



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FOURTH PARLIAMENT  
FOURTH SESSION  
1996

LEGISLATIVE COUNCIL

Tuesday, 12 November 1996

# Legislative Council

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**THE PRESIDENT** (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

## BILLS (11): ASSENT

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

1. Mining Amendment Bill
2. State Enterprises (Commonwealth Tax Equivalents) Bill
3. Reserve (No 18039) Bill
4. Stamp Amendment Bill
5. Minimum Conditions of Employment Amendment Bill
6. Firearms Amendment Bill
7. Criminal Code Amendment Bill (No 2)
8. Strata Titles Amendment Bill
9. Settlement Agents Amendment Bill
10. Electricity Amendment Bill
11. Dental Amendment Bill

## PETITION - OSBORNE PARK HOSPITAL, PRIVATISATION OF NON-MEDICAL SERVICES

Hon Graham Edwards presented the following petition bearing the signatures of 313 persons -

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

We, the undersigned residents of Western Australia oppose the privatisation of non medical services at Osborne Park Hospital.

We therefore respectfully request that the Legislative Council will give this matter earnest consideration and abandon negotiations with the preferred private operators.

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

[See paper No 878.]

## PETITION - MIDWIFERY CARE

Hon J.A. Scott presented the following petition bearing the signatures of 80 persons -

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

We, the undersigned residents of Western Australia are concerned that women do not have Choices in Childbirth, specifically choices as to where and with whom they give birth and that recognition is not given that continuity of midwifery care throughout pregnancy, childbirth and the post natal period makes a vital contribution to the future health of the family and the community.

Your petitioners therefore humbly pray that the Legislative Council will ensure State Health Services include Community-Based Midwifery as part of Maternity Services and make recommendations for appropriate coverage under Medicare.

And your petitioners as in duty bound will ever pray.

[See paper No 879.]

## PETITION - REPEAT JUVENILE OFFENDERS, LENIENT PENALTIES

Hon Tom Stephens presented the following petition, by leave, bearing the signatures of 620 persons -

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

We the undersigned residents of Western Australia are not satisfied with the lenient manner in which repeat juvenile offenders are being treated by the judiciary under the current policies of the Ministry of Justice.

[See paper No 880.]

# **MOTION - URGENCY**

## *Armadale-Kelmscott Memorial Hospital and Health Service, Funding Crisis*

**THE PRESIDENT** (Hon Clive Griffiths): I have received the following letter dated 12 November -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House at its rising adjourn until 9.00 am on 25 December 1996 for the purpose of discussing the funding crisis facing the Armadale-Kelmscott Memorial Hospital and Health Service.

Yours sincerely

Alannah MacTiernan MLC  
Member for the East Metropolitan Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

**HON A.J.G. MacTIERNAN** (East Metropolitan) [2.41 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December.

The Armadale-Kelmscott Memorial Hospital is facing a crisis on two fronts. The first crisis is the condition of the facility. I advise members who are not be familiar with the Armadale-Kelmscott Memorial Hospital and Armadale-Kelmscott Health Service -

Hon E.J. Charlton: When did you first go there?

Hon Graham Edwards: They all seem to think it is a joke.

Hon E.J. Charlton: We think you are a joke.

Hon A.J.G. MacTIERNAN: It is not a small facility; it is the primary facility for an area which stretches from Riverton to Keysbrook.

Hon P.R. Lightfoot: What is the population of the area? It is nothing.

Hon A.J.G. MacTIERNAN: It certainly is not a population of nothing. The City of Armadale has a population of approximately 70 000 and if we add to that the population of the City of Gosnells, a portion of the City of Canning and a substantial portion of the Shire of Serpentine-Jarrahdale -

Hon P.R. Lightfoot: It sounds like 5 per cent of the metropolitan area.

Hon A.J.G. MacTIERNAN: Four local authorities are serviced by this hospital. In other words, there may be as many as 200 000 people in the catchment area for that hospital. The hospital is in a very sorry state. It is the general view of the community that the physical amenity of the hospital is a disgrace. The hospital, which was built in the 1960s, has been added to and it is failing to meet the current standards which people expect in this day and age.

Hon Peter Foss: What has this to do with your motion?

Hon A.J.G. MacTIERNAN: The first crisis is the lack of capital investment in the hospital.

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: The redevelopment of the hospital has been continually put on the back-burner.

Hon E.J. Charlton: For how many years?

Hon A.J.G. MacTIERNAN: Since this Government has been in office. The redevelopment of the hospital commenced under the Labor Government in 1991-92. When the planning for that finished in 1995 this Government

decided to go back to the drawing board. Instead of a redevelopment, it wanted a total demolition and rebuilding of the hospital. The result is the funding allocated to the hospital has been simply to redo the planning. The Government has not allocated any money for the redevelopment of the hospital until 1998-99. The Opposition was able to find out in the Estimates Committee debate on the Health budget that there has been a cut of approximately \$12m in that budget. The Opposition was told that the Government expects to deal with at least \$10m of that cut by actually delaying capital expenditure. Therefore, the Opposition cannot be sure that the redevelopment of this hospital will commence in 1998-99.

To outline how antiquated are the facilities at the hospital I advise members that last month 12 patients wrote to the hospital complaining that, notwithstanding the 36 degree heat, there was no air-conditioning in the packed wards. A lot of the patients are elderly and quite sick. The gentleman who contacted my office had emphysema and he said he was having great difficulty breathing.

*Point of Order*

Hon PETER FOSS: I believe the member's comments are not relevant to the motion, which is the funding crisis facing the Armadale-Kelmscott Memorial Hospital. As I am representing another Minister it is important in an urgency motion for me to know what the topic is.

The PRESIDENT: I am not ruling the member out of order, but I ask her to endeavour to keep her comments relevant to the motion.

*Debate Resumed*

Hon A.J.G. MacTIERNAN: Thank you very much, Mr President. I am demonstrating by example the sorts of practical consequences that result from the lack of expenditure on capital works at the hospital. I want to properly highlight the capital problems facing the hospital.

I repeat that 12 patients wrote to the hospital complaining that, notwithstanding the 36 degree heat, the hospital was unable to provide air-conditioning. The patients were very shocked that they would have to endure this situation. This hospital has certainly not been designed for passive cooling. It has comparatively low ceilings and members can imagine that the conditions in the full wards in 36 degree heat would be unbearable. I contacted the hospital and it was explained to me that the hospital has only a dinosaur air-conditioning system which it starts on 1 November each year. It cannot be turned on at any time because it requires a maintenance review. In any event, it is an evaporative air-conditioning system which is not very effective on days where there is a high level of humidity.

Obviously, there is a real problem with capital funding. The more immediate problem which should be addressed in this motion is the question of the crisis in capital funding. It is reaching a very critical point and is considered a scandal in the Armadale area. In August this year the Chairman of the Medical Advisory Committee, Dr Stewart Burton, wrote to the Minister and the department seeking further funding for the hospital. The Budget which was brought down this year, much to the committee's disappointment, funded the hospital at the same level as the previous year and that was for 6 634 patients. It is inadequate. Last year there was a major crisis in the hospital and we know that on two occasions the operating theatres had to be closed for periods of in excess of one month.

Hon Peter Foss: When was that?

Hon A.J.G. MacTIERNAN: It was for five weeks over Christmas.

Hon Peter Foss: Do you know why there were no doctors around at the time?

Hon A.J.G. MacTIERNAN: The operating theatres closed for another four weeks in March.

Hon Peter Foss: Did you ask them where they were over Christmas?

Hon A.J.G. MacTIERNAN: That is not the view of the Medical Advisory Board.

Hon Peter Foss: I would check that if I were you.

Hon A.J.G. MacTIERNAN: The reason the operating theatres were closed for five weeks over Christmas and another four weeks in March is simply that the hospital was running out of money. The area that becomes vulnerable under those circumstances is elective surgery and in these two instances both theatres and the surgical wards were closed. A letter which was sent to the Minister and the department requested approximately \$600 000 to enable the hospital to cope with the workload. The level of funding last financial year was inadequate. Since then the population growth in the region has been estimated at 4 per cent. Notwithstanding that the funding was inadequate last financial year, the hospital was allocated funding for the same number of patients this financial year.

For five weeks last Christmas, and for a few weeks in Easter of this year, both theatres and the surgical wards were closed down. An emergency injection of funds was made by the State Government into the state's hospital system after the federal election, of which \$1.86m went to the Armadale-Kelmscott Memorial Hospital. However, it has been universally recognised that the injection did not solve the problem. Indeed, a substantial quantity of that money was gobbled up by the emergency department of the hospital, which had to employ senior doctors to fill places in the roster. Time permitting, I will go into that matter in more detail because a problem exists in the hospital's emergency service.

The strategy adopted by the hospital administration at the moment to avoid these highly publicised shutdowns is to run the theatres at less than capacity. Doctors in other hospitals are permitted a case list of six or seven patients a day, and theatres traditionally remain open until 7.00 pm or 8.00 pm. However, Armadale-Kelmscott hospital's theatres are strictly required to finish procedures at 5.00 pm and doctors are confined to a list of four patients. Consequently, numerous doctors are complaining about this situation which is resulting in a blow out of their waiting lists.

An example of the absurdity of the situation was brought to my attention by a Mr Brian Parker, who was admitted to the hospital on 26 August for a hernia operation after being on the waiting list for some time. He got a guernsey. He entered the hospital, fasted and was seen by the anaesthetist. He was given pre-operative medication, placed on a trolley and wheeled off to the theatre. He fell asleep. He was then woken and thought, "Oh, I've had my operation and I feel pretty good. This is not too bad." He was then told, "Sorry, you didn't have your operation. We were running late and couldn't finish the operation by five o'clock, which is home time here." Mr Parker, his wife and his doctor were very angry, but no alternatives were available as the hospital administration had to be absolutely rigorous with its staff to ensure that surgery was not conducted beyond 5.00 pm. The facilities are available and doctors are willing to perform the surgery. Nevertheless, it simply cannot be performed because of a lack of funding for staff.

I could relate many stories from local residents who have contacted the Opposition or written to newspapers expressing concern about the way the hospital has been run down. Interestingly, every one of the examples speaks glowingly of the dedication and conduct of the staff, but they regret the way the hospital has been run down. The general standard of the hospital has slipped, obviously because it is underfunded and understaffed.

The chairman of the hospital board arranged for an appointment with a senior official in the Department of Health for early October. He was horrified that the senior official came to the meeting without documentation and had not bothered to brief himself about the Armadale-Kelmscott situation. The committee members tell me that they felt they had been treated very shabbily. Hon Kay Hallahan wrote to the Minister in September and the Minister replied that the matter would be resolved shortly. We received letters from the local authority in September this year, and I understand the Minister also told them that the matter would be dealt with shortly. However, as of this morning, 12 November, when I spoke to Dr Burton, no response had been received from the Minister or from the Department of Health on this matter even though we are almost halfway through this financial year.

Finally, I refer to the emergency service. One of the reasons for the funding crisis is the need for the whole system to be revamped. Under the Labor Government, full time residents from Fremantle Hospital serviced the emergency department at the Armadale-Kelmscott Memorial Hospital. Now, no resident doctors are being provided and the hospital pays up to \$2 400 a day for doctors to service its emergency department. These doctors are employed on an hourly rate. We know that plenty of doctors are willing to moonlight in the hospital, but it is absorbing an amazing amount of hospital resources to fund doctors at that hourly rate to provide the service.

**HON PETER FOSS** (East Metropolitan - Attorney General) [2.55 pm]: I properly interjected on Hon Alannah MacTiernan that we were hearing today an election speech by the member. One need only note the difference between her speech and the motion moved to know that she was not raising the matter in Parliament to obtain answers and to resolve the matter. Rather, she wanted to take a free kick. She spoke about the capital area of the hospital for most of her speech rather than the funding crisis outlined in the notice of motion.

Hon A.J.G. MacTiernan: It was not for most of the speech.

Hon PETER FOSS: The motion refers to adjourning for the purpose of discussing the funding crisis, but the member spoke instead about the fact the Armadale-Kelmscott Memorial Hospital had not been rebuilt since the 1960s. Plainly, Hon Alannah MacTiernan hoped that I did not know - as she probably is aware - that the hospital is on-line for redevelopment next year.

Hon A.J.G. MacTiernan: I said 1998-99.

Hon PETER FOSS: I understand that it is on-line for redevelopment next year.

Hon A.J.G. MacTiernan: You're wrong. I can give you the answer Mr Prince gave.

Hon PETER FOSS: Interestingly, that is not the matter raised in the member's notice of motion; it deals with the funding crisis, with which she dealt at the end of the speech. Clearly, she came into Parliament in the hope of taking a good shot at some area on which I could not reply. She hoped for a one-sided debate, with only members opposite knowing what the debate would cover. These urgency debates are either an opportunity to do some political grandstanding or to use Parliament to obtain replies on issues which members of Parliament want discussed. It is useful for Parliament to discuss urgency motions, provided sufficient notice is given and the notice appropriately outlines the matter to be debated. The majority of the member's speech was political grandstanding: She hoped to take a few free kicks in view of the forthcoming Armadale election campaign without the relevant Minister in this House having an idea about the matters to be raised.

I now deal with the supposed funding crisis. Interestingly, when in government, at this stage of the year members opposite would not even have their Budgets through the Parliament. However, members opposite complain about the situation at Armadale-Kelmscott hospital "halfway through the financial year", which is a slightly exaggerated claim to be made at the beginning of November. Labor Budgets were passed in December. The Opposition is complaining that Armadale-Kelmscott hospital has still not worked out in November the extra requirements in its budget from last year. When the coalition took over from the previous Government, state Budgets would be passed by late December, and their content would be known from December to March. As the previous Government could not manage any matter properly, it would tell every department to make a 10 per cent cut. That is how members opposite ran these matters. Nevertheless, Hon Alannah MacTiernan has the cheek to complain in Parliament that in November -

Hon Kim Chance: We are complaining about the funding crisis.

Hon PETER FOSS: There is no funding crisis. The Leader of the Opposition knows the situation.

Hon Kim Chance: You should've listened to what the member said.

Hon PETER FOSS: If one wants extra money for surgery, one negotiates on the basis of demand. That process is continuing. Perhaps members opposite are unaware that the department and the doctors are negotiating on the basis of indicating demand to justify extra money for further surgery. That is the process properly undertaken every year. We do not say, "Here is a blank cheque; fill it in." Can members imagine what would happen if the Government gave surgeons a blank cheque and told them to fill it in for the amount they think they need?

Hon A.J.G. MacTiernan: No-one is suggesting that.

Hon PETER FOSS: What is the member suggesting? Is she suggesting there should not be a proper process of negotiation?

Several members interjected.

The PRESIDENT: Order! Order!

Hon PETER FOSS: Four months have passed and the negotiations are taking place. The member has called this an urgency motion, just to give it a nice description, but did not mention that \$1.86m has been allocated for the ordinary waiting list funds. Hon Alannah MacTiernan said nothing had happened in four months, but in my opinion \$1.86m is a reasonable amount.

Hon A.J.G. MacTiernan: That was last year and it has already gone.

Hon PETER FOSS: They are not urgency funds; they are the waiting list moneys the hospital has received.

Hon A.J.G. MacTiernan: It was a one-off.

Hon PETER FOSS: It is one-off every year. Waiting list funds are directed towards waiting lists, and are paid each year for that purpose. Those funds have not been refused. The negotiations are continuing. I do not know whether the member has been genned up to add pressure to those negotiations which are taking place between the department, the hospital and the Medical Advisory Board to determine the appropriate allocation. I am sure the member does not suggest - I hope she would not suggest it just before an election - that the Government should hand over money on the basis of someone providing a figure. People must negotiate and demonstrate a need. I cannot talk about the situation at the hospital during Christmas time. However, I can talk about my experience at Christmas in previous years when I was Minister for Health. I am not complaining, but the biggest problem at Christmas is that all the doctors go on holiday at the same time. That is perfectly reasonable, but it makes it difficult to maintain the required number of doctors to carry out a full range of services at the hospital.

Hon A.J.G. MacTiernan: For five weeks?

Hon PETER FOSS: One year I thought that something could be done about the orthopaedics waiting list during that period because there would be room at the hospital. However, I could not get the number of doctors needed to carry out the surgery. It is a sensible idea for all doctors and surgeons to go on holiday at the same time, because substantial savings can be made in the hospitals.

Hon A.J.G. MacTiernan: What about Easter? Are they on holiday then?

Hon PETER FOSS: I do not know about March and I apologise for that. I was not briefed on that aspect although I should have been. The situation at Christmas happens all over Western Australia every year for the very good reason that the doctors go on holiday.

Hon A.J.G. MacTiernan: For five weeks?

Hon PETER FOSS: When I tried one year to take advantage of the extra availability of beds in the hospital to reduce the waiting list for orthopaedic surgery, there were not sufficient doctors to do the work. Perhaps if I had moved the hospital theatre to Eagle Bay, I may have been luckier! However, it does work out quite sensibly.

There is no funding crisis; it is a normal and reasonable process that the Government should ask doctors to demonstrate the need for funds for surgery. The Government does not hand over a blank cheque. After the Budget has been approved in the Parliament, the Government works through the process and the Health Department goes through the budgets of individual hospitals. Each year the allocations are worked out, and that is done much earlier in the year than it was under the Labor Government when hospitals did not know the amount in their budget until January of each year. Under the Labor Government they also had to cater for the fact that before the end of the financial year they would be asked to reduce their budget by 10 per cent. One of the big complaints from government departments when this Government took office is that under a Labor Government whatever budget was agreed at the beginning of the year, about which a big song and dance was made, towards the end of the year it would be reduced by 10 per cent. That happened partly because of the other programs in which the Labor Government was involved such as the petrochemical plant, the State Government Insurance Office -

Hon N.F. Moore: And Social Advantage.

Hon PETER FOSS: Yes, and all the other things that took up the funds. The Labor Government spent money during the year, found it had overspent, and then asked departments to spend 10 per cent less than their budget. If the member wants an example of a funding crisis, she should go through a system such as that because it happened time and time again. People know that at least this Government has a proper system. The Budget goes through and is passed by the Parliament in time, and the Government negotiates and makes sure that people satisfy the departments about their requirements. I am sure that of all the professions, no-one would give a blank cheque to the medical profession given its capacity to spend money.

**HON KIM CHANCE** (Agricultural - Leader of the Opposition) [3.05 pm]: I support the motion, and congratulate Hon Alannah MacTiernan on raising this vital issue at this stage. It is a matter of some urgency. I am disappointed that the Attorney General could not find it within himself to deal with this as a serious and urgent matter. It is the same syndrome that we see in many areas today, in that those who do not have a defence simply shoot the messenger. That is precisely what the Attorney General set out to do. The Attorney General has criticised Hon Alannah MacTiernan on the basis that she introduced a capital expenditure matter into this debate. The motion refers to a funding crisis faced by the hospital; it does not restrict itself to a funding crisis related only to operational matters, although that might have been the case. Hon Alannah MacTiernan spent one-quarter of her time speaking about capital related issues, and three-quarters of her time speaking about operational matters. The Attorney General spent half his time attacking Hon Alannah MacTiernan for not talking to the motion, and the rest of his time talking about the Labor Budgets, the petrochemical plant and Social Advantage.

Hon N.F. Moore: I raised the question of Social Advantage.

Hon KIM CHANCE: The Attorney General's contribution was not remotely aligned to the text of the motion. He did not bother to talk about what is happening at the Armadale-Kelmscott Memorial Hospital. There is an argument about capital funds and, obviously, that must be dealt with entirely separately. However, I refer to the circumstances described by Hon Alannah MacTiernan where a patient goes through the pre-med treatment, is wheeled to the theatre on a trolley, and awakes from the anaesthetic to be told that the doctors did not think they could finish the operation by five o'clock when the whistle blows so they did not start the operation. This hospital must pay doctors \$2 400 a day in order to have staff in one of its departments. Anyone who suggests such a hospital is not in crisis must give consideration to what constitutes a hospital in crisis. If these were isolated incidents, that would be fine and the Attorney General could have advised the House of that and promised it would not happen again. However, he did not bother to address the issues raised at all.

During the year a number of issues have been raised in this place, mostly in question time by Hon Alannah MacTiernan, who obviously has a close interest in what happens at the Armadale-Kelmscott Memorial Hospital. We can all judge from the answers received that the Armadale-Kelmscott Memorial Hospital is a Cinderella. It has been dealt with - as have health services throughout the entire south east corridor - as a Cinderella area. It was suggested by a member opposite by interjection that there are not many people in that area. However, Hon Alannah MacTiernan pointed out that the City of Armadale alone has more than 70 000 residents but, more than that, in the past five years the growth rate in that region has been 15 per cent - that is not an average but an empirical measure. It covers the four municipalities Hon Alannah MacTiernan mentioned. There is extensive growth in the south east corridor. However, the health services in that region are not a lot better than what existed 40 years ago. In the words of another person who knows the area much better than I do, it is still being treated as a general practitioner driven country hospital. This is not a country hospital demand area; it is a very heavy demand area. The health services in the south east corridor have nowhere near kept pace with the growth, so much so that Dr Don Webb, a leading orthopaedic surgeon with a practising history of over 40 years, a man who has received a Member of the Order of Australia for his services to medicine, has described the situation at Armadale as highly unsatisfactory and requiring a major upgrade. One cannot hear that advice from somebody with the experience of Dr Don Webb and take what the Attorney General has said seriously - not that the Attorney General bothered to address the subject anyway.

Hon A.J.G. MacTiernan: He did; he said the problem was that doctors wanted to go on holidays.

Hon KIM CHANCE: Yes. The Attorney General spoke about doctors taking long holidays over the Christmas period. My understanding is that generally those breaks are rarely longer than a couple of weeks.

Members opposite have said by interjection from time to time that the major upgrade that is planned for the Armadale-Kelmscott Memorial Hospital - the capital component - will begin next year. That is simply not the case, and it cannot be the case. The Minister for Health was advised by hospital management when he visited the hospital in April this year that an urgent upgrade of the capital facilities at that hospital was required. Subsequent to that, \$2.4m was allocated in the 1996-97 Budget to progress the development to the contract stage. The design brief has already gone to the architect and it is expected that, all going well, by July next year the final drawings will be available. That will allow construction to start in 1998 at best. As Hon Alannah MacTiernan said, it is more likely to be in 1999.

Hon A.J.G. MacTiernan: It is not in the figures for capital expenditure for 1997-98.

Hon KIM CHANCE: Yes, that is why I put that heavy qualification on it. The work is probably not to start until 1999, assuming that funds will be available. I do not know who advised the Attorney General on the likely starting date for construction at Armadale-Kelmscott, but either that person or the 1996-97 budget papers are incorrect. Both cannot be right - I do not imply any criticism - because they are mutually exclusive.

This issue must be taken seriously. People in the south east corridor, and Armadale, in particular, but not excluding people in Gosnells and surrounding areas, feel as though they are being treated as a Cinderella town. They hear a great deal about new medical facilities at Mandurah, Bunbury and Joondalup and they are starting to wonder why they have been missing out and why they have been treated as though they were a remote outpost of civilisation when they are only half an hour's drive from a major city and in an area that has grown by 15 per cent in five years. Frankly, they deserve better than that. I am disappointed that the Attorney General in debating the issue has not given them their dues.

**HON A.J.G. MacTIERNAN** (East Metropolitan) [3.14 pm]: I will take only a couple of minutes because Hon Kim Chance has captured most of the points I was going to make. The crucial area the Opposition wanted to raise today was recurrent funding, but it would have been remiss of us not to mention in passing the problem with the physical facilities at the hospital and the fact that, contrary to what Hon Peter Foss is misguided to believe, the Government has not committed to construct the hospital in 1997. Answers the Opposition gathered from the Minister for Health indicate that that construction is set down for the 1998-99 financial year at the very earliest, and given that the Government has advised that it will deal with the federal cutbacks by deferring capital expenditure, we imagine that date will be later.

The Opposition provided a detailed case on the recurrent funding crisis, but all we got from the Attorney General in response was that it was not a problem, there was no crisis, and the only reason the theatre closed was that the doctors wanted to go on holiday. That is complete nonsense. One might be able to explain the closure of a week or two over the high season on that basis; however, to pass off a five week closure on that ground, particularly one that is followed some two months later with another four week closure, is complete pixie land stuff.

Hon Kim Chance: It is almost a fifth of the year.



Hon A.J.G. MacTIERNAN: Yes. Obstetricians and surgeons of all types in the area complain that they are unable to get space in those theatres to operate. The Attorney General's explanation is implausible and will lead the Government into considerable disrepute. The funding provided last year was for 6 634 patients. The inadequacy of that is evidenced by the fact that the emergency department, the surgeries and the surgical wards had to be closed down for nine weeks of that year. Notwithstanding considerable growth - the Opposition estimates the growth to be 3 to 4 per cent - and notwithstanding the fact that the funding provided in the previous year was inadequate, the hospital again has been funded to provide only 6 634 patients. That is the origin of the crisis.

On top of that is what I consider to be shoddy treatment of the hospital by the Minister for Health and the Health Department. Letter after letter promises that this matter will be dealt with shortly. The negotiations have been going on for over four months and no progress is being made. The hospital cannot continue on this basis. It is a totally inappropriate use of the facilities to have them functioning at grave under capacity. Waiting lists are developing in every area of surgery. The hospital requires an injection in the order of \$600 000 if it is to cope with even the current level of demand.

In addition to that, the staff and the medical advisory committee are disappointed about the way they have been treated by the Government. They have tried to be innovative. They have introduced a range of programs in the hospital, including a public obstetrics facility, and they have introduced pre-admission clinics that have improved dramatically patients' anxiety about admission to hospital, thereby enhancing the recovery rate. They have also developed a sophisticated discharge protocol. All these are issues that they have taken on to try to deliver a modern and efficient health system to people stretching from Riverton to Keysbrook. The thanks they get from the Government and the senior bureaucrats in the Health Department is that they come along to a meeting to discuss their problems without the courtesy of briefing themselves in any way, shape or form about the circumstances of the hospital. It is no wonder the matter has not been able to be resolved. It is very unprofessional.

[The motion lapsed, pursuant to Standing Order No 72.]

### **APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)**

#### *Second Reading*

Resumed from 7 November.

**HON TOM HELM** (Mining and Pastoral) [3.20 pm]: I will not keep the House for long on this Bill. The Bill, at the end of the session, is an opportunity for me to bring a few matters to the attention of the House. My first priority, Mr President, is to wish you and all those people leaving us well for the future whether they will be seeking election into the other place or taking retirement. It would take a long time to convince the general public of the effort members make in serving the public. Members in this place know which members have done their best. I wish them all the best in their future endeavours.

Today I received a letter from the Salaries and Allowances Tribunal advising me that I am unable to take delivery of the vehicle I have chosen to replace my present vehicle. The tribunal has decided what will be the benchmark vehicles for members of Parliament. If members wish to drive a different vehicle which is more expensive than the benchmark vehicle, they must pay more towards it. I have had possession of two Mitsubishi Pajeros in the past two years and have driven more than 80 000 km in each vehicle. I have also had a bullbar and a towbar fitted to them to make them safer for travelling over the difficult roads which take me through my electorate. The House is aware that I travel frequently to and from Newman, where my office is situated, and along many country roads. In answer to comments from my constituents that members of Parliament too often fly from place to place rather than travel on the roads to see what they are like, I make a point of driving on the bush roads around my electorate. I am aware of the danger that involves for not only me, but also my wife and members of my family who like to travel with me. I am therefore very keen to drive a safe vehicle over those distances.

After some inquiries it appears that this Government has chosen a new finance provider through which our vehicles will be leased. This has resulted in the cars we have chosen for safety reasons no longer being available to us. Since using the Mitsubishi Pajero, which I accept is more expensive than the benchmark vehicles, I have paid in excess of \$160 a month more than we have been required to pay for the use of it. That includes the fitting of the bullbar and towbar and having the windows tinted. While driving the Pajero I have hit a number of animals, mostly kangaroos. Before I had the Pajero I wrote-off two Mitsubishi Magnas after hitting the same kangaroos.

Hon Derrick Tomlinson: I am sure they were different kangaroos.

Hon TOM HELM: Yes. We have spent a lot of time in this Chamber debating occupational safety and health. We have also talked about road safety. The Minister for Transport is always referring to the 4¢ a litre we pay on top of the cost of fuel towards better and safer roads. We face danger on our roads in remote rural areas because of the

increasing number of livestock, kangaroos, emus and dingos which wander onto the roads in those areas without our having to drive substandard vehicles. The safety standards of our vehicles are those we personally determine. The Pajero has proved itself to be a safe vehicle for driving in these areas. I have been able to get out of trouble on dirt roads, and the kangaroos we have hit have come off worse.

Despite making a commitment to spending more than is necessary to drive a vehicle of my choice, as a result of this change introduced by this Government I can no longer have that vehicle. I have tried everything I possibly could and been as patient as possible. However, I received the letter today from the Salaries and Allowances Tribunal. The vehicle of my choice is not a Rolls Royce or a Mercedes Benz; it is not something flash with a sunroof or anything like that. It is a comfortable, safe four wheel drive vehicle with cruise control. However, if I choose to drive it I must pay almost double what I paid in the past two years simply because this Administration has changed the motor vehicle leasing funding arrangements. As everyone who leases a car knows, Lease Plan Australia Ltd, the organisation through which our vehicles were supplied, was an efficient and effective organisation. It knew what it was doing and bent over backwards to be as accommodating as possible. I have no complaints about that group. However, Lease Plan no longer has responsibility for the funding arrangements. If I had applied for a car earlier, I may have got the one I wanted, but July was the cut off date.

Not only do I have this problem, but I understand also that Hon Phil Lockyer faces the same situation. The vehicle of my choice will not cost taxpayers more money. The situation has arisen because the funding arrangements have been transferred from Lease Plan's authority to a new group whose name I cannot recall and I do not care what it is. It is sickening that this Government is prepared to risk not only a by-election, or whatever my demise would cause, but also the lives of my family including my wife's two sons. I am not prepared to accept that, particularly as the benchmark vehicle is either a Nissan Patrol or a Landrover Discovery. Recently a Nissan Patrol - which vehicles I believe are built with a high centre of gravity - rolled over when it was being driven by an experienced bush driver. Also, at midnight on Saturday, the gearbox of a brand new Landrover Discovery dropped out while it was being driven from Newman to Perth. The driver's journey was saved only by the good nature of the Budget Rental staff who gave him another vehicle so that he could continue to Perth.

I am expected to put myself and my family at obvious risk. If I were presented with another vehicle which was proved to be safe, I would cop that. However, I would be more certain of my safety if I were able to lease a vehicle under the previous system. I showed my commitment by fitting additional safety equipment to my vehicle.

Hon P.R. Lightfoot: Are you aware that Pajero is a Spanish word that means the Australian colloquial expression that rhymes with the word banker?

Hon TOM HELM: Wow. That is one of the many things I do not know. I thank Hon Ross Lightfoot for that interesting piece of information. No doubt that interesting Spanish translation is why I like the Mitsubishi Pajero - my preference for it has nothing to do with its safety aspect!

I am at the end of my tether in bringing this matter to the attention of the House. More members will be faced with this situation. It will be another reason that members of Parliament will be unable to visit their constituents in the way they should, particularly those of us who represent remote areas. The accusation that we fly everywhere will be nearer the truth, because we will have many more problems getting to the places where we should be going. We should be able to tell the Minister for Transport whether his roads are adequate or inadequate. If I have to take the risk of having the accidents that I have had because of the inadequacies of the vehicles that I have driven, it is a sad day for this Parliament and its members.

Hon Derrick Tomlinson: You may not have a Pajero, but you may have a Land Rover Discovery. Is that correct?

Hon TOM HELM: That is right. It is cheaper. Who wants a pommy car?

Hon P.R. Lightfoot: It is built in Germany.

Hon TOM HELM: Its gearbox falls out. Any vehicle that can keep a gearbox and its wheels on the ground is not bad. This car could not keep its gearbox together at 3 000 km and it could not stay on four wheels. I know skateboards that are more reliable than those two vehicles.

Hon P.R. Lightfoot: They are an excellent vehicle. I have had them for 30 years.

Hon TOM HELM: If one lives in Perth it is fine. They might be all right up and down St George's Terrace but it is different on the Great Northern Highway or the road from Meekatharra to Wiluna. Try it some time and see.

Hon P.R. Lightfoot: I have been places in the bush you have never dreamt of.

Hon TOM HELM: When the members was 17 years old.

Hon P.R. Lightfoot: Midland is not the outback.

Hon TOM HELM: Indeed, that is the point I am making. The issue is not about the extra cost but a different system of finance that has been brought about by this Administration and the fact that we are trying to say that these vehicles are adequate for the job. One has a proven track record and the other has been proved to be unreliable. We can get road cars. My wife and I travel over 80 000 km in 12 months in pretty remote areas.

Hon P.R. Lightfoot: Get the Rolls Royce, which is the Range Rover.

Hon TOM HELM: It would not be very good. A lot of Irish say that we should burn everything British except their coal. I do not necessarily follow that view. I will be taking it as far as I can, if this Chamber gives me the opportunity. I am in this Chamber to serve my constituents as safely and as properly as I can.

Another matter concerning health and safety is the current debate in industry about the effects of the abuse of drugs and alcohol. I recently attended a seminar in St George's Terrace called by the Alcohol and Drug Authority, the Chamber of Commerce and Parker and Parker, the solicitors. The seminar was very welcome. It was called to try to alert all the players in industry about the effect of alcohol and how to alleviate the effect. Debate is currently taking place about testing procedures that should take place in a workplace. The mining industry has a great regard for safer working places and examination of drugs and alcohol abuse. The alcohol abuse question is relatively easily solved. We as a community have decided that 0.08 and 0.05 blood alcohol content will affect everyone to the extent that they should not drive vehicles. Whether we agree with that or not, we have to comply with it in a civilised society. Society has not commented on how much heroin, crack, THC and opiates in people's blood or fat tissue affects their ability to work. Science suggests that in some professions drugs can enhance performance and in other professions really impair it.

Hon Derrick Tomlinson: It depends on the nature of the drug.

Hon TOM HELM: Exactly, and the nature of the person and the job.

Hon Derrick Tomlinson: You are referring to opiates and narcotics.

Hon TOM HELM: I went to the seminar to find out what I could, given that at the moment in Newman there is a debate as to how the union, work force and management can reduce the rate of drug abuse, at the very least. It is agreed that education must play a major role in how people treat opiates, barbiturates and other drugs that can impair or enhance performance. When the question of testing arose at this seminar, employers, academics, chemists, pharmacists and union representatives were all of the same view. The proper testing programs which are available are very expensive. We have had major problems with being able to assess the records of the testing procedures. Generally it was agreed that for employers to go down the path of testing procedures would be a very expensive exercise and would not do very much to reduce drug abuse. Depending on the size of the companies, if employers were encouraged to spend tens of thousands of dollars on schemes involving hundreds of dollars for each blood test to determine what type of drugs are present, the result would not be worth the money spent. It was generally agreed that if we were dinkum about putting into place appropriate programs, those programs would have to contain the required education and research.

It is easy for us to be able to condemn people who drink too much and drive. In the past that was part of our culture in the north west where drinking was second nature. People who were picked up for drunk driving were seen to be unlucky. We did not condemn them as much as we should have done in the beginning. We saw it as the police being too dictatorial and said that they would be better off catching burglars rather than innocent drunk drivers. We see it differently now. I think we will see drug abuse differently in the future. The change in attitude will have to come from industry, because workers are dying and being badly injured. Workers may suspect or know that a workmate is affected by drugs. They know that the judgment of a person who smokes a lot of marijuana or takes the occasional heroin hit is impaired. As workplaces utilise more high-tech equipment, people are taking a more responsible attitude to working with people whose judgment is impaired or affected by drug use. We must get away from the simplistic answer. A test at the entrance to a workplace will determine an employee's blood alcohol content and therefore his fitness to drive or handle machinery; however, no test can determine whether a person has abused other forms of drug. The legal BAC is not a scientific conclusion; it is a determination that society has made, through its legislators, that the limit will be 0.05 or in some cases 0.08. Shortly we will be required to decide what we will accept as the quantity or dilution of other drugs that we will allow in our blood stream or fatty tissue and still be capable of going to work or being in charge of a car. I bring this to the attention of House now, because the debate has not reached the public domain, although it has engaged union and industry leaders.

The problem is akin to a silver bullet. Should those tests or procedures be of a random nature or part of the pre-workplace procedures so that we can resolve the drug problems in the workplace now? Evidence in the United States indicates that those workplaces that have the most comprehensive drug testing programs have not reduced the

expected incidence of drug related accidents. Companies have demonstrated their bone fides by spending hundreds of thousands of dollars putting education packages together and implementing testing programs. However, for one reason or another - the chemicals, containers, tubing, needles or even the ingenuity of the drug affected person - drug test results have been a lie. A lot of money has been spent for nothing. I am concerned about this issue.

*Sitting suspended from 3.45 to 4.00 pm*

Hon TOM HELM: I do not ask anyone to do any more than I do myself. I believe that I do the best that I can for the people whom I represent, and I do that by sharing the conditions that they have to put up with. I accept that if I wanted a luxury vehicle or a vehicle that was more than adequate for the job, I should pay more. If I were a truck driver and was driving the same number of kilometres, I would expect my truck to be as safe and as comfortable as possible - not as humanly possible, but as possible given the dollars that we have. The Mitsubishi Pajero has served me well for the past two vehicles that I have had. I cannot understand, and I have made every inquiry that I can make, why I now have to pay twice as much for the same vehicle than I have on two occasions previously, under the same terms and arrangements. The only reason I can see is the change in the funding arrangements that has taken place of late.

I advised Hon Peter Foss during the afternoon tea suspension that I would have a go at the Ministry of Justice. At the Standing Committee on Delegated Legislation meeting today at 8.30 am, our advisory-research officer came under some criticism for his efficiency and the way that he was able to keep on top of the amount of work that he has to do, considering that he is relatively new at the job. We were advised at that meeting that regulations under the Sentencing Act had been gazetted on 4 October this year, and we received the explanatory memorandums yesterday morning. Those explanatory memorandums were quite innocuous. The Sentencing Act has been looked for in this Parliament for some time, and these regulations will mean something to someone, but basically there was nothing that needed to be disallowed or that was particularly complicated; it was just ignorance on the part of either the Minister in charge, Hon Peter Foss, or his public servants. I told Hon Peter Foss that I intended to say this, and he understands how I feel. I think he has some problems with his department. I hope to be able to show them the section of *Hansard* that contains this criticism. It comes to a pretty pass when we use the power of the Parliament to disallow regulations that are laws of this land because some public servant cannot bother to give us a set of explanatory memorandums. Those memorandums are available - they do not come from heaven - before the regulations are put together and the parliamentary draftsman can put them into a form that this Chamber will accept, yet we do not get them. This is an example of the things that frustrate this committee. We have, and have always had, the most excellent staff, with very few exceptions. The work that they do for the committee is reciprocated by our work.

The PRESIDENT: Order! I do not think it is fair for the member to blame the staff in the department.

Hon TOM HELM: I was not, Mr President. I was blaming either the Minister -

The PRESIDENT: Order! The responsibility is the Minister's.

Hon TOM HELM: I accept what you say, Mr President.

The PRESIDENT: I say that because the Minister is here and can defend himself; a member of the staff cannot. I suggest that is what you should do.

Hon TOM HELM: I accept that, Mr President. The Minister needs to change some of the staff if they cannot carry out the instructions that he has given them. Hon Peter Foss has shown strong support for the work of the committee and he understands more than any other Minister the work that we do. He is a bit slow on some things, but he is pretty fast on others. In this case, he understands the importance of explanatory memorandums to the committee so that we can make an informed decision. I accept your admonishment, Mr President. I should not have attacked the staff; it is not fair. I will confine my remarks to the Minister.

Another matter came to our attention this morning that concerns me. Regulations were gazetted on either 3 or 24 September that basically provide that public servants who previously were entitled to redundancy payments if the job they were doing was no longer available to them are now not allowed to claim that money through either industrial action or negotiation. The explanatory memorandum said that was because of the policy of the Government with regard to permanency of employment. That seems to be a contradiction, because we were told by this Government that it would create more jobs and have better management, and that it would reduce the number of Public Service jobs and send those people to the private sector. The argument used on many occasions is that many aspects of the work of the Public Service can be done as well as, if not better, by the private sector. If that was the case, and if one of the Government's election promises was to reduce the size of the Public Service, why would it, on the one hand, move regulations that would force people to stay in employment?

An example was given to us this morning of a manager in the Fisheries Department who was found for whatever reason to be not suitable for that job and was encouraged to move on or was told that the job was no longer available to him. That person could not then say, "Hang on; my skill and expertise is in this section of the Fisheries Department and I want to go back into the Fisheries Department." That person will have a problem with moving on. With the closure of the Midland Workshops, people possessing skills appropriate to the job were forced to do inappropriate work. That situation did not do the workers a favour, or offer them permanent employment; it ensured they were left without a cent, with no recognition for the job they did previously. The jobs disappeared, through no fault of the workers. When the Midland Workshops closed we saw skilled boilermakers with more than 20 years' experience, sweeping railway carriages and platforms. Mr President, in your former life you were an electrician by trade. How would you feel if someone said that when you returned to work you must do the work of an apprentice, and clean up after the tradesman? People may argue that the workers would receive the same rate of pay but that is no compensation. We all know that on occasions tradesmen must clean up after themselves, or do other jobs which do not meet their skills. However, it is not permanent work. People do not wake up in the morning and say that today they will sweep out a railway carriage or, as an electrician, do similar tasks. This is the doublespeak we note in George Orwell's *1984*. People are promised permanency of employment, only to discover that although the rates of pay remain the same, the permanency consists of their doing a job they hate or for which they are not skilled. It can be argued that at least people are being offered employment, but there is nothing more frustrating for people than to undertake work for which they are not skilled or are not cut out to do.

The regulations are nonsense. Although the committee found nothing to disallow, it was well within its terms of reference to recommend a disallowance. I could not understand the wording. I thought someone was having a go at me - and other members thought the same - because of the belief that the Administration is proud of reducing the number of public servants, or contracting out to the private sector, all in the name of efficiency. On the other hand, the regulations state that the aim is to try to give people permanency of employment. What a load of rot and nonsense. I have wanted to share those comments with the House and to place them on the record because many working people will read about the regulations in the *Government Gazette*. It is a matter that has been kept reasonably quiet, because people would be sickened by the fact they were precluded from receiving compensation for a change in job status - through none of their doing. Everyone in the private sector would expect such events as a result of negotiation with the trade union. No matter what happens, the non-negotiation provision can override the regulations which are now part of our law. We will now see people leave their employment, with no recompense.

I thank the House for allowing me the opportunity to wish well the members who are leaving this place, and to place on the record a few matters that have been bothering me over the years. I support the Bill.

**HON GRAHAM EDWARDS** (North Metropolitan) [4.14 pm]: I want mainly to respond to allegations that were made by Hon Iain MacLean during debate on this Bill last week. I am rather angry, particularly because Hon Iain MacLean waited until I was absent from Parliament to raise the issues.

Hon P.H. Lockyer interjected.

Hon GRAHAM EDWARDS: The member can make his speech later. I have heard the member make exactly the same comments as Hon Iain MacLean.

The PRESIDENT: Order! When I call for order it means that everyone must be quiet. I suggest that Hon Phil Lockyer stop his interjections and that Hon Graham Edwards ignore him and direct his comments to the Chair.

Hon GRAHAM EDWARDS: I want to respond, because I have heard Hon Phil Lockyer make exactly the same comments. I thought that, of all people in this House, Hon Phil Lockyer would agree with me, because in the past he and I have always taken exception to anyone taking the opportunity to get stuck into someone else when that person was absent from this place. The fact that this was done when I was not here indicates to me that it was done deliberately and in a cowardly way. The issue is not big, but it is a matter of principle. It is not the way I have ever operated in this place. I will not let the member get away with this. I sent Hon Iain MacLean a note via his Whip to say that I would respond; therefore, he knows I will respond.

I am annoyed because when Hon Iain MacLean was speaking on this Bill last week he mentioned the siting of an airport at Nowergup. He said that Hon Graham Edwards rang the *Wanneroo Times* and demanded it prove that the Labor Party was involved. It is not a big issue, but I take exception to anyone accusing me of ringing journalists at the *Wanneroo Times* and endeavouring to heavy those people or to demand anything. I have never done that; it is not the way I operate. When I contacted journalists at the *Wanneroo Times* to ask whether there was any record of the matter, each journalist said no. Therefore I have no idea what Hon Iain MacLean was on about. I have never called the *Wanneroo Times* and demanded anything. I have never used my position as a member of Parliament to intimidate anyone in this community. I take great exception to the accusation and to the fact that the allegation was made when I was not here. I am also annoyed that the action was deliberate.

Hon Iain MacLean also spoke about an issue which arose in the northern suburbs a couple of years ago. He said that he remembered an instance in the northern suburbs when a school had its oval top dressed and among the top dressing was a broken sheet of asbestos. He said that the asbestos pieces were the size of 20¢ coins, but that did not stop some people running around saying that their children would all die if the department did not take 6 inches off the top of the oval and redress and regrow it, and that it had to be done straightaway. He said that unfortunately that approach was driven by a political group - a group closely associated with members of the Labor Party. He said they did it because they wanted to gain cheap political points. He said that was far out from any legislation, and that he could not condone that type of cheap political grandstanding which had become a hallmark of those opposite.

I was the only Labor person involved in those meetings. It is interesting that I was the only member of Parliament involved. The Government was invited to send a government member to the meetings, but not one government member from the northern suburbs attended. I remember the issue very well, because it was at the time I relocated my office to the northern suburbs. I attended the meetings and took what I thought was a very responsible attitude, because, in my view, the parents had the issue wrong, and I told them so.

That issue concerned me because, if a number of school ovals had to be dug up in the way suggested by some people, that would prevent the young children attending the various schools from using those ovals for probably six or seven months, which in effect would be the whole school year. I deliberately did not endeavour to inflame the situation and I did everything in my power to resolve the situation for the parents. I am pleased to say that the issue was resolved because in the end people took a fairly responsible attitude. To the best of my knowledge, that which Hon Iain MacLean spoke about did not happen; most parents took a very responsible attitude, and I am pleased that they did. After the series of meetings was concluded, I was contacted by officers of the City of Wanneroo and a senior officer from the Education Department who thanked me for the attitude I took and for providing the support that helped to resolve the issue. I do not know where the member was at the time, but he was wrong, just as he was wrong when he accused me of demanding things from the *Wanneroo Times*.

I do not intend to say anything more about those issues. However, if a member intends getting stuck into another member in that way, he should have the courage to advise the member concerned. I say that particularly in relation to Hon Iain MacLean and the issue of the airport. He and I have attended a number of meetings and he sits with me on another committee, chaired by Hon Ross Lightfoot, which is considering that issue, and not once has he raised that issue with me man to man. If he intends to do that sort of thing behind a bloke's back he should cop what comes back.

I was disappointed to read in this morning's *The West Australian* an article about Mr Chas Prince, who was photographed with a fun run medal and a cancelled taxi concession book, under the heading "Fun run has a sad aftermath for Chas". I ask the Minister for Transport to examine this issue and, if possible, to intervene. The article, which was written by Mari Barton, states -

The State Government has taken away the taxi concession of disabled pensioner Chas Prince after he took part in the City to Surf Fun Run.

Mr Prince, 62, of West Midland, said yesterday he was told by the Transport Department last week that if he was fit enough to do the fun run in August, he did not need cheap taxi fares under the taxi users' subsidy scheme.

Mr Prince said the department's decision was short-sighted and he would struggle to pay full fares on his disability pension.

"They've got no idea of the time, effort and pain I went through that day and I guess they don't care either," he said.

"I got to the end but I couldn't have moved another inch. I had to rest for a couple of days afterwards."

While most able-bodied participants finished the 12km run in about two hours, Mr Prince took seven hours to limp his way to the finish line.

Mr Prince has a pacemaker to correct a leaky heart valve and has defied doctors who said he would not walk after a stroke in December 1994 left him paralysed down his left side.

But he was determined to reach the end of the fun run to inspire others to fight back from misfortune and to raise money through sponsorship for Activ Foundation to improve services for people with disabilities.

Ironically, the Transport Department found out about his brave quest by reading *The West Australian*.

Mr Prince uses a taxi a couple of times a week to get to his doctor's appointments and to go shopping.

He said he would be forced to walk to a bus or lose about \$10 extra a week in taxi fares, which was a big chunk of his pension.

Transport Department taxi unit manager Rob Leicester said Mr Prince's ability to complete the fun run, at whatever pace and discomfort, showed a level of mobility greater than allowed under the scheme.

"In broad terms they have to be wheelchair confined or have very limited mobility," Mr Leicester said.

"Mr Prince deserves credit for coming back from a significant illness, but unfortunately 12km is a significant distance in anyone's terms.

Mr Leicester said Mr Prince had been put on the scheme 18 months ago based on a doctor's advice that he could walk only 50m. The department would reconsider Mr Prince's case if he could show strong medical advice that his mobility was still severely limited.

The department was considering changes to the scheme to make eligibility criteria more equitable.

This bloke is in trouble because of his courage and determination to do something worthwhile. If he had not taken part in this fun run he would not be facing this dilemma. However, the fact that it took him seven hours to limp his way to the finish line is a fair indication of just how difficult it was for him. Of course, the other issue is that a bloke in this situation genuinely cannot afford to lose an extra \$10 a week. It might not seem a lot to members, but for someone on a limited income it is a big burden. Given that Mr Prince was required to provide a medical report before he was able to get the concession, it would be fair if the department were to request him to undergo another examination before it withdrew the concession. While departmental officers may feel that they are taking steps to save taxpayers' money, perhaps they have not fully considered the circumstances. I would appreciate the Minister's looking at the facts and perhaps intervening to have the matter rectified.

I will not respond to those people who had some decent things to say about me in the course of the debate, and I include Hon Iain MacLean - he at least started his speech by saying some nice things. I will have the opportunity to respond at a later date, and I look forward to doing so.

**HON REG DAVIES** (North Metropolitan) [4.29 pm]: I, too, support the Bill. Like other members who have spoken, I am not making a valedictory speech. As far as I am concerned, it is up to the electors of the North Metropolitan Region whether I will be here after the election - I certainly do not want to second guess them. If they are happy with my performance and want me here for another term, I am happy to be here and, as always, will act on their behalf to the best of my ability.

I also take this opportunity to say farewell to those members who are leaving the Legislative Council after the forthcoming election. In particular, I acknowledge your term in this place, Mr President. It has been a fairly trying job at times. You have done great justice to the task of presiding over the Chamber at times when debate has been a bit heated. Your shoes will be very difficult to fill by the incoming President. I know that each member will give the same support to the new President that they gave to you. I hope that the new President will be as fair as you have been, Mr President. That has been the hallmark of your presidency. In the almost eight years that I have been here, you, Mr President, have always been meticulously fair and have never favoured one member over another. I appreciate that, particularly in my position.

I make special mention of Hon Phil Lockyer, who is leaving after a long term in this Chamber. He has had a great influence on my parliamentary career since my election. I shared an office with him for my first four years in this place.

Hon Tom Helm: No wonder you went independent.

Hon REG DAVIES: He was always very supportive. He showed me the ropes and the shortcuts and he instructed me in the protocols of the Parliament. I rarely put a foot wrong under his guidance. Even when I resigned from the Liberal Party in July 1991, he was adamant that I continue to share his office. There was never any animosity between us. After the last election I took an office of my own on the ground floor. His humour and his down to earth manner will be a great loss to this place. What characterises Hon Phil Lockyer is his unbelievable loyalty to his friends. I admire that in any person. No matter what the circumstances, he is always loyal to his friends and I am sure he will continue to be. He never lets them down. He always has a good word to say about them and stands up for them under very adverse conditions.

I met Hon Graham Edwards a few times when I was a councillor with the City of Stirling and got to know him well when he was a Minister of the Crown during my first term. I always found him to be extremely fair. He is a jovial character. Our service in South Vietnam during the Vietnam conflict is a common bond between us.

Hon Graham Edwards: On the same side.

Hon REG DAVIES: On that occasion we were on the same side! I wish Graham well. I am sure the future holds a lot for him, particularly with his attitude to life. He will be a loss to the Legislative Council.

Another long serving member who is leaving and with whom I have had some dealings is Hon Doug Wenn, who has sat in front of me for the past three and a half years. Although we have not been close, we have always been on friendly terms. He has always been cordial in the bar, the corridors and elsewhere. I wish him well in the future.

Hon Sam Piantadosi, our newest independent member, and I have got on extremely well in the last few months since we have been sitting together. It must have been very difficult for him to leave the Labor Party having grown up in that movement and having been very loyal to it. However, a man has to do what a man has to do. I know how he feels; I made a similar decision to leave an organisation with which I had had a lot shorter association than Hon Sam Piantadosi had with the Australian Labor Party. I wish him well in his quest for a lower House seat. I am sure he will make a worthy contribution to the Legislative Assembly should the electors of Yokine choose to send him there as their representative.

I wish Hon Val Ferguson well. I have become quite fond of her over the last few months. She is a genuine, decent, friendly person. I have never heard her say a bad word about anyone, even when I tried to entice her to join me on a joint independent ticket in North Metropolitan Region. I heard someone say the other day that she is leaving this place for only a short time. I hope that is the case because she has a lot to contribute to this place on behalf of her constituents and the organisation which has not treated her the way it should have.

I do not know Hon Iain MacLean very well. I know he is working extremely hard in the northern suburbs to retain the seat of Wanneroo for the Liberal Party. If tenacity is anything to go by, I am sure he will be back in the Parliament after the next election. He is doggedly walking the streets and spreading the conservative word. The best of luck to him.

There is no doubt that Hon Alannah MacTiernan will be returned to Parliament. I am sure she will make a tremendous contribution to the Legislative Assembly. She should have been in that place from the start because she has the attributes of a Legislative Assembly member. I would love to hear the debates when she is head to head with Hon Graham Kierath. Although I have not had a great deal to do with her, I know she does not appreciate my sense of humour too much. However, I wish her every success in the forthcoming election. I cannot contribute to her campaign because I will need it all for my own. That just about covers all the members who are leaving. I may be or may not be; that is entirely up to the electors of North Metropolitan Region.

Before I conclude, I have heard over a considerable time that the Legislative Council has always been in the control of the conservatives and the Labor Party has never been able to introduce reforms and has always had to face a hostile Chamber. That is not the case. I have gone through the records and recorded the votes of divisions during the period 20 August 1991 to 5 December 1992. During that time, I had the deciding vote in the Legislative Council when the major parties disagreed.

The voting figures show that out of the 108 divisions in which I participated I voted with the coalition on 62 occasions, the Labor Party on 46 occasions and against the combined coalition and Labor Party on three occasions. The figures I have quoted include votes on Bills I introduced and motions I moved, which neither the Government nor the Labor Party supported; for example, the two Bills on the Swan Brewery, the first Fitzgerald Street bus Bill, the motion to establish a select committee to inquire into the Western Australia Police Service and certain elements of the daylight saving Bill. From those figures it becomes evident that in the history of this place the Labor Party has had the opportunity to bring forth reforms with my vote. Although I consider myself to be a conservative member of Parliament I gave the Labor Party the opportunity of success in almost 50 per cent of cases.

I refer now to the Government's response to the interim report of the Select Committee on the Western Australian Police Service. Irrespective of what government members have said, very little notice was taken of the last very important and comprehensive interim report. Up to now the Government has not introduced any whistleblower legislation and I understand it has no intention to do that in the near future. Therefore, whistleblowers will not be protected and the chance of getting to the bottom of a lot of illegal activity within the Public Service will be lost. Not one parliamentary body is specifically looking into the Police Service. The Ombudsman legislation has not been amended, certainly not that part dealing with verbal complaints. It is an important area which the Government should have taken up. Often a person will not make a complaint to the Ombudsman because of the need to put it in writing. If a person were able to register a verbal complaint or have it registered by a lawyer, perhaps more people would come forward with their concerns and complaints.

Last Sunday night I watched "60 Minutes" and I was disappointed to learn that, in the face of sensible alternatives to drug prohibition proposed by the federal Minister for Health, the Western Australian Minister for Health and his



counterparts from the other States could not do the intelligent thing and support moves that would obviate a lot of the crime and the resultant misery that occurs in the community. I do not always agree with every report on "60 Minutes". However, in this instance I certainly support the academic's view that without significant restructuring of laws applicable to drug abuse, drug addicts will continue to be abused and treated as criminals, which has been the case for almost a century.

Hon Sam Piantadosi: Almost as bad as us.

Hon REG DAVIES: Yes, almost as bad as politicians.

Our archaic laws treat drug addiction as a disease of the world, which was part of the eighteenth century medical ideology, and even though the public will continue to pay increased taxes to keep addicts in gaol and increased insurance premiums and court costs, their personal safety will remain under threat and their property will still be at risk. The worst payment is to have one of our loved ones become part of that criminal group.

Historically, prohibition has not always been the preferred system for the control of drugs. Societies around the world control different substances in different ways. Currently, Islam prohibits the drinking of alcohol, and in Jamaica cannabis use is permitted. Until 1868 opium was freely available in England. In 1996 tobacco products are readily available in Australia, in spite of the horrendous warnings printed on cigarette packets informing people of the dire consequences of taking up smoking or continuing to smoke. These consequences apply not only to the smokers, but also to non-smokers and even to unborn children. The Government's answer is to continue taxing tobacco products. I am sure the Minister for Finance will correct me if I am wrong, but I recall him telling me on one occasion that the revenue from the tax on tobacco products in Western Australia is greater than the royalties from mining companies.

Hon Max Evans: That is wrong. We get \$290m from tobacco products and more from the petroleum industry.

Hon REG DAVIES: Revenue of \$290m from the tax on tobacco products which will, we are told, cause heart disease, lung cancer and damage unborn babies! If the Government were really serious about the damage caused to the community from cigarette smoking, it would bite the bullet and make cigarette products illegal. However, it appears that financial considerations come before the health considerations.

Hon Max Evans: The Australian Medical Association would not want to make it illegal. It finds that smoking benefits those people who suffer from nervous tension.

Hon REG DAVIES: Therefore, there is a benefit from cigarette smoking!

Hon Graham Edwards: You did give it up once.

Hon REG DAVIES: I was considering doing so again, but I know I lack the willpower. My valiant attempt to give up smoking failed. Tobacco is probably a more addictive drug than any of the prohibited drugs. Members are aware of the prohibition on the sale of alcohol in the United States of America years ago and the serious and significant behaviours that illegality elicited. I can remember many movies depicting the Mafia wars around the time of the American alcohol prohibition.

We must acknowledge that a massive industry surrounds drug addicts. The drug financiers are at the top of the pyramid, then we have the procurers, the manufacturers of the drugs, the industry which supplies the chemicals and the implements for making the drugs, and down to the street suppliers. We then have the construction companies which build the gaols to house convicted drug addicts, or criminals as we call them. The Ministry of Justice is involved in administering justice to criminals, and myriad people are involved in dishing out justice including probationary officers, administrative staff and the police. Hospitals and their staff, such as psychiatrists, psychologists, social workers, and doctors and nurses, are all involved. The list goes on. People all around us are illegally taking drugs, and I hope that one of those criminals does not turn out one day to be related to somebody in this House.

Hon Derrick Tomlinson: Or one of us.

Hon REG DAVIES: Indeed. It is quite clear that drug addicts are sick people who should be subject to the health, not the penal, system. Public health regulations should control their behaviour, not prisons.

A crisis has emerged throughout the 1980s and 1990s - namely, the dreaded disease of AIDS - which has forced a re-assessment by those most ardent penal advocates, mainly as a result of the fear of leakage of this disease to the mainstream community. AIDS was a new dawn in drug control with the focus shifting towards the public health model of prescribing and attracting drug users to needle exchange programs. This involved education and a multi-agency network dealing with drugs. In Europe, at least, new models are applied with drug control driven by the health crisis. One of these models was demonstrated on "60 Minutes" on Sunday night. This model was not

presented as a panacea to drug addiction, nor did the experts at any time pretend it was the only answer. The model tried to make the best of a bad situation by minimising harm and suggesting that abstinence was not really an option. I support that view.

It is time that we started to control the drug problem in our community. I was disappointed that, rather than taking up in Western Australia an initiative shown on "60 Minutes", we have adopted the politically orientated United States model of the "war on drugs". This approach will send us further down the path of destruction. As legislators, we have a responsibility to enact laws which protect ordinary citizens to stop such people becoming criminals. We used to treat as criminals homosexuals, people who attempted suicide, and those with sexually transmitted diseases, but we now accept the folly of those antiquated laws. We are more enlightened these days. On the drugs issue, the law should take a back seat. I do not want to see drugs sold in liquor outlets or in supermarkets, but I certainly want to see a shift in emphasis with the issue being handled under the public health system with stringent regulations applied by medical professionals, rather than people being put behind bars.

The medical approach will not solve the problem, and probably it will not stop people taking drugs. However, if drug addicts are in a safe, sterile and controlled environment, we will have a safer community. We will have to pay for such a system, but we must pay anyway under the current system for services such as the prisons and insurance. Under the model I propose, if these people are not like animals in the street trying to secure money for their expensive daily or bi-daily fix, it may be safe for people to again open their doors at night and occasionally forget to lock their cars. In the long run, the model I propose would be much cheaper and would make the community safer.

Hon J.A. Scott: And more humane.

Hon REG DAVIES: Indeed. Let us treat these people as people with a sickness, not as criminals. Let us keep them out of the criminal system, be more positive and talk about the subject to gain some public support for an enlightened approach to this issue. Once we have public support for these proposals, the political spine will suddenly surface, along with the will, to do something about the problem. We will continue to have a major problem in this area until our elected representatives are prepared to take the hard route, sometimes against the popular community view, and effect change. I support the Bill.

**HON J.A. COWDELL** (South West) [4.58 pm]: I will comment on some matters of general concern and matters of concern to my constituency before moving on to my appreciation of the valedicts; that is, those who have decided of their own volition to move on from this place. Of course, we may all be valedicts and not know it - that matter is in the hands of the electorate.

I refer as a general concern to the unfortunate trend of racism in our community which has become pronounced of late.

#### [Questions without notice taken.]

Hon J.A. COWDELL: I was referring to the unfortunate recent trend in society and the reaction I received to a recent speech I made in Pinjarra, notably the very colourful calls which my office received about my being a nigger lover. However, I restate what I said in Pinjarra; that is, we celebrate on two occasions by virtue of a public holiday the second wave of immigration to this country - not the first but the second. We celebrate the arrival of white settlers with Australia Day and also with Foundation Day. Therefore, we have two public holidays to commemorate the second wave of settlement but no public holiday to commemorate either the first wave of settlement or the achievements of the indigenous Australian communities over 60 000 or 100 000 years.

On the occasion of the celebration of the anniversary of the battle of Pinjarra I said that we needed to rectify this situation. I said that the United States has Martin Luther King Day to celebrate the achievements of Dr King and Afro Americans, and I saw no reason in the constellation of the existing 10 public holidays that we could not have a day to commemorate Aboriginal achievements. I could advocate an eleventh public holiday, but I will not. It is probably appropriate that, as we have two days to celebrate white settlement, we do not need an extra day to celebrate the birthday of the great white Queen across the waves. As Australia moves to a republican form of government -

Hon Reg Davies: You just ruined a good speech.

Hon Derrick Tomlinson: We celebrate the settlement of New South Wales. We were not formed until 40 years later.

Hon J.A. COWDELL: That is another issue; I am addressing one issue at a time.

Hon B.M. Scott: Why don't we have one day - Australia Day? It would be much better.

Hon J.A. COWDELL: I am a supporter of the Australia Day and the Foundation Day observances. I do not want to abolish either of those holidays - although I will accept an argument whether it should be the anniversary of the

federation as opposed to the settlement of New South Wales, as there must be some national focus - or veterans day. I am not in favour of combining the commemoration of Australia Day per se with veterans day. That needs to be observed distinctly. Our veterans day, of course, is Anzac Day, and that is celebrated elsewhere as veterans day. There should be a separate form of recognition, rather than for it to be rolled in with the establishment of the Commonwealth of Australia or white settlement. However, there should be a public observance of Aboriginal settlement and Aboriginal achievement.

I also said that it was a disgrace that the site of the battle of Pinjarra is not commemorated. It is time that the Commonwealth Government and the State Government came to the party for an interpretation centre. We set up interpretation centres for anything that is going, and here is a significant site on South West Highway with nothing to commemorate what took place there. In the historic context of Pinjarra and its development as an historic centre with Blythewood and Edenvale, it is appropriate that we have an interpretation centre as well. I bring those points before the Parliament so there should be action on both those points.

Noting this trend in society, I looked at Pauline Hanson's maiden speech. It was quite skilfully crafted to get maximum publicity. I am sure members have taken the opportunity to read it. I went through the gems -

Anyone with a criminal record can, and does, hold a position with ATSIC.

I call for the introduction of national service for a period of 12 months compulsory for males and females upon finishing year 12 or reaching 18 years of age . . .

Australia must review its membership and funding of the UN . . .

The government should cease all foreign aid immediately . . .

. . . we are in danger of being swamped by Asians . . . they have their own culture and religion, form ghettos and do not assimilate.

. . . I am going to find out how many treaties we have signed with the UN, have them exposed and then call for their repudiation . . Immigration must be halted . . .

This was the contribution of a new member of the Federal Parliament. Look out all 18 year olds; forget about university, its the draft! No foreign aid for refugees anywhere, let alone Papua New Guinea and the Pacific Islands where our foreign aid is crucial. Forget about any skilled migrants or family reunions from the old country, because there will not be any immigration. The first United Nations treaty Ms Hanson will have us repudiate will probably be the Nuclear Non-Proliferation Treaty.

Hon J.A. Scott: Will she let Australians settle overseas?

Hon J.A. COWDELL: Some, no doubt. She continues -

A truly multicultural country can never be strong or united . . .

It is a pity no-one ever told the United States about that scientific fact. We then have the references to Asian immigration compared with the quality of immigrants, particularly those of late from Hong Kong. Pauline Hanson's conclusion was rousing enough: "We must have one people, one nation, one flag." The last time I heard that cry it came out as "ein Volk, ein Reich, ein Führer". This is a disturbing trend in society. For all the nonsense we have heard all of a sudden about the so-called new freedom of speech in Australia, we will regret the consequences of indulging in this form of attack, one that is - as members have heard with those points - not based on any real appreciation of Australian society or the facts.

Before I turn to the valedictories, I must bring to the Parliament's attention some concerns as expressed by my constituents in the South West Region. I am sure other constituents will eagerly follow these concerns.

Hon Peter Foss: Other members.

Hon J.A. COWDELL: No, there are constituents here as well. Firstly, I bring to the attention of the House grave concerns about the inner Peel regional structure plan. Having made a submission to the WA Planning Commission I received a response along the following lines -

Thank you for your submission on the above plan.

Your submission, together with the 700 or so others received, has been recorded and will soon be examined by officers of the Ministry for Planning. Recommendations regarding finalisation of the plan will be considered by the newly-formed Peel Region Statutory Planning Committee and the Western Australian Planning Commission in due course.

That is almost a Foss statement. To continue -

Your contribution to the process is much appreciated and will, I am sure, lead to a better plan.

Members may be aware, as is indicated in this letter, that some 700 other constituents were concerned enough with this plan to put in submissions. That is a fairly hefty number. Many of them did try to attend the workshops conducted by the Planning Commission and were told that those workshops were by invitation only. Many sought an extension of the period for comment. I did ask the Minister in this Chamber for an extension, and it was denied. Notwithstanding that 700 people sent in their comments, others were denied the opportunity once they were aware of the plans that were put forward. More disturbing to many of my constituents was the answer I received to the question I asked on 21 October -

What is the timetable for the finalisation of the Inner Peel Region Structure Plan?

The answer states -

The finalisation of the Inner Peel Region Structure Plan will proceed following the analysis and summary of submissions which were received. Seven hundred and ten submissions have been received. It is envisaged that the plan will be finalised by mid-1997.

That is, well after the election. On one hand are the many people who have been affected by the proposed rezoning in this plan, who have held rural properties for many years and who, if the draft plan is implemented, face removal from their properties. On the other hand, areas of natural bushland, such as the Creery Wetlands, which have not been developed for farming in any way, are not included in the Peel regional park. They are excluded from that park, although farming properties, which have been in the hands of some owners for over 100 years, face resumption.

That plan is causing a revolt - a public outrage - in the Peel region; so it should, particularly as some of the planners indicated in the public forums that they proposed, for example, that the whole of the Creery Wetlands be included as an area of conservation in the Peel regional park, but they were overruled at a higher level. There is a reversion to a situation which is less of a concession from the owners than had been agreed in the discussions for a memorandum of understanding with the Commonwealth Government, State Government, Mandurah City Council and the developers. We are regressing in this regard. There are concerns about this structure plan, in particular, that there will be no finalisation until the election is out of the way, when my constituents feel the Government will do whatever it likes with the plan.

Other matters of concern have developed about the Rhone Poulenc site in the Erskine industrial area in the Shire of Murray. There is grave concern about the exercise of the planning powers of the current Minister in overriding local interests, local concerns and local municipal plans for the development of the region.

Hon J.A. Scott: Good sense!

Hon J.A. COWDELL: Yes. We have had the much vaunted development of the Mandurah District Hospital, which is now the Mandurah private hospital, and at some time in the future may become a public hospital, if anything is left standing after its use in a private capacity for 20-odd years. About \$38m of public funds will go into the capital works of this private facility. There seem to be some doubts about the level of rental to be paid by the private operator for that facility. We are not at all sure of the dimensions of the contract; it has not been signed, and we have no details of it. However, in answer to my questions last week, I was told that \$1.5m of the money for the project had already gone in fees to BZW Investment Management Australia Ltd, notwithstanding that the finance is being provided through Treasury bonds. Heaven knows how much of that \$38m will find its way to patients in the Peel region once the hospital has gone through the various private contractors to which the Government is insisting this money be paid.

Let us look at the Murray District Hospital in Pinjarra. The Government has said there will be no downgrading of that facility. The fact that it is reducing the hospital from 80 beds to 30 beds does not mean it is a downgrade. We are viewing it the wrong way; it is just an appropriate adjustment! The Government says that it will reduce the beds from 80 to 30 - but it is not a downgrading! The Peel health district administration, which has been well-housed in the Murray District Hospital in Pinjarra, has been moved to a flash, new building in Mandurah, and the office space has been left vacant in Pinjarra. That is good management! There are concerns at either end: The privatisation and downgrading of the Mandurah District Hospital and the abandonment of the collocation model with a public hospital as well as a private hospital at the same site. Bunbury has a better deal than Mandurah in the provision of hospital services.

Let us look at the Government's contribution to the patient assisted travel scheme in Mandurah. It increased the qualifying distance from 50 kilometres to 100 km, which meant Mandurah and most Peel residents were excluded from the scheme altogether. It reduced the assistance from 15¢ to 10¢ per km, and it tried to charge health card

holders \$25 a year to take part in the PAT scheme. Given the pressure from the public, that last cost impost was ditched.

Hon J.A. Scott: It is not a downgrading.

Hon J.A. COWDELL: Of course not. Mandurah residents and Peel district residents, in particular, have been severely affected in this regard. Those who travel daily or a couple of times a week to the metropolitan area to receive radiotherapy or cancer treatment, many of whom are on pensions, are now denied that assistance. This is a matter of concern to constituents.

The Government has unveiled a plan for the new marina in Mandurah. It is an excellent plan in many respects and brings a number of advantages to the community. However, it throws out all the current long term residents of the Peninsula Caravan Park, takes no account of their future and accommodates them in no way. I have looked at the many glossy brochures that, surprisingly, have been distributed in our district; I am sure we are not orphans in that regard. One such brochure about the marina showed all of the concepts, and talked about the marina as well as the proposed Peninsula Hotel Stingray Point residential apartments being a good idea.

*Sitting suspended from 6.00 to 7.30 pm*

Hon J.A. COWDELL: The Government has announced a marina plan for Mandurah, which has some excellent features. I note that the glossy pamphlet and map that was issued outlines residential apartments, short stay chalet accommodation, a mixed residential area and a range of other features. There must be an opportunity to place a caravan facility in the new development and to give priority to the current residents of the Peninsula Caravan Park, many of whom have resided in that park in the heart of Mandurah for a decade or more.

Hon Max Evans: Can people stay in a caravan park for 10 years?

Hon J.A. COWDELL: Yes, in that sort of park they can.

Hon Max Evans: Gee whiz!

Hon J.A. COWDELL: Perhaps with the promulgation of the new Caravan Parks and Camping Grounds Act that will not be possible.

I am pleased that the Government has moved to rectify some of the problems with the Strata Titles Act. Many of my constituents, particularly duplex and triplex owners, came to see me about the difficulties that they were experiencing with the operation of that Act. Some of them brought me letters from their insurance companies. Let me not call these insurance companies opportunistic, but the letters invariably said, as did this one to a Mr Morgan -

By now you should have received some information relating to recent changes to the Strata Act (please refer to the enclosed leaflet).

As a result of the changes it is compulsory to effect Workers Compensation Cover to protect the Strata Company from injury claims and/or legal action.

Please contact my office or home . . . so that I can arrange Domestic Workers Compensation Cover for your Strata Company. The cost of this insurance cover will be \$77.25.

I think the remainder of the insurance cover was less than \$100 at any rate. The insurance company told him that if he did not take out that cover, there was a \$400 fine under the Act and the Government would come to get him. I am glad that in the past week we have been able to address some of the problems that have arisen as a result of the changes to the Strata Titles Act and that those unforeseen consequences have been worked out. No doubt other problems will arise, but a number of my constituents came across this problem, and it was with that in mind that I voted for the changes.

The City of Mandurah currently has an unemployment rate of 16.9 per cent, which is double the state average, and this Government, which is always eager to claim credit if the rate is low, must address pockets of high unemployment, as is the case with the City of Mandurah. It must look at its policy with regard to the employment of public servants in Mandurah, and it must also look at bringing on new works for Halls Head High School and Coodanup Primary School. The Commonwealth must return to the arena with the various land care and environment action programs and youth employment and training programs. Much excellent work was done to train youth on ecology projects in the Mandurah area. The Lake Clifton stromatolite boardwalk and the Erskine boardwalk not only employed and gave skills to unemployed young people but also provided a base for visitors to Mandurah to appreciate some of the natural features of that area.

I was disappointed when the Minister for Transport came to Mandurah a month or so ago and unveiled the Government's strategy. Unfortunately, I was absent.

Hon Doug Wenn: You were probably notified the day after!

Hon Max Evans: Come on; be fair.

Hon J.A. COWDELL: No. I think I was notified a week beforehand, but I did not manage to get there. Nevertheless, I did note the Minister's rousing speech. The fine print was, "Rail by 2015 if you are lucky and the freeway to Mandurah by 2015 if you are lucky". I always say to the local constituents that, had they voted National instead of Liberal, they would have the same sort of service as Avon; and they would have a rail system by 2000 or 2005 and a freeway in no time at all.

Hon George Cash: What is your policy with regard to the extension of the freeway and the rail system?

Hon J.A. COWDELL: Our policy with respect to the rail system, as we announced at the last election, was to bring it to Mandurah within two terms: To Rockingham in one term, and to Mandurah in the next term. Were we unsuccessful in this current election, we would still have plenty of time under our two-term timetable to beat the Government's program handsomely.

Hon George Cash: What alignment were you planning to use for the rail system?

Hon J.A. COWDELL: We were not proposing to go through Kenwick and Jandakot. We were proposing to connect to Fremantle.

Hon George Cash: So it was to travel from Fremantle, to Rockingham, to Mandurah?

Hon J.A. COWDELL: Enjoyable as it is to see Hon George Cash's sudden interest in transport -

Hon E.J. Charlton: What alignment?

Hon J.A. COWDELL: The Minister has a sudden interest in transport in Mandurah as well, and it is not even a National Party constituency. Not wishing to neglect the National Party, the national Minister for Fisheries is forever pursuing recreational fishermen and women in the Peel region. The latest criminals who are being pursued are those who leave unattended nets in the estuary. The problem is that at the same time, trawlers are going up and down Comet Bay, \$250 000-worth of fish has been discarded in that significant nursery area, and no action is being taken.

Hon J.A. Scott interjected.

Hon J.A. COWDELL: Of course, and we hope that all the licences that are in operation there are in order, but they seem not to be. The Minister said recently that the Government has a new fisheries policy. He said that the Government was protecting the area off the Dawesville channel. The fact that it was an area in which trawlers did not want to operate, was immaterial; it would be protected by reefs and so on. I commend to the House the resolution of the City of Mandurah in this regard, which reads -

That the Minister for Primary Industry and Fisheries, the Hon. Monty House, MLA, be advised that Council agrees that changes to the current management arrangements for the South West Trawl Fisheries are necessary.

That the Minister undertakes to buy back the existing licences from trawlers operating in Zone D.

That the Minister be advised that Council seeks the permanent closure of trawl fishing between Becher Point and Cape Bouvard, extending 10 nautical miles to the west.

That Council supports other forms of fishing in this area, but is totally opposed to any form of trawl fishing.

That was a very sound policy adopted by the City of Mandurah, of which the Minister should take note.

I turn now to the valedicts, and use that term in relation to those who are graduating from the Council, so to speak, but not necessarily retiring. We are aware of a number of members in that situation. I pay tribute to those, including Hon Phil Lockyer. I have enjoyed his many speeches, not in total but in part. His dedication to his electorate is obvious, as is his commitment to those whom he has served. I recall very well his commitment to and standing by Hon Ray O'Connor. That was commendable. He has served this House well.

Hon Ian MacLean has been here only for a short time. I know he is probably owed a favour for the resuscitation of the Trades and Labor Council, but I will leave it at that.

Hon Graham Edwards was our leader in this place; and he was a distinguished Minister. I have known Graham for many years. When we were doing the preselections in 1982 for the 1983 election we did not pay too much attention to various seats. Someone asked who was this guy, Edwards, we had just endorsed for North Metropolitan. We discovered who he was after the election when he was elected. He has been a credit to the Labor Party and he has served with distinction.

Hon Alannah MacTiernan has also served with distinction. It was my privilege to be here today for her valedictory urgency motion! No doubt she will proceed to more illustrious heights - members of the legal profession normally do - and I wish her well and success when contesting the seat of Armadale.

Hon Val Ferguson is a very good friend of mine, and it has been my pleasure to serve with her in this place. Val has served in the thirty-third and the thirty-fourth Parliament. I do not think she could claim any sort of record with shortness of record. When we add the thirty-third and the thirty-fourth Parliaments, we find she surpasses about 10 other members of this Chamber over its history. I would like to say what a pleasure it has been to serve with Val on the Legislation Committee. I recognise her commitment to all the community groups in her constituency and to individual people within it, her kindness and what she has done as an ordinary member in the community. That cannot be overestimated. She is one of the astutest people in this House. When one talks to her about what is going on Val always knows precisely what is going on. It has been a pleasure to serve with Val.

It has also been a pleasure to serve with Hon Doug Wenn, my colleague from the south west. Doug has shown a great deal of consideration for me. He took me around as a newly elected member, to introduce me to the various development commissions. I have appreciated his friendship in recent years and the fact that he has gone out of his way to assist me. I have appreciated his contribution in this place, listening to his speeches, and recognising his commitment to the electorate and to the Labor Party. He has maintained the standard.

I would like to acknowledge the contribution of Hon Sam Piantadosi, his knowledge and experience has always been brought to the benefit of the Chamber, from his working life and his union involvement. I recognise his support for various ethnic communities - not only the Italian community, for which he has been honoured, but also the Macedonian and Chinese communities. Sam has brought a lot to this Chamber over the years.

I suppose nothing would crystallise the tragic loss of the valedicts on this occasion than an incident a few years ago which I recall involved three of them. Mr President, you were acquainted with the fact that Hon Sam Piantadosi had been engaged in his usual good natured banter with Hon Phil Lockyer in somewhat colourful terms. The next scene was Hon Sam Piantadosi hitting Hon Phil Lockyer over the head with a rolled up notice paper. You inquired, Mr President, as to what was going on. The reply from Hon Sam Piantadosi was, "Mr President, I am just helping you to keep him in order", to which you said, "Don't you worry about that. I am looking after that. Resume your seat."

That brings me to you, Mr President. You have been looking after "that" for as long as almost every member can recall. We owe you a great deal for that, and for the way you have managed the whole Chamber. You have slowed things down when people became overwrought, and eventually they went to sleep and were not overwrought - or question time expired. Either way it had the desired effect. We realise the wider contributions you have made, Mr President, certainly by putting this Parliament of Western Australia on the map - a map which it would not have been on without your role in the Commonwealth Parliamentary Association and as Chair of the Executive of that body. Of course, more recently, we have seen reform in relation to the televising of Parliament. I am not sure there is a great market for the product; nevertheless we provide it. I feel sure members will lift their game in due course and hence lift the ratings.

Yesterday the Leader of the House commemorated your role as President and referred to the next phase of your illustrious career. I thought it was a little churlish of him to refer in this regard to a knighthood. In the generous terms of the British Labour Party or the New Zealand Labour Party it would be at least a seat in the House of Lords and not a mere knighthood. Indeed, I suggest to the Government that this might be the only way that it can prevent your returning to take a seat again in this Chamber. If it worked for Billy Hughes in respect of Sir John Forrest then the Government should take note of the precedent.

Hon P.R. Lightfoot: You mean as the first colonial born Lord?

Hon J.A. COWDELL: Mr President, I wish you well in the next stage of your career. Being a member of this graduating class, I am not sure why you have been held back from graduation for so long. I appreciated Hon George Cash's speech last year - he did not run to hyperbole in any sense when he said that you had now served 30 years and he looked forward to the next 30. Obviously, you were looking forward to re-endorsement after a term as Agent General. As I said, I have offered the Liberal Party a solution in regard to continued upper House service - in the House of Lords.

I will conclude, having mentioned some general concerns in the community, some of the particular concerns of my constituents and having paid tribute to those who will be leaving us to find greener pastures at the appropriate time. We may not be given notice far enough in advance to give appropriate speeches. However, I wish those who are leaving the House well, if not success in every electoral contest.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [7.51 pm]: I normally thank members for their support of the Bill, but I do not think I have heard any. I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

[Resolved, that the House continue to sit beyond 11.00 pm]

## **STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION**

### *Report Tabling*

Hon M.D. Nixon presented the seventeenth report of the Standing Committee on Constitutional Affairs and Statutes Revision in relation to a petition regarding hardship due to the formerly rare and endangered plant *Acadia guinetti*, and on his motion it was resolved -

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

[See paper No 881.]

## **QUESTION ON NOTICE - 948, TABLING OF DOCUMENTS**

Hon Peter Foss (Attorney General) was granted leave to table documents in relation to question on notice 948. [See paper No 882.]

## **MENTAL HEALTH BILL**

### **MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL**

### **CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) BILL**

On motion by Hon N.F. Moore (Leader of the House), resolved -

That leave be granted for the Bills to be discussed cognately at the second reading stage in accordance with Standing Order No 256.

### *Second Readings*

Debate resumed from 5 November.

**HON KIM CHANCE** (Agricultural - Leader of the Opposition) [7.54 pm]: The Opposition is pleased to announce formally that it will support the three Bills.

I note as an aside that the debate on the principal Bill - the Mental Health Bill - began at 3.45 pm on 22 October in the other place following a debate on a matter of public interest. Having read the record of the debate, I got a very strong impression that the Mental Health Bill would probably not have been debated on that day had the Opposition not forced the issue. At that stage the principal Bill was Order of the Day No 17 and the other two were Orders of the Day Nos 18 and 19. The debate began and was not concluded until some days later - if my memory serves me correctly, on 31 October. That gives an indication of the degree to which the Opposition has been committed to having this debate brought forward to ensure that it is dealt with by both of Houses of the Parliament in this current session. That is in recognition of the tremendous importance that the community places on the passage of these three Bills and the changes they bring to the mentally ill, those who work with patients who are mentally ill and the whole community of Western Australia.

The Opposition is pleased to have the opportunity to debate this Bill, which has been so keenly awaited in the community, and that we are able to give it the respect and consideration that it and the other two Bills deserve. I also acknowledge the role played by the Leader of the House and the Government in accepting that this legislation is incredibly important and for coming back today for the specific purpose of debating these Bills. In my discussions with the Leader of the House last week I advised that the Opposition was of the view that this Bill should not be included in the somewhat crowded Notice Paper with which we dealt last week. I am grateful that we now have the occasion to properly consider the three Bills after the briefing which the Opposition did not have until last Friday.



On the Opposition's behalf, I commend the Minister and the officers of the department who provided that briefing which we found extremely helpful.

As has been indicated, the Opposition already concurs with the Government's view that the Bills should be dealt with cognately. However, I hope some consideration will be given to my colleague Hon Nick Griffiths who, as a result of our agreement to the cognate debate, will be limited to a single 45 minute contribution for all three Bills, unless honourable members agree to extend his time. Hon Nick Griffiths has indicated to me that he is probably unlikely to require an extension of time. However, I would appreciate the Government's cooperation and that of all honourable members in that regard.

We have agreed to the cognate debate on the basis of our consideration of the Bills which has brought us to the view that there is considerable difficulty in attempting to cover the scope of the three Bills as three separate packages because they are so inextricably linked. We initially proposed to deal with two Bills cognately, the Mental Health Bill and the consequential provisions Bill and then have a separate debate for the Criminal Law (Mentally Impaired Defendants) Bill. However, that would be impossible and after we understood the legislation better, it became clear we had to do it this way. At this stage I do not expect that any other opposition speaker will require additional time; however, if the need occurs I hope honourable members will take into account the concession that the Opposition has made to ensure the effective progress of this important legislation.

It would be easy, albeit churlish, for the Opposition to criticise the Government for the long wait that the people of Western Australia have had for this legislation, which modernises the statutory provisions we have to protect and treat those who have a mental illness. The fact is that a succession of Ministers have contributed their best efforts to bringing forward this legislation. Those Ministers have been members of Labor and coalition Governments over the history of this principal Bill which I understand goes back some 15 years. If I do have a criticism of the Government's handling of this legislation, it is that I would have been happier if it had been made available in Green Bill form. It should also have been available for public comment for some time prior to this debate. Despite having bipartisan support, this issue is of such sensitivity and, dare I say it, complexity that public division exists. Therefore, it would have been helpful to the debate if we could have given those differing public views an airing in the Parliament as an outcome of broad public discussion.

One example of that on which, unlike my colleagues, I will not spend much time, is the police powers in part 10 division 2 of the Bill. This issue must be resolved in the public's mind. I am more or less satisfied of the position we should take; however, even at the parliamentary level, others of my colleagues take a different view.

While it is not my wish to single out any one of the former and current Labor and coalition Ministers for Health and their contributions to this legislation, I acknowledge the commitment made by the former Minister for Health, Hon Graham Kierath, whose work has considerably advanced the progress that has been made. One of the contributions made by Hon Graham Kierath was the initiation and establishment of the ministerial task force which was chaired by Hon Derrick Tomlinson. The report of the task force which some members of the Opposition have read over the past few days has considerably advanced the debate as a whole, although the task force report is not specifically and directly relevant to the legislation itself. Nonetheless, it identified with great precision the difficulties we face in the mental health area and then prescribed how those difficulties may be properly addressed. The legislation is a tool to achieving those ends. However, the legislation and the task force report provided us with a road map for future recovery. It also underlined the fact that the legislation cannot achieve much unless proper resourcing to mental health is made available.

With respect to Hon Graham Kierath, it would be an understatement to say that generally the Opposition is at odds with that Minister's views. However, notwithstanding our opinion of some of his initiatives, his commitment to reform in the mental health area should be acknowledged and appreciated. I also acknowledge the huge amount of work that has been done by departmental officers in getting this legislation to this point. Those officers have had to grapple with a vast range of extremely sensitive issues and have navigated what would seem to many to be an impossibly difficult line between compassion and dignity, human rights and the public interest, and between bigotry, ignorance and denial. They have done so with consummate skill. While this legislation is not without fault, it represents a huge step forward in the way we care for those who suffer from mental illness.

This is probably an appropriate moment to consider what is a mental illness. The Mental Health Act defines a mental illness as a disturbance of thought, mood, volition, perception, orientation or memory that impairs judgment or behaviour to a significant extent. Interestingly the Bill prescribes behaviour that is excluded from that which can be deemed to be indicative of a mental illness. That prescription provides considerable protection for individuals and prevents individuality from being classified as mental illness on the basis that it is unusual or aberrant behaviour or because a view is held by a person which is tangential to the norm or for that matter even antisocial.

Hon Derrick Tomlinson: Good. I am sane.

Hon KIM CHANCE: We hope so. Such behaviour on its own cannot be deemed to be indicative of mental illness.

Hon Peter Foss: It can in combination with -

Hon KIM CHANCE: I think the term is co-morbidity; however, I will get to that later.

Hon P.R. Lightfoot: When you said "co" did you mean Hon Derrick Tomlinson or me?

Hon KIM CHANCE: I did not mean either member. One of the definitions excluded from the definition of mental illness is of a person who has an intellectual disability. Again this comes down to the question of co-morbidity. It does not mean that a disabled person cannot also be ill, but rather that in any assessment of whether an illness exists, the person's disability is not an issue on its own.

One aspect which intrigues me is that while the taking of drugs or alcohol is excluded from consideration of whether a person is, or is not, ill, the definition of mental illness includes behavioural patterns which can be entirely consistent with the taking of drugs and alcohol. I have already said that those considerations include a disturbance of thought, mood, volition, perception, orientation or memory that impairs the judgment or behaviour to a significant extent. All these considerations are deficiencies which are commonly associated with drug and alcohol abuse and contribute to a diagnosis of some form of mental illness. Putting aside the question of drug and alcohol abuse which can induce those factors and be judged as indicative of a mental illness, it is not solely drugs and alcohol which create short term or temporary deviations from the normal. I am sure all members would be able to recognise that some, if not all, of those factors can be the result of the onset of stress-related pressures and similarly depression. If members contemplate that for a moment they would reach the conclusion that mental illness, like physical illness, is not something which happens to other people. In the same way that a member can have a dose of the flu, or suffer a stroke or heart attack, a member can succumb to a range of illnesses which affect one's mind and ability to reason.

Hon Peter Foss: It is one in five.

Hon KIM CHANCE: That is correct. It can happen as easily as one is affected by a disease of the body.

Hon Peter Foss: We have seven of us here.

Hon A.J.G. MacTiernan: We know which seven it is - they are all on the other side of the House.

Hon KIM CHANCE: I suggest that this place is a handy refuge for people with a mental illness. Once a person is in this place, it is hard to distinguish him from anybody else.

In a sense, through this Bill we are confronting one of society's last taboos. It is encouraging that people are now more willing to talk about mental illness in its various forms and to acknowledge it for what it really is - an illness to be treated and not an affliction which should cause sufferers to be shut away. I give credit to the health authorities for the recent series of advertisements which end with the words, "People may call her mentally ill. Her friends just call her Carol." These powerful words go right to the heart of improving people's attitude to mental illness. The Bill progresses that welcome change in community opinion.

Clause 5, the objects of the legislation, includes the United Nations' principle that persons with a mental illness are entitled to receive the best care and treatment in the least restrictive environment and with the least interference to their rights and dignity. It is a noble sentiment and I mean that in its most literal sense. People sometimes criticise United Nations' conventions because they do not understand them, but this is a wonderful example of a United Nations' agreement. I believe it is the Declaration of Hawaii, but I am not sure about that, which provided this State with an achievable target and which, if achieved substantially, will bring benefit to not only the mentally ill, but also the whole of society. So far even the most advanced nations on earth have fallen far short of the letter and spirit of that United Nations' convention.

I clearly remember Hon Bob Thomas' vivid recital of what he saw on the streets of London when he visited Britain last year. He noticed significant numbers of fit and somewhat dangerous looking young men who were obviously homeless and living on the streets. Apart from that, they seemed to have a common denominator. When he inquired about the numbers of young men who looked vaguely similar to each other, he found that they were combat neurosis victims, who are veterans of the Falkland Islands campaign. Many of them had been hospitalised after their return from service, but had been dumped on the streets by the government policy in Britain at the time of emptying mental hospitals. These homeless men had been the cream of the British military. They were the guardsmen, the marine commandos and the Special Air Service soldiers. Their fellow countrymen had rejected them and denied them their rights and even their dignity in the interest of saving a few pounds. If they had suffered a physical injury in the Falklands rather than a combat related mental illness, perhaps one could ask whether they would have been treated so badly. The answer is probably no. It is certainly not limited to British Falkland Islands veterans. Both Australian and United States' Vietnam veterans still suffer mental wounds after more than 20 years. Britain's decision under the

Thatcher Government to close mental hospitals was claimed to be more than just a cost saving exercise. Britain, the United States and Australia have acted on the advice that people with mental illness can be treated in and rehabilitated to the broader community. Of course, that is absolutely right, but it is achievable only if sufficient resources are devoted to the first part of the equation; that is, that we can treat people if they are part of the community. All too often we see examples of similar or less dramatic cases to that related by Hon Bob Thomas. However, we have not yet applied sufficient resources to provide adequate care for community members who need help.

Hon Peter Foss: It tends to be more expensive, which is contrary to the suggested view.

Hon KIM CHANCE: It may be more expensive in dollar terms.

Hon Peter Foss: I am not against it. It was sold to many people as being cheaper, but in fact it is not.

Hon KIM CHANCE: In Britain it was cheaper because it was simply abandoned.

Hon A.J.G. MacTiernan: The same thing occurred in the United States.

Hon KIM CHANCE: I believe that to be the case, but I use that example because of what Hon Bob Thomas told this House. This legislation alone cannot achieve those aims. It can help, but only a commitment to meet the need can get this State to where it actually needs to be. This Bill is able to prescribe the way it can be done. I said earlier it can be done only in conjunction with the mental health task force report and in that respect we have an opportunity to see where this State is going.

In respect of the question of a balance between legislation and resources, it has been said that the new legislation will be of little value until this State has the financial and human resources - notably psychiatrists and community mental health nurses - to fix the problem. The alternative view was that unless this legislation is put in place this State will never have the imperative to find the resources. I am glad that this second view has ultimately prevailed, but we cannot afford to lose sight of the fact that the three Bills will solve little unless we can put in place the means of resolution.

The Bills set out to resolve the shortage of psychiatric advice, at least to some extent, through part 3, division 3, which deals with the question of involuntary patients being subjected to a community treatment order. Clause 65, for example, requires that a psychiatrist should first consider whether the objectives of the proposed Act are better served by making a community treatment order in respect of a patient before ordering the detention of an involuntary patient. On deciding that a community treatment order is an applicable order, he must specify a psychiatrist who will have responsibility for carrying out the order in matters such as the continued use of medication and other matters relating to treatment. From that point on, an authorised medical practitioner, not necessarily a psychiatrist, but it may be such a person, can assume responsibility for carrying out a treatment plan. In addition, the authorised medical practitioner, a psychiatrist, is required to report to the responsible psychiatrist on the patient's progress.

That is an example of how the legislation sets out to devolve treatment into the community. Although it is but one example, it is indicative of the culture of the Bill, which I support wholeheartedly. Our general practitioners are largely an underutilised resource, particularly in mental health. I reject the notion that we need one doctor for the body and another for the mind. Specialisation has its place, but the mind and the body are not discrete things and medical science needs to reflect that fact.

Hon Peter Foss: What we need is a full qualification to continue the treatment of a specialist. That is one of the problems in psychiatry.

Hon KIM CHANCE: One of the questions I asked of the officers who provided a briefing was the extent to which medical students and graduating doctors intending to be involved in general practice are trained in psychiatry as part of the package. I was gratified to hear that such training was on the increase, and considerably so. That is a very good development.

Apart from the fact that it is helpful to be able to refer ongoing supervision of psychiatric treatment to a general practitioner, it is also absolutely essential to recognise that a GP is almost always the first port of call for a patient presenting with psychiatric difficulties. Indeed, if the GP has had correct and sufficient training, it is quite possible that he or she will be able to treat problems at an early stage. I am referring to the common difficulties which arise associated with stress and depression. If they can be recognised early, it may be possible to arrange treatment to prevent them becoming much more serious illnesses.

I move now to the protection of rights of a patient. Although I described this legislation earlier as being incredibly complex, it is not complex legislation to read; it takes a long time to read, but it is not difficult to understand. I said earlier that Western Australian legislation is generally easy to understand. The measure is complex because it will

achieve a number of very different ambitions, one of the most important of which is the way in which the rights of mental patients will be recognised and safeguarded.

We must consider at this point a little of the history of mental health legislation in Western Australia. The legislation, at least in so far as mentally impaired defendants are concerned, and I suspect this point applies to all mental health legislation, has virtually been unamended since the Criminal Code was first enacted in 1913. We have come a long way since then, but sadly much of our legislation has omitted to take into account the changes in the way we treat mental illness. Principal among those omissions, leaving aside some of the specific treatment issues, is the degree to which a mental health patient has the same rights as any other patient. That was not the case in 1913 and probably not the case in 1962 when the last major amendment to the Act occurred.

Hon Peter Foss: Do not forget 1981.

Hon KIM CHANCE: And 1981.

Hon Peter Foss: It is almost identical.

Hon KIM CHANCE: Sure. Most members would recognise the Bill's changes to provide improved rights for mental health patients. It is fair to say that under the Mental Health Act a mental health patient had fewer rights than a common criminal. That contributes to and reflects the stigma surrounding mental illness. A person arrested for committing a criminal offence has available a range of rights, privileges and protections. He or she has the availability of bail, the right to representation, the presumption of innocence and a day in court and, indeed, even the right to take action in a case of wrongful arrest. People who have committed no crime but who are, or are even thought to be, mentally ill have had no such equivalent protection. This Bill will rectify this anomaly in a number of ways, which I will outline shortly.

It can also be argued that to some extent the Bill actually compromises human rights to a greater extent than that found in the principal legislation. This is where we reach the point of welcoming the Bill for its far-sighted improvements, but express a little doubt regarding small sections of it where we can reasonably argue - I refer now to clauses 195 to 200 regarding police powers - that it will diminish human rights.

First, on the positive aspects, patients' rights are significantly enhanced, particularly in part 5 of the legislation, in a number of ways. In respect of the first enhancement of rights, a mentally impaired defendant's treating psychiatrist is required to report that treatment to the Mental Health Review Board. A patient is entitled to the principle of informed consent, which has been a major issue of contention under the current Act. Such advice to be given in the process of informed consent must be sufficient to enable a patient to make a balanced judgment about the recommended treatment, including a warning of any side effects or inherent risks which the patient may face should he decide to accept that form of treatment. That process includes the right to an interpreter if such service is required. The patient must be given time to consider the advice he or she is given and, if necessary, the time to obtain further advice and assistance. Certain treatments are prohibited or, in other cases, subject to stringent limitations. A maximum penalty of five years' imprisonment is prescribed for persons administering deep sleep therapy, insulin coma or subcoma therapy. Psychosurgery which involves surgery or intra-cerebral electrodes requires informed consent and the approval of the Mental Health Review Board. The practice of an act of psychosurgery contrary to the provisions of the Mental Health Act also carries a penalty of five years' imprisonment.

Members of the Opposition were informed during the briefing on Friday that psychosurgery has not been practised in Western Australia for 20 years, but it remains in the Act subject to new limitations on its use. Electroconvulsive therapy is retained, but it may not be performed on an involuntary patient without the recommendation of a treating psychiatrist and approval of that recommendation by another psychiatrist. Even under those conditions, the psychiatrist must establish both merit and appropriateness with regard to that treatment. The psychiatrist must also ascertain whether the patient is able to give consent and, if able to do so, has given informed consent. I will ask the Minister in Committee about the effect of clause 105(c)(ii) because it seems that such therapy can be administered even if the patient has refused consent, but the psychiatrist must have regard to whether or not that consent has been given. In the event that another psychiatrist does not approve the recommendation to use electroconvulsive therapy, the psychiatrist making the recommendation must refer the matter in writing to the Mental Health Review Board, which will have a number of options. They will not include the authorisation of such treatment but it may order that the patient be no longer deemed an involuntary patient. In other words, considerable protection is available to an involuntary patient with respect to the most intrusive forms of treatment. Electroconvulsive therapy may be performed on voluntary patients, who are not being treated as emergency psychiatric patients, only after informed consent has been given. It is not a defence to say a person is not capable of giving such consent.

An involuntary patient may still be given treatment, other than prohibited treatment, without their consent. This obviously includes the whole range of drugs which may be administered. Similarly, a mentally impaired defendant

in an authorised hospital may be treated without consent. However, in those circumstances the involuntary patient has the option of another psychiatrist's opinion. Interestingly, the communication between the patient and the other psychiatrist may not be by means of physical presence but only by audio-visual means. I find that rather surprising and I will seek an explanation for that provision in clause 111.

Hon Peter Foss: Otherwise it could mean either audio or visual but not audio-visual.

Hon KIM CHANCE: Is that what it means? Of course, that should not be discussed at this stage of the debate. A number of options are available from that point, including reference to the Mental Health Review Board which may transfer responsibility for treatment of that patient to yet another psychiatrist.

I have mentioned already the term emergency psychiatric treatment in the context of electroconvulsive therapy. Emergency psychiatric treatment is defined as that necessary to save a patient's life or prevent behaviour which could seriously harm the patient or another person. Psychosurgery is not permitted as an emergency treatment. Provisions in other clauses restrict the use of techniques such as seclusion and mechanical body restraints. In each case the use of such techniques must be reported to the Mental Health Review Board. That board must include at least one psychiatrist, one legal practitioner and one person who is neither a medical nor legal practitioner. Clause 126 does not specify the need for a patients' advocate. That is a deficiency. I understand that although the clause relating to the Council of Official Visitors contains no such prescription, there seems to be scope to include a person who could be regarded as a patients' advocate. However, the Mental Health Review Board is not required to obtain that advice. I ask the Minister to comment on that when he responds to the debate.

Patients' rights are dealt with in more detail in part 7 of the Bill and this is one of the most important parts of the Bill. Time precludes me from dealing with it in detail, but it contains a number of important matters which advance the rights and comforts of psychiatric patients. Setting aside part 7 of the Bill, the legislation includes the concept of the official visitor and clause 176 establishes the Council of Official Visitors. The council's role is to visit every authorised hospital at least every month, and to visit affected persons as soon as is practicable after a request by such a person for a visit. That is a very important principle. One of the great fears about mental health patients is that people can spend a large part of their life detained as an involuntary patient, because of a view of a psychiatrist, doctor or another group of people, when there may be no real need for that. There is also a fear, which may stem from practices long past - at least I hope they are long past -

Hon Peter Foss: Did you see that amazing play by Deck Chair Theatre?

Hon KIM CHANCE: I have certainly heard of cases in which the arts have grasped at this social problem and done it extremely well. *One Flew over the Cuckoo's Nest* is another example. There is a fear that while people are in detention as involuntary patients they may be subjected to treatments to which they object. The whole concept of the official visitor and the Council of Official Visitors is that a patient or the patient's guardian who believes the patient is either being detained or treated in a manner in which he or she should not be detained or treated, has a right of appeal to the visitor. That is a valuable protection not only for patients, but also for the rest of us. Members of the Council of Official Visitors are to be appointed from the general community and are specifically not required to have any particular experience or qualifications. That is why I referred to the possibility that at least the council, if not the Mental Health Review Board, might include representation from people who could be deemed to be patients' advocates; that is, people who specifically lobby on behalf of patients' interests. I do not mean an advocate in any sense other than somebody who is or has been a patient, who has a relative or ward who is a patient, or who is closely affected by and in touch with mental health patients.

Hon Peter Foss: All the current visitors regard themselves as having a serious role to play in the protection of the patients. I think you might call them advocates.

Hon KIM CHANCE: That is why I made that qualification. Just having said the word "advocate", one could reasonably argue that someone who was close to, but not directly involved in, the operation of the mental health system would be an advocate for mental health patients, without actually having a close involvement with any one patient or group of patients.

Hon Peter Foss: They don't see themselves as guardian angels. That is the bottom line. I think they often take in more than that.

Hon KIM CHANCE: All I am saying is that I would prefer to have someone there who knows the pain of being a mental health patient. Someone who has suffered or still suffers from mental health illness would be a valuable part of that advisory council. To some extent there is a precedent in this because I am aware, as a result of going through volume 1 of the mental health task force report, that at least one of the subcommittees of the task force included people who were or had been mental health patients.

Hon Peter Foss: The big change is the fact that the visitors have been consolidated, whereas at the moment individual hospitals have individual boards of visitors and there are a couple of panels for the private hostels. There are at least two panels, and several hostels are done by one panel and several are done by the other; however, at the moment each hostel has its own visitors. The big difference in this legislation is that the consolidation and apportionment will be done by the council rather than by appointment.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! I have been reluctant to interrupt Hon Kim Chance, but two members in the Chamber are offending against Standing Order No 79. I suggest they read Standing Order No 79 and that the two members who are standing in the Chamber find a place to sit.

Hon KIM CHANCE: In closing on that issue it is fair to say that an official visitor and the Council of Visitors have a significant power to investigate and recommend action for an individual patient or a group of patients.

I now cross to the Criminal Law (Mentally Impaired Defendants) Bill. I will not spend a great deal of time on this Bill because it is not strictly a health related issue. My colleague the shadow Attorney General will spend more time on that legislation, although I understand from him that the Bill does not contain as much to discuss as the principal Act. The Bill does not set out to treat mentally impaired defendants in any category separate from those who suffer a mental illness, but rather it will update the criminal law as it relates to all mentally impaired defendants. This is entirely necessary because no amendments have been made to the Criminal Code as it relates to mentally impaired defendants since its enactment in 1913. This Bill sets out to reflect views that were contained in submissions in the general review of the Criminal Code that were prepared by Justice Murray some years ago. One of the principle changes in this Bill is that the courts, rather than the Governor in Executive Council, will make the decisions, at least in the first instance, on whether a defendant should face a custodial order or should be subject to a conditional or unconditional discharge.

It is a concept of this Bill that mentally impaired defendants are not criminally responsible for their actions. Obviously society must be protected from violent or antisocial actions by such defendants. However, this must be done in the context of a person's illness. New definitions of mental illness are contained in the Bill. They replace the outdated definition in the Criminal Code. The definitions are different from those contained in the Mental Health Bill for mental illness. Mental illness is defined in the Criminal Law (Mentally Impaired Defendants) Bill as being an underlying pathological infirmity of the mind, whether of short or long duration, and whether permanent or temporary, but does not include a condition that results from the reaction of a healthy mind to extraordinary stimuli. The concept of a person subject to alcohol or drug abuse, for example, being a person who may be subject to police harassment under these laws is not a matter that should concern people unnecessarily because the state of mind that can be created by extraordinary stimuli, if that is alcohol and drug abuse, within a healthy mind is not a condition that can be treated as mental illness. I am sure that will create some debate in the future. Mental impairment is defined simply as being intellectual disability, mental illness, brain damage or senility. A clear difference is established between the two.

I will cross even more briefly now to the third Bill, the Mental Health (Consequential Provisions) Bill. I mention it only to acknowledge its presence in the context of the debate as a whole. It will amend a number of Acts that must be amended in recognition of changes made in the principal Act and in the Criminal Law (Mentally Impaired Defendants) Bill.

I refer now to an issue on which I have touched twice and on which other members of the Opposition will speak; that is, the powers of the police. The powers to which I have already referred are contained in clauses 195 to 200. These are the clauses most commonly mentioned by the public as being of some concern. They are included under division 2 of part 10 "Miscellaneous" of the Mental Health Bill. People are concerned that a police officer will have the power to take certain action in respect of a person who the officer suspects, on reasonable grounds, may have a mental illness or must be apprehended to protect that person's or another person's safety or prevent serious damage to property. The issue of contention is whether a police officer should be able to act independently in exercising that power or whether there should be some judicial oversight by such means as the endorsement of a justice of the peace.

I do not intend to go any further with an argument on that. I simply bring it forward as an issue. Other members will deal with it in greater depth. My preference at this stage - I am certainly not wedded to this view until I have heard all the arguments - is that I will not support the proposed amendments to clauses 195 and 196. However, I want to be quite clear that the Government intends to take a second look at these provisions. I am not anticipating that the Government will take a second look, without some degree of assurance. The very last sentence of the Minister's second reading speech on the Mental Health Bill indicates that he will bring an amendment Bill to the Parliament probably mid next year to advance this legislation even further.

Hon N.D. Griffiths interjected.

Hon KIM CHANCE: Quite; as a matter of intent. I am not speaking for every opposition member on this. I am prepared to accept that, subject to what the Attorney General may say on behalf of the Government, as long as I am convinced that there is a real undertaking by the Government, not necessarily to change those clauses, but to seek more public advice and come back to the Parliament with that advice.

My advice after I consulted again with departmental officers on this matter was that, apart from the justices, all the major players involved in putting this legislation together supported the wording of the Bill as it is now; that is, with the police officers exercising their discretion without judicial oversight. Even some of the justices are not entirely convinced that the powers they have are necessary or effective powers.

Hon Peter Foss: That is slightly different from these powers.

Hon KIM CHANCE: Yes. In any case it is getting close to a legal matter and I do not intend to cross into water properly swum by the shadow Attorney General.

In closing, I most certainly commend the Bill. If things are said about a small part of the Bill which indicate a degree of conflict, I can assure members that the Opposition's broad view is not in conflict with the Bill. Indeed, we give it our wholehearted support. There is no legislation, particularly as complex as this, with which we could expect unanimity. I hope that with the goodwill required to get this legislation through we will be able to overcome what can reasonably be seen by people - Hon Nick Griffiths will make it quite clear - to be provisions granting the police excessive powers. This is a matter with which not only we but also all members of the community must be absolutely satisfied. When we grant to the police powers of this nature, which are perhaps subject to some retrospective review, but are exercised without any oversight at all, we take a great risk. I commend the Bill to the House.

**HON N.D. GRIFFITHS** (East Metropolitan) [8:57 pm]: I note that we are appropriately dealing with the three Bills cognately, because to a great extent their provisions intertwine. The Mental Health Bill contains major improvements in our treatment of mental health. Some aspects of it may cause concern, but the Bill as a whole is a significant measure and should be supported by all members in this House. As one expects, the Mental Health (Consequential Provisions) Bill deals with matters consequential to the Mental Health Bill and to the Criminal Law (Mentally Impaired Defendants) Bill. The criminal law Bill relates to criminal proceedings involving mentally impaired people charged with offences. It is to do with more modern, fair treatment of those who come within its confines and who are dealt with in the criminal justice system. The Mental Health Bill is to do with the care of those who are mentally ill.

As Hon Kim Chance pointed out, the definitions for mental illness in the Mental Health Bill differ from those in the criminal law Bill. Those definitions recognise the different roles to be played by the legislative regime set up by both Bills. The matters dealt with in the three Bills are very significant to the people of Western Australia because of the potential effect on the number of people and the individuals who are likely to find themselves being dealt with according to the provisions contained in these measures.

The recent budget papers contained significant information on just how important are the matters which are the subject of these Bills. I refer to Budget Paper No 6 at pages 90-34 and 90-35 where a number of facts are pointed out. The first was mentioned by way of interjection from the Attorney General during Hon Kim Chance's speech; that is, that one in five Australians will at some time in their lives experience a mental health problem or mental disorder.

There were persistent medical disorders requiring specialised treatment which affect approximately 3 per cent of our population at any one time and make up approximately 3 per cent of hospital discharges each year. We can consider the effect on the overall Health budget by taking into account the next point; that is, almost one in five hospital beds are occupied by persons having specialised treatment for mental disorders. Therefore, this is a very significant area of public policy and should be treated that way by all members of this House, as it has been and I am sure will be. I note that in considering these matters the budget papers referred particularly to schizophrenia, which was a significant cause of disability in the community, with between 70 and 80 per cent of people diagnosed with it experiencing moderate to severe handicap. The papers refer to the shortage of psychiatrists. I note that the number in the community generally is being increased. That shortage of psychiatrists is not confined to Western Australia but is Australia-wide. Measures are being taken but they will not address the issue for several years. Significant progress has been made, I am pleased to note. All members of this Parliament are pleased about it and congratulate those who have put in place the measures to cause those improvements.

Two aspects in particular concern me about matters raised in the budget papers. I mention them in passing. The first is the suicide rate. I note it is said that Western Australia is doing relatively well compared with other States for the 15 to 19 year old age group. I emphasise the word "relatively". The next age group, which is of 20 to 24 year olds, is a very significant problem indeed.

Hon Peter Foss: I think a few years ago it was the 15 to 19 year olds. There is obviously a cohort going through with that higher suicide rate.

Hon N.D. GRIFFITHS: I understand the cohort argument. It seems to me that if we are in a position to appreciate that, it should be easier to provide programs for that specific cohort rather than across the board. Particular socioeconomic trends might have existed at a particular time.

Hon Peter Foss: The reason I raised it is that we say we are doing better with the 15 to 19 year old age group, but what we have is a cohort moving on. I do not know that we are doing better.

Hon N.D. GRIFFITHS: What concerns me is that perhaps in three or four years we will be doing better with the 20 to 24 year olds but worse with the 24 to 28 year olds.

Hon Peter Foss: Precisely.

Hon N.D. GRIFFITHS: It seems to me that if we have identified a group of people born in a particular period who are having problems, our efforts should be to target programs to accommodate their needs.

The other matter I wish to raise in passing is not necessarily peculiar to Western Australia. Queensland, South Australia, the outback of New South Wales and the Northern Territory have similarities in that regard. It is still a significant matter for Western Australia. I refer to the resourcing of rural and remote areas. I note the budget papers comment that there is a critical need to enhance community mental health services. I trust that is being addressed progressively and that more attention is being paid to it, particularly following what I trust will be the passage of this legislation and some of the community programs which the legislation envisages.

I wish first to deal with some aspects of the Mental Health Bill. In doing so I trust I will not deal with the same matters dealt with by Hon Kim Chance; if I do, so be it. I have an interest in these matters and it is appropriate that I make mention of them. The Mental Health Bill is all about care. Reference has been made to potential abuse, and I will deal with that later on, but the real need in our community is not so much to prevent those very regrettable occasions of abuse, but the care of people who are in real need of care. I would hate to see our community go down the Thatcher, United Kingdom, line or the United States line, which some may argue is the consequence of espousing a certain brand of economics and having people in need of care being homeless and then finding themselves in the criminal justice system, where they should not be. My primary concern in approaching this subject is that I want our civilised community to be caring of people in need. In doing so I do not want their liberties to be taken away, but my primary concern is one of care.

Hon Peter Foss: There is a lot of intolerance in the community.

Hon N.D. GRIFFITHS: Yes. I note in that regard two objects of the Bill. When we deal with aspects of the Bill the objects of the Bill should be borne in mind. It is very easy to put the spotlight on a few black letters and say, "That is not on." We have to look at a particular aspect of legislation in context. In doing that I am addressing general principles rather than the specific wording of a particular clause. The objects are proper and I agree with them; they are to ensure that mentally ill persons receive the best care with the least restrictions on their freedom and interference with their rights and dignity. I do not think that any reasonable person could disagree with such an objective. If the Bill is to seek that objective and to ensure the proper protection of patients as well as the public, that is perfectly proper. I do not think that anyone could properly disagree with that. The last object is to minimise the adverse effects of mental illness on family life.

The first aspect of the Bill I wish to refer to is part 3, which deals with involuntary patients. This is a great improvement on the current law, which is set out in the Mental Health Act 1962. I am not sure if it was appropriate legislation for 1962 but I am sure that it is not appropriate legislation for 1996. Several significant matters are dealt with in part 3, perhaps the most significant of which sets out the criteria for an involuntary patient.

There are many criteria. I make mention of them in passing. Before somebody becomes an involuntary patient he must have a mental illness requiring treatment that can be provided through detention in places specified for particular treatment. For example, to protect the health or safety of the person who requires the treatment, or another person; to protect the person from self-inflicted harm; to protect the person from doing serious damage to any property; and to protect the person who has refused or is unable to consent to the treatment due to the nature of the mental illness concerned. Most importantly, a person should not be an involuntary patient if the treatment can be adequately provided in a way that would involve less restriction of the freedom of choice and movement of the person than would result from the person being an involuntary patient. Those are important principles. They are not contained in the present law, and it is a major step to insert them in this measure.

In dealing with the issue of involuntary treatment, it is significant to note that the psychiatrist who makes the order for involuntary treatment is not to do so unless the person the subject of the involuntary treatment is not capable of



being dealt with by a community treatment order. The regime of the Bill is that only after a number of criteria are met and after all other reasonable choices are considered will a person be made an involuntary patient. That is consistent with the object of the Bill, being care with due regard to liberty.

Part 3 deals with matters of referral for examination in an authorised hospital; examination otherwise; the issue of involuntary status; matters to do with detention in an authorised hospital, the period of detention, and release from detention; absence without leave, and leave of absence; the treatment of involuntary patients in the community; the issue of community treatment orders, to which I have made a reference; and matters to do with breaches of community treatment orders.

The regime set out in part 4 provides for an overall tightening of the time for assessment. That is consistent with the primary object of care with due regard for liberty.

Part 5 of the Bill relates to treatment. Hon Kim Chance dealt with a number of aspects in that context. I note in particular what he said about deep sleep therapy and insulin coma or subcoma therapy. I do not want to veer into the Committee stage of the Bill; however, I raise a query as to whether the term "deep sleep therapy" is necessarily precise? If it is not, that can be addressed in due course, and not necessarily this evening.

Part 6 is a major measure; it will establish the Mental Health Review Board. That board will enable some of the matters which I will deal with shortly - to do with the protection of patients' rights - to be dealt with in an appropriate way. It is a significant measure and what makes it particularly significant is the review processes. Those review processes provide safeguards of liberty, and the capacity to enhance care, which do not exist currently as a matter of law. In particular, I note that after the making of an order for a person to be admitted to an authorised hospital as an involuntary patient, or even a community treatment order, the board must carry out a review of whether the order should continue to have effect, and that review is to be carried out as soon as practicable and, in any event, not later than eight weeks after that time. It is a matter of improvement that those reviews will be repeated and will take place at least once every six months. Given the state of the current legislation that is a major improvement.

Part 7 of the Bill sets out matters to do with the protection of patients' rights. In summary, it requires that an explanation of patients' rights be given and that a copy of the explanation to be given to another person, and it deals with access to personal records. That does not take place in every case, but that is the general principle. Part 7 provides for the offence of ill treatment. That last aspect currently exists; however, this Bill provides that patients who are hospitalised have further rights. Those are matters that a civilised community takes as commonplace. As an aside, perhaps we should progress with respect to other people who find themselves without liberty by affording these rights more readily than we do, particularly to those who have not been convicted of any offence. I mention that, in passing; it is another subject.

The Bill makes provisions for patients to be afforded interviews; personal possessions; letters, and access to telephones and visitors; and other matters. I contrast that with the Mental Health Act 1962. The current position is set out under the heading "Protection of patients" in part V. I have referred to the protection of patients' rights. A different emphasis is placed on the heading in the 1962 Act, by comparison with the emphasis on matters in the 1996 Bill. The matters dealt with in the 1962 legislation include that patients and others are to be afforded interviews, and matters such as letters of patients and ill treatment of patients. By comparison with what this Bill proposes, the 1962 Act is extremely deficient. It is very welcome that we are progressing with this legislation. It is not appropriate in the second reading stage that one spend too much time on those aspects, other than to confirm that we consider it to be a very significant improvement to the law with respect to treating involuntary patients in a proper way as human beings.

It seems to me that we can have the best set of standards and the most profound statement of rights in the world, but if the means to have those rights accommodated is not provided, the rights are meaningless. I have read the 1936 Constitution of the Soviet Union. I thought it was a very democratic document, but it did not mean much to anyone in the Soviet Union, except that it was a very bad joke, at best.

Community support services are necessary, and I am pleased to see that part 8 of the Bill provides for them. I am particularly pleased to see that advocacy services rate a significant mention in this provision, because the beneficial systems contained in this Bill will not work; they will be meaningless and will be like the 1936 Constitution of the Soviet Union if patients cannot access advocates. I note the provisions of schedule 2, which we may or may not deal with later this evening.

It seems to me that this Bill is the result of significant bipartisan support in Western Australia to improve mental health. All the major parties have reprioritised health and now see it as one of the most significant areas where we can make our community a better place in which to reside. This Government and the next Government must provide significantly increased resources if the policy measures in this Bill are to work.

That Government must do that in the context of the Budget cuts announced by the Federal Government. In dealing with this aspect, I note the significance of work carried out by legal aid commissions in other parts of Australia in this area of advocacy. As part of the Howard Budget cuts the legal aid commissions are facing the likelihood of having to downgrade, diminish or cut out some services. Even if they are not, the matters of advocacy, in particular, which will be required to be taken up to give effect to the policy of this Bill, will require additional resources. The Government of Western Australia, irrespective of whether it is Liberal or Labor, will be put at odds with the Howard Liberal Government. Both sides of this Chamber are of the view that this is a significant area that requires proper resourcing. That area which has relevance to legal aid is significant. I trust I will be forgiven if I refer to the report of the ministerial task force on mental health. There is a slimmer document and I recognise someone in the photograph in this slimmer document. I could not find a member of this House in a photograph on the front page of this later document. Perhaps I should be referring to the slimmer document; in any event I refer to volume 2.

Hon Reg Davies: A slimmer member as well.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Is the member amending standing orders?

Hon N.D. GRIFFITHS: I know I am at grave risk; however, I will diplomatically and briefly answer the point made by Hon Reg Davies. I anticipate that over the next few weeks many of us will become slimmer very quickly. Knowing how these things work, I envisage we will put it all on again very quickly between 15 December and 1 January.

Hon A.J.G. MacTiernan: Speak for yourself!

Hon N.D. GRIFFITHS: I do, and I will for others; such is the way of the world.

I am not sure I will get through all the matters I wish to raise. In that event, I trust the House will grant me an indulgence for a short extension of time. It seems I must deal with some matters by way of summary and perhaps revisit them in greater detail in Committee.

With regard to community support services, I refer to pages 32-34 of volume 2 of the Report of the Ministerial Taskforce on Mental Health. Page 34 states -

It was strongly suggested to the Committee that funding should be provided jointly by the Legal Aid Commission, Disability Services Commission and Mental Health Services to provide a comprehensive legal advocacy service, substantially supported by appropriately trained volunteer advocates, under the supervision of qualified legal practitioners.

In that context, I note the potential consequences of the Howard budget cuts for this area of policy. The Legal Aid Commission prepared a submission headed "Need For a 'Stand Alone' Mental Health Legal Service". That submission is contained at pages 84-89 and states that in both New South Wales and Victoria, those matters are dealt with by the respective Legal Aid Commissions. I am aware that a stand alone mental health centre is envisaged. I am interested to know how that will be funded and to what extent it will link with the Legal Aid Commission.

One aspect of the Legal Aid Commission's submission that is of particular importance is the reference to the automatic review of patients admitted to treatment on an involuntary basis. It would be great to have an advocacy centre that could provide a significant safeguard, bearing in mind we are dealing with people who have not committed a crime but whose liberty has been taken away from them because they are involuntary patients. The Legal Aid Commission's submission states that consumers of mental health services have the same need for legal assistance as any other member of the community and that in some instances they have greater need because of their disabilities. The significant factor about advocacy is, as the report states, that -

Consumers of mental health services are notoriously disadvantaged by self-advocacy. The effects of illness or medication can severely disadvantage such people in putting a case forward in the most cogent and effective light. In addition, many patients are also disadvantaged by their suspicion of institutions (including the law) and are often accustomed to being unheard or misunderstood. These characteristics further inhibit both the patient's ability to put their wishes forward and the patient's expectations of what can be achieved.

Those words contain a profound argument for the need for advocates for involuntary patients in particular, and people who come under the regime of the Act in general. The submission also refers to the Lorikeet Clubhouse/Legal Aid pilot project. Significant insights into the requirements of advocacy can be drawn from the results of that pilot project, although the submission notes that the project period did not provide any indicator of the potential need for advocacy and reviews of involuntary status should that become part of Western Australian law, as it will when this Bill is passed. It states -

Experience in Victoria, however, leads service providers to estimate that between half and two-thirds of patients now seek assistance with such hearings.

Resources will be required when this Bill becomes law. With regard to the Howard budget cuts and where the Legal Aid Commission sees itself, point 4.6 at page 89 states -

Legal Aid Western Australia remains committed to ensuring what is clearly a neglected area of the community is properly resourced.

Unless the Government plans to do the job in some other way, the Legal Aid Commission regards it as a significant area in which to be involved. So many significant mental health matters have developed over the past half a dozen years, whether they be Dietrich matters or re: K matters, that it is wrong for our community that that organ of government, the Legal Aid Commission, should have its resources diminished at this time. The submission concludes with the words -

Legal Aid Western Australia recommends the Taskforce supports the establishment of a dedicated community based legal centre to provide these services.

I note that a stand alone mental health law centre is being seriously considered. However, we need to know what resources will be allocated and what significance the Liberal Government, or a Labor Government, intends to give to prioritising mental health.

I turn now to the question of police powers that was mentioned by Hon Kim Chance. The House should be reminded of the current law. While people who think the current law is great no doubt live in the same State that we live in, I do not think their thought processes are particularly up to date, because with the greatest of respect to those who were in this place in the past, the law might have been all right in 1962, although I doubt it, but it is certainly not all right now. The starting point is section 30(1). I will address myself to just one aspect of this - the question of police apprehension. There are other aspects, but they flow on. Current section 30(1) is fascinating. People seem to place a lot of regard on making a complaint on oath before a justice of the peace. The section reads -

Where a complaint on oath is made before a justice that a person who appears to be suffering from mental disorder -

(a) is without sufficient means of support; or

I do not think we want to preserve this! It continues -

(b) is wandering at large; or

Great! It continues -

(c) has been discovered under circumstances that denote a purpose of committing an offence against the law, or of attempting to take his own life,

I accept that. It continues -

the justice may, by order in the prescribed form under his hand, require a police officer or some person duly authorized in that regard, by the Minister, to apprehend the person in respect of whom the complaint was made and forthwith cause him to be examined by a medical practitioner.

[Leave granted for the member's time to be extended.]

Hon N.D. GRIFFITHS: Subsection (2) reads -

Any police officer finding a person who appears to be suffering from mental disorder in any of the circumstances mentioned in subsection (1) of this section may, without order, apprehend him; but in such event, the police officer shall forthwith make a complaint on oath before a justice as to the condition of the person and the circumstances under which he was found; and the justice may thereupon, by order in the prescribed form under his hand, require the police officer forthwith to cause the person to be examined by a medical practitioner.

That is a real safeguard! The current law does not provide any realistic, practical safeguard for liberty. For people to argue otherwise is an absolute nonsense. We should look at what the task force said about the police in this context. Again I refer to volume 2, page 47, where reference is made to the improved liaison which has taken place of recent years between the police and the mental health system, and it states that police graduates now receive during their course a mental health manual and checklist. Mention is made of PET - the psychiatric emergency team. It is

that team which does the job. Sometimes it must call in the police, but it does the job. That is the real world. The task force at page 47 states -

Though the view of the police representative who presented a verbal submission to the Taskforce was that it is inappropriate for the police to be involved in conveying a person with mental illness to hospital, the Committee does not see an alternative to this. The establishment of the Psychiatric Emergency Team and hence the availability out of hours of skilled mental health personnel has seemed to reduce the number of situations in which police conveyancing is necessary. Nevertheless there will still be some occasions on which there is no reasonable alternative.

Hon Reg Davies: Why can't they get extra staff?

Hon N.D. GRIFFITHS: In our society, very few people are on call all the time. Western Australia is not the great metropolis of the world, with limitless resources. I am not saying that the police are the most appropriate people. Those words I have read are to the effect that the police recognise that, but we must be practical about it. I do not have much time remaining, notwithstanding the indulgence of the House. I want to deal with these matters in context.

A matter of concern is the abuse of power. There are significant disincentives in respect of the abuse of power. Clause 12 of the Mental Health (Consequential Provisions) Bill rewrites sections 336 and 337 of the code. If we are to talk about abuse of power, part of the answer is to deal with the recommendations of the select committee on which you, Mr Deputy President, Hon Reg Davies, Hon Phil Lockyer, Hon Murray Montgomery and I served.

We have a Mental Health Review Board, and we have psychiatrists and general practitioners who can be brought into play. Perhaps there is a place for judicial oversight. I note in that context the constitution of the Mental Health Review Board. It is envisaged that legally trained people will be appointed to the board. Perhaps it is appropriate to change the workings of the board so that it becomes more proactive at an earlier stage. That is a matter that requires mature reflection, not amendments made on the run. In giving that matter mature reflection I make reference to what happens in other jurisdictions in Australia. I do not say that the contents of the police powers part of the Bill is perfect, that it cannot be improved, but no-one should think that what is proposed in Western Australia is in the dark ages compared with the rest of Australia.

I refer to the New South Wales Mental Health Act 1990, section 24. There are differences between New South Wales and Western Australia but there are also similarities. As I will refer to most of the other Australian jurisdictions, I propose to speak quickly. Section 24(1) of the New South Wales Act reads -

If a member of the Police Force finds a person in a public place who appears to be mentally disturbed and the member of the Police Force has reasonable grounds for believing -

There are also aspects of the person committing or has recently committed an offence. It continues -

... and that it would be beneficial to the welfare of the person that the person be dealt with in accordance with this Act rather than otherwise in accordance with law; or -

Then there is the question of killing and bodily harm. Further on -

... the member of the Police Force may apprehend the person and take the person to a hospital ...

(2) A member of the Police Force may apprehend any such person without the warrant of a justice.

Section 23 of the South Australian Mental Health Act 1993 reads -

Where a member of the police force has reasonable cause to believe -

- (a) that a person has a mental illness; and
- (b) that the conduct of that person is or has recently been such as to cause danger to himself or herself or to others;

the member of the police force may apprehend that person, using only such force as is reasonably necessary for the purpose, and take him or her as soon as practicable to a medical practitioner for examination.

Subsection (5) reads -

A member of the police force may, in exercising powers under this section, break into any premises, using only such force as is reasonably necessary for the purpose.

Section 10 of the Victorian Mental Health Act 1986 provides -

Apprehension of mentally ill persons in certain circumstances -

- (1) A member of the police force may apprehend a person who appears to be mentally ill if the member of the police force has reasonable grounds for believing that...

Again we see reference to a police officer's belief. Subsection (1A) is interesting in that it provides -

A member of the police force is not required for the purposes of sub-section (1) to exercise any clinical judgment as to whether a person is mentally ill but may exercise the powers conferred by this section if, having regard to the behaviour and appearance of the person, the person appears to the member of the police force to be mentally ill.

The question of the magistrate is then raised. I have not discounted the notion of using magistrates or the Mental Health Review Board to improve this legislation. I do not want people to think that what is proposed in Western Australia is out of the blue and is not consistent with other Australian legislation.

Section 11 of the Victorian legislation provides that -

- (1) Where a member of the police force or any other person has reasonable grounds for believing that a person who appears to be mentally ill is because of mental illness incapable of caring for herself or himself the member of the police force or that other person may give the information upon oath to a magistrate.
- (2) A magistrate may upon that information authorise and direct a member of the police force accompanied by a registered medical practitioner to visit and examine that person.

I draw attention to that because I would hate people to think that I was being misleading in any way by pointing out that there is a degree of magisterial input in other jurisdictions.

The Queensland Mental Health Act 1974 was amended in 1993. Section 25 provides -

- (1) If it appears to a justice, on information by any person on oath, in the prescribed form, that there is reasonable cause to suspect that a person is mentally ill and that in the interests of that person or for the protection of other persons it is necessary to do so, the justice may issue a warrant...

Section 26 provides -

- (1) Subject to subsection (2), a police officer may, without a warrant, remove from any place to a place of safety any person whom that officer believes to be mentally ill and a danger to himself, herself or other persons and in need of immediate treatment or control.
- (1A) A police officer who removes a person to a place of safety pursuant to subsection (1) shall forthwith complete and furnish to the hospital administrator or person in charge of the place of safety an authority in the prescribed form for the detention at that place of that person.

The Tasmanian Mental Health Act 1963 provides -

- 99--(1) If it appears to a justice, on information on oath laid by an authorised officer, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder -
  - (a) has been, or is being, ill-treated, neglected, or kept otherwise than under proper control; or
  - (b) being unable to care for himself, is living alone,
 the justice may issue a warrant authorising a police officer to enter, if need be by force, any premises specified in the warrant...

This is 1963 and I have not read the whole section. I draw it to the attention of the House because I trust that we will give this further consideration before the Bill becomes operative. Section 100 provides -

If a police officer finds in a public place a person who appears to him to be suffering from mental disorder...the police officer may...remove that person to a place of safety...

That is the Australian context.

In concluding his second reading speech on the Mental Health Bill, Hon Peter Foss stated -

Undoubtedly, amendments, such as drafting amendments, will be made to this legislation in the not too distant future, as refinements will be required after six months' operation.

One of the refinements will be as a result of a consideration of the police powers. Hon Peter Foss then made reference to the Minister in another place, trying to predict an election result, and stated -

The Minister has indicated that he will bring an amending Bill to the Parliament, probably mid-next year, to enhance the Bill even further.

The Opposition, which will then be in government, also intends to do that. The Liberal Opposition will present a private member's Bill if we do not, and we will stand condemned if we do not. In that context, I note that the task force said we should pass this Bill so that people can be educated and the regime can be put in place. We should get the improvements working and tidy up these important matters at the appropriate time.

**HON A.J.G. MacTIERNAN** (East Metropolitan) [9.55 pm]: My comments will be brief. Like opposition members generally, I recognise that this Bill is a substantial improvement in the position of the mentally ill. I will refer to a few matters that have been raised by Hon Nick Griffiths. The fact that I am not dwelling on the improvements should not be taken as any failure to recognise the very substantial, good work being done by this legislation.

I come from the tradition of the late 1960s and early 1970s when there was very broad discussion and concern about the whole issue of mental illness. R.D. Laing was one of the most widely read books at universities in those days and there was a great deal of debate as to what constituted mental illness. We also saw in the 1960s and 1970s a frightening use of the label of mental illness to marginalise those whose views did not accord with those of the political hierarchy, particularly in places such as the Soviet Union, where political dissidents were condemned to gulags. Concern was expressed that society might be trying to use the label of mental illness to enforce conformity in the population, so one always comes to this idea of mental illness with some scepticism.

Notwithstanding that, we must obviously recognise that there are members within our community who can quite properly be described as suffering from a mental illness. They are people who are disturbed by their condition, who suffer a great deal of psychic anguish as a result of their experiences and who in many instances want help. I make those comments by way of general background. A number of members have been approached by people who are concerned that there has been a winding back of the protections in one area - police powers. Like Hon Nick Griffiths, I recognise that the police powers under the 1962 legislation were far too extensive. Indeed, one might argue that to some extent they have been confined in this legislation, because the threshold that a member of the Police Force must cross before he can determine that a person needs to be apprehended is somewhat greater. Notwithstanding that, I think we can have better protections in this legislation. Some time limitation should be imposed on the police between the time they apprehend the person and the time they are required to take a person before a medical practitioner or that other very broad class of person deemed by the Chief Psychiatrist to be capable of making an assessment.

Hon Peter Foss: Are you saying a specific time rather than "as soon as practicable"?

Hon A.J.G. MacTIERNAN: Yes. I see this ideally working with "as soon as practicable" but in any event in not more than 24 hours. It should be done within a couple of hours in the metropolitan area, where there is easy access to psychiatric services. Things will be more difficult in rural areas.

Hon Peter Foss: What would you do if the time limit ran out and you had to let the person go but he was still likely to offend?

Hon A.J.G. MacTIERNAN: If the time limit enabled a person to be physically transported to an area, that person would be brought in. The fact we do not have a time limit on it can mean that the apprehending police officer can sit on the -

Hon Peter Foss: Except for the practicality. He has to do it as soon as practicable.

Hon A.J.G. MacTIERNAN: Yes. However, it is reasonable, given that the person has not committed an offence and that person's liberty has been deprived, and given that the class of person qualified to assess is not confined to medical practitioners and that a much broader class of person can be authorised to make that assessment, that a time limit should be imposed.

Hon Peter Foss: What about a person who has run amok on a remote Aboriginal station is apprehended during a cyclone?

Hon A.J.G. MacTIERNAN: It would be possible to get someone in from one of the towns within 24 hours. I do not see any of that being an unreasonable achievement.

Hon Peter Foss: Sometimes it can. They can be cut off for days.

Hon A.J.G. MacTIERNAN: One could say the same thing about the rules for people being apprehended and being charged with a crime and how long is required before they are taken before the court. I am very concerned about its being open-ended because I believe there are instances where, putting the best complexion on it, police have not been as diligent as they could be and secondly - and these are more worrying - where there has been an abuse of power where a person has been apprehended and no real effort has been made because the purpose of the apprehension was not to assess that person. I do not believe that anything will be achieved by having an ex post facto legitimisation of the process by a judicial officer. We must make sure that a police officer who uses that power as quickly as possible and within a confined time limit gets that person to a suitably medically qualified person for the assessment to be made.

Hon Peter Foss: The ex post facto may cloud the issue of abuse of power.

Hon A.J.G. MacTIERNAN: That is right. Nothing would be achieved by that process. Some of the confusion felt by people who have been concerned about the extension of police powers and the failure of the judicial officer relates to another provision involving the removal of that judicial power. Section 30 of the existing legislation states that anyone else, other than a police officer, who seeks to have a person committed is required to take that application before a justice. That is the circumstance that most justices of the peace find themselves facing; that is, it is not the police officer, but a social worker or member of the psychiatric task force that goes to the JP to seek an order.

Hon Peter Foss: Section 30(1).

Hon A.J.G. MacTIERNAN: Yes. That has changed. Those persons are no longer required to take the matter before a justice of the peace.

Hon Peter Foss: It was always a bit of a formality anyway.

Hon A.J.G. MacTIERNAN: It varied from justice to justice. Some applied themselves to the task with more dedication than others. The material coming through the justices association indicates there are those who took the task seriously. It was some sort of brake on the process. However, the concern of abuse primarily stems from the power of the police rather than from the power of these other medical persons.

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: However, they could not do it without a sworn statement. Previously, the medically trained persons who have some qualifications in psychiatric services would get approval from a JP. I am not sure whether that was a very constructive process in the majority of cases. I am not aware of members of the psychiatric teams or social workers abusing the process. The powers have changed in relation to those; those people no longer require a judicial clearance, but arguably they are not the people who should require the judicial clearance in any event.

The concern is about the police. We now appreciate that conditions in the existing legislation relating to police are inappropriately broad. If anything they have been confined to some extent in respect of apprehension. However, notwithstanding that, they are still too broad and should be tightened up with a time limit. Time limits have been imposed throughout the legislation. I think it would be appropriate to consider some sort of time limit in relation to the period which can elapse between the apprehension and the bringing of a person before a medically qualified person. We argue that there has been an extension of police power in the auxiliary provisions in proposed sections 197 and 198. They give police very broad powers to seize material, to search persons, to raid premises and to seize any item. There may be some concerns about those. I am not sure what we should do about it. I suspect there should be some reporting procedure where a police officer who exercises any of those powers should be required to make a full report within a certain period that he has exercised those powers.

I am not sure whether the circumstances justify the enforcement of clause 198 without the police obtaining a warrant. It is one thing to say that in an emergency situation a person is arrested, but it is another thing to say that the circumstance justifies searching the premises without a warrant. The people in the community who have expressed concern about police powers are confused about the situation which currently applies to the police and other members of the public, including members of psychiatric teams.

I note Hon Kim Chance's comment that he received advice from the briefing officers that psychosurgery probably has not been used in this State for 20 years, which would mark it as unusual treatment. Therefore, it should be included in the list of circumstances which should not be perpetrated on involuntary patients under any circumstances. Given that is an unusual and rarely used treatment, the House should not consider allowing people to use that provision of the legislation in emergency situations. It is hard to conceive of the situation in which that would be justified. I have been contacted by a number of people who have had experiences with, and were very distressed by

the treatment they received, by the police when they were mentally ill. I understand they were dealt with in the same way as common criminals. It is a most unfortunate circumstance. I note the provisions in the legislation which will enhance the rights of individuals as soon as they are apprehended and involuntarily committed.

Hon Peter Foss: Are those recent incidents?

Hon A.J.G. MacTIERNAN: They occurred in the last couple of years.

Hon Peter Foss: Was it after the BTs were put in place?

Hon A.J.G. MacTIERNAN: Yes. These people were directly apprehended by the police.

Hon Peter Foss: It was not simply a matter of the police being called?

Hon A.J.G. MacTIERNAN: No. Their view was even broader than that. People with psychiatric illnesses referred to the way police treated people them. In their opinion the treatment they received at the hand of the police impaired their recovery. In one instance a woman who acknowledges that she did need to be involuntarily committed, recognises that her situation was such that it was a reasonable thing. However, she was distressed that she was able to make only one telephone call and that was to her lawyer. She was not able to contact any of her family members, and that cannot be justified.

I hope the Minister will consider the issues I have raised. The general public is concerned about the existing police powers which have perhaps been misguided, and they should be tightened up. I compliment this Government and those people who over the years have contributed to the process of developing a much better range of protection for the mentally ill.

**HON CHERYL DAVENPORT** (South Metropolitan) [10.14 pm]: I am not fully conversant with the technicalities of this Bill, but I will refer to some aspects of it. I welcome with pleasure the proposal in the Bill to adopt the United Nations convention which applies to patients' rights. I will highlight the reasons I welcome this initiative by outlining to the House the experience of one of my close relatives. Some years ago that person was diagnosed with mental illness and continues to suffer from that illness, although not in the acute form it was initially. I will refer to the juvenile justice system as it pertains to mental illness and, to a lesser extent, to youth suicide.

Previous speakers indicated that this is a long awaited and welcomed trilogy of legislation. It is commendable that so much work has been done to produce the legislation. It is incredibly technical legislation and I have not examined it as closely as it deserves. However, I know it is far superior to the existing legislation. For many years this legislation was the subject of excessive consultation and discussion by successive Governments. I pay tribute to the work done by my former colleague, Keith Wilson and, more recently, to the enormous task undertaken by Hon Derrick Tomlinson who brought down the findings of the task force in two very comprehensive volumes. I have not read the report from cover to cover, but my knowledge of Hon Derrick Tomlinson's contribution suggests to me that it has been prepared thoroughly, diligently and with great commitment. I congratulate him, the bureaucrats, the medical and mental health personnel and consumer and community representatives who participated in that process.

This legislation should have been examined by a properly functioning Legislation Committee of this House. I refer members to the criticism in this morning's *The West Australian* of some of the clauses of the Bill. It is interesting that these issues have been brought to the attention of members at this late stage, given that the legislation passed through the other place a number of weeks ago. A government psychiatrist, who did not want to be named, said he considered the police would flood psychiatric hospitals with drunks and drug users who did not belong there. I question not only that, but also the fact that he believes standards would fall because practitioners other than doctors would be able to make referrals. It appears, from what has been said in this place tonight, that the ability to do that is in the existing legislation. He said also that the police would have the right to break into a person's house and to search and seize that person on suspicion of mental illness. It is interesting that he made those sorts of comments, but did not offer a solution.

This legislation has been a long time coming and, as the Minister indicated, the Government is committed to bringing it back to the Parliament for amendment if problems arise after it has been proclaimed. I realise this legislation has been introduced almost at the end of this Government's four years in office and it is difficult, given the time frame, to send it to the Legislation Committee for its consideration. This is landmark legislation. The faults in the legislation could have been ironed out by people placing concerns before a committee. Of course, it would then have been on the Government's shoulders to take up the invitation to amend the legislation following such representations. Nevertheless, that is history and we cannot change the situation. It is still worth noting that this sort of legislation could usefully be examined by such a committee.

I spoke earlier about the lack of rights for the mentally ill in the current system. I had occasion almost three years ago to be involved with a close family member in this area. Her family had to call the psychiatric emergency team



to their home due to a violent psychotic episode. I was most impressed by that team. It was my first first-hand experience with the psychiatric emergency team, whose response was tremendous. They arrived within half an hour of the call, which was made about 10 o'clock in the evening. They spent three and a half hours persuading my relative to go with them to be admitted as a voluntary patient at Graylands. I have recently spoken to my relative and asked whether she would mind me explaining some of her experiences upon being admitted. The situation was made more difficult for her because she is also a general practitioner. She had a psychotic episode which manifested as chronic depression, and her assessment of the regimentation of the secure care provided for people with severe depression was that it was not as good as it might have been. When one is suffering from chronic depression, the last thing one wants in one's life is severe regimentation. Although she was admitted as voluntary patient, as a result of her insistence on not being treated in that manner she became an involuntary patient in the system. She was drugged and generally kept in security for some time.

She was finally released from the Graylands facility and was then treated by a private psychiatrist of her choice, who prescribed a specific drug. She knew from her background that she could not remain on the drug for too long because it was addictive. She tried to contact her private psychiatrist but, unfortunately, he was on leave at the time. She was so worried about the matter that she felt the need to go back to Graylands to seek assistance. She was again admitted and the Graylands doctor took her straight off the drug prescribed by her psychiatrist - she went cold turkey. I do not know the details, so I am loath to refer to the actual drug involved. However, she was taken off the drug and given another one. One drug was to slow her down and the other drug prescribed was for her anxiety.

The bottom line was that the drug she was put onto did not do the trick. Although she was physically sedated, her mind was very active and she told me that during that night she felt she was going to die. She was so concerned and frightened that she demanded in no uncertain terms to see the doctor who had prescribed the drug for her. As a result of her medical background, she thought she should have the right to see the doctor. The nurse who was with her rang the doctor, who refused to come. She was then placed in secure care again. This incident gave this general practitioner a very nasty experience in an institution. She is still not what I would call normal, and it is now three years since this episode which has had an incredible impact on her life and that of her husband and two children. Her children are now aged nine and 11 years and they have had a very ill mother for a number of years. Another question arises alongside the rights issue: How do families cope outside the system, particularly when confidence is lost in the health system? I guess in this instance that if the rights proposed in the Bill had been in existence at the time, a different outcome might have resulted. I like to think that the system can respond better than it did in this case. This woman and her family continue to struggle with the incident, and life in general.

I pay tribute to the work of the psychiatric emergency services. I was interested to note the comments in the recommendations of volume 1 of the ministerial task force in relation to the psychiatric emergency service. This whole debate highlights the need to provide more resources for the psychiatric emergency service to assist in doing what everybody acknowledges to be a very difficult job throughout the community. I would welcome such support for that service. How will the Government respond to the recommendation from the task force regarding the importance of psychiatric emergency crisis services having provisions for children and adolescents? Currently this is not the case, a matter which has caused considerable distress for many families. The task force indicates that "a psychiatric emergency is a psychiatric emergency and cannot be determined by the artificial boundaries of age". While that service does a tremendous job for adults, in the late hours of night families with a child, or adolescents in particular, deemed to have a mental condition have a great problem.

Hon Derrick Tomlinson: Likewise they have problems with the psychiatric emergency service dealing with matters at short notice. Sometimes they must choose to see someone, and not someone else.

Hon CHERYL DAVENPORT: It must be extremely difficult to say no to patients, given that their training enables them to provide families with relief in such difficult situations.

I also note the finding that the service should in the longer term be extended at a high standard in all areas, but until that time the central psychiatric service must be adequately maintained. It is absolutely essential that that be the case, but I also note that obviously the service cannot be extended in any significant way to rural and remote areas. That must be a matter of concern to us all. Although the changes in the legislation are tremendous and will be most welcome, it is most important that the whole question of resourcing be dealt with.

I will concentrate in more detail on mental health services for children and adolescents. I turn to paragraph B of the priority recommendations at page 189 of volume 2 which states -

There is an urgent need to establish a comprehensive service to adolescents especially for those requiring in-patient stays. These services need to be adequately funded.

- (a) Purpose built facilities that are adequately staffed should be established to provide for acutely disturbed adolescents.
- (b) A residential facility for adolescents requiring longer term inpatient treatment should be established.
- (c) Day patient programs that are flexible and allow for better support treatment in-home, school and also at a designated treatment centre, should be established.

In those three initiatives alone it seems that tremendous capital expenditure plus significant recurrent expenditure will be required firstly to establish and secondly to keep the facilities operating successfully. Is any short, medium or long term program envisaged whereby these facilities may become available? I note that the Bentley service is up and running but certainly more than one system will be needed given that this State covers such a vast area, and mental health is not only a factor in cities. Paragraph C states -

That each health region be resourced and made accountable for a rural response for child and adolescent mental health ie North Pilbara, Kimberley etc., South East Goldfields etc., South West, Great Southern etc.

To some extent that links with paragraph B.

Hon Kim Chance: Don't forget the wheatbelt. It is specifically mentioned in the report.

Hon CHERYL DAVENPORT: I referred to the great southern; is that not the wheatbelt?

Hon Kim Chance: No, it is not.

Hon CHERYL DAVENPORT: I include the wheatbelt in that statement. I wonder what the projected time line is for meeting that recommendation. Paragraph D deals with the PET scheme, which I have already covered fairly fully. Paragraph E deals with a comprehensive range of mental health services targeting high risk youth, and homes in specifically on -

suicide and self harm behaviours  
early episode psychosis  
contact with the justice system  
alcohol and substance abuse  
marginalised and homeless

These are significant factors in this whole debate. I went to the library this evening to seek out the Human Rights and Equal Opportunity Commission report on mental health by Brian Burdekin. I know the Minister and the commissioner do not necessarily agree on all matters -

Hon Peter Foss: Only because he is a seagull.

Hon CHERYL DAVENPORT: Some people may have a different view, but I think he has contributed a great deal to a range of human rights issues in this country. Just because people clash on a personal basis, it does not mean their opinions should be dismissed.

Three or four years ago in a debate on the juvenile justice system reference was made to some evidence in that report relating to the crossover for young people between the juvenile justice system and the mental health system. It is useful to quote that section of the report in tonight's debate. If we are to meet some of the recommendations of the task force, as a consequence of this legislation, we must look more closely at this area. The report states -

If you evaluate the juvenile detention centre populations . . . what you find is that young people in these facilities are about as badly off from a mental health perspective as the children who come to our mental health clinics - they are almost transposable. The major difference is that one group have committed some sort of offence for which they have been apprehended and the other group haven't.

If anyone took the time to concentrate on that group of young people in the juvenile justice system, I wonder how many would be found to have some sort of mental illness. Probably many of them have been affected at some stage and still are. The report also states -

Disturbed and mentally ill adolescents often end up in the juvenile justice system because no one has been able to recognise or deal with their underlying problems.

I am sure that Hon Peter Foss and Hon Derrick Tomlinson will acknowledge, on the basis of the work we have done together, that that is not untrue. The report continues -

This was starkly illustrated by a recent study conducted in the South Australian Youth Remand and Assessment Centre (SAYRAC). The study found that 17 percent of young people in the centre had been living on the streets prior to being remanded in custody, another 23 percent had been living with friends, and 18 percent had been in institutional care - ie, only one quarter of the remanded group (aged 11-17 years) had lived at home before being detained. The majority had left school between 13 and 16. According to one witness, they were 'unemployable, uneducated kids without any support, with multiple handicaps, [for whom] we have to shift the concepts away from discipline, to disability.

We ignore that at our peril. It continues -

Reluctance to identify young people as being mentally ill 'leads to them being treated in a default system'. Without assessment and an appropriate range of intervention services they just 'slip between the cracks of the various systems and end up in the juvenile justice system.'

The number of young people who have thus been consigned to incarceration rather than treatment is in the thousands.

One would expect that 30-50 percent of the children in correctional facilities would have a mental health problem - [that is,] young people for whom the separation diagnosis [ie the diagnosis made on discharge, release or referral] was a mental health diagnosis. We find that incarcerated young people have very similar backgrounds to those of young people in psychiatric care - family breakdown, poverty, parents with [problems which include] personality disorder, alcoholism, mental illness, or drug abuse.

Much more can be done in that area within the juvenile justice system to identify how many young people are suffering from some sort of mental illness. I will reflect on one area in relation to that assessment; that is, there is an inadequate structure for providing psychiatric backup to juvenile institutions. This evidence was given when the commission was in Western Australia. The report also states -

They do have a small number of psychologists, but there is no specific mechanism to allow for a group of psychiatrists and a formal child psychiatric treatment team to have regular input to these young people, whom we know are a group at increased risk of emotional and behavioural disturbances . . . Currently, once they are in institutions, all they can do is send them to the psychiatric hospital on certificate. And that is not an environment where their needs are best understood, or any plan of management can be evolved that will be integrated into what they have to go back to [in the institutions].

There may be signs of an improvement since then. However, it is useful to refresh our memories from time to time that that sort of evidence was given in 1991. Detention centres are virtually full and we must find out the reasons for that. Perhaps one of the reasons some kids are off the track is mental illness.

The other area I will concentrate my remarks on is the issue Hon Nick Griffiths mentioned earlier; namely, youth suicide. The Burdekin report deals also with that in some detail. Members had a discussion earlier this evening about the two cohorts. As members will agree, the increase in the suicide rate is still a great worry in this State and a range of factors contribute to it. One of the most important risk factors the human rights commission inquiry found was a prior suicide attempt. The following evidence was given to that inquiry -

We know that once a young person has attempted suicide, the chance of them attempting it again is increased at least five-fold . . . the majority of young people who attempt suicide receive medical treatment only. They attend Accident and Emergency services and, because of limited resources and the reluctance of general hospitals to send young people to psychiatric hospitals most of these young people are just sent home . . . and their cry for help which the suicide attempt represents goes unheard.

Perhaps in that cohort group members talked about earlier there is a need to talk about the risk factors. It seems that a prior suicide attempt is a major risk factor. Rather than being treated just medically, it must be treated from a psychiatric perspective. That is all very well in the city where there is access to services, but in remote and rural areas that is much more difficult. Evidence tendered to the Burdekin inquiry on this aspect states -

There is often a major problem of access by suicide attempters to counselling [after the attempt] . . .

This is particularly in remote areas -

- and the final point is there is no-one there to advocate for them - they are an invisible group, a marginalised group. Rural youth suicide victims are . . . nearly always psychiatrically disturbed and sometimes identifiably mentally ill. Mental illness figures extremely prominently in the list of risk factors. Most of the young people who kill themselves are in fact suffering from a psychiatric disorder - usually a

major depression or a conduct disorder or substance and alcohol abuse, and they have been exposed to suicide or have had suicide in their families.

Although this is good legislation, it still leaves me filled with concern, considering the incidence of youth suicide.

Hon Derrick Tomlinson: Unfortunately you cannot legislate against such incidents.

Hon CHERYL DAVENPORT: I know we cannot, but if treatment can be put in place so that young people can be picked up if they attempt suicide -

Hon Peter Foss: You might end up wrapping some people in cottonwool while treating them like psychiatric cases, and drive them over the edge.

Hon CHERYL DAVENPORT: Surely that is better than losing their lives.

Hon Peter Foss: No, you might drive them over the edge.

Hon CHERYL DAVENPORT: I am not trying to go over the top. I care about these young people and I want to find ways to identify that risk early enough so they can be prevented from going down that path.

Hon Peter Foss: We should do that with all the things in our society that cause crime, but there comes a time when we must expect that people can survive without the State watching their every footstep.

Hon CHERYL DAVENPORT: I am not suggesting that the State do that. I am trying to point out that we expect this legislation to deal with a range of factors. It concerns me that we are talking about an extra \$40m over three years. That is a lot of money; however, the sorts of factors that are recommended by the task force are a lot to cope with. There are many instances in which I wonder whether the money will be enough.

Hon Derrick Tomlinson: It is a much larger allocation of resources than what was recommended.

Hon CHERYL DAVENPORT: The total budget is significant. It is something like \$170m, but an extra \$40m on top of that is to be allocated over three years. I picked that up from my reading of debates in the other place. I might be wrong. Much of what I have talked about will be covered under part 8 of the Bill, community support services. I assume it is the Commissioner of Health who will have the power to allocate those funds. One hopes that that will be done with sensitivity and that people in rural and remote areas will be the beneficiaries, because those areas lack those sorts of services at the moment.

Part 9 covers the Council of Official Visitors. For some time such a council has been in operation to some extent in the mental health system. I want to be assured that the Government is committed to that council, because it is part of the human rights thrust on patients' rights. Only recently I heard from somebody I recommended well over 12 months ago to the visitors scheme that was set up under the Young Offenders Act, which was proclaimed in 1995. Only now is that scheme finally being put into place. I want to be assured that the scheme under this legislation will be in place more quickly than that.

Hon Peter Foss: It already exists. Visitors have existed for years. All this legislation does is put them into one council.

Hon CHERYL DAVENPORT: I thought it did. I hope that will continue, because the council has the potential to play a useful role as a check on making the system work.

These three Bills are landmark legislation. I believe they will make a major difference. As members indicated earlier, there will probably be some teething problems; however, that is to be expected in legislation that sets out to rework a system that has been in existence for a long time.

**HON REG DAVIES** (North Metropolitan) [10.49 pm]: The overhaul of the Mental Health Act is certainly long overdue. So far, in a rather unique situation this evening, all speakers have been from the opposition side and they have totally supported the legislation. I welcome that support. It is nice to see legislation debated in this manner.

The only unfortunate aspect of the principal Bill is the time at which it has come before the Parliament. We are debating three very important pieces of legislation. Once again there seems to be a need to rush it through the Parliament on what is essentially the last day of business before an election.

Hon Derrick Tomlinson interjected.

Hon REG DAVIES: It could snow at Christmas time too!

Hon Peter Foss: I do not think we are rushing it at the moment.

Hon REG DAVIES: We are. In the light of the role of this House, which I cannot emphasise enough, the Attorney General has said, and it has been stated several times this evening, that the Bill is flawed inasmuch as -

Hon Peter Foss: Even if we had more time, I still suggest that it is time for this Bill to be passed because it has been in train for approximately 16 years. It has been reviewed many times and it is time we had some legislation.

Hon REG DAVIES: It is unfortunate that we are pushing it through tonight with agreement between the major parties. It is unfortunate that the Bill is flawed. The Minister for Health promised that amendments would be introduced probably mid next year to further enhance the new Act. Why did he not introduce a Bill incorporating those amendments so that we could pass the best legislation available? I do not deny that it is long overdue. It has been in the mill for a long time and successive Ministers have tried to get amendments to this legislation for a long time.

Hon Peter Foss: It has even got to this Parliament before.

Hon REG DAVIES: That still does not abrogate our obligation in this House to consider every aspect of legislation and, if necessary, allow it to go before one of our parliamentary committees for more community input. I am a great believer in community input and community education.

Hon Derrick Tomlinson: There has been a long period of consultation -

Hon REG DAVIES: We have not seen the Bill around.

Hon Peter Foss: It has taken so long because every time a new idea occurred it underwent six months of community consultation.

Hon REG DAVIES: These Bills have not been around in this current form for very long.

Hon Peter Foss interjected.

The PRESIDENT: Order!

Hon REG DAVIES: In our current system only the doctors have the right, after fully examining a patient, to refer him for consideration for further treatment or further examination for mental disorders. However, clauses 19 and 20 of this Bill amend that power to include psychologists, nurses, occupational therapists and, if a director of mental health so authorises, anyone else for that matter. I understand from speaking to people in the psychiatric field that our psychiatric hospitals are full most of the time. If our doctors are seeing referrals from well-meaning people who are not fully trained, and probably anxious to ensure that they do not do something wrong, how long will the really ill people have to wait to be seen?

The Government has included in the Bill provisions on community treatment orders. This concerns me. I see this as a further opportunity for economic rationalisation. The Government will be able to close down much needed psychiatric beds in favour of a more decentralised -

Hon Peter Foss: It is not cheaper; it is very expensive.

Hon REG DAVIES: Are we talking about a sort of patient care model?

Hon Peter Foss: When I was Minister for Health I inherited a system which was progressed on the basis that changing community health care would be cheaper. When I found out it was not -

The PRESIDENT: Order!

Hon REG DAVIES: *The Weekend Australian* in its "Review" pages of 19 to 20 October this year had an article on youth suicide. Its author, Rosemary Neill, said -

Australia has the dubious distinction of having one of the world's highest rates of suicide among young men.

Someone has already mentioned similar statistics this evening. To continue -

In 1994, 431 young Australians took their own lives. The overwhelming majority were young men. According to the Medical Journal of Australia during the past 30 years the suicide rate for 15 to 24-year-old males has risen from 6.4 per 100,000 to 27 per 100,000. At the same time the number of psychiatric beds across the country has shrunk dramatically because of funding cuts and an intentional shifting of resources towards community-based care.

Hon Peter Foss: It is nonsense to talk about funding cuts.

Hon REG DAVIES: I am quoting what is said in this article on youth suicide. Has there been an increase in medical funding?

Hon Peter Foss: It has gone up enormously and is still going up. I do not see any prospect of it not continuing to increase.

Hon J.A. Scott: Is it being spent at ground level?

Hon Peter Foss: Particularly at ground level. Some of the major funding has gone in at ground level.

Hon REG DAVIES: One must then ask why we have not built more hospitals for mentally ill patients.

Hon Peter Foss: That is not believed to be the right way to do it.

Hon REG DAVIES: I understand that under the community care system, people will be treated in their homes. One psychiatrist could well be responsible for up to 2 000 patients.

Hon Peter Foss: The ratio of patients to doctors in public hospitals is probably worse than in private hospitals.

Hon REG DAVIES: Do we have a shortage of psychiatrists in the State?

Hon Peter Foss: There is a shortage generally, particularly in public hospitals.

Hon REG DAVIES: Is one psychiatrist looking after 2 000 patients across the community an acceptable level?

Hon Peter Foss: I do not know what is the ratio, but I know there is a shortage across Australia, particularly Western Australia.

The PRESIDENT: Order! If the Attorney General keeps answering questions, he will have nothing to respond to in his speech.

Hon REG DAVIES: Surely that is a fairly high ratio. If it is an acceptable ratio, I will accept that. I suggest that psychiatric nurses will mostly visit patients in their homes. If a nurse makes a mistake with a patient in his home, nobody is likely to ever know. However, if a psychiatric nurse made a mistake with a patient in a hospital, the hierarchy would come down on him like a tonne of bricks and solve the problem immediately.

Another concern I have with the legislation is that in clauses 190 to 200 we see a premise that we have to do the right thing by the mentally ill by significantly widening police powers. Under the powers provided in the Bill the police will require only a suspicion of mental illness to break into a house, apprehend a person and seize property. If police wish to investigate for any reason, they need only suspect someone has a mental illness in order to break into his house. In the absence of a court order that concerns me. We are removing the checks and balances that we have had in the past. Surely it is important that there be a requirement to obtain a warrant initiated by a complaint by swearing evidence on oath. This should be included in the 1996 Mental Health Bill, just to ensure the rights of every Western Australian citizen so that people do not lose their liberty or have their home searched and their property seized. A holding order should be required before seized property can be held, the same as under the Misuse of Drugs Act. I would like the Minister when he is summing up to tell me whether this is a relaxation of the existing law or whether these Bills have tightened things up. I am concerned that police officers are to have this immense power. I know Hon Nick Griffiths went through the appropriate legislation in all the States in Australia and said that they were all very similar in this respect, but that is no reason for our being similar to other States.

Hon Peter Foss: I think he said they were worse.

Hon REG DAVIES: Even if they are worse, I like the idea of checks and balances and safeguards being there with the judiciary having to have sworn statements. I am concerned that we have police officers in Western Australia who are under great stress at times. We can all recall the police officer on duty at Fremantle who broke Dethridge's jaw. He was under stress. He could suspect someone of mental illness, arrest him and seize his property. Many police officers are receiving counselling, having become traumatised and so on. We know this because police officers who are suspended from duty often immediately seek counselling and psychiatric support.

Hon Derrick Tomlinson: By the same token, if Lizzie Borden takes an axe and threatens her mother with forty whacks, do you think a police officer should go and obtain a warrant before he does anything?

Hon REG DAVIES: I do not think that a police officer would suspect mental illness there; he would attempt to stop a crime from occurring.

Hon Derrick Tomlinson: The reason formed -

Hon Peter Foss: That is what it says.

Hon REG DAVIES: Yes. I would like the Attorney General to talk a layman through it to ensure me that the citizens of this State are protected. If he thinks the widening of police powers is warranted -

Hon Peter Foss: I say they are narrow.

Hon REG DAVIES: It is interesting to read the editorial that will appear in *The West Australian* tomorrow morning. It goes into great detail about the new police powers being too broad. It also agrees that this is an important piece of legislation and it should go through here with the support of everyone in Parliament. However, it is concerned about the widening of the police authority.

Another concern I have is with the issue of consent. It is probably one of the issues which will drive psychiatrists away from the system. I am concerned with the wording of clauses 95 to 98. Every medical consultation and treatment has a wide range of complications and differences and what the Bill details is very specific. It also carries extreme penalties for those who do not comply with the clauses. There is no definition of "ill treatment" in the definitions. It refers only to the ill treatment of a patient which might result in a fine of \$4 000. What are the parameters of ill treatment? Obviously on one hand it goes without saying that we do not want patients ill treated. On the other hand, what about the abuse of the therapists? The legislation does not really define that. The care givers need certain protections as well.

Another concern I have is whether treating someone without his consent amounts to assault. Can civil action be taken or does this Bill supersede the provisions in, I suppose, the Criminal Code? Funding is another concern. The Minister said that this is a more expensive but better method of dispensing the services. He said more funds are available now. Will those funds be ongoing? Will we have an assurance that there will always be funding for the Mental Health Act to be operating as long as it is necessary?

This is an important Bill. However, I am concerned about safeguarding the rights of people and allowing them to go about their business without their civil liberties being impinged on by somebody who suspects they may have a mental illness. *The West Australian's* editorial of tomorrow morning's paper puts it quite well -

New laws that give the police the power to detain people believed to be mentally ill are a flaw in otherwise welcome mental health reforms.

The Mental Act 1996 widens police authority dramatically.

It allows officers to enter premises without a warrant to apprehend a person they suspect is mentally ill and to seize anything found in the possession of, or near, the person. The police can use such force as necessary to detain a person and they no longer need to get an order from a magistrate or justice of peace before having a person assessed mentally.

Under the new Act, a person could be deprived of liberty for up to four days.

The provisions are open to abuse by the police - a point conceded by WA Health Minister Kevin Prince. It is a curious time to be giving the police more powers when there are widespread concerns in the community that some officers abuse the powers they have now.

The legislation gives the police unfettered power of entry and seizure.

That concerns me, because Western Australia is at the stage of bringing the Police Service to account for its actions, and this legislation will give police officers powers that are greater than their present ones, such as the ability to tap telephones. I would be interested to hear the Attorney's response to my concerns. If he cannot convince me that this Bill is tighter than the current legislation under which we operate, I intend to move some amendments on police powers. I support the legislation.

**HON J.A. SCOTT** (South Metropolitan) [11.12 pm]: I support this trilogy of Bills. Like most speakers I think it is time that a new Mental Health Act is brought into being. I also share the concerns expressed by Hon Reg Davies; firstly, in the way this legislation is moving through the Parliament in a more hurried fashion that would normally be the case to facilitate the option of holding an early election. In recent days a number of Bills have passed through this House without parliamentarians having been allowed the time to consider them. I am also concerned at the time taken for Bills to come from the other place and be debated in this place. I do not accept the argument that because there has been a long gestation period we should rush these Bills through, especially as amendments are foreshadowed before we have even spoken to the principal Bill.

I am also concerned about the powers being given to police officers. I do not accept the argument that these are necessary powers, or that going through a judicial officer before placing a person into psychiatric care against his will might hinder police officers. We are setting a precedent that gives police officers the role of both judge and jury.

That is not accepted in any part of law and I do not see why it should be accepted in mental health. This is a wider issue than just mental health. I am pleased to hear the assurances from the Attorney that the non-institutional treatment is not a cost saving device.

Hon Peter Foss: Unfortunately not.

Hon J.A. SCOTT: Philosophically I agree with the principle that it is much better for people to be part of the community. That is how we will break down the prejudice against mental health.

Hon Peter Foss: Not only that, but it will prevent institutionalisation.

Hon J.A. SCOTT: The concept of what is a mentally healthy person is rather tricky. When we talk about deviations from the norm we can look at whole nations where, at times, nations like Rwanda and Nazi Germany have displayed behaviour that would be seen to be the norm, because that is what most people are doing. However, it is obviously bizarre and aberrant behaviour. Members should consider religious philosophies, such as Christianity, where people have heard spirits speaking to them from the sky. We follow many philosophies that came to us from the sky.

Hon Peter Foss: There is a very good book called *The Origins of Consciousness and the Breakdown of the Bicameral Mind*.

Hon J.A. SCOTT: When we start talking about deviant or aberrant mental behaviour we are on fairly shaky ground. Should we all strive to act according to the norm or to improve?

Hon Peter Foss: You would have some problems living in modern society.

Hon J.A. SCOTT: Striving for the norm could be a bad thing for a nation, rather it should be striving for excellence, and that could apply to mental health as well. I was slightly disturbed by the Attorney's remarks when Hon Cheryl Davenport was talking about the need to do something about rural youth suicides.

Hon Peter Foss: It is not necessarily connected to mental health; that is a misapprehension.

Hon J.A. SCOTT: I am not in any way psychiatrically trained, but I wonder whether that psychosis is tied to the general rural decline and the lack of opportunities and hope for many of those people, especially young men, where there is a significantly higher level of unemployment.

Hon Peter Foss: The availability of guns is also a factor.

Hon J.A. SCOTT: Yes.

Hon Peter Foss: Once you attend to guns, you don't get a second go.

Hon J.A. SCOTT: It involves probably the most macho of our population; some of the young men in the country. They feel particularly disempowered. Perhaps a wider psychosis is affecting whole areas of our young population. We need to deal with this problem.

Hon Peter Foss: I am not discounting that. It is not appropriate to link it with a mental health Bill, because you are making the assumption that they all have some mental illness.

Hon J.A. SCOTT: I am very disturbed that the Attorney General said that we could not wrap these people in cotton wool, that he felt it was too hard a problem.

Hon Peter Foss: Once a person attempts suicide, it would be very wrong to treat him as being insane.

Hon J.A. SCOTT: Obviously I misunderstood the Attorney General. My major concern has to do with the powers given to the police to be judge and jury, to take away a person's liberty, without any check or balance on them at that point. I will support the amendment of Hon Reg Davies unless I hear very good reasons that such an amendment should not be passed.

**HON TOM HELM** (Mining and Pastoral) [11.21 pm]: I support the Bill. Although I have not read it or the second reading speech, from what I have heard I am sure the Bill could be used as a tool, rather than a weapon. In Port Hedland I have had to be part of locking away people who were suffering from some psychiatric problem. It was manifested in those who seemed to be purposely walking nowhere in and around Port Hedland in the middle of January and February who had no protection. It was quite obvious to me, the police and to the psychiatric nurses who asked me to be a signatory to an order to put those people away that we had a rather antiquated way of dealing with people who have psychiatric disorders.

I agree with the Attorney General and the previous Government that we should not rely on incarceration as a means of dealing with people with psychiatric problems. I am well aware of the need for psychiatric help for people in the



north west. I have brought the problem to the attention of the health authorities in that area on a number of occasions. I have the greatest respect for those who help people with these disorders. I acknowledge their dedication to the job and their commitment to helping the people in the north west in matters of psychiatry. Dealing with this issue successfully is rather like trying to be like King Canute holding back the tide. New legislation is needed, as are additional resources.

We have had a multifaceted problem. Someone linked the availability of guns with young men in rural areas committing suicide. We know many psychiatric problems that exist in the north west may be unique to that area. I hope this legislation goes some way to solving those problems. The debate has been of a very high standard. All members have shown a commitment to it. Like most speakers, I am concerned about provisions dealing with police powers, but I am somewhat comforted by the statement of the Attorney General that there will be a review, and perhaps some amendments, to ensure the concerns that have been expressed are met to some degree.

I hate to say this - it sticks in my throat - but some congratulations are due to Minister Kierath. He must be the most hated Minister in the State, particularly by my comrades in the trade union movement. He has done no favours for us and has done the State no good. However, he was the initiator of this Bill. Of all Ministers in past Governments and this Government, he seems to be the one person - perhaps through the initiatives of Hon Peter Foss, when he was the Minister for Health -

Hon Peter Foss: I was the one who put all the extra money in.

Hon Reg Davies: Congratulations, Mr Foss!

Hon TOM HELM: It is difficult going into an election saying something nice about Mr Kierath. It sticks in my throat, but it must be said.

I received a telephone call this afternoon from Kath Mallett the executive officer of the Deaths in Custody Watch Committee, of which I am also a member. She was very concerned that we might pass this legislation without amendment. She felt that the consultation about the extent of the police powers was limited. She had been advised that the Aboriginal Legal Service was not aware of the extended police functions and their additional powers, as are some members of the Police Force. When she reads this debate I hope she is reassured that there is a need for these additional police powers. I suspect the previous procedures were inadequate. Perhaps with experience and the knowledge of hindsight we will be able to put in place amendments that will ameliorate the concerns of all of these people. All members will be aware that the Deaths in Custody Watch Committee, which arose out of the Royal Commission into Aboriginal Deaths in Custody, monitors the behaviour of people who are incarcerated. There seems to be a relationship between people who are incarcerated and their mental stability, irrespective of whether they are held in police lockups or in gaol.

Hon Peter Foss: People can still be locked up after they have seen a justice of the peace. Your own legal spokesperson said he believed there was not an increase.

Hon TOM HELM: I am obliged to mention these points. If these comments are not put on the record, people who have concerns about the Bill may feel something underhand has gone on to enable the passage of this legislation. I have had some heated words with psychiatric practitioners, psychologists, psychiatric nurses and psychiatrists in the north west. I am very much aware of the way in which they are overloaded with work, and of their dedication to the job. Without them, we would be in dire straits.

Hon Peter Foss: Are they salaried medical officers?

Hon TOM HELM: Yes, they are employed. Workers from across the spectrum got together to look at the problem in toto, at society's attitudes, and came up with a framework which is now in place. This framework will make their job much easier and will enable them to see some light at the end of the tunnel. I, too, support the Bill.

**HON PETER FOSS** (East Metropolitan - Attorney General) [11.30 pm]: Although there have been some remarks about this Bill's having been rushed through the Parliament, one could hardly ask for more with regard to the quality of the contributions that have been made today. I want to thank in particular the first two speakers, Hon Kim Chance and Hon Nick Griffiths, for their excellent exposition of this legislation. The person who has not been given any credit is Hon Kevin Prince, the Minister for Health. He is the only Minister during the past 16 years who has managed to get this Bill into the Parliament in a form where it is likely to be passed. This Bill has been about 16 years in coming, because the Mental Health Act that will be repealed was succeeded by the Mental Health Act 1981, which has the dubious honour of being the longest unproclaimed Act in Western Australia.

Hon Reg Davies: This one will be proclaimed?

Hon Peter Foss: Yes. It will take some time to get it going, but I imagine it will be proclaimed three to six months from now. Since 1981, an effort has been made by successive Health Ministers to bring in the current Bill. I was one of those Ministers who tried to get it in. For two years I tried to get legislation before the House. There had been some public consultation before I became Minister, with further suggestions about amendments, so we sent that to parliamentary draftsmen, got it back, and went back to consultation, because it is one of those pieces of legislation in which many people are interested and a large amount of consultation takes place. It took months to get that back again, and there were then more suggestions. The problem I found was that we never seemed to be able to get the legislation to the mark; somebody always had a new idea by the time we got it back again. Hon Graham Kierath then set up his task force, and that came out with a very good analysis and was very useful in trying to draw everything together. That was part of the consultation process and of getting the Bill tied down.

Hon Kevin Prince had the determination to get the Bill before the Parliament. One of the reasons that the Government is so keen to complete this legislation is that we believe if we do not get some legislation on the Statute book this time, by the time we bring it forward in the next Parliament another idea will have been suggested and we will have to go through the whole process of consultation again. This Bill has been so close to getting to this Parliament on so many occasions over the past 16 years that now that we have come this far, we must get it onto the Statute book. I give the same commitment that was given by the Minister in the other place; namely, that we will review the Bill and bring forward an amendment Bill so that the ideas that people have can be brought forward. Once we get an amendment Bill into this House, that process of re-examining it is easy to undertake. We need to get something on the Statute book.

The other problem I had as Minister for Health is that I inherited the system as it was moving from a hospital-based health system to a community-based system. The first thing I found was that it had proceeded on the basis that it would be no more expensive, but it plainly would be more expensive, so we first had to quickly find some money in the Budget to deal with that extra cost, which had not been budgeted for. That was difficult in itself.

One of the problems we found was that it was difficult to make the community-based regime work without some of the measures that are contained in this Bill. It is very hard on families. An example is the community treatment provisions. I have visited an organisation that operates in Midland and is doing a fantastic job in supporting the families of people with mental illness. Modern treatment would indicate that as soon as a person's position has been stabilised, he should be released from the institution and maintained in the community, for a number of reasons: We do not wish to increase the limitations on a person's life for any longer than should be the case, and we do not want people to become institutionalised.

However, when people are released from hospital and go back into the community, while they take their medication everything is fine, but as soon as they stop taking their medication, they frequently revert to some rather unusual behaviour. Often it is quite difficult for families who suddenly find that a member of their family is behaving aberrantly to get that person back into the institution again, because they have to go through the processes set out in the Mental Health Act. In one case, the person decided that he was feeling okay, stopped taking his medicine, and started to believe once again that his father was the devil. The father does not know quite why he woke up in the middle of the night, but he managed to move just as his son was about to plunge a knife into him, thinking he was the devil. That is quite alarming; if he had not woken up, he would have been dead. As it happened, he did wake up, and he was able to avoid that, but he still had the problem of trying to restrain his son before he could call in various people to take him under control. We need to recognise that once people come out of hospital, there must be a regime for continuing treatment, and we must have the ability to continue with the support and persuasion that is currently provided within the institutions.

There is no doubt that some of the previous mental health attitudes were very poor. It is interesting that it was in the mental health area that the famous term catch-22 came about, because in the famous book of that name, one of the grounds upon which a person could get out of the war was insanity, but before he could get out he had to apply to be discharged on the grounds of insanity, and anybody who wanted to get out of the war was plainly sane, so he could not get out. I experienced something similar to this when a friend of one of my partners rang up from Heathcote Hospital because he was about to undergo electroconvulsive therapy. This is going back some years when ECT was quite popular.

Hon N.D. Griffiths: It was not popular with people in Heathcote.

Hon PETER FOSS: Exactly; that is why he rang up. I cannot remember the name of the particular doctor at Heathcote at the time, but he had a broad Scots accent. I am sure that people in the Health Department will remember who it was. This person's problem was that he was schizophrenic. He believed that he was in direct communication with God. God was in the sun, and he was very much enjoying the time that he had communicating with God. He could speak to God and he could hear God.

Hon A.J.G. MacTiernan: If he was a Catholic he would be canonised!

Hon PETER FOSS: The problem was that the treatment that had been prescribed for him was ECT and he did not want to undergo ECT. He was sufficiently lucid to know that ECT would not necessarily be a pleasant experience, and it was not treatment that he wanted to undergo, because he was happy with his life. As far as he was concerned, his hallucination was perfectly satisfactory. He was happier with that than he had been with his life before he started to communicate with God. I asked this doctor, "Why should you do it? If he is happy with his insanity, why not allow him to be happy?" He said, "Society has spent a lot of good money in training him to be" - I will not mention what he was trained to be - "and it is necessary that he be fixed." It was a certainly a very paternalistic attitude and I tried to argue against it. We looked into it and found there was no way in law that we could stop that treatment being carried out. He underwent electroconvulsive therapy. Now comes the moral dilemma!

Hon N.D. Griffiths: What caused this in the first place?

Hon PETER FOSS: For many years after, I continued to bump into that person, who has fully recovered as a result of that treatment. He is carrying on a useful life in society and has no recollection of having undergone the treatment.

Hon N.D. Griffiths: He is not a Supreme Court judge?

Hon PETER FOSS: No. He is not even in our profession!

This is an area which is full of contradictions, because the fundamental presumption of the legislation is in its definition of "mental illness". Clause 4 reads -

For the purposes of this Act a person has a mental illness if the person suffers from a disturbance of thought, mood, volition, perception, orientation or memory that impairs judgment or behaviour to a significant extent.

Judgement is a difficulty. It is all very well to talk about things such as informed consent and a person having some control over his or her treatment, but the catch 22 situation is that we are not even allowed to deal with people under this Act unless there is something wrong with their judgment, or in some cases, their behaviour. I will refer to one that affects judgment - the case of the person who was in Heathcote. In many cases, a person's judgment, indeed the person's entire perception of life, can be quite wrong. A person does not come under this legislation until we say that many of the things that we rely upon as a basis for decision making are removed from such a person. That is why it is always such a catch 22 area of the law. There are no simple solutions.

This Bill is a massive improvement on the present Act. It was under the present Act that a person underwent that procedure, and surgery. It is not the Act that has changed; it is the attitude and the general learning that has changed. This is such an important measure because it enshrines in legislation some of those changes. It gives an opportunity for these matters at least to be aired. The person I mentioned earlier had nowhere to go. He could not argue the point. He was happy with his hallucinations, and there was no way that could have been raised as an issue so that at least his point of view could be heard. No way could a person in my position, a lawyer, do anything. I could have gone for a writ of habeas corpus but, in the end, where would it have got me? I could have gone before the courts without any difficulty. I had worked out how I could go to the courts, but having gone there, where was the foundation for saying that the procedure should not be undertaken? There was none.

The visitors could say if there was some sort of abuse; the visitors were there to pick up things such as maltreatment but they could do no more. They still had power to deal with those matters but not when one could show that what the doctors were doing was justified medically. If it was justified medically, and was not cruel or unreasonable, the procedure could be undertaken. The important point about this legislation is that it sets in place a basis for those questions to be raised by or on behalf of the patient, and within the provisions referred to by both Hon Kim Chance and Hon Nick Griffiths particular kinds of treatments are either forbidden or hedged around with considerable limitations; and involuntary treatment is again hedged around with limitations. The strength of the Bill is the tests that are put in place. When I reach the question of police powers, a matter raised by Hon Nick Griffiths, I will refer to the tests that are in place.

A system can always be abused. However, we must first see what sort of system it is, if it is not abused. I gave an example of the system not being abused. I gave an example of the system being used in the way that the Act contemplated; yet today that example is horrifying. This was back in the early 1970s. First, we must consider what are the provisions if they are adhered to, and are they appropriate and proper in the present time? I think we can say without hesitation that throughout the Act, if they are properly adhered to, they are appropriate and proper.

Hon Kim Chance asked whether the Mental Health Review Board should have a patients' advocate on it. I think the answer is no, mainly because of the function of the board. Schedule 2 of the Bill covers the proceedings before the board. The board is to hear from other people. It will have advocates come before it rather than have advocates on

it. That does not mean we cannot have a tribunal which has advocates on it. I can cite examples of tribunals with interest groups on them which allow them to perform an advocacy role. That does not mean they should be eliminated, but the basic concept of the Mental Health Review Board is that it will receive advocacy rather than being the advocate.

Visitors already have a role to play, which they take very seriously. Some changes have been made in the selection process, and I think visitors are probably given a more advocate-type situation by their manner of selection. However, even the current boards of visitors take their role very seriously. For instance, they report directly to the Minister. I remember regularly receiving wads of reports, and being a busy Minister, I tried to get someone to alert me to what was in the reports. The visitors became upset that I should have allowed people in the department to read through the reports to alert me to certain parts of them. They thought it might be part of a conspiracy to stop the Minister from knowing what was happening. They had a right to talk to the Minister immediately; therefore, there must be no interposition between the Minister and the visitors in the review of the reports. We settled on a compromise. I asked the visitors to highlight what they thought I should be reading, and the matters that had not been highlighted I could have the department look at. That satisfied both sides. Visitors take their job very seriously, and very lengthy reports are filed on a regular basis. I can assure the member that the role of the visitor is taken seriously, and will be enhanced by this legislation. It has also flexibility we did not have under the other system where each major hospital had its board, and there were two other boards for all the other hostels.

The question of why people are in mental institutions and why they are removed was raised in an excellent play put on by the Deck Chair Theatre. Unfortunately it did not get as much public support as it should have. People stayed away in droves because they thought it would be too emotionally draining and about a nasty topic. It was not about mental illness. It was based on a true story reported in *The West Australian* about a young girl who in her pre-teen years had been placed in a mental institution because her parents' marriage broke down and there was nowhere else to put her. She remained there until she was 54 years old. She maintained all the time that she had a sister who had not been put in an institution. I have an aunt who went through the same situation in Portugal. She was confined in an institution at an early age in the belief that she was mentally ill. She was later found not to be, and probably never had been, but she could not leave because, having been there for about 60 years, she could not face the possibility of going outside into the wide world. It does not take long for people to become institutionalised. It happens not only in mental health institutions but in any institution - aged persons homes and prisons as well.

Hon Derrick Tomlinson: And Parliaments.

Hon PETER FOSS: People become afraid of the outside world. That is one of the driving forces behind the change from institutionalised treatment to community treatment. There is no doubt that if people have difficulty fitting into society because of mental illness, after they have been in an institution for a time it becomes even harder to fit them back into society.

Society has not been very tolerant. One of the first problems I struck related to a halfway house being set up in a town not too far from Perth. The residents were up in arms about having a halfway house established in their street. We did a calculation and worked out that given the number of people living in the street, and if one in five people suffers from mental illness, about five people at the public meeting would need some form of treatment. I was informed later that one person was undergoing serious treatment but was objecting to the establishment of the halfway house.

The biggest problem we have in that area is the community's intolerance of mental illness. The Health Department pointed out to me that the greatest danger to the public is from the undiagnosed person, not the person who has been diagnosed and who is undergoing proper treatment. It is the undetected person who often causes the greatest problems. Again, this Bill is important in changing that attitude. The Leader of the Opposition recognised that as important.

Hon Nick Griffiths raised the issue of the police powers. Being lawyers, we have some recollection of the current provisions having been applied in the past. Section 30 of the current Act is quite draconian. It states -

- (1) Where a complaint on oath is made before a justice that a person who appears to be suffering from mental disorder -
  - (a) is without sufficient means of support; or

Hon Kim Chance: It is wandering at large.

Hon PETER FOSS: That is the next section. That actually tended to apply to people with Alzheimer's disease; they often wander at large.

Hon Kim Chance: So do bushwalkers.

Hon PETER FOSS: It continues -

- the justice may, by order . . . require a police officer or some person duly authorised in that regard, by the Minister, to apprehend the person in respect of whom the complaint was made and forthwith cause him to be examined by a medical practitioner.

All one must show is that they appear to be suffering from mental illness and they are at a loose end.

Hon N.D. Griffiths interjected.

Hon PETER FOSS: That is it. What is the point of going before a justice of the peace when that is all one must prove? It is not even necessary to abuse this provision! People can be deprived of their liberty under this Act in what we would regard as outrageous circumstances without that being an abuse. It did happen. I do not know whether it still happens. It is certainly capable of abuse because the person involved is not heard. One simply makes a complaint and next thing the police turn up with a warrant. At that stage, the person concerned is in!

Hon Kim Chance: It certainly does not amount to judicial oversight.

Hon PETER FOSS: That is not judicial oversight.

Hon N.D. Griffiths: Those who suggest it is do not have any understanding.

Hon PETER FOSS: That is right.

Hon A.J.G. MacTiernan: It is confused with the provisions relating to other persons.

Hon PETER FOSS: That is exactly the point. People seem to think that this system is similar to being charged and a warrant being issued and going before a magistrate. Where does one go after the warrant has been issued? The order is issued and one then goes to a medical practitioner, not a psychiatrist or anyone who necessarily knows anything about mental health. It could be the local general practitioner. I can remember a situation in one country town where the two medical practitioners kept trying to commit each other. One was a drunkard.

Hon Kim Chance: This was not near my home town by any chance?

Hon PETER FOSS: Very close.

Several members interjected.

Hon PETER FOSS: This was some time ago. The real complaint against one doctor was that he was a drunkard. Whenever he got drunk he bothered the matron and he kept being committed, and quite legally so. This provision does not amount to judicial supervision. As Hon Alannah MacTiernan said, the suggestion of including something afterwards is terrible because it enables the abuse to take place and then one goes to the JP and all the problems that one might have had as a result of the abuse are glossed over by the fact that one gets a warrant.

Hon A.J.G. MacTiernan: You are not saying that I was advocating that?

Hon PETER FOSS: No, the member quite rightly pointed out that it looks good; one puts a gloss on it. It looks as though one has been through the process, but it has simply legitimised an illegitimate process by going through it afterwards.

One is then required to go to a medical practitioner. The medical practitioner is required only to find that the person appears to be suffering from a mental disorder, nothing more, then off he is sent to an approved hospital. That is the current situation.

Clause 195 is a limitation because it provides -

- (1) A police officer may apprehend a person if the officer suspects on reasonable grounds that the person -
  - (a) has a mental illness; and
  - (b) needs to be apprehended.

Why do they need to be apprehended? The legislation provides that it is required -

- (i) to protect the health or safety of the person or any other person; or
- (ii) to prevent serious damage to property.

Hon Derrick Tomlinson asked what one does when Lizzy Borden takes an axe and proceeds to give her parents 40 whacks. Do we wait until she actually hits her mother with an axe? After she has hit her with an axe, she can be apprehended for the crime. There must come a time when she is so close to hitting her with an axe, she can be arrested for attempting the crime.

Hon Nick Griffiths referred to the New South Wales Act.

Hon N.D. Griffiths: I made reference to those Acts.

Hon PETER FOSS: He said when it becomes appropriate for them to be dealt with in accordance with this Act rather than otherwise in accordance with the law. Clause 195 does rather like what we did when we decriminalised drunkenness. It enables us to act in accordance with this Bill as opposed to otherwise in accordance with the law. A person "needs to be apprehended to protect the health or safety of the person or any other person" or to "prevent a serious damage to property". Of course, a drunk can be picked up for being drunk or because he is being disorderly. He is doing something; that is, causing a public nuisance, or assaulting a person. If the police want to pick up somebody who is drunk, they are able to pick him up under the law relating to drunkenness. However, they can pick him up for almost anything. A person who is drunk can be picked up under the ordinary aspects of the law. It then becomes a criminal matter which the police then have to deal with. Under the circumstances of clause 195 the police will in any event imminently have the right to apprehend that person under the criminal law. That is why I do not see it as being in any way an extension of the law. It recognises that perhaps it is slightly better for the police to intervene as provided under this Bill, as mentioned in the New South Wales Act, and deal with it not as a criminal matter but as a matter arising under this Bill.

Hon Reg Davies: They can still retain the person against his will for what period of time?

Hon PETER FOSS: Let us deal with the powers first of all, because they are important. The first thing is that it is a reasonable alternative, I believe. We do not have those words that appear in the New South Wales Act. Hon Nick Griffiths and I agree that is the situation. The safety here is that the person should be apprehended to protect someone or something. In other words, the police must be of the view that, except for the case of their own safety, they have the right to arrest the person under the criminal law because he is about to do damage to the health or safety of another person or do damage to property.

Having apprehended that person, the officer must, as soon as is practicable, arrange for the person to be examined by a medical practitioner or authorised mental health practitioner for the purposes of section 29, as soon as is practicable. Members should keep in mind the consequences of not doing what is meant to be done. That person would then fall outside the protection of this provision. Penalties have been included in the Mental Health (Consequential Provisions) Bill for the mistreatment of a person in these circumstances. Members say there should be some time. There is a time; that time is "as soon as is practicable". Generally speaking "as soon as is practicable" is a lot less than "in any event" or "no later than". If members want to do that they have to allow for other cases. I mentioned the case of someone running amok and being apprehended on a remote Aboriginal community in the middle of a cyclone and that community being cut off for five days. What happens then? The prime measure is "as soon as is practicable". It has been suggested that we put an outer limit on that. Perhaps we should. I am not suggesting it is not something that we should consider. However, the real limit is "as soon as is practicable". My objection to inserting "up to 48 hours" is that, although it may sound okay, it is not okay in 99 cases out of a hundred. That is why I will not support such an amendment. I am happy to debate it, but I would not support it. Subclause (3) states -

After the examination the person is to be released unless he or she is referred under section 29 for examination by a psychiatrist.

Clause 196 is the reverse. It provides for no anticipation of the crime and no apprehension of the person, but when the crime has occurred the person is apprehended. The law then cuts in and says that under those circumstances the police must do exactly the same thing. That is a very important protection and limitation on police powers.

Clauses 197 and 198 have to be qualified by the fact that it is a police officer exercising the powers of clauses 34, 71 and 195. I will deal with 195 because that is the one that has been queried. It is not this broad power that the member read about in today's *The West Australian*. It sounds horrifying the way *The West Australian* reported it. However, the Bill does not say that at all. The police must have apprehended the person because he was about to do an injury to somebody or something. If he is about to do an injury to somebody or something, it is fairly important that the police can enter premises, apprehend the person and then search him. He might have something nasty on him. If the police cannot search him and he has been taking to somebody with an axe, or the knife to which I referred, he might have another one concealed about his person. I would not like to not have the opportunity to search that

person. That person would be taken into custody and the police would do the normal things they do when they take people into custody.

Clause 198 is also qualified by "a police officer who is exercising the powers referred to in section 197" and he can only exercise the powers referred to in clause 197 when he is exercising the powers referred to in clause 195. The officer is "entitled to seize anything that is likely to be used by the person in a way that would prejudice the health or safety of that person or any other person; or cause damage to any property". In other words, he can seize the axe. Paragraph (b) of clause 198 states -

or that the police officer believes is likely to materially assist in determining any question that is likely to arise for determination under this Act following the apprehension of that person.

He may want to take along some of the evidence when he is going to see the doctor.

Hon Reg Davies: He cannot go and search for documents?

Hon PETER FOSS: It is a logical succession. First, the police officer cannot start until he thinks somebody is about to commit an offence. I use that terminology because that is one of the classes of things. The exception to that is doing damage to oneself. The police officer cannot start until he thinks the person is about to commit an offence. He can then enter the premises, search the person and seize anything. The things he can seize are those that are likely to be used in committing the offence and anything that would be evidence of it. That happens to be fairly reasonable.

Clause 199 states -

Any thing seized -

- (a) may be held by any official for so long as is necessary, according to the purpose for which it was seized; and
- (b) subject to paragraph (a), is to be returned to the person from whom it was seized or otherwise dealt with according to law.

Then there is reasonable force. I think this is something members can look at again. However, as a basic proposition, I do not think it is unreasonable. I do not see it as an expansion of powers. Often this happens, of course.

An Act of Parliament sets out the procedure. By doing that the Government often limits what people can do at law. If people do not know about it they think it is new when they see it. I do not think it is new. Generally speaking, policemen do all those things where they think an offence which is likely to cause injury to a person is about to be committed. In this legislation we are constraining something which is capable of being done under general law. This legislation is putting the boundaries around it. In other words, it is saying what can be done, but is putting limits on it.

Hon J.A. Scott: What happens when there is malicious intent?

Hon PETER FOSS: Like anything, the police cannot rely on this legislation to act if there is malicious intent. Under the existing Act it does not have to be a malicious act. It could be done without malice and a person would get away with it. Under this legislation one must believe that a person is about to commit a criminal act. If that is the case, it can be done under the existing laws. It is only if it can be proved it is a malicious act that a person is not protected. There are amendments in the Mental Health (Consequential Provisions) Bill in this regard.

I agree with Hon Nick Griffiths' comments, including the quote he gave from the New South Wales Act. He clearly indicated that Western Australia probably has one of the most limited regimes in Australia.

On the question of community health programs, the Government knows that the system referred to by the member is not cheaper, but more expensive. The Government is proceeding along these lines because it believes it is the correct and proper treatment.

Hon Nick Griffiths raised a question about legal aid. I advise him that a mental health law centre is funded by the Health Consumers' Council of Western Australia. I am not sure of the exact amount of funding, but it provides for a lawyer and further staff. This legislation must be passed in order for it to function appropriately.

Hon N.D. Griffiths: Does it have only one lawyer?

Hon PETER FOSS: It has only one lawyer, but it will have the capacity to train other staff. I do not have enough details with me, but I know that it will fund at least one lawyer.

I have dealt with some of the matters raised by Hon Alannah MacTiernan in my response to Hon Nick Griffiths' comments.

Hon A.J.G. MacTiernan: What about the issue of the time the police have?

Hon PETER FOSS: I dealt with that in my comments on the issues raised by Hon Reg Davies. I do not believe there should be a time limit placed on the police, but it is something that can be discussed later.

I am pleased Hon Cheryl Davenport paid tribute to Hon Keith Wilson and Hon Derrick Tomlinson. I know Hon Derrick Tomlinson put in a huge amount of work because every time I bumped into him in the time he was on that task force he was going to a task force meeting. I do not know how many hours that task force put in. At the same time, Hon Derrick Tomlinson was sitting on the Legislation Committee and the Select Committee on Western Australian Police Service. It was a fairly heavy effort on his part.

On the question of the psychiatric emergency team, an additional \$480 000 was allocated to the team as a consequence of the report. I understand that children up to 14 years old are generally taken to Princess Margaret Hospital for Children by their parents. The issue of the 15 and over age group is being considered. Nothing has been put in place, but I believe it is being seriously looked at. The Bentley inpatient centre is operating and is full. The residential program has been funded, but it is still looking for capital funding.

I agree with Hon Cheryl Davenport's comments about the juvenile justice system and that common factors which lead to criminality as well as to mental health problems can be found. By the end of her speech she made it clear she was not saying that everybody involved in the juvenile justice system has a mental health problem. She was right when she said that they often have matters in common. Members must bear in mind that mental health does not necessarily have anything to do with social factors. For example, schizophrenia does not have any social boundaries. I do not believe that suicide should be tied to mental health. Although there are factors in common, many of the people who commit suicide have no previous history of mental illness, and nobody thinks they are suffering from it. The country rate of suicide does fit into one of the points raised by the member; that is, the question of second chances. Some people who attempt suicide do not want to suicide; it is simply a plea. If a country person attempts suicide with a gun, he does not get a second opportunity because it is fatal the first time. That is one of the factors which affects the country suicide rate.

I hope I have dealt adequately with the relaxation of the law which was raised by Hon Reg Davies. He also raised the question of consent. Any medical treatment which is carried out without informed consent is an assault. This legislation varies that situation because it will be possible to carry out medical treatment without the consent of the patient. Under those circumstances, it would not be an assault.

This Bill does not give treatment *carte blanche* to a person who is admitted as an involuntary patient. By limitation, certain treatment cannot be given and other treatment can be given only with various safeguards. If there is consent, one set of provisions apply; if there is no consent, another set of provisions apply. The member asked whether funds would be ongoing. I advise members that mental health funding has been steadily increasing. I always had the view that we could never fill the pit. We could keep putting money into mental health forever. The entire Health budget, or even double it, could be allocated to this area. Mental health funding will continue to increase.

Hon Tom Helm referred to mental health problems in country areas. It has always been a problem, but it is being addressed. It encounters the same problem as other areas of health; that is, encouraging specialists to go to those places. For many years mental health in country areas was neglected. One can understand the reason for that because the simple solution for people with mental health problems was to ship them to Perth and put them in one of the mental hospitals. When one moves from an institutionalised approach to a community approach one is not only changing treatment but also the location of treatment quite significantly. The infrastructure is not available in country areas to move from a system which worked entirely by bringing people to Perth to a system of trying to look after them in the community. Obviously, it will take time to overcome this problem.

I thank members for what was a very helpful debate. I trust that we will at long last be able to give to this State mental health legislation which has been needed for at least 16 years, possibly longer.

Question put and passed.

Bills read a second time.

#### *Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bills.



**Mental Health Bill****Clause 1 put and passed.****Clause 2: Commencement -**

Hon N.D. GRIFFITHS: When is it envisaged that the Bill's proclamation will occur.

Hon PETER FOSS: I draw the member's attention to subclause (2).

Hon N.D. Griffiths: I have read that.

Hon PETER FOSS: I have put that provision in.

Hon N.D. Griffiths: That is the catch-all clause.

Hon PETER FOSS: That was the original Foss clause. It could be up to nine months before the legislation comes into operation.

Hon N.D. Griffiths: A proper gestation.

Hon PETER FOSS: It is mainly a matter of training everybody in how to use the legislation.

Hon P.R. Lightfoot: It is quite a useful gestation.

Hon PETER FOSS: Indeed.

Hon KIM CHANCE: I thank my colleague for raising this matter, which I intended to draw to members' attention. Some public comment has expressed concern regarding the police powers in the Bill. An important component of public, government and parliamentary consideration of the police powers provisions is that it is highly unlikely that the new legislation will come into effect before nine months from the date of its passage. That is an important aspect. Also, the measures will not necessarily be imposed in the form in which they currently stand. The second reading speech indicates that changes could be made to the legislation in the future, indeed, in the near future. Therefore, it is important in terms of satisfying concerns expressed in the media, particularly those of yesterday, that considerable time elapses before the changes come into effect. Therefore, the community need not enter panic stations as a result of the legislation's passage.

**Clause put and passed.****Clause 3 put and passed.****Clause 4: Meaning of "mental illness" -**

Hon KIM CHANCE: Clause 4 (1) contains a definition which does not attempt to delineate between factors leading to the "disturbance" constituting mental illness as being long term or short term. I noted a moment ago some of the comments of my colleague the member for Kalgoorlie in the other place regarding emotions, particularly grief, causing such disturbance. I mentioned in the second reading debate that stress and depression can have the effect of such disturbance in the short term. Obviously, grief and other emotions, such as anger, and physiological factors such as severe fatigue, which results in deprivation of oxygen to the brain, cause some, if not all, of the disturbances mentioned in subclause (1). People familiar with the hallucinations brought on to an otherwise healthy mind as a result of extreme fatigue are well aware that this can be cured simply by 10 or 12 hours' sleep, but it is nonetheless real and frightening. How is it determined that these disturbances may simply be the result of temporary changes in an otherwise healthy mind?

Hon PETER FOSS: There are a number of reasons. Let us take the example the member mentioned about the effect of other influences. I refer to the exceptions outlined in subclause (2). A person would not have a mental illness "by reason of one or more of the following", and the list includes the taking of drugs and alcohol. Returning to the individual, the disturbance is a mental illness if it impairs behaviour and judgement to a significant extent. It could be that a person has a short acute episode, which is significant. A recurrent mild episode, because of the recurrence, is significant. The two examples I give are not exclusive. The word "significant" must be taken into account. It must be a significant disturbance. That is a matter for judgment depending on all the factors involved, such as acuteness and the length of the disturbance.

Hon Kim Chance: What about the emotions of grief and anger?

Hon PETER FOSS: Apparently, neither is regarded as a disturbance; they are regarded as normal.

Hon KIM CHANCE: This particularly interests me because my father, who is neither a lawyer nor a psychiatrist, impressed on me that a person who commits a serious crime against another person, including serious injury and deliberate murder, should probably never be judged to be guilty of a crime and should always be deemed to be insane as no sane person would do such a thing to another person.

Hon Peter Foss: It is catch-22 again.

Hon KIM CHANCE: Quite. His argument was based on the fact that in a crime of passion, the perpetrator was temporarily insane as a result of that passion. If it was done through a preconceived passion, that person was probably permanently insane because no sane person would determine that course of action. I have often tried to think that argument through, and I cannot fault its logic even though I have been thinking about it for 30-odd years. It raises itself here. Could it be said that a person who has committed, for example, a crime of passion - the most common form of serious injury to other people - should always be deemed to be insane on that basis?

Hon PETER FOSS: There is a term for this - the medicalisation of badness. People say that madness does not exist if its only symptom is badness. The member has moved into a different area. He has moved onto the Criminal Law (Mentally Impaired Defendants) Bill.

Hon Kim Chance: Is it a judgment of insanity?

Hon PETER FOSS: No. As Hon Nick Griffiths mentioned, the criminal definition and the medical definition of sanity are two totally different things. In society we are defining the instances where we will not hold people criminally responsible for their actions, and also those who we will not. In this Bill we are dealing with circumstances in which we believe people may need treatment. We do not normally treat people as being mentally ill if they are, for example, showing reasonable grief; it might be regarded as a symptom of healthiness. In fact, we would be more likely to be concerned if people did not show grief at a bereavement. We may also be worried about why they do not show anger when an appropriate stimulus occurs. That, in itself, may be regarded as a symptom. This clause talks about a disturbance of thought, mood, volition and so on, and that which affects their judgment or behaviour to a significant extent. If the anger or the grief persists abnormally, we might look to see whether it is a symptom of some form of mental illness.

Hon KIM CHANCE: I now refer to subclause (2). A problem with enumerating matters for exclusion from a general principle in legislation has always been that, by omission or commission, a matter may be excluded or included which is not ejusdem generis with the other clauses. At this stage I am not concerned that something should be there that is not, although that is always a possibility. On this occasion, I wonder about subclause (2)(f), which deals with antisocial behaviour. The fact that a person demonstrates antisocial behaviour does not mean that, for that reason alone, the person may have a mental illness. I take it that that demonstration of antisocial behaviour is deemed to be in the short term. If a person consistently exhibits antisocial behaviour, clause 4(1), which talks about suffering from mental illness, might be more applicable for that person.

Hon PETER FOSS: This comes back to the question of badness. The member is raising the same thing. Someone might be consistently bad. The expression the member is talking about is *expressio unius est exclusio alterius*. It means that if one category is put in, the other is excluded.

Hon Kim Chance: I thought it was ejusdem generis.

Hon PETER FOSS: No. That is when X, Y and Z and others are put in specifically and the words "and others" are read ejusdem generis with X, Y and Z. In the other expression, if some things are put down and others are not mentioned, they are seen to be excluded. These are not exceptions. It must still be shown that the person is mentally ill. These deal with all the terms that have been used as an excuse from time to time, mostly in Russia, where it was an excuse for locking up people who had held particular opinions, political, philosophical or otherwise.

Hon Kim Chance: In any totalitarian society.

Hon PETER FOSS: I think the term "sexually promiscuous" was used in the nineteenth century for locking people in asylums.

Hon A.J.G. MacTiernan: There would be a few people in here who would qualify for that.

Hon Kim Chance: As in the Third Reich.

Hon PETER FOSS: For a long time intellectual disability and mental illness were not distinguished. Antisocial behaviour was used in Russia as a basis to lock people up. It was popular in the 1930s. A prison was built specifically for all of these people who were consistently bad and the authorities treated them as though they were ill. It is not now considered to be a mental illness. Perhaps the father of Hon Kim Chance was a person of the 1930s.

Hon Kim Chance: That is a fair comment.

**Clause put and passed.**

**Clauses 5 to 9 put and passed.**

**Clause 10: Other functions of Chief Psychiatrist -**

Hon KIM CHANCE: This clause describes the other functions of the Chief Psychiatrist. What is the current situation? Does any equivalent power exist now?

Hon PETER FOSS: These functions are currently being carried out by the Director of Psychiatrist Services, but they are not statutory.

**Clause put and passed.**

**Clauses 11 to 18 put and passed.**

**Clause 19: Mental health practitioners -**

Hon REG DAVIES: I am concerned that we are giving powers to more people in the field to commit others. Will these people have specialised training in this area of mental health? People may miss a more serious complaint of a patient. It may be that people are thought to have a mental illness when in fact they have a thyroid problem that may exhibit similar symptoms. Will these people be trained to identify these things? Some people may be hallucinating or deluding because of some other disorder, or may have a serious infection that could be mistaken for a mental disorder. I am concerned about the training of people who can commit others.

Hon PETER FOSS: Only a psychiatrist can commit a person; that has always been the case. The difference here is who can refer a person to psychiatric treatment, which is done by a medical practitioner, or else an order must be made under the legislation. It is arguable who is better to do this. Many medical practitioners have very little psychiatric training or experience. These people, at least, have had regular contact with the psychiatric profession. This provision says that these people must have at least three years' experience in the management of persons with mental illnesses. They can be psychologists, people who are registered as nurses, occupational therapists or people with another recognised qualification and who have at least three years' experience. Those people all have, at least, a connection with some form of dealing with the mind. They can refer the person only to a psychiatrist, who then makes a decision about whether the person is committed.

Hon KIM CHANCE: This issue has been raised by Hon Reg Davies, but I want to make sure that members understand that the words "mental health practitioners" and "authorised mental health practitioners" are referring not to a medical practitioner but to a group which includes a psychologist, a nurse under the Nurses Act, or an occupational therapist under the Occupational Therapists Registration Act. I want to know, possibly on behalf of Bruce Donaldson, and perhaps others, that the private nightmare of psychiatrists' spouses that their spouse might one day get dirty on them and have them committed now goes very close to extending to those of us who are married to nurses, and presumably also to those of us who are married to occupational therapists!

Hon Peter Foss: Not community nurses, the Leader of the Opposition will be pleased to know.

Hon KIM CHANCE: My spouse is still registered under the 1992 Act.

Hon Peter Foss: She has not had at least three years' experience in the management of persons who have mental illnesses, although she might say she has had three years' experience of managing Hon Kim Chance!

Hon KIM CHANCE: Only a person with recognised qualifications, or a person with -

Hon PETER FOSS: No. That covers paragraphs (a) and (b). It is not the person with the recognised qualification who must have three years' experience, but the persons listed in paragraphs (a), (b) and (c) all need to have that qualification. The reason is principally that in rural and remote areas often there is no medical practitioner.

**Clause put and passed.**

**Clauses 20 to 62 put and passed.**

**Clause 63: Release on advice of practitioner while patient on leave -**

Hon KIM CHANCE: As in clause 29, and I did not raise the matter then because it only needed to be raised in the context of either clauses 25 or 63, we have an example here of the power that can be exercised by those persons described in clause 19, which are a psychologist, a nurse or an occupational therapist. In clause 63, an authorised mental health practitioner, which includes those three classes of professional, can -

Hon Peter Foss: They are a special class.

Hon KIM CHANCE: They are the group which form the authorised mental health practitioners.

Hon Peter Foss: They are, but those under clause 19 are not the same as those under clause 20.

Hon Peter Foss: There are mental health practitioners and authorised mental health practitioners.

Hon KIM CHANCE: Yes, and they are slightly different. I guess I had taken it that they were mental health practitioners under clause 19 who had authorisation.

Hon Peter Foss: That is right; they have to be under clause 19 before they can be authorised under clause 20, but they need to have more to be authorised under clause 20.

Hon KIM CHANCE: Nonetheless, is it fair to say that as a result of clause 63(1)(b) and the reference to the authorised mental health practitioner, a person performing actions under that clause may be a nurse or an occupational therapist?

Hon Peter Foss: Yes.

Hon KIM CHANCE: Under this clause -

Hon Peter Foss: You go to a less restrictive regime.

Hon KIM CHANCE: Yes. A nurse or occupational therapist authorised as such under the Act can submit a written opinion to the treating psychiatrist that the patient should not continue to be detained as an involuntary patient. I appreciate that it is only a written opinion, but its effect is quite powerful because it can lead to a patient who has been detained as an involuntary patient ceasing to be detained.

Hon PETER FOSS: That is correct, but the patient has already reached the stage where he is on leave of absence, so he is not being detained. An attitude has already been formed by the psychiatrist that the person can leave. It would be a bit unfortunate for a person, particularly in remote areas, if we then had to bring him back to the psychiatrist and have the psychiatrist directly observe him to see whether the legal regime rather than the physical regime should be changed. A person on leave of absence is already physically away. What we are changing is the legal regime under which they operate. It would be a bit unreasonable if they could not under those circumstances act upon the advice given by people who are not just mental health practitioners - that is, qualified people with three years' experience in the management of persons with mental illnesses - but also designated by the Chief Psychiatrist as having qualifications, training and experience appropriate for the performance of the functions vested in an authorised mental health practitioner by clauses 29 and 63. It is not as though we are letting the person out of hospital; he is already on leave of absence. All we are doing is changing the legal regime that applies to the person on the basis of a report which is submitted, and there is still the responsibility and discretion.

Hon Kim Chance: The Chief Psychiatrist makes the decision?

Hon PETER FOSS: Yes.

**Clause put and passed.**

**Clauses 64 to 100 put and passed.**

**Clause 101: Prerequisites to psychosurgery -**

Hon KIM CHANCE: If psychosurgery has not been used in Western Australia for 20 years, why has it been retained in the Act?

Hon PETER FOSS: It is an interesting answer. When this Bill was first drafted it was only four years, and it is quite possible that if we were to start the process again now, it might not be included, and that might be another thing that is looked at. It illustrates the length of time for which this legislation has been going.

**Clause put and passed.**

**Clauses 102 to 104 put and passed.**

**Clause 105: Matters for consideration by psychiatrist -**

Hon KIM CHANCE: I referred to clause 105 (c)(ii) in the second reading debate. If the Minister provided an explanation in his response and I missed it because I was not in the Chamber, I apologise. Under this clause a psychiatrist must determine whether a person has the capacity to give informed consent to electroconvulsive therapy. If the person has that capacity, he must ascertain whether that consent has been given and under subparagraph (ii)

he must have regard to whether or not that consent has been given. In other words, if the psychiatrist determines that the person has the capacity to give consent to electroconvulsive therapy and then determines whether consent has or has not been given, that does not seem to decide the question. Bearing in mind subparagraph (ii), if consent has not been given, the psychiatrist could perhaps ignore it.

Hon PETER FOSS: He cannot ignore it but he may act contrary to it. To ignore would be to disregard.

Hon Kim Chance: It was a bad choice of words.

Hon PETER FOSS: There is no hint about the circumstances under which he could fail to act on it. The member is right in saying that he could, but he could not do it without at least giving some regard to it. I do not know what the basis for this provision is, but it is not an unusual term in legislation. The psychiatrist could certainly be challenged on it and must give reasons.

Hon Kim Chance: It is not as prescriptive as it should be.

Hon PETER FOSS: There is a difference between involuntary patients and voluntary patients.

Hon A.J.G. MacTiernan: That is the intention.

Hon PETER FOSS: Whether the member thinks it is justified is another matter, but it is still possible to submit involuntary patients to electroconvulsive therapy even without their consent. The psychiatrist must ascertain that, and he cannot disregard it. I gave the example of the man who wanted to stay that way. A psychiatrist could not ignore him because he is mad, but he must give a good reason for continuing to do it.

Hon KIM CHANCE: I am not entirely satisfied with that answer. I refer to clause 104(1)(d) on the same page. Is that applicable in this case? If it is not, should it be applicable? That resolves a grey area by making it necessary to obtain the approval of another psychiatrist before proceeding further. The provision in clause 106 helps even more because if the psychiatrist does not approve the recommendation, the psychiatrist making the recommendation must refer the matter in writing to the Mental Health Review Board.

Hon PETER FOSS: The member has answered his own question.

Hon Kim Chance: I am not sure.

Hon PETER FOSS: The process is set. First there must be a recommendation, then it must be approved, and that approval cannot be given unless the terms of paragraphs (a) to (c) are complied with, and then if approval is not given to the recommendation, the matter must be referred to the board. Clause 106(2) states that if the psychiatrist withholds approval and continues to withhold approval, the board may recommend an alternative treatment, transfer responsibility from the treating psychiatrist to another psychiatrist or order that the involuntary patient is no longer an involuntary patient.

Hon Kim Chance: I am happy if that is what it means.

Hon A.J.G. MacTIERNAN: I am concerned about this provision, particularly when considered in conjunction with clause 114. This clause is intended to make it clear that although some regard to consent must be given, consent is not a prerequisite. That is the difference between voluntary and involuntary patients. I note that clauses 104 and 105 appear to contain a set of protections for the involuntary patient, but those protections can be completely wiped out under the provisions of clause 114. I will take up that point when we reach clause 114.

**Clause put and passed.**

**Clauses 106 to 109 put and passed.**

**Clause 110: Medical treatment may be approved by the Chief Psychiatrist -**

Hon A.J.G. MacTIERNAN: This provision provides that the Chief Psychiatrist may provide to an involuntary patient or a mentally impaired patient approval for medical treatment that is not psychiatric treatment. I am concerned that the Chief Psychiatrist may be able to make a determination that a mentally impaired or psychiatrically disturbed person requires sterilisation. The provision is broad enough to enable that to occur or to allow the Chief Psychiatrist to make a determination regarding any other medical treatment. That is a concern. For a range of medical treatments the matter should go before someone other than simply the Chief Psychiatrist.

Hon PETER FOSS: The member is right in her interpretation of the Bill. Is she suggesting a range of treatments that is permitted or a range of treatments that is not permitted?

Hon A.J.G. MacTIERNAN: When a treatment is irreversible or is a more serious treatment, perhaps there should be a reference to a person outside the hospital, even if it were to the Medical Board of WA, for example. This provision has the capacity to be far broader than the Government intends and there should be some review of any such decision. If a person has the flu and the Chief Psychiatrist wants to prescribe an antiviral agent, that is one thing; however, if it is something that could have long term consequences, I do not think it should be something that is within the province of the psychiatrist to determine.

Hon PETER FOSS: Currently it is within the province of the superintendent of the institution. The points the member makes are interesting. It is a matter that should be considered. A lot of urgent treatment may be irreversible. For example, a person's appendix may have to be removed. Under those circumstances it would be silly to have to go to the board to get the power to carry out an appendectomy. However, if the treatment is non-urgent and non-life saving and is irreversible, it should be one of the matters we give greater consideration to at a later date.

Hon A.J.G. MacTIERNAN: This provision appears to conflict with a High Court decision on the sterilisation issue in which the High Court found that it was not proper for someone to give that consent without the matter going before the court.

Hon PETER FOSS: Rather than conflicting with it, it would just take precedence over it.

Hon A.J.G. MacTiernan: Which would take precedence?

Hon PETER FOSS: Marion's case. This provision would be read down in accordance with Marion's case. That is, if it was not life threatening and irreversible, the court would say that the Act must be read as not permitting one to do those things and that it must be something that was for the benefit of the patient.

Hon A.J.G. MacTIERNAN: I ask that this matter be submitted to the review because it is important to make the legislation clear. A Chief Psychiatrist looking at this Bill would think he had a carte blanche. It is important for limitations to be built into the provision.

Hon PETER FOSS: I will pass that on to the Minister for Health.

**Clause put and passed.**

**Clause 111 put and passed.**

**Clause 112: Further remedy where person dissatisfied -**

Hon A.J.G. MacTIERNAN: I have a concern that when a person has indicated that he is unhappy when a treatment has been imposed on him, the Chief Psychiatrist has two choices: He can transfer the responsibility to another psychiatrist, which is okay in itself, or he can refer the matter to the Mental Health Review Board. I would like to see a provision that if the person was not satisfied with the other psychiatrist to whom the matter was referred, he would automatically have a right to have the matter go to the Mental Health Review Board. There does not seem to be a mechanism by which a person has a capacity to get beyond the psychiatrist to whom the Chief Psychiatrist refers him.

Hon Peter Foss: He can, but he might keep being passed from one psychiatrist to another.

Hon A.J.G. MacTIERNAN: That is right; the patient does not have a right to go to the board. It basically means that under those circumstances it would still be at the whim of the Chief Psychiatrist.

Hon PETER FOSS: The trouble with the review board dealing with voluntariness and involuntariness is that the treatment a person should have is within the terms of the Chief Psychiatrist. I will pass on to the Minister for Health the member's concerns. I do not think it is appropriate because it is not intended that the Mental Health Review Board make decisions on the appropriate treatment.

Hon A.J.G. MacTIERNAN: But it is obviously countenanced in the legislation that that would be an appropriate role. One of the available remedies is to go to the Mental Health Review Board.

Hon Peter Foss: I will pass that on to the Minister.

**Clause put and passed.**

**Clause 113 put and passed.**

**Clause 114: Consent or approval dispensed with -**

Hon A.J.G. MacTIERNAN: It concerns me that clauses 104 and 105 set in place procedures to protect a person who is an involuntary patient or a mentally impaired patient who has been recommended for electroconvulsive therapy,

yet this provision allows that that can be dispensed with when there is judged to be an emergency. In those circumstances the elaborate requirement for two psychiatrists to be involved and for there to be an ascertainment of consent are not required. The Attorney General may say that emergency psychiatric treatment can be condoned only when it is necessary to save a person's life or to prevent a person from behaving in a way that can be expected to result in serious physical harm to the person or any other person. It is difficult to envisage a situation in which this treatment would be necessary to achieve either of those things. The availability of sedatives seems to preclude electroconvulsive therapy being necessary to save a person's life or to subdue his behaviour. It is unfortunate that we are not putting electroconvulsive therapy in with psychosurgery and saying that it is not permissible as an emergency treatment; it is not something that can be properly included as an emergency treatment. We are getting rid of important safeguards here.

Hon PETER FOSS: We must recognise that we can use emergency treatment only where it is emergency treatment. What can be done is governed by clause 115 - we must ensure the record is made, and so on, and send it to the Medical Health Review Board. However, first, we must form the opinion that it is necessary to give that treatment to save a person's life.

Hon A.J.G. MacTiernan: I understand that.

Hon PETER FOSS: The member is saying that we would be giving ECT under those circumstances, but we might not. If it were not appropriate we would not, and we would not be able to justify that treatment under this clause. Secondly, the member suggests that ECT and psychosurgery are equivalent as old-fashioned and not appropriate. Like it or not, ECT is very effective treatment and is still regarded as such, whereas psychosurgery - although still used in New South Wales and the United Kingdom - does not have the same following as ECT. Electroconvulsive therapy works. I am not saying it is highly likely, but it is possible that a situation may occur where the only sensible treatment in an emergency is ECT. To give an example, it is possible that a person's situation is deteriorating so much that his or her life is in danger - either because the person's mental illness has deteriorated so much that it has affected the person's physical health or because the person has become a danger to himself or herself, especially when a person is deeply depressed. Under those circumstances, one may form the view that the only appropriate way to save the life is to give ECT, but any event, the person may be at a stage of not being capable of giving consent -

Hon A.J.G. MacTiernan: Consent is not needed.

Hon PETER FOSS: If the person is not capable of giving consent, consent is not needed. Under clause 105, one need have regard only to whether or not that consent has been given. Therefore, if a person has reached that stage of illness - for example, a person may be in bed covered with urine and faeces because the person's mental state is such that his or her physical health has deteriorated and he or she is likely to die unless snapped out of it - ECT would be given. Whether it is emergency treatment or under clause 105 the result is the same. We would not have informed consent because under subclause (c) -

Hon A.J.G. MacTiernan: But there is a series of protections.

Hon PETER FOSS: We could go down that one and reach the stage where the person concerned does not have the capacity -

Hon A.J.G. MacTiernan: I understand that.

Hon PETER FOSS: If one cannot show that the treatment is necessary to save a life, if it is not necessary to save a life, we will not get consent either. It is a much rockier road under clauses 113 to 115, because one must say it is necessary treatment to save a life.

Hon A.J.G. MacTiernan: You must say that it is necessary.

Hon PETER FOSS: We must form that opinion. Let us talk about an emergency situation where a person's life needs to be saved, and an opinion is formed that the way to go is to use ECT. Does one put it off and have the person die, while one goes through the process of clause 105 or does one get on with the job and give ECT? The member assumes that people will be given ECT, but it may be that some other treatment will suffice and ECT is not necessary. The member presupposes the abuse of division 7, rather than carrying out the process appropriately. If one presupposes instead where that situation arises, I think clauses 113 to 115 are entirely appropriate.

Hon A.J.G. MacTIERNAN: The Minister seems to have misunderstood everything I said. First, I am not suggesting that ECT is outdated therapy and it does not have any role. My view that it should go with psychotherapy is not premised on that view. I do not suggest that the treatment should be outlawed. It is a highly invasive treatment, as is recognised by the fact that the legislation singles it out and sets up a special procedure that needs to be followed if a person is to have that treatment without that person's consent, and if the person is to have that treatment when an involuntary patient. That is appropriate. If I were opposed to ECT and believed it did not work, my objection

would lie with clauses 104 and 105. The fact that I raise the question under this clause is not based on any attempt to discredit ECT, but to say that it is a very invasive form of treatment. We see it is necessary in certain situations to go beyond the view of one psychiatrist. We would not in those circumstances just want a single treating psychiatrist to have power to decide. We say that where there is an emergency - and we have discussed what it might be - it would be okay. My point is that I find it difficult to envisage a situation where it is necessary to use this treatment, where it is such an emergency that this treatment would be used without an opportunity for a second psychiatric opinion. I do not know how much the Minister knows -

Hon Peter Foss: It is fine, because the person does not qualify.

Hon A.J.G. MacTIERNAN: I do not think that is right. A person must form an opinion. He can say he formed the opinion that the treatment was necessary to save a life. However, that is opening the door to allow a single psychiatrist to form a view, and it is not the sort of treatment which would be required in such an emergency. If a person were acting in a dangerous fashion, likely to throw himself from a roof, there are other forms of treatment of sedation. If, as the Minister said, a person were lying in a bed, surrounded by faeces and flies, that is not the sort of condition that would preclude a second psychiatrist making an assessment. In theory it means a person must form the view that it is necessary treatment to save a life. It is stretching credibility to say that such circumstances would arise, and that this sort of treatment could be used in life saving emergencies. We are unnecessarily winding back the protections we introduced in clause 105.

Hon PETER FOSS: As an example, a person is in Derby as the sole psychiatrist, and the visiting psychiatrist is not expected for another month. A person may have chosen to die imminently.

Hon A.J.G. MacTiernan: How would he die?

Hon PETER FOSS: He may neglect himself through his mental illness. Supposing there is only one psychiatrist in Derby and a visiting psychiatrist is not due for about a month and something must be done about that person. The two normal causes are starvation and electrolyte imbalance. Hon Alannah MacTiernan may be right; in Perth the provision may not be called on, but in Derby it may be called on because another psychiatrist may be needed to allow treatment to get that person out of his bed and eating again and functioning as a normal human being. In most cases it will not be necessary; therefore it will not be used.

Hon A.J.G. MacTiernan: That it won't be necessary; therefore it won't be used, is a bit of a leap of faith.

Hon PETER FOSS: In the example Hon Alannah MacTiernan gave she assumed it would be abused. The member is right; it could be abused, but we cannot treat all legislation on the basis that it will be abused. On occasions it will be necessary for a medical practitioner to do things. All we are doing here is limiting it. We are starting from no limitation. However, we are saying that where there is an emergency this process will be followed; where there is no emergency it will not be followed. It is a reasonable progression, particularly in remote and rural areas. It might be a good idea in Perth to get a second psychiatrist, but it is a little difficult in rural and remote areas.

**Clause put and passed.**

**Clauses 115 to 176 put and passed.**

**Clause 177: Members of Council of Official Visitors -**

Hon KIM CHANCE: When I referred to the desirability of having a person who is or has been a mental health patient in a position where that patient's experience could be used to some value in policy determination and the administration of the system, the Minister may have misunderstood my preference to be that such a person be on the Mental Health Review Board.

Hon Peter Foss: You raised it in that context.

Hon KIM CHANCE: I could easily have been misunderstood to mean that that was my first priority. That is where it first occurred to me. However, it seems to me that the Council of Official Visitors could significantly benefit from such experience and the wording of clause 177(2)(a) and (b) is sufficiently broad to allow that. Without being prescriptive, it is something that should be taken on board, particularly given the experience which the Mental Health Task Force has enjoyed from having access to such a person.

Hon PETER FOSS: My recollection is that quite a few people who had relatives went on to become visitors out of interest in the area. It is not exactly a rewarding job. Generally people who will be involved as visitors are dedicated for one reason or another. The member is quite right: A former patient is not excluded and could be appropriate. Hon Cheryl Davenport was talking about members of family as useful advocates. My recollection is that a number of people who had family affected by mental illness caused them to be very interested.



Hon KIM CHANCE: Obviously members of family will be able to provide valuable insight. My first preference would be for someone to be a visitor who suffered from mental illness themselves. I am not an expert in the field, but it seems to me that people who are manic depressives, or who have schizophrenia should be considered. Under medication they would be quite capable of contributing at a high level to a forum of that nature because it is impossible for anyone who has not had personal experience in the system to have the same insights into it as people like that.

**Clause put and passed.**

**Clauses 178 to 194 put and passed.**

**Clause 195: Taking mentally ill person into protective custody -**

Hon REG DAVIES: I intend to persist with an amendment which is being circulated. Although I understand the Minister's comments that this is a much tighter piece of legislation than the Act, I am still concerned about how Western Australian citizens can lose their liberty and have their places and property searched. In Broome some time ago a gentleman by the name of John Kernot was held for several weeks. The police had him committed because of an assault on his wife. She did not press charges, but over many years Mr Kernot had been making accusations against the police about corruption. I have always felt a bit uneasy about the John Kernot affair. I would not like to see that sort of thing happen again. I therefore move -

Page 104, line 6 - To insert after "practicable" the following -

shall make a complaint on oath before a judicial officer as to the condition of the person and the circumstances under which the person was found at the time of apprehension and whether a power conferred by section 197 or section 198 was exercised in the course of that apprehension, and the judicial officer may thereupon, by order signed by the judicial officer require the police officer who forthwith

Hon PETER FOSS: I do not accept this amendment partly for the reasons I indicated during the second reading debate, because it has the further problem, which was referred to by Hon Alannah MacTiernan as the ex-post facto justification. I do not believe that appearing before a Justice of the Peace is any protection when it is someone who will not take any part in the proceedings. There is a myth that it will have the same weight as someone who is charged and brought before a magistrate.

Hon Reg Davies: It is the fact that a sworn statement is made?

Hon PETER FOSS: I understand that is the case. I recognise the wording; the 1991 Act uses it. However, it will be reconsidered by the Minister. This amendment does not achieve anything. We are constraining these powers.

Hon A.J.G. MacTIERNAN: I share Hon Reg Davies' concern that the police powers in the legislation are perhaps not constrained enough. Notwithstanding that, I recognise that the powers are broader in the existing legislation. I cannot support the amendment because, as I said earlier, I do not see any advantage in taking a person before a judicial officer as soon as practicable when the same time constraints apply to taking the person to an assessing officer. The real concern is at the other end - before the person is apprehended. I do not see this as achieving any greater degree of protection. First, we need some provisions limiting the period of time the police can hold someone. Secondly, there should perhaps be some requirement that the police swear some sort of statement, but that is not something that necessarily intercepts the process between the police officer's apprehending the person and taking him to an assessing officer. Once the person is apprehended we want to speed up the process of getting him to an assessing officer rather than extend that time frame, which is what this amendment would achieve; it would delay getting the person before the health care professional and that would be going in the wrong direction.

Hon KIM CHANCE: The Opposition is grateful to Hon Reg Davies for bringing this amendment forward, but it will not support it. That does not mean that we do not take what he has said extremely seriously. It is fair to say that a very serious matter has been raised. I will be watching extremely carefully that the Government not only reconsiders this matter but that it also brings it back to the Parliament in some way, whether by ministerial statement on behalf of the Labor Minister for Health or the coalition Minister for Health. One way or another, this matter needs to come back to the new Parliament prior to the commencement of the legislation.

**Amendment put and negatived.**

Hon REG DAVIES: I move -

Page 104, line 18 - To insert after "practicable" the words "but in any event no later than 24 hours after the apprehension".

I am moving this amendment to take into account what Hon Alannah MacTiernan said; that is, we want people assessed as quickly as possible and not left a long time in prison, lockups or police custody.

Hon PETER FOSS: I find this amendment more worrying than the previous amendment. I have already given the example of what one does if it is not reasonably practicable to see the medical practitioner within 48 hours. "As soon as reasonably practicable" is clear. It worries me that as soon as one provides that it be no longer than a particular period that tends to be the norm. People can be remanded for "up to 28 days", but they end up being remanded for 28 days. I am concerned that it will get to the stage that "as soon as practicable" becomes less important than "no longer than 24 hours". It does not add anything other than a problem in those very rare cases when it cannot happen within 24 hours. One must consider the rural and remote areas of our State. This indicates that 24 hours is acceptable when it is not in most circumstances.

Hon Reg Davies: The message we want to get to the police is that it be done as quickly as possible.

Hon PETER FOSS: "As soon as practicable" covers that, and 24 hours is not as soon as practicable in 99 cases out of 100. It gives the wrong message.

Hon A.J.G. MacTIERNAN: I support the amendment. There is a considerable degree of sophistry in the Attorney General's comments. This legislation contains many time frames. They are included because we recognise that there needs to be some certainty about the maximum periods for which people can be held, bearing in mind that these people are not being held because they have committed an offence. The Attorney's logic is that there are numerous provisions in this Bill that would need to fail. We have all sorts of limitations peppered throughout the legislation requiring that at various stages within the process people must take action otherwise the involuntary orders and various other ancillary orders simply fall into disarray. For example, clause 32 provides -

A referrer is not to refer a person under section 29 if a period of more than 48 hours has elapsed since the referrer personally examined the person.

Hon Peter Foss: That is easy: You examine them again.

Hon A.J.G. MacTIERNAN: In the meantime they could have gone somewhere else. We can cite all sorts of hypothetical situations, such as the intervention of cyclones or whatever, that could prevent that happening within the time frame, thus forcing one to start the process again.

I take the point that there have been times when the maximum has tended to become a minimum. That is a small price to pay to ensure that people are not kept locked up indefinitely without having the benefit of being assessed by a medical person. It is important to recognise that in this regard the Bill is not worse than the current legislation. Therefore, it is not a criticism of the Attorney General in suggesting that the Government might be reducing the protections; rather I think we can do something better here. We are not trying to prevent the police from making decisions to apprehend people. However, having apprehended someone, it is incumbent upon the police to move with all haste to get that person to a medical assessor so that people are not hanging around lockups, whether they be in Balga or East Perth, indefinitely.

Hon PETER FOSS: I have indicated it is a matter that can be discussed over the time we are considering it. It is an advantage over our current situation. I would hate to defer dealing with the current situation for the benefit of taking it further.

Hon J.A. SCOTT: Does the clause preclude other people from organising this? For instance, if an officer goes off duty or goes on holiday, can he pass that job on to someone else?

Hon Peter Foss: He does have to carry it out personally. He is not allowed to go on holiday until he has arranged it. Otherwise, he will have offended against the Bill.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 196: Police officer may have arrested person examined -**

Hon REG DAVIES: I had circulated the same amendment to this clause as I circulated to clause 195. I will not proceed with it for obvious reasons.

Hon A.J.G. MacTIERNAN: We record some concern about clauses 196, 197 and 198. They seem to be very extensive ancillary powers. I think that it would be useful to look at whether clauses 197 and 198 require warrants. They are drawn very broadly and they are certainly in excess of what seems to be in the current legislation.

**Clause put and passed.**

**Clauses 197 to 215 put and passed.**

**Schedules 1 to 3 put and passed.**

**Title put and passed.**

**Mental Health (Consequential Provisions) Bill**

Bill passed through Committee without debate.

**Criminal Law (Mentally Impaired Defendants) Bill**

Bill passed through Committee without debate.

*Report*

Bills reported, without amendment, and the report adopted.

*Third Readings*

Bills read a third time, on motion by Hon Peter Foss (Attorney General), and passed.

**ADJOURNMENT OF THE HOUSE - SPECIAL**

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the House at its rising adjourn until 13 November 1996 at 11.00 am.

**ADJOURNMENT OF THE HOUSE - ORDINARY**

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [1.47 am]: I move -

That the House do now adjourn.

*Adjournment Debate - Green, Annette, Building Complaint*

**HON A.J.G. MacTIERNAN** (East Metropolitan) [1.48 am]: Late last year I raised the case of a resident of Albany, Mrs Annette Green, who had been having considerable problems obtaining justice. She had a building complaint. I will briefly read what happened to Mrs Green and how her position is now, almost one year later, worse than it was over a year ago. Mrs Green took a complaint to the Builders' Registration Board. After five hearings she finally received an order from the board. The board ordered that a payment be made by her builder, a Mr Kerry Moir, of \$15 667. The builder waited until the appeal time had lapsed and then filed a special application for leave to appeal. This went to the District Court. On the first hearing in the District Court, the builder had it adjourned. Unfortunately, Mrs Green had no papers served on her and was very fortunate to find out that the matter was proceeding to court. A second date was set and the builder's leave to appeal was dismissed. In February this year she sought to have an aid of execution made. She had papers served on the builder. The builder did not show up at court. The magistrate offered to order a bench warrant, which was served. Papers were served immediately in relation to that warrant. The matter then came back to court as the builder, Mr Moir, sought to commence a proceeding to stay the orders. This was done and it went to court again on 22 March. The bench warrant was then put to one side. That particular aspect of the matter is still proceeding.

Mrs Green has now had a total of 21 court appearances, with more still to go. She is still trying to get an examination in aid. Each time she appears in court new excuses are presented by the builder. He has gone to three different doctors and produced three different medical certificates for three separate complaints. When she has the cases heard in Perth he says he cannot come up from Albany, yet when the cases are heard in Albany he says that he is in Perth. This is a substantial travesty. Mrs Green has complained to the magistrate regarding the conduct of the bailiff. It seems very strange. Mrs Green had an order for goods to be seized from the builder because he failed to meet the order for payment. The bailiff seized Mr Moir's trailer and held it for five months. Mrs Green requested that it be sold and the bailiff refused. Mrs Green then asked the magistrate to order the trailer to be sold. The magistrate did that. Notwithstanding that, the bailiff held it for a further month. He then allowed the builder to buy the trailer back the day before the matter went to court. He allowed him to buy it back for \$1 000, which I gather is less than the trailer was worth.

This case brings into considerable dispute our legal system. We see the courts letting the people who want to abuse the system get away with it. This matter has seen 21 court hearings and yet still Mrs Green has not been able to receive any justice.

A subsidiary matter is also of concern, which again is a matter that I understand is being investigated by the Ombudsman. Mrs Green has produced documentation which seems to suggest strongly that Mr Moir had illegally carried out plumbing work in her home. That work turned out to be highly faulty and had the potential to cause a great deal of damage. She has had to pay to get that fixed. Notwithstanding the fact that she has produced statutory declarations from other tradesmen and other plumbers involved in the work, there has been no prosecution against Mr Moir by the Water Corporation. That is also a matter of concern. One would hope that there was no collusion between officers of the Water Corporation and the builder concerned. It is certainly difficult to see why such action has not been taken.

Question put and passed.

*House adjourned at 1.55 am (Wednesday)*

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**QUESTIONS ON NOTICE****RENEWABLE ENERGY ADVISORY COUNCIL - ABOLITION; REPLACEMENT**

690. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government abolish the Renewable Energy Advisory Council?
- (2) If yes, why and when?
- (3) Has REAC been replaced by any other statutory body?
- (4) If yes, what is it and under what Act is it constituted?
- (5) Are funds currently provided for renewable energy research and education by the State Government?
- (6) If yes, how much and how many projects are currently in progress?
- (7) If not, why not?

Hon N.F. MOORE replied:

- (1)-(4) REAC was replaced by the Alternative Energy Development Board on 29 August 1994. It currently does not operate under legislation but it is intended to introduce legislation in the near future.
- (5) Yes.
- (6) Funding of \$250 000 per year is allocated to the AEDB for demonstration and education programs. An additional \$250 000 for energy research and development is due to be transferred from the Minerals and Energy Research Institute of Western Australia to the AEDB shortly. Five AEDB projects have been approved in the last year.
- (7) Not applicable.

**SOLAR POWER STATION - ESTABLISHMENT; RENEWABLE ENERGY SYSTEMS EDUCATION STRATEGY**

691. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "create a solar power station capable of meeting the electricity needs of a population of 1 000 residents"?
- (2) If yes, has this been done?
- (3) Did the Government also promise to launch an "education strategy to encourage local communities in regional areas to adopt renewable energy systems such as photovoltaics or solar cells"?
- (4) If yes, has this been done?

Hon N.F. MOORE replied:

- (1)-(2) The Government indicated an intention to work for the establishment of a small solar power station. Australia's first photovoltaic power station was established by Western Power at Kalbarri in 1995. This is a 20 kW system which provides an opportunity to test and demonstrate the latest technology, including state of the art power electronics control technology developed in WA.
- (3)-(4) The \$2m Remote Area Power Systems scheme where householders living in distant areas of the State are eligible for assistance for their own renewable energy based power systems.

**NUCLEAR POWER STATION - SITES CONSIDERATION**

692. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Is the Government currently considering possible sites for the construction of a nuclear power station in Western Australia?
- (2) Will the Minister for Energy give a commitment that the Government is not considering nuclear power as an energy option for Western Australia?
- (3) If not, why not?

Hon N.F. MOORE replied:

- (1) No.
- (2) Yes.
- (3) Not applicable.

RENEWABLE ENERGY - SUN SAVINGS CAMPAIGN

700. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "launch a Sun Savings campaign in cooperation with industry to educate the public and businesses about renewable energy"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) Other programs have been launched instead -

House Energy Rating Scheme

WA Energy Efficiency Awards program operates annually

Remote Area Power Supply Systems information service provided at Murdoch University, funded by State Government

Publication of the "Energy Matters" magazine

Remote Area Power Systems (RAPS) Scheme

ENERGY EFFICIENT HOUSING - AND APPLIANCES DISPLAY

701. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "promote the building of a modest working display of energy efficient housing and appliances in Perth"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) The proposal for a single working display of energy efficient housing and appliances was examined and not considered to be cost effective. The Government has promoted the building of energy efficient houses in WA through the House Energy Rating Scheme which was launched in May 1996.

SOLAR HOT WATER SYSTEMS - SPECIAL PURCHASING ARRANGEMENT

702. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "pilot a special purchasing arrangement to enable the capital costs of solar hot water units to be spread over time as part of the electricity billing system"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1)-(2) The Government undertook to examine such a purchasing arrangement. A financing scheme for people wishing to purchase domestic solar water heaters is available through the Commonwealth Government. For much of Western Australia, solar water heating is not necessarily the most economic or environmentally friendly option.

SOLAR HOT WATER SYSTEMS - IN HOMESWEST HOUSING, INCREASE

703. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "increase the use of solar hot water systems in Homeswest housing"?

- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) Solar water heaters are installed in houses constructed by Homeswest where this is the most cost effective option based on life cycle costing.

#### WIND FARM - ROTTNEST ISLAND, DISCUSSIONS

705. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "enter into discussions with the Rottnest Island Board and Western Power for the development of a commercially viable wind farm at Rottnest Island"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) A scoping study to assess opportunities for renewable energy and energy efficiency and an energy audit of Rottnest Island have been undertaken. Further consideration will be given to wind generated power when additional power is required at Rottnest.

#### RENEWABLE POWER SYSTEMS - FOR ISOLATED TOWNS AND COMMUNITIES DEVELOPMENT

706. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "invite private companies to develop renewable power systems for isolated towns and communities away from the grid system"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) I am advised that Western Power has held discussions with private companies on the potential of renewable power systems for isolated communities away from the grid system. These include companies in the fields of photovoltaics/power conditions, tidal power, biomass and wind. Western Power is also a lead participant in the Western Australian based Cooperative Research Centre for Renewable Energy, and greenhouse gas abatement renewable power systems for isolated communities will be one of the areas targeted for intensive research and commercial development.

#### ENERGY RATING SCHEME - HOUSEHOLD APPLIANCES

707. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Did the Government promise to "extend the energy rating scheme to more household appliances and ensure ratings are prominently displayed at point of sale"?
- (2) If yes, has this been done?

Hon N.F. MOORE replied:

- (1)-(2) All major household appliances for which rating is appropriate are included in the appliance rating scheme. Western Australia contributes to the development and maintenance of the national energy rating scheme in which ratings are calculated according to a nationally agreed algorithm and with national testing procedures. Legislation to formalise the requirement to display ratings at point of sale is currently before the Parliament.

#### RENEWABLE ENERGY - PROMOTION

708. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

- (1) Why has the Government failed to honour most of its promises on renewable energy?
- (2) Is the Government committed to the wider use of renewable energy?
- (3) If yes, what has it done to promote it?

Hon N.F. MOORE replied:

- (1)-(3) The Government has an excellent record on the practical implementation of viable renewable energy and is committed to the wider use of renewable energy. Where specific proposals were found to be unviable, alternative programs have been or are being developed. The Government's initiatives on renewable energy include the photovoltaic power installation at Kalbarri which is a unique, end-of-grid demonstration project; the hydro-electric power station on the Ord River providing 30 MW using an existing dam; the Esperance wind farm which has the first commercially viable such installation in Australia; support for the establishment of the Cooperative Research Centre on Renewable Energy in Perth; support to studies of the feasibility of tidal power in the north west; establishment of the Perth International Centre for Application of Solar Energy; support to Murdoch University to provide remote area power supply information to the public; support for the generation of electricity from landfill gas which now takes place at several sites with surplus electricity being sold to Western Power; launch of the House Energy Rating Scheme in which passive solar heating is a significant element; and the \$2m Remote Area Power Systems scheme where householders living in distant areas of the State are eligible for assistance for their own renewable energy based power systems.

#### DIRECTOR OF PUBLIC PROSECUTIONS - PERSONS IN CUSTODY AWAITING TRIAL, CHANGES

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

- (1) Will the Director of Public Prosecutions be forthwith changing his procedures to ensure that when a person is in custody awaiting trial on an indictable offence it will not take a month to form an opinion as to whether there is a prima facie case and, if not, will the Attorney General so direct the DPP?
- (2) Will the DPP be forthwith changing his procedures to ensure that, when a person is in custody awaiting trial on an indictable offence and in the DPP's opinion there is no prima facie case, it will not take a week for the matter to be disposed of and, if not, will the Attorney General so direct the DPP?

Hon PETER FOSS replied:

- (1) The Office of the Director of Public Prosecutions averages 198 committals per month. While efforts are made to deal with committals expeditiously, the pressure of work and the need, on occasions, for further information to be obtained before decisions can be made makes it inappropriate to specify particular time frames. The Government has taken action by providing extra funds to the DPP to take over indictable matters prior to committal. One of a number of benefits from this early intervention will be a review of cases of persons in custody for indictable offences earlier than at present. The Attorney General does not propose to direct the DPP.
- (2) The DPP has already changed procedures.

#### PORT KENNEDY DEVELOPMENT - FREEHOLD LOTS FOR SALE, ADVERTISEMENTS

826. Hon REG DAVIES to the Attorney General representing the Minister for Planning:

In respect of the proposed development of the Port Kennedy beachfront area -

- (1) Is the Minister for Planning aware that the Port Kennedy developers are advertising freehold lots for sale at Port Kennedy and that this advertising is being targeted at the Singapore market?
- (2) Is the Minister also aware of assurances given at the time that the Port Kennedy Development Agreement Act was debated, that Port Kennedy was intended to be a short stay tourist resort, not an expensive seaside suburb?
- (3) What freehold land grants has the Government made to Port Kennedy Resorts Ltd and for what purpose?
- (4) Under what section of the Port Kennedy Development Agreement Act were these grants made?
- (5) Is the Minister aware of a recommendation from the Standing Committee on Delegated Legislation that the Port Kennedy Development Agreement Act should be amended to preclude urban residential development at Port Kennedy?
- (6) If yes, what has the Minister done to implement this recommendation?
- (7) Has the Minister received any proposal from Port Kennedy Resorts Ltd for land in stage 2 of the Port Kennedy area?



- (8) If yes, when was this proposal received?
- (9) Is the Minister aware that the coalition partners promised on 14 December 1992 to set aside all of the stage 2 area at Port Kennedy for conservation?
- (10) If yes, does the Minister intend to honour this commitment?
- (11) If not, why not?
- (12) Has the Minister informed the developers of his decision on this matter?
- (13) If not, why not?

Hon PETER FOSS replied:

- (1)-(2) Yes.
- (3) None.
- (4) Not applicable.
- (5) Yes.
- (6) Nothing. The provisions of the Port Kennedy Development Agreement Act 1992 with respect to land use and crown grants will be complied with.
- (7) Yes.
- (8) 25 and 28 June 1996.
- (9) Yes.
- (10) The Minister for Planning intends to honour the coalition's commitments in this matter.
- (11) Not applicable.
- (12) No.
- (13) The developers will be advised at the time that a decision on this matter is finalised.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - STATE FORESTS AND  
WETLAND CONSERVATION

828. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Has the Department of Conservation and Land Management any conflict of interest in respect of forestry activities in state forest and state wetland conservation initiatives?
- (2) Is wetland protection and conservation in state forests an important issue in the Environmental Protection Authority's 1997 forest management plan review?

Hon PETER FOSS replied:

- (1) No.
- (2) The 1997 EPA process referred to is the "major public progress and compliance report" required under ministerial conditions of 24 December 1992. All requirements of the ministerial conditions will be included.

ENDANGERED SPECIES - HABITAT PROTECTION ELECTION PROMISE

839. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Is the Minister for the Environment aware that the habitat of many endangered species has not been protected, as the coalition parties promised prior to the 1993 state election?
- (2) Why has the coalition Government failed to keep this very important promise?
- (3) Is the Minister aware that the Premier said last year that the Government would honour all its commitments or explain to the public why it had not done so?
- (4) Will the Minister issue a public statement as to why the Government has failed to honour the coalition's commitment on endangered species and their habitat?

(5) If not, why not?

Hon PETER FOSS replied:

- (1)-(2) Either the member cannot read or he purposely misinterprets words. I assume it is the former because the latter would be dishonest. The commitment made in the coalition environment policy, "The Environment - 1993 and Beyond", was to examine ways in which the Wildlife Conservation Act could be strengthened to protect the habitats of endangered species and to expand the conservation estate to protect the habitats of all endangered species. In respect of the legislation, I have already advised the member with regard to replacement of the Wildlife Conservation Act in answer to question without notice 797 and I will provide further advice in my answer to question on notice 851. The Government has also answered similar questions about wildlife conservation legislation in the other place. Similarly, in respect of expansion of the conservation estate, I have also advised the member in my answer to question without notice 592.
- (3) The member seems to be more interested in making incorrect political statements than asking questions. The Government is committed to the practical and orderly implementation of all its policy undertakings.
- (4)-(5) The member is now going so far as to break standing orders by his false statements.

#### BUNBURY HOSPICE PALLIATIVE CARE SERVICE - FUNDING

858. Hon DOUG WENN to the Attorney General representing the Minister for Health:

In regard to the funding for Bunbury Hospice Palliative Care Service -

- (1) Is the Minister for Health aware that this service will run out of funds by November this year and that further funds will be frozen until June 1997?
- (2) If yes -
  - (a) when was the Minister made aware of this situation; and
  - (b) what action has the Minister taken to ensure this critical service will continue to operate in the Bunbury region?

Hon PETER FOSS replied:

- (1) Yes, I am aware that the Bunbury Hospice Palliative Care Service believed it would not have funds available to operate beyond 30 November this year. It is anticipated that further funds will be available once the Commonwealth has completed its review of the palliative care program. This is expected at the end of 1996, not June 1997.
- (2)
  - (a) I was made aware of this situation during the second week in September by the member for Bunbury.
  - (b) Officers of the Health Department have met with the Coordinator of the Bunbury Hospice Palliative Care Service to ensure the future of palliative care services in Bunbury by an immediate injection of state government funding. Work has also commenced on a three year plan to establish an appropriate course of development for the service with a guaranteed allocation of resources in the future.

#### PEEL REGIONAL PARK - ESTABLISHMENT COMMITMENT

875. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Is the Minister aware that the coalition parties promised to establish the Peel Regional Park?
- (2) If yes, when?
- (3) If not, why not?

Hon PETER FOSS replied:

- (1) Yes. The Liberal/National Party coalition, in its 1992 policy document "The Environment - 1993 and Beyond", did promise to establish a Peel Regional Park.
- (2) No timing was placed on that promise. However, to meet that commitment the Peel Regional Park will be established as part of the Peel region scheme which will be prepared during 1997 by the Western Australian Planning Commission.

- (3) Not applicable.

PLANNING APPEALS TRIBUNAL - CHAIRMAN; DEPUTY CHAIRMAN

928. Hon P.R. LIGHTFOOT to the Attorney General representing the Minister for Planning:

- (1) What are the names of -
- (a) the Chairman of the Planning Appeals Tribunal; and
  - (b) the Deputy Chairman of the Planning Appeals Tribunal?
- (2) What are the respective salaries of the chairman and the deputy chairman of the aforementioned tribunal?
- (3) What are the dates of the expiration of the appointments of the chairman and deputy chairman?
- (4) Who acted as deputy chairman when the aforementioned have been absent or perceived to have a conflict of interest?
- (5) What benefits, direct and indirect, attach to the employment conditions of the chairman and deputy chairman, other than salaries?

Hon PETER FOSS replied:

- (1) (a) Ms J.I. Bishop;  
(b) Professor L.A. Stein.
- (2) The chairman and deputy chairman receive a fee of \$150 per hour.
- (3) (a) 31 December 1996;  
(b) 31 December 1997.
- (4) Mr Malcolm McCusker QC and Mr Robert Pringle QC.
- (5) None.

PLANNING, MINISTRY FOR - NEW OFFICES, ALLENDALE SQUARE, LEASE COSTS

929. Hon P.R. LIGHTFOOT to the Attorney General representing the Minister for Planning:

What is the lease cost per metre, including outgoings, of the new Planning Department offices in Allendale Square?

Hon PETER FOSS replied:

The rental is structured over the first five years of the lease. The total costs, including tenancy cleaning, are as follows -

1.4.96 to 31.3.97	\$212 per sq m per annum
1.4.97 to 31.3.98	\$237 per sq m per annum
1.4.98 to 31.3.99	\$262 per sq m per annum
1.4.99 to 31.3.2000	\$287 per sq m per annum
1.4.2000 to 30.9.2000	\$312 per sq m per annum.

Thereafter, the rental is subject to market based rent reviews at 30 month intervals.

ENVIRONMENTAL PROTECTION AUTHORITY - CONSULTANTS EMPLOYED TO PERFORM  
ENVIRONMENTAL IMPACT STUDIES

938. Hon KIM CHANCE to the Minister for the Environment:

- (1) How many consultants are currently employed by the Environmental Protection Authority to perform environmental impact studies?
- (2) What are the names of these consultants and what projects are they currently working on?
- (3) Are guidelines in place regarding pecuniary interests of consultants?
- (4) If not, why not?

Hon PETER FOSS replied:

- (1)-(2) The employment of consultants is arranged on the EPA's behalf by the Department of Environmental Protection. At present no consultants are employed on the EPA's behalf to undertake environmental impact studies. Mr Terry Waters of Dames and Moore has been engaged to assess an environmental management

program for the disposal of waste from the Kanowna Belle project at the intractable waste disposal facility at Mt Walton East. As the department has responsibility for managing the Mt Walton facility it was considered desirable to have the program independently assessed in accordance with an agreed protocol between the EPA and the Department of Environmental Protection.

- (3)-(4) There are no formal guidelines, but the DEP is required to use its best endeavours to ensure conflicts of interest are avoided and the selection of consultants employed on the EPA's behalf is subject to the EPA's approval.

"THE DOG ACT" - PRINTER; COST

939. Hon KIM CHANCE to the Minister for Transport representing the Minister for Local Government:

- (1) Who printed the Department of Local Government pamphlet "The Dog Act"?
- (2) What was the cost?
- (3) How many pamphlets were printed?
- (4) Where were they distributed?
- (5) How were they distributed?
- (6) What was the cost of distribution?
- (7) If State Law Publisher was not used, why was it not used?
- (8) If it was not used, was it asked to tender?
- (9) If it was asked to tender, what price did it tender?
- (10) What price was tendered by the printer?

Hon E.J. CHARLTON replied:

- (1) Advance Press.
- (2) \$30 015.
- (3) 700 000.
- (4) All postal private points in the State of Western Australia and local governments.
- (5) Through the Salmat Letterbox Delivery Service.
- (6) \$35 597.
- (7) State Law Publisher does not undertake printing jobs of this nature, and is restricted to the printing of legislation.
- (8)-(9) Not applicable.
- (10) \$30 015.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - NATIVE HARDWOOD FORESTS  
ON PRIVATE LAND, HECTARES

945. Hon J.A. SCOTT to the Minister for the Environment:

In a publication by the Department of Conservation and Land Management dated October 1994 entitled "Facts about WA Forests", it is stated that there are more than 500 000 hectares of native hardwood forests on private land, but in the latest edition of the same publication dated June 1996, it is stated that there are approximately 200 000 ha of native hardwood forests on private land.

- (1) Is the disappearance of 300 000 ha of native hardwood forests on private land due to -
  - (a) clearing of the forest and, if so, how much has been cleared;
  - (b) transfer of private native hardwood forest to government instrumentalities and, if so, how much forest was transferred to which instrumentalities;

- (c) an amended definition of native hardwood forest and, if so, what was the previous definition and what is the current definition;
- (d) a revised estimate of the area of native hardwood forests on private land and, if so -
  - (i) by whom was the previous estimate made;
  - (ii) by whom was the current estimate made; and
  - (iii) other - please specify?
- (2) Given that the area of native hardwood forests on private land has been overstated by 150 per cent, are figures for the area of native hardwood forest on other categories of land also unreliable?

**Hon PETER FOSS replied:**

- (1) (a) Not known;
  - (b)-(c) no;
  - (d) yes -
    - (i) the previous estimate was based on data prepared by the Forests Department for a forestry and wood based industries development conference held in 1974. While CALM has no responsibility for private forests attempts have been made to revise the estimate from time to time;
    - (ii) the current estimate was prepared by CALM for a National Forest Inventory funded project. It is a preliminary estimate only and will be superseded;
    - (iii) not applicable.
  - (2) The figures for the area of native hardwood forest on CALM managed land are considered to be reliable.
- ENVIRONMENTAL PROTECTION, DEPARTMENT OF - MT PERCY TAILINGS DAM, LEAKAGE AND SEEPAGE DAMAGE

948. Hon J.A. SCOTT to the Minister for the Environment:

I refer to question on notice 723 of 5 September 1996 and questions without notice asked on 23 and 25 May 1995 regarding leakage and seepage from Mt Percy tailings dam which killed and/or stressed vegetation.

- (1) Was the ground or surface or vegetation damaged or impaired in any way?
- (2) Is that damage or impairment "pollution" as defined in the Environmental Protection Act 1986?
- (3) If not, why not?
- (4) Can the Minister or the Department of Environmental Protection clarify how they arrived at the definition of pollution if the DEP does not investigate an incident to determine whether it caused pollution?
- (5) If not, why not?
- (6) What determines when the DEP will investigate and determine whether "pollution" has occurred?
- (7) As a result of this incident has the ground or surface or trees been damaged or impaired?
- (8) If so, was it pollution of some form that caused this damage or impairment?
- (9) Is this damage or impairment referred to as "pollution"?
- (10) If not, why not?
- (11) In light of the answer to part (2) of question on notice 723, can the Minister table the "enforcement policy" referred to?
- (12) If not, why not?
- (13) In light of the answer to part (4) of question on notice 723, in which the Minister stated "The area has since been used to install a 4 metre deep interception trench collecting small quantities of water and seepage", is this seepage "pollution" as defined under the Environmental Protection Act 1986, or referred to as pollution?

- (14) If not, why not?
- (15) At what stage does the DEP mobilise to investigate whether "pollution" has occurred?
- (16) In this instance, can the Minister or the DEP clarify how there can be an "enforcement policy" when "pollution" may not have occurred?
- (17) If not, why not?

Hon PETER FOSS replied:

- (1) I refer the member to part (1) of my answer to question on notice 723. The word "stressed" in that response indicates effects on vegetation. Vegetation in the area affected by seepage has since been removed during construction of the seepage management system described in part (4) of my answer to question 723.
- (2)-(4) The issue of "pollution" is a matter determined on a case by case basis in a court of law. I refer the member to Standing Order No 140(b)(i).
- (5) Prosecution is the last step in the "enforcement policy" of the Department of Environmental Protection. Since the licensee, Kalgoorlie Consolidated Gold Mines Pty Ltd, responded promptly and appropriately to the requests of the departments under the early stages of the enforcement policy, no punitive action such as prosecution was necessary.
- (6) Refer to the DEP enforcement policy.  
[See tabled paper No 882.]
- (7) Refer to (1) above.
- (8)-(9) Refer to (2) above.
- (10) Not applicable.
- (11) Refer to (6) above.
- (12) Not applicable.
- (13) I refer the member to Standing Order No 140(b)(i).
- (14) Refer to (13).
- (15) See tabled paper No 882.
- (16) See tabled paper No 882. The enforcement policy applies to issues of concern to the DEP as well as possible breaches of statute. Action taken by the DEP is often proactive to prevent some undesirable event from occurring.
- (17) Not applicable.

#### ADOPTION ACT - REVIEW

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

In January 1997 the Adoption Act 1994 is due for review.

- (1) What form will the review take?
- (2) Will the review be wider than a departmental inquiry?
- (3) If not, why not?

Hon E.J. CHARLTON replied:

- (1) The provision for a review of the operation and effectiveness of the Act is contained in section 146 of the Adoption Act 1994. A report is required to be tabled in Parliament before the end of 1997.
- (2)-(3) Planning for the review is in progress. An interim review committee has been established and a new committee will soon be appointed comprising departmental officers and community representatives. The final form is yet to be determined.

## FAMILY AND CHILDREN'S SERVICES - ADOPTIONS, BACKLOG

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

- (1) What is the current time delay in processing adoption information applications?
- (2) Is it correct that under the Adoption Act 1994 there is an 18 month delay for people seeking mediation prior to contact?
- (3) If so, what action is the Minister for Family and Children's Services taking to reduce the backlog?
- (4) If not, what is the time frame for mediation?

Hon E.J. CHARLTON replied:

- (1) It would assist in responding if the member could indicate whether she is referring to information on how to proceed with an adoption application or the post adoption services to people affected by adoptions in the past.
- (2)-(4) There is no delay provision in the Adoption Act 1994 for people seeking mediation prior to contact.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - KINGSTON BLOCK, EFFECT OF LOGGING AND BURNING ON NATIVE SPECIES STUDY

960. Hon J.A. SCOTT to the Minister for the Environment:

- (1) What information has been derived by the Department of Conservation and Land Management from the study on the effects of logging and burning on native species being carried out at Kingston Block?
- (2) Has the effect of both burning and logging been assessed?
- (3) What species are being studied, and have the effects of logging operations been assessed on large hollow nesting birds?
- (4) What are the indicators of the effects of logging and burning on native flora and fauna?
- (5) Have any deaths due to logging and burning been recorded?
- (6) Can the Minister table current information from the study at the next sitting?

Hon PETER FOSS replied:

- (1) No answer can be provided to this question as it refers to the subject matter of a case pending adjudication in a court of law.
- (2)-(5) See answer (1) above.
- (6) No, for the reason stated in answer (1) above.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - SALINE WATER/TAILINGS SPILLAGE ON/NEAR MINING LEASES 26/86, 26/383

961. Hon J.A. SCOTT to the Minister for the Environment:

I refer to a saline water/tailings pipeline spillage which I understand occurred around 15 to 19 October 1996 on or near mining leases 26/86 and 26/383.

- (1) Is the Minister or the Department of Environmental Protection aware of the alleged spillage?
- (2) If not, will the Minister or the DEP immediately investigate the spillage?
- (3) If not, why not?
- (4) What area, in square metres, has been affected by the spillage?
- (5) Was it "pollution" as defined under the Environmental Protection Act 1986?
- (6) If not, why not?
- (7) How did the spillage occur?

- (8) Who owns, or what persons own, the pipeline and is/are ultimately responsible for the spillage?
- (9) Did the owner of the pipeline or the persons responsible advise the DEP of the spillage in writing?
- (10) If not, why not?
- (11) If yes, on what date was the DEP advised of the spillage?

Hon PETER FOSS replied:

- (1) Yes.
- (2) Department of Environmental Protection staff from the goldfields regional office investigated the incident in the afternoon of 22 October 1996.
- (3) Not applicable.
- (4) The spill was contained within structures designed for that purpose.
- (5)-(6) See Standing Order No 140(b)(i).
- (7) Maintenance crew had drained a section of steel tailings pipe to enable maintenance. The drain valve was left open after the pipe was put back into operation, allowing a portion of the tailings flowing through the pipe to drain into channels and pits located beneath and near the pipe.
- (8) KCGM Pty Ltd owns and operates the pipeline.
- (9) Yes, even though the operator was not required to notify the DEP since the spill was contained on the premises.
- (10) Not applicable.
- (11) 22 October 1996.

#### CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - STANDING TIMBER IN PINE FORESTS OLDER THAN 30 YEARS

962. Hon J.A. SCOTT to the Minister for the Environment:

What is the volume of standing timber in the 10 000 hectares of pine forest in state plantations which is older than 30 years?

Hon PETER FOSS replied:

At 31 December 1995 the area of state pine plantations older than 30 years was approximately 8 700 ha. Only about 90 per cent of this area is currently available for harvesting. The remainder is currently in protective buffers. The volume of timber on the available area is approximately 1 213 000 cubic metres.

#### WATER CORPORATION - MULAN COMMUNITY WATER SUPPLY, PROBLEMS

984. Hon MARK NEVILL to the Minister for Finance representing the Minister for Water Resources:

In respect of the Mulan Community water supply -

- (1) What problems is the Water Corporation aware of with this supply?
- (2) What action is proposed to address these problems?
- (3) What is the cost of work required?
- (4) When will the problems be addressed?

Hon MAX EVANS replied:

- (1) The Water Corporation is aware of leakage from the elevated tank. The water supply also has total filterable solids levels at 1 350 milligrams per litre and chloride levels of 450 mg/litre. The National Health and Medical Research Council guidelines for drinking water in Australia recommend levels of 1 000 mg/litre and 400 mg/litre respectively in these circumstances.
- (2) A contract has been awarded for tank refurbishment with a completion date of 23 December 1996. An investigative drilling program is scheduled for completion during 1996-97 to determine if the water quality problems can be addressed by equipping new bores.



- (3) Tank refurbishment - \$30 000; investigative drilling - \$54 000.
- (4) Tank refurbishment to be completed by 23 December 1996; investigative drilling scheduled for early 1997.

LAND ADMINISTRATION, DEPARTMENT OF - SWAN LOCATIONS 11536, 11537, BURNS BEACH,  
SALE; FUTURE USE

989. Hon MARK NEVILL to the Leader of the House representing the Minister for Lands:

The Minister for Lands is referred to land at Swan locations 11536 and 11537 in Burns which the Burns Beach Property Trust Pty Ltd had an option to purchase, exercisable by 2 November 1996.

- (1) Can the Minister confirm that DOLA offered this land, approximately 7 600 square metres, to the trust for \$270 000, which is approximately one quarter of its market value?
- (2) What is the average value of nearby suburban lots and how does this compare to this amount?
- (3) Why was the land not put up for tender so that a higher price could be obtained for it; for example, at least one owner whose property backs onto this land has expressed an interest in buying a portion of it?
- (4) Has the Burns Beach Property Trust Pty Ltd exercised its option to purchase this land and, if so, at what price?
- (5) If it has not, what has DOLA done with the land and what is it proposing to do with the land?
- (6) How much did the trust pay for the adjoining 290 hectares which it has applied to develop into a housing development?
- (7) How much of the 290 ha was recommended for protection by the EPA's system 6 report?
- (8) Why is the Government allowing development of system 6 land to be even proposed when 1 500 ha of urban bushland has been destroyed which the Minister for Planning's own department considered to be regionally significant?
- (9) Does the Government support the recommendation by the EPA to the Minister for the Environment to put the development on hold pending more information on the area's environmental significance?

Hon N.F. MOORE replied:

- (1) Swan locations 11536 and 11537, comprising 13 772 square metres, were offered for sale to Burns Beach Property Trust for \$270 000, under section 118CA of the Land Act. The purchase price was determined following consultation between the Department of Land Administration and the Valuer General's Office.
- (2) It is not appropriate to directly compare the value of readily accessible, developed and serviced residential land against undeveloped land which has no legal access to a road (landlocked).
- (3) Selling the land by tender was not appropriate. Swan locations 11536 and 11537 are "landlocked" and without legal access. The irregular shape of the locations, together with the even more irregular shapes of adjoining residential blocks, would have made it very difficult to subdivide.
- (4)-(5) The sale of Swan location 11536 is proceeding at a value of \$120 000. Disposal of Swan location 11537 is being held in abeyance pending resolution of environment and planning issues.
- (6) Not known.
- (7) This question should be directed to the Minister for the Environment.
- (8)-(9) As indicated in (4)-(5), Swan location 11537 has been withdrawn from sale for the reasons indicated.

### QUESTIONS WITHOUT NOTICE

#### TRADING HOURS - SEVEN DAYS A WEEK DISCUSSIONS

**1160. Hon GRAHAM EDWARDS to the Minister representing the Minister for Fair Trading:**

- (1) Has the Minister's department or the Government given any metropolitan shopping centre or retail shop owner a commitment for seven days a week trading in the near future or next year?
- (2) If not, has there been any discussion by the department or the Government with metropolitan shopping centres or retail shop owners about seven days a week trading?

- (3) If so, will the Minister please provide details of these discussions?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) No.
- (2) The Minister is regularly approached with regard to trading hours. However, the Western Australian Government is not contemplating any further change.
- (3) Not applicable.

ADVERTISING - GNANGARA PARK, COST

**1161. Hon J.A. SCOTT to the Minister for the Environment:**

I refer the Minister to the four page advertisement for the Gnangara park, which was delivered as a wrapround feature in newspapers of the Community Newspaper Group, and ask -

- (1) What is the cost of printing and distributing this advertisement?
- (2) How many copies were distributed in Western Australia, and through which community newspapers?
- (3) From which area of the budget of the Department of Conservation and Land Management are these funds allocated?
- (4) What was the Minister's involvement in preparing and approving this promotion?
- (5) Why has the Government announced the decision at this time, and not in the previous three and a half years?
- (6) Is this promotion political advertising and, if so, why is it not paid for by the Liberal Party?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) The Community Newspaper Group wrapround was an information sheet and called for public input to assist CALM to develop what will become the largest park near Perth into a conservation, recreation and tourism destination which will meet the expectations of the people of Perth. The Government believes this sort of public consultation is good government. The cost of producing and distributing the information sheet was \$75 370.
- (2) A total of 469 207 copies through the following newspapers: *Canning Community, News Chronicle, Comment News, Eastern Suburbs Reporter, Guardian Express Community, Melville Fremantle Community, Midland Kalamunda Reporter Community, Southern Gazette Community, Stirling Times Community and Wanneroo Times Community.*
- (3) I do not have an answer.
- (4) None.
- (5) It has only recently been completed and approved.
- (6) No, it is not.

SALINITY - FUNDING

**1162. Hon KIM CHANCE to the Leader of the House representing the Premier:**

I refer to the Government's anti-salinity program announced yesterday and the claim in a media release that an injection of an additional \$10m of state funds would boost anti-salinity funding to \$58m, and ask -

- (1) Will the Premier provide a detailed breakdown of the \$48m he claims the Government is already spending on anti-salinity work, department by department and program by program?
- (2) How will the \$10m in additional funding be spent on a department by department and program by program basis?
- (3) What existing programs will be cut to release the additional money for anti-salinity work?

- (4) Can the Premier explain how the Department of Conservation and Land Management will increase its commitment to anti-salinity projects by 580 per cent, the Water and Rivers Commission by about 183 per cent, and Agriculture Western Australia by about 83 per cent, when total funding for anti-salinity work is only increasing from \$48m to \$58m?
- (5) In a full page advertisement in *The West Australian* it is claimed that the Government has already committed an additional \$33m to fight salinity. When and where was this money allocated, department by department and program by program?
- (6) Is the projected commonwealth funding portion of the program inclusive or exclusive of existing commonwealth funding?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) The Government has not claimed to currently spend \$48m on salinity management. The current expenditure on salinity projects and related programs that contribute to its overall management is \$22.8m per annum. The additional sources of state funding are new funds provided by government and redistribution of existing agency funds. The analysis of the breakdown of funds is presented in section 9 of the Western Australian salinity action plan.
- (2) The additional \$10m of state funds will be distributed as follows: \$2m to Agriculture Western Australia; \$3.15m to the Water and Rivers Commission; \$4.65m to the Department of Conservation and Land Management; and \$0.2m to the Department of Environmental Protection.  
  
On a program basis the additional \$10m will be distributed as follows: \$2.2m for remnant vegetation; \$0.8m for salinity hazard investigation and mapping; \$0.9m for improved promotion and advice for farmers and focus catchment groups; \$4.5m for recovery catchments and restoration; \$1m for rural towns rescue program, public relations and community awareness; and \$0.6m for monitoring and evaluation.
- (3) None. The additional \$10m will be an injection of new funds.
- (4) The percentage figures referred to have not been arrived at by the Government. It can be assumed only that these figures have been produced by the newspaper in question. The member is referred to the last page of the salinity action plan which accurately describes the commitment to salinity management projects to be undertaken by the relevant state agencies.
- (5) Section 9 of the Western Australian salinity action plan identifies an additional \$33.8m to be phased in and allocated to salinity management programs by the state agencies. This comprises \$23.8m of redistributed agencies' resources and an additional \$10m provided by the State Government by 1999-2000.
- (6) Inclusive.

**NORTHBRIDGE TUNNEL - WORK NEAR ST BRIGID'S CHURCH, NOISE PROBLEMS**

**1163. Hon SAM PIANTADOSI to the Minister for Transport:**

My questions relate to the construction of the Northbridge tunnel, and I ask -

- (1) Is the Minister aware that construction of the Northbridge tunnel in the area of St Brigid's Church is causing undue noise and disruption for parishioners when they attend services?
- (2) Will the Minister take action to reduce the noise on the tunnel construction site during church services?
- (3) If not, why not?
- (4) Is the Minister aware that the tunnel has now been shortened substantially and the exit is now closer to St Brigid's Church?
- (5) Will the Minister ensure that St Brigid's Church will not be inconvenienced due to the construction of the tunnel?
- (6) Will the Minister and the Government guarantee that on completion of the tunnel, St Brigid's Church and local residents will not be affected in any way through noise and pollution as a result of the shortening of the tunnel? Will the Government undertake to rectify the problems at its own expense?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) The work site is opposite the church, and the contractor is in contact with the parish priest about the noise problems at particular times. I am aware of a complaint with respect to a funeral service held during the week, and I am told the contractor has been in touch with the church on this particular matter.
- (2) No work is carried out on Sundays. It is not reasonable to stop work for any length of time during weekdays, but the contractor will maintain contact with the parish council in an effort to prevent particular problems from occurring.
- (3) Not applicable.
- (4) The tunnel portal is now closer to Fitzgerald Street than was originally shown in concept plans. I have attended meetings with the parish council and offered a guarantee that, on completion of the bypass, noise levels will not exceed, and preferably will be lower than, current noise levels. The member will be aware that the environment will be improved significantly by the closure of Aberdeen Street adjacent to the church and the creation of a parkland piazza in its space. The landscaping area will be improved from that outlined in the concept plan.
- (5) Every effort has been, and will continue to be, made to ensure inconvenience is kept to an absolute minimum. The construction noise currently experienced will diminish when Aberdeen Street is closed, and the construction site access moves to Newcastle Street.
- (6) The question of noise is covered in the answer to (4). I will be writing to the parish council soon confirming that the noise level will not increase but, if it should, due to some unforeseen cause, then noise attenuation work will be undertaken. The issue of pollution does not arise because the tunnel is ventilated to achieve air quality standards set by the Department of Environmental Protection.

Further, I explained in detail to the members of the parish council and the parish priest when I went to the site a couple of weeks ago that the Government's commitment would be made in writing. The department is ascertaining the specific decibel levels that should apply to ensure there is a base on which the situation will be assessed when making that commitment.

Hon Sam Piantadosi: During the last week at a major funeral there were a lot of problems.

Hon E.J. CHARLTON: I am well aware of that. While construction of the tunnel is taking place issues will arise that are not satisfactory for the whole population. The important point is that the department will do its level best to work with people such as Hon Sam Piantadosi, the contractor and the parish council, and there must be significant communication during that period. I will ensure that happens. The contractor has been approached to ensure that he makes contact with the parish council to maximise the effort. The bottom line is that the parish will be significantly improved when the work is completed, and the surroundings will be vastly enhanced. The parish council acknowledged that it wanted a guarantee from the Government, rather than a guarantee from the contractor alone, and that will be provided.

#### SALINITY - CAMPAIGN LAUNCH, ADVERTISING COSTS

**1164. Hon KIM CHANCE to the Leader of the House representing the Premier:**

- (1) What was the total cost to taxpayers of yesterday's launch of the Government's anti-salinity campaign?
- (2) How much money has been budgeted for promoting the campaign?
- (3) What was the total cost of today's advertisement in *The West Australian*?
- (4) How many more advertisements are scheduled to be run?
- (5) Did the Government charter a helicopter to fly a television news crew to Brookton for yesterday's launch?
- (6) If so, what was the justification, who approved the expenditure and which agency or department is paying the bill?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) The final cost of the launch has not yet been finalised, but it will be made available to the member on completion of the details.
- (2) An amount of \$400 000 has been budgeted for public relations and community awareness during 1996-97. This figure is an estimate of the funds that will be required for all community awareness activities, including market research, production of written information, launch costs, advertising, consultancy costs and so on. There will also be costs associated with community awareness activities in later years.
- (3) An amount of \$9 535, of which 80 per cent is the cost of space in the newspaper.
- (4) None at this stage.
- (5) Aircraft were used to assist Perth-based media to attend the launch.
- (6) The launch of the strategy was held in the country, as is appropriate for the issue of salinity. Due to the relatively low level of public recognition of the salinity issue, it was appropriate the Government facilitate maximum exposure of the salinity problem and the solutions developed to address it. Distance and time of launch meant that aircraft were appropriate. Expenditure was approved by the Department of Conservation and Land Management. Costs will be shared between the four agencies involved in the launch; that is, Agriculture Western Australia, the Department of Environmental Protection, CALM and the Water and Rivers Commission.

#### SALINITY - FUNDING CUTS FROM BUDGETS

##### **1165. Hon J.A. SCOTT to the Minister for the Environment:**

I refer the Minister to the Government's announcement of a salinity plan yesterday.

- (1) What amount of funding will be cut from the budgets of the Water and Rivers Commission and the Department of Conservation and Land Management to fund the release of the additional money needed for the salinity plan?
- (2) What programs will these cuts affect?
- (3) How will the Government ensure that existing native vegetation is not cleared, and will it put in place a total clearing ban or moratorium on clearing?
- (4) Will the Government continue to allow the clear felling of native forests for woodchipping in salinity prone catchments, such as the Blackwood River catchment; and, if yes, why?

##### **Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1)-(2) No cuts will be made to the Water and Rivers Commission's budget. The current salinity investment program will increase its extension efforts through promoting the use of ground water mapping. This represents a shift in priorities. No funding will be cut from CALM's budget.
- (3)-(4) The salinity action plan does not prevent lawful activities. CALM's management prescriptions and ministerial conditions imposed on the forest management plan ensure that salinisation does not result from forest operations.

#### JOONDALUP ARENA - AQUATIC CENTRE, FUNDING

##### **1166. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:**

- (1) How much money has the Government allocated for the aquatic centre at the Arena complex in Joondalup?
- (2) Where in the budget papers is this money shown?

Hon A.J.G. MacTiernan: Slush fund!

##### **Hon N.F. MOORE replied:**

Does Hon Alannah MacTiernan want to answer the question? The Government does not have one, but Hon Graham Edwards had one when he was the Minister for Sport and Recreation.

Hon Graham Edwards: I did not.

Hon N.F. MOORE: That is what they told me, but I just gave it back.

Hon Graham Edwards: Would you believe what they told you?

Hon N.F. MOORE: No, I do not believe everything I am told. I assume what the member tells me is accurate. I will not believe the other stuff.

The PRESIDENT: Order! Get on with it.

I thank the member for some notice of this question.

- (1) No funds have been allocated for the aquatic centre at the Arena complex in Joondalup. However, the Western Australian Sports Centre Trust has completed a feasibility study into the development of an aquatic centre at Arena Joondalup. This proposal is being considered by the Government.
- (2) Not applicable.

#### JOONDALUP ARENA - AQUATIC CENTRE, COST

#### 1167. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:

What is the total projected cost of this aquatic centre?

#### Hon N.F. MOORE replied:

The estimated cost of the project the Western Australian Sports Centre Trust has been looking at is about \$9m, but it is a complex that would involve a competitive swimming venue - a 10 lane, 50 metre competition pool and a training pool - and an aquatic recreation facility. The Western Australian Sports Centre Trust is involved in the sense that it is the managing operator of the new Challenge Stadium, formerly the Superdrome, and it may become the agency that manages the Arena in due course. Therefore, it has been asked to do a feasibility study into an aquatic centre. Discussions will be held on whether funds can be provided in the future to provide that facility.

#### PRISONS - EASTERN GOLDFIELDS REGIONAL

##### *Additional Beds; Classification Change*

#### 1168. Hon KIM CHANCE to the Minister representing the Minister assisting the Minister for Justice:

- (1) How many additional inmates will be housed at the Eastern Goldfields Regional Prison as a result of the \$15m the Government proposes to spend on this prison?
- (2) What classification is the Eastern Goldfields Regional Prison and will that be altered by the upgrade?

#### Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The current proposal is for an additional 60 beds to be available at the prison, subject to the resolution of native title claims.
- (2) The prison is currently classified minimum security. The proposal is to upgrade the perimeter to medium security standard.

#### PRISONS - ESCAPES FROM WOOROLOO AND KARNET PRISON FARMS

##### *Staffing Levels; Muster*

#### 1169. Hon KIM CHANCE to the Minister representing the Minister assisting the Minister for Justice:

I refer to the recent escapes from Wooroloo and Karnet Prison Farms.

- (1) Is it true that since 1994 -
  - (a) the number of prison officer staff at Wooroloo has been reduced by 10 to 20 per cent; and
  - (b) the prison muster has increased by 10 to 20 per cent?
- (2) Is it true that the reduced number of staff and higher prison muster have led to less supervision and a greater propensity for prisoners to escape?
- (3) Is it true also that the Government's failure to respond to increasing prison musters has resulted in pressure being applied to prison administrators to downgrade prison security levels?

- (4) Is it true that after the publicity given to the recent escapes, the Government panicked about the obvious flaws in the prison system by transferring a considerable number of prisoners out of Wooroloo Prison Farm into higher security institutions?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) (a) Since 1 July 1994 the approved prison officer staffing levels have not been reduced;  
 (b) the standard bed capacity at Wooroloo Prison Farm has been increased from 180 to 200.
- (2)-(3) No.
- (4) No; however, prisoners who escape from minimum security prisons are routinely placed in a higher security prison when recaptured. The member must understand that a minimum security prison is one in which people are confined, not constrained.

#### ROAD TRAINS - PERMITS, BEDFORDALE HILL ON ALBANY HIGHWAY

**1170. Hon A.J.G. MacTIERNAN to the Minister for Transport:**

In answer to question without notice 1148 the Minister confirmed that permits were issued for road trains to travel, loaded with livestock, down Bedfordale Hill on Albany Highway.

- (1) When were the permits issued?
- (2) How many were issued?
- (3) What conditions were imposed on those permits?
- (4) What advice did the Minister receive from Main Roads WA concerning the issue of such permits?
- (5) Were incidents reported where permit holders breached permit conditions and/or traffic rules?
- (6) Did the Western Australian Livestock Salesmen's Association contact the Minister's office to express its concern about the issue of such permits?
- (7) Was its concern based on the perceived risk the granting of such permits caused to ongoing support for road trains in the metropolitan area and also on the selectivity of the granting of these permits?
- (8) Does the Minister acknowledge that no trials were ever undertaken with loaded road trains descending the Bedfordale Hill and that the gradient of that hill creates special dangers for loaded heavy vehicles?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) Permits were issued on 13 and 25 September and 6 October 1996 to assist the movement of sheep from water deficient areas in the Gairdner River area to the Mullewa area for agistment purposes.
- (2) Three permits were issued.
- (3) Escort vehicles were required at the front and rear of the combination vehicles and a maximum speed limit of 30 kmh was imposed.
- (4) Main Roads kept me advised on all matters associated with these special movements.
- (5) No.
- (6) Not to my knowledge.
- (7) Not applicable. This has nothing to do with the movement of the livestock.
- (8) There are no special dangers when special arrangements are in place, as was the case with the three movements that were approved. All reasonable precautions were taken, with escort vehicles being used front and rear in these special circumstances.

Now that the member has a sudden interest in Armadale -

Hon A.J.G. MacTiernan: Don't worry; we've been running a road train there for a long time.

Hon E.J. CHARLTON: That might evaporate in a couple of months. Permits are consistently allocated to allow over-dimensional loads down Bedfordale Hill; it happens quite often.

ENVIRONMENT - ELECTION PROMISES

**1171. Hon J.A. SCOTT to the Minister for the Environment:**

Given the Government's extremely late pre-election commitment to the salinity plan and Gngangara park -

- (1) Will the Government now fulfil the 185 promises it made on the environment before the 1993 election which are yet to be kept?
- (2) If so which promises will now be kept?
- (3) Given that in the previous three and a half years the Government fulfilled only 30 of its 216 promises, why has the Government waited until this week to make these commitments?
- (4) Given the Government's record, what confidence can the community have that it will fulfil those two new commitments, and any other commitments made between now and the State election?

**Hon PETER FOSS replied:**

- (1)-(3) Members will shortly receive a document that shows that we have more than fulfilled most of our promises. The member's question almost implies a resentment that the Government has released such a good policy.

Hon Kim Chance: We do not know what it is.

Hon PETER FOSS: There is almost a suggestion that it is a last minute effort.

Hon J.A. Scott: There are three days of Parliament to go. We cannot get much later.

Hon PETER FOSS: That is true; I suspect from some of the questions I have heard today that members asking them have not read our policy document.

Hon Kim Chance: Of course not; you have not made it available. When will you make it available to the shadow Minister?

Hon PETER FOSS: I will remedy that.

The PRESIDENT: Order! I know who is asking and who is answering the questions. Hon Jim Scott asked that question. I think the Minister should answer it rather than get into a conversation.

Hon PETER FOSS: I will be pleased to provide the opportunity to all members to see the document. They will recognise that it is truly remarkable and has taken considerable time to prepare - about 11 and a half months. It was preceded by two other efforts which were rejected by the Ministers responsible as being insufficient. Due to the combined work of the chief executive officers who put an enormous amount of effort into this document, we now have a real road map for tackling salinity in this State. It has taken a long time, but it was better to get it right rather than accept either of the two previous efforts.

Previously in this State many things have been done about salinity. However, they have not had the benefit of a clear strategy, coordination between government departments or public involvement. Members will be most impressed. The first thing that will strike them is the amount of effort that has gone into the document. It is an extremely good document. I will remedy at the earliest possible moment the fact that members have not had an opportunity to read it. These questions breach standing orders.

- (4) Complete.

COMMITTEE TO EXAMINE ESSENTIAL SERVICES IN REMOTE COMMUNITIES - ESTABLISHMENT;  
REPORT

**1172. Hon TOM STEPHENS to the Leader of the House representing the Minister for Aboriginal Affairs:**

- (1) Has the Government created a subcommittee of Cabinet to visit remote areas and tribal communities to gauge immediate needs, particularly health, education and housing as it promised in its 1993 Aboriginal affairs policy?
- (2) If so, what are the results of the work and visits of this Cabinet subcommittee, and will the Government table details in Parliament? If not, why not?



- (3) If such a subcommittee has not been established, why not?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) No.
- (2) Not applicable.
- (3) The State Government commissioned the task force into Aboriginal social justice which recommended a committee of chief executive officers to examine the issue of essential services in remote communities, including essential services of health, education and housing. This committee was established in 1994 and reported to the Government in June 1995.

#### EDUCATION DEPARTMENT - HEAD OFFICE STAFF REDUCTION PLANS

**1173. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Minister for Education:**

- (1) Has senior management in the Education Department discussed plans to reduce head office staff, including human resource personnel, by up to 600 persons?
- (2) Is the possibility of outsourcing the work being performed by those staff either -
- (a) being investigated; or
- (b) set down for investigation next year?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) No.
- (2) The objective of the Education Department is always to provide a more efficient and effective service. The work of the Personnel 2000 project will improve personnel services and support to teachers over the next few years. Improved systems may result in restructuring which will be done in consultation with the relevant unions.

#### JEAKINGS, BEN - COMPLAINTS CONCERNING WORKSAFE INSPECTOR

**1174. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:**

- (1) When did the Minister for Labour Relations first hear of complaints by Mr Ben Jeakings concerning a WorkSafe inspector who asked him for money?
- (2) Did the complaint made to the Minister for Labour Relations include the allegations that the WorkSafe inspector who requested the money had given Mr Jeakings advance warnings of a WorkSafe inspection, and recommended that Mr Jeakings lie to the inspector?

**Hon MAX EVANS replied:**

- (1) On 6 April 1995 the Minister was advised by the Executive Officer of the Building and Construction Industry Task Force of a complaint received by Mr Ben Jeakings concerning the actions of a WorkSafe construction inspector.
- (2) The question is nonsensical. No complaint was made to the Minister for Labour Relations. Hon Alannah MacTiernan should think more carefully about her questions.

#### COURTS - MANAGEMENT PROBLEMS

**1175. Hon CHERYL DAVENPORT to the Attorney General:**

Prior to the last election the Government promised better management and swifter justice. I ask -

- (1) How does the Attorney justify the Government's promise, given that today's report of the Auditor General reveals that court management in Western Australia is a shambles with waiting times at the Perth Court of Petty Sessions having tripled in the past two years to 17 weeks, trial waiting times between courts varying by up to 300 per cent and local court fees not being equitable?

- (2) Given the Government's repeated promises to improve access to justice by cutting waiting times and improving court management, will he now apologise to the people of Western Australia for his Government's performance?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1)-(2) The member should refer to the document I tabled in the House last week. She will find that a far more useful indication of the situation.

Hon Cheryl Davenport interjected.

Hon PETER FOSS: Members will find that we have put in place many new systems and intend to put in place more. One of the most important things is to overcome some of the dreadful problems regarding the neglect of the infrastructure. A fairly common problem in many areas of the State was that the infrastructure, including particularly information technology, had been badly neglected. The Government has implemented the provision of IT which we believe will make a big difference to the management of the courts and will overcome those problems.

The Government has also instituted management of the cases that come before the courts. People will find that had it not been for those considerable changes the position would have been highly aggravated, for example, by more complaints, the number of cases before the courts, etc. The Government is quite confident, as shown in the report I tabled in the House last week, that the trend is heading in the right direction. We believe that the other measures in place will overcome the neglect of many years.

The Government believes that just to remedy the neglect in the courts alone will probably take a 10 year program. It is difficult to conduct sessions in old buildings in which maintenance has been neglected, where building programs have not kept up with changes in population and where systems have not been updated. It takes a lot of time to turn around a trend; however, we believe we are turning it around.

#### BUDGET (STATE) - MISCELLANEOUS SERVICES, FORWARD ESTIMATES TO 2000 GROWTH IN EXPENDITURE

**1176. Hon JOHN HALDEN to the Minister for Transport:**

This question should perhaps be directed to the Minister for Finance. The Forward Estimates for 1996-97 to 1999-2000 under part 9, Miscellaneous Services, reveal a growth in expenditure over that period of nearly 75 per cent.

- (1) Why is the growth so large and what are the anticipated budgetary items that will contribute to the increase?  
 (2) What are dollar values for each of these items contributing to this significant increase?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question. I agree; it should go to the Minister for Finance.

#### VICTORIA QUAY, FREMANTLE - APPROACH ROADS

**1177. Hon J.A. SCOTT to the Minister for Transport:**

- (1) Is the Minister aware of plans for new approach roads to Victoria Quay, Fremantle?  
 (2) Are double B trucks expected to use this route to Victoria Quay?

**Hon E.J. CHARLTON replied:**

- (1)-(2) I am not aware of this. A number of assessments have been made about the access to Victoria Quay and the best route to ensure efficient use of heavy transport through the Fremantle area. We have regular meetings with the Fremantle City Council. We have undertaken with its cooperation to continually review this and to discuss it with the transport industry. It must be understood that Fremantle is a port to which access must be guaranteed. We do this in the most balanced and measured way to ensure that there is no conflict in the community.

#### EDUCATION DEPARTMENT - NEW PRIMARY SCHOOLS CONSTRUCTION, LOCATIONS

**1178. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education:**

The 1996-97 capital works budget allocates \$19m to the construction of new primary schools. Where does the Government propose to build these new primary schools?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

Announcements have been made for the construction of new schools at Cooke Point, Hedland; Carey Park, Bunbury; and East Busselton. Consideration is being given to other new schools, based on demographic information that is being assessed. An amount of \$19m was set aside in the 1996-97 budget for the construction of new primary schools that will open in 1998. In order to build the schools so that they open at the beginning of the school year in 1998, there must be some expenditure before 1 July 1997; that expenditure will go on planning, fees, documentation, earthworks and early commencement of construction. From that \$19m, the expenditure in 1996-97 was estimated at \$5m. The remaining \$14m will go into works in progress in 1997-98. Works scheduled from that source of funds, and which have been announced to date, include replacement schools at Cooke Point, Hedland; Carey Park, Bunbury; and East Busselton.

**FRETTING MORTAR - FURTHER TESTING****1179. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Fair Trading:**

The report by the Fretting Mortar Investigation Steering Committee, dated February 1996 and tabled on 5 November 1996, recommended that further testing to establish causes of fretting mortar be undertaken. Various outline proposals for that testing were included in the report.

- (1) What action, if any, has the Minister taken on those recommendations?
- (2) If further testing has been commenced, when was it commenced, by whom is it being undertaken and when will it conclude?
- (3) If no further testing has been commenced, why not?

**Hon MAX EVANS replied:**

- (1) The Minister has met with both the Fretting Mortar Action Group and the Cement and Concrete Association of Australia to seek their views about the issue of fretting mortar, including the Government's proposed testing program. The Minister has also agreed to a request by FMAG that chemical analysis should be undertaken on blended mortar purchased in the last 12 months and samples of these products left over from the construction of houses built some years ago, to determine whether these products are sufficiently similar in composition to be used for further testing. This comparability testing will provide information on the feasibility and likely effectiveness of the Government's proposed testing program outlined in the report the member cited. This information will influence a decision as to whether further testing can proceed.
- (2) Not applicable.
- (3) Agreement with the relevant parties on the scope of the comparability testing is still being sought.

**WATER CORPORATION - BIDYADANGA COMMUNITY, WATER SUPPLY PROBLEMS****1180. Hon TOM STEPHENS to the Minister representing the Minister for Water Resources**

- (1) Is the Minister aware that the 650 or so residents of the Bidyadanga community at La Grange in the Kimberley have been without a reliable water supply over recent months?
- (2) What immediate steps will the Government take to ensure that the urgent water needs of this community are immediately addressed?
- (3) When will the Water Corporation be in a position to equip the additional bores which have already been drilled and capped and which have not yet been brought into operation to meet the needs of this community?

**Hon MAX EVANS replied:**

I do not have the answer to the question and ask that it be put on notice.

**PUBLIC TRANSPORT - PERTH METROPOLITAN AREA, 10 YEAR PLAN****1181. Hon KIM CHANCE to the Minister for Transport**

On 17 October the Minister unveiled a 10 year plan for public transport development in the Perth metropolitan area.

- (1) How much will the plan cost?

- (2) How much money has been set aside for the implementation of this plan in the next term of government?
- (3) What specific proposals will be implemented in the next term of government?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1)-(3) The Better Public Transport plan, which I unveiled on 17 October, represents the key elements of a comprehensive and rolling 10 year plan covering improvements to all facets of the Transperth system. As I have already explained, various engineering master plans will have to be completed before the detailed costs and the appropriate implementation timing can be identified for each project. These initiatives will be coordinated with other transport reforms to provide greater efficiencies in delivering services.

The total capital and recurrent expenditure for projects planned to be implemented between 1997-98 and 1999-2000 is in the order of \$56m. The key elements of the Better Public Transport plan together with indicative capital costs are bus fleet replacement and expansion; circle route, \$6m; system 21, high quality bus service concept, \$21m; bus lane extension to Murdoch, \$16m; Rockingham to Fremantle transit way, \$39m; Morley to Perth transit way, \$9m; south west railway, stage 1 to Jandakot, \$160m; Midland railway extension to Bellevue, \$13m; and north west railway extension to Clarkson, \$25m.

The PRESIDENT: The Leader of the House.

*Point of Order*

Hon TOM STEPHENS: Is there any way of ensuring that you do not give the Leader of the House the call at this moment, particularly in view of the speculation that this might be our last question time and I have at least another question that I would like to ask?

Several members interjected.

The PRESIDENT: Order! Hon Tom Stephens.

*Questions without Notice Resumed*

ABORIGINAL COMMUNITIES - STATE AND FEDERAL PROGRAMS MONITORING UNIT

**1182. Hon TOM STEPHENS to the Leader of the House representing the Minister for Aboriginal Affairs:**

- (1) Has the Government formed a special unit to monitor the management, expenditure and effectiveness of state and federal government programs relating to Aboriginal communities, as it promised it would in its 1993 pre-election Aboriginal Affairs policy?
- (2) If so, what has been the effectiveness of this unit?
- (3) If not, why not?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question. I am glad he asked this question because the answer to the other one would have taken about one and a half hours to read.

- (1) Yes, as a unit of the new Aboriginal Affairs Department.
  - (2) A framework for monitoring the effectiveness of government programs has been developed. The effectiveness of this unit will be assessed at the completion of the first monitoring cycle in June 1997.
  - (3) Not applicable.
-