see? Can I check the files?

Mr OMODEI: The member opposite can check my files if he really wishes. It is a petty attempt to try to discredit me. The member stated on radio that people in the metropolitan area were being made to pay more for sewerage than people in the country -

Mr Ripper: Will you put it on the record that I can see the files?

Mr OMODEI: The very opposite to what the member claims has occurred.

POLICE UNION (WA) - OUTSTANDING EX GRATIA PAYMENTS

625. Mr W. SMITH to the Minister for Police:

Some notice of this question has been given.

(1) What action has been taken to settle outstanding claims by the WA Police Union for ex gratia payments seeking reimbursement from Government for legal expenses incurred in representing its members?

(2) Is the Minister aware of a commitment by the previous Labor Government to settle the payments?

(3) Was the previous Government following the correct policy in relation to ex gratia payments?

Mr WIESE replied:

I thank the member for some notice of the question.

(1)-(3) I have been endeavouring for some time to settle these outstanding ex gratia payments and have had considerable discussions with the Police Union on several occasions. Those discussions are ongoing. I am also involved in ongoing discussions with the union, the Attorney General and the Solicitor General to establish a set of procedures which will ensure that such a situation does not arise in the future. The majority of these outstanding claims were submitted to the previous Government but never finalised. Several of these claims involve very complex legal issues and proceedings which are still in progress and cannot be determined until those proceedings have concluded. Two examples are the Wardle case and the Irving case, which are still proceeding. I am not aware of any commitment given by a previous Labor Government to settle these payments. However, I understand that there has always been a uniform policy applicable to all officers in the public sector. This policy was restated and tabled in Parliament in 1990 as guidelines relevant to Ministers and officers involved in legal proceedings.

Finally, I have been informed by the Crown Solicitor that it appears there were occasions during the term of the previous Government on which several cases were dealt with outside the

terms of that established policy; however, I cannot comment further on those matters.

WATER AUTHORITY OF WESTERN AUSTRALIA - SEWERAGE
Pemberton Sewerage Scheme; Levy

626. Mr RIPPER to the Minister for Water Resources:

I refer to the Minister's misuse of Federal Landcare funds to pork-barrel his electorate, and ask -

(1) Did the Western Australia Water Authority Board on 21 October 1993 endorse the Minister's decision that the Pemberton sewerage scheme should proceed without a community contribution "subject to the balance of funding being provided from the infill sewerage levy fund when established"?

(2) Does the fact that construction of the scheme is proceeding confirm that the Government has already decided to impose a new sewerage tax on Western Australian families, contrary to the Minister's statement during the recent by-election campaign that "It's unlikely that there will be a sewerage levy"?

Mr OMODEI replied:

(1)-(2) I presume the member for Belmont also has access to the submission to Brian Howe on Commonwealth funding for sewerage in this State. I have not heard any comments from members opposite supporting the application for funds by this State Government to the Commonwealth, let alone the national Landcare moneys or any other moneys for solving the sewerage problem. Members will recall that the member for Balcatta and I discussed the levy in debate last year. It is no secret that early in my time as the Minister for Water Resources I considered and promoted the idea of a possible levy, similar to the New South Wales levy of about $80. From time to time the media have referred to a levy.

Mr Court: Didn't one of the Opposition members support it?

Mr OMODEI: The member for Cockburn is on record as supporting a levy and saying that somebody must pay for the problem that has come about as a result of the inactivity of the previous Administration. It is also no secret that the Government is putting together a package to fund the sewerage problem. I have already mentioned in this House the problem in the electorate of the member opposite where sewage runs down the street into the river, polluting the river. It has also been acknowledged that the rural sewerage strategy was not working. Country people were being asked to pay an extra 30 per cent when city people were being given the sewerage package for nothing. However, the member opposite has not mentioned anything about that. The Government is putting together a package and, in line with my statements over the past two or three months, it believes that a levy is the least preferred option.

Mr Catania: But is it the only option?

Mr OMODEI: I also made the statement that it was unlikely that a levy would be imposed. At the beginning of last year the Government considered and promoted the concept of a levy. The media in this State acted responsibly and promoted the problem with the sewerage system and the way it was affecting the ground water and the environment. It also promoted the question of whether there should be an environmental levy. The Government has not yet made a decision on how it will fund the package; however, it is unlikely that a levy will be imposed, and it is the least preferred option of this State Government.