WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE COUNCIL

Wednesday, 25 June 1997

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

STATEMENT - LEADER OF THE HOUSE

Questions on Notice

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.02 pm] - by leave: Members may have noticed a considerable delay in answers to some questions on notice asked of me during this session. They may be aware that the electronic transfer of questions and other material between Parliament House and other locations was introduced this year.

I advise members the delay in response to some questions was caused by a technical failure in the new e-mail system which failed in the transmission of material from Parliament House to my office. I was therefore unaware for quite some considerable time that the questions had been asked.

I am advised that the problem has now been rectified.

STATEMENT - ATTORNEY GENERAL

Financial Institutions Legislation

HON PETER FOSS (East Metropolitan - Attorney General) [4.04 pm] - by leave: I will table today the Friendly Societies (Victoria) Act 1996; the Friendly Societies (Victoria) (Amendment) Bill 1997; and the Financial Institutions Legislation Amendment Bill 1997 of Queensland.

Western Australian legislation for financial institutions arose out of a need for increased coordination of prudential standards of building societies, credit unions and friendly societies identified by state registrars of those institutions in the 1980s. The collapse of the Pyramid Building Society in Victoria in 1990, following problems in other States, including the Teachers' Credit Society in Western Australia, lent urgency to the need for uniformity of standards.

At the October 1990 Special Premiers' Conference, agreement was reached on the reform of state legislation for the supervision of state based financial institutions in the context of the stability of the financial system as a whole. A report prepared by a working group of officials of the Commonwealth, the States and the Reserve Bank formulated proposals for a supervisory structure which was submitted to the May 1991 Premiers' Conference at which the Financial Institutions Agreement was endorsed by State and Territory Governments.

The agreement provided for the implementation of a state-based system of prudential supervision of permanent building societies and credit unions by means of uniform legislation, with national coordination of uniform high standards and practices together with provision for suitable industry funded national liquidity support mechanisms. Legislation for uniform regulation of friendly societies was not pursued at the time because of the particular characteristics of that industry. As members will be aware permanent building societies and credit unions essentially receive deposits from members and make loans. In contrast, friendly societies receive voluntary subscriptions from members to provide for their relief and maintenance in sickness or old age, to provide burial expenses, to provide relief for dispensing medicines and the like.

The scheme of legislation provided for the creation of a national body called the Australian Financial Institutions Commission which is based in Queensland and has state supervisory authorities in each State. In Western Australia this is the Western Australian Financial Institutions Authority. AFIC and the state supervisory authorities are funded by the industries they regulate and are independent of Governments. AFIC sets the standards to which all permanent building societies and credit unions are required to adhere. WAFIA supervises the permanent building societies and credit unions in Western Australia on a day to day basis.

The package of legislation involved the enactment of primary or host legislation in Queensland. AFIC was created by the Australian Financial Institutions Commission Act 1992 of Queensland and the uniform legislation regulating permanent building societies and credit unions is found in the Financial Institutions (Qld) Act 1992. Scheduled to those Acts are the Australian Financial Institutions Commission Code and the Financial Institutions Code, respectively. Members will recall that these codes have been adopted and applied as laws in Western Australia by the Financial Institutions (Western Australia) Act 1992. WAFIA was separately created and regulated by the Western Australian Financial Institutions Authority Act 1992.

A select committee was established in 1991 in another place because of concern that -

> the two Queensland Acts which were incorporated into the law of Western Australia by the Western Australian Bills were not available to members for perusal;
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> the two Queensland Acts were neither incorporated in, nor appended to, the Western Australian Bills; and,
>
> since the legislation needed to be passed by both Houses before the close of the autumn session on 4 June 1992, for implementation on 1 July 1992, the time allowed for consideration of the legislation was inadequate.

Concern was also expressed about -

> the role of the Ministerial Council for Financial Institutions in approving amendments to the legislation;
>
> the fact that amendments enacted in Queensland would not come before the Western Australian Parliament;
>
> the fact that regulations made in Queensland would not be subject to disallowance in the Western Australian Parliament; and,
>
> the requirement for appeals from the Appeals Tribunal on questions of law, where the cause of action arose in Western Australia, to be initiated in the Queensland Supreme Court.

This last concern was dealt with in the Financial Institutions (Western Australia) Amendment Act 1995. Since the commencement of that Act on 24 October 1995 appeals from the Appeals Tribunal relating to causes of action arising in Western Australia are heard in the Supreme Court of Western Australia.

The operation of the financial institutions scheme legislation is now overseen by the Ministerial Council for Financial Institutions which meets annually at the same time as the Ministerial Council for Corporations and the Standing Committee of Attorneys General. A working group of MINFIN officers has proposed, and MINFIN has agreed, that friendly societies now be incorporated into the financial institutions legislation scheme.

The Australian friendly societies industry has total assets of just under $10b. Over 80 per cent of the industry is based in Victoria and some of the larger societies compete with insurance companies. Therefore, Victoria has agreed to act as the host state for the legislation and has enacted that legislation. Western Australia has under 1 per cent of the total Australian friendly society industry. The Victorian host legislation makes AFIC the standards setting body for friendly societies. The Financial Institutions Legislation Amendment Bill 1997 of Queensland, which is also tabled, incorporates friendly societies into the financial institutions scheme.

Application legislation is now before, or has passed through, the Parliaments of most other States. It is intended to introduce into this Parliament Western Australian legislation that will have the host code attached or appended. Members will have adequate time to consider the legislation.

Today I will be tabling two Victorian pieces of legislation and one Queensland Bill integral to the proposed scheme of uniform legislation for friendly societies. They are the Friendly Societies (Victoria) Act 1996; the Friendly Societies (Victoria) (Amendment) Bill 1997; and the Financial Institutions Legislation Amendment Bill 1997 of Queensland. A similar scheme of legislation also applies in relation to the Corporations Law. The Corporations Law is section 82 of the Corporations Act 1989 of the Australian Capital Territory.

All the States and the Northern Territory have applied the Corporations Law as laws in their jurisdictions. The Federal Government is considering amending the Corporations Law for collective investment schemes, as a result of the Corporations Law Simplification program and the recently announced Corporate Law Economic Reform program.

In the circumstances other legislation, reports and documents will be tabled in the future.

Consideration of the statement made an order of the day for the next day's sitting, on motion by Hon Bob Thomas.

PETITION - ABORTION

Hon Cheryl Davenport presented the following petition bearing the signatures of 5 persons -

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia request that a Parliamentary Inquiry be established to review Criminal Code sections 199, 200, 201 and 259.

Your petitioners therefore respectfully request that the Legislative Council will review the legal status of abortion in Western Australia to decriminalise abortion when performed by qualified medical practitioners.

And your petitioners as in duty bound, will ever pray.

[See paper No 541.]

PETITION - PUBLIC TRANSPORT FEES

Hon J.A. Cowdell presented the following petition bearing the signatures of 396 persons -

To the Honourable the President and Members of the Legislative Council in Parliament assembled.

We the undersigned petitioners object to the Liberal Government's recent savage increases in public transport fees, particularly as they apply to concession holders in outer metropolitan areas such as Mandurah and Murray. We object to:

The increase in ordinary concession fares by up to 25%.
The introduction of a ban on the use of multi-rider concessions before 9am - leading to a fare increase of up to 150% for aged pensioners, the disabled, students and unemployed.

We believe the Government is completely out of touch, doesn't care about the impact these increases will have on family budgets and is penalising Mandurah and Murray residents seeking jobs, education and medical treatment in the metropolitan area.

We call on the Government to remove the ban on pre 9am concessional travel and not to proceed with its plan to further increase ordinary public transport fares by 30% and concessional fares by 60%.

And your petitioners, as in duty bound, will ever pray.

[See paper No 542.]

PETITION - EUTHANASIA

Hon N.D. Griffiths presented the following petition bearing the signatures of 718 persons -

To the Honourable President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia respectfully commend to the attention of the House that:

1. Every act of euthanasia carried out with the approval of the State necessarily involves a judgement by the State that the person killed had a life that no longer mattered;

2. Inquiries into the legalisation of so-called "strictly regulated voluntary euthanasia" by the House of Lords Select Committee on Medical Ethics (1994), the New York State Task Force on Life and the Law (1994), the Canadian Special Senate Select Committee on Euthanasia and Assisted Suicide (1995) and the Australian Senate Legal and Constitutional Legislation Committee (1996) each concluded that it is impossible to ensure adequate safeguards for voluntary euthanasia and that therefore legalising euthanasia will always create more victims than beneficiaries;

3. A referendum on euthanasia would, if successful, be a substantial step towards legalised euthanasia and therefore any bill for a referendum on euthanasia should be rejected as an attempt to remove the equal protection from intentional killing enjoyed by all Western Australians under existing law.

Your petitioners pray that the House will reject any Bill to legalise euthanasia including any Bill for a referendum for legalised euthanasia.

And your petitioners, as in duty bound, will ever pray.

[See paper No 543.]

MOTION

Gold Royalty - Review

HON GREG SMITH (Mining and Pastoral) [4.18 pm]: I move -

That the effect of the proposed gold royalty be reviewed every two years to assess its impact on production, employment and investment in the gold industry.

Hon Tom Stephens: Do not introduce it, and then there will be no need to review it.

The PRESIDENT: Order! Let us not begin the day with interjections.

Hon GREG SMITH: There are two schools of thought on the introduction of a gold royalty. One is that a gold royalty may be absorbed into the cost of mining gold in Western Australia, and the other is that a gold royalty may be revenue neutral or even revenue negative.

Hon Tom Stephens: Where do you stand?

Hon GREG SMITH: I am a Liberal, and I am able to stand for what I believe in - unlike members opposite, who are told what to think!

Hon Tom Stephens: We know where we stand. We are not "on the one hand" or "on the other hand" people.

The PRESIDENT: Order! We will not start the day with numerous interjections. Hon Greg Smith has the floor, and he is directing his comments to me.

Hon GREG SMITH: The only way to find out which school of thought is right is to have a review two years after the introduction of a gold royalty. A group of people should collate the figures and examine the effects of the introduction of a gold royalty on Western Australia. At the moment it is only supposition that it will be revenue neutral.

Hon Mark Nevill: Will you explain what you mean by its being revenue neutral? I have not heard that argument advanced.

Hon GREG SMITH: Revenue neutral means the Government may raise $50m from it, but it could lose $50m from other sources; therefore, it would be no better off.

Hon Mark Nevill: I thought you were talking about companies.

Hon GREG SMITH: No, I am talking about revenue for the State Government. Someone should examine the figures to see what level of gold production is achieved after the royalty is introduced. Figures are available on current production and employment in the gold industry. It will be only a matter of reviewing those figures two years from now to see whether they have gone up or down. I have heard it suggested that there could be a drop of up to $100m-worth of exports in gold. We do not know that that is true.

Hon N.D. Griffiths: Do you think it could be?

Hon GREG SMITH: The goldmining industry and all mining industries face a number of issues, such as native title. The diesel fuel rebate, which the industries could lose, is still on the agenda. Now they must deal with the imposition of a gold royalty. As most people will be aware, the price of gold is very low. We must find out whether the royalty affects the take up of new mines, for example.

Western Australia is a world leader in extracting low grade ore. We mine some of the lowest grade ore in the world. Something like one-tenth of an ounce per tonne of dirt is taken out. Western Australia's goldmines basically sift grains of salt out of mountains of rock. It has been suggested the gold royalty could add about $12 an ounce to the cost of gold production. That is an assumption. Therefore, if and when the royalty is introduced, we must wait two years to get the figures together and then examine them to see whether the royalty has had these effects.

Numerous bodies of low grade ore in Western Australia have been proved or are being explored. The many mines that have opened up in Western Australia are in remote areas. An enormous cost is involved in starting a mine because once gold is found, a company must go to the expense of setting up camp and building a mill. Infrastructure worth $50m could be required before the company even starts mining. Many mines use the low grade ore they extract while getting to the higher grade material to keep their heads above water. If they have the added burden of paying a royalty on gold they are producing, which costs them more to produce than what they get for it, they might not worry about developing the mine. We must find out whether the take up of mines is reduced, bearing in mind that native title will probably have some effect on that as well.

The effects on the service industries must also be examined, because the goldmining industry is regionalised. There are no goldmines in the metropolitan area, naturally, and very few in the wheatbelt, except one at Southern Cross and perhaps another in the south.

Hon Kim Chance: There was one at Westonia and there is one at Boddington.

Hon GREG SMITH: Most goldmining is well away from Perth in remote areas and all the service industries to the mining industry are based in regional areas, such as Kalgoorlie, Geraldton, Mt Magnet and Meekatharra, and even

Port Hedland and Karratha to some extent. Although Port Hedland and Karratha are not associated with the goldmining industry, they have the expertise to produce equipment that goes to the goldmining industry. If a reduction occurs in the goldmining industry, it could result in a reduction in employment in those other industries. We are led to believe that for every person working in the goldmining industry, another five jobs are created down the line. The ramifications of the gold royalty, if and when it is introduced, are unknown. That is why two years from now, if it is introduced, we must have a good look to see what its real effects have been.

Hon J.A. Scott interjected.

Hon GREG SMITH: The goldmining industry is not subsidised. Exemption from a gold royalty is in no way a subsidy; it is an incentive. Unlike other products in Western Australia that are dug out, stuck on a truck, taken to a port and sent away, gold is sold as a finished product. Just about every goldmine in Western Australia mines the gold, processes the ore, smelts it and turns it into gold bullion. I do not know of any other mineral in Western Australia that is sold as a finished product. A good case could be put forward to remove the royalty on other minerals in Western Australia that are value added or sold as a finished product.

Hon Mark Nevill: Now you're talking a bit of sense.

Hon GREG SMITH: Manganese, chrome and platinum are three minerals that Western Australia imports.

Hon Mark Nevill: We don't import manganese.

Hon GREG SMITH: I am led to believe that we do. I am happy to listen to anything that indicates the contrary. It could be suggested that no royalty should be placed on people who mine any mineral that could be imported. Instead of such minerals being a cost to the country, they could be used internally or exported.

I am concerned also that small towns such as Mt Magnet, Kalgoorlie and Meekatharra are dependent on the goldmining industry. They have some support from the pastoral industry, but the goldmining industry puts money into those towns and creates employment there. Those towns will be affected if some mines close sooner than they would have otherwise because the gold royalty makes it unviable to mine the lower grade ore. There is no question that the royalty will affect the low grade mines. It costs some mines nearly as much to mine the gold as they receive when they sell it. The imposition of a gold royalty does not take into account the cost of production. From what I have been led to believe, it is a royalty on the gross production of gold. Most companies are taxed on their profit, not on their productivity. Companies that mine iron ore and other minerals that are charged a royalty are not doing anything: They dig up the mineral from the mine and fill up trains with it, take it to the port and send it away. However, gold is not just dug out, stuck in a truck, put on a boat and sent overseas; the miners sell it as a finished product. I commend strongly this motion that we consider the impact of the gold royalty every two years and decide whether it has been a revenue producing move for the State or a cost to the State.

HON M.D. NIXON (Agricultural) [4.30 pm]: The motion has a lot of merit. There are many arguments about royalties, and all the other minerals mined in this State are subject to a royalty. It could be argued that gold is no different from coal, iron ore or any other mineral. It is a pretty good argument and it sounds plausible on the face of it, but the difference is that the goldmining industry has always been fairly marginal over its long term history. In Western Australia low grades of ore are mined and it is incredible how low some of those ore bodies are. I understand the average yield in Western Australia is approximately two grams a tonne, and it is incredible that any industry could be efficient enough to separate such tiny amounts of metal from a huge amount of rubbish. The sorting problem is enormous. The industry is already under pressure, and I am told many goldmining companies would not be able to operate at a profit on spot prices. These companies have been able to forward sell and that has enabled them to continue because that price is considerably higher than the price on the spot market. Most of the goldmining is open-cut these days. Deep mining is falling to one side because of the costs involved. To get to the ore body the company must dig a dam at an angle, and if the most valuable part of the ore body is in the middle and it wants to make the area mined twice as wide, it must put a big batter on the pit. A tremendous and disproportionate amount of dirt must be moved to get the lower grade of ore body on the side. If any cost is added, the mining companies will be tempted to pick the eyes out of their ore bodies. Once that has been done there will be no high quality ore to mix with the lower grade ore, and the amount left may never be mined because it is of such low grade it will not be economic to mine it without a higher grade with which to mix it.

I share the view of Hon Greg Smith that the royalty is possibly revenue neutral, but it may even be worse than that. The only way to determine that is to assess what effect it will have. I am fearful that it may be too late because the damage may have already been done to the industry. Ore bodies may be uneconomic to mine, companies may go to the wall and jobs may be lost. I take a lot of convincing that it will be revenue positive for the Government. I share the member's view that this matter should be subject to review. Apart from the royalty on gold, there is the

problem of diesel fuel which is used off-road and is being taxed more and more. Fortunately, the agricultural industry receives a rebate on diesel fuel costs, but already there are moves to cut back the rebates to the mining industry.

Hon Mark Nevill: You will be the next lot.

Hon M.D. NIXON: That is quite probable. This will be a tremendous cost to the mining industry. People have always sought a way to manufacture gold, and it could be said modern deep mining is a process of turning distillate into gold. If the price of distillate is increased, it will have a tremendous effect on the price of gold. Putting together the fact that the mining industry is operating profitably only because it has forward contracts and the already increasing costs because of the burden of the price of diesel fuel, the only bright spot on the horizon is that the Australian dollar is moving downwards rather than upwards. There are huge problems in the goldmining industry, and the effect of any royalty must be reviewed at the earliest possible opportunity.

HON MARK NEVILL (Mining and Pastoral) [4.34 pm]: What a capitulation we have heard this afternoon, especially from a member who represents the Mining and Pastoral Region. The Opposition is absolutely opposed to this motion. Any support for this motion would imply the Opposition supported a gold royalty, and it is absolutely opposed to such a royalty. The idea of a review being carried out every two years is absolute nonsense. Twelve months ago the price of gold was looking rosy. At the moment it is in absolute crisis and if another 12 months passed before a review were carried out, it could be absolutely useless.

Both parties in the coalition Government made pledges before the last election that no gold royalty would be imposed. The Deputy Premier said in unequivocal terms in Kalgoorlie that no gold royalty would be imposed because otherwise the National Party would not be part of any coalition Government. The Premier said no gold royalty was on the agenda. As soon as the polls were declared, a gold royalty was foreshadowed on the spurious ground of distributions from the Grants Commission.

Why is the Opposition opposed to a gold royalty? First, the timing could not be worse for the imposition of such a royalty. The gold price is low, and 80 per cent of goldmining companies are making a loss at the moment. That is no exaggeration. The goldmining industry is suffering from the changes to the diesel fuel rebate system. The Government told the mining industry if it discussed these matters with the Government and worked out ways to reduce the fuel rebate, it would not cap the levy. The mining industry did that and after agreement was reached, the federal Treasurer announced the diesel fuel rebate would be capped at $800m. That will pull another $130m from the mining industry, which is already in a parlous state.

Native title is causing havoc in the goldfields. It is irrelevant whether people are for or against native title. Croesus Mining NL cannot build its new $20m mill, and that mine will close at the end of the year unless something is resolved. It does not look as though it is being resolved. The gas is sitting in the pipeline at Mt Keith and cannot be used because of native title. Dozens of mines in the goldfields, which employ people and produce export income, are paralysed by negotiations on native title. I am not reflecting on native title, but it is a factor with which the goldmining industry must cope. The Federal Government has been dithering on this issue for about two years -

Hon N.F. Moore: You are not blaming the Government for that?

The PRESIDENT: Order!

Hon MARK NEVILL: Since last February we have been -

Hon N.F. Moore interjected.

The PRESIDENT: Order! The Leader of the House.

Hon MARK NEVILL: The Leader of the House can get up and make his speech.

Hon N.F. Moore interjected.

The PRESIDENT: Order! I have asked the Leader of the House to stop interjecting.

Hon MARK NEVILL: The price of gold has fallen $A100 since February this year, and this week it fell below another platform of $US340 an ounce. It dropped through the floor of $US380 and then went straight down to $US340, and in the last two days it has now fallen below that figure. Those who have an interest in goldmining shares, or work for or supply a goldmining company should be very worried at the moment about the price of gold. It is going in the wrong direction. Because of the low price for gold and the lack of profitability, it is hard for companies to raise funds. They are running out of funds for exploration and development. As a result of the Bre-X Busang disaster in Indonesia, the source of funds many Western Australian companies had been using, from the Vancouver Stock Exchange and the Toronto Stock Exchange, has dried up. Many Western Australian companies were listing and accessing funds in Canada. These companies are now being starved of funds, and members on the

other side of the House are imposing on them a gold royalty. The costs of goldmining have increased in Australia more than in any other country.

The June 1997 edition of *Australia's Mining Monthly* states in an article entitled "Gold loses its lustre", by Dryblower, that the latest Gold Fields Mineral Services' survey of the world gold industry showed that Australia had snatched first prize as the world's most expensive gold producer. Last year, we knocked off South Africa with an average cost of $US294 an ounce, up 13 per cent on the $US260 an ounce average in 1995. South Africa fell 10 per cent to $US293. We are now the most expensive gold producer, with prices that are decreasing dramatically and costs that are increasing dramatically, yet this Government still wants to impose a gold royalty. In the next 12 months - this is not an exaggeration for the purposes of political rhetoric - we will see a large contraction of employment in the goldmining industry, a few mines close down, and every mine reduce its ore reserves and life, because a royalty is a tax on production and not a tax on profits, as Hon Greg Smith said.

The Government is talking about moving to a profit based royalty system. A profit based royalty system is much better, but it very difficult to police and to get one's money. The Government is already fighting with Argyle Diamonds for $9m in royalties, because it is a royalty on profits and there is an argument about the amount of the profits. Argyle has that $9m, not the Government - it is probably safer in Argyle's hands! A profit-based gold royalty will be very difficult to administer, whereas an ad valorem royalty on the dollar value of production is very straightforward.

The goldmining industry is facing a dreadful cost squeeze. Members opposite who are farmers should know better than anyone else what happens when the terms of trade are squeezed so that prices are reducing and costs are increasing. The mining industry is no different from the farming industry. The diesel fuel rebate is just as precious to the mining industry as it is to the farming industry. That rebate has always been a concession for vehicles which are used off road; they do not go onto the bitumen and wear out our roads but operate on private roads. Diesel power is used in power generation and for trackless mining equipment. This gold royalty will pull out $70m to $90m a year from the gold royalty in addition to the fuel rebate with which the Federal Government has lumbered the industry.

The suggestion that production may drop by $100m is way off. Last year's production in the goldmining industry was about $3.4b. Within 12 months, this royalty will knock at least $500m off gold production; it could be one hell of a lot more. More importantly, the royalty will knock a couple of hundred million dollars off investment in the goldmining industry, which is just as important, because investment is essential to develop mines, drill exploration holes, explore and replace mines.

We are mining gold ores at dreadfully low levels. Newcrest Mining Ltd's Telfer mine, the second largest mine in the State, is losing money hand over fist. Two years ago it was producing 650 000 ounces of gold a year; it is now producing around 300 000 ounces. Its ore grade has reduced from four parts per million to 1.03 parts per million. That is how sensitive the goldmining industry is to the gold royalty. Newcrest's average cost of production is $517 an ounce. The gold price is about $440.

Some of these companies are living off their forward sales; they are hedging. Only three companies - Sons of Gwalia Ltd, Acacia Resources and Normandy Exploration Ltd - have decent forward sales programs and are protected, to a degree, for a while. Most of the other companies are finding every day that their forward sales are disappearing, and some have forward sales for only a couple of months. They are selling gold above the price of $440. It is now almost impossible to lock in sales at high rates by forward selling gold because of that contango between the exchange rate and interest rates. Telfer has knocked off 124 jobs, and that is just a start; it is conducting a review.

Why introduce a royalty for two years and then examine its effect? Members opposite should support the motion that I moved and that is sitting on the Notice Paper, to have an inquiry to find out what will be the effect of a gold royalty on companies. This House should not support this motion. The Government's timing of the imposition of this gold royalty is the worst that it could be. The gold price in Australian dollar terms is the lowest that it has been for 10 years. The costs of production increased by 13 per cent last year. The goldmining industry is becoming very uncompetitive, and if a royalty is introduced many goldmines will be forced to close.

The goldmining industry has not been squealing very much about its problems because obviously it hopes that things will change. These companies do not want to see their share price collapse. They do not want to see investor confidence diminish so that they cannot raise money under rights issues or get new capital into the industry. Most of these companies are running at a loss. Hon Greg Smith should talk to Wattle Gully Gold Mines NL, which is mining at Hill 50, to St Barbara Mines Limited in Meekatharra and to Equigold NL at Dalgaranga near Sandstone, which are all making a loss and living on the hope that the price of gold will increase; but it is decreasing and their costs are increasing.

If members opposite cannot hear the warning bells ringing and see the red lights flashing, they are insensitive to the economic conditions in this State at this time. The goldmining industry is the one industry in this State that has a competitive edge but receives no federal assistance. It does not receive the bounties that the shipbuilding industry receives; I support those bounties. The Japanese foster industries that have a competitive edge rather than saddle them with extra taxes. Our goldmining industry is at the forefront of technology in the world in mining, metallurgy, drilling, geology, exploration and gold financing.

Hon J.A. Scott: Why have the costs increased? Why is it so expensive?

Hon MARK NEVILL: I have not seen a breakdown, but obviously there are major costs for fuel, and for machinery, explosives, general transport and wages and salaries. These days with workplace agreements one would not know what was going on in the mining industry.

Hon Tom Helm: Is it not also because lower grades lead to greater recovery costs?

Hon MARK NEVILL: They are certainly working lower grades. Many of the mines are now working the bottom of the open pit and will have to go into underground mining, and the costs will increase. Typically, towards the end of the life of a mine the production levels drop and the costs increase because they are mining remnants rather than the good stuff, and that is usually also when the financial stresses come on. Many mines in this State will have to go underground if they want to continue production. The operators of the Granny Smith mine say they will not touch the Granny Smith deeps if a gold royalty is introduced because the risks will be too great and they do not want to be badly burnt. It is very hard to make a profit out of a mine, but it is very easy to lose money on a mine. When people in the mining industry lose money they do so hand over fist.

The crunch is coming for this State's goldmining industry and I am concerned that many people cannot see it coming. It is one of the engines of this State's economy. Kalgoorlie goldmining companies are in every continent of the world. The Western Australian contract mining companies can be found in South America, Africa and in countries all over the world. Geologists from this State are employed throughout the world. Many of my friends are continually overseas looking at mining prospects in Ghana, Botswana, Zimbabwe and East Africa. Australians do it very well. The metallurgists in this State are second to none when it comes to the goldmining industry. While the South Africans brought in the carbon in pulp treatment of gold ores, members will find that most of the improvements to technology, including heat bleaching and bacterial oxidation of ores, have been developed in Western Australia.

If members want to see some innovation they should visit Kalgoorlie and look at that town's industrial area. It is there that members will see the competitive edge in the goldmining industry. If the industry shuts down, a large section of the industrial area will also shut down. The writing is on the wall and many people in the mining industry are looking overseas because they know it will be difficult for mines to survive in the current environment in Australia.

I have a chart which was published in the *Business Review Weekly* on 9 June. It indicates that the vast majority of mines in Western Australia are losing money. A few are doing quite well and the chart indicates that they include Nimary, near Wiluna; Kanowna Belle, east of Kalgoorlie; and the Boddington deposit. A few mines are making a marginal profit and they include the Gutnick mines of Bronzewing and Jundee, Sons of Gwalia and the Kalgoorlie Consolidated Gold Mines Pty Ltd's super pit in Kalgoorlie. The rest are losing money and if there is a change to the gold price and costs increase, the bar on the graph will move upwards and many more will be in trouble.

An article in *Australia's Mining Monthly* is headed "Broker: Few gold mines making profits". I am not exaggerating the situation for the sake of political rhetoric. What I said is a true and accurate reflection of the industry as I know it. To contemplate a gold royalty is economic vandalism by the Government, especially at this time.

The PRESIDENT: Order! There are three meetings taking place in the Chamber. I ask members to pay attention to Hon Mark Nevill.

Hon MARK NEVILL: I implore government members to put pressure on Cabinet to reconsider the imposition of the proposed gold royalty. The idea is even sillier now than when the Premier announced it some months ago. To suggest we support a review implies we support a gold royalty. The Labor Party does not support a gold royalty; it believes in supporting the goldmining industry, which is an important industry to regional Australia, to this State's competitive edge, to this country's balance of payments, to jobs in this State and to the State's economy. It is the industry that has been driving the economy of this State for the last 10 or 12 years. For heaven's sake, do not put water in the petrol tank.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.53 pm]: The last time I heard Hon Mark Nevill make this speech was just before the federal Labor Party introduced the gold tax.

Hon Mark Nevill: You know the difference between a gold tax and a royalty.

Hon N.F. MOORE: The main theme of the speech he and his colleagues, Hon Julian Grill and Mr Graeme Campbell, made on that occasion was the same as the speech this House just heard from Hon Mark Nevill; that is, the end of the world will happen when a gold tax is introduced. At that time I supported the point of view I am now taking. I am surprised the gold tax did not bring the industry to its knees. However, it appears to have had little impact on the production of gold in Western Australia and Australia and my prediction was wrong.

I will now direct my comments to a gold royalty. Hon Mark Nevill in his contribution to this debate appeared to use the same arguments he used against a gold tax.

Hon Mark Nevill: This is a dishonest speech.

The PRESIDENT: Order!

Hon N.F. MOORE: In that debate he told the House that the gold industry would collapse when his federal colleagues brought it in. Members of the Labor Party should remember that it was the federal Labor Party which introduced a gold tax. Hon Mark Nevill seems to think it is okay for the Federal Government to get money out of the gold industry, but it is not okay for the State Government to do the same. At a conference he and I attended, at which he expected the Government to get the money to compensate for the revenue from the proposed gold royalty, he spoke about closing down regional development commissions or slashing money from Hendy Cowan's budget.

Hon Mark Nevill: I said the Department of Commerce and Trade is untouched by government funds. They are too gutless to take on Hendy Cowan.

Hon N.F. MOORE: He was referring to funds which might amount to $2m or $3m, at the very best. This highlights his view of regional development. The view he has now is probably different from the view he had when the legislation to establish regional development commissions was introduced.

I was interested to hear Hon Mark Nevill's comments about people seeking employment overseas and taking their money with them. He was implying that their action was the result of a gold royalty.

Hon Mark Nevill: No, it is not.

Hon N.F. MOORE: He knows that is not true. People have been taking their money out of this State and seeking employment overseas for a number of years, and that is regrettable. The main reason for their action is not a gold royalty, but native title. Hon Mark Nevill quite rightly pointed out to the House a minute ago that native title is the biggest burden facing the mining industry in Australia today. It is a terrible burden. The next biggest problem facing the industry is Aboriginal heritage issues. I do not know whether that is in his list of three. He should have a good look at that because it is the next area of conflict.

Hon Tom Stephens: At the top of the list is government mismanagement.

Hon N.F. MOORE: I will ignore the Leader of the Opposition.

The PRESIDENT: Order! The Leader of the House provokes the interjections by addressing his comments to individual members. If he addresses his comments to me there will be no need for interjections.

Hon N.F. MOORE: With respect -

The PRESIDENT: I am not asking for respect. All I am asking is for the Leader of the House to address the Chair.

Hon N.F. MOORE: Mr President, you will always get respect, but I do not intend to direct my comments to Hon Tom Stephens because it is a waste of my time.

The overseas investment question is not, as Hon Mark Nevill would have it, the result of a royalty; it is the result of native title. That is the reason companies cannot get hold of greenfield sites for exploration purposes. They are hamstrung by the processes of the Department of Minerals and Energy related to the native title legislation which, I remind the House, was introduced by the Federal Keating ALP Government. I am as disappointed as Hon Mark Nevill that John Howard has not fixed it up. It is a pity that Hon Mark Nevill and I are on the same side of that argument. When his Government brought it in it made a terrible mess and now he complains that the Howard coalition Government has not fixed it up quickly enough. The bottom line is that native title is a massive problem for mining in Western Australia and that problem is vastly in excess of any problem that will be caused by a gold royalty.

I regret I do not have with me a report which was published recently in the media. It was an assessment by Coopers and Lybrand of the effect of native title on the Australian mining industry. I will provide the member with a copy of it when I retrieve it. The value of the Australian mining industry has reduced dramatically and the consequential effect of that on employment and investment, as well as the multiplier effect, is equally dramatic.

For the member to slay the State Government for seeking to gain some return from the goldmining industry and in the same breath compare it with native title legislation, both of which were introduced by the Australian Labor Party, is drawing a long bow. Hon Greg Smith acknowledges a degree of certainty exists that a gold royalty will be introduced. It is in the Budget and the Government is working with the industry to see how it might be implemented.

[Debate adjourned, pursuant to Standing Order No 164.]

[Questions without notice taken.]

ORDERS OF THE DAY - MOTION

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.31 pm]: I move -

That Order of the Day No 7 be now taken.

Hon TOM STEPHENS: Mr President -

The PRESIDENT: Is the Leader of the Opposition raising a point of order?

Hon TOM STEPHENS: No.

The PRESIDENT: I have not put the question yet. The member should wait for me to do so. The question is that Order of the Day No 7, Appropriation (Consolidated Fund) Bill (No 1) 1997, second reading adjourned debate -

Point of Order

Hon TOM STEPHENS: The Leader of the House moved that Order of the Day No 7 be now taken. If that is the question the President is now putting, I want to know what is Order of the Day No 7 before the question is decided.

Hon N.F. Moore interjected.

Hon TOM STEPHENS: Now I know.

Hon E.J. Charlton: You were given that this morning.

The PRESIDENT: The Leader of the Opposition is addressing his comments to me.

Hon TOM STEPHENS: I now know that the Appropriation (Consolidated Fund) Bill (No 1) is the order of the day the Leader of the House is proposing be debated now. I have pleasure in supporting that proposition. However, until he tells the House the item to be debated in the manner he has just done, I do not know what he intends to bring on.

The PRESIDENT: Those matters of internal management are between the Leader of the Opposition and the Leader of the House, and I have said that previously.

Debate Resumed

The PRESIDENT: The Leader of the House has moved that Order of the Day No 7 be now taken.

Question put and passed.

Hon N.F. Moore: I told you, Mr Stephens, at afternoon tea what we were doing.

The PRESIDENT: I point out to the Leader of the Opposition and the Leader of the House that if they want to discuss the internal management of the House in respect of which orders of the day will be called at any time, that is up to them to do outside the House. I called the order of the day, and I am directing the attention of the House to the Leader of the Opposition.

Question put and passed.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1)

Second Reading

Resumed from 24 June.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.36 pm]: In supporting the passage of the Bill, I look forward to the day when I can be sure what order of the day is about to be called. I would like to know that whatever the Leader of the House rises to recommend be brought before the House is the item that the Opposition believes -

Hon N.F. Moore: I told you this afternoon that we would do the Appropriation (Consolidated Fund) Bill (No 1) first, and that is what we are doing.

Hon TOM STEPHENS: I am very pleased to see that that is now happening -

Hon N.F. Moore: I also said that the Land Administration Bill would be debated next.

Hon TOM STEPHENS: But you also said something else.

The PRESIDENT: The Leader of the Opposition will direct his comments to the Chair.

Hon TOM STEPHENS: I say to you, Mr President, and through you to the Leader of the House, that I look forward to the day when I know exactly the sequence of the business of the House so that I am not required to rise, as I do each time the Leader of the House calls an order of the day, to ensure that I am clear about the item to be debated.

Hon N.F. Moore: When you are sitting over here you will know.

Hon TOM STEPHENS: Mr President, you have heard the Leader of the House. Is there any wonder I rise each time an order is called? The Leader of the House has just confirmed to the House something that he said to me; that is, that as Leader of the House he will determine the order of the business of the House and the only time I will know what is happening is when I am sitting in his seat. I look forward to the day when he is no longer in that seat. The people will dismiss him from that side of the House for the arrogance that he displays to members of the Opposition. It does not matter to members on this side that he is arrogant in his dealings with the House, the Opposition and other non-government parties, what is important is that in his arrogant attitude -

Point of Order

Hon N.F. MOORE: I question the relevance of this diatribe to the matter before the House, which is the Appropriation (Consolidated Fund) Bill (No 1).

The PRESIDENT: There is no point of order. The Leader of the Opposition is entitled to range widely on money Bills - I am sure the Leader of the House is aware of that - and he is now doing that.

Debate Resumed

Hon TOM STEPHENS: I will not dwell much longer on this issue. I look forward to the day when the Leader of the House tells the Leader of the Opposition and other members exactly what orders of the day will be brought on. We have only one more sitting day this session and we can then have a break from each other - I am sure we are all looking forward to that - and be refreshed by the excitement of working for our electorates and the people of Western Australia free of the burdens of this Chamber. It is important that, in our service to the people of Western Australia, all members display a real commitment to that task.

As we all know, our community has high expectations of this Government. It is entitled to have them met because in the lead-up to the last state election the Premier promised a social dividend. An article in the 2 December 1996 edition of *The West Australian*, which was as we recall only a few days before the election, states -

> Premier Richard Court has promised West Australians a social dividend after a four-year crackdown on State finances.
>
> A community payout from the $1.9 billion reduction in State debt is the centrepiece.

The social dividend would be paid to the people of Western Australia if they re-elected a Government that had inflicted enormous pain on them over the previous four years. At the end of that pain would be a reward that the people had a right to expect would be delivered following the re-election of the Court-Cowan coalition Government. That dividend was in the context of the previous massive budget cuts in the core areas of health, education and transport. Regrettably, we have not yet seen delivered, either in this Bill or in any other device that the Government has presented to the Parliament or the community, strategies that deliver on that core election promise.

The cause of so much pain over the last four years of this Government was its commitment to a strategy aimed at the "privatisation" of government services, which was its mantra. An additional mantra is "contracting-out", which has been the jewel and centrepiece of its strategy since its re-election to office. Thousands of people were left behind in the previous term of the Government as people were either sacked or redeployed, people could not gain access to appropriate health care or children went to schools which sold bushland or playgrounds to buy educational necessities.

The Government then deliberately sent a message during the election campaign that light could be seen at the end of the tunnel. Regrettably, the only tunnel which the people of Western Australian now have fixed firmly in their

gaze is the Government's obscene preoccupation with the tunnel through Northbridge. This is the funnel through which a great deal of government funds are being drained away from legitimate destinations that would otherwise deliver the social dividend promised to the people, and to which they are entitled.

People were promised that relief was on its way, and that the four years of suffering caused by the Government's short-sighted economic rationalist policy was about to be made worthwhile. The Government indicated in the lead-up to that poll that the suffering was about to end, as it had seen the error of its ways and the trend was to be reversed through the delivery of a social dividend.

In his campaign speech, the Premier said that the coalition Government, if re-elected, would make education and health its major focus. However, the reality - as we have come to expect from this Government in its current and previous incarnations - is that it paid only lip service to its promises. Instead, we see increases in the allocation to health and education which will not keep pace with Western Australia's projected population growth, estimated by the coalition itself to be 1.9 per cent. Per capita spending on health and education is clearly down: The Health allocation is down from $860 in the 1996-97 budget to $852 in 1997-98. This is a dramatic contrast with the Government's pre-election pledge. Per capita Education expenditure is down 2 per cent from $789 available in 1996-97, to $774 available in the 1997-98 Budget. This means that $8 less on health and $15 less on education will be spent for every man, woman and child in Western Australia. What does that say about the pre-election pledge of this Government?

The Premier should be reminded of the words of the great poet Robbie Burns, who on the subject of promises said - no doubt lyrically and with an accent I will not even endeavour to recapture - the following -

> A mind conscious of integrity scorns to say more than it meant to perform.

When the Court Government increased a range of state taxes, it revealed a great act of betrayal to the people of Western Australia - some might even want to call it a great lie. Displaying no integrity, the Government forfeited its contract of trust and its mandate from the people of Western Australia, and this betrayal is made worse because the Government tries to create the impression that it is fulfilling its promise of a social dividend. Again, the Government pays lip service to a most solemn promise which was meant to allay the fears of the Western Australian community.

Prior to the election, people feared that the Government would simply engage in further cost cutting resulting in a reduction in service delivery to the people of Western Australia. Regrettably, before the election the Government allayed those well-founded fears. Those same people must be now asking the question: Where is the social dividend promised to the people of Western Australia?

The increases in taxes and charges in the latest Budget, piled on top of those the Government imposed during its previous four-year term, are now part of the reality in which people must operate. We must all remember the context of the latest slugs to the hip-pocket. In the last term, the Government introduced the $30 AlintaGas supply charge; abolished the free Westrail trip for pensioners during the school holidays; abolished the 150 kilolitres free water allowance; and reduced the PATS allowance for travel to Perth from major regional hospitals - a matter of particular concern to my electorate and all regional and remote areas. Indeed, the Government travelled down the path of full implementation of the user-pays principle, even in essential services.

Pensioners will lose in this Budget the equivalent of one pension payment a year to pay for increased car licence fees; increased power, gas and water charges; increased debits tax; increased public transport fares; and increased road fines. Under this Government, the average family will lose $236 a year, which is by no means a small amount in the language of the average family's budget.

What were those first four years of hardship all about? The Premier promised that the hardship was about to end as the dividend was about to be paid. Well might we ask: Where is that dividend? No such thing is being delivered by this Budget, nor is on the horizon. Instead, we see increased financial hardship imposed on the community by virtue of the budgetary decisions of this Government.

Whom does this Government blame for breaking its pre-election promise? The Government shifts responsibility yet again from itself and its decision making processes to unload that responsibility on the Federal Government. In the past, the socialists who dominated the national stage were to blame, but the Federal Government has changed and now the party colleagues of members opposite are to blame for the strategies unleashed in the Government's budgetary process. Following all the years in which the Premier beat the drum in the media about the raw deal Western Australians received from the Federal Government, people expected to see change with the election of the Howard Government. Despite the Premier's rhetoric, regrettably people have seen no such change.

This Government seems patently unable to deal with any issue with which it is faced. Even in today's media, when the community is faced with one of the most critically painful experiences that one could possibly imagine - that is, regular deaths on the streets and in the houses of Perth as a result of the curse of the use of heroin - the Government is not prepared to accept responsibility for its actions.

The Government somehow tries to blame the Federal Government for not bringing forward a national strategy, as if that is the essential part of solving this problem. However, we know that we can start to tackle the problem within our own community. Even members of the Government's back bench are determined to do that. They are being thwarted in their efforts by a Government that is preoccupied with shifting the blame away from itself. The State Government is lumping that in with a national strategy and is avoiding doing something. That is not good enough either on the heroin issue or on any other issue with which the community of Western Australia is faced. This Government constantly desires to shift the blame. Nothing has changed in the way it operates at the state level.

Once again we have been led to believe that the evil Federal Government has ruined the State Government's best laid plans and is forcing its hand in increasing taxes and charges on Western Australian families. We know that is not the case. In the lead-up to the last state election this Government's strategy was aimed at deliberately deceiving the community of Western Australia. Regrettably it was successful, at least to the point of its being re-elected to the Treasury benches through its domination of the other place. However, this place has the opportunity of regularly exposing the hypocrisy in which this Government is now engaged.

In the other place the Premier moaned about the loss of about $208m as a result of reduced commonwealth funding since 1993-94. However, last year the Premier signed an agreement which resulted in reduced financial assistance to the State of some $59.8m in 1996-97, $62m this financial year and $30m next financial year. The total reduction in funding to the State would be $320m over three years. The Premier put that agreement in place under his own signature. The Government's excuse that the Commonwealth Grants Commission is somehow to blame is a falsehood. We have known that for 10 years the Commonwealth Grants Commission has factored the absence of the gold royalty into its funding allocation for Western Australia. It is unacceptable for this Government to somehow blame the budget shortfall on decisions by the Commonwealth Grants Commission to adjust the funding levels to this State. That is not some new discovery on the part of the Grants Commission or the State Government. That was the budget reality with which this State had to take cognisance in the lead-up to the allocation of funds by the Grants Commission. Blaming the Grants Commission is an excuse this Government uses to raise the revenue it needs to make up the specific shortfall that it knew about seven months ago.

Some nine months before, the Minister for Transport and the Minister for Finance delivered a pre-Christmas present to the people of Western Australia. They admitted in this Chamber on 25 March, when they announced to the House in the context of the lead-up to the budget issues, that they knew there would be a shortfall and that the shortfall must be addressed. That is not something they chose to announce in the lead-up to the election; it was something they admitted they knew about some seven months after these new figures were finally acknowledged and delivered to the House.

Members know that the excuse this Government regularly gives to the House and to the people of Western Australia is no more than a ruse. The people of Western Australia are becoming sick and tired of the arrogant display of the plea of mitigation on the part of this Government. The plea that the Government did not know what was happening is wearing thin on the people of Western Australia. When looking around for someone to blame the Government slips in the old "blame the Federal Government" excuse. That is wearing thin with the people of Western Australia. It is the same excuse that the Government used when we had a Federal Labor Government. It used that excuse in the full knowledge of what those cuts would be.

It will interesting to see what this Government does as the Federal Government gets closer to an election. Will this Government then complain about and campaign against the Federal Government if it does not mend its ways and do for the people of Western Australia what it now says the Federal Government should be doing to fix and fund programs for this State? If the State Government is still short of funds to fix the roads of Western Australia that this Minister for Transport claims he is short of by virtue of the decisions of the Federal Government will the Minister start campaigning against that Federal Government in the lead-up to the federal election?

Hon E.J. Charlton: In support of the Labor Party?

Hon TOM STEPHENS: I am confident that the Minister will not do that. Regrettably the Minister will continue to show hypocrisy. That will be a great tragedy for the people of Western Australia. The Minister for Transport knows that is a lame excuse. The Minister knows the State Government has the capacity to do better for the people of Western Australia than to blame the Federal Government for its own fiscal irresponsibility.

Hon E.J. Charlton: I built all the roads through your electorate. I will build some more.

Hon TOM STEPHENS: The Minister knows that in the lead-up to the last state election the Government was not honest with the people of Western Australia. The Government should not have tried to pretend that it was about to deliver a social dividend. The Government cannot blame the Federal Government for its failure to deliver that dividend.

Hon E.J. Charlton: What about the people in your electorate?

Hon TOM STEPHENS: In the lead-up to the last state election the Government had no intention of doing any such thing for the people of Western Australia. It was intent on doing exactly what it is now doing; that is, delivering additional pain and hardship to the people of Western Australia.

Hon E.J. Charlton: Paying off your debts.

Hon TOM STEPHENS: The Government is not addressing the essential issues with which this community is faced such as fixing the roads. That is part of the Minister's own portfolio responsibility. The Minister should not simply allow the funds to be drained down the tunnel on the northern side of the city.

The news continues to get worse for the disadvantaged in the community. Pensioners, the sick and those with low household incomes suffer the most when indirect taxes and charges are raised. That is exactly what this Government is doing in this Budget. The picture is particularly bleak for Aboriginal Western Australians. We are only too painfully aware of the disgraceful conditions with which many Aboriginal people across this State are faced. The budget figures reveal more hardship for the Aboriginal community of Western Australia. In real terms the coordinator of Aboriginal affairs in Western Australia, the Aboriginal Affairs Department, will undergo a cut in excess of 4 per cent as a result of the Budget.

Hon E.J. Charlton: We don't need an Aboriginal Affairs Department.

Hon TOM STEPHENS: Apparently this 4 per cent cut is part of a deliberate government strategy.

Hon E.J. Charlton: We need to do something positive for them.

Hon TOM STEPHENS: The Minister for Transport says that the Aboriginal Affairs Department does not do anything positive. The Minister for Transport, who represents the Minister for Aboriginal Affairs in this House, has just announced to the House - presumably in his capacity as the Minister representing the Minister for Aboriginal Affairs - that there does not need to be an Aboriginal Affairs Department; not only should it receive a 4 per cent cut in its budget, but it should be abolished. That will be grand news to the people who are trying to coordinate the Aboriginal affairs policy across this State.

Hon E.J. Charlton: They are your words not mine.

Hon TOM STEPHENS: They are trying to get agencies like the Minister's department to start doing some work. One of the best Ministers in this Government is the Minister for Aboriginal Affairs. If the Minister for Transport showed him the courtesy of doing some of the things that he wants done for the Aboriginal people across Western Australia and supported him in the Cabinet room to get the funds to implement the strategies that his department has identified as the needs of the Aboriginal people of Western Australia, the Minister would find that things would start to change in Western Australia. While the Minister for Transport white-ants that Minister and does not provide him with the support in the Cabinet room that he deserves to deliver to his department and other departments the funds needed to start improving the lot of the Aboriginal communities, the Minister for Transport will be doing a grave disservice to all Western Australians.

Hon E.J. Charlton: All we have to do is get rid of people like you who have ruined them for the past 20 years and bled them dry.

Sitting suspended from 6.00 to 7.30 pm

Hon TOM STEPHENS: The Minister representing the Minister for Aboriginal Affairs says that the Aboriginal Affairs Department should be abolished. That department exists to help address the issues of living standards of and access to resources by Aboriginal people across Western Australia. In these budget Bills the Government is cutting that department's budget, and by way of interjection the Minister representing the Minister for Aboriginal Affairs is calling for the abolition of the department. The department exists solely to coordinate the activities of state government departments and instrumentalities aimed at supporting an effort to ensure the movement of Aboriginal people into the economic development of the State, and to provide them with opportunities to join with the rest of the community as equal partners. It is very depressing to hear a Minister - particularly a Minister playing such a role - advocate a different message. However, by this legislation the Government is sending a clear message to the

department, Aboriginal people, and agencies left with the task of coordination, that their budgets are being cut and their roles downgraded.

At the same time that this Minister is calling for the abolition of the department, the Government is engaging in repeated and costly attacks on issues affecting Aboriginal people, and the funds allocated in the Budget will presumably continue to be utilised to carry the Government's ongoing attack in the courts on the native title rights of Aboriginal Australians. Those attacks are not only mounted through the courts but also in the past have been mounted through the media. Presumably again we will see budgets allocated for those media assaults. In addition to the commonwealth cuts to the Aboriginal and Torres Strait Islander Commission and to the community development employment program, conservative coalition Governments across the nation demonstrate that they do not care for the needs of the disadvantaged within our community.

Moving to regional issues, another group of Western Australians are suffering particularly as a result of Budgets being put in place by coalition Governments at a national and state level. This Government's regime is causing particular distress for people living in rural and regional Western Australia. Over the past five years we have witnessed reductions to the number of services available under the patient assisted travel scheme, and people have had to wait for services which are essential to their health and wellbeing. We have seen the reduction in that service both in support for the needs of patients needing to travel for specialist and hospital care and in the reimbursement available for those people.

Dental surgery for children is unavailable. CAT scans are yet to be addressed as an issue under that scheme, and hearing problems remain untreated for an unacceptable time. Access to specialists throughout regional and remote Western Australia is an essential issue, and a Government that attacks the PAT scheme attacks the health and wellbeing of people in regional, rural and remote Western Australia. A Government committed to ensuring a social dividend is paid would have addressed the essential issue of equity and justice for rural, regional and remote residents of this State.

The privatisation of the meat inspection services will cause problems for regional Western Australia. Self-regulation is no way to police the quality of one of our major industries. Questions have been raised by people in overseas markets - not to mention the poisoning scares in Victoria and South Australia. Rural and regional health services have been hit hard by this Government.

Only last week it was revealed that privatisation of health services was eroding the ability of state funded medical services to meet the needs of country people. That disturbing trend is identified in the annual report of the WA Centre for Pathology and Medical Research. At page 23, the report carries a warning that privatisation or semi-privatisation of health services, including pathology, has enormous implications for PathCentre's ability to continue providing a high quality of service to people living in country areas. I presume that other members of Parliament were recipients of that report; they should pay it the attention it deserves. It states that Health Care of Australia took over the redevelopment of the Joondalup Health Campus, resulting in the Wanneroo branch laboratory ceasing operations on 2 June 1996. It states also that it is not just the loss of the Wanneroo laboratory but also the work referred to the Queen Elizabeth II Medical Centre that contributes to the economy of scale keeping the overall costs at low levels; and that this economy of scale is essential for the PathCentre to continue to provide services to outlying areas of the State that are essentially expensive and difficult to manage.

As members of Parliament, we all received that information. I hoped that the bells would have been ringing. I hoped that the red lights would have presented a warning for all parliamentarians who try to represent the interests of all Western Australians that there was a problem in the direction in which the appropriation Bills are sending this Government and the services of ordinary Western Australians - especially those living in rural and remote areas.

In my electorate major facilities, such as the Derby Regional Hospital, are being subjected to budgetary pressures.

The PRESIDENT: Order! Too many audible conversations are being conducted.

Hon TOM STEPHENS: The next phase of redevelopment of the hospital appears not to be on the Government's agenda. I am under pressure to make myself available, yet again, to receive a delegation from the Kimberley tomorrow, which will present a case to ensure that funds are available to improve that facility. The people of Derby are not orphans in this regard. They have seen their social dividend evaporate -

Hon E.J. Charlton: They are wasting their time coming to see you.

Hon TOM STEPHENS: I hope that as well as coming to see me they will take the opportunity of seeing the Minister for Transport and his colleagues. In the past they have done just that. These influential people from the Kimberley, who are well connected and well respected by the Government, have come to the State Government many times to discuss the health facilities of the township; but their case has fallen on deaf ears. The Government has not yet

delivered to them its pre-election promises in regard to the general, let alone the specific. It promised the social dividend. It promised there would be no interruption to the delivery of services to communities in rural and regional Western Australia, yet the reality is at odds with that promise. The Government has misled the community in that area, presumably because it has no regard for it and because it falls within safe Labor territory.

Hon E.J. Charlton: There's no such thing as safe Labor territory any more. Not even you hold it.

Hon TOM STEPHENS: There is only one way for the Labor Party to go in that territory - upwards. We are on our way upwards in those seats. Those communities have had a gutful of this Government. Their views are reinforced regularly by their experience of the Government's Budgets. That experience will ensure those communities will return to the Labor fold when they have the earliest opportunity of doing so. If they were given the chance tomorrow, they would want to turf the Government out of office because of what members opposite have done to not only rural, regional and remote Western Australia especially, but also the metropolitan area of Western Australia. All citizens of Western Australia have started to realise that it does not matter what the lot opposite say in the lead-up to state elections, because immediately following those elections they do not deliver on their promises, but inflict increasing pain and penalty on the community for having returned to office a conservative coalition Government in Western Australia.

Hon E.J. Charlton: You used to have your office in Broome.

Hon TOM STEPHENS: I continue to have my office in Broome and continue to serve the people of that area.

Hon E.J. Charlton interjected.

The PRESIDENT: Order! It is clear the Leader of the Opposition will not respond to the interjections. I ask the Minister to desist.

Hon TOM STEPHENS: Mr President, I say through you to the disorderly interjecting Minister for Transport that it was only after I left the township of Newman and returned to the township of Broome that the seat of Ningaloo was lost.

Hon E.J. Charlton: Didn't take you long to mess it up.

Hon TOM STEPHENS: It was after I left.

Hon N.D. Griffiths: It was lost because of lies told about the gold tax; the Government knows that.

Hon TOM STEPHENS: The point I was going to move on to has now been raised by way of interjection from the Deputy Leader of the Opposition in this House; that is, the seat of Ningaloo was lost specifically because the Government made a promise to the community. It was not an "on the one hand" and "on the other hand" statement such as the disgraceful presentation about the gold royalty that was articulated to the House earlier by Hon Greg Smith. That member comes out of the township of Mt Magnet in my electorate. He comes from a community that demands desperately that his Government desist from the strategies it has employed and given vent to in the appropriation Bill before the House. That member knows that if he were to move for the appropriation Bills to be adjourned until the Government removed the gold royalty provisions from them, the people of our electorate would celebrate that. Yet earlier he delivered a quisling speech. He knows that he comes out of a goldmining community that demands a greater backbone and defence of the people of his electorate than the speech he delivered to this House. Fortunately I now have the opportunity of speaking to the honourable member directly. He more than anyone in this House has an obligation to show some backbone and not just give an "on the one hand" and "on the other hand" type of speech. He should stand up to his coalition colleagues.

The National Party, headed by Hendy Cowan, and senior coalition partners in the Government seem to have misled the member down the disgraceful path towards a gold royalty. More than anyone else, Hon Greg Smith and the Minister for Mines have an obligation to stand up to their coalition colleagues and ensure the budget Bills do not contain provisions that will wreak havoc on the electorate that we jointly serve. The gold royalty might not affect Greg Smith on the station, but it will affect the people in his community in Mt Magnet. He has a greater obligation than anyone in this place to do more than he has done today.

Hon Greg Smith: I've spoken against it.

Hon TOM STEPHENS: Spoken against it!

Hon Greg Smith: Native title legislation has cost more than a gold royalty ever will.

Hon TOM STEPHENS: If Hon Greg Smith wants to set out to this House a strategy aimed at ensuring that the budget Bills do not include the gold royalty provisions that are contained in them, let him now do so. If he were to

map out to the House a strategy to block or restrain the passage of this legislation until the gold royalty provisions were removed from it, he would find some very interested members on this side of the House. It is up to him, more than anyone else, to set out a strategy aimed at achieving that result for the people of Western Australia and, in particular, the Mt Magnet community.

Hon Max Evans: Will you remove the gold royalty?

Hon TOM STEPHENS: His election and that of his lower House colleague in the seat of Ningaloo was based on a fraud committed on the people of that area; that is, the promise that no provisions would be made for a gold royalty.

Hon N.F. Moore: If your party ever gets to be the Government, will you get rid of them?

Hon TOM STEPHENS: The Leader of the House should be the last person to interject. He knows damn well there should be no reason for the Opposition to have to get rid of them - the Government should not introduce them.

Hon E.J. Charlton interjected.

Hon TOM STEPHENS: I have jumped a little ahead of myself. I was not going to address the gold royalty right now, but it came up by way of interjection from my deputy. Now I am on the subject, I might as well deal with it. The Minister for Mines, who shares my electorate along with his colleague Hon Greg Smith, knows that he should not engage in this debate, because presumably he and Hon Greg Smith are able to influence this coalition Government in such a way as to protect the interests of the Mt Magnet community, let alone the rest of the Mining and Pastoral Region in the Murchison area, if they so wished.

Hon E.J. Charlton: Will you take it out, Mr Stephens?

Hon TOM STEPHENS: There should be no need for us to take it out.

Hon E.J. Charlton: Will you take it out?

Hon TOM STEPHENS: I will answer the question this way - the Minister should listen carefully: Do not put it in, and there will be no need to take it out! If the Government does not implement the gold royalty, there will be no reason to take it out. That is my answer to the Minister's question.

Hon Mark Nevill: I will cross the floor, Mr Charlton; will you? I am serious about it.

Hon TOM STEPHENS: The Minister for Transport giggles away like a Tammin schoolboy instead of seriously rising to the challenge that is before him. He has the opportunity to do so, if he has any courage, with Hon Greg Smith and Hon Norman Moore, the Minister for Mines. He should display some fortitude instead of carrying on with this charade.

Hon E.J. Charlton interjected.

The PRESIDENT: Order! I ask the Minister for Transport to desist from interjecting. It is getting a bit willing.

Hon TOM STEPHENS: The Court Government's policies have led to the redevelopment of the Joondalup Health Campus by a private provider, Health Care of Australia. That is resulting in the closure of the Wanneroo branch of the PathCentre and the loss of work, which has been referred to the Queen Elizabeth II Medical Centre. This large scale metropolitan based work enabled PathCentre to provide the more expensive and difficult to manage country services. The Opposition and unions in health related areas repeatedly warned that the application of economic rationalist policies in the health sector by the Court Government is a recipe for disaster. The PathCentre annual report provides new evidence that that is the case.

On top of winding back a number of regional and rural health services, this Government has also, regrettably, presided over the closure of innumerable country schools and the dislocation of hundreds of children. This is not a satisfactory process in which the Government should engage. Recently during the budget estimates debate in this place I highlighted the particular needs of school students in my area attending the School of the Air from their remote, often station, communities. In their efforts to obtain access to the only opportunity for education through the School of the Air, they are yet to learn, even at this late stage, whether financial support will be available to allow them continued access to the School of the Air when it moves from analogue to digitalised programs.

It is another small example of the discourtesy and arrogance of the Government that a major technological shift is about to occur, funded by a composite of state and federal government agencies, which will leave station communities and the parents of children attending the School of the Air with an obligation to provide this type of technology, and even at this point there is no indication of whether financial support will be made available. Now that this Government has almost completed this act, conducted under the education regime of the Leader of the House before he was shunted to his less public portfolio, it has decided it is time to meddle with the School of the Air. What

provision will the Government make in the Budget to help families that must upgrade their School of the Air analogue decoders to digital decoders? The cost is estimated to be $2 000, but the Government has yet to acknowledge it. Will it finally fall upon families to pay these costs? Despite the assurances by the Deputy Premier to the contrary, I am now suspicious of his promises, particularly given his less than honest performance on the gold royalty issue.

I now refer to the gold royalty issue. It would be cowardly of me, and I would not be a true representative of the people of my electorate, if I were to ignore this major issue for the people of the Mining and Pastoral Region, particularly those associated with the goldmining industry in the Murchison and other goldmining centres. The Labor Party is opposed to the introduction of a gold royalty, not just because it is a clear breach of the Government's pre-election commitment given by the coalition partners, but also because the Opposition counts it as a destructive move for regional Western Australia. It acknowledges that a gold tax is in place and is payable on company profits, but there is a clear distinction between a royalty and a tax. A gold royalty is added to the cost of production, and is a different beast altogether from a gold tax. Every ounce of gold will increase the royalty paid. A royalty does not take into account production costs or profitability.

These arguments were well and truly, solidly and soundly put to the House by my colleague the shadow Minister for Mines, Hon Mark Nevill. They are important arguments that still must be used to persuade this Government to desist from the strategies in which it is engaged which are based on an act of dishonesty in the lead-up to the most recent state election. A gold royalty is a regressive regime and is in contrast to a gold tax which is clearly based on company profits. The position of the Labor Party on that question, at least at a state level, is on the record, as is its position with regard to current strategies contained in the budget papers before the House which are predicated upon a commitment to implement a gold royalty strategy. I make it absolutely clear that the state Labor Party opposed this tax and it is lucky to have been joined by its then Opposition counterparts on the introduction of the federal tax.

The introduction of the gold royalty has been a protracted process. The Government gave repeated assurance during its first term that it would not introduce a gold royalty. Hendy Cowan, the Deputy Premier, was reported in the *Kalgoorlie Miner* of 7 December 1996 as saying that he wanted everyone to understand his position and he wanted to put it beyond any doubt. Members should listen to this statement by Hendy Cowan, especially Hon Greg Smith who was specifically under attack by the National Party during the election campaign. The National Party endeavoured to make sure he was not elected to this Chamber. Hon Greg Smith knows what I know; that is, the National Party was not targeting the Labor Party for the upper House spot but was trying to make sure Hon Greg Smith was not elected to this House. The National Party wanted Hon Greg Smith replaced by one of its members, the former member for Gascoyne Dudley Maslen.

Hon N.D. Griffiths: You caused him to be defeated.

Hon TOM STEPHENS: In the end, the deception of the Liberal Party, together with the deception of the National Party, led to the election of Hon Greg Smith instead of Dudley Maslen. It would not have mattered whether it was Tweedledum or Tweedledee, the election of either candidate would have been based on a fraud.

Hon Mark Nevill: Dudley Maslen would have resigned had he been elected if the Government had not kept its word on the gold royalty. He is an honourable man.

Hon TOM STEPHENS: I was going to put a different argument altogether to the House, but I am persuaded by the interjection of Hon Mark Nevill. He is probably right, and Dudley Maslen probably would have resigned from the coalition at this point.

Hon Greg Smith: He does not have the opportunity to show you.

Hon TOM STEPHENS: No, because Hon Greg Smith was elected on the basis of the joint fraud of the Liberal Party and the National Party on the gold royalty issue. I quote the Deputy Premier again -

Hon B.K. Donaldson: Shame!

Hon TOM STEPHENS: Is the member ashamed? He should be ashamed about what they did.

The PRESIDENT: Order! The Leader of the Opposition will come to order. I do not want interjections across the Chamber. We are now having interjections between members other than the member who is speaking. If the Leader of the Opposition would address the Chair, I am sure we could get by without the interjections.

Hon TOM STEPHENS: The Deputy Premier is quoted in the *Kalgoorlie Miner* of 7 December 1996 as saying -

> "I just want everyone to understand and to put it beyond any doubt whatsoever because it seems to me that people want to continually raise that issue when it is not an issue".

He said also -

"It is not on the agenda, and when I say it is not on the agenda, I mean it is not on the agenda for the full term of the Government".

These appropriation Bills are predicated upon the breach of those pre-election commitments, which led to preferences flowing from a National Party candidate to guarantee the election of Hon Greg Smith, who is a poor apology for a representative of the people of Mt Magnet and his electorate.

During the last term of this Government, although a number of assurances were made by Ministers, including the Deputy Premier and the Premier, rumours persisted that a gold royalty would be introduced; and now it has been. Although the Government repeatedly and unashamedly maintained itself as pro-business, it provided nothing but insecurity on this issue, and eventually it ended the rumours with the worst possible result for the industry. The introduction of the gold royalty at a rate of 1.25 per cent in January 1998, increasing to 2.5 per cent in January 1999, will lead to job losses for Western Australia. It will also force some companies to reassess the profitability of continuing to mine low grade ore.

Production costs in the industry are already high. Hon Mark Nevill rattled off some figures to the Chamber, from his profound knowledge of this industry -

Hon Mark Nevill: I would use the word extensive.

Hon TOM STEPHENS: - from his extensive, vast and awesome knowledge of this industry, but regrettably he still has not been able to convince those opposite to desist from the strategies that are employed in these Bills to impose this gold royalty and thereby wreak havoc upon our shared electorate.

Hon Mark Nevill: They are all prisoners of Cabinet.

Hon TOM STEPHENS: For 80 per cent of goldmines in Western Australian, production costs are higher than the Australian price that they receive for gold; in short, 16 of the top 20 producers in this State have production costs above the Australian gold sales price. What is more, dividend yield in the mining industry in Western Australia is in no case above 4 per cent, yet the Government continues to perpetuate the myth that goldmining is hugely profitable and that somehow the profits disappear out of the State. The argument upon which the Government is trying to build its case for why the community should support the strategies that are encompassed within these budget papers ignores the reinvestment that results from this industry. It also ignores the local knowledge about the effect of this royalty upon the industry that had Hon Greg Smith spoken to his coalition colleagues would have been available to government members and would have led them to withdraw from the strategies that are contained within these budget Bills. Hon Greg Smith seems to be a lame duck member.

Hon Greg Smith: No doubt you will communicate with your federal colleagues about native title.

Hon TOM STEPHENS: That is a very good interjection because it mentions an essential issue with which this Government must come to terms and about which it is absolutely dithering. Hon Greg Smith's coalition colleagues had an opportunity after the High Court's Mabo 1 and 2 judgments to engage in debate in the lead-up to the passage of the native title legislation, but they chose not to do that and to present to the people of Western Australia imperfect native title legislation.

Hon Greg Smith: You cannot pass the buck for that.

Hon TOM STEPHENS: I am not passing the buck.

The PRESIDENT: Order! Leader of the Opposition, please address your comments to me and do not provoke other members by addressing comments directly to them. It is grossly unfair to those members.

Hon TOM STEPHENS: I accept your advice absolutely, Mr President, and I will speak to the Chair. I am not trying to pass the buck. I am laying the blame where the blame should be laid; that is, the federal coalition vacated the field and would not engage in dialogue with the federal Labor Party to construct native title legislation that could protect the interests of all Australians. It is indisputably the coalition's responsibility that by vacating the field it left in place imperfect legislation that does not reflect the wishes of the Federal Labor Party but is a compromise that was cobbled together in the absence of any other opportunity to respond legislatively to those High Court judgments.

If members opposite do not understand that, presumably they do not understand anything. It is no wonder they cannot understand the arguments about a gold royalty. In case members have not had the opportunity of listening to what I have said, I say again that some members of this House are occupying their seats by virtue of engaging in a fraud about the gold royalty. Some members of the coalition had the opportunity of taking decisive steps to ensure that this Government would withdraw from the strategies in which it is engaged in these appropriation Bills. The finger is well and truly pointed at those members. They know that they were elected by virtue of engaging in a fraud.

Point of Order

Hon E.J. Charlton: The Leader of the Opposition is directing his remarks to members outside this Chamber, which is totally improper.

The PRESIDENT: Order! I was just about to remind the Leader of the Opposition that he must speak to the Chair. I trust that he was not directing his remarks to members outside this Chamber; if he was, that is totally out of order.

Debate Resumed

Hon TOM STEPHENS: I will direct my comments to the official record. The official record of my contribution to the appropriation debate should read that some people know that they, more than anyone else, had responsibility for standing up to this Government on the question of the appropriation Bills because they knew that those Bills should not be predicated upon the imposition of a gold royalty that was in breach of the pre-election commitments that were made to the people of those electorates. I refer specifically to the occupant of the seat of Ningaloo, Rod Sweetman, who was the beneficiary of a fraud in reference to the gold royalty - a fraud in which the National Party knowingly connived in an effort to ensure the election of that member and of Hon Greg Smith.

At the same time, the National Party weakened its percentage of the coalition partnership to the point where, as the result of the election of an additional Liberal, one of their National Party colleagues had to be removed from Cabinet. The fraud that was perpetrated at the last state election weakened not only the economic position of the people of rural and remote Western Australia but also the position of the National Party in Cabinet, because it led to Mr Wiese having to step down to be replaced by a Liberal in Cabinet. Because the Nationals had engaged in a strategy which had produced an extra Liberal in the form of the new Liberal member for Ningaloo, they had to renegotiate their coalition agreement and see imposed upon rural and regional Western Australia another unfeeling member of the Liberal Party in Cabinet in order to appease the sensitivities that might otherwise be inflamed by the presence in Cabinet of another National Party Minister. Well might Hon Greg Smith laugh. His laughter indicates that he knows the point I made earlier is accurate; that is, irrespective of whether it is Tweedledum or Tweedledee - National or Liberal - the coalition is not sensitive to the needs of rural and remote Western Australia.

Gold is one of Western Australia's leading exports and it makes no sense to slug the industry by subjecting it to uniform charges. It is a disincentive and will lead to reduced revenue to state coffers through the deflationary effects of reduced employment in the industry and decreased export dollars. I predict it will contribute to Australia's chronic balance of payments problems. Instead of listening to this most important industry to find a way in which it can work with the State Government on the issue, the Government has chosen to deliberately mislead the industry. Apart from an immediate loss to the industry the strategies in the appropriation Bill will cause remote and regional towns around this State to suffer. This decision will affect not only the gold industry and its employees, but also every man and woman in Western Australia.

Low grade mining operations in this State account for between 40 and 50 per cent of ore reserves in this State. The profitability of these operations will be reassessed if the Government imposes a gold royalty. It is possible that ore will be left in the ground because it will no longer be worth mining it. I am sure Hon Greg Smith and the member for Ningaloo, if they had the right to interject, would support my argument. I said earlier that they cannot blame the Federal Government for this if they knew about the cuts to state grants last year. It makes the Deputy Premier's statements an even greater farce.

I will conclude my comments because we are coming to the end of this parliamentary session. Members of Parliament have an obligation to produce strategies aimed at advancing the interests of the people they represent. I have an obligation, both as a member of Parliament and Leader of the Opposition in this place, to put in place strategies which are aimed at protecting the interests of the people of this State. It is my experience that Leaders of the Opposition normally take the opportunity through Bills like the appropriation Bill to engage in a longer discourse than I have given tonight. In fact, my contribution is a succinct response to this Bill.

I reiterate that the Labor Party is opposed to a gold royalty and it finds the Government's handling of the issue and the uncertainty it has caused in the industry anathema.

The final issue I will address is tourism. Again, the Government has dropped the ball in the tourism budget. It is not making a competent effort to combat the perception in the Asian market of a Hanson led revival of race politics in Australia.

The PRESIDENT: Order! I draw the Leader of the Opposition's attention to Standing Order No 83 which deals with the reading of speeches. Is the Leader of the Opposition reading his speech or is he referring to copious notes?

Hon TOM STEPHENS: I am referring to copious notes.

The PRESIDENT: Order! The Leader of the Opposition gave me the impression that he commenced to read a speech. If he says he is referring to copious notes, I will accept that.

Hon TOM STEPHENS: Mr President, I will from time to time take the opportunity when I speak in this House to draw on copious notes, which is the practice and custom of this House. That practice was adopted by you when you sat in this seat and is adopted by every member of this House.

The PRESIDENT: Order! I am not asking the Leader of the Opposition to argue with me. I am asking him whether he is relying on copious notes. It appeared to me that all of a sudden he changes to reading from a particular paper or whatever.

Hon TOM STEPHENS: Mr President, I am adopting the custom and practice of this House in which you and other members have engaged. I do not know why you take this point at this time. I assure you that on this occasion I am not doing anything different from what you and other members have done; that is, to draw extensively from copious notes.

The PRESIDENT: The Leader of the Opposition is entitled to do that. I am drawing his attention to Standing Order No 83. I am sure he will read it later.

Hon TOM STEPHENS: I know the standing orders very well, including Standing Order No 83, and I look forward to ensuring that in future when members opposite speak in any debate in this House, members of the Labor Party, if necessary, draw on Standing Order No 83.

The PRESIDENT: The Leader of the Opposition is entitled to do that and other members are entitled to do the same.

Hon TOM STEPHENS: I did not hear a member rise on this point.

The PRESIDENT: Order! I ask the Leader of the Opposition to proceed with his comments on the Bill before the House.

Hon TOM STEPHENS: Recently Hon Ross Lightfoot was selected to represent this State in the Senate. Labor Party members know that the attitude of Senator Lightfoot and Pauline Hanson to the question of race does not add any sensitivity to the handling of race issues. Our Asian neighbours can be forgiven for thinking that the Western Australian Government condones the actions of people who place in jeopardy race relations in this State and region. When confronted with a question on this matter the Minister for Tourism said he would wait for conclusive evidence that the number of Asian tourists to Western Australia was decreasing before taking action. If members heard the Minister's answer to the question I asked they will know that he did not seem to have a grasp of the facts. His answer was not cognisant of the recommendations that had been made to him by the industry for which he has responsibility. Last week we heard that a meeting of tourist operators had concluded that the tourist numbers for June were the worst on record.

Hon N.F. Moore: You did not accept the fact they have not corresponded that to me. The question was did they advise me and the answer was they had not.

Hon TOM STEPHENS: It is interesting the Minister said that because that is not the information they have made available to the Opposition.

Hon N.F. Moore: Ask them to make it available to me.

Hon TOM STEPHENS: I remind the Minister of the comments by the Australian Tourism Commission's representative in Asia. He said people in Asian regions are saying, "You don't want Asians to visit anymore." I refer to an article in *The Australian* of 23 May which states that almost 86 per cent of Australia's tourism industry leaders believe Independent member of Parliament Pauline Hanson's high public profile is hurting their business. That poll was conducted on more than 100 chief executives of Australia's top tourism companies by Arthur Andersen. It is disgraceful to think that we have got ourselves into a situation where both the Federal and State coalition Governments have allowed a debate on race issues which they have neither engaged in nor responded to in a way to offset the damage that is being done to the people of this State and nation. We know people are arguing the case that jobs are being destroyed by the presence in our midst of the Asian immigrant community. We know that has resulted in an assault on the tourism industry which has caused a drop in the number of people coming to our shores to enjoy the Australian environment.

Hon J.A. Scott: Should we be worried about it only because it is costing money?

Hon TOM STEPHENS: Sometimes one must engage in the language of the people in government. It appears that the only thing that will ever move this Government into action is its interest in the management of money. I believe that we should pitch an argument where it has the best prospect of success. I do not believe this Government is

sensitive to the social infrastructure of the nation; nor is it sensitive to the hurt and the social division it causes people. However, it appears members opposite pride themselves on being good economic managers.

Hon Max Evans: Much better than your group.

Hon TOM STEPHENS: The Minister for Finance should not interject at this point because the perception of the Western Australian community is that his Government is proving beyond dispute to be a poor manager of the economy of Western Australia. As a result of the Government's refusal to engage in this debate at an appropriate time the tourism industry has been left languishing. Financial returns are diminishing because of the decreased number of Asian tourists to our shores.

Christopher Brown, the Chief Executive Officer of the Tourism Task Force, said in the same article that the issue - that is, Hanson - was continually raised with the Australian industry by Asian buyers.

I hope other members have heard from people in the diplomatic service and agencies involved in overseas trade throughout the South East Asian region and beyond. They will tell us that before they introduce the topic of Australian trade into any meetings throughout the world, on every occasion the first issue raised to put the Australian delegations on the back foot is the race debate in Australia in which both State and Federal Governments have been tardy in engaging.

The Government's response has been to show Elle Macpherson advertisements in those markets. What exposure has this market had to the Elle personage before now? She is an unknown quantity within those markets, making little or minimal impact in South East Asia. Nonetheless, that seems to be the centrepiece of the Government's marketing strategy aimed at attacking the flagging interest of Asia in our tourism product.

Would it not have been worthwhile to allocate money in this Budget specifically for the promotion of tourism in Asia? Despite all the wrong signs from industry the Minister awaits further proof. That is a typical response from this Government. Rather than showing initiative and getting on the front foot on these matters the Government waits for proof. That then becomes the basis of its excuses that are the embodiment of the budget Bills before the House.

This Government knew of the effect of the Federal Government's cuts to the State's finances, yet it blamed the Federal Government for its increased taxes and charges. It knows what will happen with tourism and it knows whom to blame, but it cannot help itself. It deals with the Budget by waiting until a crisis occurs - no vision, no responsibility, no social dividend.

Have the people of Western Australia any reason to be anything other than seriously disappointed by the results delivered to it by the election of this coalition crew? In government they are a disappointment to the people of Western Australia across our electorates as they fail to deliver the grand promises made in the lead-up to the most recent state election.

I may not be as articulate a spokesman for the people of Western Australia as I would like in trying to persuade the Government to move down alternative paths. However, I wish I had the powers of persuasion to convince it to do other than what it is doing. I do not know what skills the people of Western Australia must use to persuade the Government to take a different course. However, the Opposition will make every effort to discourage it from continuing to do to the people of Western Australia what it has done for four years, and what it continues to do by way of these appropriation Bills and all the other strategies it has unleashed on the people of Western Australia. It has unleashed mantras of privatisation, contracting and tendering out and destroyed the social infrastructure throughout Western Australia. It intends to impose a gold royalty and refuses to address tourism and the needs of the disadvantaged and rural and regional remote Western Australia.

I wish I had the power to persuade this Government. However, I fear it would not matter what powers I possessed as an orator, member of parliament or representative of the people of Western Australia, the Government would remain hard of heart and determined to repeat the mistakes it has made for four years. The Government will continue to condemn the people of Western Australia to the pain it constantly inflicts on them by the Budgets it introduces, of which this is yet another.

All members opposite should be ashamed of what they have done by virtue of the Budgets they bring into this place that produce social dislocation. Until the Government learns that its strategies and budget papers are causing social division and damage to this State and nation it is destined to be scrapped into the dustbins of history and replaced by a decent Government that will demonstrate compassion and care for the people of rural and regional Australia.

HON MAX EVANS (North Metropolitan - Minister for Finance) [8.26 pm]: I thank opposition members for their short speeches on this important subject. Hon Tom Stephens was a member of the last Labor Government that increased debt by about $3 000m. At 8 per cent interest that cost only $240m - not a lot if it is said quickly!

Hon N.D. Griffiths: What about the Government of Sir Charles Court?

Hon MAX EVANS: The debt was initially about $4.5b and rose to about $8.5b This Government has been working to reduce that debt. The interest saved was very high. For a long time Budgets have followed the same pattern, but when I became Minister for Finance I introduced changes. The previous Government tried to balance recurrent income with expenditure and forgot about capital expenditure. Over 10 years it had a surplus of only $13m, $9m of which came from our parliamentary superannuation fund in 1989. In its last year it placed $182m of recurrent expenditure into capital expenditure to cook the books because it had focused on only current expenditure.

This Government has balanced the books. If our Budgets had been so bad over the past four years we would not have been re-elected with an increased majority in the other House. If what Hon Tom Stephens said was true and our Budgets were so bad, why did we get three more seats in the other House?

Hon Bob Thomas interjected.

Hon MAX EVANS: They were excellent. We gave certainty to the chief executive officers running businesses. We have brought down balanced Budgets for four years and we know what must be done. Members opposite must be ashamed of the Budgets brought down by their Government and the mess it made to the State's finances. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION - SECOND REPORT

Scrutiny of Outsourcing and Contracting Out in the United Kingdom

By leave, Hon Kim Chance presented the second report of the Standing Committee on Public Administration on the scrutiny of outsourcing and contracting out in the United Kingdom, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 544.]

LAND ADMINISTRATION BILL

Recommittal

On motion by Hon Norm Kelly, resolved -

That the Bill be recommitted for the further consideration of clauses 42, 43, 44, 45, 97 and 98.

Committee

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 42: Class A reserves -

Hon GIZ WATSON: I move -

Page 44, lines 19 to 24 - To delete the lines and substitute the following -

(c) excise 5% or one hectare, whichever is the less, of the area of a class A reserve for the purpose of public utility services;

Page 45, after line 11 - To insert the following -

(b) to excise an area from class A reserve for the purpose of creating a road; or

The amendments address the ability to excise or change sections of A class reserves. A class reserves in Western Australia are exceedingly valuable, particularly in areas of the wheatbelt where we have lost so much of our native vegetation. Often these reserves are small but are extremely significant for local flora and fauna. Any changes to the reserves system should be considered fully. My amendments ensure the reserves are given that attention. The

placing of service corridors and roads through reserves has a drastic effect on their integrity. Members should understand that we are not seeking to frustrate the legislation; we are trying to ensure that these reserves maintain their conservation integrity.

Often knowledge of these reserves lies in the local community. We are seeking to ensure therefore, that the community has adequate opportunity to comment on any proposed changes and is given full and timely notice of any changes. Local community knowledge of what flora and fauna are present is important; knowledge does not rest only with the management agencies in which the reserves are vested.

Hon MAX EVANS: There are consequential amendments. Easements and roads can have the same impact on a class A reserve. This can range from affecting minor areas to a significant area. The Bill provides for the existing provision of the Land Act to be continued, with the important addition of having to advertise the proposal 30 days before making any order. There have been no problems administering the provisions of the Land Act. A high level of regard is given to any amendment to an class A reserve. The added requirement for advertising was inserted as an extra safeguard.

The Bill endeavours to put in place efficient procedures with the same level of public advertising and accountability. A tabling process with disallowance provisions has been adopted for most class A amendments. Given that roads and easements can have a significant impact on class A reserves, I support the proposal that easements and roads on class A reserves be subject to the scrutiny of both Houses of Parliament by the tabling process in clause 43 of the Bill. The proposal must still be advertised 30 days prior to its tabling so that people are aware of the proposal and can move a disallowance motion, if appropriate. It is normal though for any amendment to a class A reserve to be subject to community consultation in the planning stages of the proposal.

Other approvals are also required, such as planning, environmental and Aboriginal heritage approvals, together with the land tenure change. I support the amendments moved by Hon Giz Watson.

Hon MARK NEVILL: I want to get these recommitted clauses into context. Before the change to the composition of this House on 22 May, these clauses had been considered by the previous Legislative Council. At the change of the composition of this House we were up to clause 123 or 124. The Government is supporting an amendment to address an issue which has been raised subsequently. The amendments amend clause 42, which relates to A class reserves. They remove from the ambit of a ministerial order the excising of 5 per cent or 1 hectare, whichever is less, of the area of an A class reserve for the purpose of a public utility service. That will be changed from being done by the process of a ministerial order to a tabling process in this House which will be subject to disallowance. The vast majority of cases will not be objected to. However, the amendment gives the House the added opportunity to disallow some very small excisions for public utility services, which the House may consider are not warranted. I expect it will be a rarely used disallowed provision.

I compliment the Minister for Lands for accepting these amendments. I am not sure whether the Conservation Council of Western Australia originally raised this matter, as was the case with a number other issues with which we will deal tonight; however, it was raised by Hon Giz Watson. The Opposition supports the amendments.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 43: Excisions from, and cancellations and changes of purpose or classification of, class A reserves -

Hon GIZ WATSON: I move -

> Page 45, line 23 - To insert after "section 42 (4)" the passage "44 (1) or 45 (4)".
>
> Page 45, line 27 - To delete "excision, cancellation or change" and insert the words "reduction, excision, cancellation, change, grant or permission".
>
> Page 46, lines 6 and 7 - To delete "excision, cancellation or change" and insert the words "reduction, excision, cancellation, change, grant or permission".
>
> Page 46, lines 13 and 14 - To delete "excision, cancellation or change" and insert the words "reduction, excision, cancellation, change, grant or permission".

My comments on the previous amendments also apply to these amendments.

Hon MARK NEVILL: These are consequential amendments which the Opposition supports.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 44: Tabling of reports of certain grants, etc. of easements -

Hon GIZ WATSON: I move -

Page 46, line 23 to page 47, line 11 - To delete the clause and substitute the following clause -

Easements in class A reserves

44. (1) Subject to subsection (2), if the Minister proposes -

(a) to grant an easement under section 144; or

(b) to permit the creation of an easement for the purposes of section 148,

in, on, over, through or under Crown land which is classified under section 42 as a class A reserve, the Minister must cause that proposal to be laid before each House of Parliament and section 43 (1) then applies.

(2) The Minister must, not less than 30 days before acting under subsection (1) in relation to a class A reserve, advertise his or her intention so to act in a newspaper circulating throughout the State.

Hon GIZ WATSON: I commend the amendment to the Committee.

Hon MARK NEVILL: Clause 44 refers to easements. The heading for this clause is to be changed. I compliment the parliamentary draftsman for removing the words "a special report" from this clause. It is far less confusing now. The word "proposal" has been substituted, which makes the provision much clearer. Easements to accommodate gas pipelines, power transmission lines and those sorts of things can have a significant effect on A class reserves, similar to the way in which a road will impact on these types of reserves. Under this clause the Minister must go through the tabling procedure in both Houses of Parliament. The provision to advertise within not less than 30 days before the excision on A class reserves occurs remains in this clause. It is an added safeguard to alert the public of any proposal for such excisions. The Opposition supports the proposed new clause.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 45: Relationship between this Part and the *Conservation and Land Management Act 1984* and the *Swan River Trust Act 1988* -

Hon GIZ WATSON: I move -

Page 48, lines 5 to 10 - To delete the lines and substitute the following lines -

(c) excise 5% or one hectare, whichever is the less, of the area of such a reserve for the purpose of public utility services;

Page 48, after line 20 - To insert the following -

(4) Subject to subsection (5), if the Minister proposes to excise an area from a reserve referred to in subsection (2) for the purpose of creating a road, the Minister must cause that proposal to be laid before each House of Parliament and section 43 (1) then applies.

Hon MARK NEVILL: The Opposition supports these amendments. Clause 45 refers to excisions for the purposes of creating roads in class A nature reserves and national parks. This will also make that process subject to tabling in the both Houses of Parliament. It will certainly allow more scrutiny before those excisions come into effect.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 97: Constitution of the Board -

Hon NORM KELLY: I move -

(1) Page 92, line 12 - To delete the figure "6" and substitute "7".

(2) Page 92, line 25 - To delete the words “Government employees” and substitute "persons".

(3) Page 92, after line 26 - To insert the following paragraph -

(e) one is to be appointed by the Minister from among Aboriginal persons with experience in pastoral leases.

These amendments have been framed to allow for wider representation on the Pastoral Lands Board. The first amendment is simply to increase the numbers to allow for an extra person on the board to represent Aboriginal interests in pastoral leases. I expect these members to be people who have worked on pastoral leases or had some direct involvement. Given that this Bill impacts on native title to such a degree, it is important we have some form of representation. The initial suggested amendment was more tightly framed. This will allow the Minister wider scope to appoint someone who can best represent those interests.

The third amendment has been moved so that the Minister is not so tightly constrained in relation to conservation matters that he needs to appoint a government employee. I envisage that there will be occasions when a former government employee of a department such as the Department of Conservation and Land Management or the Department of Environmental Protection would be highly suitable to serve on the board. As the Bill currently stands, that person would not be able to be a member of the board. It also widens the scope to the point where someone with an academic background in conservation matters or from a conservation group could also be a member. I commend the amendments to the House.

Hon MAX EVANS: The membership of the Pastoral Lands Board should be determined by the Minister for Lands to ensure the proper implementation of the functions, powers and duties of the board. The appointment of members, in particular, should meet the criteria for the functions of the board.

The board was drafted as a government-industry board to advise the Minister on policy and administrative matters relating to pastoral leases and to administer part 7 of the Act. The amendment to change the requirement from a government employee to a person with expertise in the field of flora, fauna or land conservation management, while being only a minor change, is contrary to the balance of government and industry representation on the board.

The need to provide specifically for an Aboriginal person to be appointed as a board member is strongly opposed. This objection is on the basis that to provide for one group in the community to have an advantage is, in the Government's view, discriminatory. The Bill already provides for three industry members. There is no reason that an Aboriginal person cannot be appointed based on industry nomination.

There are currently 513 pastoral stations, of which 47 are leased to Aboriginal corporations - 26 in the Kimberley, nine in the Pilbara, eight in the Murchison-Gascoyne, and four in the goldfields. Although the percentage is higher in the Kimberley, the overall percentage of ownership is not significant enough to warrant automatic membership of the board.

The recent establishment of two regional pastoral corporations to progress Aboriginal pastoral leases is positive. The board recently met with the Kimberley Aboriginal Pastoralists Corporation to consult on pastoral management issues.

An Aboriginal person is not required on the board to overview actions taken by the board to have any effect on native title. Any area where native title may exist is referred to the Native Title Tribunal and the relevant community group. That is the appropriate level of consultation, not through one person's speaking for all Aboriginal pastoral leases.

I make it clear that the coalition is not against the principle of an Aboriginal person being appointed as a member of the Pastoral Lands Board through industry nomination. Exception is taken to a specific appointment being set out in legislation. This Bill is designed to put in place the best method to administer crown land. I oppose the amendments proposing the specific appointment of an Aboriginal person to the Pastoral Lands Board.

Hon MARK NEVILL: The Opposition supports the amendment substituting "persons" for "government employees". It is the Minister's discretion to appoint and it allows him to appoint someone who is other than a government employee and who has expertise in the field of flora, fauna and land conservation management. That expands the Minister's discretion; it does not constrain it. I expect that the Department of Conservation and Land Management had significant influence in the wording of that clause.

The Democrats approached me as the Labor member handling the Bill about amending the subclause relating to three industry members and one being replaced by an Aboriginal person. I opposed that because clause 97(1)(a) provides -

(a) 3 (in this section called "industry") are to be appointed by the Minister from among persons who hold, or have held, an interest in a pastoral lease, or are, or have been, shareholders in a company with a beneficial interest in a pastoral lease;

Reducing its three members to two would automatically start a major row with the traditional pastoral industry. More importantly, constraints on industry members would exclude many very good Aboriginal people from board membership. Many Aboriginal people I know have worked on stations for 20 years, but do not currently live on a station or are not shareholders in a pastoral station. Many Aboriginal people on pastoral stations do not know one end of a bullock from the other, yet some unsuitable people would qualify and appropriate people would be excluded under this definition. Therefore, I am not prepared to support the proposed change to this provision.

The amendment will change board membership from six to seven people. The Minister said that this is really a matter for the pastoral industry, but the board has been changed from the Pastoral Board to the Pastoral Lands Board and that gives a clear message. The Pastoral Lands Board has a wider scope than just the traditional interests of the pastoralists. The previous amendment referred to a member with conservation expertise, but the previous provision, clause 95, outlines a number of functions of the Pastoral Lands Board; namely -

(c) to ensure that pastoral leases are managed on an ecologically sustainable basis;

(d) to develop policies to prevent the degradation of rangelands;

(e) to develop policies to rehabilitate degraded or eroded rangelands and to restore their pastoral potential.

Further the clause stipulates that the board must monitor the number and effect of stock and feral animals on pastoral land. I suspect that that was an old provision. Certainly the environmental considerations are new functions for the board, and these are wider than industry only considerations.

The third amendment relates to the appointment of an Aboriginal person with experience in the pastoral industry, and I do not see this person being appointed on the basis of native title issues: A welter of people can consider native title issues. The Pastoral Lands Board can do nothing to derogate from any value of native title, but there certainly should be more Aboriginal involvement in the Pastoral Lands Board. How many pastoral leases are there, Minister?

Hon Max Evans: There are 47.

Hon MARK NEVILL: There are 26 in the Kimberley. I now read the Aboriginal stations into *Hansard* which, as indicated in a quick glance, probably exceed 10 million hectares of land. The stations - these will be familiar to many members - run by Aboriginal people are Adelong in the goldfields; Belele in the Murchison; Billiluna in the Kimberley; Bohemia Downs; Bow River; Buttah; Carranya; Carson River; Cogla Downs; Coongan; Doon Doon; Elvire; Fairfield; Frazier Downs; Gibb River; Gilroyd; Glen Hill; Kangan; Koongie Park; Lake Gregory; Lamboo; Leopold Downs; Louisa Downs; Millijidee; Milliewindie; Mowanjum; Mowla Bluff; Morapoi; Mt Anderson; Mt Barnett; Mt Divide; Mt Pierre; Mt Welcome; Ningham; Noonkanbah; Pantijan; Peedamulla; Pinjin; Pippingarra; Robertson Range; Strelley; Tableland; Towrana; Ullawarra; Walagunya; and Windidda.

That is a lot of pastoral land. Many of those stations are not used for pastoral purposes, and it is appropriate that an Aboriginal board member link those stations into the mainstream pastoral industry. Many of those stations want to run cattle, but cannot obtain funding from the Aboriginal and Torres Strait Islander Commission to stock the property. ATSIC funding is not consistent, and in many cases animals end up eaten because people lose heart or someone steals them from the property. Nevertheless, it is very difficult running pastoral stations under the type of funding provided by ATSIC.

When Hon Julian Grill was the Minister for Agriculture, he ensured that an Agriculture Department adviser was attached to every Aboriginal pastoral lease operating as a station. That scheme fell into disuse after he left that ministry, with predictable disappointing results.

I was very keen on this amendment that the Minister appoint the board member as one cannot leave it to Aboriginal pastoral organisations to nominate people as those organisations are not necessarily representative of Aboriginal pastoral industries. Like many Aboriginal organisations, they represent fairly sectional interests within the Aboriginal community. It is far less divisive and far more sensible for the Minister to appoint someone. It should not be restricted to somebody locked into the industry definition, which we can almost guess will be a white pastoralist anyway.

This change to the board does not involve an onerous cost. The Pastoral Lands Board meets about once every six weeks, so the extra cost will be between $10 000 and $12 000 a year. I have disagreed with some amendments in this Bill which would have cost the Government $100 000 in advertising, so the Minister should consider that he got off lightly. I hope this amendment bears fruit and the person appointed can help to bring some order and sense to some of these Aboriginal pastoral stations which are languishing because of a lack, not of interest, but of support and funding at crucial times.

The Labor Party supports these amendments. Although the Government has difficulty with them, I cannot see them causing the Government heartache when incorporated into the Bill.

The CHAIRMAN: I shall put these amendments separately, although the member may speak to them collectively.

Hon GREG SMITH: Nothing in the provision regarding the appointment of the three industry board members states that they cannot be Aborigines. There is no reason for one of those three members not to be an Aboriginal pastoralist or an Aboriginal adviser to an Aboriginal station owner. The pastoral industry has been waiting eagerly for the past five years for the Bill to be passed, and I would hate to see it bogged down. The Land Administration Bill seems to be a never ending story.

I cannot see any reason for putting one more member on the board as one more member will also be required to make a quorum. The amendment stipulates that the Minister must appoint an Aboriginal person with experience on pastoral leases, but such appointment is possible among the three industry board members.

Boards seem to cause all the problems in Bills. The Chamber agreed with most of the Curriculum Council Bill, but the composition of the board took most of a day to determine. I would hate for the Bill to be bogged down as a result of the composition of the board. I do not agree with the amendments.

Hon MARK NEVILL: This Bill is not being bogged down. Hon Max Evans and I have been trying to get this Bill up for two weeks much to the chagrin of both of us, so five minutes tonight will make no difference. If I were the Minister for Lands I would seriously consider appointing Ernie Hunter to the board. Ernie is the brother of Glenis Sibosado, who is a member of the Aboriginal and Torres Strait Islander Commission for the Kimberley. Ernie Hunter's father was a white man. He owned Mt Anderson station on the Fitzroy River. Ernie Hunter worked for 20 years on Mt Anderson station. For probably the past 15 or 20 years he worked for the Water Authority servicing the water requirements on the Aboriginal outstations in the Kimberley. He retired from the Water Authority at 55. He was sick of them. He is now at Pandanus Park. He knows the industry well. He would be ineligible under that clause, simply because he has not held an interest in a pastoral lease or been a shareholder in a company with a beneficial interest in a pastoral lease. With due respect to Hon Greg Smith, who is a pastoralist, that would exclude many very suitable people from being selected by the Minister. The existing clause is not broad enough to appoint a suitable Aboriginal person.

Hon E.J. CHARLTON: This is critical not only in the make up of boards but also for Aboriginal people in our community who hold responsible positions. One of the great tragedies for Aboriginal people in recent times is that they have been appointed to positions simply because it has been determined that an Aboriginal person must be appointed, and not on their merit. We do not do that in other areas. For example, we do not specify that only immigrants or people who come from particular parts of the world are appointed to multicultural organisations. Appointing a person because he or she is Aboriginal rather than because that person is the best person for the job is a tragedy for the future of Aboriginal people.

A number of Aboriginal people have been appointed to bodies in my portfolio area because they had something special to offer. Last week I advised the Chamber of a number of Aboriginal people who hold positions in mainstream government instrumentalities. I have no doubt that those Aboriginal people will not only bring credit to themselves and to those organisations, but also will be an example to the whole community. It will be a tragedy if we allow ourselves to get bogged down in this manner.

Hon Mark Nevill has identified an Aboriginal person who will be excluded from the board under this definition. However, I am sure that Hon Mark Nevill will agree that it also prevents non-Aboriginal people from being appointed to the board. He will also agree that a range of Aboriginal people who are involved in the pastoral industry can be appointed to the board if they are involved in the pastoral industry in one of forms specified. I would support the Minister's appointing an Aboriginal person to the board because he or she had a particular strength to offer to the success of that board. As Hon Mark Nevill pointed out, Aboriginal people are involved in 47 pastoral stations. I would be surprised if there were not one person among all of those who could make a contribution to the board.

It is wrong to segregate Aboriginal people from the rest of society and to involve them only because they are Aboriginal and not because they are good enough in their own right. Every week Cabinet makes appointments to organisations in which Aboriginal people are involved. I attended a function organised by the Polly Farmer Foundation and it was great to see all those Aboriginal people who have succeeded in sport. They are a credit to themselves and to Western Australia. They have made their mark because they are great people, not because we passed a law that specified there must be an Aboriginal person on the board. One of the great negatives that we bestow upon Aboriginal people is that we keep segregating them. That is racism. We must get away from that. We must treat them as equals. Members suggest these things from the goodness of their hearts; they are trying to do the right thing. All they are doing is hanging a millstone around the neck of Aboriginal people. I appeal to members

not to go down this path. It is all being done with good intentions, but sadly it is placing a burden on Aboriginal people. Aboriginal people know when they pull their chairs in around a table why they are there, and they do not feel part of the process.

Hon Mark Nevill: Aboriginal people have been a part of the mainstream of the pastoral industry for a long time and they have not been included. This is an opportunity to include them.

Hon E.J. CHARLTON: How did they get the pastoral leases in the first place? That is the system into which we have locked Aboriginal people. Almost everything an Aboriginal person does in this society is the result of Big Brother government having said, "We will do this for you." We have not given them money to take their rightful place in the real world, because we have totally underestimated them. It is disappointing to see it go this way.

Hon J.A. SCOTT: I understand Hon Eric Charlton's point of view. However, the board will work within the provisions of an Act dealing with all manner of issues which confront two sections of the community - the pastoral industry and Aboriginal communities.

Hon E.J. Charlton: They are all Australians!

Hon J.A. SCOTT: Indeed they are. However, one could argue that a person from the pastoral industry could be appointed to the board simply because he came from the pastoral industry. It makes no more sense to say that an Aboriginal person would be appointed to the board for no other reason than his aboriginality. One could say also that people are appointed to boards simply because they are friends of certain other people. I refer to section 104 of the Land Administration Act which provides that Aboriginal people may at all times enter upon any unenclosed and unimproved parts of land under a pastoral lease and seek their sustenance in an accustomed manner. That provision directly addresses only Aboriginal people. Therefore, we must ensure that people appointed to the board understand the term "accustomed manner" and the needs and traditions of the Aboriginal community. That is not to say that some white fellas would not understand as well, but Aboriginal people are best able to represent those views. That argument does not represent a patronising or condescending view. One could ask how many boards set up by government include Aboriginal members; but my guess is that it is none.

Many people in the community have different points of view from those of members of the pastoral industry, such as Hon Ross Lightfoot's attitudes towards Aboriginal people, and even those of Hon Greg Smith whose thoughts are quite different from mine. On behalf of the Aboriginal community we must achieve a balance against those voices. That is an important point, because those attitudes are found largely in communities tied up with the pastoral industry. Whether we agree with those attitudes or not, we need to promote a balanced point of view. It is important that the Aboriginal voice is heard on the board.

Hon NORM KELLY: The amendment does not seek to restrict or bind the Minister in appointing board members. Hon Eric Charlton said that it was a tragedy to appoint an Aboriginal person to such boards because it would be seen as a token gesture. It would be more tragic if we could not find an Aboriginal person in this State who could be appointed to the board on his own merits. I am sure that Aboriginal people could serve well on such a board. It is an indictment of this Government and of previous Governments that we must have this debate now. We may reach the stage where we take it for granted that such a board will constitute one or two Aboriginal people. However, until then we need to specify in legislation that Aboriginal people are appointed to such positions. When we can take it for granted that Aboriginal people will be appointed to such boards, we will no longer need that provision.

During our original discussions with Hon Mark Nevill the proposed amendment was tighter, and specified pastoral organisations, until we realised it would be too restrictive and cause confrontation among certain groups. Therefore, we decided to open up the provision; not to bind the Minister but to ensure this representation on the board.

Hon MARK NEVILL: Subclause (1)(a) relates to industry members. Industry members are not defined in the Bill. Would an industry member be a person involved in a tourist pursuit on a pastoral lease which carries no stock and no longer operates as a true pastoral lease?

Hon MAX EVANS: It would depend on whether it were a horticulture, viticulture or tourist operation with a pastoral lease surrounding the area. I would need to take the question on notice.

Hon MARK NEVILL: My question was: If a station, such as El Questro, carried no stock but ran a tourist facility, could the person running the operation be appointed to the board? Would that person satisfy the criteria as an industry member? In other words, it would not be necessary to appoint a person experienced in the running of stock.

Hon MAX EVANS: A major tourist operation such as El Questro would have a special lease. The clause relates to a pastoral lease only.

Amendment (1) put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN: Before the tellers tell, I cast my vote with the noes.

Division resulted as follows -

Ayes (15)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens
Hon Cheryl Davenport	Hon Mark Nevill	Hon Ken Travers
Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Tom Helm	Hon J.A. Scott	Hon Bob Thomas *(Teller)*

Noes (14)

Hon E.J. Charlton	Hon Ray Halligan	Hon Simon O'Brien
Hon M.J. Criddle	Hon Barry House	Hon Greg Smith
Hon B.K. Donaldson	Hon Murray Montgomery	Hon W.N. Stretch
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon M.D. Nixon	

Pairs

Hon E.R.J. Dermer	Hon B.M. Scott
Hon N.D. Griffiths	Hon Derrick Tomlinson

Amendment thus passed.

Amendment (2) put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN: Before the tellers tell, I cast my vote with the noes.

Division resulted as follows -

Ayes (15)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens
Hon Cheryl Davenport	Hon Mark Nevill	Hon Ken Travers
Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Tom Helm	Hon J.A. Scott	Hon Bob Thomas *(Teller)*

Noes (14)

Hon E.J. Charlton	Hon Ray Halligan	Hon Simon O'Brien
Hon M.J. Criddle	Hon Barry House	Hon Greg Smith
Hon B.K. Donaldson	Hon Murray Montgomery	Hon W.N. Stretch
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon M.D. Nixon	

Pairs

Hon E.R.J. Dermer	Hon B.M. Scott
Hon N.D. Griffiths	Hon Derrick Tomlinson

Amendment thus passed.

Amendment (3) put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN: Before the tellers tell, I cast my vote with the noes.

Division resulted as follows -

Ayes (15)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens
Hon Cheryl Davenport	Hon Mark Nevill	Hon Ken Travers
Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Tom Helm	Hon J.A. Scott	Hon Bob Thomas *(Teller)*

Noes (14)

Hon E.J. Charlton	Hon Ray Halligan	Hon Simon O'Brien
Hon M.J. Criddle	Hon Barry House	Hon Greg Smith
Hon B.K. Donaldson	Hon Murray Montgomery	Hon W.N. Stretch
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon M.D. Nixon	

Pairs

Hon N.D. Griffiths	Hon B.M. Scott
Hon E.R.J. Dermer	Hon Derrick Tomlinson

Amendment thus passed.

Clause, as amended, put and passed.

Clause 98: Procedure of the Board -

Hon NORM KELLY: I move -

Page 94, line 2 - To delete "4" and substitute "5".

This is a consequential amendment following the amendment to the previous clause to allow an increase in the number of members constituting a quorum.

Hon MARK NEVILL: This amendment was suggested by parliamentary counsel and, as the board membership will increase from six to seven, it makes sense to increase the quorum to five.

Hon MAX EVANS: The Government accepts that.

Amendment put and passed.

Clause, as amended, put and passed.

Further Report

Bill again reported, with further amendments, and the report adopted.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL

Leave granted to proceed forthwith to third reading.

Third Reading

Bills read a third time, on motion by Hon Max Evans (Minister for Finance), and transmitted to the Assembly.

SITTINGS OF THE HOUSE - EXTENDED BEYOND 10.00 PM

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.44 pm]: I move -

That the House continue to sit beyond 10.00 pm.

It is my intention to deal with Order of the Day No 10, the Family Court (Orders of Registrars) Bill, and nothing else.

Question put and passed.

FAMILY COURT (ORDERS OF REGISTRARS) BILL

Second Reading

Resumed from 9 April.

HON N.D. GRIFFITHS (East Metropolitan) [9.45 pm]: The Family Court (Orders of Registrars) Bill is strongly supported by the Australian Labor Party Opposition in this House because it represents very necessary good policy. The Bill relates to certain ineffective orders of registrars under the Family Court Act 1975. It is important, first, because it provides necessary reassurance to people in the community who are affected by the Full Court of the Family Court of Australia decision in Horne v Horne, which was delivered on 13 February 1997. That reassurance is necessary because of the impact of that decision on Family Court Act proceedings and Family Law Act proceedings, which were purported to be finalised by consent orders made by registrars of the Family Court of Western Australia. The decision of the Full Court of the Family Court of Australia invalidated those registrar consent orders. Those consent orders were made by registrars of the Family Court of Western Australia and the decision relates to orders made by the Family Court of Western Australia and no other courts. The reasons for that are set out in the decision.

This Bill seeks to remedy the effect of the invalidation disclosed by the decision in Horne v Horne by retrospectively permitting the orders to operate as if they were validly made. The Bill provides that rights and liabilities will exist as if the registrars' orders were validly made. In so far as the Bill relates to Family Court Act matters, it has great substance. In so far as it relates to Family Law Act matters, it is ineffective because Western Australia does not have the constitutional capacity to validate retrospectively the exercise of federal judicial power. The only body that can do that is the Commonwealth Parliament. Therefore, it is essential for the policy this Bill seeks to enact for the Federal Parliament to pass retrospective legislation dealing with the effects of Horne v Horne, so that those persons affected by consent registrar orders of the Family Court of Western Australia under the Family Law Act will be able to get on with their lives as if those orders were made validly. The Bill seeks to deal with that neat distinction. It is not a matter of saying the orders are now valid but of permitting affairs to continue as if the orders had been made validly. The Attorney referred in his second reading speech to the judicial authorities for that proposition.

The policy of this Bill must be supported strongly by the Australian Labor Party because it has been so slow in coming before us, and because it demonstrates the inadequacies of the Court and Howard Liberal Governments. In fact, it is similar to the legal aid fiasco which is unfolding before us. The State Government's response to Horne v Horne has so far been inadequate, and I regret to say that the Federal Government's response is also inadequate.

The Horne v Horne decision will have an immense impact upon many people. In dealing with the Family Court Act matters to which this Bill has great relevance, we are dealing with orders for the maintenance and welfare of children. With respect to the Family Law Act matters upon which this Bill cannot impinge effectively, we are dealing with orders for the welfare of children, child and spousal maintenance, and property.

When the issues which gave rise to this decision came to the attention of the Government, it should have been a spur for action. In explaining my party's response to this legislation, it is necessary that I deal with how the Government has treated the matter so that Mr President and other members can understand why we want this legislation to go through. There are deficiencies in this legislation; I suppose there will always be deficiencies in legislation which deals with complex arrangements such as these. This legislation will require, if it is to have any real effect, a great degree of cooperation between the Federal and State Governments at the end of the day, but that has not been forthcoming.

I will refer to some passages in the judgment of the Full Court of the Family Court of Australia in Horne v Horne, which was appeal No WA 13 of 1996. The matter was heard on 13 November 1996, and the judgment was delivered on 13 February 1997. Today is 26 June 1997. Page 2 of the judgment states -

> The primary contention of the husband is that the registrar and deputy registrars of the Family Court of Western Australia do and did not have the power to make such orders. If that contention is correct, it would have the effect of not only invalidating the order in question here but also other orders made by the registrar and deputy registrars of that Court under that order and equivalent orders before and since.

Page 3 states -

> Effectively the appeal challenges the power of registrars of the Family Court of Western Australia to exercise any power delegated under the Family Law Act.

It states also -

> These proceedings turn entirely upon matters peculiar to the purported delegation of power to registrars of the Western Australian Court.

When I first read this judgment many months ago, I was astounded to read, because of the ramifications of this case, at page 7 that this appeal was filed on 30 August 1996 and that notice of this appeal was given to the Attorneys General of the Commonwealth and the State of Western Australia but neither sought to intervene. The decision not to intervene may have been fair enough because those advising on the issue may have said that it was clear cut and there was no power to delegate; and if there were a power to delegate, such power would not be valid because there was no provision for review.

In light of the words of the Full Court at page 29, that view of the world would be fair enough. Page 29 states -

> Litigants have the right to a judicial determination by a judge - a right adequately protected by review by the judges of the Court of the decisions of officers who exercise delegated judicial power - and this is a substantive right which may not be impinged upon by rules which, made pursuant to a "practice and procedure" power purport to delegate without review. . . . There are emphatic policy reasons which would totally oppose the concept of an unreviewable delegation by a court of any of its judicial powers.

It seems to me that when the decision was examined by the Attorney General's advisers, and I trust the Attorney himself, it was clear that definite action was required, and that definite action involved urgent consultation and cooperation with the Commonwealth. That has not been forthcoming. I do not want to have a go at Hon Peter Foss too much, but I certainly think the blame lies at the foot of one Liberal Government, if not both of them. In that context the envisaged action should have been obvious and I refer again to the Full Court's judgment at page 37 where their Honours make the following observation -

> It may be possible that a State Parliament could, by express legislation, permit a non-reviewable delegation of the judicial powers of its courts to persons who are not judges of that Court. It is unnecessary to consider that since that is not the position here, where the power is a federal power invested in a State court.

It is important to recall that Horne v Horne involved a Family Law Act matter. Reference was made in the High Court's decision to Kable v Director of Public Prosecutions (NSW). Their Honours went on to say that -

> The conclusions usually drawn from the *Hospital Contribution Fund Case, supra,* that in investing federal power in a State court the structure of that Court must be accepted could not extend to the situation here - the investing of federal power in a State Family Court and State legislation purporting to unreviewably delegate part of that jurisdiction to persons who are not judges of that Court.

That applied to the case of Horne v Horne. I thought the Kable case would be on the minds of those people who deal with legal policy in all Australian States. I propose to make brief reference to three aspects of the High Court's decision on the case of Kable v Director of Public Prosecutions (NSW), 138 Australian Law Reports, page 577.

Hon Peter Foss: You should mention the date of that decision.

Hon N.D. GRIFFITHS: It was 12 September 1996 and it is now 1997.

Hon PETER FOSS: I know, but it is important.

Hon N.D. GRIFFITHS: It is something about which the Attorney General should have been aware. He certainly should have been aware of it in the case of Horne v Horne, which was heard in November and the decision was handed down in February. I note the Attorney's inaction since then.

Hon Peter Foss: There has not been inaction. You know what happened. Cheap shots get you nowhere.

Hon N.D. GRIFFITHS: The Attorney has done a number of things and I will deal with them. Justice Toohey, at page 605 of the judgment to which I referred, said -

> To the extent that they are invested with federal jurisdiction, the federal courts and the courts of the States exercise a common jurisdiction. It follows that in the exercise of its federal jurisdiction a State court may not act in a manner which is incompatible with Ch III of the Commonwealth Constitution.

Justice Gaudron said at page 612 -

> . . . the more significant matter which emerges from a consideration of the provisions of Ch III is, . . . that State courts, when exercising federal jurisdiction "are part of the Australian judicial system created by Ch III of the Constitution and, in that sense and on that account, they have a role and existence which transcends their status as courts of the States". Once the notion that the Constitution permits of different grades or qualities of justice is rejected, the consideration that State courts have a role and existence

> transcending their status as State courts directs the conclusion that Ch III requires that the parliaments of the States not legislate to confer powers on State courts which are repugnant to or incompatible with their exercise of the judicial power of the Commonwealth.

Further on he said -

> . . . the limitation derives from the necessity to ensure the integrity of the judicial process.

Justice McHugh said at page 621 -

> Under the Constitution, therefore, the State courts have a status and a role that extends beyond their status and role as part of the State judicial systems. They are part of an integrated system of State and federal courts and organs for the exercise of federal judicial power as well as State judicial power. Moreover, the Constitution contemplates no distinction between the status of State courts invested with federal jurisdiction and those created as federal courts.

Those are the words of the judicial authorities and in that context we have the judgment in the case of Horne v Horne handed down on 13 February and what has been this Government's reaction? I have to put "reaction" in context so members can appreciate why the Labor Party wants to get this legislation through the Parliament, notwithstanding some aspects which involve a degree of detail and which are more appropriately dealt with in Committee. I will not be moving any amendments, notwithstanding there are a couple of aspects of the Bill with which I disagree. The passage of this Bill is urgent and it is important that this House move on it because of the delay that has occurred. The door was open for people to behave improperly when the decision was handed down by the Full Court on 13 February. That door will remain open for people to behave improperly until such time as this Parliament and the Federal Parliament enact legislation.

The Attorney General's reaction came to light in the following media statement dated 27 February 1997 -

> Attorney General Peter Foss today said he would introduce new legislation that would correct a technical problem in the Family Court Act of Western Australia.

Further on he said -

> The State Government had anticipated this and had drawn up some amending legislation, but waited until the test case was decided to find out precisely what would be required.

As it happens, we will have to revise the legislation only slightly to take into account the actual terms of the judgment. He did not say anything about the Commonwealth, and that is surprising. The public of Western Australia heard about it through the following article in the local paper, *The West Australian,* on Saturday 22 February -

> WA Attorney-General Peter Foss intends to bring down retrospective legislation as soon as possible after Parliament resumes on March 11.
>
> "We knew this case was coming up and we've already prepared retrospective legislation which will validate all the affected orders," he said.
>
> "We have to look at our drafting again, but I don't see it as being contentious.

Reference was made in that article to commentators saying there could be a constitutional problem if it were dealt with only by the State Parliament, and there is. After a long time the Attorney acknowledged that. On behalf of the Australian Labor Party I made public comment to the effect that the Attorney should consult his federal counterpart on the potential need for federal legislation and he should inform the public of what he will do.

When I made that public comment - that was the reason for my media release of 25 February - I pointed out that the Attorney General could expect the cooperation of the Labor Party in putting in place workable, effective legislation. This is the first opportunity we have had to extend our cooperation on this matter on the floor of this House. I can assure him he is getting it. However, in the process of getting it some matters must be placed quite properly on the record so that the public of Western Australia appreciates why the Opposition is supporting this Bill, notwithstanding some aspects which cause it a degree of concern.

The law and the Opposition pointed out to the Attorney what needed to be done. What did the Government do? I do not want to blame the Attorney General. It gave consideration to appealing the decision. That caused uncertainty. As I have already explained, it was an absolute nonsense.

Hon Peter Foss: Interestingly, the suggestion originally came from the Commonwealth Solicitor General.

Hon N.D. GRIFFITHS: It does not surprise me that the Federal Government is to blame because we know what it is like. When policy makers in this State receive suggestions, irrespective of their source, they should give them due consideration. When policy makers voice their views or act on those suggestions they should bear in mind the effect they have on the general wellbeing of Western Australia.

I note this interesting headline in *The West Australian* of 27 February 1997: "Foss considers divorce appeal".

Hon Peter Foss: Do you think I should have kept it quiet and not told people?

Hon N.D. GRIFFITHS: Given the state of the law and the very constructive approach and appreciation of the Opposition, the Attorney General should have given greater consideration before he made a comment such as that which caused great uncertainty in the community. The proper response was to reassure the public and say he would quickly bring down legislation.

Hon Peter Foss: You were aware of that weren't you?

The PRESIDENT: Order!

Hon N.D. GRIFFITHS: The Attorney General should be quiet. He should have followed that up with the introduction of legislation in this Parliament and made sure his federal counterpart, Hon Daryl Williams, and his colleagues did the same in the Federal Parliament. Hon Peter Foss is a fortunate Minister because he has the cooperation of this Opposition. At all times the Opposition has sought to align itself with him in progressing this matter.

Hon Peter Foss: All you did was take cheap shots and cause a lot of confusion.

Hon N.D. GRIFFITHS: We gave appropriate consideration to the matter. As a result I asked - this is where we get admission on the appeal - a question recorded in *Hansard* of 11 March 1997, five days after the opening of this Parliament.

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: I think he is enjoying this. In question without notice 17 at page 61 of *Hansard* I asked -

> With respect to the judgment of the Full Court of the Family Court of Australia delivered on 13 February 1997 invalidating Family Court of Western Australia Registrar Orders, I ask -
>
> (1) Is the Attorney General still considering an appeal to the High Court of Australia?
>
> (2) Will the State be appealing?
>
> (3) Has the Attorney General received advice in respect of any difficulty in the State's seeking special leave to appeal, given his failure to intervene when the matter came before the Full Court?

I will not read out the answer in full. If the Attorney wants to in his response I will be happy for him to read it out. He said -

> No. We are not considering appealing. My advice is that appeal would not be successful.

That was good advice. He went on to say -

> There has been some suggestion that a constitutional question is an issue -

He said, "some suggestion".

Hon Peter Foss: That came from the federal Attorney General.

Hon N.D. GRIFFITHS: The answer continues -

> - therefore, some people suggest we cannot amend the law to deal with the problem. The better advice now is that there is no constitutional problem, and we can amend it. For all of those reasons, we do not propose to appeal. Instead, we will be bringing down legislation complementary to that of the Commonwealth Government which will give effect to the orders according to their tenor.

That is what should be done and we are in the process of implementing that promise, although I note that this matter is only in this House. I trust it will move on. The Federal Parliament has yet to dispose of its side of the matter.

This is one of those matters that is so important to people in Western Australia that surely, given the closeness and camaraderie that exists between the Attorney and his federal counterpart, the Attorney would have made sure things operated smoothly.

Hon Peter Foss: The federal Attorney General has been highly cooperative.

Hon N.D. GRIFFITHS: In question without notice 21 in *Hansard* of 11 March 1997 at page 63 I asked him when he first consulted the Commonwealth on this matter. His answer was, "I have not consulted the Commonwealth personally." Surely there should have been a degree of personal involvement.

Hon Peter Foss: I also said it was between the Solicitors General. Stop being misleading.

Hon N.D. GRIFFITHS: He did not see fit to get involved in a matter as important as this. To be fair, he wanted to reassure Western Australia, which is something we are interested in doing this evening, that the Government would act speedily. Members may be interested to know, notwithstanding the history of the matter, that the Attorney is reported - perhaps misreported - in *The West Australian* of 15 March 1997. The article reads -

> WA Attorney-General Peter Foss said on Thursday that retrospective legislation to validate the orders was almost completed, and the matter was expected to be finalised in the next fortnight.

I appreciate there is a degree of ambiguity about what was expected to be finalised. However, we are considering a situation where communication is sought to be made with ordinary people. A fair reading of that would be, "Well, it will be fixed up in a fortnight." Regrettably that did not happen. Eventually the Bill was introduced into this House on 9 April. It is now 26 June. This Attorney General would never be distracted by the Labour Relations Legislation Amendment Bill!

Hon Peter Foss: I have not told you the reason for that, have I? You know the reason; I told you.

Hon N.D. GRIFFITHS: I know the reasons. The Attorney failed to do a better job than he did. I will deal with that patiently and with appropriate expedition. I do not want to take up too much time of the House so I will not be distracted by a number of inane interjections.

I refer to a media statement by the Attorney General dated the same day that the Bill was first read. If I were in the media, I would send this to Stuart Littlemore of "Media Watch" because the Attorney said, among other things -

> Once the problem was identified we moved quickly.

He then said -

> We immediately arranged with the Commonwealth for a joint approach to retrospective complementary legislation.

I am pleased he finished off that media statement with these words of reassurance -

> Even though the Commonwealth Government's legislation was still being drafted -

That does not say much for Hon Daryl Williams, frankly. He continued -

> - family lawyers in Western Australia would now be able to advise their clients on the basis that the Commonwealth would be legislating in substance similar to WA.

Those words were very welcome. The importance of the policy of this Bill, as I said in my introductory comments, was reassurance and Family Court Act orders. Much of the effect of Horne v Horne relates to Family Law Act orders, which is why the federal legislation is so important. It is very important that the federal legislation be in substantially the same terms as the state legislation. I accept that but regret that it is a substantial reason for the delay in dealing with this matter. However, the blame for that lies clearly with the federal Attorney General.

I was very concerned to continue to cooperate and to encourage the State Government to get moving on this matter. That is why I raised the matter again on 9 May. When I asked the question I was not having a go at Hon Peter Foss; I was having a go at Hon Daryl Williams and the Howard Government, because I think they behaved very badly. Up to 9 April I criticised Hon Peter Foss; post 9 April my criticism became relatively mute, although not entirely. In question without notice 364 at page 2801 of *Hansard* of 9 May 1997, I referred to the Bill and asked -

> (1) Has the Attorney General been advised when it is anticipated that the Federal Parliament will pass its retrospective legislation?
>
> (2) Has he received a copy of the federal Bill?

(3) If so, will he give the Opposition a copy of the Bill?

He replied -

(1) No, I have not.

I think that is astounding. As I said, it is similar to the legal aid saga. The Federal Government has behaved very badly towards the people of Western Australia in the way it has treated their Government. It has been disrespectful and has behaved as if Western Australia does not matter. I do not like that. That is not the fault of this Government or this Attorney. However, the bottom line is that he has not been able to deliver to the extent he would have liked to because of the lack of cooperation by the Howard Government. We join with him in condemning the Howard Liberal Government for its disgraceful conduct. Much of the Government's conduct in this matter has been very proper. In answering the second part of the question, the Attorney said -

> No, I have not. However, the Bill was drafted in conjunction with the federal Parliamentary Counsel, so I would expect it to have a close resemblance. One of the reasons I introduced it when I did was so that the public could comment and rely upon it. We have received comments from the public, in particular, from family law practitioners.

He then referred to an amendment. That process was fine; I agree with it. However, I think the matter could have been advanced further and would have been advanced further if the impact of the decision of Horne v Horne had been better appreciated by those in power in Perth and in Canberra. It seems there was still a lack of appreciation in government as a whole because the question of an appeal was still being canvassed in another place on 15 April 1997. That also astounds me because it generated a degree of uncertainty.

In his second reading speech, the Attorney made certain pertinent observations with which I agree. He said that most of the people affected by the ineffective orders related to Family Law Act matters, but that there are those who are affected by Family Court Act matters. He said with great accuracy -

> The solution requires a combined approach by the Commonwealth and the State to address the problem of ineffective orders in both cases.

He continued -

> . . . the aim is for the commonwealth and state legislation to complement each other.

It is complex legislation; the legal concepts are complex. It is not something about which one can press a button and out will come a precedent. However, it seems that those very proper words do not accurately depict what the Federal Government has done about this matter. The Attorney said also, quite properly -

> I consider it necessary that the legislation should be made available as soon as possible to inform the public how the matter is being addressed, and to provide reassurance that it can be addressed successfully.

The difficulties posed by Horne v Horne can be addressed successfully by legislation. This Bill is part of that process. When it becomes law it will deal with the very real problems of people affected by Family Court Act matters. Those problems relate to the welfare of children, not children of a marriage. It is for that reason that I think some aspects will be dealt with appropriately in Committee, including aspects of retrospectivity, and I mention in passing the creation of circumstances in which a sanction can be imposed even though the conduct the subject of that sanction was not subject to a sanction at the time the conduct was carried out. That is an area of retrospectivity which should always cause a House of Parliament great concern. Notwithstanding that, the policy imperative is to get this legislation onto the Statute books as soon as possible. It is for that reason that the Australian Labor Party in this House strongly supports the Bill.

HON HELEN HODGSON (North Metropolitan) [10.28 pm]: I agree with what we have just heard about the importance of certainty in these matters. It is essential in a court proceeding that the parties know the outcomes and can proceed on the basis of the orders and decisions that are made. That is particularly relevant when family law proceedings involve, by their nature, children, property and emotions. People get very emotionally involved in family law matters. It is also essential that there is a right to review in court proceedings. This is a matter to which I will return at a later stage.

After the decision of the Full Court of the Family Court of Australia in Horne v Horne, many people who had been previously awarded orders did not know their rights. They no longer had certainty and did not know whether their orders were valid, invalid or had already been acted upon.

This problem must be rectified, and we must make sure it is done properly. This requires the complementary legislation from the Federal Parliament. That legislation has been introduced into the Federal Parliament, but I have

been told that as of today there are no plans to expedite it. We are expediting the legislation in this place to try to get the matter resolved before both Houses rise tomorrow evening; yet the complementary legislation, which covers the vast bulk of people who are affected, will not be in place for some time because the Federal Parliament also rises at the end of this week for some time. Although we may be doing the best we can, people will still not be able to work out their entitlements.

Hon Peter Foss: They can under state law, but not under federal law.

Hon HELEN HODGSON: It would have been better to have both pieces of legislation expedited and resolved as soon as possible.

Hon Peter Foss: I cannot control the Federal Parliament.

Hon HELEN HODGSON: I appreciate that; however, it is important that I make the point that we cannot resolve this matter in this place. Our legislation will affect the smaller number of people involved. It is a matter of the utmost urgency for those who are affected by it.

The underlying issue raised in Horne v Horne related to the reviewability of these orders. Both this Bill and the complementary federal legislation are designed to pick up the people who have had orders made and to ensure that those orders, which are now invalid, can be acted upon as though they were enforceable. The issue of reviewability is not addressed in either piece of legislation. I understand further legislation will come forward to address this situation; however, that is the crux of the whole problem and it has not been fixed yet.

Hon Peter Foss: It does not need to be because the magistrates can deal with it.

Hon HELEN HODGSON: At the moment there is uncertainty for family law advisers and their clients. Orders may, or may not, be enforceable and, as I understand it, some clients are proceeding on the basis that the orders are invalid and, therefore, unenforceable.

Hon Nick Griffiths earlier referred to the problem of the time lags and the fact that people have not known their rights for the whole of this time. According to a newspaper clipping dated 22 February, the judgment in Horne v Horne was handed down on 13 February. The article states -

> WA Attorney-General Peter Foss intends to bring down retrospective legislation as soon as possible after Parliament resumes . . .

There is no detail about what the legislation will do, except that it will be retrospective legislation. On 27 February an article in the newspaper talked about appeals. A month later, on 13 March, the discussion about introducing legislation surfaced again in a newspaper article which states -

> He -

That is, Hon Peter Foss -

> - said retrospective legislation to fix the problem, which he had intended to introduce when Parliament resumed this week, was still being drafted.

In that month people knew something would happen, but they did not know what. This is a major problem when we deal with retrospective legislation: How can people advise their clients how to act when they do not know what steps have been taken to correct the problem? Retrospective legislation could mean anything. In this case, it has been decided to go back and ensure the orders have effect, as though they were valid orders. However, it could have meant many things. That puts the profession in a very difficult position. We have two competing issues of fairness: First, to deal with this issue quickly because we want to make sure that people know where they stand; and, second, to assist people who may already have acted and made decisions on the basis of the lack of information they have had over the past three months.

In that respect I note that provisions in the Bill deal with subsequent orders. It means that if people went back to the court and obtained a valid order during the period when people did not know quite what was going on, at least they are covered by the legislation. This provision covers only those people who went back to court to obtain a valid order. A wide range of people simply failed to act and said that the order was invalid and, therefore, they did not have to do anything. A newspaper article on 15 March refers to a child support agency which talked about parents who were ignoring the orders for child support because they believed the orders were invalid. There is no remedy in this legislation for parents unless they returned to the court and to get an order that superseded the invalid order.

That leads to probably the most serious of what I consider to be the technical problems in this Bill; that is, under clause 7 people can be subjected to contempt proceedings if they have not acted in accordance with the order which

is now invalid. People who failed to act, believing the order was invalid and that they had no obligation under the legislation, now face the possibility of being charged with contempt of court.

To highlight that problem, when it comes to the Family Court Act, a remedy or defence is available if people acted with reasonable excuse. Surely it is a reasonable excuse if people believe they have an invalid order because of a precedent in the Family Court case of Horne v Horne. However, there is no matching provision to say that if people have a reasonable excuse, the contempt provision does not apply. It leads to a situation where people who act in good faith, believing they had an invalid order, may now be exposed to the possibility of being charged with contempt of court.

A couple of technical matters have been raised with me by members of the profession. The first of those is the definition of the word "court". A court is defined in the Bill as being a court having jurisdiction under the Family Court Act 1975. In itself, that is not a problem; however, the Bill regularly refers to a court. At no point does the Bill specify which of the courts with jurisdiction is meant when the word "court" is used. That might seem a technicality; however, when different appeal rights and provisions arise from the different courts which have jurisdiction, it can present a practical problem. People must know which court made the order to understand the rights proceeding from the order.

The second issue relates to the interpretation of clause 11. Obviously the intention is that the decision of the Full Court of the Family Court of Australia in Horne v Horne cannot be reversed in that case or another case where a specific order has been made. It has been put to me that, depending on the interpretation of the Family Court decision, there may be a problem in interpreting the provisions of this legislation because Horne v Horne could be construed as saying that none of these orders is valid. That could be sufficient to say that all orders were addressed in the case of Horne v Horne.

Hon Peter Foss: Horne v Horne cannot validate that.

Hon HELEN HODGSON: The issue, as it has been put to me, is that this clause could negate the whole of this legislation. I see Hon Nick Griffiths does not agree with that argument; however, I feel obliged to raise it.

Hon Peter Foss: It is the sort of thing lawyers say.

Hon N.D. Griffiths: Lawyers are argumentative.

Hon HELEN HODGSON: Exactly. If somebody has raised it with me at this stage, it is likely that someone will raise it in the Full Court of the Family Court of Australia at some stage in the future. It is a problem when we are dealing with such technical legislation. We must ensure that it is done as well as we can possibly do it.

Hon Peter Foss: Quickly or slowly?

Hon HELEN HODGSON: As well as we can do it. The drafting does take time, but it would be better if we were not dealing with it in this place and the other place in a day and a half. Issues must be canvassed more fully. With those reservations, which are purely technical and might be satisfied in Committee, the Democrats support the Bill and I commend it to the House.

HON PETER FOSS (East Metropolitan - Attorney General) [10.41 pm]: I thank members opposite for their support of the Bill. I will provide a little more advice about what occurred in the drafting of this legislation. When the matter first went to the full Family Court, the case of Kable had not been decided.

Hon N.D. Griffiths: It had been when it was heard in November; Kable was decided in December. It was true you were invited to intervene prior to the Kable case being decided.

Hon PETER FOSS: Hon Mr Griffiths has said it very well: When the matter went to appeal, Kable had not been decided, but by the time it was heard, it had been decided. Originally the belief was that, if there were to be a problem, it would be on the basis that there had not been a delegation to the registrars under the state legislation. The delegation started to be acted upon because of another peculiarity; that is, the federal Act's having allowed that delegation, rules were made to provide for it. Under the terms of the Act, those rules applied both to the Family Court of Australia and the Family Court of Western Australia. The Family Court of Western Australia then proceeded to exercise the powers of delegation under the Family Court rules, despite the fact that the Family Court of Western Australia did not have legislation that allowed similar delegation.

There is another reason that I do not wish to put on the record. I am happy to discuss with Hon Nick Griffiths why we did not intervene at that stage. However, both the Commonwealth and State were advised there was no need to do so. At that stage it seemed a straightforward matter.

Some preliminary drafting was done to overcome the problem of delegation. It did not seem too difficult to provide that delegation retrospectively. However, when the case was eventually decided, it presented another difficulty; that is, the Kable difficulty. It was said by the court that, without that power of review, one could not delegate to that body - there had to be a power of review. The people involved in providing the solution once the final decision was handed down were extremely eminent family lawyers. I am not and never have been a family lawyer. Many people highly experienced in this area argued for a long time about how this should be remedied. That argument took place in conjunction with the Commonwealth Government and, in particular, with those law officers primarily concerned with providing advice to Government - the Solicitors General from both the State and the Commonwealth. As the matter was discussed, the advice varied, as sometimes happens with lawyers. The difficulty that became clear was that, if the legislation retrospectively approved the process, there would still need to be a right of review; that is, all the orders that had been given in the meantime would be thrown open for review. Members can see the problem that would cause: All the people who many years ago thought these matters were completed, even if we retrospectively approved the delegation, would then be required to have their matters prospectively reviewed.

The method of dealing with this was inappropriate. It was considered and recommended by the federal Solicitor General that we appeal. One of the grounds of appeal was that Horne v Horne was invalidly decided. We had not been given notice of a constitutional issue. If we took the Kable provisions as constitutional, especially if they extended to the state court - a state court's exercising state jurisdiction rather than a state court's exercising federal jurisdiction.

I take some pride in the fact that I came up with the solution. From my experience in conflicts of law, it became clear that the easiest way to solve it, rather than validating the process of the procedures, was to state the substantive law. One of Parliament's powers is the power to declare the law. By declaring the law, certainly as far as both the State and the Commonwealth were concerned, it was clear that both Parliaments had the power to do that and to do so retrospectively. Interestingly enough, after that method was proposed, it was found that there had been an earlier case where exactly the same result and process was resolved. It went to the High Court, which held it was valid - it does not lead to any form of compensation. That case has since been approved on a number of occasions by members of the High Court up to recent times.

I remind Hon Nick Griffiths that at that time certain eminent people in Perth were saying it could not be done. Even members of the Opposition were throwing petrol on the fire by telling people that we were not capable of doing what we said we would do. During this time, we worked diligently to find the solution. I believe we have found a solution which is constitutionally and legally correct and which delivers what needs to be delivered. I make no apology for the time it took, because the best brains in family and constitutional law were applying themselves to the best solution. I take some pride in the fact that I came up with the solution.

Hon N.D. Griffiths: You should have applied your mind to it sooner.

Hon PETER FOSS: I did, but it took some time before the idea came to me. I thought it best to leave it to those practising in the area. I had considerable hesitation when I put forward the idea that this might be the way to go. I put it forward very tentatively and was gratified when it was adopted by the people I thought were better able to make a decision.

Hon N.D. Griffiths: It is a constitutional matter in a very general sense.

Hon PETER FOSS: It has some nice little twists with conflicts of law, constitutional problems and so on. Every little problem one might like to think of shows up.

Then we started the drafting process. That was interesting because it was very carefully done between commonwealth parliamentary counsel and state parliamentary counsel. We were anxious to see the problem disposed of early. Therefore, our draftsperson was in deep consultation with the commonwealth draftsperson. Nothing went into our legislation that was not carefully looked at, discussed and talked over. We got to the stage that we had our legislation written, but the Commonwealth did not.

My concern at that stage was to provide some certainty for the public. I thought that if I introduced the legislation and gave it to the profession, everyone could pick it to pieces. If it stood up then it would stop the argument. Generally speaking, it had the right effect. As soon as I introduced the legislation, discussion about whether we could do it stopped and people started looking at improving the wording.

One of the amendments on the Notice Paper in my name resulted from a question raised by a practitioner in Perth. It was considered by people who know about these matters. At first they were not sure it would have an effect, but they then came to the conclusion that it would have the stated effect and the amendment was then drafted.

Hon Helen Hodgson raised some other points, and it is a pity that people did not raise those matters in the months since I introduced the Bill into Parliament. I allowed time to give people that opportunity. The Bill has been on the Table for the period mentioned by Hon Nick Griffiths to allow time for those difficulties to be ironed out, and it was important for the profession to look at the measure as people involved are the ones most likely to pick out problems.

Some people responded extremely quickly. In fact, a former Premier of the State, now a family law practitioner, made comment which led to a change I have on the Supplementary Notice Paper. Generally speaking, the Bill stood up to the examination it was given.

The other reason for the consideration period was that I was hoping that the state Bill would be consistent with federal legislation. After all, our legislation affects only a small number of people as the majority of people involved are affected by the federal legislation. I wanted to wait to see whether the two measures had any major differences between them. As it happens, the two measures have differences; however, we must maintain the state legislation in those conflicts.

Problems were raised by the commonwealth draftsperson, and we were concerned that if we followed the commonwealth drafting our legislation would have inadequacies. The commonwealth draftspersons said, "We believe ours is right; we will amend our legislation later if it is inadequate to make it as effective as yours. We do not believe it will be necessary, but we will take responsibility for amending our legislation." We need belts and braces in our legislation. The Commonwealth may be happy to amend its Act later, but I am not and I am satisfied with the examinations given by our parliamentary counsel.

I was advised last week that the commonwealth legislation was ready, had been introduced and would be dealt with this parliamentary session. Therefore, it would come into effect prior to the return of the Commonwealth Parliament after its recess. At that stage, I asked for the matter to be expedited. I obtained a copy of the federal Bill, and an annotated copy was made available to interested members so they could make comparisons. I hope all interested members have taken the opportunity to judge for themselves whether the differences between the Bills are significant.

I make no secret of the fact that this is difficult legislation - parliamentary counsel has made that view clear. Wherever one is dealing with retrospective matters, it is extremely difficult to cater for all possibilities. We have had to cater for invalid orders which have been validly amended. If we were not careful and we validated invalid orders, they would be immutable when a court tried to amend them at a later stage because they were put in place by legislation.

Hon Helen Hodgson said we have not dealt with questions of delegation and review. That is true. However, from the moment that the problem in Horne v Horne was established, the registrars ceased to act as registrars with consent orders. In fact, they have acted in another capacity - this is a special and useful feature of the Western Australian jurisdiction - in acting as magistrates. From the moment we became aware of the problem, no consent orders were made in the federal or state jurisdictions by registrars, but always in their capacity as magistrates. On that basis, they are able validly to deal with those orders because a proper delegation is available to them. Also, decisions of magistrates can be reviewed.

Members should bear in mind that we are dealing with a consent order, and it might seem strange to review a consent order. Again, this is a matter arising from the Federal Constitution.

Hon J.A. Cowdell: It's better than the State one.

Hon PETER FOSS: I sometimes wonder whether the founding fathers had any idea that decisions such as Kable and Horne v Horne would ever be made. If such decisions had been put to them at the time, they would have wondered from where such fine argument was derived. I suspect they would have been horrified by the arguments heard before our courts. It was not intended, but it has worked out that way.

One other difficulty arising during the process of this Bill - members were briefed on this point - is that this Bill and the Restraining Orders Bill are before Parliament at the same time. This is still a Bill, not an Act. One never knows in such cases which Bill will be passed first and what terminology should be used. A difficulty is that shortly after the Family Court (Orders of Registrars) Bill passes, we trust another Bill will pass to put in place another set of orders to link the Family Court and other courts with restraining orders. An amendment I shall move deals with that technical problem. This illustrates a difficulty when Parliament faces timing constraints.

I thank members very much for their support for a very important piece of legislation. I agree with Hon Nick Griffiths; I hoped that the Commonwealth Government would move more quickly, but I have long experience with its operations and it does things entirely to its only timetable. Sometimes it moves so quickly that the States cannot keep up, and at other times one cannot get it to move. It is unsatisfactory no matter who is in government federally. I guess no Government in Canberra has ever controlled how departments and civil servants in Canberra proceed -

I suspect no-one ever will. We try as much as possible to fit into its timetable. We will put through our legislation so at least those people with illegitimate children can rely upon decisions previously made by consent within this jurisdiction.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon PETER FOSS: I move -

Page 2, line 2 - To delete "This" and substitute -

(1) Subject to subsection (2), this

Page 2, after line 3 - To insert the following subclause -

(2) Section 12 comes into operation -

(a) on the day on which this Act receives the Royal Assent; or

(b) on the day on which the *Restraining Orders Act 1997* comes into operation,

whichever is the later.

These are the amendments to which I referred in my reply to the second reading debate which deal with the potential for the Restraining Orders Act to come into operation before this measure. As much as anything else, it will allow for a change in terminology when that Act comes into operation.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Rights and liabilities declared in certain cases -

Hon HELEN HODGSON: We do not know what court and its rights and liabilities have been declared and what will be the appeal procedures and technical issues of whichever court?

Hon PETER FOSS: The reason is that we are dealing with something which did not happen. The registrar when making that order was not sitting as a court; he could have been purporting to sit as all sorts of things. Clause 3(2) refers to an ineffective order, where the registrar is purporting to do something. The reason that we do not specify the particular court is that all one needs to do to make that order effective is to make it an order that was made by a court having jurisdiction under a Family Court Act. There are three possible courts, but all that is necessary for this to be effective is that the order purported to be made is made by a court.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Effect of things done under rights and liabilities declared under this Act or under a corresponding law -

Hon PETER FOSS: I move -

Page 4, line 15 - To insert after "*1975*" the following -

, the *Child Support (Assessment) Act 1989* and the *Child Support (Registration and Collection) Act 1988.*

Despite working closely with the Commonwealth Government, after we had taken all its advice it came up with some more. This amendment was requested by the Commonwealth Government to deal with its authority for making orders.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Proceedings as for contempt -

Hon N.D. GRIFFITHS: My difficulty relates to retrospectivity and the words "if, before or after". I want this legislation passed through the Parliament promptly. I note that people may be subject to the sanction of being dealt with as if it were a contempt, although when carried out their actions were permitted at law. That causes me a great degree of concern, notwithstanding I would have thought that anyone hearing the matter would see the mitigating circumstance and would be unlikely to impose anything of a drastic nature. However, I ask the Attorney General to give consideration to causing these words to be deleted in due course by bringing into the Parliament further legislation. I appreciate that for the moment, unless the Attorney General will delete them now, the words remain. I am not opposing the clause; I am pointing out that the words give me great discomfort.

Hon PETER FOSS: When one looks at this more closely it is not quite as draconian as it might seem. It does not make a contempt. It says that if, before or after the commencement of this Act - I do not think there is any problem with "after the commencement of this Act" - a person has interfered with or failed to satisfy or comply with a liability imposed or a right conferred or affected by section 4, it is to be regarded as always having been a matter. It is dealing with the matter that can be dealt with in the same manner as if the matter were the subject of proceedings in relation to contempt of court. It does not make that person guilty of a contempt. It enables the court to proceed to make the sorts of orders it would need to make at that time. The point made by Hon Nick Griffiths is that all a court would do is such things as are necessary to make the now order effective. It would not be a matter of its going back and punishing that person for contempt; it would enable it to make orders relating to conduct before or after such that it enables it to be dealt with as if the person had by that conduct been in contempt. That means they can enforce the order and deal with things for the breach of the order in a way that enables them to start bringing the ability of the court to make that person comply. For instance, if people had not been paying money notwithstanding that during the period they stopped paying the money, they can be told to pay it now. They have the capacity to make those orders which would be requisite to ensure those arrears were paid.

Hon N.D. Griffiths: That is putting a brave light on it.

Hon PETER FOSS: If in the meantime they have dealt with it as if it were contempt - in other words, if somebody who had one of these invalid orders came before the court and it was dealt with as if it were contempt - dealing with them is also validated. That is a fairly important provision. We cannot avoid this provision. It is necessary. I do not believe that any person will be dealt with in a manner that is not just. If a person resumed his payments as soon as he became aware that the legislation was coming forward, the court would not put him in gaol. If the person continued not to pay, he would be put into gaol fairly rapidly. That is the difference.

Hon N.D. Griffiths: I want the Attorney to give the matter further consideration.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Powers of courts in relation to declared rights and liabilities -

Hon PETER FOSS: I move -

> Page 5, after line 20 - To insert the following subclause -
>
> > (2) If, immediately before the commencement of this Act, a court had power under section 28(3)(c), 31(1) or 69 (**"the relevant provision"**) of the *Family Court Act 1975* to set aside, vary, discharge, revive or suspend an order or part of an order then a court may, in accordance with the relevant provision, set aside, vary, discharge, revive or suspend a right or liability that -
> >
> > (a) is in respect of a matter to which the relevant provision applies; and
> >
> > (b) is conferred, imposed or affected by section 4.

The amendment came about as a result of publishing the Bill in Parliament, and having it considered by practitioners. Although clause (4) is probably the key clause, we must deal with other possible combinations and permutations of

how that retrospectively validated provision may be dealt with. It was suggested that this one had not been dealt with by the legislation. We looked at it for some time and decided it was appropriate that this amendment be made.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10 put and passed.

Clause 11: Act does not apply to certain orders -

Hon HELEN HODGSON: This is the other matter to which I referred during the second reading debate. I appreciate it is a legal nicety, but it would be helpful if the Attorney placed his opinion on the record. The clause refers to an order declared to be invalid by the Full Court of the Family Court of Australia before the commencement of the Act. It was put to me that the decision in Horne v Horne declared all orders to be invalid and that in itself was sufficient to indicate this clause would exclude all the orders we are trying to catch.

Hon PETER FOSS: The point is not valid for two reasons: Firstly, proceedings are inter partes and proceedings can deal only with the particular matter before the court. Therefore, the court could not set aside and declare other orders invalid without hearing the parties to the orders, because in each case it would have to determine the facts. A case of that nature cannot possibly declare an order to be invalid, unless the order is before the court to be decided. Apart from anything else, it would be an enormous breach of natural justice if it did. The orders made in Horne v Horne purport to declare that particular purported order to be invalid. That argument would not reach first base, in reality, and it is not the intention of this clause. We might find the sorts of decisions in Kable and Horne v Horne to be fairly abstruse legal points which ordinary persons might not take, but even the abstruse legal points courts take would not extend to dealing with any other order, other than the one of Horne v Horne.

Clause put and passed.

New clause 12 -

Hon PETER FOSS: I move -

Page 6, after line 4 - To insert the following clause -

Consequential amendments

12. Section 5(1) of the *Restraining Orders Act 1997* is amended -

(a) after paragraph (b) by deleting "or";

(b) after paragraph (c) by deleting the full stop and substituting a semicolon; and

(c) by inserting the following paragraphs -

(d) a right or liability within the meaning of a Commonwealth law that is a corresponding law for the purposes of the *Family Court (Orders of Registrars) Act 1997* that -

(i) is in respect of a matter to which paragraph (a) or (c) applies; and

(ii) is conferred, imposed or affected by the corresponding law;

or

(e) a right or liability within the meaning of the *Family Court (Orders of Registrars) Act 1997* that -

(i) is in respect of a matter to which paragraph (b) or (c) applies; and

(ii) is conferred, imposed or affected by section 4 of that Act.

The new clause seeks to add another matter to be taken into account with regard to restraining orders; that is, the rights and liabilities that apply as a result of this Bill. It is the result of two pieces of legislation passing through Parliament at different speeds and at different times - luckily not in different directions.

New clause put and passed.

Title -

Hon PETER FOSS: I move -

Page 1, line 7 - To insert after "*1975*" the following -

and to make consequential amendments to another Act

The amendment is necessary because we have proceeded to amend another Act, which does not happen to be an Act but will be in future.

Amendment put and passed.

Title, as amended, put and passed.

Leave granted to proceed forthwith to remaining stages.

Report

Bill reported, with amendments, and an amendment to the title, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and transmitted to the Assembly.

STATEMENT - PRESIDENT

Notice of Motion by Hon J.A. Scott

THE PRESIDENT (Hon George Cash): I advise the House that I have instructed the Clerks not to place a notice of motion, given earlier today by Hon Jim Scott, on the Notice Paper. The motion has substantially the same effect as motion No 2 on the Notice Paper standing in the name of the Leader of the Opposition. Accordingly it is subject to the rule against anticipation set out in Standing Order No 162 and cannot be accepted while the earlier motion remains before the House.

PROFESSIONAL STANDARDS BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [11.20 pm]: I move -

That the Bill be now read a second time.

In today's complex technological and highly industrialised society very few activities are risk free. Risk is the inevitable consequence of activity, whether that activity is commercial, sporting, cultural, social or whatever. Risk is principally managed in our society by insurance. Yet, in our increasingly litigious world and the broadening liability regime that applies for many activities, insurance against the consequences of risk is no longer available or is prohibitively expensive.

The Professional Standards Bill will address the growing problems in relation to professional and occupational liability by introducing limited liability for members of professional and other occupational associations who have entered a professional liability scheme. The Bill will also provide greater protection to consumers of services provided by members of such schemes by ensuring that some regime is in place so that -

(1) there is some means of satisfying any judgment, either in whole or in part;

(2) members of schemes are required to participate in risk management activities; and,

(3) members will be subject to a complaints and disciplinary structure.

In the past 25 years the liability of professionals to negligence claims has expanded dramatically. This is because developments in the law have opened up new fields of liability and compensation payments have increased by sharp increments along with community awareness of consumer rights. Increasingly, plaintiffs look to the indemnity insurance carried by professionals and others as a source of recovery for loss. The general perception is that those with financial substance hold indemnity insurance. For a long time that has been the case. However, even when it is true, it comes at a price. The cost of insurance is added to all the other costs of business. It is a truism that as

judgments increase, there becomes no definable insurable limit a person should have. Not only do the rates increase but so, necessarily, must the amount covered if the insured is to enjoy any feeling of safety.

Unfortunately, this prudent action has an adverse effect. There is nothing like the existence of insurance to focus litigation and, of course, this impacts on the determination of premiums. Although historically professionals and other groups have regarded it as axiomatic that they meet the consequences of their own mistakes, the fact is that for many of them insurance is now unavailable or not affordable at levels commensurate with their exposure and liability.

This is impacting on the manner in which professional practices and occupations are conducted, which has significant consequences for the client, third parties and the community generally. Anecdotal evidence from professional bodies suggests that the practices of professions that are subject to a high level of financial risk are characterised by an excessive degree of caution, with detrimental consequences for the client.

One consequence of the dramatic rise in claims and the resulting increase in insurance premiums is the alarming number of professional practitioners who choose to reduce their insurance cover or go uninsured. At the same time, they reduce or eliminate the assets in their hands through family and trust arrangements.

The changes in attitudes to insurance are highlighted in a recent publication of the Insurance Council of Australia entitled *Report to Insurers on Underinsurance and Non-insurance* reported in the *Australian Accountant*. It indicates that of Australia's 700 000 small businesses, as many as 140 000 - that is, 20 per cent - are completely uninsured.

The report in the *Australian Accountant* notes, for example, that there is about 95 per cent underinsurance for public liability and that about 60 per cent of businesses are underinsured for business interruption. The report does not specifically refer to professional liability; however, it is probably safe to say that there is a high level of underinsurance or non-insurance. It is clearly of no consolation to the aggrieved clients if they are awarded substantial damages but have no real prospect of recovery because of underinsurance or non-insurance.

It was in the light of these trends that a committee of the Legislative Council was created on 13 November 1991 to examine the problem, originally on the motion of Hon J.M. Berinson QC, the then Attorney General. The original members of the Select Committee on Professional and Occupational Liability were Hons J.M. Brown, Fred McKenzie, Max Evans and me. On 17 March 1992 Hon Mark Nevill replaced Hon J.M. Brown on the committee. On 10 August 1993 Hon Nick Griffiths replaced Hon Fred McKenzie, who had, of course, retired from this place by then. The Legislative Council provided that the committee could consult with Hon Fred McKenzie, include him in its deliberations and report any views he had.

The final report of the committee was tabled in January 1994 under the signature of Hon Max Evans, who was, by then, the chairman. In the circumstances, I believe the Bill should have universal acceptance in this Parliament and I thank those members of the Government and Opposition who actively participated in the preparation of the report. I commend the report to members.

The idea for such legislation originated in New South Wales, but members of the select committee were not happy with the drafting and scheme of the proposed New South Wales Statute and prepared an alternative, which they forwarded to Hon John Dowd QC, then the Attorney General for New South Wales. This alternative was adopted and adapted by him and passed in the New South Wales Parliament late in 1994. The New South Wales Professional Standards Act 1994 commenced on 1 May 1995.

Schemes limiting liability under that Act are in place for the Law Society of New South Wales, the Institution of Engineers, Australia, the Association of Consulting Engineers, Australia and the College of Investigative and Consulting Engineers, Australia. I understand that a scheme in relation to accountants has been or will be considered shortly.

Members will be all too aware that at present when a person sues a member of a professional or other group it is possible that he may obtain a judgment of a large amount. However, there is no certainty of recovery as the capacity of the person to meet a valid claim varies depending on the level of indemnity insurance and that person's personal assets. In other words, a de facto cap is, in effect, already operating.

The Professional Standards Bill will replace this de facto cap with a statutory cap on damages tied to a number of safeguards to protect the interests of clients. These safeguards are -

(1) a threshold of up to $500 000 up to which all claims will be met in full;

(2) limitation of liability will not apply in relation to claims for death or personal injury or in relation to conduct involving a breach of trust, fraud or dishonesty;

(3) there must be full disclosure of any limit of liability;

(4) schemes for limited liability must include compulsory professional indemnity insurance;

(5) the Bill requires the introduction of risk reduction and risk management strategies; and

(6) there must be a system to allow for proper redress of consumer complaints.

Schemes are voluntary and will not be imposed on any profession or occupation. It will be left up to each such body to determine whether it will participate and to seek a specific scheme for its members. A particular person may decide not to enter a scheme being arranged by his or her professional or occupational group and adopt alternative methods to limit liability. Such a person could choose, for example, to have no insurance and vest all assets in family members or trusts. It is thought, however, that the consequences of membership of a scheme, including greater control through self-regulation, will make participation attractive to many professional and occupational organisations. Those professions or occupations that elect to participate may either cover all members or provide that the scheme applies only to certain members, such as those with an unrestricted right to practise. In either case it will be necessary for the body to keep a register of persons who are part of the scheme.

The Bill will establish a Professional Standards Council, which will consider applications for schemes and monitor the Act generally. The members of the council will work part time and be drawn from business and have appropriate experience, skills and qualifications.

It is intended the council will be funded by a levy on occupational associations seeking the creation of a scheme and should be no cost to the State. However, in the initial years there may be a need to provide for minimal support from the State, and accordingly the legislation provides for the appropriation of moneys "from time to time" by the Parliament.

The council will be required to maintain an account at either the Treasury or a bank approved by the Treasurer and will be subject to the Financial Administration and Audit Act 1985. The council will be responsible for the making, amendment and revocation of schemes. Application for a scheme will be made by an occupational association to the Professional Standards Council. Before approving a scheme the council must give public notification explaining the nature and significance of a proposed scheme and inviting public comment. All comments will be considered by the council. In approving a scheme, the council is to have particular regard to a number of matters, such as the level of claims against members of the profession and the impact of a limit of liability on consumers. These matters are set out in clause 23 of the Bill.

The council may also conduct a public hearing into a proposed scheme. Once approved by the council, a scheme will be submitted to the Minister, who, if satisfied with the proposed scheme, may authorise its publication in the *Government Gazette.* The scheme comes into operation two months after publication in the *Gazette*, subject to any challenges from persons who are reasonably likely to be affected by the scheme. A challenge is to be heard by the Supreme Court, which may declare the scheme to be void, decline to make an order, or give directions or any other order it thinks fit. Members will be pleased to know that a scheme may be subject to disallowance by Parliament in the same way a regulation may be disallowed.

Liability may be limited by reference to the insurance arrangements, the business assets, a multiple of the fee or a combination of the three. The limit is subject to a threshold. This threshold, which the Bill provides must be at least $500 000, will be set so that the great majority of claims, and certainly all consumer claims, will continue to be met in full by insurers.

The limitation of damages by way of a multiple of the fee creates a direct correlation between the nature and size of the work performed by the person as reflected in the fees and the potential liability. It has the advantage that a client could determine with some degree of certainty what the maximum liability of the person with whom they are dealing would be. Determining the multiple will be a matter for each occupational group.

As I noted earlier, limitation of liability will not apply in relation to claims for death or personal injury. These claims raise issues of more general application. The scope of limited liability is therefore restricted to liability for financial loss. Liability will also not be limited in relation to a breach of trust or arising from conduct involving fraud or dishonesty. The duty of care arising from a trust relationship imposes greater obligations and it is not appropriate to limit liability for breach of these obligations. A person who is personally guilty of fraud or dishonesty is not to be entitled to any limitation of liability.

The limit of liability will apply to business partners and employees of persons covered by a scheme providing that if such persons are eligible they must be members of the same occupational association. This will ensure that all members of the firm are, so far as possible, subject to risk management, complaints and other consumer protection elements.

As I have noted, the policy behind this legislation accepts that it is preferable to provide some guarantee of payment for the vast majority of claimants than to have a system of unlimited liability with no certainty of any payment in many instances. This is achieved in the Bill by relating the limited liability to a requirement that insurance and/or business assets be held to the level of the limit. Persons with a joint interest are to be treated as making a single claim. This would clearly include partners of one firm but would not extend to persons with a common, but not joint, interest, such as claimants in a grouped proceeding or representative action.

The Bill provides that members of schemes must hold insurance to the appropriate level and gives responsibility to each occupational association to require that members hold that insurance. While professional indemnity insurance is thought by some to safeguard only the insured, not their clients or third parties, it is clear that mandatory insurance will create a degree of protection for plaintiffs by ensuring that considerable resources will be available to meet claims in the event of liability being proven. It is also possible that in consequence of the greater risk sharing associated with universal application of indemnity insurance within a particular profession, the members of the profession may obtain suitable cover at more reasonable premiums than would be available under a voluntary insurance system.

The Bill will encourage participants to establish, in cooperation with insurers, systems to identify trends in claims which may be addressed through professional education and training.

An essential component of all schemes will be risk management. Together with compulsory insurance, risk management is the main element of consumer protection. Risk management procedures may include, but are not limited to, the following matters: Codes of practice; codes of ethics; quality management; claims monitoring and review; complaints resolution; discipline of members; voluntary mediation service; and continuing educational standards.

Close adherence to risk management will lead to improved practices and a reduction in the cause of claims. Introduction of greater risk management will also be of considerable benefit to the community. The court infrastructure is a cost borne by the community and it is in the public interest to introduce schemes that encourage attention to reducing risk, and thus the number of claims and the level of litigation.

The Bill will require that a professional or occupational association that has a scheme in place create a complaints and disciplinary structure. This will provide a more efficient and cost effective system of dealing with consumer concerns rather than resorting to civil litigation; it will also allow professional associations to identify poor practices which may not have led to any loss but which may draw into doubt the competence of the practitioner and warrant disciplinary action being taken.

As I noted earlier, schemes of limited liability will operate through professional or occupational organisations. A scheme will not be imposed on any group and it will be left up to each body to determine whether it will participate and seek a specific scheme for its members. The consequences of membership of the scheme, including greater control through self-regulation, will make participation attractive to many organisations.

Membership of a professional body will also provide an assurance to clients that certain minimum standards have been met and that the professional body has in place proper complaints and disciplinary procedures. There will be considerable benefits to consumers from choosing to deal with a person who is part of a scheme under the legislation. First, the consumer client will be certain that the person holds appropriate indemnity insurance, and in the event that a sustainable claim arises, the consumer client will know that funds are available to meet the claim. Second, the consumer client will be sure that the professional is a participant in ongoing risk management strategies, which will give assurance of the professional's competence and attention to standards. Third, the consumer client will benefit by having recourse to a complaints system in the event of being dissatisfied with the professional's service.

This is an exciting reform. It is unique in the way in which it combines, in an effective scheme, a range of priorities concerned with the provision of professional services. The Bill will address a significant and growing problem in a unique and positive manner. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 11.32 pm.

QUESTIONS ON NOTICE

HEALTH - DEPARTMENT

Mr S. Houston - Expenses

185. Hon MARK NEVILL to the Minister for Finance representing the Minister for Health:

Further to question on notice 406 of 1996 -

(1) How are Mr S. Houston's travel, accommodation, meals and car expenses, and other expenses paid by the Health Department of Western Australia?

(2) What expenses were involved by this officer in the 12 months to -

(a) 30 June 1994;
(b) 30 June 1995; and
(c) 30 June 1996?

Hon MAX EVANS replied:

(1) Mr Houston's travel, accommodation, meals and car expenses are paid for by using either corporate credit card or government local purchase order. Mr Houston's fuel purchases are made using fuel cards.

(2)	(a)	Air travel and accommodation	$6 388.00
	(b)	Air travel	$22 724.30
		Accommodation	$7 944.55
		Meals	$2 375.15
	(c)	Air travel	$19 814.35
		Accommodation	$8 268.88
		Meals	$3 044.73

Mr Houston is allocated a motor vehicle in accordance with the State Government Executive Vehicle Scheme.

HEALTH - BREAST CANCER

Screening Service - Rockingham

569. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Health:

(1) How long will the Mobile Breast Cancer Screening Service remain at Rockingham?

(2) How long before the region will have its own stand alone screening service?

Hon MAX EVANS replied:

(1) Until 31 October 1997.

(2) The current and projected number of women in the Rockingham and Kwinana area, who are in the target age groups, is not large enough to warrant the establishment of a full-time screening service. However, the BreastScreen WA program is at present examining the feasibility of contracting a private radiological practice to conduct screening in that area.

GOVERNMENT INSTRUMENTALITIES - PUBLIC RELATIONS

Expenditure

582. Hon TOM STEPHENS to the Minister for Finance:

(1) What is the department's projected expenditure on public relations/community awareness in the 1997/98 Budget?

(2) How does this compare to the current financial year's allocations?

(3) How many FTEs within the Minister's department are involved in communications, public relations/community awareness or media relations?

(4) Are any of those persons journalists, and if so, how many?

(5) What is the department's projected expenditure on advertising in the 1997/98 Budget?

(6) How does this compare to the current financial year's allocations?

(7) Are there any new campaigns to be undertaken by the department in the 1997/98 financial year?

(8) If so, what is the projected cost of those campaigns?

(9) Is the management/organisation of those campaigns to be outsourced?

(10) If so, to whom?

(11) How many officers from each department or agency are located permanently within the Minister's office?

Hon MAX EVANS replied:

State Revenue Department

(1) $10 000.

(2) $3 323.

(3) Every officer (214 FTEs) is involved in communications, public relations/community awareness or media relations but none has a specialist role in any one of these areas.

(4) (a) No.
(b) Not applicable.

(5) $14 000 (including $10 000 community awareness).

(6) $6 403 (including $3 323 community awareness).

(7) No.

(8)-(10) Not applicable.

(11) None.

Valuer General's Office

(1) $4 400.

(2) Reduction of $3 200.

(3) One.

(4) No.

(5) $7 000.

(6) Reduction of approximately $1 000.

(7) None.

(8)-(10) Not applicable.

(11) None.

State Government Insurance Commission

(1) $246 000.

(2) $81 000.

(3) One.

(4) No.

(5) The SGIC's budget for road safety and accident prevention initiatives allows for the promotion of road safety messages, however, there is no definitive amount allocated within the budget for this purpose.

(6) During the 1996/97 financial year, $81 000 was spent on the promotion of road safety messages.

(7) Yes, the SGIC's involvement in the ThinkSafe campaign, in conjunction with WorkSafe Western Australia.

(8) $30 000.

(9) No.

(10) Not applicable.

(11) Nil.

Government Employees Superannuation Board

The question does not appear to be relevant to the Government Employees Superannuation Board, as it does not engage in public relations/community awareness programs. The only communications activity of the board involves the provision of information to members and employers regarding the superannuation schemes we administer. Advertising is usually confined to job vacancies, but on rare occasions may be aimed to provide information to scheme members.

QUESTIONS WITHOUT NOTICE

TOURISM - ELLE RACING PTY LTD

Tower Life Australia Limited - Merger

603. Hon TOM STEPHENS to the Minister for Tourism

I refer to the article in this morning's *The West Australian*.

(1) Was the Minister aware that weeks ago the Chief Executive Officer of the Western Australian Tourism Commission, Shane Crockett, suggested a merger between Tower Life Australia Limited and Elle Racing Pty Ltd?

(2) If yes, why has the Minister consistently told this House that he was unaware of the progress on the Elle Racing project?

Hon N.F. MOORE replied:

(1)-(2) I do not carry in my head answers to all the questions I receive so I cannot recall what I have said on previous occasions. I do not know whether the Chief Executive Officer of the Western Australian Tourism Commission, Mr Crockett, made the suggestion. However, over a period, a number of people have considered a variety of possibilities regarding the yacht which Mr John Harvey is seeking to enter in the Whitbread Round the World Yacht Race.

It is fairly well understood that Mr Harvey's proposition to enter a yacht in the Whitbread yacht race, sponsored partly by the WATC as part of its strategy, was a good idea. It was proposed that the race and the promotion be combined and that would have a significant impact on the world of tourism. Regrettably, Mr Harvey fell out with the skipper of his yacht and from then on he has had a significant degree of difficulty putting the project together.

He has been trying to obtain additional sponsorship bearing in mind our sponsorship is $400 000 and the cost of putting a yacht in the race is more than $2m. This State did not intend to be the major sponsor by a long way. Mr Harvey has sought sponsorship and it is my belief, not substantiated by any evidence, that his attempts to obtain sponsorship have been significantly dented by the adverse media coverage he has received. That is regrettable because we are seeking to have this yacht sail. One of the main reasons is to ensure that the Whitbread yacht race continue to use Fremantle as a stopover in the race.

It was made clear to us when it was last negotiated that if Australia did not have an entrant in the future Fremantle would not be considered as a stopover. It is worth anything between $12m and $19m in economic returns, particularly to Fremantle. Members in the South Metropolitan Region should take into account that it is a significant boost to Fremantle as a port.

In the light of Mr Harvey's difficulty in obtaining sponsorship, to the best of my knowledge an international sporting organisation which was also looking at sponsoring another yacht from Australia, suggested the two

potential syndicates unite to create a joint venture for one yacht to represent Australia. That was to be shared by Elle Racing Pty Ltd and I think Tower Life Australia Limited. The WATC was happy to assist in bringing together those two parties because it is in our interest for the yacht to sail and Fremantle to remain as a stopover port. I think it was on Friday last week that we were advised by Tower Life that it was not interested in proceeding with the merger.

I understand Tower Life is not interested in sponsoring any boats in the race for reasons best known to that company. If the member wants to know the company's views he should contact it because it has not advised me why it does not want to proceed. I do not know whether Mr Crockett suggested it. He has sought to be helpful in bringing together any interested parties who may wish to be sponsors or supportive of Mr Harvey's campaign.

At the end of the day it will be disappointing if Mr Harvey cannot organise a yacht to sail in the race. However, for the benefit of those who think the Western Australian Government has a yacht in the race I emphasise that it does not. We would be sponsors in the same way Hungry Jack's Pty Ltd sponsors the West Coast Eagles. If the West Coast Eagles has a problem it does not ask Hungry Jack's to pick the full forward for the team. The people who are running the event and trying to organise a yacht are responsible for the detail of the proposition. Our sponsorship is dependent on that yacht participating in the race. We hope the project will ultimately succeed.

LEGAL AID COMMISSION - FUNDING

Commonwealth Contribution, 1997-98

604. Hon N.D. GRIFFITHS to the Attorney General:

(1) Has the Attorney General been advised of the Commonwealth's contribution to the Legal Aid Commission for the financial year starting next Tuesday?

(2) If so, what is it?

(3) If not, when does he expect to find out what will be the contribution?

Hon PETER FOSS replied:

(1) Yes.

(2) I will defer making that announcement until we assess, in the light of the amount, what supplementary funding will be required from the State so I can tell the people of Western Australia what will be the actual situation.

(3) Not applicable.

MINISTER FOR TRANSPORT - OVERSEAS TRAVEL

Itinerary and Cost

605. Hon NORM KELLY to the Minister for Transport:

Yesterday the Minister failed to adequately answer my request for detailed information regarding his trip to America.

(1) Is the Minister willing to table details of his itinerary and estimated expenses prior to undertaking his tour?

(2) If not, why is the Minister denying Western Australians the right to know how their money is being spent?

Hon E.J. CHARLTON replied:

It felt as though the member was sitting alongside me as I took him for a trip around the United States yesterday. However, it seems that the member will not use his imprest account and will give back the funds from it. I look forward to that. I give him some warning that that is what I will ask him to do.

I thank the member for some notice of this question.

(1)-(2) I gave the House an outline of the purpose of my official visit to the United States. The itinerary for the visit is still being finalised; therefore accurate costings are not known at this stage. I will be taking the opportunity of seeing a number of other people and at this stage, the cost will depend on where I go. Rather than give the House an estimate of the likely cost of the visit it is more appropriate the House be provided with accurate costings. These, together with the full details of the finalised itinerary and the benefits to the State of the visit, will be tabled in the House shortly after the resumption of Parliament in August.

GOVERNMENT ADVERTISING - BRAND WA ADVERTISING CAMPAIGN

Marketforce Contract

606. Hon TOM STEPHENS to the Minister for Tourism:

On 8 May the Minister informed the House that the State Supply Commission had given approval for the Western Australian Tourism Commission to appoint a company called Marketforce to develop a long term brand position for WA. I ask -

(1) Did the WATC sign a contract with Marketforce to carry out that task?

(2) If yes, when was the contract signed?

(3) Did Marketforce carry out that task?

(4) When did Marketforce complete the task?

(5) What did the WATC pay Marketforce for this work?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The contract is dated 27 November 1996.

(3) Marketforce continues to carry out the task.

(4) Marketforce will complete the task on the expiration of the agreement.

(5) To date, Marketforce and its subsidiary has been paid $3.2m.

RAILWAYS - PENSIONERS' ANNUAL FREE TRIP

Restrictions

607. Hon KIM CHANCE to the Minister for Transport:

Why has the Minister not acted on the report tabled by the Constitutional Affairs and Statutes Revision Committee in 1996, which found that there was no sustainable argument justifying the current ban placed on pensioners taking their annual free Westrail trip during school holidays and, in particular, why has the Minister not acted on the committee's recommendations that the restrictions be limited to the two days before and the two days after the school period?

Hon E.J. CHARLTON replied:

The reason is simple. It is not a matter of our not wanting to act on it or our not wanting to give the opportunity for pensioners to take advantage of their annual free trip. It is simply a matter of having the space to do it. In the same way, we have not been able to provide an opportunity for group travellers to travel in those times. However, we are currently reviewing the situation as it applies to the *Prospector* service and the Westrail coach services. I intend to take that matter up with the Minister for Seniors to see whether we can resolve the matter. It is not a matter of our not wanting those people to take advantage of their annual free trip; they still take their annual free trip. However, they are restricted to not being able to take it during school holiday periods. If we can fit them in when seats have not been taken up, so be it. The trouble is that full paying passengers with families who want to travel during school holidays are being refused that opportunity.

FIRE SERVICES - FIRE PROTECTION

Integrated Plan - Guidelines

608. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

(1) Has a set of guidelines been developed by the Department of Conservation and Land Management, local government, the Ministry for Planning and the Bushfire Board to assist in the integrated planning for fire protection of subdivisions, plantations and other fire prone areas?

(2) If so, when will those guidelines become publicly available?

(3) Will the Minister table a copy in this Council, preferably before the winter recess?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister has advised that these questions should be directed to the Minister for Planning. There has not been sufficient time to get a reply from that Minister.

TOURISM - ELLE RACING PTY LTD

Contract

609. Hon TOM STEPHENS to the Minister for Tourism:

The question relates to the contract between the WA Tourism Commission and Elle Racing Pty Ltd.

(1) When was it signed by J. Harvey and R. Dixon?

(2) When was it signed by K. Carton and S. Crockett?

(3) When was it dated?

(4) When was it officially approved by the WATC?

(5) When was the contract announced to the media?

(6) Will the Minister table the pages of the contract which show the signatories to the agreement and the dates of signing?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I do not have an answer to it at this time. I am seeking further advice on a number of matters raised in the question. I have not had an opportunity to talk to Mr Carton and Mr Crockett about it. I suggest the member place the question on notice.

RESOURCES DEVELOPMENT - COMPACT STEEL PTY LTD

Project Failure

610. Hon HELEN HODGSON to the Leader of the House representing the Premier:

With reference to an interview reported on the front page of *The West Australian* newspaper of Monday, 3 February 1997 -

(a) How will the failure of the Compact Steel Pty Ltd project impact on the Government's drive to make Western Australia the nation's biggest steel producer?

(b) What effect will the failure of the mill have on the delivery of social dividends to the people of this State as emphasised in the interview?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(a) The State Government has not been advised by Compact Steel that the project has failed. The State Government will continue to promote Western Australia as an ideal location for the processing of iron ore.

(b) The obtaining of a "social dividend" is not solely dependent on the success of one project but will be achieved with the overall success of the Government in attracting investment into a wide range of industries including petrochemicals and iron ore processing. The "social dividend" is also related to the Government's prudent management of the State's finances.

SPORT AND RECREATION - LESCHENAULT LEISURE CENTRE

Funding

611. Hon J.A. COWDELL to the Minister for Sport and Recreation:

Prior to the 1993 election, the Liberal Party stated in its south west policy document that a coalition Government would provide funding, in conjunction with local authorities and the community, to support proposed recreation and

aquatic centres in the south west; for example, Leschenault Leisure Centre. The community and local authorities have now committed their equal one-third share of the total required for this facility.

(1) Will the Government honour its commitment and fund the remaining $1m required to finalise this project?

(2) If so, when?

(3) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) In the south west region, the Government has already funded through the community sport and recreation facilities fund, the construction of swimming pools at Augusta-Margaret River, Busselton and Waroona. Neighbouring towns, Bunbury - the Hay Park complex - and Australind - the Leschenault Recreation Centre - have sought funding for swimming pools. Money has been set aside in the 1997-98 financial year and will be provided to either one or both of these projects depending on the outcome of a further study currently being undertaken by the Ministry of Sport and Recreation, which will identify the need for these pools.

(2) After the outcome of the further study described at (1) is actioned.

(3) Not applicable.

D'ENTRECASTEAUX NATIONAL PARK

Land Swap - Consultants' Reports

612. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

(1) What consultants' reports were available to the Government relating to the D'Entrecasteaux National Park land swap deal?

(2) Who commissioned and paid for the reports?

(3) Has the National Parks and Nature Conservation Authority ever supported a mining proposal in the D'Entrecasteaux National Park?

Hon MAX EVANS replied:

I thank the member for some notice of this question. This information is currently being collated and I therefore request that this question be put on notice.

HEALTH - ABORIGINES

P-Mac Disease

613. Hon TOM STEPHENS to the Minister representing the Minister for Aboriginal Affairs:

(1) Is the Minister aware of the death of a man at Kundat Djaru, formerly Ringer's Soak, Aboriginal community last year from the disease known as P-Mac?

(2) Is P-Mac a disease which is akin to tuberculosis and can be spread by contaminated water?

(3) Will the Minister confirm that a decision was made not to conduct a screening program for residents at Kundat Djaru for P-Mac because there was "no value" in doing so?

(4) Is the Minister aware that a woman recently died at Kundat Djaru after suffering symptoms similar to those associated with P-Mac?

(5) Will the Minister now take action to ensure that any chance of an outbreak of this disease is negated by a full and comprehensive screening process?

I would be delighted if the Minister for Finance answers the question if he has the answer.

Hon E.J. CHARLTON replied:

The member might be happy to proceed in that way; however, he asked the question of the Minister for Transport representing the Minister for Aboriginal Affairs. In fact, the member has given the written question to the Minister for Finance representing the Minister for Health.

The PRESIDENT: Order! The Leader of the Opposition asked the Minister for Transport representing the Minister for Aboriginal Affairs this question. The Minister for Finance represents the Minister for Health. I call on the Minister for Finance to answer this question, if he has the answer to it.

Hon MAX EVANS replied:

Sometimes members can be lucky! I thank the member for some notice of this question.

(1) The Minister is aware that a man was diagnosed with P-Mac last year and treated in the community. The Minister is unaware whether this person has subsequently died. P-Mac is not a notifiable disease, and is not uncommon as an incidental finding in the north.

(2) Disease caused by mycobacterium avium complex - that is, Mal - resembles tuberculosis. Its exact mode of transmission is not known, but the organism can be found in water. Unlike tuberculosis, the organism is not transmitted from person to person.

(3) Yes.

(4) The Minister is not aware that a woman from Kundat Djaru has recently died from an illness not related to P-Mac. A diagnosis of P-Mac had not been made in this case.

(5) No, the organism is ubiquitous in nature and screening is not effective.

FREMANTLE HOSPITAL AND HEALTH SERVICE

Admissions - Heroin Related

614. Hon NORM KELLY to the Minister representing the Minister for Health:

Can the Minister provide details of the number of heroin overdose admissions to Fremantle Hospital and Health Service this year of people in the age brackets of 12 to 15 years, 16 to 18 years, and 19 to 21 years?

Hon MAX EVANS replied:

I thank the member for some notice of this question. In the 12 to 15 years age group, none was admitted; in the 16 to 18 years age group, one was admitted; and in the 19 to 21 years age group, three were admitted. These preliminary figures relate to the 1996-97 financial year.

TAXIS - ROADWORTHINESS TESTING

Contract

615. Hon KIM CHANCE to the Minister for Transport:

(1) Has a decision been made to award a contract for roadworthiness testing of taxis to any company or group?

(2) If not, has any company or group achieved preferred tenderer status in regard to the roadworthiness testing of taxis?

(3) If the answer to either of these questions is yes, what formal tender processes have been undertaken so far and what formal tender processes will be undertaken?

(4) Is the Minister considering further legislation or regulations which will require private motor vehicles to undergo roadworthiness testing.

(5) If the answer to this question is yes, what conditions are expected to apply to the testing of privately owned passenger vehicles?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(2) No.

(3) Not applicable.

(4) No.

(5) Not applicable.

FAMILY AND CHILDREN'S SERVICES

Parent Information Centres - Budget

616. Hon CHERYL DAVENPORT to the Minister representing the Minister for Family and Children's Services:

(1) Is it true that $1.2m has been spent, or is budgeted, to provide mobile parenting services in remote and rural communities?

(2) Why is it necessary to spend such large amounts on this kind of infrastructure when non-government agencies, such as the network of learning centres, situated in rural and remote areas throughout the State could be funded to provide such services?

Hon E.J. CHARLTON replied:

Mobile parenting might be on, but the mobile parenting service is not. I thank the member for some notice of this question.

(1) No.

(2) Not applicable.

MINING - TITANIUM

Yarloop

617. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

I refer the Minister to bulletin 838 put out by the Environmental Protection Authority relating to mining of titanium minerals 2 kilometres south of Yarloop.

(1) When will the Minister act on the recommendation of the Environmental Protection Authority that reserves 31900, 31901 and A22307 be vested in the National Parks and Conservation Authority for conservation purposes?

(2) Does the Minister have any plans to create any new national parks or expand any national parks in Western Australia?

(3) If so, where and when will these occur?

Hon MAX EVANS replied:

I thank the member for some notice of this question. This information is currently being collated; therefore, I request that the question be placed on notice.

ROADS - FREMANTLE BYPASS

Regional Significance

618. Hon J.A. SCOTT to the Minister for Transport:

(1) Following the construction of the eastern bypass and the Rockingham to Fremantle controlled access highway, will a new coastal highway be created which will link the northern suburbs to the south west corridor?

(2) Will this road have important implications for the development of the south west corridor and be an important route to service the proposed new port near Kwinana?

Hon E.J. Charlton: I have been given a question with some notice from Hon Jim Scott, but it is not this one.

The PRESIDENT: Order! Clearly the Minister for Transport did not hear that question without notice. I ask Hon Jim Scott to repeat it and to recast the words in the second part of the question which seek an opinion.

Hon J.A. SCOTT: I ask -

(1) Following the construction of the eastern bypass and the Rockingham to Fremantle controlled access highway, will a new coastal highway be created which will link the northern suburbs to the south west corridor?

(2) Will this road have important implications for the development of the south west corridor and will it be an important route to service the proposed new port near Kwinana?

Hon E.J. CHARLTON replied:

(1)-(2) The construction of the Fremantle eastern bypass was planned to link Fremantle and destinations south with points north, without going through Fremantle proper, along Hampton Road and other roads which were never destined to be arterial roads. There is a need to link this new road into both a revamped Cockburn Road - not on the current alignment but where it is destined to be with some adjustments - and ultimately Stock Road, and in time to the Kwinana Freeway.

In relation to the necessity to link it with the northern suburbs, no, this construction is about dealing with the Fremantle area. With the development of a new port extension at Naval Base, it is even more important that the new Cockburn Road and Stock Road be linked into the Fremantle eastern bypass. As a matter of fact just this morning I met with members of the Cockburn City Council and discussed all these issues. Every time I speak to people in that region who support the establishment of the Fremantle eastern bypass, they say it is imperative that the construction be linked into both Stock Road and the new Cockburn Road alignment to provide adequate transport facilities in that area, which will increase because of the developments that will take place along the coastal strip; to serve the local community; and to satisfy the planning mechanism for the establishment of new industries in the area. New residential areas in that strip are growing substantially. If I understood that question correctly, there is no plan to do anything about connecting the bypass with any suburbs north of the Swan River.

CUSTOM FLEET

Police Vehicle Sponsorship

619. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

(1) When was the Police Department first approached by Custom Fleet, or National Australia Bank Ltd, regarding sponsoring of community policing vehicles by Custom Fleet?

(2) What was the nature of that approach?

(3) Who made the approach?

(4) To whom was the approach made?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(4) In the original sponsorship agreement the Western Australia Police Service was not approached by either Custom Fleet or National Australia Bank regarding sponsorship of community policing vehicles, and the Police Service did not approach them. Expressions of interest were sought from a number of motoring companies by the community policing executive council; however, none was sought from Custom Fleet.

The subsequent result was that Big Rock Toyota developed the least expensive package to supply the vehicles. Any decision regarding the company utilised to finance this lease was made by Big Rock Toyota and was not influenced by the Police Service.

With regard to the current lease of vehicles, when the sponsorship expired in November 1995 the Police Service approached a number of companies, including Custom Fleet, seeking sponsorship for a further two years. Ford Australia was the successful company and the sponsorship agreement was approved by the State Supply Commission.

CLARKSON COMMUNITY HIGH SCHOOL

Enrolments

620. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

(1) Will the Minister confirm that the Education Department seeks to achieve for most secondary schools in Western Australia long term stable enrolments within the range of 1 000 to 1 200 students?

(2) Will the Minister confirm that student enrolments for Clarkson Community High School will peak at approximately 1 800 students without the development of an additional high school proximal to Clarkson Community High School?

(3) If so, when does the Minister expect the enrolment of students at Clarkson Community High School to peak at approximately 1 800 students?

(4) Will the Minister confirm that the Education Department proposes to establish a new secondary school at Kinross?

(5) If so, when is it expected that the construction of such a new secondary school will commence and when is it expected that the first students will be enrolled?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I regret that I have been unable to obtain an answer from the Minister for Education in the time available, and I ask that the question be placed on notice.
