WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Tuesday, 28 April 1998

Legislative Assembly

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

DR GUY HENN

Condolence Motion

MR COURT (Nedlands - Premier) [2.03 pm]: I move -

> That this House record its sincere regret at the death of Dr Guy Henn and tender its deep sympathy to his family.

Guy Henn was born at Beckenham, England on 25 September 1909 and was educated at St Matthews and Guildford Grammar School where his father was the headmaster. He completed his education at Warden House Prep School in Kent and Lancing College, Sussex. On leaving school he trained as an apprentice motor mechanic for one year before commencing studies in medicine at St Thomas' Hospital, London. Prior to completing his medical studies, Dr Henn spent a number of years on a sheep station in the Gascoyne area and in Wiluna before returning to England to complete his medical studies. Dr Henn served as a surgeon medical officer in the merchant navy in 1941 prior to enlisting in the RAAF in 1942 where he served as a surgeon flight lieutenant. On his discharge from the services, Dr Henn entered general practice and worked in Midland Junction from 1945 to 1947 and then in Wembley from 1947 to 1956, becoming a medical officer with the Repatriation General Hospital where he worked from 1956 to 1959.

Dr Henn entered this House when he became the Liberal member for Leederville from 21 March 1959 to March 1962, and subsequently the member for Wembley from 1 March 1962 to 20 February 1971. In his maiden speech to Parliament on 8 July 1959, Dr Henn quoted British statesman Edmund Burke, who said that a member of Parliament's first duty was to his electors, his second to his party, and his third to himself. As a testament to this philosophy, Dr Henn concentrated his first speech to the Legislative Assembly on an issue affecting the people of his electorate of Leederville, that being a mosquito plague surrounding Lake Monger. As Dr Henn admitted, this may have seemed a trivial issue to many members, but it was a huge problem to a vast number of people who had elected him to be their representative in this House. Years before the discovery of Ross River virus and other potential dangers caused by this problem, Dr Henn warned of the health threat to people living in the vicinity of Lake Monger if methods of controlling mosquitoes were not addressed by the Government.

The second issue raised by Dr Henn in his maiden speech concerned the plight of children with mental disabilities. He spoke of the difficulties for parents who cared for these children at home, and made mention of a number of excellent government facilities available to help treat the children. He urged the Government to increase funding for these facilities to help those who cannot help themselves.

Dr Henn served as a member of the Library Committee from 1966 to 1971, and was a member of the Honorary Royal Commission appointed to inquire into the Provisions of the Natural Therapists Bill from 1959 to 1960.

Our sympathy is extended to his wife Maureen, and children Christopher and Claire and their families.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.06 pm]: The Opposition joins with the Premier in extending its sympathy to the family of Dr Henn on the sad loss of their father and husband. We, of course, did not know Dr Henn because he left this Parliament in 1971. In looking at his record the Opposition notes he is in a line of medical practitioners who have contributed to the State Parliament. It would be interesting to know how many medical practitioners, as a proportion of the total in the community, become members of Parliament, compared with other professions. At this stage I can think of Drs Hislop, Dadour, Edwards, Hames and Turnbull - the latter three of course are currently members of Parliament. Medical practitioners have made a contribution to the Parliament, and it is important to record that on the occasion of the death of Dr Henn. They have brought a particular public health perspective to some of the debates, and it is interesting that the Premier noted that Dr Henn referred to the mosquito issue in his maiden speech.

I conclude by pointing out another aspect of Dr Henn's life that should be commented on; that is, his passionate support for the South Fremantle Football Club. The member for Cockburn tells me that Dr Henn was loved and respected by the members of that club, and he attended the games regularly until age caught up with him a few years ago. Those in this Parliament who support the great Australian game recognise in Dr Henn a passion that many of us share, and the South Fremantle club will be very saddened by his passing.

Question passed, members standing.

SHEPPERTON ROAD TRAFFIC SIGNALS

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 12 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call on the State Government to provide a right turn signal for traffic exiting Shepperton Road into Mint Street, East Victoria Park.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 185.]

BREAST SCREENING UNIT, SOUTHERN SUBURBS

Petition

Ms McHale presented the following petition bearing the signatures of 672 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned express dismay and grave concern at the Government's decision to close the Cannington Breast Cancer Screening Unit, leaving women in the southern suburbs without appropriate services. We call upon the Government to:
>
> 1. Commit to the women in the southern suburbs that they will have a permanent breast cancer screening unit.
>
> 2. As a matter of extreme urgency provide a temporary breast screening unit in Cannington.
>
> Women's health is too important to be subject to economic rationalism, and commercial privatisation.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

A similar petition was presented by Mrs Holmes (176 signatures).

[See petitions Nos 186 and 188.]

PINE CAPPED FENCE, KURDEN WAY, SWAN VIEW

Petition

Mrs Roberts presented the following petition bearing the signatures of 39 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned urgently request a pine capped fence to be constructed from Blackadder Road to the corner of Kurden Way, Swan View, separating the estate from the railway track. The need for this type of fence has arisen due to the safety implications raised by an increasing number of children and adults using the rail track for recreation and for thoroughfare purposes. The consistent vandalism of the pre-existing wire fence has caused it to be ineffective in preventing access to the rail track.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 187.]

TRAFFIC SIGNALS, GRAND BOULEVARD AND BOAS AVENUE, JOONDALUP

Petition

Mr Baker presented the following petition bearing the signatures of 102 persons -

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

We, the undersigned, hereby request that traffic control signals be installed as a matter of urgency at the intersection of Grand Boulevard and Boas Avenue in Joondalup. This location is extremely hazardous due to the dual lane configuration of Grand Boulevard and the increased use of the intersection by motorists and pedestrians accessing the Central Business District, nearby Police Station, Law Courts, Lakeside Joondalup Shopping City, banks, retail outlets, professional suites and Government agencies.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 189.]

WESFI FACTORY SITE

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 18 persons -

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

We the undersigned petitioners condemn the Minister for Planning for ignoring the wishes of the local community and Town of Victoria in relation to the zoning of the Wesfi factory site and call on the State Government to review and reconsider his decision.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 190.]

CHILD PROTECTION COUNCIL

Statement by Minister for Family and Children's Services

MRS PARKER (Ballajura - Minister for Family and Children's Services) [2.17 pm]: I advise the House that the Government has established the WA Child Protection Council. The protection of the most vulnerable in our society - our children - is one of the most crucial responsibilities for any community. For the State Government the protection of children is paramount.

Over recent years a number of new initiatives have been implemented by this Government to improve our response to child abuse. These initiatives have included the establishment of the reciprocal child protection procedures between all relevant government agencies, the Child Victim Witness Service, the Child Protection Services Register and changes to the way the Department of Family and Children's Services responds to allegations of child abuse. As a State Government we recognise the need to both continually improve our processes and procedures within Family and Children's Services and improve coordination and cooperation between relevant government and non-government agencies. In this context the WA Child Protection Council has been established with the following terms of reference -

To promote the coordination and exchange of expertise and information between representatives of government and non-government agencies involved in the provision of child protection services;

to provide the Government of Western Australia through the Minister for Family and Children's Services with advice on the prevention and treatment of child maltreatment;

to promote and encourage research into the issues involved in the prevention and treatment of child maltreatment;

to raise the level of awareness in the community of the issues surrounding child protection; and

to encourage and promote interagency training on all matters relating to child protection.

The WA Child Protection Council will consist of 11 members drawn from government, non-government and community organisations with a direct or indirect role in the prevention of child maltreatment and/or delivery of services to children who have been maltreated.

Ms Rae Walter, Executive Director of Ngala, has been appointed as the independent chair of the council. The council

will receive a yearly allocation of $150 000 with an additional $20 000 for establishment costs in its first year of operation.

The council will be reporting directly to me as the Minister for Family and Children's Services and will operate independently from any government agency directly involved in service delivery to children who have been maltreated.

I conclude in strongly reconfirming this Government's commitment to the continuous improvement of our response to the tragedy of child abuse. I am confident that the WA Child Protection Council will play an important role in assisting government to achieve that goal.

I table a list of the appointed members of the council.

[See paper No 1356.]

[Questions without notice taken.]

POLICE CORRUPTION INQUIRY

Matter of Public Interest

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

> I propose the following matter of public interest be submitted to the House for discussion today.
>
> This House condemns the Government for the hopeless mismanagement of the Anti-Corruption Commission and calls upon the Premier to conduct an independent review of the commission's legislation and processes and in view of the commission's limitations calls on the Government to establish a royal commission into police corruption.

The matter appears to be in order and if there are at least five members who will stand in support of this matter being discussed, it shall proceed.

[At least five members rose in their places]

The SPEAKER: Half an hour shall be allocated to Opposition members and to the Government and five minutes to Independent members should they seek the call.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.57 pm] I move the motion.

The issue of police corruption in Western Australia has been badly mishandled by the Government from word go through to today. When this issue emerged on the political agenda in Western Australia, two ways were available to the Government to tackle it. The first method was a serious and substantial effort to solve the problem, an effort to focus on the issues that were brought to the political debate and to consider means of addressing those issues. The second method was to engage in what can only be described as a politically motivated charade and, regrettably, the Government adopted the latter approach. It was more interested in giving the impression of doing things, rather than doing things, and its failure to address the issue from the word go means that we have the problems that we have today.

This parade of misjudgment by the Government began in 1996 when the Legislative Council report - the so-called Tomlinson report - was brought down. The Tomlinson report stated that the committee concluded that -

> corruption and serious misconduct within the West Australian Police Service is far greater than has previously been acknowledged, even though it is and has been known by its senior executive.

In other words, the Legislative Council committee concluded there was a problem which was greater than had been acknowledged by the senior executive in the Western Australian Police Service.

In response to that report, the Government made a major strategic mistake. As a result of that mistake, the reputation of the Western Australian Police Service is paying the price. There was a very strong argument within the community following the royal commission report and the report of the Commission on Government that we should start again in the fight against corruption and establish a new authority on a new basis and according to new laws. In its haste to deal with the flak that would come from the tabling of the Legislative Council report, the Government rejigged the Official Corruption Commission and established it as the Anti-Corruption Commission. Its investigations were to be secret on the basis that reputations should be protected. The first observation I make is that the reputations of people have not been protected by the laws that set up the ACC and by the processes that have been followed by it.

In other words, whatever one may think about those laws in theory, the practice has been that reputations have been tarnished.

The secrecy provisions were always problematical and subject to debate when the ACC was set up. The ACC was embroiled in controversy from the start . The controversy might have related to the secrecy provisions or it might have related to the fact that the ACC was carried forward on a reworked basis rather than being abolished and a new body being set up. The fact that the ACC emerged in contentious circumstances and controversy meant that it was never the sort of body that could address the sorts of allegations that were made against the police in a satisfactory manner.

The Government established institutions that, from the beginning, were incapable of dealing with the problems that they were asked to address. The Western Australian Director of Public Prosecutions said as much on Wednesday, 17 December 1997. An article by John Townsend in *The West Australian* states -

> John McKechnie QC rebuked the ACC for statements it had made about the suspension of six detectives over allegations of drug related corruption.
>
> And he said secrecy provisions shrouded the ACC's activities and made it difficult for the public to have faith in its activities.

That is precisely the point that was made by the Opposition when it was set up in the first place. The article further states -

> "That is disturbing to me because we like to do things pretty openly" . . ..

This is the Director of Public Prosecutions making statements on the functioning of the ACC. Responsibility for that situation should rest with the Government. This Parliament and the community debated what we should do about the allegations of police corruption. That debate led the way to the establishment of a royal commission and was leading the way to establishing an ACC on a much stronger basis than it did in 1996.

The ACC was in a difficult position to tackle the problems that the Government gave to it from the beginning. The Government made its second strategic mistake in relation to this issue. It abrogated its decision making powers in respect of a royal commission by establishing an Anti-Corruption Commission. The Anti-Corruption Commission Act allows the ACC to recommend the setting up of a royal commission. Section 30(4) of the Act states -

> Without limiting subsection (3), the commission may, in a report made under this Division -
>
> (a) recommend that further inquiry or investigation into any matter be carried out by a Royal Commission, or by an Inquiry Panel appointed under the Local Government Act 1995 . . .

The key word is "may". The Government of Western Australia decided that it would leave those questions to the ACC and it would abrogate all its responsibilities in that regard. It then appointed a new chairperson of the ACC Mr Terry O'Connor, QC, who, on the basis of the provisions of the Act, could recommend the setting up of a royal commission, but said from the time of his appointment that he was against royal commissions. That was a very serious mistake by the chairman of the Anti-Corruption Commission. I have said that publicly and I will continue to say it. It was not the responsibility of Mr Terry O'Connor QC to prejudge whether we should have a royal commission. A debate occurred in *The West Australian* newspaper on 27 December 1997 in which he said that royal commissions were not necessary and I said we needed a royal commission into the Police Service in Western Australia.

By pre-empting this issue, Mr O'Connor painted himself into a corner. It is not the responsibility of Mr O'Connor to debate the issue for or against royal commissions in a general theoretical way. The legislation that sets up the ACC requires him under his duties as chairman of that commission to determine whether we need a royal commission in Western Australia. There is a clear distinction between those two things. We want Commissioner O'Connor to determine whether we need a royal commission in Western Australia, and by prejudging that issue upon becoming the ACC chairman, he made a very bad mistake in terms of the position he adopted.

The Government made two mistakes. The first was not to establish the ACC on a proper basis and set up a royal commission into the police when the Legislative Council reported. The second was to abrogate its responsibility to the ACC when the chairman of that commission prejudged whether we needed a royal commission. There is only one way to judge what has happened following those situations and that is to provide the performance test.

Let us look at the performance of the ACC. Let us not deal with the theory or with the personality; let us deal with the facts. Let us deal with what has happened in relation to this issue in recent days. The ACC appointed special investigator, Geoffrey Miller QC. He reported to the ACC and the ACC reported to the Police Commissioner. The

Police Commissioner dismissed six officers under section 8 of the Police Act. That is what happened. Where are we today in relation to these issues? Has the matter been resolved by the actions of the ACC?

Mr Bloffwitch: Why are we still here?

Dr GALLOP: This Government made a very serious mistake in not setting up a royal commission. Let us look at what the Full Court said, and not what the Opposition, *The Western Australian* newspaper or the commentators said. An article in *The West Australian* of 23 April 1998 under the heading "Judges condemn graft watchdog" stated -

> Justice David Ipp said that the ACC had given itself some of the trappings of a court but it did not function in the open and did not allow witnesses to be cross-examined.
>
> "On what possible basis should it make findings of fact which have the effect of harming people who don't have the opportunity of defending themselves properly" . . ..

The Premier set up the ACC on the basis of protecting the reputations of people. Have the reputations of people been protected by the body set up? No, they have not. The Supreme Court made it absolutely clear that the ACC had gone beyond its powers. I am not talking about personality or theory; I am talking about fact and the Supreme Court reached that conclusion at the time. It has raised serious issues about the way this body functions; that is, those who are under investigation have not been given transcripts of their evidence or the opportunity to test evidence by cross-examination of the witnesses, and they have effectively been denied proper legal representation. These are not minor matters; these are serious findings by the Supreme Court of Western Australia. It cannot be assumed that the world is the same as it was before those findings were reached.

Mr Day: No-one has said that it is.

Dr GALLOP: Yes they have. The Premier said that it is business as usual in relation to these findings. I am talking about not only the Supreme Court of Western Australia, but also the Director of Public Prosecutions. What has the DPP done in relation to the briefs of evidence given to him in respect of these six officers? After considering the briefs, the DPP concluded that it was not in the public interest to commence criminal prosecutions. I will read carefully what he said -

> Whatever decisions are made do not reflect on the investigating authority but are based solely on the available evidence and the relevant law.

That relates to the evidence given to him that led the Commissioner of Police to suspend six officers. Their reputations were affected by that suspension, and no-one will deny that. The whole basis for setting up the ACC was to protect people. The reputations of these officers were affected by the decision of the Commissioner of Police to suspend them without pay. The DPP said that on the basis of the available evidence and the relevant law, he will not prosecute the officers. What is the situation in Western Australia currently? The people of Western Australia were told that the reasons for the suspension of these officers without pay would be made known and that the facts would surface. They have never surfaced, yet the reputations of these officers have been affected.

Mr Day: Do you know why they have not surfaced?

Dr GALLOP: Because of the Government's legislation.

Mr Day: Because of an injunction of the Supreme Court.

Dr GALLOP: What does the court consider when it issues an injunction? It considers the law of Western Australia. Whose law is it? It is the Government's law. What a ridiculous interjection by the Minister.

I will summarise the situation in Western Australia very clearly. There is a cloud over the Police Service of Western Australia, and there has been for years with regard to allegations of corruption. Of course, the cloud over these six officers still exists. A finding has been made by the ACC and reputations have been affected. It appears these matters will not be satisfactorily resolved under the current framework of procedure being used by the ACC. Both the Supreme Court and the DPP have said that. There is a cloud over the ACC because of its powers and the way it has been functioning. However, the Government of Western Australia has said that it is business as usual.

I appreciate the frustration expressed in the editorial of *The West Australian* recently at the fact that the Government does not seem to be concerned about what is happening. That is a realistically based view of the situation. These allegations of corruption have not been resolved. People are making allegations left, right and centre, and that makes it hard for the public to have trust in the Police Force. There is a cloud over the ACC and its functions, but the Government says it is business as usual. The Government does nothing about the matters before it. There has been a clear abrogation of its duties to the people of Western Australia. The Government should have set up a royal commission two years ago in 1996. Those two years represent wasted effort in these issues. It is not too late; the

Government can reconsider its position. The Premier should consider that situation, along with his Cabinet colleagues. It is not a matter for the ACC; it is a matter in which the Premier and his Government should show leadership.

It is unfortunate, and most distressing to me, that the chairman of the ACC pre-empted this issue when he became chairman. I debated this matter with him on the pages of *The West Australian*, and will continue to do so. I remind him that it is his duty to determine whether a royal commission is needed. The legislation under which the ACC was established does not require the ACC to say whether royal commissions are good or bad - it just assumes they exist - but it requires him to determine whether a royal commission is needed. That is the question he must address with regard to these issues.

With regard to the ACC generally, it is obvious to everyone except the Government that the legislation needs to be reviewed independently and quickly. Not only that, the way the Anti-Corruption Commission is conducting its affairs must be reviewed quickly, if only because the Supreme Court has made its ruling and the Director of Public Prosecutions has made a finding in relation to these matters. As the Opposition keeps saying in relation to this issue, there can be no more important matter in the community than the relationship between the Police Force, which has enormous power, and the public of Western Australia. The current situation cannot continue. There is a cloud over the Police Force, and the body set up to deal with these matters is hamstrung, in part by its legislation. Its functions have been questioned by the Supreme Court, and its decisions have been questioned by the DPP. There can be no way forward, other than by decisive action and leadership from the Government of Western Australia. That is the only thing that has not been evident in relation to this matter. It is not a case of business as usual. It is an urgent situation that requires urgent action. The Government should review the matter quickly and, in the meantime, it should do the decent thing and set up a royal commission, and allow it to come to grips with all the allegations so that the decent officers in the Police Force can get on with their job of fighting crime in Western Australia.

MR COURT (Nedlands - Premier) [3.18 pm]: This motion does not befit a Rhodes Scholar. It is meaningless. It states that "This House condemns the Government for the hopeless mismanagement of the Anti-Corruption Commission." I could understand hopeless management, but not hopeless mismanagement. I am not sure what it means. Apart from the fact that the motion is meaningless, if the Opposition is trying to say that the Government has mismanaged the ACC, I cannot believe that even members opposite would suggest that the Government should be involved in managing or running the ACC.

Dr Gallop: It makes the laws.

Mr COURT: This debate is about running the ACC. The motion states that the Government should be involved in its management.

Dr Gallop: The Supreme Court has overruled it, and you are not concerned about it.

Mr COURT: The Leader of the Opposition will agree that the motion is wrong?

Dr Gallop: Of course I do not agree.

Mr COURT: If the Leader of the Opposition can tell me what hopeless mismanagement means I can get started. The Leader of the Opposition supported the Anti-Corruption Commission Bill in this place, so he knows that the ACC is an independent body and its three commissioners are appointed by an independent committee comprising the Chief Justice, the Chief Judge of the District Court and the Solicitor General.

Dr Gallop: Let us argue performance not personality.

Mr COURT: The Leader of the Opposition spent 20 minutes saying that the Chairman of the Anti-Corruption Commission, Terry O'Connor, is incompetent and is not doing his job, so he cannot say that I should not talk about the person when that is all he did.

Dr Gallop: It is about performance, Premier.

Mr COURT: The Leader of the Opposition should allow me to make my speech; he has made his. Terry O'Connor was appointed as the chairman of the commission. He is a highly regarded member of the legal profession. The committee had previously recommended the appointment of the other two members of the commission. The only judgment I can make is that the Leader of the Opposition and the Labor Party are determined to sabotage the operations of the ACC.

Dr Gallop: Have you read the decision of the Supreme Court? That is a disgraceful comment, Premier.

Mr COURT: This motion is a straight out attack on the Chairman of the Anti-Corruption Commission. Members opposite have not supported the work of the Anti-Corruption Commission, which is an independent body. Members

opposite did not give the commission a chance to operate before they said that the chairman of the commission is not the right person to make a judgment on whether there should be a royal commission.

Dr Gallop: Where do we say that? You are a very deceitful person, Premier.

Mr COURT: No, I am not at all. The Leader of the Opposition has said clearly that Terry O'Connor is not capable of making a decision on whether we should hold a royal commission.

Dr Gallop: I did not say that. I said he has made a mistake.

Mr COURT: The Leader of the Opposition is trying to back away from what he said.

Dr Gallop: I am not. I am stating the truth as I see it and the Premier lacks the decency to accurately repeat what I said.

Mr COURT: No, the Leader of the Opposition has made a fool of himself.

Dr Gallop: This is typical of your politics. You are a weak leader and when you are exposed you go the man.

The SPEAKER: Order! I have allowed a lot of interjections. Perhaps we can get back to the Premier's comments.

Mr COURT: I sat here for 20 minutes listening to the comments made about the Chairman of the Anti-Corruption Commission. Members opposite have made fools of themselves by saying that the Government should be involved in the management of the commission.

Dr Gallop: Where do we say that, Premier?

Mr COURT: That is what the member's motion states.

Dr Gallop: We refer to an independent review.

Mr COURT: That is what the Leader of the Opposition tries to say in his motion. The motion condemns the Government for the hopeless mismanagement - whatever that means - of the Anti-Corruption Commission. It is interesting that members opposite do not agree with their motion.

Dr Gallop: This is a typical performance; you are a weak leader.

Mr COURT: If the best the Leader of the Opposition can do is to attack me, I will keep going.

Dr Gallop: The Premier should deal with the issues.

Mr COURT: I cannot believe that I listened in silence to the Leader of the Opposition for 20 minutes and I cannot say two words without his going off his brain. I refer to the Opposition's call for an independent review of the legislation. The Anti-Corruption Commission is in the early days of its operation. It has been given wide powers and a lot of funding. The commission comprises a large group of professionals who carry out its responsibilities. The commission has conducted a special investigation into the police, and other investigations are under way. The chairman of the commission telephoned me recently to make it clear that the court decision will in no way affect the ongoing operations of the ACC in investigating corruption, criminal conduct and improper behaviour.

The ACC has a responsibility to investigate allegations of corruption, criminal conduct and serious improper behaviour. If the commission believes that grounds exist to lay charges it passes that information to the Director of Public Prosecutions or the chief executive officer of the agency involved. The comments of the Leader of the Opposition today have made it obvious that he does not want the justice system to run its course. He is commenting on an issue when he does not know the Supreme Court's full judgment.

Dr Gallop: You are hopeless. This is a performance of total complacency. You do not seem to care.

Mr COURT: I am now being told that it is complacent to say that the justice system should be allowed to run its course. I would have thought the proper course of action would be for the Opposition to wait for the judgment before it started to make these speeches. The judgment of the Supreme Court is that the Anti-Corruption Commission cannot make a finding of guilt; its responsibility is to pass information to the appropriate bodies. The Government fully supports that view. When the Anti-Corruption Commission legislation was debated in this place the Government stated that it did not want to establish a Star Chamber. I am sure that the ACC is aware of the limits of its role in conducting investigations.

This Parliament established the Joint Standing Committee on the Anti-Corruption Commission. Its function is to monitor and review the performance and functions of the ACC and to report to Parliament on whether changes should be made to the legislation. It is important that the Leader of the Opposition understand this point. The joint standing

committee recently travelled to a number of States to look at the investigation of corruption. The committee reported to this Parliament and tabled a discussion paper titled "Secrecy under the Anti-Corruption Commission Act". In presenting that report the member for Cockburn told this House that the Act is a good attempt to establish a series of checks and balances to protect the rights of citizens. That is what a member of the Labor Party said only weeks ago. It is early days yet; however, when the Anti-Corruption Commission is compared with the bodies in the other States, such as the Criminal Justice Commission and the Independent Commission Against Corruption it demonstrates a good balance, and before members opposite sabotage it -

Dr Gallop: We are not sabotaging it. The Premier should deal with the facts.

Mr COURT: For 20 minutes the Leader of the Opposition had a go at the operations of the ACC.

Dr Gallop: You are weak; you show no leadership. You cannot deal with the issues on a proper basis, so you go for the man; you do it all the time. You were quite happy to set up a royal commission into one of your political opponents.

The SPEAKER: The Leader of the Opposition has made the same interjection on many occasions. If he continues I will call him to order.

Mr COURT: The Supreme Court decision has clarified that the ACC is limited to investigative functions, and findings of guilt are the responsibility of the courts. The Chairman of the ACC has confirmed that the commission's work is continuing and the Supreme Court decision will not affect the investigations now being conducted.

This Parliament did not want the ACC to become a Star Chamber. The Government's preliminary legal advice is that the Supreme Court's decision will not require the Act to be amended. However, the Government will wait for a full judgment to come down before it determines the final outcome on that matter. Any recommendations that the Government receives in that regard from the ACC or the joint standing committee will be examined, as will be the Supreme Court's reasons for its decision.

I will also comment on the Director of Public Prosecutions' media release. In his media release, the DPP said that after considering the Anti-Corruption Commission's brief of evidence in accordance with the law and the prosecution policy he concluded that it was not in the public interest to commence criminal prosecutions. The DPP's media release specifically stated that the ACC's action in referring briefs to him was entirely appropriate and his decision not to prosecute should not be interpreted as a reflection on the ACC. He stated that it is normal practice for investigating authorities to submit briefs of evidence to the DPP for opinion on whether criminal proceedings should commence.

The Leader of the Opposition has moved too early on this matter. He must allow this matter to run its full course in our justice system. He knows what has taken place, but he decided to tell only part of the story. He knows that we are yet to hear the full judgment and that the Police Commissioner is yet to make his decision on advice he receives on the matter.

The Police Minister will cover the issues concerning the six suspended officers. We requested Mr Codd make recommendations on how these matters should be handled. The Police Union and the Police Commissioner agreed to the proposals, which will be implemented, to ensure an independent review of the process occurs. The Leader of the Opposition and the Labor Party have made a grave error of judgment in raising this matter before knowing the facts.

MRS ROBERTS (Midland) [3.32 pm]: I am amazed at the pathetic argument from the Premier this afternoon. His key line of defence seemed to be to accuse the Opposition of sabotaging the Anti-Corruption Commission. The Opposition has done nothing to sabotage the ACC that it has not done to itself. No-one has done more to sabotage the ACC than the ACC itself by its incompetence. Any further sabotage resulted from a unanimous decision of the Supreme Court of Western Australia that the ACC well and truly acted beyond its powers under the Anti-Corruption Commission Act. Its authority is to investigate, not to act as a judicial authority. It has overstepped the bounds.

It is a disgrace for the Premier to say that it is business as usual. As the Minister responsible for the ACC he should be determining whether its investigative processes are the same dastardly processes used against the six officers and condemned by the Supreme Court of Western Australia.

The Premier also said that he did not want to set up a public Star Chamber. However, according to Police Union allegations, which have been verified, the ACC wants a private Star Chamber for which there are no checks and balances and about which the public does not know what is happening because hearings are held behind closed doors.

Mr Day: Do you want a public Star Chamber?

Mrs ROBERTS: The reputations of not only the six officers, but also of other people have been tarnished as a result of their names being dragged through the media. Mr Ibbotson and Paul Ferguson, for example, have no opportunity for defence whatsoever. In an open inquiry they would have their own counsel and be able to publicly defend themselves.

Mr Day: How do you know that some people against whom allegations have been made have not been cleared by the ACC?

Mrs ROBERTS: An open royal commission should be established which holds closed hearings where appropriate. The interjections from the Minister for Police are quite inane. He suggested it was the court's fault we did not know the findings against the six officers. I have news for him: The Supreme Court found last week that the ACC had no right to make any findings against the six police officers. It follows that if it has no right to make any findings it has no right to publish any findings.

The final part of the Premier's argument was that the Opposition jumped in too early to debate this matter and that it should wait and see what transpires. For the past five years, while this Government has been in power, we have been told to wait and see and let the appropriate authorities such as the internal affairs unit and the Official Corruption Commission get on with the job of dealing with police corruption. Now we are being told to let the ACC get on with the job. We are being told not to ask any questions, to leave it to the experts and to stand back and be impressed. We have been standing back for more than five years and, like the public of Western Australia, we are unimpressed. What we have seen is far from impressive. We have seen a complete and utter debacle. Nothing the ACC has done so far could instil any public confidence in its ability to deal with police corruption in this State.

In March this year the ACC issued a statement about its special policy for dealing with secrecy. It had no legal basis, but it was supposed to provide some guidelines that we could follow. If it interpreted its own legislation - the ACC comprises eminent QCs and others - to come to the conclusion that it could not only be an investigative body, but also act as a quasi judicial body and make findings, why should we take its advice on what comments we can make about what is secret?

The ACC legislation is ramshackle and needs review. In contrast to what the Premier said, in his media statement of 22 April Terence O'Connor said -

> Any final view on this, however, will have to await the court's reasons for decision and if in fact, this turns out to be the case, clearly that will be a matter for Parliament to consider.

Yet the Premier said that it is business as usual and Parliament does not need to consider anything. Some time ago the Police Minister said he had written to the Premier and the ACC about the secrecy provisions but we have heard nothing more.

Mr Day: The ACC put out a media statement and a policy on how it would deal with the issue.

Mrs ROBERTS: That was the policy. The Minister was quoted in the Press as having sought advice on legislative change. The ACC's reputation for handling police corruption was questionable long before last week's court decision. The ACC's legislation allows it to go unchecked and to operate behind closed doors. Public scrutiny is prevented. Not only has it acted as a quasi judicial body rather than an investigative body but also it has denied people natural justice. Elements highlighted by the Opposition Leader were, for example, failing to provide applicants with a transcript or even a summary of the evidence against them and failing to permit applicants to test the evidence by cross-examination of witnesses and, therefore, effectively denying those applicants a right to legal representation. They are serious matters for which we want proper answers from the Premier, who is responsible for the ACC. He should show leadership rather than ducking and weaving as he always does.

Dr Gallop: He has misrepresented the position of the Opposition.

Mr Cowan: No he hasn't.

Mrs ROBERTS: He certainly has. We must wait for the last part of the court's decision on the Commissioner of Police's action of suspending those six officers without pay. It is a red herring because we do not need to wait for that. In fact the findings may be in favour of the Police Commissioner. The powers under section 8 of the Western Australian Police Act are very wide. I suspect the finding will be that the Police Commissioner was at liberty to take that decision.

Section 8 provides that the Commissioner of Police can state that he has little confidence in people, and then suspend them. That unfair provision was criticised by the Codd report, and some changes were made to that policy. In fact, such provision is not found in police legislation in any other State, and it is contained in the WA Police Act for legal, not moral, reasons. The Commissioner of Police will probably get off the hook as a result of section 8.

Mr Day: Do you support that section?

Mrs ROBERTS: The commissioner should have listened to last week's decision that those officers were denied natural justice, and that the report should never have gone to the Police Commissioner. If the report had not gone to the commissioner, the six officers would never have been suspended. On that basis alone, the Commissioner of Police should immediately provide those officers with back pay. Does the Minister for Police agree?

Mr Day: Do you believe that we should have section 8?

Mrs ROBERTS: I asked the Minister a question - he should answer mine first.

Mr Day: The commissioner has the legislative responsibility to make that decision based on all the information presented to him. Do you believe that section 8 should exist?

Mrs ROBERTS: It is not an appropriate section, but we can debate that another day. I prefer section 23, and I agree with elements of the Codd report. However, that is an entirely different debate.

If the Anti-Corruption Commission had not illegally transmitted that information to the Police Commissioner, those officers would still be employed in our Police Service.

Mr Day: The Supreme Court is considering that matter.

Mrs ROBERTS: Those officers have been without pay for four and a half months, and the Supreme Court is considering whether the commissioner acted appropriately.

Mr Day: If it finds that he acted inappropriately, obviously a re-think of the situation will be needed.

Mrs ROBERTS: Minister, I have one minute to go.

In conclusion, the Anti-Corruption Commission and the Police Service in this State are in dire straits. We have senior police calling for a royal commission; the Director of Public Prosecutions believes that some criminal trials may have failed as a result of deliberate actions of police officers in preparing cases; we have the unprecedented action of Acting Assistant Commissioner Ibbotson challenging the Police Service; and the Police Minister will not confirm or deny whether the Commissioner of Police is under investigation by the ACC for matters relating to the Forensic Behavioural Investigative Services International Pty Ltd contract. We have only heard denials from the Minister and the commissioner. All evidence needs to be directed to a properly constituted royal commission.

DR CONSTABLE (Churchlands) [3.43 pm]: Like the Premier, I have a great deal of trouble with the motion moved by the Leader of the Opposition, particularly the phrase "hopeless mismanagement". However, I am mostly concerned about the motion's implication that the Government somehow manages the Anti-Corruption Commission. That is not true. The ACC was deliberately established at arm's length from the Government, for obvious reasons.

Dr Gallop: Can I make one point?

Dr CONSTABLE: No. I have only five minutes. The Leader of the Opposition had his chance.

A joint standing committee of this Parliament was established to oversee the work of the ACC, which is exactly what that parliamentary committee is doing.

Dr Gallop: Do you think -

Dr CONSTABLE: No, I will not answer the member's question.

Dr Gallop: You must enter into the spirit of Parliament.

Dr CONSTABLE: The Leader of the Opposition had half an hour to speak; I get five minutes, which I will use.

Clearly, tension exists between confidentiality-secrecy and civil liberties, as was recognised by the Joint Standing Committee on the Anti-Corruption Commission in its recently tabled discussion paper. Once public comment and evidence is received by the committee, I am sure it will report back to Parliament as swiftly as possible on its concerns and those concerns aired publicly through the media, Parliament and other places. At this stage, an independent review of the ACC's legislation is unnecessary as that work is being conducted as swiftly as possible by a parliamentary committee. Clearly, the committee has a role to monitor and to report to Parliament on the ACC's legislation, and that is taking place.

It is important to understand the scope of the work of the ACC. I am reliably informed that 10 new cases of complaint are placed on the ACC's table each week, and the commission currently is considering in excess of 500 cases. Some of these cases were inherited from the Official Corruption Commission, and the remainder have been

received since the middle of last year when the ACC was established. Investigations in other States by the joint standing committee suggest that of all complaints received by similar bodies - such as the Independent Commission Against Corruption, the Criminal Justice Commission and the NSW Police Integrity Commission - 70 per cent concern the police. It is the major work of any such body.

The events of the past few weeks, as played out in the media, are prime examples of why confidentiality is important. The Commissioner of Police, not the ACC, identified the six police officers, and we are still waiting for the Supreme Court to make its decision in that regard. However, the legal action of the police officers stopped the Miller report being published. If they had not taken that legal action, it is likely that the public would now be informed of the contents of the Miller report.

This motion does not make sense, and I cannot support it. I have supported a royal commission into police in the past, but in no way can I support the motion as presented to the House today.

MR DAY (Darling Range - Minister for Police) [3.48 pm]: Today's debate again illustrates that the Opposition simply does not understand the purposes for which the Anti-Corruption Commission was established, and the process by which it properly operates. The ACC was set up with a number of purposes in mind; primarily, it was to ensure that a body existed with appropriate powers and resources to investigate allegations of corruption and serious improper conduct.

It was never expected that following ACC investigations, if allegations were substantiated, all matters would be prosecuted by the Director of Public Prosecutions. At the end of its investigations, the ACC has the power to refer the information it has gathered, if it believes that it is substantiated, to the DPP for him to decide whether charges should be laid. However, it is not necessarily expected that charges will be laid. The ACC also has the power to refer the information to the chief executive officer of the government agency involved - obviously, in this case, it was the Commissioner of Police - so appropriate managerial action can be taken.

It is not my intention to canvass the case before the Full Bench of the Supreme Court, or to speculate on its possible outcome.

Mrs Roberts: The decision is known.

Mr DAY: We should not jump to conclusions about the reasons for the Supreme Court's decisions on this matter, or the final outcome of the court case. We should wait to see the final judgment of the Supreme Court.

The actions of the Director of Public Prosecutions and whether he lays charges following the Anti-Corruption Commission investigation is not particularly relevant to this issue in any case. Firstly, the DPP needs to consider the public prosecution policy, which is available for all to see, and needs to take into account, among other things, the public interest in prosecuting a case and the likely outcome of a guilty verdict. We do not know what are the reasons the DPP has decided not to prosecute in this case, but obviously he has taken that public prosecution policy into account. In the media statement he issued last week, the DPP said that the ACC's actions were entirely appropriate, and that should not be overlooked.

Dr Gallop: He did not say that.

Mr DAY: Yes he did.

Dr Gallop: Where?

Mr DAY: In his media statement.

Dr Gallop: Read it.

Mr DAY: I do not have it in front of me. He said that the ACC's actions in referring the brief of information to the DPP were entirely appropriate.

Mrs Roberts: They were not the words he used.

Mr DAY: Yes they were.

Mrs Roberts interjected.

Mr DAY: I believe I am correct in what I say.

The more significant point to recognise is the very important difference between the standard of behaviour that is likely to produce a guilty verdict in a criminal court as a result of charges being laid and the standard of behaviour that is appropriate for a police officer in the execution of his or her duty. That is a very significant difference.

Dr Gallop: I realise that. When will you deal with the issue?

Mr DAY: I am glad the Leader of the Opposition recognises that very important difference. It is crucial in considering whether the ACC acted appropriately and whether there is any relevance to the fact that the DPP has decided not to lay any charges arising from the ACC's investigation.

It is important that public confidence in the integrity of the Police Service be maintained. The person with the primary responsibility for ensuring that that confidence is maintained is the Commissioner of Police and it is up to him to take managerial action if he believes that the behaviour - I make no comment about the current case being considered by the Supreme Court -

Several members interjected.

Mr DAY: It is appropriate for him to take managerial or disciplinary action if he believes the actions of a police officer have not been appropriate to ensure that public confidence is maintained in the service.

Dr Gallop: Have you been briefed on all the cases?

Mr DAY: No, I have not been briefed on the substance of the investigation. The report produced by the special investigator for the ACC has been passed on a need to know basis only to the senior levels of the Police Service and the DPP. I will make a comment about the lack of public information in a moment.

That very important difference between the standard of behaviour that is likely to produce a guilty verdict in a criminal court and the standard of behaviour that is appropriate for a police officer was raised by the Wood royal commission in New South Wales, which determined that such a distinction should be made, and by Michael Codd, who undertook the review of section 8 of the Police Act in Western Australia in January.

Mrs Roberts: We agreed with that 10 minutes ago. Have you anything else to say?

Mr DAY: I certainly do. It is obviously very important that we have a body that can investigate these allegations of corruption or serious improper conduct on a fair basis and according to the principles of natural justice. It certainly gives me no pleasure to see police officers facing this situation. The important point is that everyone in Western Australia, whether they be police officers or anyone else, is subject to the same laws and investigative procedures.

Dr Gallop: Are you now willing to acknowledge that if you had set up a royal commission two years ago you would not be having these arguments in Parliament today?

Mr DAY: No. A royal commission would have ensured that the reputation of many innocent people, including police officers, would have been maligned because it is a public hearing process. That should not happen.

Mrs Roberts interjected.

Mr DAY: I will not comment on the case of the six officers because that is before the Supreme Court at the moment.

Mrs Roberts interjected.

Mr DAY: I am saying that far more people would have had their reputation maligned for no good reason had a royal commission been established.

Dr Gallop: It is very convenient to have that view now.

Mr DAY: It is a very important principle.

Dr Gallop: It was not two years ago when you set up the Easton royal commission. You have two standards: One for your side and another for this side.

Mr DAY: The Leader of the Opposition does not recall that we did not have a body with the powers the ACC currently has. If we had, it would have been a completely different situation.

The confidentiality provision of the ACC Act is in place for very good reasons. It protects the reputations of those cleared as a result of the investigation. People may have been subject to investigation by the ACC who have not had their reputation maligned whereas that would have happened in a public hearing process. The secrecy provision also encourages people to come forward with information. As special investigator Geoffrey Miller said, people would not have come forward if they had been required to provide information in a public forum or if they were able to be identified. That is a very important point.

Other investigations undertaken by the Police Service, the National Crime Authority or the Australian Securities

Commission are held in camera and no-one suggests they should be held in the public arena. It is not sensible to suggest that the ACC should operate differently. Obviously it must be accountable and observe the rules of natural justice, but it should not be required to undertake inquiries in the public arena.

Dr Gallop: When is it appropriate to have a royal commission?

Mr DAY: The Premier has said that the Government will not hesitate to call a royal commission if the ACC recommends it or if the Government as a whole is convinced that the public interest would be served by doing so.

I entirely agree that the public should be given far more information than has been the case, and I know that view is shared by the Commissioner of Police and the ACC. Information has not been provided to the public because of an injunction granted to the six officers through their legal representative in the Supreme Court. It is entirely their right to seek that injunction and I do not criticise them for doing so, but that is the only reason -

Mrs Roberts interjected.

Mr DAY: I am not criticising the Supreme Court or the six officers. The Opposition does not want to appreciate the point that the reason the public has not been given information about the substance of this investigation or the allegations is the court action, not any desire on the part of the ACC or the Government not to provide it.

Dr Gallop: The court is supposed to determine what is lawful.

Mr DAY: The Leader of the Opposition is being hypocritical. He says he wants the information made public and then he says that the Supreme Court should prevent its being made public.

Members should recognise that the ACC can recommend the establishment of a royal commission to the Government if it believes it is necessary on the basis of its considered judgment. Through the establishment of the special investigation it has all the powers of a royal commission in any event.

Mrs Roberts: No it does not.

Mr DAY: The member should read the Act. Members should also recognise that the 1996 Legislative Council Select Committee on the Western Australian Police Service, chaired by Hon Derrick Tomlinson, recommended that a royal commission be established unless the Government took steps to establish a police anticorruption commission. We have established a commission with all the necessary powers to inquire into allegations of police corruption and allegations about public service corruption generally. That is the only way it differs from the Legislative Council recommendation.

If we set up a royal commission and it operated for two years or 18 months, what would happen if another round of allegations of corruption involving the Police Service were raised in three, four or five years? The Opposition should tell us whether it would support the establishment of another royal commission on a continuing basis.

Dr Gallop: That is a pathetic question.

Mr DAY: The Leader of the Opposition is not prepared to answer that question in any intelligent way. I saw him shake his head, so I presume he means no.

Dr Gallop: I cannot tell what will happen in the future; obviously you can.

Mr DAY: We will take the implication of the comment by the Leader of the Opposition to suggest that we should set up another royal commission in three or four years. If there were another round of allegations a few years later, we would then set up another royal commission. Obviously that suggestion is nonsensical. As the Wood royal commission in New South Wales recommended, a permanent body to investigate these matters and a substantial change in the Police Service are needed. That is exactly what has been done in Western Australia. The Opposition is trying to have two bob each way. It professes that it wants these matters properly investigated but when that is done it complains about the actions taken. Its hypocrisy is totally and utterly exposed. The Opposition should stop politicising the issue and allow the Anti-Corruption Commission to get on with its job.

MR BLOFFWITCH (Geraldton) [4.03 pm]: As a member of the Joint Standing Commission on the Anti-Corruption Commission, I find it absolutely amazing that a motion is has been put forward criticising the very body that we in this Parliament put in place to do a job. No-one in this Parliament has seen the Miller report.

Dr Gallop: Have you been briefed on its contents?

Mr BLOFFWITCH: No. None of us has any idea of its contents. Until we do and until we can arrive at a considered opinion, we should not be jumping to conclusions and knocking people. I understand why the Supreme Court took the view that the Anti-Corruption Commission should not say whether someone is guilty or is not guilty. However,

it seems that Geoffrey Miller QC, said in his conclusions that the evidence proves that the officers are guilty. I am not aware of the report's contents because we have not had an opportunity to look at it. Why have we not done that? We have not done it because an injunction against the publishing of the Miller report was taken out. Until that question is decided, nothing can happen. What can the Anti-Corruption Commission do about that? The Commissioner of Police has said that he is totally frustrated by it. As much as he would like to provide us with some of the evidence on which he made his section 8 decision, he is not allowed to. He has been ordered to release nothing. Until the Anti-Corruption Commission releases the report, section 52 of the Act states that nothing from the report can be disclosed. Let us see what the position is when we have heard what the court has to say about the injunction. I am sure that we will then proceed with the report.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (35)

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

Question thus negatived.

WESTERN AUSTRALIAN GREYHOUND RACING ASSOCIATION AMENDMENT BILL

Second Reading

MR COWAN (Merredin - Deputy Premier) [4.08 pm]: I move -

That the Bill be now read a second time.

The proposed amendments to the Western Australian Greyhound Racing Association Act are intended to overcome technical difficulties associated with the regulation and control of the greyhound racing industry. In order to more accurately reflect its duty to administer and regulate the conduct of greyhound racing throughout the State, the name of the Western Australian Greyhound Racing Association will be changed to the Western Australian Greyhound Racing Authority. The governing body of the authority will also be referred to as "the board" rather than "the committee".

Currently, the rule making powers contained in the Act are limited, and the WAGRA committee must gain the approval of the Minister to make or change the rules under which greyhound racing is conducted. The rule making mechanism will be changed to allow the authority to operate in the same way as the Western Australian Turf Club and the Western Australian Trotting Association operate. Each of these bodies may adopt national rules of racing or make local rules without the need for ministerial approval. The removal of the requirement to gain ministerial approval will allow the authority to more easily adopt and comply with national rules for greyhound racing.

The Bill also inserts new provisions to broaden and more clearly define the general functions and rule making powers of the authority. In particular, new provisions will be added to allow the authority's stewards more flexibility in imposing penalties, such as suspensions, for breaches of the rules of greyhound racing. The maximum fine which may be imposed will be increased from $500 to $5 000 to bring Western Australia in line with the national standard. I commend the Bill to the House, and table the explanatory memorandum accompanying this Bill.

[See paper No 1357.]

Debate adjourned, on motion by Ms Warnock.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Second Reading

Resumed from 27 November 1997.

MR BROWN (Bassendean) [4.11 pm]: In general terms, the Opposition supports the Bill. It is apposite to commence by noting what the Minister said in his second reading speech about the nature of the provisions of this Bill. The Minister noted that the Bill did not seek to apply overly prescriptive procedures into lease transactions, that it represented some fine tuning, and its major initiatives were largely directed to only new leases. In my response today, I will deal with the Bill in three separate parts: First, I will provide an overview of the problems small business retailers have encountered in lease arrangements; secondly, I will give the Opposition's views on various provisions of the Bill; and, thirdly, I will outline the nature of the proposed changes that various inquiries have recommended to commercial tenancy laws. In doing that, I will flag some of the amendments the Opposition intends to move at the Committee stage.

I go first to the nature of the problems that small business retailers have encountered with retail lease arrangements. I note at the outset that in bringing forward this Bill, the Government had extensive discussions with the peak organisations representing landlords, agents and small business. They have centred around the Green Bill introduced by the former Minister for Fair Trading on the last parliamentary sitting day prior to the 1996 state election. At that time the then Minister indicated that if the Government were returned after the 1996 election, it would move to implement changes to commercial tenancy laws within the first six months in office. The Government has been in office for 16 months, so the time frame originally promised to small business retailers has not been met, and it will be some time before this Bill is finally considered by the other place. I understand it is intended to allow a period to elapse before the provisions of the Bill are proclaimed. Perhaps the Minister will confirm in his response to this debate when it is intended to proclaim certain provisions relating to new leases or even those relating to existing leases.

In general terms, the Bill appears to reflect those matters agreed between the four peak bodies; that is, the Property Council of Australia, the Retail Traders Association of WA, the Real Estate Institute of WA, and the WA Council of Retailers Association. I note that some provisions of the Bill are not agreed across the four sectors; that is, those provisions that do not permit management fees to be charged in variable outgoings, and matters concerning trading hours. The Opposition has had discussions with the peak organisations, as has the Government, and during Committee the Opposition will introduce a number of amendments to the Bill. These amendments are supported by one or more of the organisations concerned. In addition, the Opposition has sought the views of small business retailers and, indeed, letters were sent by me and a number of other Labor members to small business retailers in our electorates. They outlined the nature of the proposed changes and some of the findings of other inquiries into commercial tenancy arrangements, notably the findings of the House of Representatives Standing Committee on Industry, Science and Technology in its report "Finding the Balance".

I place on the record my thanks to all those small business retailers who took time from their busy schedules to meet me and express their concerns about the nature of the existing tenancy arrangements, and to explain the type of changes they would like to be made to the commercial tenancy laws. Likewise, I express my appreciation to those I did not meet personally but who were kind enough to ring me or write to me.

The Commercial Tenancy (Retail Shops) Agreements Act and this Bill seek to regulate behaviour in relation to commercial tenancy arrangements. It is fair to say, as a result of the responses to my letters and other contact I have had with small business operators, that there are quite different relationships at various centres across the State. I will indicate the nature of the variety of relationships that exist. At one end of the spectrum, in certain centres there is a very positive relationship between the landlord and the tenant. A number of tenants have explained to me that if it were not for the fairly good graces of their landlord, they would no longer have a business. They have told me that rents have been lowered or waived for a period, and that at the centres at which they operate there are very collaborative arrangements, whereby landlords and tenants meet and openly discuss what is in the best interests of promoting the centre and the businesses in the centre to try to increase the viability of those businesses and, therefore, increase the opportunities for market rentals to be obtained by the landlord.

From the reports I have received it appears that, in some senses, there has been a very strong and positive relationship between landlord and tenant. However, not every experience has been that pleasant.

I turn now to a couple of experiences that have been relayed to me by small business owners about the way they have been mistreated. I visited a store and spoke to a person whom I shall call tenant No 1. He informed me that for some time he had been negotiating a lease renewal with the landlord. The landlord demanded that tenant No 1 relocate his shop. The nature of the small retail shop business was not conducive to being relocated in the centre, and the

tenant was reluctant to agree to such a relocation because he believed that such a move would have an adverse impact on his clientele and that his custom would fall away. That impasse was sustained for some time. After a further time, retail tenant No 1 received a telephone call from one of his colleagues who was also a retailer. The colleague told him about a great business opportunity that he had investigated at a reasonably good centre, and that happened to be the same sort of business as that operated by tenant No 1. When he inquired about the detail, his colleague informed him that he knew the business was a viable one as it was the business owned and operated by tenant No 1. The business was to be sold from under him.

Another commercial tenancy experience relayed to me involved a very astute small business operator who had been in the business for some years. He came up with what he considered to be a winning concept. He had invested a considerable sum and had undertaken a considerable amount of research into whether the concept would work. He set up the business and outlaid a considerable sum to implement the concept. His market research paid off and the business was extremely successful. He said that he was a small business person not because of his good health or good looks but because he wanted to make money! He believed that he had a winning formula. After some time, when it became apparent that the small business was operating very well, he received a demand by the landlord for a rent increase when the rent review was due. The increase demanded was 35 to 40 per cent, and with inflation running at around 2 to 3 per cent the increase appeared to be excessive. Therefore, the gentleman endeavoured to negotiate with the landlord, but finally he had to concede to a rent increase of 20 to 25 per cent. He did not agree with the increase, but the business was profitable and he had already started a second similar business concept.

Shortly after the new rent arrangements were put in place but before the ink was dry on the paper another shop was opened in the same centre to house precisely the same business as his. It was explained to me that he suffered a double hit - a 20 to 25 per cent increase in rent, and within two to three months a 25 to 30 per cent decrease in custom. The end result was that he sacked his manager because he could no longer afford him, and returned to try to run the two businesses alone; that is, the one already operating and the other which he was trying to get off the ground and to which he had made a commitment.

Those are two examples. However, many more retailers have spoken to me and, I am sure, to the Minister regarding rent reviews, security of tenure, and various other concerns. One could stand here all day and refer to similar negative experiences suffered by retail tenants. From discussions I have had with small business operators I am aware that in the main they welcome the provisions of this Bill, because they regard it as positive legislation. They have queries about some aspects of the Bill but, in general, they welcome it. However, they were keen to see what they believed to be central provisions included in the legislation. I will refer to some of those in passing, and return to the detail later.

Security of tenure is a key concern of many small business retailers to whom I have spoken. We all know that in theory when a small retailer signs a lease for five years, over that period it should be possible to amortise the costs of establishing the shop. However, for many retailers, that is not possible because it may be a new business. People may believe it is possible or believe, rightly or wrongly, they will receive an extension or renewal of the lease and, therefore, they will have an opportunity to amortise the establishment costs over a longer time.

In addition, there is the continuing argument about the value of goodwill in lease arrangements. Certainly small retailers who do not have their leases renewed - unless they are able to set up in or near the area in which they were previously established, which is not an easy task given today's shopping centre environment - simply lose all the goodwill they have built up in the business for the past five, 10 or 15 years, or whatever the case may be. Many retailers have said that is a key issue, and unless they have some comfort in knowing that they will have an opportunity to continue to rent their premises, and as long as that problem hangs over them, they will never make any progress.

A number of them feel quite hostile because they believe from either personal experience or the experience of colleagues that they are very vulnerable when the lease is due for renewal.

Many small retailers believe that the legislation should include unconscionable conduct provisions.

Mr Baker: That is covered under the Trade Practices Act.

Mr BROWN: That is okay if they have the money to go to the Federal Court. Most small retailers do not have that money, but they could go to the Commercial Tribunal, which costs a lot less. The people to whom I have spoken believe that, notwithstanding the recent changes to the Trade Practices Act, there is a strong need for this legislation to include those unconscionable conduct provisions. Another reason that many of them do not take these issues to court is simply the imbalance of bargaining and financial power.

Many small retailers in shopping centres believe also that they should be appropriately compensated when they are required to relocate and that that compensation should take into account additional set up costs and so on.

Many small retailers are concerned about the cost of leases and about having to pay $600, $800, $900 or $ 1 000 for leases that they perceive as having been simply photocopied and given to them to sign. They believe that considerable cost savings would result from entering into a standard lease-type arrangement, and that if such a lease were established by negotiation between the retailers' organisations, the Property Council of Australia and the agents, they could be fairly confident that it was a balanced lease and did not favour one side over the other.

Retailers in some centres are encouraged by the landlord to form merchants' associations and to discuss matters with the landlord. However, in other centres, the management or the landlord strongly discourages retailers from forming merchants' associations. Retailers believe that it would be beneficial if the Act formally recognised the right of tenants to form merchants' associations if they so wish.

Retailers expressed concern about rents being based on turnover. A number of leases contain a base rent provision, but they also contain a provision that if the business manages to achieve a turnover of $3m or $4m a year, the rent will be based on a certain percentage of the turnover. In many instances, that turnover figure will be obtained only if the retailer hits the jackpot with his shop. The reason for including that provision in the lease is that under the Act, the landlord will then be able to require the tenant to provide turnover figures. It has been put to us by tenants that in their view, leases are constructed in that way simply to ensure that the turnover figures are provided and not to ensure that the rent is based on that turnover figure. Therefore, we will propose in Committee that if a landlord wishes to take a punt on a tenant and relate the rent to turnover, that is fair enough and should be allowed, but in all other circumstances, tenants should not be required to provide turnover figures.

Those are some of the matters that have been raised with me. It is fair to say that commercial tenancy is a very fertile area with regard to the very strong relationships that exist, sometimes positive and sometimes negative.

I turn now to the Opposition's view on various provisions in the Bill. Clause 4 is the definitions clause, and we will raise some matters of detail in Committee. The new definitions of "retail floor area" and "total lettable area", and the other definitions later in the Bill that lead to the establishment of the relevant proportion principle, are a very positive and equitable provision for retailers. Equally, we welcome the amendments with regard to the jurisdiction of the Commercial Tribunal.

Clause 5 seeks to establish a new section 6A, which will require the lease to incorporate a tenant guide. That is a positive step, because it recognises that many tenants may be entering into lease arrangements for the first time and may not be aware of their rights and obligations under the Act.

In recent years the South Australian Parliament has considered the matter of retail shop leases. The matter is referred to differently in the report of the Joint Committee on Retail Shop Tenancies, delivered in August 1996 in the third session of the forty-eighth Parliament of South Australia. One of the recommendations in that report related to ensuring that tenants were aware of the legal consequences of the lease being entered into. Recommendation 1 of the committee on page 21 of its report states -

> The Committee recommends that the Act be amended to provide that before a retail shop lease is entered into, renewed or assigned, the lessee or assignee must be given a statement of legal consequences.
>
> A statement of legal consequences is a statement in writing that contains information concerning the legal consequences of breaching covenants of the lease, or terminating the lease early. It also states clearly there is no automatic right of renewal if this is the case.
>
> The statement should warn a prospective lessee that any oral representations made by the lessor or its agent in the course of lease negotiations may not be enforceable unless incorporated into the written lease document. For example, it should clearly state that representations as to the right to renew should be written and not oral.
>
> The statement should also include a clear warning that before a lease is signed, a lessee should obtain independent legal and accounting advice with regard to the financial viability of the business and the terms of the lease.

When considering the tenant guide, the Minister no doubt looked at the South Australian provision. Can the Minister advise whether the type of issues referred to in the South Australian Parliament report will be included in the tenant guide proposed under this Bill? Based on the Minister's second reading speech, the tenant guide appears to be of similar intent. The South Australian committee's recommendations are positive in that they seek to provide certain advice and directions. I note from the Minister's second reading speech that the tenant guide will include matters relating to tenants' rights in respect of void clauses. I seek some explanation about whether the guide will go further and pick up the various issues dealt with in the recommendations emanating from the South Australian Parliament.

Clause 6 amends section 10, which is the assignment and subleasing section of the Act. This provision was regarded

as worthwhile by almost every retailer to whom I spoke. The Minister observed the following in his second reading speech -

> The Government believes that it is unfair for assignors to be required to guarantee the performance of the ingoing assignee over the balance of the lease term.

There is universal agreement on that positive provision. We agree with it and with the views expressed on the matter by small retailers.

Clause 7 of the Bill amends section 11 of the Act dealing with rent reviews. As the Minister noted, that will outlaw "ratchet clauses" and require that a rent review be conducted on a single basis. That is seen as a very positive change. It appears to me from my reading of the Bill that, while the lease should nominate a single basis upon which the review will be carried out, it is possible to specify in the lease a different basis for rent reviews for different years. I ask the Minister to clarify that. If one has a five year lease with a rent review every 12 months, this measure does not require that each rent review be based on the consumer price index. It can be based on CPI in the first year, on market rent in the second year and on some other yardstick in the third year. One cannot have the best of all worlds each year. The basis upon which the rent review is to be carried out must be specified in advance in each particular year and it can only be on one basis. That is welcomed, as are the provisions relating to the determination of market rent and the opportunities for retailers to seek a review of market rent and the provision which voids any clause in the lease which purports to preclude the rental payment going up as well as down.

Clause 8 amends section 12 concerning the contribution to the landlord's expenses, or what are known as variable outgoings. The introduction of the relevant proportion principle relating to tenants' contributions to the landlord's operating expenses, which will ensure that retailers will be required to meet the costs of the variable outgoings for the centre only in relation to their portion of the retail space, is welcome, as are those provisions that exclude retailers from meeting those costs involved in operating a centre outside standard hours.

The operating expenses statement is welcomed, but it has been reported to me that when disputes have arisen about operational expenses, retailers have endeavoured not only to obtain the balance sheet and the actual expenses, but also to go behind the balance sheet and look at the accounts that have been received by the landlord to determine if the accounts and costs incurred relate to operating expenses or to capital expenses. It is true that some centres operate in a very open and transparent way under which retailers are invited to look at the receipts and ascertain for themselves that expenses have been allocated appropriately. However, in some centres, tenants have been refused access, not to the books of account but to the receipts and other documents needed to verify that the expenses incurred are operating expenses and not other expenses which should not be met by the retailers.

I raise that issue because there is no doubt the Bill seeks to provide for greater transparency, and that is welcome. However, I cannot read into any of the Bill's provisions the right for the tenant to verify operational expenses in that way. I understand that there are auditing requirements, and that is fine. However, if tenants cannot check the veracity of the accounting arrangements, the audit process must ensure that the accounts as presented to tenants truly reflect the receipts and that the receipts truly represent the costs that have been incurred; that is, they are operational expenditure and not capital or other expenditure. There may be some lines between what is operating expenditure and what is capital expenditure.

Some concern has been expressed by retailers about the degree to which auditors will check that aspect. They might check that all the receipts are there, that the accounts relate directly to the receipts and that they are balanced. However, a number of tenants are keen to ascertain that the costs have been incurred properly. I invite the Minister to comment on that in his second reading reply because I cannot see that that level of detail exists unless one is to rely totally on the auditors to do that. Having met with auditors on numerous occasions and discussed the nature of the work they do, one is very conscious of placing too much reliance on them. Company statements now require the managing director or directors as well as the auditors to sign off that they are true statements. The auditors have an important job, but one cannot place too much reliance on them to do everything in that regard.

The provision relating to management fees has been welcomed in some quarters and opposed in others. Unlike the Real Estate Institute of Western Australia and the owners, the small retailers have welcomed the provision that management fees cannot be charged as part of variable outgoings. The Government has decided that it will not permit those fees to be passed on. There is now what appears to be a new development as a result of that provision; that is, people are seeking to put in place arrangements that effectively get around that prohibition. As we all know, the arrangements relating to management fees apply only if a lease is structured with a base rent and variable outgoings.

Mr Shave interjected.

Mr BROWN: Leases can be structured in two ways. The first is with a base rent and variable outgoings. Once this

Bill is passed, if it is structured in that way, the management fee cannot be included when assessing the variable outgoings. However, one can also structure a lease with gross rentals; that is, an all up payment including all utilities, base rent, promotional levy and so on. I am sure the Minister is aware that since the latest draft Bill has been circulated there has been a move to gross rentals.

Mr Shave: That was always going to happen.

Mr BROWN: That in turn raises some important questions that should be addressed in the course of this debate. One of the purposes of this Bill is to make operational expenses more transparent and to find the basis upon which one arrives at fair rental payments based on the market plus operating expenses. If the two are to be merged in gross rentals and there is no transparency, one must conclude that that effectively defeats the intent of the provisions of this Bill. We could well see a move to gross rentals. If that is the case, and the Minister says that that was always going to happen, the question is whether this Bill will deliver what small retailers hoped it would deliver. They hoped that, with some amendments, it would deliver security, openness, transparency and methods of validating issues relating to rental charges. If it will not do so, one must ask whether it goes only halfway in relation to certain lease arrangements and whether it should go somewhat further.

Some retailers have put the view to me, and I in turn put it to the Minister, that gross rentals should be allowed. However, if there is a move in that direction, it should be able to be challenged in the same manner as a base rent with variable outgoings; that is, it should be capable of being broken down and justified in its component parts. It has been put to me that, if one is to have any transparency or logical base for rental charges, that equally is an option. It does not preclude gross rentals but it enables determinations to be made as to their fairness or otherwise. Obviously the various charges such as power, cleaning, security and so on may go up and down depending on the season. They can be averaged over most of the year, indeed gross rentals could be marginally higher than a base rental with variable outgoings.

A number of retailers have put to me that there should still be a mechanism for examining the level of the gross rental. I do not know whether the Minister or the Government has considered that matter. If there is a wholesale move to gross rentals, we might see some pressure build up from the small business community, particularly retailers, to introduce amendments further down the road, which will seek to provide some transparency in gross rental arrangements and some ability to contest rentals which retailers consider are beyond the pale.

Another issue raised about gross rentals concerns proportionate movements. I do not say that it has always been the case, but it has been put to me that in recent years, base rents have tended to move quite significantly in a number of centres. However, operational expenses have not, so there have been some percentage points differences between movements in base rents and in operational expenses as proportions of the total cost. If landlords move to gross rentals and apply the same percentage to the gross as has been applied to base rentals, they could be caught with a higher percentage than is otherwise needed to cover operational expenses. Retailers raised with me how they may be disadvantaged by a gross rental arrangement. It is interesting that the South Australian Parliament has, not precisely in this way but in another way, looked at differentiation in charging. One of the issues before the South Australian Parliament was that, in some centres, electricity is bulk bought for a certain price and sold on at a higher price to tenants. The South Australian Parliament arrived at the view that the inflated difference between the cost of a service purchased by a landlord and that sold on to the tenant should be disclosed. The South Australian Parliament went no further than that but it certainly addressed those questions of disclosure. I invite the Minister to indicate his views on gross rentals and how he sees them fitting neatly with what appears to be the desire of this Bill to provide greater accountability and transparency in rental arrangements.

On the question of land tax in relation to operational expenses, I note that under this Bill, lessees will still be required to meet a portion of the land tax. I noted what the Minister said in his second reading speech. The comment was made on the South Australian Bill when it went through that Parliament that land tax is not recoverable from the lessee. Why has Western Australia chosen not to follow the South Australian example by saying that land tax is applied to people holding additional holdings and should not be passed on to the retail tenants? Why has a different position been adopted in Western Australia?

Clause 9 introduces a new section 12C relating to hours of operation. This is another issue about which there was considerable debate and obviously no agreement between the main parties on determining when small retailers should remain open. Under this Bill, it falls on the individual tenant to decide when to open. Three issues arise out of this clause. The first is that some of the retailers to whom I have spoken welcome the notion of it being up to the individual retailer to determine when to open. However, they say that in trying to do that, even with the reverse onus test contained in the Bill, the Bill will not provide the necessary protection. Supporters of leaving it to tenants to decide when they will open tell me they wonder about the workability of the clause and the protection the Bill has to offer.

The second issue that has been raised with me is the degree to which the Government's decision to include that clause has been affected by matters outside the commercial tenancy arrangements. The people who put the point to me may be a little Machiavellian, but their point is that the Government has taken this view, contrary to the views of the Property Council, the Real Estate Institute of WA and retail traders but in accordance with the view of WA Council of Retailers Association, because it will further deregulate trading hours. This provision will allow the Government to go to its small business constituency and tell it that it should not worry because it will be protected and it will be able to open and close when it likes. The Minister may smile, but it is being talked about.

Mr Shave: Reds under the bed!

Mr BROWN: Indeed. The Minister may wish to comment on that.

The third issue that has been raised with me by retail traders and small business tenants is the proposal on core hours put up by the Retail Traders Association of WA (Inc). I understand its proposal on core hours was that they should be decided by tenants alone, not by the landlord, and that 75 per cent or more of the tenants need to vote. If 75 per cent or more do not vote, the decision would remain with the individual tenant. Core hours would be established only if the majority voted in favour of them. I have spoken to some people who are very much in favour of individuals making their own decision on trading hours and others who are very much in favour of a collective decision, on the basis that the closure of certain stores in a shopping centre could cause people choose a different centre. I would like the Minister to put on the record what he found particularly distasteful in that suggestion, unless his view was that it did not matter anyway and it would be better for individuals to make their own decisions.

Ms MacTiernan: He is taking extensive notes!

Mr BROWN: The Minister has a good memory. I will raise some other issues in the Committee stage. I have given the Minister copies of some amendments the Opposition will move, and it may well seek to move more amendments. I ask the Minister to reply to the issues I have raised.

MS MacTIERNAN (Armadale) [5.11 pm]: I also support the general thrust of this legislation. The Labor Party believes it has a natural constituency within small business and it is vitally concerned about the imbalance in power, in particular the imbalance in bargaining power in commercial transactions. That is why the Labor Party strongly supports industrial relations and consumer protection legislation. For the same reason, the Labor Party strongly supports legislation such as this, which is designed to enhance protections for small business people, in this instance retailers, who are often at the mercy of increasingly large and more powerful shopping centre proprietors.

This Bill has been a long time coming. It was promised in 1995, 1996 and 1997. Finally, in 1998 it is before the House. I understand it is a complex issue to address because there are strong vested interests on either side of the argument. The Property Council, the large business shopping centre proprietors and their agents are keenly and strongly lobbying for one set of principles, and small business and retailers are arguing for another set. I am also aware that some of the arguments put by small retailers and some of the protections they seek may backfire on them in the long term and that these are complex matters to resolve. However, in this case the long delay has produced a situation in which justice delayed has been justice denied.

I support the non-retrospective character of the Bill. It is very dangerous to enact retrospective legislation, unless under strict circumstances. However, the non-retrospectivity means that in the four years the community has been waiting for this legislation, many tenants have signed long term leases and they will not be the beneficiaries of the provisions going through the Parliament today. That is a great shame. When the Minister determined that this was the formulation he would stick with it was a pity that, at the very least, a statement was not made indicating that, Parliament willing, that would be the proclamation date for the legislation. It will probably be many years before the provisions put in place will have any substantial effect.

Most of the issues have been well canvassed by the member for Bassendean who is handling this Bill for the Opposition, as it fits naturally within his Small Business shadow portfolio. I will focus on a couple of clauses, and primarily those relating to rent review. There are multiple problems with the way rent reviews are carried out. The member for Bassendean said that in many of these leases the landlord gives himself two bob each way. The rent reviews take place every 12 or 18 months and, typically, they provide that the review is to be taken to a market rent. That market rent becomes the basis of the review but, in the event that market rent is exceeded by either the consumer price index or a set figure - often as high as 10 per cent - that higher figure prevails. Because of the way these leases are structured, there is never any capacity for market rent to fall. That is commonly known as the ratcheting up clause.

I am pleased the Minister has stuck with a formulation that will prevent the continuation of the most gross forms of that each way betting. At one stage during the Estimates Committee hearings, the Minister said a mate of his who was a butcher had complained about this provision. He must be a fairly persuasive mate, because the legislation

contains a provision to prevent any one rent review containing a suite of review mechanisms from which the landlord may choose.

It is important to understand that there is still a couple of problems in this area. First, it does not prevent ratcheting up altogether. The member for Bassendean may have touched on what I see as a problem; that is, one is not limited to a particular formula throughout the life of a lease. It is only in respect of each review episode that tenants are confined to one review mechanism. For example, in the first year a consumer price index increase might occur, in the second year a market rent review and in the third year a straight percentage increase. Often that mixing and matching already occurs on retail premises; for example, market rent reviews will occur at every second cycle. My concern about the way in which this is structured is that we perhaps have not gone far enough to stop what I think might be some of the abuses.

Hypothetically, a first market review could be based on CPI, bringing the base weekly rent up to $200 a week. A year later the market review could occur after the market had dropped substantially, bringing the rent down to $180 a week. Nothing in the Bill prevents a landlord using the first year cycle as the base for the third year review. The third year rent review clause could provide that the review should bounce off the previous review figure. In other words, in the third year a 10 per cent increase could be based on the rent assessed in either the first or the second rent review, whichever was the higher. The Bill contains no provision to prevent a slightly delayed ratcheting-up clause from taking effect. We may need to consider some amendments to that. It is a rather complex issue. Effectively the ratcheting up occurs, but it is deferred for one rent cycle. I do not think that is what is intended in the Bill. However, we must consider that as a possible consequence.

The second problem, which is of more concern, is the concept of market rent and the great difficulty in determining it. Despite a move to weaken the definition of market rent that was being promoted earlier, as far as I can see the definition of market rent in proposed section 11.2 is as strong as it is in the previous legislation. I am glad the Government has retained it. However, that is not to say that in itself has addressed the problem. One of the problems in determining rents is the difficulty for valuers to access accurate information. It is endemic at the moment, particularly in many of the metropolitan shopping centres, for there to be a very big difference between what we might call the "list" price for leases and the actual price charged, as a result of landlords doing rental deals with new tenants at substantially less than the list or advertised price. Valuers are having great difficulty collecting data to work out the market rate, which should be the actual rate paid, not the list price, which in many instances is artificially inflated. The shopping centre proprietors will not give that information to them. It is not in their interest to release information that suggests the actual rent paid is far lower than their list rent. Obviously that would affect the market rent review clauses. Tenants from all over Perth are unable to provide this information because they are bound by confidentiality clauses which prevent them from revealing what they are paying. The landlord is the only person who benefits from that artificial appearance of marketplace rent.

I will propose a few amendments that will make it much easier for valuers to obtain the information they require. I note that a relevant provision has been added to the Bill, but it does not go far enough. In the event of a review, the provision will give the registrar the power to require parties to furnish such valuations, documents and other information as the registrar may think fit, and the parties shall comply with any such requirement. We should go further and say that when a landlord chooses to place market rent review provisions in his lease he is obliged to provide details of all actual rents charged within that shopping centre in respect of comparable facilities.

Landlords cannot insist on market rent reviews and then say they will not provide any information about the rents people are paying. The second way we could deal with it would be to override the confidentiality provision so that tenants, at their election, may disclose the rents they are paying. We must remember that the only people benefiting from the present confidentiality restrictions are the landlords. They are perpetrating a false picture of where the market lies.

I refer the Minister to a case before the New Zealand Court of Appeal in 1991 which dealt with this issue. The court determined it would override the confidentiality provisions in leases on the following basis -

> it can hardly be in the public interest that business rentals should be based on a false appreciation of the rental market.

We should be prepared to bite the bullet and introduce that greater degree of openness into this legislation. It would be at the election of the tenant and it would ensure a better flow of information and a concept of fair market rent that bore some relation to the real market rather than the pretend market of list prices.

I refer to data collection which is slightly tangential to that; nonetheless it is of interest. We have no hesitation in giving the Government, particularly the state revenue office, power to collect data on the price of property sale transactions. However, we are very coy about collecting that information from landlords. The Valuer General, for

example, uses the information collected by the State Taxation Office for stamp duty purposes on the transfer of land. However, when the Valuer General, who makes valuations on the basis of rental, seeks that information he is forced to rely on anecdotal information. That would be overcome by disclosing the rental values of property at the time of stamping the document. We do not seek that secrecy in relation to sale prices of properties, so why should we be so coy about the lease values of premises?

Sinking funds have also been seen by many tenants as a bit of a scam, and often are treated by landlords as a rent bonus. They are generally defined within leases as funds accumulated for the maintenance expenditure of a major and infrequent nature. The concept is good. However, unfortunately frequent arguments arise as to whether a maintenance job is of sufficient extent to fall within the province of that fund or tenants should be called upon independently to fund that maintenance operation. Unfortunately, the Bill does not address that problem. We will need to deal with that matter during Committee.

I commend the Minister for finally bringing the Bill on for consideration by Parliament. It contains a number of good provisions and many which can be strengthened in the interests of overall fairness.

MR McGOWAN (Rockingham) [5.33 pm]: As you know, Mr Acting Speaker (Mr Sweetman), small business plays a major role in our state and national economies and throughout the regions with the provision of employment opportunities and economic growth. Approximately 900 000 small businesses employ about two million people throughout Australia. This sector is growing every day, and on current trends it will continue to grow.

I grew up in a small business. My father was a milkman, but not the legendary kind indicated in the recent television commercials! He then ran an instant lawn business, and now is an owner-operator of a squash centre. I grew up within a small business; therefore, I have a little understanding of the hours, requirements and demands placed on people who invest their money and take a risk in such a way.

Commercial tenancies are one of a range of factors which impinge on people's lives and businesses. For small businesses to succeed, the most important aspect is overall economic growth in a vibrant economy - that transcends everything else. If money is not around, small businesses will go under. Approximately 70 or 75 per cent of small businesses fail for many reasons, some of which are beyond and others within the operator's control. It is a high rate, but it has not been any different in the past 20 years.

Many people go into small businesses without knowing what is involved, and suffer the consequences. They invest money they do not have, or sink their life savings into such ventures, and it is very sad to see people go under.

Small business is a growing and vibrant part of our economy. My electorate of Rockingham contains a range of small businesses as well as large businesses, which provide much of the income multipliers for revenue going to small businesses. Approximately 400 to 500 small businesses are within the boundary of my electorate, and a number of others are located in the immediate vicinity. I determined to investigate a range of issues which affect small business, including commercial tenancy, to determine the views of those businesses on such matters.

I distributed a comprehensive survey to 500 small businesses, from which I received 126 replies, which was a good response; in fact, that proportion of response is unheard of among my colleagues, and indicates that my survey will reflect what people are thinking about economic issues in an average area of Perth.

I now place these results on the record in the context of the Commercial Tenancies (Retail Shops) Agreements Act. Of the 126 replies to my survey, approximately 81 came from retail businesses; 22 from manufacturing businesses; 11 from businesses involved in the building trade; and the balance from a range of businesses, including entertainment, finance and agriculture. Most of the small business people I surveyed work long hours. Of the 126 replies received, only nine worked less than 40 hours a week; 37 worked between 41 and 50 hours a week; 30 worked between 51 and 60 hours; and 45 worked over 60 hours a week.

I asked a series of questions about the assistance available from various levels of government, what operators knew about it and whether they had accessed such assistance. Fifty-five businesses said they knew about the local business enterprise centre, which incorporated a business incubator, and the services it provided; however, 68 businesses did not know about it. That indicates a relatively even split in degrees of awareness of the business enterprise centre in Rockingham. Clearly, some proactive measures are needed to promote that centre.

I asked a simple question about whether operators had received help and knew anything about the services offered by the state and federal small business departments. Nine businesses said they had received help, yet 116 indicated that they had received no help at all. I asked whether they thought that the small business departments, state and federal, should be helping more businesses, and 79 operations thought more help should be provided, and 13 businesses said no more help was needed from these departments. It shows that those departments should be more proactive in advertising the services they provide, particularly the advisory services.

I posed a series of questions about the range of state and national microeconomic issues directly impinging on small business. The most important issue was that of income tax, and then in descending order: The charges imposed by utilities - water, gas and electricity; laws providing for protection of small businesses such as the Bill we are debating; the paperwork required to be completed; a stable industrial relations system; land tax; payroll tax; and a range of other issues.

Mr Cowan: How many paid payroll tax?

Mr McGOWAN: Not many, but that was the result I obtained from a survey of the most important issues facing small businesses. I did not ask how many businesses pay it - I know it applies only to firms employing more than 20 people. It ranked ninth or tenth in priority. The last ranked issue was trading hours, which surprised me. I thought that it would be much more important, but some small business people do not appear to be bothered about retaining the restrictions on trading hours.

I asked how many small business people supported a goods and services tax, and the result was an even split. I will ensure they know about the cost of collecting such a tax before the next election.

In response to a question about poker machines, 80 respondents said they opposed their introduction and 43 said they supported it. That is a 2:1 majority against them and that does not surprise me because they reduce the amount spent in small businesses. If poker machines are introduced, less money will be spent in their businesses.

I asked how many were in favour of an increased law and order presence, whether it be provided by the police or private security companies, and the response was 3:1 in favour of extra services in the community, whether or not they were funded by the council. They were very concerned about law and order issues.

I asked how many were interested in having Sunday trading on a regular basis. At the moment in Rockingham we have Sunday trading on public holidays and during school holidays. In total, Rockingham small businesses are able to operate on about 23 Sundays of the year, which is more than most other areas outside the Perth and Fremantle central business districts. The response was an almost even split with 65 respondents in favour and 56 opposed to unlimited Sunday trading. A range of businesses in manufacturing and the non-retail areas would not be greatly impacted, so they would be less concerned than retail businesses.

I also asked a range of questions about local issues, including the railway line to Rockingham. A total of 78 respondents said that a railway line into Rockingham would be an important improvement for their business and 45 said it would make no difference. Most wanted the railway line to access the city shopping centre - the heart of the city. The vast majority - 110 respondents - would like the route to go through Fremantle, and only 14 said they wanted it to go via Kenwick to Perth. In response to a question about the time frame, 116 said that they would like it within the next five years and five said they would like in the next eight to 10 years. No-one nominated any date outside those two periods.

I asked a range of other questions about important local issues and their impact on local businesses. The most important local issue was the continued expansion of population through housing growth. That was followed by measures to address crime in the local area and the continued expansion of the Navy. It is gratifying to me that the Navy has been so well accepted in Rockingham and that its undoubted economic benefits have been recognised by small businesses. It brings about $80m to $100m into the Western Australian economy and the majority of that is spent in Rockingham and the Kwinana strip on contracts and consumer spending.

The next two local issues of importance were the Kwinana strip and the businesses operating in that area. The businesses on the Kwinana strip provide extensive economic input for Rockingham through the multiplier effect of local employees. Businesses in that area employ 12 500 people directly, and I hope that that employment rate continues to increase because it is important to not only the local economy but also the wider state economy.

The tourist trade was rated fifth and sixth in terms of importance to local businesses. There was a strong indication that the people of Rockingham would like to see an increase in tourist trade in the area. The next issue of importance was the railway line and the freeway, with the railway line being seen as more important to local businesses than the extension and upgrade of the freeway. That is very interesting and gratifying.

The next priority issue was the work of the local TAFE college and the university. Local business people seemed very keen on that work but it was not seen to be as important as the other issues. The lowest rated local issue was the marina in Rockingham. The comments on the survey indicated that local business saw it as a potential threat to their retail trade. We must be careful that we do not put too many centres in a community the size of Rockingham so that the traders who have already invested in the area do not face too much competition, which would detract from their businesses. I note that the local business people do not rate that issue as highly as the other issues I have raised.

As I have said, the survey indicated that small businesses were evenly balanced on the issue of a goods and services

tax; a slight majority supported it. I do not know why that should be. I have received advice from the National Tax & Accountants' Association Ltd on the impact that a GST would have on small businesses across Australia. The National Tax & Accountants' Association Ltd estimates that the cost in time for every small business across the country, of which there are 900 000, would be $7 000 on top of the estimated $6 975 they are spending in time to comply with the taxation laws.

Mr Baker: What about the cost of complying with the wholesale sales tax law?

Mr McGOWAN: Wholesale sales tax applies to 56 000 small businesses across Australia. A GST would apply to all 900 000. Therefore, the wholesale sales tax affects one in 18 small businesses.

The ACTING SPEAKER (Mr Sweetman): The member is aware that we are dealing with the Commercial Tenancy (Retail Shops) Agreements Amendment Bill.

Mr McGOWAN: I am aware of that, Mr Acting Speaker. I would not think the National Tax & Accountants' Association Ltd was a Labor front organisation. I have heard Ray Regan speak. I do not think that he is on our side of politics. When people such as plumbers, carpenters and market stallholders must comply with a GST, in some cases, they must install various computer systems with software which brings them up to speed. Additionally the State Taxation Department is indicating that it wants eventually to do away with paper in most cases. It would put in place a system of computer compliance with this tax. This would mean that people would hook up their modems and comply by sending the relevant information to the State Taxation Department. The National Tax & Accountants' Association Ltd estimates that this would cost another $5 000, not for time but for compliance and to enable software and computer systems to be put in place.

I have discussed this with my family, who are in small business and who are not particularly interested in computers or complying with these sorts of laws. People in my father's situation are absolutely terrified by the fact that to comply with this tax they will need to go to those sorts of expenses.

Mr Shave: I hope your dad keeps accurate tax records. You said he did not like the rules and regulations.

Mr McGOWAN: He does. A small businessman would have to buy a new cash register system to meet the additional 15 per cent GST charges. In our small business we do not operate a cash register or a computer system.

Mr Baker: What about the proposed fringe benefits tax system?

Mr McGOWAN: The FBT operates only in relation to employees.

Mr Shave: If you do not have a cash register, where do you keep the money?

Mr McGOWAN: Having to deal with the Minister is sometimes very trying.

Mr Baker: That is why he is a Minister.

Mr McGOWAN: Yes. Half of the small businesses do not want a GST. When the others work out the cost of compliance, we will find that the number will be much greater than half.

Mr Barron-Sullivan: Do you understand that they will have a very significant cash flow benefit? Once businesses are told that, they support the system.

Mr McGOWAN: A 15 per cent increase in most prices is inflationary.

Mr Baker: What is the source of your figure of 15 per cent? Do you have insider information?

Mr McGOWAN: I have a lot of insider information on this point.

Several members interjected.

The ACTING SPEAKER: Order!

Mr McGOWAN: I expect it to be 15 per cent because it was mooted as 15 per cent last time.

Mr Baker: There were some exceptions. It was a global package. It is not possible to separate one aspect and concentrate on that. You would agree with that.

Mr McGOWAN: The point I make is that small businesses will suffer from this costly exercise if it ever comes to fruition.

MR PENDAL (South Perth) [5.56 pm]: We are dealing with an Act of Parliament and an amending Bill which do a number of things. For example, among other things, the parent Act regulates commercial tenancy agreements in

Western Australia. I commend those who prepared the Blue Bill. The arrival of the Blue Bill concept has been arguably one of the best reforms that I have seen in my time in Parliament for the ease of understanding a piece of legislation. Page 5 of the Blue Bill deals with a new definition of retail floor area. In part that goes to the heart of my concern about some aspects of the current legislation and some of that which is proposed for regulating this area of commercial activity.

Members might recall that last year I gave notice in this House of a matter which sits at No 7 of the notices of motion in private members' business. The notice of motion reads -

(1) That this House, noting -

(a) the ownership of shopping centres and cinemas is anathema to the Government's stated policies; and

(b) the growing commercial sector concern over government involvement in land development, urges the Government to divest itself of all financial involvement in the Joondalup Centre and cinema referred to in Questions without Notice on Wednesday, 7 May 1997.

(2) Further, that the Minister for Lands is requested to report all details of such divestment to this House within one month of the carriage of this motion.

Several members interjected.

Mr PENDAL: Any understandings that a member enters into can be delivered only if they are not overtaken by events of such gravity as are contained in this Bill which mean that all bets are off. That would be another way of saying no to the member.

Sitting suspended from 6.00 to 7.30 pm

Mr PENDAL: The Bill before the Parliament effectively represents a conflict of interest on the part of the Government. It deals with commercial tenancies throughout Western Australia, the circumstances under which people enter those agreements and the obligations of the various parties. Before the dinner suspension I drew attention to the fact that the Government cannot seriously take part in a debate in which it sets the rules, but then becomes a player in the field and receives certain benefits that derive from that role. That is why I drew attention last year to the cinema complex half-owned by the Government through its half-ownership of the shopping centre at Joondalup. The situation has deteriorated in the past week. LandCorp, which is the Government's agent for half-ownership with the Armstrong Jones Retail Fund, is now party to an objection with the Wanneroo City Council against a planning decision that would allow Woolworths (WA) Pty Ltd to build and own shopping centre and cinema facilities barely a mile from the Joondalup centre. Of course, it had in mind that another picture theatre operator, tenant and partner would operate that business. It seems to me that a Government - especially a free enterprise Government - cannot possibly put itself in the position in which this Government has put itself with regard to the new cinema complex.

Again, I refer to the contents of the Bill with respect to new definitions of "retail floor space" and the like. At the very least, the Government is allowing itself - more this year than it did last year - to act in an anti-competitive way. The Government is the half-owner of a complex of six cinemas. It is now using its clout via LandCorp to prevent another private owner entering the field. I spent 10 years in another place during which government involvement in business - in this case it involves retail space - was condemned year in and year out by the then Liberal and National Party Opposition. It is an abuse of the Government's privileged position, five years after it took office, to keep a competitor out of a field in which it is involved. The Government should not be in that situation in the first place but, having been in it for five or six years, allegedly as a result of an agreement entered into by the previous Government, far from extricating itself, this Government has cemented its position and will keep private sector competitors out of the field. The irony is that some of the people in the private sector who last year asked me to go easy with my criticisms are now those who are complaining, according to a report in *The West Australian* on 22 April. I quote from the "Property" section of *The West Australian* -

> The State Government has objected to the development of a six-screen cinema complex in Currambine through its development arm LandCorp - part owner of a rival cinema complex being built next to Lakeside Joondalup shopping centre.
>
> Wanneroo City Council is due to decide next week -

That is, this week. It continues -

> - on the application by Woolworths to develop the cinemas next to its Currambine Marketplace shopping centre.

What does it mean? It means the Western Australian free enterprise Liberal Government is in direct competition with Woolworths.

Mr Baker: I have discussed this with you before. The majority of residents in Currambine are opposed to the cinema development. The north west business association and the Joondalup and Wanneroo chambers of commerce are also opposed to it.

Mr PENDAL: With respect, the member for Joondalup has missed the point. I am pleased that those groups and those people have certain views on the topic, and they have a legitimate right to make a complaint or to support or oppose an application. I have no difficulty with that. My concern is that the Government is a player, via LandCorp as a half-owner of the cinema complex, and it is a conflict of interest.

Mr Baker: Should we be protecting the taxpayers' dollar?

Mr PENDAL: No. That is the argument I heard in the 10 years that produced WA Inc. This Parliament was told by Premier Dowding that the Government should be securing the blue sky and the bit of dirt that Petrochemical Industries Co Ltd had at Kwinana. He said the Government should be involved to protect the public interest because it would produce a petrochemical industry for Western Australia. The response of the then Opposition, of which the current Minister was part, was that the Government had it all wrong and that Governments should not be in petrochemical industries. No more should this Government be in the cinema business. There is less argument for a Government to be in the picture theatre business than for a Government to sponsor a major industry that would put Western Australia on the map internationally for petrochemicals. There is no justification.

Through the debate on this Bill, which touches on tenancies and retail space, I am saying that the Government is improperly using its influence, via LandCorp, to not only sustain its involvement in the picture theatre business at Joondalup, but also keep out a private sector competitor.

Mr Baker: A promise was given. The Western Australian Land Authority Act referred to the Joondalup development plan which at all times included a cinema complex. Are you saying the Government should breach its statutory duty?

Mr PENDAL: I am not saying that. I got hold of the contract last year. I do not ask that the Government repudiate contracts or do anything illegal in respect of them. However, I suggest that the Government do with the cinemas and the shopping centre exactly what it did with the R&I Bank Ltd and the Midland Workshops; that is, divest itself. I acknowledge that that contract was originally negotiated under the previous Government. As I have demonstrated, this Government with its continuing adherence to a fantastically socialist principle is not a free enterprise Government. However, if it were a free enterprise Government it would renegotiate with each partner.

Mr Baker: How do you know that is not taking place at the moment?

Mr PENDAL: The member for Joondalup is confirming for me - and I am pleased - that some negotiations might be taking place.

Mr Baker: I am not saying that; I am asking how you know it is not happening.

Mr PENDAL: I do not know. If it is I welcome it. I put on the record what was reported as being said last week by the people involved in the little venture at Joondalup. The article in *The West Australian* reads -

> It said the cinemas were an inappropriate addition for the Currambine Marketplace, and were better suited to shopping centres the size of Whitford City, Karrinyup or Morley Galleria.

This is your money we are talking about, Mr Speaker. You could do with some of it in your electorate -

> The State Government has committed $7 million to the development of six cinemas above the Joondalup Railway Station.

Again, Mr Speaker, this is your money to which I refer -

> The Government owns half of the $45 million Lakeside Joondalup shopping centre and will contribute to the $100 million expansion of the centre.

Mr Speaker, your money is getting in deeper every day of the week. The article provides the private sector response as follows -

> Grand Theatre Company chairman Colin Stiles -

He was among the people to whom I spoke last year at their request when I raised this matter in Parliament.

> - said he was disappointed the Government was opposing the development of the cinemas which would be run by a WA company.

A private sector leader is bemoaning the fact that he was shunted out of town by a Liberal Government.

Mr Baker: Tell the full story.

Mr PENDAL: I will read every word. The article continues -

> "They are supporting (Greater Union), a big eastern States company and opposing local companies from operating," Mr Stiles said.
>
> Mr Stiles said the cinemas alone would provide 40 part-time jobs, generally for young people, with more jobs to be created in the construction of the complex.
>
> LandCorp's partner Armstrong Jones Retail Fund has also used the job bargaining chip, arguing that the uninhibited growth of Lakeside was important for employment and business investment.
>
> AJR and the lease holders of Lakeside were reported as saying Joondalup had been planned as a city centre for 20 years and the proximity of the Currambine complex would restrict Joondalup's ability to grow as a strategic centre.
>
> It was "crucial and timely that the Wanneroo City Council demonstrate its commitment to the vision of Joondalup and reject the development application," the council report said.

I am simply appealing to this Minister in a free enterprise Government, sponsoring amendments to the commercial tenancy laws, all of which should be aimed at making it easier for people in the retail industries to operate more effectively and efficiently, to say, "The time has come when this Government must sell its picture theatres and its shopping centres."

Mr MacLean interjected.

Mr PENDAL: The member for Wanneroo should remember that I am reminding coalition members of their principles.

Mr Baker: Last week you advocated there should be no regulation in the liquor industry. Don't you believe alcohol is a harmful substance?

Mr PENDAL: No. The hotel industry is the most mollycoddled industry in Western Australia. I am asking the Minister for Lands in his capacity as Minister for Fair Trading to respond to the one issue that covers both of those portfolio areas. I am asking him to tell me why he is part of a Liberal, national free enterprise Government which is preventing a private enterprise cinema and picture theatre operation being given approval in the northern suburbs.

Mr Baker: Because we have a legal obligation.

Mr PENDAL: No; the Government does not have a legal obligation to oppose the application of Woolworths (WA) Pty Ltd. That stands by itself and the Government is putting at risk taxpayers' funds in the same way as the previous Labor Government put at risk and lost taxpayers' funds.

Mr Baker: It is radically different.

Mr PENDAL: It is not; it is precisely the same. I give the Bill my support, but I ask the Minister to tell me what is the difference and how he can countenance using LandCorp to go to the Wanneroo City Council and keep out of the market place a professional group of cinema owners on the basis that the Government owns another set of cinemas less than a mile away.

MR BARRON-SULLIVAN (Mitchell) [7.47 pm]: Owing to the importance of this Bill to the small business community as a whole I am keen to make some brief comments. I look forward to detailed discussion in the Committee stage of debate. We heard speakers, one in particular, talk about the importance of the small business sector and the shop proprietors to the community. It goes without saying that they provide a vital service to the community in the Australind-Bunbury area which accounts for some 45 per cent of the commercial and retail trade of the south west region. It is fairly obvious that shop owners and proprietors fulfil a significant role in society.

The Government has a role to play in this regard. It is incumbent on any Government to ensure adequate safeguards are in place for both property owners and tenants within their establishment. It is a two-way process. When a person signs a contract to lease premises, he or she is acquiring safeguards and rights in the same way as a contract should

give the owner of the property - the landlord - rights and responsibilities. In other words it is a two-edged sword. Unfortunately, as a local member, one hears that tenants all too often have dipped out at the hand of the landlord.

I had cause some time ago to attend a meeting of small business owners in the Australind shopping centre, and many concerns raised with me at that meeting are directly addressed by this legislation. It will be welcomed by not only those operators, but also other small business proprietors throughout the State.

Small business proprietors in this environment know their business, and want to get on and earn a quid. They know how to retail, market, manage their affairs and employ people. However, often they are not so hot to trot on contractual matters relating to shop leases. Often, these people are pitted against professional property managers who make a living five or seven days a week handling such matters. That situation certainly applied in the example I cited a few moment ago. This Bill, I am pleased to say, restores the balance to a great extent in favour of the tenant and the shop proprietor.

I heard comments earlier that the Bill does not go far enough in some areas. However, the legislation will have a far reaching impact well into the future to the significant benefit of the entire small business community.

I turn now to the key aspects of the legislation. I start with the least technical aspect; namely, the tenant guide proposed under this Bill. It is most important that a small business proprietor ensures that when going into business, renewing a lease or considering taking up an option, he or she has adequate and complete advice. The tenant guide will assist in this regard considerably. I am pleased to say that it will spell out in plain English the rights and obligations of not only landlords, but also tenants. Tenants will be advised of their rights under the legislation, particularly when the Bill voids clauses previously in force.

A second key benefit of the measure is the process of assigning leases. Anyone who has had any involvement in lease matters would agree that it is grossly unfair for an assignor to guarantee the new assignee against default or whatever with the lease. In other words, if a shopkeeper is renting premises, and wants to assign the premises to someone else, why should that person insure the landlord against the risk that the new shopkeeper may pose? That issue is addressed head on in the Bill. That will be a significant benefit to many small business proprietors. Also, moneys owed by outgoing tenants will be the responsibility only of that tenant, which will increase fairness for all parties.

Out in the real world, particularly in shopping centres or with shop clusters, it is common for people interested in obtaining a lease to be presented with a cocktail arrangement with rent calculations; that is, their lease refers to more than one way in which the rental payment will be calculated. We heard previously how this can lead to what is termed commonly as ratcheting. In other words, the shopkeeper finds that the rent will only spiral upwards - it cannot go down. In fact, the upward spiral often appears to be out of kilter with a reasonable expectation of market rent assessments. I am delighted that the legislation will put an end to ratcheting once and for all as it will ensure that those wishing to take out a shop lease are presented with one method of calculating the lease cost. The member for Armadale referred to de facto ratcheting which could still exist under this Bill. Although I do not entirely agree with her comments, I will be interested in further comment on that point during Committee.

These days, lease agreements invariably refer to market rent, and the method of market rent determination can leave a great deal to be desired. Again, I am pleased that this legislation provides for a more structured method of calculating market rent for shopkeepers.

Outgoings have been the bane of many a shopkeeper's life. This legislation specifies exactly how outgoings will be determined and apportioned among tenants in each shopping establishment. The present situation provides a great deal of potential for anchor or key tenants - namely, the big supermarkets and discount department stores - to be subsidised at the expense of small shopkeepers. People have told me of occasions on which big tenants do not pay their fair share of outgoings.

Another situation brought to my attention relates to vacant shops. Shopkeepers are concerned that they are footing the bill for outgoings derived from vacant shops. Obviously, costs associated with that vacant shop should be borne by the landlord. The Bill will ensure that outgoings are based on the proportion the tenant shop occupies in the total letable area of the centre. In other words, they will get what they pay for, which is the fairest solution possible. In a nutshell, the measure will ensure that small businesses do not pay for expenses which are not applicable to their tenancies.

Behind these requirements are new auditing provisions which will provide a great deal of surety for shopkeepers and landlords alike in determining outgoings, their apportionment and so forth. I am pleased that the legislation provides that the cost of the audits be shared on a 50:50 basis between the landlords and tenants. It has been a bone of contention within the small business community that when a shopkeeper takes out a lease, he or she must pay the cost of providing the lease document, yet has no choice of the lawyer or whoever prepares the paperwork. The auditing requirement will ensure that that cost will be split 50:50, and not simply be shouldered by the shopkeeper.

The management fees arrangement will be entirely fair under the legislation. The present situation provides that shopkeepers often pay for the management service on behalf of the property owner through the management fee. The shopkeeper may not necessarily want a certain centre manager as he may believe the manager does not do a good job, yet the shopkeeper must foot the bill for the managing agent through the management fee. Under the new arrangement, landlords will not be able to recover the management fee from tenants. I applaud that provision.

I have heard comment that this change will lead to a number of landlords making use of gross rents, by which they will roll in a number of costs to be provided as one figure up-front. In such cases, it could be said that a de facto management fee is to be slipped into the gross rental figure. However, importantly from the shopkeeper's perspective, at least he will know where he stands up-front as additional outgoings cannot be imposed on him which were not incorporated in his initial business plan.

The land tax situation is also improved by this legislation. Again, at present it is possible that a shopkeeper will pay more land tax than is appropriate, and I am aware of examples of that. The reason is very simple: Obviously, the larger the property involved, the higher the overall land tax cost, and that proportion is passed on to the individual shopkeepers. Under this legislation, the land tax proportions will no longer be calculated based on the higher multi-ownership rate. Consequently that will mean a reduced cost to the individual shopkeepers and they will no longer subsidise the property owners.

The extension of trading hours arises from time to time and coincidentally has affected the shopping centre at Australind to which I referred earlier. I am a strong proponent of extended trading hours. The greater Bunbury area has experienced significant benefits as a result of local authorities, chambers of commerce and individual shopkeepers going down this path. However, it is important to note, and the Minister's second reading speech spells this out clearly, that the present Government supports shop owners having complete discretion to determine their trading hours. Simply, if one owns a shop in a shopping centre - I have been in this situation - where it is not viable to open during certain hours but the lease prohibits keeping the doors closed, one is in a difficult situation and losing money. This legislation will see an end to that situation. Importantly, it will remove a major concern about deregulation of trading hours. People are concerned that if we deregulate trading hours in a particular area, individual shopkeepers will be disadvantaged because they have no choice but to open even though trading at that time is not profitable. This legislation strikes at the heart of that problem and will be welcomed by shopkeepers generally.

This Bill goes a long way towards levelling the playing field for small business proprietors. It creates greater fairness in the business community. As I said, I look forward to more detailed consideration of some issues raised by members today and I am delighted to support the Bill.

MR BLOFFWITCH (Geraldton) [8.03 pm]: I congratulate the Minister for introducing this Bill, but I have one problem with it; that is, it will not apply immediately to all businesses in the marketplace. Until a new lease is signed, there is no reprieve for shopkeepers. This Bill contains these wonderful provisions but if a tenant has an existing lease, none of them will apply until the lease is renewed. I have been told by many tenants in shopping centres in Geraldton that they believe they will never get a new lease; the old one will simply be renewed repeatedly and they will be in the same mire.

Mr Shave: You are being deceived. If the existing lease is extended, the new terms apply; they apply to any extension. If a lease is in force for five years and that five years ends, the owner -

Mr BLOFFWITCH: What about an option?

Mr Shave: The option applies under the same terms. The member is being mischievous when he talks about repeated extensions. That will not happen.

Mr BLOFFWITCH: I am pleased about that. However, I am also very disappointed that 99 per cent of the businesses that have been waiting for many years for these changes will not see any benefit because the legislation applies only when the lease expires.

Had the politicians involved in the Federal Government's franchise and retail sites legislation adopted the same attitude, nothing would have changed and there would have been no security of tenure. Given the oil companies we were dealing with, there would have been no lessees by the time the first renewal was due.

There are some very good, compassionate landlords in the retail industry who would have no problems with this legislation because they already do most of the things mentioned. The people we are trying to deal with are those who exploit small businesses; those who, because they want a son to take over the bottle shop, will find some reason to throw out the existing tenant or increase the rent so much that the tenant leaves. I hoped that this legislation would introduce some respite for all small businesses in this position and I am very disappointed that that will not happen. Examples have been recounted to me of someone buying a centre for $1m, leasing the shops and charging $30 000

a year in management fees. How does that person get the extra $30 000? They are in a better position to get their $30 000 than the tenants of the shopping centre. In most cases the tenants are very severely dealt with.

Why are we making all these changes? If a business person has a shop in a centre and that business makes nothing after 9.00 pm, at the moment he cannot close the doors. If he does, he violates his lease, loses the goodwill money he has paid and could be thrown out. We have decided that that conduct is unconscionable; it is not fair. Yet, we are saying that can continue until the lease expires. If a shopkeeper is one year into a five year lease, with a five year extension, he has nine more years of agony to endure before he can enjoy the benefits of this legislation. I ask the Minister to reconsider this and look at providing some respite for those in the small business world who look to us to safeguard their rights.

MR BAKER (Joondalup) [8.09 pm]: I support the Bill and commend the Minister for having introduced it and his advisers for their input.

I will deal first with some of the matters raised by the member for South Perth which did not relate to this Bill but which nonetheless compel me to respond. He referred to the proposed second cinema complex within the Joondalup area in the Currambine shopping centre and criticised LandCorp, and therefore the Government, because the owners of the proposed Joondalup cinema complex, 1 000 metres up the road, have expressed their opposition to the Currambine cinema project proceeding.

I accept generally the thrust of what the member for South Perth is saying. However, he has lost sight of the fact that this commitment to the ongoing development of Joondalup as a regional city centre is spelt out in the Act applying to the Western Australian LandCorp. The LandCorp Board has a statutory obligation to ensure that the Joondalup plan, as it is commonly known, is fully implemented. The plan refers to the Joondalup cinema complex. In short, LandCorp has a statutory obligation to ensure that the Joondalup cinema complex proceeds. Of course, LandCorp is a statutory body which is largely independent of the control and direction of the Minister.

Another overriding point is the moral argument that I have raised in this Chamber time and time again, whenever the member for South Perth has raised the issue; that is, that during the course of the 1996 State election campaign, the Government gave a firm commitment to proceed with the development of a cinema complex at Joondalup hand in hand via LandCorp and Armstrong Jones Management Limited. I see it as my duty as the local member for Joondalup to ensure that the Government delivers upon this election commitment. I hope that I have put to bed for all time the ongoing argument relating to the Joondalup cinema complex which the member for South Perth raises from time to time whenever he feels that it is timely to launch into a personal attack on the Minister for Lands.

I will respond to points raised by the member for Geraldton, particularly that the Bill by and large does not have any retrospective application to the terms or duration of existing leases. Much has been said in this Chamber and in the Federal Parliament about the general repugnancy of retrospective legislation. The accepted approach to the enacting of retrospective legislation is that, although the courts have cautioned against such legislation, there are no legal impediments as such to the Western Australian Parliament. However, the general rule is that retrospective laws apply generally only in respect of taxing Statutes. This has been borne out time and time again in cases which have involved this issue. For what the member for Geraldton wants to see achieved, this Bill would have to have retrospective effect; in other words, it would have to go back in time to the point when the lease was signed by the lessor and the lessee or the landlord and tenant and alter their rights. We would then be acting retrospectively.

Mr Bloffwitch: Do we not do that every time we make an Act of Parliament?

Mr BAKER: No, not at all.

Mr Bloffwitch: When we make a marine reserve in an area we are retrospectively changing what it was before to what it will be.

Mr BAKER: As a general rule, laws and Acts apply only prospectively. There are some exceptions.

Mr Bloffwitch: So if something is illegal now, we will simply let it continue?

Mr BAKER: Not at all. When the member uses the term "let it continue" he is relating to some future point in time. His view is not inconsistent with mine. As a general rule, a change in law should be prospective only in its application or effect. It would be manifestly unfair, particularly to landlords or lessors, to have the changes apply to the terms and the duration of existing leases, for the reasons I have mentioned. I will quote some trite law from a publication by Palmer and Sampford titled "Retrospective legislation in Australia: Looking back at the 1980s".

Mr Bloffwitch: I do not believe it is retrospective. This is saying that these practices are not what society demands and that from this day they will not apply. That is not retrospective; that is outlawing something we do not like.

Mr BAKER: Yes, in the future. If the member wanted to apply it to the contractual relationship between a landlord and a tenant, he would need to ask when the relationship was formed and what law was in existence at the time the relationship was formed.

Mr Bloffwitch: If it is not what society wants, we should do that.

The ACTING SPEAKER: Order!

Mr BAKER: It is a matter of balancing competing interests of the commercial tenant and landlord or lessor. That relationship is governed by the law of contract and is prospective from the time the contract was entered into or formed. The original lease determines the parties' rights, duties and obligations.

Mr Bloffwitch: Would you agree that the Bill will apply to only those contracts which under this legislation we find totally unconscionable and which we do not believe should exist in a document?

Mr BAKER: I will not take that issue further. It was a broad sweeping statement. I know the member's intent but it would not be appropriate in this Bill to retrospectively alter the contractual rights that parties have assumed at some point several years or months ago. If we did that, a landlord who would perhaps be prejudiced due to the change of the law applicable to ratchet clauses and rent review provisions may be able to argue that the Government could be liable to pay some sort of compensation because it would be substantially altering the rights and entitlements of the landlord or lessor in respect of the existing rent review clause in that lease. It would be very unwise for the Government to leave itself open to civil lawsuits by commercial landlords or lessors seeking compensation for that. The Minister may well have some views on this issue. I understand where the member for Geraldton is coming from. I sympathise with his views

Mr Bloffwitch: Why did the oil companies not sue when the Federal Government did the exact same thing with the retail side of the franchise Act that it brought down some eight years ago? The federal law changed and that was then the law. That is why those companies did not sue.

Mr BAKER: I would have to look at the Act to which the member is referring and determine whether the application was wholly, partially or not at all retrospective. The member may have misinterpreted it.

Mr Bloffwitch: The Federal Government did not think it was retrospective. It thought it was getting rid of some evils that had been written into contracts in the industry.

Mr BAKER: I am sure that there would have been some transitional provision, as there is in this Bill, which contains a transitional and saving provision that explains the situation for contractual arrangements that have already been entered into by parties to a commercial lease.

I endorse clause 6 of the Bill which has the effect of preventing landlords from pursuing ex-tenants or lessees and their third party guarantors and indemnities once the lease has been assigned. I will give members a very good example of why this provision is an absolute must, particularly if we are concerned with protecting the interests of commercial tenants. Several years ago when I was practising law in the north of the State, I acted on behalf of a person who at about 11.00 pm answered a knock on his door. A local police constable was at the door. Out of the blue the man was served with a writ seeking more than $300 000 for unpaid rent, variable outgoings and expenses in relation to a commercial lease for a hotel that he had had nothing to do with for some 13 years. Through conducting investigations, I discovered that he used a company to enter into the lease. The case involved a corporate lessee. He sold the business and arranged with the landlord for an assignment of the lease. Subsequent to that assignment, something like five or six assignments were effected without his prior knowledge, approval or consent, which of course were not required. It transpired that the tenant who was in possession of the hotel at the time of the breach of the lease agreement had substantially defaulted for several months and had caused substantial damage to the hotel and was sued. The landlord relied on the director's guaranteed indemnity that was factored into the commercial lease that was signed by my client in order to pursue my client for those damages. When I read the writ and read through the full statement of claim, it seemed manifestly unfair and immoral that my client should be swinging, as it were, for somebody else's problem. As he indicated to me, it seemed unfair because he had no control over how the business was being conducted; he received no information and no financial reports; and he was not aware of the legal identity of the entity that was in possession of the hotel and conducting the business.

This clause is commendable. Clause 6 contains a specific definition of the term "guarantor", which includes a person who has indemnified a landlord against any loss the landlord may incur as a result of the tenant's failure to follow those obligations. That definition of "guarantor" is broad enough to include third party guarantors and indemnifiers, as they are commonly known. I also endorse the prohibition against the "ratchet clause". It has been a landlord's delight in leases of years gone by to have such clauses. The horror clauses normally state that the rent at each rent review date shall increase by the CPI, 15 per cent or the prevailing market rental, whichever is the greatest. There

is another provision in many leases that when the leases are assigned, the rent will increase by 5 per cent, 15 per cent or a predetermined percentage. That is manifestly unfair. In the past, a tenant who had recently purchased a business that was conducted out of leased premises in a shopping centre may have found that, after buying the business and incurring the consequential rent increase as a result of the assignment being effected, they were hit again a few months down the track when the annual rent review fell due. In many cases, tenants were facing rent increases of up to 30 per cent in less than 12 months.

In the ideal world, prospective commercial tenants will seek proper and independent legal advice before signing commercial lease agreements to ensure they are aware of their rights, duties, obligations and responsibilities. However, in the real world that does not happen. One of the reasons is that commercial leases, particularly those relating to shopping centres, are bulky, large, comprehensive, detailed, and very complex documents. Many lawyers who provide advice on such documents charge for reading or on a per page basis. They then charge for giving an opinion or writing back to the client with the opinion or summary. It is not unusual for the lawyer's summary or written advice regarding the lease to be as large as the lease. In many instances it is not practical for the tenant to seek independent legal advice and many tenants do not. The tenants' guide provided for in the Bill will assist commercial tenants in understanding their rights, duties, obligations, responsibilities, etc in commercial leases.

I commend the Bill to the House. These initiatives have been needed for many years. I acknowledge the comments of the member for Geraldton that the legislation does not have a retrospective application across the board.

Mr Bloffwitch: No, it does not apply to existing leases.

Mr BAKER: That is the definition of retrospectivity.

Mr Bloffwitch: You can call it retrospectivity. I will not.

Mr BAKER: I commend the Bill to the House.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [8.23 pm]: I will deal briefly with the issues that have been raised because I have been asked to comment on 15 or 20 different areas. I will attempt to address as many issues as possible within the time allowed. The member for Bassendean has suggested a number of changes to the proposed Act and has given me copies of changes in relation to unconscionable conduct. I will deal with those during Committee rather than at this point. He also asked me to comment on five or 10 other matters, and I will deal with those now. The member asked whether the Government would consider including in the tenants' guide a statement of legal consequences similar to the South Australian proposal. I do not have a problem with that, subject to the industry stakeholders' reference group supporting that proposal. The group will consider that when the tenants' guide is formulated, and if it recommends that that statement of legal consequence should be in the tenants' guide the Government will support that.
The member for Bassendean also said that tenants should be given copies of individual receipts to verify the actual contribution to operating expenses.

Mr Brown: They should be given access to the information.

Mr SHAVE: Yes, I can understand the member wanting that information. However, if one asked a shopping centre owner to provide individual access to every receipt for 200 small shopkeepers, that would be a severe problem for the owner of the shopping centre. That is why, in these circumstances, the Government's audit provisions are designed to provide a reasonable level of disclosure. One would expect that if a small shopkeeper were concerned about unfair treatment regarding invoices, receipts or bills that he was being charged, he would bring it to the attention of the auditor. The auditor would then inquire into those issues on that person's behalf. If we did as the member for Bassendean suggested, and a dispute arose between the shopping centre owner and the tenants, the tenants' representative group could say, "We are going to make it difficult for you: The legislation now provides that you as the centre owner must show the tenants every receipt, and this is what we require you to do." It would be a massive task. I am not sure that including such a provision is the way to go. It is more beneficial to all involved to give the registrar wider powers, which we are doing, and to give the auditors the capacity to obtain the information they want.

Mr Brown: The problem as I see it is this: An auditor will have a scope of work for which people will pay, and if some tenants - not all of them - want to extend that scope of work - that is, for the auditor to look more deeply at other questions, which would cost more - they may not get agreement to that, and they may not get agreement from the landlord either, in terms of that scope of work, which might be considered extra work. I am not suggesting it be done by way of legislation; I am suggesting that where people have complaints, as a matter of policy they should be allowed access to the figures. I do not suggest landlords should spend a lot of time getting it for them; they could simply say, "There are the records; you can check the information for yourself." Presumably the records are all kept discretely and would be readily available.

Mr SHAVE: I do not know the exact operations of a shopping centre, but if a person had a problem, he would have the capacity to go to the registrar and express a view, and the registrar would endeavour to resolve the issue or area of concern. The member for Bassendean is not asking me to put it in the legislation, but if it is not specifically in the legislation, how does one resolve the problem?

Mr Brown: It is only a matter of an expression of view in Parliament that the aim of the Bill is to make things as transparent as possible, and people with these concerns, as a matter of policy - provided they are not going to some ridiculous lengths - should be given access. The nod from the Minister of the day may be sufficient without its being in the legislation for people to say, "Look, if we do not do it we know what will happen. The Minister has indicated a view in the Parliament and we are likely to see some legislation down the track, so let's just do it as a matter of course." I am not asking for it to go into the legislation now. It would be using a sledgehammer to crack a nut.

Mr SHAVE: By strengthening the auditing capacity and the capacity of the registrar, the Government has indicated in the legislation its intent to try to resolve some of these difficulties. If a tenant has a legitimate concern, the Government wants him to be able to obtain the information in fair and reasonable circumstances.

The next issue raised by the member for Bassendean was that there should be full disclosure of expenses behind gross rents. That is a little difficult to achieve. A person enters an agreement to pay a gross rent of, say, $50 000 a year with the owner of the shopping centre agreeing to take responsibility for everything. The tenant is aware of the rent to be paid, and some people find gross rents attractive because they do not have problems with auditing, and they know they have a fixed expense of, say, $1 000 a week and everything is left to the landlord. It would be unreasonable to expect the landlord to incur expenses and then provide information in relation to all those expenses, because those expenses may fluctuate. When the landlord agrees to meet all expenses and outgoings and to take a gross rent, he runs the risk that the expenses may increase more than has been budgeted for or they may go down. It is more likely that the expenses will increase, but the tenant has the advantage of knowing that whatever happens he will pay only $1 000 a week and will not have any of those problems. Some people prefer to pay a gross rent and others prefer to pay a base rent plus outgoings.

If a tenant decides to enter a lease on a gross rental basis, subject to all the other inbuilt provisions that cover such matters as re-assessment of the rent after 12 or 18 months - whether it is market rent, consumer price index or a combination of both on the third review - he does not have to worry about those issues. The Government should not provide for a tenant to look at all the expenses of a landlord if he has entered into an agreement for a gross rent. Why should the landlord be subjected to that? The tenant would have a reasonable idea of a fair rent when entering the lease and if, after re-assessment on a market basis after 12 or 18 months, the rent is not fair, the adjudicator appointed will put the rent down. While there may be concerns about what the owner is paying for this or that, that is not an issue for the tenant. It is the landlord's problem, and that is where it should stay.

The next issue raised was land tax, and it was suggested that tenants should not be required to pay land tax, as is the case in South Australia. I understand the legislation has been passed. I know there is a lot of difficulty with the amendments in South Australia at the moment and it is a contentious issue. People should also realise that management fees still exist under the South Australian legislation. Under the Western Australian legislation, land tax is deemed to be an operational expense, and that is the Government's view. The separation, whereby the tenant pays only the land tax applicable to his establishment, as though it stood alone, is fair and reasonable. People should remember that Western Australia is the first State, and it may be the only State, to outlaw management fees. South Australia has not done that. Many people from the eastern seaboard who came to see me, some of whom were owners of large shopping centres, suggested that I might wait until the Federal Government legislated and went through the proposals people had made about that legislation. It might be said that would be fair and reasonable because this State could then see what everybody else was doing nationally and uniform laws could be enacted. However, in my view if I had waited too long, nothing might be achieved. I have taken a large step in giving tenants in shopping centres a fairer deal in Western Australia.

As far as the Property Council is concerned, this legislation is a no win situation for the Government. As I pointed out to people from the Property Council and other groups, many small business people support this Government and they must be given consideration. I notice that in general terms the Opposition supports the legislation and I am pleased about that. Anyone reading this legislation will recognise that it has been introduced to rectify what is perceived as an imbalance between landlords and tenants.

With regard to land tax, it should also be acknowledged that some people who own small shopping centres are not wealthy. This issue should not be considered on the basis of a small operator in a shopping centre versus a landlord with pots of money, because it is not always the case.

Mr Bloffwitch: We are not looking at rich or poor but at those people who try to screw others.

Mr SHAVE: I will address that and the matter of retrospectivity in a minute. I am pleased the Opposition does not support the principle of retrospectivity.

Mr Bloffwitch: We will wait and see. I do not believe it is retrospective.

Mr SHAVE: The member for Bassendean also referred to the Government's commitment to introduce legislation within six months of being elected, and said 18 months have now passed and the Bill has not been through the Parliament. I am not absolutely sure that is the case.

Mr Brown: I will give you the *Hansard* record.

Mr SHAVE: Yes, but it did not come from me.

Mr Brown: It came from the Government.

Mr SHAVE: Even if it did, I gave an undertaking that the legislation would be introduced last year, and it was.

Mr Brown: On the last day of the parliamentary sitting.

Mr SHAVE: Yes, that was interesting. The Government did stick to that commitment. I am pleased that my staff were gracious enough to make sure it was ready for the last day at least. It is complicated legislation and, in fairness to them, they were dealing on a daily basis with many groups and were trying to get it 100 per cent right before it was introduced in the Parliament. Sometimes it is better to delay things to get them done correctly.

Members asked me to confirm that the Bill allows different methods of calculating rent reviews. The Bill does that, but it provides that people cannot have the best of all worlds, such as a consumer price index rise, a 10 per cent increase or a market valuation, whichever is better. There must be one method of calculation, albeit that that method can change at each rent review.

The member for Bassendean questioned the Government's agenda in relation to trading hours. There is no secret government agenda; it did not come into the equation.

Mr Brown: Don't smile so much.

Mr SHAVE: I smile because the member for Bassendean has a suspicious mind. He always thinks the worst of people. It was never the Government's intention; it did not contemplate the Bill would have anything to do with its attitude to retail trading hours. I think most people in this place, even members on the other side of the House, are aware of my views on trading hours and the Government's concern for small business versus the large supermarket traders. However, under the competition policy, the Government is required to review trading hours this year and will do so. I am not flagging any change to the trading hours under the existing legislation. It would be negligent of me as a Minister if I were to give a view now on the Government's position, without even considering what is proposed or the assessment in terms of competition policy and other issues.

When the Government considers changing trading hours under the national competition policy it must examine the ramifications of that and its effect on the industry. That has always been central to my view on the extension of trading hours.

Mr Brown: I asked you to respond to the WA Council of Retailers Association proposal on core trading hours.

Mr SHAVE: According to the brief I was given, the proposal for core trading hours has had extensive industry consultation. However, there has been no consensus by small retail tenants. I attended some of the meetings and some of the retailers who operate exactly the same businesses could not agree that that was what they wanted.

Mr Brown: On the 75 per cent formula?

Mr SHAVE: I have no note about the 75 per cent formula.

Mr Brown: I understand that none was in favour of the landlords setting the core hours. However, the RTA came up with a 75 per cent formula based on tenant votes.

Mr SHAVE: I will check. I may have received some advice. I cannot recall whether a 75 per cent formula arose in discussions when I was there. The discussions might have been at departmental level.

Mr Brown: Will you let us know?

Mr SHAVE: I will.

The member for Armadale, who sadly is not here at the moment, raised a number of issues. I will respond for the record so that she can read my comments later when she is not enjoying her cup of coffee. She raised the matter of

sinking funds and suggested the Government's proposal would not prevent disputes about those funds. The Government's initiatives impose additional disclosures and audit requirements. It is hoped that that will discourage landlords from indulging in unfair practices. The Government appreciates the concerns with existing practices, and accordingly has introduced amendments that will require the funds to be audited consistent with standards agreed by peak accounting bodies.

In the event that a shopping centre is destroyed or ceases operating, any money in the sinking fund will be distributed with the relevant proportion going to the tenants.

When a shopping centre is sold it will be the responsibility of the incoming landlord to ensure the money is still in the sinking fund. A number of industry groups queried the ramifications of someone selling a business to someone who thought money was in the sinking fund, but found none to be there. That will become the responsibility of the incoming landlord. Furthermore, if a distribution of money is to occur, the registrar must approve the arrangements. If a sinking fund were to be wound up it would require the registrar's agreement that everyone was being treated fairly.

The member for Armadale also said that the Bill delays introduction of the full benefits to tenants. It is intended that benefits will apply to new leases from proclamation of the legislation. However, it must be recognised that it is impractical to impose some of these measures immediately without giving the industry time to adjust, particularly in relation to audit requirements. It would be unfair to impose conditions on existing leases that would amount to retrospective application.

The Government will introduce the amendments as quickly as possible with, I believe, the support of the industry. People, including tenants, will want the auditing requirements to be effective from 30 June or from when their financial year runs. All of those issues will be subject to discussion with the parties.

The members for Bassendean and Armadale raised concerns about the adequacy of data collection for rental valuations. Confidentiality is a sensitive issue, whether it applies to the tenant or the landlord. Someone commented that landlords might not want the public to know about the rents tenants are paying and the outgoings applicable to the shopping centre. That is valid because the competitor down the road could get a good feel of how the centre is going and adjust his operation to his advantage.

The same applies to tenants. It does not come under commercial tenancy, but two small retail outlets, for example, within close proximity might both be selling carpets. If one business knew that the bloke over the road was paying an enormous rent of, say, 500 per cent more than he was paying he would also know that if he cut the price on his product he would put the other bloke out of business. Therefore, one must be a little careful when talking about shopping centre owners and tenants providing open access to information. If an agreement is made between the parties when they sign the lease that they want confidentiality, they should have the right to that confidentiality. It should not be mandatory for everyone to know everything about the business and how it operates.

The member for Rockingham referred to the impact of a goods and service tax on small business. I will not comment to any degree on that aspect. However, I understand that one proposal with GST was to impose a room rate on hotel rooms, about which people in the hotel industry would not be too pleased.

The member for South Perth, who is not here at the moment, asked that I specifically respond to the issue of the involvement of the Government in the Joondalup development. I do not wish to go over that history. However, even the member for South Perth would concede that I inherited the shopping centre and the commitments at Joondalup. I did not buy them, although he might tell the Press the opposite. The judicial responsibility of the LandCorp board under its Act is to act in a financially responsible capacity. If it is involved in a property development with a partner who says, "We should object to the local council on the proposal for another shopping centre", people could say that a conflict of interest arises. Nevertheless, an appeal has been made to the Wanneroo City Council, which is not really an arm of government.

I am not condoning the practice of involvement in property development. It is clearly understood that the Government will not buy or develop any more shopping centres. It is the Government's intention at the appropriate time to divest its interests in the Joondalup shopping centre, including the cinema complex. The member for South Perth, being such a learned person, will know that the LandCorp board acts independently from me. If he suggests that I am the Minister and I can direct the board, I advise him that I have not made it a practice, nor have my predecessors, to interfere with the running of LandCorp by directing it on what it buys and sells. I would not be keen to do so. I have faith in the LandCorp board.

I understand that the Gauntlett report proposed that LandCorp get out of residential real estate and, at an appropriate time, its half share of the Joondalup shopping centre. I support that view. I understand also that the LandCorp board is supportive of those recommendations. It should give the member for South Perth a great deal of comfort that

LandCorp will extricate itself from those operations at an appropriate time. I will not direct the board to do so tomorrow and hold a fire sale. However, the board is well aware that it is the Government's wish that it relinquish its involvement at an appropriate time.

The member for Armadale referred to rent reviews. She talked firstly about a rent review being set at $200, and the second rent review being at market value when the market value may decrease from $200 to $150 a week. She then said that the third rent review could be at $200 plus CPI. That is true. The third rent review could be at $200 plus CPI for the first year, plus CPI for the second year. That would be unfair. However, at least people would know the arrangement when entering the lease agreement. The Government will remove this either-or situation. Under the current situation, in the third year the landlord can say that CPI, market or a 10 per cent flat increase will apply. That will go.

Discussions with the industry indicate that this change will not create ratchet clauses. People will be aware that they will pay a specific figure on that third rent review, subject to knowing the CPI at the time of the review. Ratchet clauses in the true sense are those by which one cannot go below the rent set in the previous year. It may be that someone will enter a 10 year lease and set a weekly rent of $200, and indicate that on every rent review he wants to pay $200 plus a 5 per cent increase on the base. That could be called ratcheting, but it is not. Ratchet clauses occur where people take either-or, and always take the higher option.

Mr Bloffwitch: They usually put that in the lease, and say "whichever is the greater".

Mr SHAVE: It could be three, or more than three, different methods.

It would be negligent of me to finish without addressing the issue raised by the member for Geraldton, who supports retrospectivity. Someone could have a shopping centre for which he paid $1m; it was bought on the basis that a certain rent would be achieved based on certain contracts. That person may have borrowed $500 000 to buy the centre, and the bank would have lent the money on the basis that a set rent would be received. The member for Geraldton would like the legislation to be retrospective, so someone -

Mr Bloffwitch: It should apply from when the Bill is enacted.

Mr SHAVE: When the Bill is enacted, some leases at shopping centres will have five or eight years to run. There will be an expectation and agreement between two parties that certain rents will be paid. If a slump in the market occurs, someone agreed to pay that rent, and somebody borrowed the money at certain rates, the member for Geraldton says that it will be bad luck for the owner if that agreement no longer applies. The centre owner may have borrowed $500 000 and put in $500 000 himself -

Mr Bloffwitch: In that case he would not have tried to screw them on management fees.

Mr SHAVE: I find it difficult to agree with the member's argument. I have considered his request; the Government will not be introducing retrospective legislation, but I thank the member for his thought.

The member for Armadale flagged some further amendments, and she said the opportunity would arise to consider them. I suggest that she provide a little notice. We have talked to the different parties and tried to produce a fair and reasonable Bill which takes into consideration the views of all groups involved. If we were to debate the Committee stage now and the member for Armadale moved an amendment off the floor, I would have some difficulty in supporting it. I have the proposals put forward by the member for Bassendean, and the Government will look at those before the Committee debate. However, I urge the member for Armadale to give notice of her amendments so that they can be given fair consideration. I would be very loath to change the legislation and then have four or five groups tell me next week that I gave them an undertaking that if there were to be any changes I would consult them, and that did not happen.

I thank all members for their contributions. I am pleased that the Opposition and the member for South Perth support the thrust of the Bill.

Question put and passed.

Bill read a second time.

SCHOOL EDUCATION BILL

Committee

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Mr Barnett (Minister for Education) in charge of the Bill.

Clause 1: Short title -

Mr RIPPER: I take this opportunity to thank the Minister for making available his adviser for discussions on the amendments proposed by the Opposition and for the extensive briefings that his adviser has been prepared, with his approval, to offer Opposition members. The briefings and his advice have been very helpful in our understanding the intent of this complicated legislation.

Clause put and passed.

Clause 2: Commencement -

Mr RIPPER: I am concerned that the details of this legislation will be expressed in the regulations. Many people would like to know what is likely to be in the regulations before they are happy with the Parliament's giving the Government the powers contained in this Bill. One example is the question of school fees. To a certain extent the Government has answered that question by presenting the recommendations of the school charges panel. While we do not know the precise form of the regulations, we know that there will be a significant increase in the current primary school fee, which is voluntary, and the fee will become compulsory. Therefore, we have some idea of what will come into effect as a result of the passage of this Bill.

However, there are other areas in which that is not the case. For example, the Bill provides a power to institute a complaints procedure for parents. That is a significant issue. The current complaints procedure has some drastic problems. A constituent of mine has been threatened with a defamation writ for making a complaint against a teacher under regulation 135 of the current Act. I would like to know more about the complaints procedure before we pass this Bill through both Houses of Parliament.

It is a complicated task to draft regulations and I understand that that task may be commencing now. If the Minister cannot provide us with the regulations, he might be able to provide policy positions that will be expressed in the regulations. If that is not possible while the Bill is before this House, it may be possible to give the information to the other House before it passes the legislation. I am interested in any further detail the Minister can provide.

Mr BARNETT: I thank the Opposition for acknowledging the work of the review group on the Bill. I agree that it has done a great job. The work on the regulations is about to begin. It is normal practice for the policy of the legislation to be established and the regulations will follow. In fact, it is impossible to conclude work on the regulations while we are still determining the final form of the Bill. However, I will make every endeavour to make those regulations available as quickly as possible, bearing in mind that schools, both government and non-government, anticipate operating under this legislation at the beginning of the next school year, which is not far off.

Mr RIPPER: I appreciate the Minister's commitment. The key point is whether the Parliament can know something about what is likely to be in the regulations before the Bill is finally passed.

Mr BARNETT: As we go through the Committee stage I will provide clarification where I can. Again, the regulations will not be available before the Bill is passed by the Parliament, as is the case with virtually all legislation. However, I will endeavour to provide, if not the fine detail of the key policy issues, policy direction.

Clause put and passed.

Clause 3: Objects -

Mr RIPPER: This set of objects is woefully incomplete. The Bill has been described to me by some people as a school administration Bill rather than the School Education Bill. One of the reasons that people have seen it as a school administration Bill is that it provides for the most part a value free administrative framework. People want more than that from a school education Bill. People want to see some educational philosophy and principles and to see embodied in the law which governs the operation of schools some values about the way in which the education system should be operating. The four objects in this clause do not go far enough towards achieving that. I intend to move a number of amendments to insert more objects and principles and also some guidance for people administering the future Act. I appreciate that may not be convenient for the officials charged with administering schools. I imagine that from the point of view of the performance education officials' roles, an administrative framework which allows for a great variety of policies is probably most valuable. It means that they do not have to come back to the Parliament for amendments to the Act whenever policy changes. However, the Parliament should not be saying that the sorts of educational philosophy, policy or values in our schools are entirely up to the Government. Parliament has the right to put into the law the values by which it wants to govern our school system. It is not solely the responsibility of the Government of the day. If we put some beefed up principles and values into the Bill, that will be good from the point of view of the operation of the school system and the right of the Parliament to determine the overall guiding philosophy that should govern a very important part of the State Government's responsibilities.

The four objects include the object to recognise the right of every child in the State to receive a school education. I am concerned that there is no mention of quality or equality; in other words, although every child under this object should receive a school education, it would not necessarily be a school education of high quality or one which matched the opportunities available to other children. Subclause (b) provides for government, non-government schools or home education. I have no quarrel with that objective. Subclause (c) provides for government schools that meet the educational needs of all children. That clause undersells the value of government schools and underplays the very important role that they play in our education system. I intend to move an amendment to subclause (a) which will reinforce and underpin the very important role played by the public school system. Some thought has been given to the objects by the review group preparing this legislation. There may be some reasons that the objects have been restricted to the four in the clause. We have certainly received representations, in particular from the Western Australian Council of State School Organisations, seeking a much broader set of principles and objects to be put into this Bill. I would appreciate some comments by the Minister on the Government's contenting itself with only these four objects.

Mr BARNETT: The objects to some might seem to be relatively bland. However, they are entirely appropriate and I strongly support them. Although the Deputy Leader of the Opposition talks about the need to have much more visionary or exciting objectives, even if we share that view, such objectives do not properly belong in this legislation. This legislation largely facilitates education in both the government and non-government sectors. However, principles throughout the Bill will become clear as the debate goes on. During the second reading debate, the member referred to the debate at the time of the 1928 Bill. Had some of the ideals of education been put in the legislation then, I wonder whether that Bill would have reflected the need to go beyond primary school and what position girls would have in equality of education. There are great dangers in putting in ideals or even political ideals at this stage.

My gravest concern is that objectives do not simply become words or nice sounding. If objectives become enacted, then they can be acted upon in the courts in one way or another. I would seriously resist effectively enshrining in this legislation what could be described as some form of education Bill of rights. It would open all sorts of opportunities for litigation in all sorts of circumstances. The Governments of the day can properly espouse, through policy statements, documents and programs in schools, ideals and objectives that go beyond these four. However, if we enshrine them in the legislation, they will be almost outdated before the Bill is finished or issues will arise and people will inevitably take legal action against the principles. A similar debate to the one we are having now took place in the Constitutional Convention in Canberra at the beginning of this year. Again, people said, "Let us have some great ideals as a nation." As soon as people started to debate the detail of how we might do that, all sorts of issues arose. The obvious and extreme one was the right to bear arms and the problems that creates under the United States' legal system. We should not go beyond these. It is for Governments of the day to set ideals and objectives for education and not for us to enshrine them in a piece of legislation which I hope will last for another 70 years.

Mr CARPENTER: During the second reading debate we had a lot of discussion about what could or could not be usefully included in the objects and principles of the Bill. I am surprised that the first object in subclause (a) is to recognise the right of every child in this State to receive a school education. It does not say a lot; it says nothing about the kind of education we expect to be able to provide for our children; it says nothing about the responsibilities incumbent upon government to provide an education of some quality. I do not see that we would be creating enormous difficulties by amending this clause of the Bill to state a principle that we would like to be achieved; that is, we expect to be able to provide an education of the highest quality. I cannot see how we would be facing litigation in the future.

Mr Barnett: What happens in that instance if the education is not of the highest quality, for example, in a remote location in the Kimberley? Does that give a basis for litigation against the State?

Mr CARPENTER: We should have an objective to provide an education of the highest quality.

Mr Barnett: I am not disagreeing with the principle which you are espousing but it is dangerous legal ground.

Mr CARPENTER: The Minister may have legal advice along those lines. It does not seem to be outrageously dangerous to state that an objective and a principle which the Government wishes to pursue is to provide every child with an education of the highest quality. In essence, we are saying that we are prepared to provide something less than that by not specifying it.

Another matter which would be usefully addressed in this provision, which is perhaps a narrow focus to which there might be some objection, is the strong view among parents of children with a disability that those children should be referred to specifically, and that the rights of their children to an education of the highest quality should be included in the principal objectives of the School Education Bill. The Minister might raise the spectre of potential litigation in some future context. However, there must be a way of stating that objective and providing comfort for

people, and of providing an outline of the Government's aims and ambitions in education in the objects and principles of the School Education Bill. I would like to have seen some reference to the provision of quality education for children with disabilities in the objects of this Bill. We could usefully consider moving an amendment along those lines without running into insurmountable difficulties.

Mr BARNETT: The issue of children with disabilities is addressed within the legislation. Although I do not disagree with the principle the member espouses, I do not agree to that being included in the objects of the Bill for the same reason as before.

Mr CARPENTER: Will the Minister outline a situation that might arise where litigation could be taken against an object or aim in the School Education Bill? We do not have to state it as an absolute, but as an object; that is, the object of the Bill is to aim to provide a certain matter. How could that be litigated?

Mr BARNETT: The experience of constitutional law in the United States makes it clear that such issues will provide a base for litigation. It is not an area we should pursue. Matters need to be set out administratively from a policy point of view to provide equality of opportunity and the best opportunity for those children. This Government is doing that and previous Governments have attempted that. As society grows every Government will probably do better than preceding Governments. That is the progression in the education system. To include that statement in the Bill will open a Pandora's box and we have no way of knowing where that will end up. It is a difficult and emotional area. It is hard to deal with the issue of children's disabilities. The teachers union might have one view, parents another, and the Education Minister and Director General of Education must try to balance the interests of those children against other children. It could be a divisive issue in schools. That circumstance is best managed on an individual case by case basis, progressing in a sympathetic and sensitive way. Although we all agree with the member, putting those sorts of statements in the Bill will not help to improve opportunities for those children.

Mr McGOWAN: I endorse the comments of the member for Willagee which were made in a sensible and reasonable fashion. We need a dose of idealism in a Bill such as this. We need some vision - at least at the outset of the Bill before we get to its mechanical provisions. Education should be of the highest quality and I do not think there would be any circumstance where that would entitle anyone to pursue a cause of action. I do not accept the Minister's argument that we can draw any lessons from constitutional interpretation in the United States. That is in a world of its own. Constitution law is different from the interpretation of other Bills, because it requires a lot of common law pretext to put meat on the bones of what is essentially an Act which is lightweight in its written word. We have as an example, the Australian Constitution and the right to bear arms, although that is not a relevant example in this case. Some idealism in the objects of this Bill would be appropriate and would not entitle a cause of action. That would come from specific clauses in the Bill in which some penalty or some sort of specific and weighty obligations were imposed, and not from a statement that education should be of the highest quality. I cannot see that a court would impose anything in that regard. However, I can see that people involved professionally in education would look upon this Bill with a little more respect if something like that were incorporated in it.

A range of Bills, particularly commonwealth Bills, contain the aims and ideals of that Bill. I recall the objects of the occupational health and safety legislation which included the ideal of trying to prevent accidents and injuries from occurring in the workplace without imposing any further legal obligations at some time in the future. I support the intent of the proposed amendment and the words of the member for Willagee, because it is a reasonable point and could be included in the Bill without fear of adverse consequences.

Mr RIPPER: I move -

> Page 3, line 2 - To insert after the designation "(1)" the following -
>
> Recognizing that -
>
> (i) it is the duty of the State to ensure that every child receives an education of the highest quality; and
>
> (ii) the principal responsibility of the State in the education of children is the provision of public education,

This amendment will ensure that every child receives an education of the highest quality and will state that the principal responsibility of the State in the education of children is the provision of public education. This amendment picks up the two points I made in my opening remarks. I am concerned that these objects do not mention the need for quality education or the concept of equity. That is not the case in the equivalent Act in New South Wales from which the words of my amendment have been drawn. The NSW Act functions successfully and deals with those two concerns that I have about quality and equity of education. We should not accept a situation where people in a country town will have a legitimate legal complaint that the quality of education which they are able to receive does

not match the quality of education which is available in the metropolitan area or that the State will be open to legal challenge on the basis that it is not providing a high quality of education across the State.

It is not a matter of legal action; it is a matter of how people charged with administering the Act will go about their business. I know what will happen. As public servants think about the education policies that should apply as they draft particular administrative instructions, they will bear in mind what is contained in the objects of the Bill. That is how public servants work. They will return to the Bill and they will quote object (1)(a) as a justification for taking a particular policy direction as they write a policy paper or a set of administrative instructions. I do not think the objects as they stand are anywhere near strong enough. We should be saying that every child should receive an education of the highest quality. Not to mention the need for a high quality education for every child is a real deficiency in the objects of the Bill. They are weak. A vernacular phrase comes to mind, but I will not use it. We must insert more rigour into this set of objects.

The second lack was a question of equity. It is principally the public school system, the government school system, which ensures equality of opportunity in education. The government school system has a unique role in education. It is to make sure that people, no matter their income, social status or location, can access a high quality education. No other part of the education system has the same responsibility as the government school system. While the Government has a responsibility to assist the education of children in non-government schools, its first responsibility is to support the government school system, because the government school system is the only one open to all people, regardless of their social, geographical or economic circumstances. Therefore, in this education Bill we should emphasise the importance of the government school system. In so doing, we will bolster the value of equity.

Mr BARNETT: More flowery, emotive language could have been used, but we must not underestimate the objects. The object of paragraph (a) is to recognise the right of every child in the State to receive a school education.

Mr Ripper: But not a quality school education.

Mr BARNETT: But "the right of every child" is a statement of equity. The next paragraph relates to choice. The object of paragraph (c) is to provide for government schools that meet the educational needs of all children. The point about disabled children is implicit in the broader objective that it is to meet the appropriate educational needs of all children. One could build an eloquent speech around the four objects, to say what could be read into them. However, I do not agree with going beyond that. Subclause (2) makes it clear that it is the responsibility of those functioning under this Act to ensure that these objects are met. We would all like to go further, as the member suggests, to say that every child receives an education of the highest quality. However, the practical reality is that it will not happen. It does not happen today. It has never happened, and it probably never will happen. Despite all the endeavours we will not be able to provide an education of highest quality under many conditions to many groups, in many locations in this State. The education system is advancing, but to include those sort of subjective criteria is not appropriate. The objects have been thought through very carefully. They have been debated at length by many contributors to this Bill.

The second point of the amendment is that the principal responsibility of the State in the education of children is the provision of public education. That is how it has always been, but there are changes. For example, a Government of the future - perhaps this Government - may embark on a process of charter schools. Where does that leave that sort of commitment? If communities decide they want autonomy to run their schools - albeit publicly funded - what will happen to the definition of public education? I suspect over future decades we will find those developments happening within education. Probably some schools are keen to do it today.

Mr McGowan: What is a charter school?

Mr BARNETT: It is a school that remains in the government sector in the sense that it is fully publicly funded, but it is run independently and autonomously by a council, a parent body or a community group. Charter schools exist elsewhere in the world. I can see a situation where a school could cater for children with social or family problems, and who are dysfunctional in the system, and perhaps there is a case for a government funded school that operates outside the system to cope with those children.

Mr Cunningham: We have an all-campus program at Girrawheen.

Mr BARNETT: There are elements, certainly in areas of special need. This could perhaps be in areas of education for Aboriginal children, because such an environment might work better. Immediately even the definition of public education can change. I am wary of doing things like that, therefore I do not support it. The State has a huge responsibility to education. The proposed amendment talks about prime responsibility in public education, and I agree; but the State also has a very clear responsibility for the education of all children, whether in the government system or the non-government system.

Mr CARPENTER: I think the Minister made the point that subclause (1)(a) - to recognise the right of every child in the State to receive a school education - implies that education must be of a high quality.

Mr Barnett: I did not say that. I said that it covers the principle of equality, because it is the right of every child. The criticism was that there was no statement of equality of opportunity.

Mr CARPENTER: I take up that point anyway. It is not implied. I have listened to the member for Alfred Cove talk about his vision of public education, which is vastly different from mine and I think it is vastly different from the Minister's. There is nothing implicit in his view of the world, that we provide quality or equality of education in the public education system. There is a requirement for the Government to outline its position on both quality and equality. Again, I do not see a stumbling block in using those words when talking about the objects of the Bill. We can provide an education, and it could be argued to any family in Western Australia which might complain about the level of education its children receive from the public sector that all we are obliged to do - according to the Act - is to ensure that every child receives a school education. It could be as little or as much as we decide it to be on the day. We have no guarantee of equality.

Mr Barnett: Paragraph (c) is to provide for government schools that meet the education needs of all children. You must read paragraphs (a) to (d) together. To take one in isolation gives a different answer.

Mr CARPENTER: Earlier the Minister mentioned the subjectivity of the different words that could be used. We are leaving open the possibility of the State in some future world abrogating its responsibility to provide quality and equality in education for people in this State who decide they want a government education for their children.

To relate the potential proliferation of charter schools to the second part of the amendment, along the lines suggested that the principal responsibility of the State in the education of children is the provision of public education, is a very worthwhile statement to make in an education Bill. We recognise the role that the State should play in the provision of education. We support it, and we want it to continue. We do not want the public education system to be broken up or to degenerate into a lesser form. We would be setting a direction by adopting this amendment. It is one we should adopt. We should support strongly the notion that one of the principal functions of State Governments - not just in the education system - is to ensure quality of education for all children in this State. That might mean we must provide financial support to people who want to be involved in charter schools - and that means we provide financial support to the private sector to provide schools and quality of education for people who choose to seek an education in the private sector; but it must mean that we maintain the central function of the State in the provision of education which will always be for the majority of children in the population. That education should be of quality, and we should say that; it should be an equality of education, and we should say that. At the moment we do not say it.

Mr RIPPER: The Minister's example of charter schools is very instructive, because many people in the education community do not like the idea of charter schools and do not want the system to move in that direction. That is one reason that they believe we should put some educational principles or philosophies into this Bill so that this Bill will not allow educational policies or directions of which they do not approve. There is a conflict of approach, where the Minister is promoting a Bill which will allow a great diversity of educational approaches -

Mr Barnett: At the end of the day, this is an administrative framework for education.

Mr RIPPER: Yes, but, on the other hand, many people in the community want to chop off some of the developments that may occur because they do not approve of those developments and want to have a more value laden or principled Bill.

Mr BARNETT: Just as in 1928 they wanted to chop off the availability of secondary education for girls.

Mr RIPPER: Yes, but later the Parliament could have instituted a more appropriate set of principles. One of the roles of the Parliament is to institute an appropriate set of principles. If the Minister thinks something is wrong with a particular object that I have put forward, perhaps he should say so. If the Minister thinks that any part of the Bill in its detail will be in conflict with any of those principles, perhaps he should say so. If the Government agrees with the principles and if it believes that the clauses of the Bill will not be in conflict with those principles, what is the reason for opposing the insertion of those principles or objects in the Bill?

The truth of the matter is that many people in our community have quite definite ideas about the way in which the education system should progress, and they are not happy with all of the possibilities that are being canvassed by the various people who are interested in education. Many people in our community want to see a strong government school system, and many people in our community are worried that the government school system is under threat from federal government policies which appear to favour the non-government school sector, and is under threat from internal developments which are promoting inequity within the government school system. They would like this Bill to reinforce and underline the importance of the public school system, because they do not want the Minister's value

free administrative framework to result in the dilution of the very important role of the public school system in the future. In fact, they very much want that to be determined by the Parliament, if it were to occur, rather than be the result of creeping administrative changes. In seeking to insert these objects, we are acting with the encouragement of organisations like the Western Australian Council of State School Organisations and the State School Teachers Union.

Mr BARNETT: I do not accept that this Bill is value free. Indeed, while the four objects may be modest and even conservative, they do set down values for education, for the rights of children, for the obligations of government, and the like. The Opposition's amendments appear to be based in large part on the New South Wales legislation. The New South Wales legislation does contain a list of so-called high ideals. However, it also contains what is effectively an opt out clause that states that if any of those objects cannot be achieved, it does not matter and there is no penalty. We can put in all these ideals, but if effectively they are not taken seriously, I wonder if that is a proper use of legislation. The difference with this Bill is that while the objects may not be quite as idealistic or exciting as those in the New South Wales legislation, at least under subclause (2) there is a clear obligation to ensure that the objects are achieved. That is not the case with the New South Wales legislation. We can either have an idealistic statement that because of all the reasons that have been debated has an opt out clause, so effectively it does not matter, or we can have a reasonably conservative set of objects that allows for flexibility and change within the system but is enforceable. The Government has chosen that model because we believe it can stand the test of time and that it will allow successive Governments to set policy directions in education without the necessity to come back to the Parliament always under challenge.

The comment by the Deputy Leader of the Opposition that one group of people wants to enshrine certain things reinforces my point that we see this issue in different ways. That is exactly what we do not want to see, just as in 1928 a group of members of Parliament wanted to enshrine a limited opportunity for girls in education. That is the reason that we do not want to enshrine any particular model.

Mr McGowan: Who was in government then? Were you?

Mr BARNETT: The member opposite referred to that matter in his speech. Even though we think we are wise and progressive today, I suspect that within 10 years we will find that many of the values that have been espoused in this debate are totally inappropriate.

Mr CARPENTER: I want to pursue the point made by the Minister with regard to subclause (2), which states that any person who has a function under this Act is to seek to ensure that the objects stated in subsection (1) are achieved, and his reference to the opt out clause in New South Wales. I do not know of such a clause, but I accept what the Minister says. From my reading of subclause (2), it reinforces the point made by me, the member for Belmont and others on this side that it is precisely the duty of any person involved in education to seek to ensure that the objects stated are achieved - not to ensure that the objects stated are achieved, but to seek to ensure that the objects stated are achieved. The possibility of future litigation will be removed if it can be shown that the people who are delivering education are seeking to ensure that the objects are achieved. If, for example, the duty of the State is to seek to ensure that every child receives an education of the highest quality and it can be shown that the people in the education field are seeking to ensure that that object is achieved, then there cannot be any litigation against those people. However, if it can be shown that they are not seeking to ensure that the education of a child is of the highest quality, there is a genuine reason for complaint and action should be taken against those persons. It is clear from the wording of the Bill that the fear of future litigation can be removed.

Mr KOBELKE: The Minister was right to point out that if we seek to set out in fine detail the objects and values that we are seeking to espouse in education, we may get trapped into putting down a set of objects and values which in time will become out of date, so I agree with the Minister about the dangers in that approach. However, even greater dangers will be created for our education system if this Bill does not espouse some clear values. I do not believe we can separate values from education. There has been much talk by the Governor about this matter, and I commend him for giving the lead in this regard. Although I disagree with some of the detail of what the Governor wants to do, we need to recognise that we cannot have quality education in our primary and secondary schools unless we give them a set of values. I believe we have failed to pick up the guiding values and objects for our education system that should be contained in this School Education Bill.

The briefing notes provided by the Minister allude to that. The clause states "to recognize the right", "to allow that education", "to provide for government schools" and "to acknowledge the importance". Those words "recognize", "allow", "provide" and "acknowledge" are not as tight, as prescriptive, as leading as one might hope if a set of values were included. It is only in the briefing note that we find the words "obligation" and "responsibility". Rights mean nothing without the reciprocal obligations and responsibilities. Quite often those reciprocal obligations and responsibilities rest with the individuals. We must ensure when addressing young people in our schools that they understand not only their rights, but also their obligations and responsibilities. However, in these objects we have

a suggestion of rights, but not the reciprocal side of saying who takes up the responsibilities. The clause notes do that, but it does not appear in the wording in the objects.

The amendment before the Committee addresses that aspect. We are seeking to state what is the duty and the responsibility of the State. We seek a reciprocal arrangement there; that is, a statement of what should be the rights of the students in the school and their parents, and what should be the reciprocal obligations of the State, which is to be the primary provider of education as specified in this Bill. We are missing an opportunity if we do not adopt the amendment moved by the Deputy Leader of the Opposition, which indicates that need for the responsibility of the State to uphold the rights. If we cannot uphold rights, if there is no-one to fulfil the rights we are supposed to have, the rights are meaningless. Those two proposed subclauses in the amendment moved by the Deputy Leader of the Opposition provide a more complete picture of what should be the objectives of this legislation.

I ask the Minister to give an explanation about subclause (c). It states "to provide for Government schools that meet the educational needs of all children". In light of the explanation given in the clause notes, I take that to mean the type of education that would be available and suitable for all children. That is not what the wording says. It says "that meet the educational needs of all children". From the structure of the Bill we know that only some children will go to government schools. I wonder whether the Minister has any comments about whether there are any technical or legal problems in interpreting the words in paragraph (c) in that limited way. I understand it has a clear meaning, but I do not think that is necessarily the only interpretation that can be placed on those words.

Mr BARNETT: With respect to obligations and responsibilities, these are only the objects of the Bill. In all fairness, as we go through the Bill, I think the member will find many of those detailed quite specifically in various parts of the legislation. The member also referred to the broader concepts of values and the like. Again this must be seen in context. The curriculum framework gives a great deal of attention to values and ethics and all of those sorts of issues. They are covered where they correctly should be.

As to the final point - to provide government schools that meet the educational needs of all children - my interpretation is that it is talking about equality of opportunity. It is recognising children of different capacities, with disabilities, living at different locations. A clear responsibility is for government to accept that these children get an education that meets their educational needs. We can even interpret in that, equality of education. As to non-government schools, the non-government sector is recognised. This Bill must facilitate their operation as well.

A whole variety of value systems is implicit in different government and non-government schools. At the same time, to the extent that the Government provides funding and it has a fairly rigid and strict registration procedure, that can be used. Fortunately for rare occasions - I do not think I have ever had to do this - there are powers for the Minister to make sure standards are met by non-government schools. In this State we are fortunate that we do not have an excessive proliferation of small, disjointed, non-government schools that can raise all sorts of issues. We tend to have fairly large non-government systems, such as the Catholic system in schools under the banner of the independent schools. Other States have more difficulties in that sense with a lot of quite unusual fundamental schools. All sorts of groups have formed schools. To maintain equality of educational standards and some of the values to which the member has referred is much more difficult. I know there is a view that we should espouse all these values. Primarily this is an administrative Bill designed to stand the test of time and it should be seen in the context of other legislation concerning education, particularly the curriculum council and the curriculum framework.

Mr TUBBY: I support what the Minister has just outlined. This Bill is designed for all sectors of education, not just the public school system. Members opposite are focusing on the public education system. Admittedly the majority of students are educated in the public system, but 27 per cent or 28 per cent is not. Therefore, to put down the objects and values in this legislation to be imposed upon that 27 per cent or 28 per cent would be most unreasonable. We set out to try to put in values and objects that will be enduring. We should remember that the values to which members are alluding are temporal and will change over time. We tried to pick enduring objects that will be there, no matter which Government is in power. The Government that comes into power is then open to bring in its own policy documents with its principles and values, and specify the areas it wishes to pursue, without having to go back and change the legislation. These things will be able to fit into the current legislation framework without any major changes.

Because we are in government, we have the opportunity to put in all the principles and values to which we on this side of the Chamber aspire. We deliberately decided not to do that so that we could get some bipartisan legislation through, with which both sides could agree as being the major objectives of the education system, whether it be public or private, and allow Governments in the future to determine what values, emphases and resources they will put into education as stated in their policy documents, rather than have those things enshrined in legislation. I support what the Minister has been saying and oppose the amendment proposed by the Opposition.

Mr RIPPER: The Minister has given three arguments for why this amendment should not be accepted. The first is

that the objects in the Bill are stronger than we think and we can read into them our concerns about quality and equality. If that is the case, why not be explicit and why not put them in? If these things are already there in an implicit form, to put them in explicitly will provide better guidance for people administering the legislation and not raise the difficulties the Minister thinks will be raised.

Mr Barnett: The more idealistic we get, the more subjective it gets and the more difficult it is to interpret it, and the more restrictive it will become in the future. That is why.

Mr RIPPER: I have moved three sets of amendments relating to principles and objects. This might be regarded as the smallest of the amendments moved by the Opposition, the most likely to be acceptable to the Government. It is disappointing that it appears we will not even be able to jump the first hurdle.

The second argument the Minister has deployed to oppose our amendment is that there is a danger of litigation. The Minister is saying that there is a danger that the education system will not be acting in accordance with the objects proposed by the Opposition; in other words, a danger that the education system will not be ensuring every child receives an education of the highest quality and that the State will ignore its responsibility for the provision of public education.

Mr Barnett: There is a danger, as you will appreciate, of various interest groups, perhaps with quite proper motives, mounting test cases, getting court decisions and simply tying up the administration of schools to the cost of education and equality of opportunity.

Mr RIPPER: Does the Minister not think that if that threat exists, and I am not sure it does because of the provisions of subclause (2), it would be an impetus to Governments and the administrators to ensure they were acting in accordance with these objects?

In any case the third argument that the Minister has deployed is that values change and what we think is good in 1998 might not be so good in 2008 or 2018. Do we really think that providing an education of the highest quality to every child is a value that is likely to be significantly different in two decades? I appreciate that there might be different views about the value of public education in government schools in two decades.

Mr Barnett: Who would have said 20 years ago that our values may have changed on the abortion issue?

Mr RIPPER: Mine have not changed over 20 years so I would have said perhaps. Some values are clearly more likely to change than others. The value attributed to honesty is not likely to change a great deal over time but some social issues and values do change. I do not think there is much possibility of change with regard to the value of offering the highest quality of education to every child. I appreciate that there might be changes in values with regard to the role of the government school system. I do not want to open up too easy an avenue or too easy a gateway for those changes to occur. If there will be changes in values with regard to the role of the public education system and the State's principal responsibility in providing for government schools, I want that to be a difficult change to achieve. I want that matter to be debated by Parliament. I do not want that matter to occur by creeping administrative change.

My response to the Minister's third argument is that some values are not likely to be subject to change and other values, if they are likely to be changed, should have roadblocks put in the way of that change. For those reasons I reject the arguments of the Minister and retain my support for the amendment.

Amendment put and a division taken with the following result -

Ayes 16

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

Noes 29

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

Pairs

Mr Grill	Dr Hames
Ms McHale	Mr Kierath

Question thus negatived.

Mr BROWN: I raise a matter concerning the interpretation of subclause (1)(a), which states "to recognize the right of every child in the State to receive a school education". Clause 4 defines a child as a person who has not reached the age of 18. The Minister suggested that one could seek to enforce the objects clause by way of court action. If that is possible, what are the implications of subclause (1)(a)? Subclause (1)(a) refers to "every child" and the definitions clause provides that a child is any person who has not reached the age of 18, therefore there appears to be a right for all children under the age of 18 to receive an education. This could lead to arguments about children commencing schooling at a lower age than currently is the case. I do not know whether the Minister's intention is to prescribe that the right of every child in the State is to receive a school education even when the child has not reached the age at which compulsory education applies. It states there is an obligation, and that could apply to children at an age much younger than the current age of compulsory schooling. Will the Minister clarify whether that matter has been taken into account in the drafting? If so, where? If it is possible to litigate on the basis of the objects clause, what implications may that have for children who are below the current age of compulsory education?

Mr BARNETT: I am a little confused or bemused by this. I understand this amendment, if it relates to a child of compulsory school age with respect to clause 3, would limit the rights of young people under the age of 18 years. The Government's objective is to recognise the right of every child in the State to receive a school education. This Bill extends that right to children under the age of 18 years, whether or not they are in the compulsory age period. The right is extended to preschool children and post-school compulsory education. That is very important. I am not sure what the member opposite intends to achieve by this. I do not think the Opposition wants to limit that right to education simply to children in compulsory school age years. That right should extend to preschool and post compulsory years.

Mr Brown: Would it apply to children who are younger than preschool age?

Mr BARNETT: In the present context, it would be a right to kindergarten and preprimary education.

Mr BROWN: I raise the question about the Government's intent. The Government's intent is to recognise the right of every child to receive a school education. The definition of "child" is a person who has not reached the age of 18 years. It applies to all those children, irrespective of their age.

Mr Barnett: Yes, a right to the education that is provided. The Government provides kindergarten, preprimary and post-compulsory education, and they all have a right to access that.

Mr BROWN: Over the past 10 or 15 years schools have expanded in terms of lower ages for education. Who knows where that might stop? Who knows whether it is possible to provide educational experiences for even younger children and whether they should be provided through the education system or whatever? That has been an ongoing debate.

Mr Barnett: If a future Government decides some form of education is needed prior to kindergarten, and a policy decision is made to provide it, this Bill will ensure it is a right to all children in that age group.

Mr BROWN: If the objects clause can be enforced, as the Minister suggests, this is not left to a future Government. One can litigate this question, whether or not there is government policy. Is that the Government's intention?

Mr Barnett: I am not sure what you are trying to get at. The Government is giving a right to education, in not just the compulsory years but also the non-compulsory years - both pre-compulsory and post-compulsory education.

Mr BROWN: Is it possible to litigate on the basis of the objects clause?

Mr Barnett: If it was made too prescriptive, it could be. I can imagine a test case.

Mr BROWN: Do these words mean anything?

Mr Barnett: Yes, and they are given substance by the content of the Bill in the next 200 clauses.

Mr BROWN: The Minister's argument against the point put by the member for Belmont was concern about putting those words in the objects clause, because someone could mount some litigation where the Government did not want to go down a particular path.

Mr Barnett: Yes. If someone did that for whatever reason, I am sure he could bring into his case the objects of the Bill. They are couched with that in mind.

Mr BROWN: If the Government did not elect to provide a program for a child of an age lower than or higher than that currently provided for, could someone use this clause to litigate on the basis that such a program should be provided?

Mr Barnett: I presume they could try to mount a case on that basis.

Mr BROWN: Is it the intention of this clause to create that right?

Mr Barnett: The Government is not in pursuit of litigation. Your argument is pointing to the dilemma. If you become prescriptive and idealistic, you open this Pandora's box. The drafting committee spent a great deal of time on these issues. This is the balance the drafting committee arrived at, and I think it is the right balance.

Mr BROWN: It seems that either these words are meaningful and can be used in litigation, in which case I understand the intent to create that right, or these words are so meaningless that they cannot be used in litigation.

Mr Barnett: They are balanced and reasonably conservative objects, not likely to get an education director general or Minister into too much trouble.

Mr RIPPER: In placing that amendment on the Notice Paper, I was not expressing a particular position of the Opposition. It had been drawn to the attention of the Opposition that there was perhaps a technical deficiency in the Bill relating to the definition of "child". If the Government is of the view that there is no technical deficiency and that a loophole it did not intend to open with regard to children up to the age of three years has not been opened, the Opposition is not particularly concerned to proceed with the amendment. If the Government is happy that there is no technical deficiency and no unintended consequences, I will not move the amendment. The Opposition does not want to restrict the rights under the objects clause. Its thrust has been to extend and broaden the objects.

Mr Barnett: In the same spirit, I will cancel the press release that I was about to put out.

Mr RIPPER: It probably would not have got a run anyway! I am almost lost for words. I understand why the Minister was bemused if he thought the Opposition was coming from two directions at once.

Mr Barnett: It is fairly normal.

Mr RIPPER: The Opposition wants to broaden the objects of the legislation and the point raised was a technical point only. I move -

> Page 3, after line 13 - To insert the following -
>
> (3) The principles of this Act include the following -
>
> (a) every child has the right to be enrolled at their local government school, unless the school can satisfactorily demonstrate to the parent or guardian of the child and, in the case of a prescribed child or student who has turned 18 to that child or student, why it is unable to enrol the child or student;
>
> (b) every child is entitled to receive a school education which best promotes their life opportunities;
>
> (c) every parent has the right to be involved in all decisions affecting their child;
>
> (d) every parent and student has the right to an independent review of a decision made by the chief executive officer (or equivalent) which affects the educational interests of the student; and
>
> (e) the principles of natural justice must be clearly present in any decision-making process affecting a student.

The first principle relates to the right of the child to be enrolled at the local government school. The second relates to a child being entitled to education which best promotes his opportunities. The third relates to parents' rights to be involved in decisions affecting their children. The fourth relates to rights to an independent review of decisions made by education officials, and the fifth relates to principles of natural justice in the decision making processes.

To a certain extent this amendment is a repeat of the debate we just had on the first amendment. The Minister will argue that the objects are fine as they are and that there is no need for additional principles. He will also argue that there is a danger of litigation and that these principles could be subject to different views by people in the future.

I want to know at the outset that this amendment is not subject to the provisions of subclause (2) - in other words, it is not subject to the same litigation argument as the Minister advanced regarding my first amendment.

Mr BARNETT: With regard to proposed subclause (3)(a) the Bill provides enrolment and boundaries under the enrolment clause. With reference to paragraph (b) we would struggle with a term like "life opportunities". Such a general and vague concept is inappropriate in the legislation. It could mean anything to anyone at any time. Given the previous debate about putting ideals and excitement into the legislation, to include something like "life opportunities" would be too vague to be of any use. Proposed paragraph (c) may be in contradiction of Family Court orders. Indeed, through courts some parents are denied opportunities to be involved in school issues. Also, if parents were to be involved in every decision affecting their child it would be possible for a mischievous parent to tie up the school, the teacher and classroom activities, etc.

Regarding proposed paragraph (d) a number of appeal processes are outlined throughout the Bill. Proposed paragraph (e) refers to natural justice; natural justice relates more to the way in which schools operate. Implicit in what we are trying to do in education is build up the ethical standards and values within our system and ensure principals provide that leadership within their schools and that schools operate within the ideals of natural justice. For those reasons and reasons outlined in the previous debate the Government does not support these amendments.

Mr RIPPER: The Opposition has been encouraged to move this amendment by the Western Australian Council of State School Organisations. It was concerned that insufficient direction was established by the objects of the Act. It suggested amendments which we have adopted by and large with the insertion of new principles into the Act. The council drew its suggestions for new principles in the Act from federal and state antidiscrimination and disabilities legislation.

The Opposition is worried about the weakening of the link between local communities and local schools. That is occurring as a result of increasing development of specialist schools which take people from a wide geographical area and which have the potential to take the best students out of local community schools and leave some schools with a residualised population. We also see a weakening of the links between local communities and schools as a result of the Minister's super schools proposals and local area education planning. Local area education planning is almost a contradiction in terms. The connection between a school and a local area will not necessarily occur after the local area education planning taking place at the moment.

The Opposition places a high priority on the link between communities and schools. It sees schools as important underpinnings for the development of a sense of local community. A strong local community which expresses depth of support for its school improves educational opportunities for students. The Opposition wants to put something like this in the Bill in order to underline the very important role schools play in developing the local community, and which local communities have in supporting schools.

The Minister has expressed some scepticism about our proposal to include a principle that every child is entitled to receive a school education which best promotes life opportunities. The Opposition is trying to recognise the diversity of situations in which children find themselves and the need to respond to that diversity and to inequalities in our society.

Mr Barnett: Don't you think the curriculum framework more appropriately does that?

Mr RIPPER: There is an argument for that, but children's life opportunities are determined partly by the way they are treated in schools and by the way in which schools are administered. It is not a matter of only the curriculum but also of the school's organisation.

I take the Minister's point that a vexatious parent could try to become involved in every minute decision regarding his child. The Minister's argument points to the difficulties we had in drafting precisely what we intended. Nevertheless, the very important principle here is that parents should have close involvement in the education of their children. We know that the more parents are involved in the education of their children the more likely their children are to be successful in the education system. I imagine, based on the Minister's comments, that his children will do well.

Mr Barnett: Not necessarily.

Mr RIPPER: If that research is right that could be the case.

Mr TUBBY: The boundary issue covered in paragraph (a) of the amendment is a difficult issue. For many years parents have been trying to enrol their students at government schools outside their local area. We had the protracted process of applying to cross boundaries. Decision were made by superintendents in the local districts. In my area a rejection results in parents coming into my office to see whether I can assist them in crossing boundaries and enrolling students in another school. The boundary issue is a vexed one. The Government is aware that the majority

of students, particularly in primary schools, opt to attend their local community school. We will not try to lock any students out of the opportunity to attend those schools. We will open the boundaries so those who do not wish to be locked into the local school can access other government facilities. If we do not allow that to happen in the government school system, we will tell parents that their only alternative if they do not want to send their child to a government school is to send that child to a private school. I thought that would be anathema to the Opposition.

We are trying to open up the boundaries as much as possible so people have the right to attend other schools. The Government accepts that, in the main, people attend their local schools. We must provide that opportunity. That is government policy rather than something which should be enshrined in legislation. The Government believes that students should be able to access a school down the road if they so wish, and should not be locked out because the school has taken in many students from outside the catchment area.

I was at Kent Street Senior High School a month or two ago performing a task on behalf of the Minister, and I was surprised to find that 35 per cent or 40 per cent of students attend that school from areas outside its catchment, including some students from my electorate - they spend hours in travel. That school took on the aeronautics program in the late 1970s, and has had a number of specialist programs. The school remained viable by attracting students from other areas. We will encourage parents and students to take the opportunities offered by specialisation.

We take on board the comments of members opposite. Local area students deserve the opportunity to attend local schools, but we need to present opportunities for students to attend schools of their choice without forcing them into the non-government sector. We have it pretty well right in the legislation as it stands.

The Minister touched on parents being involved in decisions. As indicated in my experience as a principal and teacher, we should focus on the rights of not only parents, but also students, in the education debate. In some cases, to protect the rights of students, one must reluctantly exclude parents from decision making. In my 22 years in education, I found some parents to be overprotective and overbearing with their children to the extent that from the perspective of professional educators, and other parents who made more objective observations, the parents made decision which were detrimental to the long term wellbeing of the children. I am sure that the Deputy Leader of the Opposition has come across such parents. Parents need to be involved in the decision making process, but we must be aware of the rights of children when parents become overbearing.

Mr RIPPER: I appreciate the argument put by the Parliamentary Secretary. Of course, every child should have the right to enrol at his or her school. It would be detrimental to reach the situation in which specialist or outside enrolments excluded children from enrolment at their local schools. I am glad that the Government regards the legislation as operating in such a way to give students the right to enrol at their local school. The Opposition intends to strengthen that right, and that is why it has moved to incorporate this additional principle into the Bill.

Another issue is the role of the public system in promoting both equality of opportunity and social cohesion. The Opposition's view is that such a role and the role of strengthening the community is best achieved if most schools are predominant local intake schools which identify with their community. I do not want to go as far as stopping people from moving from their community school. Some degree of specialist provision has a role to play. Also, a safety valve is needed when families do not get on with certain schools. In unfortunate incidents, it is best if the child has a fresh start. We want to enable people to escape from a school where a personality clash takes place or an unfortunate history is involved.

However, that should not be taken to the extent that all families with a particular interest in education, or the means to provide for the transport of their children, flee a school because it has a bad reputation, has 20 per cent Aboriginal enrolment or some other reason, leaving a school with enrolment predominantly of students from disadvantaged backgrounds or families without much income. That disadvantages those families because the population of the school is biased. It creates a de facto selective system and socioeconomic streaming in the public sector. A number of considerations must be taken into account. The Opposition wants to strengthen the connection between local community and local schools, which is the reason for this amendment.

Mr BARNETT: The Parliamentary Secretary made the point well: The approach of the legislation, the Government and the Education Department is to have local enrolment while recognising that children will travel to schools of their choice. We enshrine that principle properly because our Education Act was developed around the notion of local schools and local draw areas.

I was surprised when talking to the Singaporean Education Minister and senior administrators to discover that its system is culturally different: After primary school, parents have a right to select a secondary school. Singapore has no sense of the local school in a geographic sense and children traverse the city to attend a school of choice.

Mr Graham: It is only a postage stamp.

Mr BARNETT: Nevertheless, it is a city. If one tried to impose into the Singapore system the notion of local boundaries, it would be greatly resisted by the community. We must recognise that our system has a geographic base, and the Singapore system is based on a right to choose.

We are changing. We have more diversity as schools are specialising in a more mobile society. Parents and children are electing to cross boundaries. We agree in this Chamber that fundamentally a child has the right to attend a local school.

Mr RIPPER: Paragraphs (d) and (e) of my proposed new principles provide for an independent review and for the principles of natural justice. We have sought in our amendments to expand the resolution of disputes and complaints procedures available in the legislation, to expand the role of advisory panels, and to establish the position of education Ombudsman. This is the first of a series of amendments which will deal with similar themes.

There are 350 000 students in our education system, so a large number of Western Australians have some contact with our education system. Many decisions are made in our education system. On many occasions parents believe that a decision that has been made has disadvantaged their child. We all know from our electorate officers how seriously parents take these issues. It is important to have as a strong theme within this legislation that parents have the right to review a decision which affects their children, and that decisions must be made on a just basis rather than on an arbitrary basis. Too many people in our community have unpleasant memories of unfair and unjust decisions that have been made in the school system. That is not the type of learning experience that we want to give our students. We want to teach them about justice and rights. We do not want to teach them about arbitrary decision making and unfair and unjust decisions. It is important that these principles are included in this part of the legislation and are backed up with detailed clauses later in the Bill.

Mr BARNETT: Clause (3) of the legislation attends to these issues. Appropriate review mechanisms are built into the legislation in the key areas of attendance, discipline and disability in schools. The legislation also provides for independent review and approach to the Minister.

Amendment put and a division taken with the following result -

Ayes (17)

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

Noes (27)

Mr Barnett	Mr Cowan	Mr Marshall	Mr Sweetman
Mr Barron-Sullivan	Mr Day	Mr Masters	Mr Tubby
Mr Bloffwitch	Mrs Edwardes	Mr McNee	Dr Turnbull
Mr Board	Mrs Hodson-Thomas	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mrs Holmes	Mr Omodei	Mr Wiese
Dr Constable	Mr House	Mr Prince	Mr Osborne *(Teller)*
Mr Court	Mr MacLean	Mr Shave	

Pairs

Mr Grill	Dr Hames
Ms McHale	Mr Kierath

Amendment thus negatived.

Mr RIPPER: I move -

Page 3, after line 13 - To insert the following -

(4) Any person who has a function under this Act is to have regard (as far as is practicable or appropriate) to the following objects -

(a) to assist each child to achieve her or his educational potential;

(b) to promote a high standard of education in government schools and to provide it without discrimination on the ground of sex, race or religion;

(c) to mitigate educational disadvantage arising from the child's gender, or from geographic, economic, social, cultural, lingual or other causes;

(d) to provide -

(i) an education for Aboriginal children that has regard to their special needs;

(ii) an education for children from non-English speaking backgrounds that has regard for their special needs;

(iii) opportunities for children with disabilities;

(iv) special education assistance to children with disabilities;

(v) an education for children that gives them access to opportunities for further study, work or training;

(vi) opportunities for parents to participate in the education of their children;

(vii) an education for children that promotes family and community values;

(e) to develop an understanding of Aboriginal history and culture by all children;

(f) to recognise the problems of rural communities, particularly small and isolated communities;

(g) to develop a teaching staff that is skilled, dedicated and professional; and

(h) to encourage innovation and diversity within schools.

I have split this amendment from the previous amendment because it is designed to provide guidance to those people who will be responsible for administering the education Bill. The Minister has knocked back my proposal for additional principles and objects on the ground that it may create the risk of destructive litigation. I believe that we will obviate that risk to a large degree by inserting the words "(as far as is practicable or appropriate)" in the preamble to this set of objects. The Opposition is not seeking to create more work for lawyers, much as you may regret that lack of desire on our part, Mr Deputy Chairman (Mr Baker). We are seeking to provide some philosophical guidance to those people in the Education Department who will be responsible for administering this Bill.

We believe that this set of objects, which we have come up with at the suggestion of the Western Australian Council of State School Organisations, is very difficult to argue with. Of course we should assist every child to achieve his or her educational potential. Of course we should provide a high standard of education without discrimination. Of course we should try to mitigate educational disadvantage. Of course we should take account of the needs of Aboriginal children, children with disabilities and children from non-English speaking backgrounds. Of course we should try to develop a teaching staff that is skilled, dedicated and professional. Of course we should encourage innovation and diversity within schools. This is a very good list of educational objects. I would be surprised if the Government disagreed in principle with any of these objects. I would also be surprised if the Government admitted that any part of the Bill was in conflict with any of these objects.

If the Government does not disagree with or think that its Bill is in conflict with any of these objects and if there is no litigation risk, there is every reason to accept it as a means of providing guidance to the department, teachers and principals as to the type of education system this Parliament would like to see operating. It is appropriate for this Parliament to express its ideals in relation to the education system. If we include them in the Act, they will be taken into account by the people charged with running our schools. Public servants do read the legislation and use parts of it as justification of the operational decisions they make. Parliament can provide this sort of guidance on the philosophy.

This is what large sections of our community interested in education want the Parliament to do. They do not want the education system to develop only according to the interests of the people charged with administering the system; they do not want an Act that will allow any and all types of development. They have particular views about the way the system should develop, the sort of values it should embody and the needs it should meet. It is appropriate for us to seek to put these objects in the legislation. The objections the Minister has so far raised are not applicable to this section because of the way in which it has been drafted.

Mr BARNETT: The proposed amendment creates more uncertainty than it would ever hope to resolve. It effectively creates a second set of objects for the legislation. We have one set of objects, which we have debated, and here we have another, and the people working in education are somehow meant to have them at the forefront of their mind.

These objects cover issues that have emerged within our education system through government and education administration policy. It is the same issue. I do not have a problem with them in principle.

Mr Ripper: So you do not disagree with any of them.

Mr BARNETT: They are motherhood statements and it is not appropriate that they be included in the legislation.

Paragraph (b) refers to a high standard of education in government schools. What about non-government schools?

Mr Ripper: The Government is responsible for government schools.

Mr BARNETT: The Government also has a responsibility for non-government schools. It is often forgotten that the Government provides substantial and sometimes total funding for non-government education, particularly in the Catholic school system.

Reference is made to Aboriginal history and culture. That has been administratively introduced and all students will be doing Aboriginal studies. That is a curriculum matter; it has evolved and has been included in the curriculum framework.

Many new concepts are introduced and reference is made to isolated communities. I think geographically of isolated communities. Others might argue that isolation could be cultural. Again that must be resolved.

Terms such as "innovation" and "diversity" are also used. Again, I hope that teaching and programs are innovative and that there is diversity. However, this reference is not appropriately included in the legislation. The Government does not disagree with the ideals - they are present throughout the administration of education - and many are implicit and explicit in the curriculum framework.

Mr CARPENTER: I will pick up a couple of the specific recommendations in the amendments and link them to the original amendments moved by the member for Belmont. I refer in particular to the opportunities for children with disabilities and special education assistance for them and try to outline the case for these specific references to be included in the objects of the Bill.

The response from the responsible Minister to the Opposition's suggestion that the State has as an object of its education legislation a responsibility to provide the children of Western Australia with a high quality education was that there is a recognition that the State must provide a school education for all children and that includes those with disabilities. My argument is that unless it is specifically stated there is no responsibility on the State to provide or attempt to provide the highest quality of education.

At the end of last year, I went with the member for Girrawheen to Burbridge School in Koondoola in his electorate. It was recognised as providing a Rolls Royce therapy service for children with disabilities and, through that service, allows them access to a high standard of education. In fact, that school was having reduced its resources and its capacity to deliver therapy and therefore its capacity to deliver education to those children. The parents involved approached the local member to express their great concern about this development. The same scenario had been played out earlier in the year at Castlereagh School at Willetton. A school that had been described as providing Rolls Royce facilities for children with disabilities was having its resources reduced.

They are illustrations of why it is desirable to state in the objects of a Bill such as this that the Government's ambition is to provide a high quality of education for children with disabilities. Without such a specific reference, the response from the State in those circumstances was that there are plenty of people with disabled children and we must spread the resources around. In other words, it recognises that there is a top class facility but it is prepared to reduce the resources at that facility and spread them more widely to raise the standard in other schools.

The parents of children at schools such as Castlereagh and Burbridge should be able to argue that there is a responsibility on the State to provide education of the highest quality for children with disabilities and that point should be reflected in the objects of the legislation.

That is what would be achieved if we were to combine the original amendment moved by the member for Belmont with this amendment. That would be a positive development for the education of children with disabilities. It is a shame that the Minister has indicated that he is not prepared to support such amendments but that these aims will be achieved by regulations or the general activities of the system. We have already seen in the past 12 months illustrations of where it does not happen. If it were stated specifically in the objects, principles and intentions of the

Bill that such children should be provided with the opportunity for high quality education, the State might be able to be held more responsible for providing such education.

Mr BARNETT: There is also a significant practical difficulty. The proposed amendment refers to any person who has a function under this Act. That would include teachers - that is probably intended - education administrators and perhaps the Minister. However, it would also include parents. Paragraph (e) refers to developing an understanding of Aboriginal history and culture by all children. This amendment would require all parents to have that value. That is desirable, but I suggest that not all parents would accept it and I do not know how it would be enforced. They are nice ideals and I do not disagree with them. They are reflected in school management and the curriculum, but they should not be included in the objects of the legislation.

Mr CARPENTER: I thank the Minister for his answer, although he did not address the matter of disabilities. The education of the wider community about Aboriginal issues is another matter that should be specifically referred to in the way it is in the amendment before us.

Mr Barnett: That is a curriculum matter and it is in the curriculum framework. Last year we announced Aboriginal studies for all children, for all classes in all schools throughout the State. That is a curriculum matter that is being imposed administratively.

Mr CARPENTER: I ask the Minister to forgive me if I am mistaken; however, I understand it will be an option.

Mr Barnett: I have stopped short of making it compulsory; however, I have made it clear to all principals that I expect that program to apply in all government schools in this State. I will not make it compulsory because I do not like to do that, but my expectation is that it will be in all schools. I will be seeking explanations if it is not in a school.

Mr Ripper: That is like an option.

Mr Barnett: Not in my case.

Mr CARPENTER: We have had this discussion before in the debate and on one or two other occasions about developing an understanding of Aboriginal history and culture in our society through the education system. I appreciate the Minister has gone to some lengths to try to promote that value in the state school system. I think I said in my first speech in this Parliament that the relationship between Aboriginal and non-Aboriginal people in Western Australia is very important to our communities, particularly those in country areas and those I represent, and that we should have a compulsory component of school education which serves to further that understanding of Aboriginal history and culture by all children. I have told the Minister before that I do not believe it is good enough to leave it only as an option.

Mr Barnett: It is not an option. We launched the program and we said that this is a program that will apply across all schools.

Mr CARPENTER: Is it compulsory?

Mr Barnett: It is not compulsory in the sense that I have not given a directive to all schools; however, I have made it very clear, as has the director general, that all schools will have to do this. If they are not doing it, they must have a very good reason.

Mr CARPENTER: I do not want to get tied up in semantics, but if it is not compulsory, it is optional.

Mr Barnett: No. You have a mechanistic view of management which I do not. That is why I do not get into so many conflicts in areas like this. I made it very clear that the objective is to have that program in all schools. There may be a particular circumstance - for example, the curriculum may be inappropriate to one Aboriginal group because it emphasises another Aboriginal part of the State - or reason parts of it do not apply. Essentially all schools will have it.

Mr CARPENTER: I understand.

Mr Barnett: It will be extremely rare that it will not occur.

Mr CARPENTER: I think the Minister's criticism of me is not correct. However, he is saying that it is an expectation.

Mr Barnett: It is a very strong one.

Mr CARPENTER: Nevertheless, it is not compulsory.

Mr Barnett: Almost all schools are currently doing it. If you wish, I will get a set of figures for you.

Mr CARPENTER: I would like to see an element of the education curriculum in Western Australia specifically stating that it should be compulsory, taking into consideration regional difficulties and cultural difficulties that may attach to those regional difficulties, that schools provide as part of their curriculum, education that promotes an understanding of Aboriginal history and culture by all children. In the wider context of the importance of that relationship in Western Australian society it would be a good move. The Deputy Leader of the Opposition's amendment is a good initiative and should be supported.

Mr RIPPER: First, I will respond to the Minister's somewhat fanciful argument that parents may be required to do certain things by this amendment. I draw his attention to the words "as far as is practical or appropriate".

Mr Barnett: So it is optional, to use your colleague's terms.

Mr RIPPER: No. Obviously it is practical and appropriate for teachers, principals and education administrators to ensure students develop an understanding of Aboriginal history and culture. Obviously it is not appropriate to place that obligation on parents, although some members of school councils may be performing a role in that area. Obviously it would not apply to parents generally. I regard that argument as unworthy of the Minister's normal standard. Perhaps I am being too kind to the Minister.

In response to the comments of the member for Willagee, the Minister has responded strongly that there is a ministerial expectation that schools will try to develop an understanding of Aboriginal history and culture by all students. In this amendment I am on about putting a few parliamentary expectations into the law governing our education system. I am not content to leave the expectations to Ministers and directors general. The Parliament has a role in placing some values and principles into the law governing our education system. We have had this argument with about three different amendments, and I do not expect to win this argument merely by repetition. However, it is important for Parliament to put values into this legislation. I am not the only one who thinks that. We have not adopted these amendments entirely on our whim. They have been suggested to us by major organisations with an ongoing role in the operation of our education system. Perhaps the Minister does not like the way in which we drafted the suggested principles and objects. I am interested to know whether there has been any contemplation of government amendments to the objects in this Bill.

Mr TUBBY: I have a great deal of sympathy for the point of view expressed by the member for Willagee. However, we have a Curriculum Council Act. This legislation deliberately does not go into the area of curriculum studies in schools. This amendment would be an ideal one to the Curriculum Council Act, but not to this piece of legislation.

Amendment put and a division taken with the following result -

Ayes (16)

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

Noes (26)

Mr Baker	Mr Cowan	Mr Masters	Mr Sweetman
Mr Barnett	Mr Day	Mr McNee	Mr Tubby
Mr Barron-Sullivan	Mrs Edwardes	Mr Nicholls	Dr Turnbull
Mr Board	Mrs Holmes	Mr Omodei	Mrs van de Klashorst
Mr Bradshaw	Mr House	Mr Prince	Mr Wiese
Dr Constable	Mr MacLean	Mr Shave	Mr Osborne *(Teller)*
Mr Court	Mr Marshall		

Pairs

Mr Grill	Dr Hames
Ms McHale	Mr Kierath
Mr Marlborough	Mrs Parker

Amendment thus negatived.

Mr RIPPER: In the light of the Minister's stalwart assertion that there is no technical difficulty in the legislation, I merely wish to formally indicate that I will not be proceeding with the proposed further amendment to clause 3.

Clause put and passed.

Clause 4: Definitions -

Mr RIPPER: I move -

Page 5, line 4 - To delete "(b)".

This amendment foreshadows another debate we are likely to have at a later stage. I have indicated that the Opposition wishes to reassert the link between schools and local communities. We note that in clause 60 the chief executive officer is given power to declare any government school to be a local intake school and under clause 60(b) to define the area from which the school is to have its intake of students. The Opposition's concern is that the Government does not have to declare that many or even any of the schools are local intake schools. The way in which clause 60 is drafted means that it is quite possible for the Government to declare only a small number of schools to be local intake schools and that all the rest of the schools could operate on the Minister's Singapore model in which schools could enrol students from right across the metropolitan area. I understand that the Government does not intend to have large numbers of schools as non-local intake schools, yet the way in which the legislation is drafted allows for that possibility. When we come to debate clause 60, I will be seeking to make further amendments to reinforce our view that virtually all appropriate government schools should be local intake schools. In order to facilitate the Opposition's proposed amendment to clause 60, consequential amendments are required to the definitions of intake area and local intake schools in the definition clause.

Mr BARNETT: These amendments really amount to tidying up in advance. The Opposition is moving them with the aspiration that its subsequent amendments on enrolments will succeed. This is not really the place in the Bill for a debate about local intake areas, the residualisation of schools or whatever else. If the power of persuasion of the argument of the Opposition is such that it succeeds on the amendments to the substantive part of the Bill, I will be prepared to come back and look at these amendments. The Government will oppose the amendments at this stage because this is not the part of the Bill to deal with them.

Mr RIPPER: The Minister is right: It is better to have a debate on the clause rather than on the definitions. I accept his assurance that in the perhaps unlikely event that he is persuaded by the eloquence and the power of the Opposition's arguments he will come back to the definitions and make consequential amendments. Having made our point and explained the reason for the amendments, we will discuss the substantive issues when we get to clause 60.

Amendment put and negatived.

Mr RIPPER: I move -

Page 5, lines 5 and 6 - To delete the lines and substitute the following -

"local intake school" means any government school;

We do not want to see a situation arising under clause 60 in which the Government can declare only a small number of schools as local intake schools. We want to see almost every appropriate government school identified with the local community and constituted as a local intake school. I appreciate that is a little difficult to achieve from a drafting perspective. Some comments may be made about whether certain schools for the education of children with disabilities or schools of the air should fall under this definition. It was a bit difficult for us to arrive at an entirely satisfactory definition. However, we are aiming to press the point that we should not reach a situation in this State in which a lot of government schools are disconnected from their local communities. I imagine that the Minister will advance the same arguments as he did on the previous amendment; in other words, that we should have the substantive debate on clause 60 rather than on the definitions clause. Having made that point, I am prepared to move on and have the debate at that stage.

Amendment put and negatived.

Mr RIPPER: I wish to make some comments about the definition of the word "parent". The definition is set out in clause 4 of the Bill, which sounds fine and takes account of many of the circumstances applying to parents. I am particularly concerned about the circumstances that arise when families have broken down. These circumstances are no longer rare; very many children in Western Australia have parents who have separated or who are divorced. I am concerned for many of those children who have contact with only one parent, the parent who has responsibility for the day-to-day care, welfare and development of a child. For many children, their contact with the parent who does not have the day-to-day care of them but who may have responsibility for the long term care, welfare and development of the child is almost non existent. Far too many children in this country have very little contact with their fathers, which is very sad for many of those fathers. It is also detrimental to the wellbeing of those children. The definition of parent in this Bill is not an unsatisfactory one; however, I am concerned about clauses such as clause 18, which states -

Principal may act on application by one parent

18. (1) Where a parent lodges a duly completed application for enrolment with a principal, the principal need not inquire -

(a) whether there is any other person who in relation to the child is within the definition of "parent" in section 4 ...

The Bill states in clauses 18 and 117 that the school is required to deal only with one parent and is not required to make inquiries about the wishes of the other parent or to make or provide information or have any dealings at all with the other parent.

From the point of view of people charged with the administration of schools, I can see the utility of these clauses. Schools have enough administrative problems to be handled by principals without having to relate to different parents who may be in conflict with each other. There is an argument for clauses 18 and 117 from the point of view of schools, but from the point of view of children and of absent fathers, I do not think they are productive and good clauses. Schools should be encouraging contact with both parents and they should act in a way which does not increase the distance between children and fathers who are absent as a result of marital breakdown. I am interested in the Minister's comments on the way in which the definition of parent and the parenting clauses operate in this Bill.

Mr BARNETT: We will get to this issue when we get to clauses 17 and 18. However, the reality is that there are many cases in which a principal may deal with estranged parents, but this is moving an obligation that they must do so, and it reflects a practical reality of trying to track down people and have contact with them. It is also not forcing the principal to get into the middle of what might be a very difficult post-marital situation or estranged relationship, so it is a practical consideration that we are trying to address.

Mr Ripper: We may have further debate on this when we reach clauses 17 and 18.

Mr BROWN: The member for Belmont has raised by way of possible amendment including in the definitions clause a matter related to the definition of "prescribed child". Clause 25(1) has a definition of responsible person. It states -

"responsible person", in relation to a student, means -

(a) a parent of the student;

(b) in the case of a student who has turned 18 or who is a prescribed child, the student; . . .

We find there that a responsible person in relation to a student who is a prescribed child is that child. We all know a number of students under the age of 18 years who have left home and are living independently and appropriately and for all intents and purposes are treated in their own right and not as a child. The purpose of this amendment is to clarify within the Act the definition of a prescribed child as it is set out in clause 25. Currently the Bill's definitions make no provision for an independent child student and as such there is no direct provision for such child students where a parent does not have responsibility for that child.

By raising this matter, we wish to get on the record and perhaps move the amendment to hear from the Minister what is meant by the words "prescribed child". Do they relate to students under 18 years of age living independently who are not at risk? If so, is it then appropriate to include a definition of that in the Bill and to make other appropriate amendments so where responsibilities fall to the parent of a student, it relates to the independent child and not his or her parent because that child student is living independently?

Mr BARNETT: With respect to a prescribed child, the word "prescribed" means simply that it will be defined by regulation. The advice we have is that to put a simple definition in here would not serve a purpose. We need to have a fair bit of flexibility in how we define that, so the decision has been made that there will be a description of a prescribed child but it will be provided through regulation, which will allow for a number of different circumstances, for a fair bit of flexibility and also for changes to be made if new circumstances arise. I accept the point; it does need to be defined and it will be, however it will be done in the regulations.

Mr Ripper: Are you able to give us some idea of the types of circumstances that might be in the regulation?

Mr BARNETT: No. I will consider that for a moment.

Mr RIPPER: The Opposition has on the Notice Paper a proposed amendment to define a prescribed child. Once again, this does not represent a particular policy position which the Opposition wishes to see adopted. It is a response to a suggestion to us that there may be a technical problem with the legislation. The member for Bassendean has dealt with that possible technical problem. The Minister has responded by saying there does need to be a definition and it will be in the regulations. We are interested in finding out what type of definition is likely to be in the

regulations because it appears from what the Minister has said that the definition which we tentatively propose - that is, someone under the age of 18 and living independently and not at risk - is not entirely satisfactory for the circumstances which the Minister and his advisers have in mind. I do hope that following the consultation which the Minister is having with his adviser he may be able to give us a bit more information about what exactly a prescribed child is because it has been a mystery to us reading the legislation. I think for the first time in clause 17 we come across this term "prescribed child" and there is no prior definition of it.

Mr BARNETT: I take that on board. It would cover the circumstances that the member for Bassendean outlined - students, homeless children who are living independently and surviving. There is also a broader issue and definition in which the Minister for Childrens' Services is looking at a panel that is reviewing health, safety and other requirements. A number of issues relating to definitions are emerging. I cannot be more specific at this stage, but when that part of the Bill is reached I undertake to give more concrete examples and some indication of the regulations, even though they have not yet been drafted. I will ask my advisers to provide some examples of how those regulations might be structured.

Clause put and passed.

Clause 5: Definition of "pre-compulsory education period" -

Mr KOBELKE: This clause and clause 6 relate to the change to the compulsory school starting age. It is needed to reflect the transition from pre-compulsory to compulsory education. A whole range of issues encompassed in this clause are in some detail, which is perhaps at odds with the debate on clause 3 in which the Minister indicated he did not want to be prescriptive. This is a quite different area, but the Bill is quite prescriptive. Also, the clauses are complicated by the fact that three different time periods for pre-compulsory and compulsory education must be set out. It is a pity that no easier way was found of expressing this provision because this important clause is difficult to read for people who are not familiar with the legislation or the way in which compulsory starting ages are to be measured. My first regret is that such complicated wording is used to set down the starting ages for pre-compulsory education followed by compulsory education. It goes without saying that there must be a continuum from pre-compulsory education to compulsory education.

This clause reflects the expansion of the pre-compulsory education which was started in the life of the previous Labor Government, and is now being implemented by the current Government. It is unfortunate that it has been delayed for four years. At first, this Government cut back the program, but it then realised how popular and useful it was and decided to implement it. When implementing the program, it did not look at the real issues and address the total outcomes in education. Changes in the school starting age have considerable ramifications throughout the system.

My concern is that the changes to be enshrined in clauses 5 and 6 will be major changes to the funding and delivery of education. The starting age for schooling will be younger and, in effect, the pre-compulsory education, although not compulsory, will be universally available and it will be accepted in time as the first year of school. This applies in New South Wales and Victoria where the first year is preparatory and kindergarten, but the curriculum is akin to WA's grade 1 of compulsory schooling. Of course, the development of children cannot be delayed or even forced. Education must be developmental at the early stages, and must move to more formal stages as the child is ready for it. Those first years are very crucial.

The whole system has been rejigged and it has not been thought through. The Government made the commitment, many people have worked on it, and now the Curriculum Council will try to adapt the curriculum to it. However, that has been based on the original decision to change the starting age. Unfortunately, this will result in a system that is not sustainable. The Minister has spoken of middle school and different concepts, but these have not been worked through in detail. The effect of the change is that there will be eight years of primary schooling - seven years compulsory and the first year, although pre-compulsory, will be universally available and taken up by 95 per cent of students. There will be five years of secondary schooling. This system cannot work. It must be rearranged to arrive at the current arrangement available in New South Wales and Victoria, by moving from a system of seven years of primary, including kindergarten, and six years of secondary schooling. The change in the starting age represents a major change in the education system.

Mr BARNETT: I agree that clauses 5, 6 and 7 are complicated because the Government is in the process of changing the school starting age. When that decision was made late in 1996, to apply only to children not yet born, it seemed an eternity away. However, 2001 is not far away and children entering kindergarten in that year will be the first group affected. They will move into preprimary in 2002 and compulsory education in 2003. These provisions reflect the transition to the change in the school starting age, and in due course when this Bill is reviewed or tidied up, these clauses will be deleted. It is complicated because it must cater for the transition period, and once that has gone through, these clauses can be deleted or simplified.

Mr KOBELKE: Will the Minister address the major changes that will flow through to the structure of schooling as a result of the change to starting dates? Does the Minister accept that the effect of these changes will be a move from seven years' primary schooling and five years' secondary schooling? Although there will still be only 12 years of compulsory schooling, in effect there will be eight years of primary schooling because the pre-compulsory year will be universally available and will be taken up by close to 100 per cent of students. Added to the five years of secondary schooling, that amounts to 13 years of schooling. The curriculum must be redrawn and kept appropriate by the Curriculum Council. Does the Minister accept that by the end of 2012, there will be 13 years, instead of 12 years, of formal schooling?

Mr Barnett: Yes.

Mr KOBELKE: Have any further costings been done? I asked this question three years ago and at that stage no costings had been done for the 13 years of formal schooling. I am not referring simply to implementing the program for five year old children, which will be the pre-compulsory year and will be universally available. The costing has been done for that. However, there will also be a major cost in restructuring the system. There must be a move to six years of high school education. There are between 80 and 100 high schools and district high schools in Western Australia. On one hand the district high schools will not be a problem because both the primary and secondary sections are on site, and any shift will have only minor consequences for building and restructuring.

The senior schools, of which there are about 80 in the State, were built to take five years of cohorts, and in future there will be six cohorts in senior high schools. On the other hand, primary schools have been designed for seven years of primary schooling. The pre-compulsory year normally requires specific facilities, so the rooms must be rejigged because not as many cohorts will go into the standard classrooms. The cost will be millions of dollars. Will the Minister be able to provide some detailed costings for these changes? I expect that will involve a large cost.

My concern is that huge expenditure may not in any way relate to improved quality in education. So many educational areas need more money and this Government, like any Government, is pressed to find the funds required to meet the needs in education; yet we will have this change in structure requiring huge investment simply to put the classrooms in the right clusters for those arrangements. This will also open up a range of different structures and costs will be associated with those. The additional money will not be found and it will be a rejigging of the system. If that rejigging of the system means more students will travel further, and there will be bigger schools which I believe is detrimental to quality education, we will lose out. What could be an excellent arrangement to increase the availability of education across the years will be thwarted or undermined by the lack of resources to do it properly. In order to meet the changes which these dates drive, the Government must find the funds to rejig the system. If it does not find additional funds but finds that money through so-called internal efficiencies and by rearrangements, those rearrangements could be a major detriment to the quality of education in our schools.

Mr BARNETT: The member for Nollamara raises some significant issues in education, structure and planning for the future. However, they go beyond the definitional aspects of this Bill.

Mr Kobelke: They are driven by that.

Mr BARNETT: The major structural change has been the introduction of the preprimary year with kindergarten being universally available, which has created a thirteenth year of schooling which, while not compulsory, will be universal, although in some cases it will be provided on a sessional rather than a full time basis. That cohort will begin kindergarten in 2001. As a result of the change in entry age a smaller cohort will enter schools in that year - effectively half the number of students compared with a typical year. As that group goes through the system it will generate savings, and those savings will be used to reduce class sizes, particularly in the early childhood area in addition to other measures announced. There will be a saving. However, an issue will arise when that cohort reaches year 7 and is going into year 8. That is at least a decade away, so we do not have to panic about it. I accept the member's statement that major structural issues will arise. One of the debates that is going on actively in education in Australia is the issue of middle schooling. I am persuaded by what I hear and the trend will be to see the development of middle schools. Already people are arguing, as is the case at Ballajura, that middle school will start in year 7. Children in year 7 are bigger, brighter, more advanced and more mature than they were 20 years ago.

Mr Ripper: And as a result of this they will be older.

Mr BARNETT: Yes. The emergence of middle school typically will be at year 7. Most of the new school developments that are about to occur will be largely structured around middle schools and senior colleges. I hope we have got it right. We are moving in that direction on the basis of advice. I think it is the correct advice and it will provide a better learning experience. Implicit in these changes to the starting age is a change in the transition from primary to secondary school. Most likely that will be filled by the development of middle schools. That will be at a cost, but it is a decade away.

Mr KOBELKE: The Minister does not give me any confidence that the money that must be found to meet these changes will be best spent in restructuring the system when, if the issue had been approached from a different way, we might have been able to work out that problem. I have real concerns that the Minister sees middle school as a way of fixing the economic problem rather than middle schools having an educational advantage.

Mr Barnett: No. Middle schools will be pursued for educational reasons because adolescent children or young adults need a different environment from that which a typical high school provides. We are implementing early childhood and middle schools for educational reasons. I do not do anything in education other than for educational reasons. The member may disagree, but that is the guiding philosophy. We cannot ignore money.

Mr KOBELKE: I hope that is true. However, I see the dollar driving these changes, and not education. Private schools are seen by some people to have advantages, to be leaders in education and to provide a high quality of education. Private schools mix their students for periods from years 8 through to years 12. Their primary schools operate a buddy system in which year 7 students mix with preprimary and year 1 students. Private schools make a virtue and advantage of having that wide age group. I realise there are some advantages in providing specific programs and specific school climates for some groups. However, there are also great strengths in mixing of ages, so that students learn from the older students and the school builds up its own ethos and traditions. That can be seen as important to the whole of education. If we go to a middle school that is exclusive, we kill all of that.

The Minister may say that our curriculum is specifically directed at students in years 7, 8 and 9. That provides certain advantages because we have a homogenous group and we can have teachers and curriculum aimed at that group. I accept the advantages in that. However, my concern is that education is much bigger than that and the Minister needs to ensure he is developing children through all the years at school so they have a sense of belonging, that it is their school and do not see themselves tossed from one school to another because they spend a few years in one school and then have to swap school because they go into a different age group or seek another school because it offers the courses they want. That smorgasbord approach to education that says by restructuring things -

Mr Barnett: Middle schools, where they will be established, will be constituted in the framework of a senior college. It may be a two campus school. The member is promoting extremely large schools. He was arguing against larger schools a few weeks ago.

Mr KOBELKE: I am not promoting large schools.

Mr Barnett: The member referred to schools offering from kindergarten to year 12. If that were done in the metropolitan context, the school would have 3 000 students.

Mr KOBELKE: I did not say any such thing. I said that some private schools do that by keeping their numbers down. I have no difficulty experimenting with middle schools. However, if because of cost pressures the whole system is driven towards middle schools, it will be a great detriment to our education system. Although middle schools have things to offer that are worth looking at, the Minister is setting up a whole system in which costs will run into perhaps $100m, which any Government would find difficult to find without some sort of economic compromise. Middle schools may be seen as an economic compromise and that will be deleterious to the quality of education. That is many years off. However, the Minister has set in train by the dates that he is placing on the school starting age in this Bill a huge engine that will start down the track. As the Minister said, he has not yet worked out what will happen in 10 years when that hits. My concern is that regardless of who is the Government at that stage the costs of catering for that will be so large that the Government will be driven to do it by the cheapest possible means because the Minister has not thought out how it will be handled. It is a huge issue.

Clause put and passed.

Clauses 6 to 8 put and passed.

Progress reported.

BILLS (2) - RECEIPT AND FIRST READING

1. Supreme Court Amendment Bill.

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

2. Government Railways Amendment Bill.

   Bill received from the Council; and, on motion by Mr Omodei, (Minister for Local Government), read a first time.

INDUSTRY AND TECHNOLOGY DEVELOPMENT BILL

Returned

Bill returned from the Council with an amendment.

COUNTRY HOUSING BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

House adjourned at 11.54 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

DEATH PENALTY REFERENDUM

3005. Mr BROWN to the Premier:

(1) Is the Premier aware of a call by Pauline Hanson's One Nation Party to have the death penalty reintroduced?

(2) If so, is the Premier aware of comments made by the Deputy Prime Minister that the proposal by One Nation to have a State by State referendum on the issue was a desperate bid for publicity by Ms Hanson?

(3) Does the Premier intend to initiate any action to call a referendum on the reintroduction of the death penalty?

(4) If so, when?

(5) If not, why not?

Mr COURT replied:

(1)-(2) Yes.

(3) No.

(4) Not applicable.

(5) A referendum would only be held if the Government was convinced there was sufficient public support for such an action.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3023. Mr BROWN to the Minister for the Environment; Employment and Training:

(1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?

(2) Have any plans been made to contract such work out over the course of 1998?

(3) What work is planned to be contracted out?

(4) Has any department or agency contracted any work out since 1 July 1997?

(5) What work has been contracted out?

Mrs EDWARDES replied:

(1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3026. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?

(2) Have any plans been made to contract such work out over the course of 1998?

(3) What work is planned to be contracted out?

(4) Has any department or agency contracted any work out since 1 July 1997?

(5) What work has been contracted out?

Mr SHAVE replied:

(1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3035. Mr BROWN to the Minister representing the Minister for the Arts:

(1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?

(2) Have any plans been made to contract such work out over the course of 1998?

(3) What work is planned to be contracted out?

(4) Has any department or agency contracted any work out since 1 July 1997?

(5) What work has been contracted out?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

(1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3037. Mr BROWN to the Minister representing the Attorney General:

(1) In any of the departments or agencies under the Attorney General's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?

(2) Have any plans been made to contract such work out over the course of 1998?

(3) What work is planned to be contracted out?

(4) Has any department or agency contracted any work out since 1 July 1997?

(5) What work has been contracted out?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector

workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3039. Mr BROWN to the Parliamentary Secretary to the Minister for Justice:

(1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?

(2) Have any plans been made to contract such work out over the course of 1998?

(3) What work is planned to be contracted out?

(4) Has any department or agency contracted any work out since 1 July 1997?

(5) What work has been contracted out?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(5) I refer the member to my answer to Question on Notice 3037.

LEGAL AID - EFFICIENCY REVIEW

3049. Ms WARNOCK to the Minister representing the Attorney General:

(1) Is it the case that an "Efficiency Review" is being carried out at Legal aid?

(2) If so, what are its terms of reference?

(3) What is the purpose of the review?

(4) When is it expected to report?

(5) Will the results be made public?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1)-(3) A Review Committee was established as a result of a Cabinet decision of 14 July 1997 to approve additional funding for the Legal Aid Commission for 1997/98 based on 1995/96 service levels. Part of the Cabinet decision was that the Review Committee examine the Commission’s methods of operations and report to the Premier and the Attorney General. It was to be an open ended and wide ranging review by the Committee of any area of the Commission’s operations where there was the potential for that function to be performed more effectively and efficiently. The Committee has been identifying potential areas of cost savings both on a short term basis and those which will have a longer term effect. The Attorney General’s note of 18 July 1997 to all staff of the Commission stated that it was expected that efficiencies to be introduced would enable services to be performed at a lower cost.

The Review Committee was also required to report on the final amount of additional funding recommended for the 1997/98 financial year.

The Review Committee consists of Mr Mike Harris, Assistant Under Treasurer, Financial Management, Ms Judy Eckert, Senior Assistant Crown Solicitor, and Mr Les Smith, AM, Consultant in the Ministry of Justice.

(4)-(5) The Committee produced an interim report on 15 December 1997. [See paper No 1355.]

The Committee is planning to present its final report to the Premier and Attorney General by the end of April 1998. Tabling of the final report will be considered after it has been presented.

MINISTER FOR HEALTH - ALBANY ELECTORATE OFFICE

3100. Mr McGINTY to the Premier:

(1) Is the Minister for Health proposing to move to a new electorate office in Albany?

(2) If yes to (1) above -

(a) what is the estimated cost of the relocation; and

(b) does the Government intend to retain the lease over the Minister's existing electorate office and if so what is the extra annual cost?

Mr COURT replied:

(1) The member for Albany is moving to a new electorate office.

(2) (a) Approximately $45,000.
(b) No.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3145. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Mr HOUSE replied:

AGRICULTURE WESTERN AUSTRALIA

(1) Minister - 1.
Agriculture Western Australia - 1.

(2) Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ).
Standing Committee on Agriculture and Resource Management (SCARM).

(3) Yes.

(4)-(5) No.

FISHERIES WESTERN AUSTRALIA

(1) Minister - 1.

(2) Ministerial Council on Forestry, Fisheries and Aquaculture (MCFFA).

(3) Yes.

(4)-(5) No.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3149. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Mr SHAVE replied:

DEPARTMENT OF LAND ADMINISTRATION

(1) Seven.

(2) (a) Reciprocating Surveyors Board of Australia and New Zealand.
(b) Intergovernmental Committee on Surveying and Mapping (ICSM).
(c) WA Government/Defence Department Coordinating Committee.
(d) Australasian Land Administrators' Conference (ALAC).
(e) Australia New Zealand Land Information Council (ANZLIC).
(f) ANZLIC Advisory Committee.
(g) Committee on Geographic Names Australia.

(3)-(4) Yes.

(5) (a) Not applicable.

(b) (i) Review terms of reference (coordination, standards).
(ii) 1988.

(c)-(g) Not applicable.

LANDCORP

(1) None.

(2)-(5) Not applicable

MINISTRY OF FAIR TRADING

(1) Seven.

(2) (a) Ministerial Council on Consumer Affairs (MCCA).
(b) Standing Committee of Officials on Consumer Affairs (SCOCA).
(c) Fair Trading Operations Advisory Committee (FTOAC).
(d) Consumer Products Advisory Committee (CPAC).
(e) Consumer Education Advisory Committee (CEAC).
(f) Trade Measurement Advisory Committee (TMAC).
(g) National Vehicle Register Working Party.

(3) Yes.

(4) No.

(5) Not applicable.

WESTERN AUSTRALIA ELECTORAL COMMISSION

(1) One.

(2) The Australia Joint Roll Council.

(3) Yes.

(4) No.

(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3150. Mr BROWN to the Minister for Housing; Aboriginal Affairs; Water Resources:

(1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Dr HAMES replied:

(1) Five.

(2) National Housing Minister's Conference.
Agriculture and Resource Management Council of Australia and New Zealand.
Task Force on Council of Australian Government Water Reform.
Ministerial Council for Aboriginal and Torres Strait Islander Affairs.
National Aboriginal Justice Advisory Council.

(3) Yes.

(4) No.

(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3151. Mr BROWN to the Minister for Local Government; Disability Services:

(1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Mr OMODEI replied:

With respect to the Department of Local Government

(1) Four.

(2) (i) Local Government Minister's Conference.
(ii) Local Government Joint Officer's Group.
(iii) Australian Building Codes Board.
(iv) National Consultative Committee on Animal Welfare.

(3) (i) Once.
(ii) Twice.
(iii) Quarterly.
(iv) Once per year

(4) No.

(5) Not applicable.

With respect to the Disability Services Commission

(1) Two.

(2) Meetings of Ministers responsible for Disability Services (to renegotiate Commonwealth/State Disability Agreement (CSDA));

The Disability Services Sub-Committee (DSSC) of the Standing Committee of Community Services and Income Security Administrators (SCCSISA).

(3) Yes.

(4) Not to my knowledge.

(5) Not applicable.

With respect to the Keep Australia Beautiful Council

(1) None.

(2)-(5) Not applicable.

With respect to the Metropolitan Cemeteries Board

(1)-(5) Not applicable.

With respect to the Fremantle Cemeteries Board

(1)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3160. Mr BROWN to the Minister representing the Attorney General:

(1) How many national policy bodies does the Attorney General and each of the departments and agencies under the Attorney General's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Attorney General and/or any of the departments or agencies under the Attorney General's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Mr PRINCE replied:

The Attorney General has provided the following reply:

Ministry of Justice (including Crown Solicitor’s Office)

(1) Six.

(2) Standing Committee of Attorneys General (SCAG)
Ministerial Council for Corporations (MINCO)
Ministerial Council for Financial Institutions (MINFIN)
National Corrections Administrators Conference
Ministerial Council on the Administration of Justice
Australasian Juvenile Justice Administrators

(3) Yes.

(4) No.

(5) Not applicable.

Director of Public Prosecutions

(1) None.

(2)-(5) Not applicable.

Equal Opportunity Commission

(1) None.

(2)-(5) Not applicable.

Law Reform Commission

(1) None.

(2)-(5) Not applicable.

Legal Aid

(1) One.

(2) National Legal Aid.

(3) 3 to 4 times per year.

(4) No.

(5) Not applicable.

Office of the Information Commissioner

(1) None.

(2)-(5) Not applicable.

Solicitor General

(1) None.

(2)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3162. Mr BROWN to the Parliamentary Secretary to the Minister for Justice:

(1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?

(2) What is the name of each policy body?

(3) Does each policy body meet on one or more occasions during the calendar year?

(4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?

(5) If so -

(a) what was the nature of the submission made;
(b) when was the submission made?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(5) I refer the member to my answer to Question on Notice 3160.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3176. Mr GRAHAM to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) Has any organisation within the Deputy Premier's portfolio area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;

(b) which organisation made the application;

(c) how many applications were made;

(d) how much funding is each application seeking;

(e) what amount of state funding is committed to each application;

(f) which other State bodies are joint applicants;

(g) which other State bodies have an interest in each application;

(h) on what date was each application submitted;

(i) has the Deputy Premier sought discussion with the Federal Minister to support each application;

(j) which Federal Members of Parliament have supported each application;

(k) will the Deputy Premier make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr COWAN replied:

Department of Commerce & Trade

(1) Yes.

(2) (a) Application 1 consisted of four components, being -

(i) To fund the Western Australia Telecentre Network Extension to 100 sites on a dollar for dollar basis with the State Government.

(ii) To upgrade Westlink sites to Telenodes (community based sites in centres less than 200 people linked to manned Telecentres).

(iii) To provide Portable Communication Units to isolated communities.

(iv) To establish an Internet Assistance Fund.

Application 2 is to provide a TeleYOUTH Network in which a youth coordinator will be engaged by every Telecentre.

(b) The Department of Commerce and Trade.

(c) Two

(d) Application 1 sought and was approved.

(i) Funding of $1.6m.

(ii) In principle funding of $1m.

(iii) Funding of $1.8m, with $200 000 being made available for trial and evaluation and a further $1.6m being approved in principle for additional Units if the trial is satisfactory.

(iv) In principle funding of $500 000 with the take-up date being 1 January 1999.

Application 2 seeks funding of $260 000 towards a project cost of $360 000.

(e) Application 1 -

(i) $1.6m during the period 1997-98 - 1999-2000.

(ii)-(iv) Nil.

Application 2 -

(f) No other State bodies are joint applicants in either application.

(g) Westlink, based in Contract and Management Services, has an interest in components (i)-(iii) of Application 1.

No other State body has an interest in Application 2.

(h) Application 1 - 2 September 1997.
Application 2 - 2 February 1998.

(i) No.

(j) None.

(k) Yes. Copies can be viewed by arrangement with the Department of Commerce and Trade.

(3) Not applicable.

Small Business Development Corporation

(1) No.

(2) Not applicable.

(3) An application for the funding under the Commonwealth Regional Telecommunications Infrastructure Fund is not appropriate for the Small Business Development Corporation at this time.

Perth International Centre for Application of Solar Energy

(1) No.

(2) Not applicable.

(3) This program is not considered a priority for the Perth International Centre for Application of Solar Energy.

Gascoyne Development Commission

(1) Yes.

(2) (a) Extension of Gascoyne Region broadcasting services.

(b) Gascoyne Development Commission.

(c) One.

(d) $150,000.

(e)-(g) Nil.

(h) 12 August 1997.

(i) No.

(j) None.

(k) Yes. Copies can be viewed by arrangement with the Gascoyne Development Commission.

(3) Not applicable.

Goldfields Esperance Development Commission

(1)-(3) As a joint applicant with the Wheatbelt Development Commission and the Great Southern Development Commission, the information is provided in the response for the Wheatbelt Development Commission.

Great Southern Development Commission

(1)-(3) As a joint applicant with the Wheatbelt Development Commission and the Goldfields Esperance Development Commission, the information is provided in the response for the Wheatbelt Development Commission.

Kimberley Development Commission

(1) Yes.

(2) (a) To enable the Kimberley Development Commission to attract a telecommunications carrier to establish and maintain digital mobile telephone services in the townships of Halls Creek and Fitzroy Crossing.

(b) Kimberley Development Commission.

(c) One.

(d) $345 000.

(e) $10 000.

(f)-(g) Nil.

(h) 4 February 1998.

(i) No.

(j) None.

(k) Yes. Copies can be viewed by arrangement with the Kimberley Development Commission.

(3) Not applicable.

Midwest Development Commission

(1) No.

(2) Not applicable.

(3) As part of their Regional Economic Development Strategy, the Mid West Development Commission identified communications as a priority area. As such, a community working group, the Mid West Communications Working Group, was established by the Commission who also provides executive support. The Working Group is currently finalising a Communications Strategy for the region. The Working Group has supported two applications to the RTIF from the Mid West Region and provides input to community groups considering applying to the RTIF.

Peel Development Commission

(1) Yes.

(2) (a) (i) Peel Online Communications Infrastructure Report and Development Strategy.

(ii) Peel Rural Innovations Centre.

(iii) Electronic Commerce in the Peel Region.

(b) Peel Development Commission.

(c) Three.

(d) (i) $10 000.
(ii) $85 000.
(iii) $447 000.

(e) (i) $20 000.
(ii) $30 000.
(iii) $50 000.

(f) (i) Department of Commerce and Trade.
(ii) Agriculture Western Australia.
(iii) None.

(g) (i) All State Government agencies in Peel.
(ii) Department of Commerce and Trade, Ministry for Planning.
(iii) Department of Commerce and Trade, TAFE, Ministry for Planning, Tourism.

(h) (i) 30 January 1998.
(ii) 27 January 1998.
(iii) 30 January 1998.

(i) No.

(j) None.

(k) Yes. Copies can be viewed by arrangement with the Peel Development Commission.

(3) Not applicable.

Pilbara Development Commission

(1) No.

(2) Not applicable.

(3) The Pilbara Development Commission is presently consulting within the region about telecommunications needs as part of a broader analysis of infrastructure needs. The Pilbara Development Commission intends to submit an application for funds from the Telecommunications Infrastructure Fund when this regional consultative process has been completed and gaps in telecommunications have been identified.

South West Development Commission

(1) Yes.

(2) (a) South West Region Telecommunications Infrastructure Audit and Opportunities Study.
(b) South West Development Commission.
(c) One.
(d) $15 000.
(e) $15 000.
(f) Nil.
(g) The Department of Commerce and Trade.
(h) 2 January 1998.
(i) No.
(j) None.
(k) Yes. Copies can be viewed by arrangement with the South West Development Commission.

(3) Not applicable.

Wheatbelt Development Commission

(1) Yes.

(2) (a) The application was made for the purpose of undertaking a project to facilitate communities' awareness of opportunities in the telecommunications field while assessing their future demand for services and infrastructure.

(b) The application was made by the Wheatbelt Development Commission on behalf of the Goldfields-Esperance Development Commission, the Great Southern Development Commission and the Wheatbelt Development Commission.

(c) One.

(d) $220 000.

(e) $20 000 in cash and $30 000 officer time and administrative support for the duration of the project.

(f)-(g) See (b) above.

(h) 5 September 1997.

(i) No.

(j) None.

(k) Yes. Copies can be viewed by arrangement with the agency concerned.

(3) Not applicable.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3178. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) Has any organisation within the Minister's - area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;
(b) which organisation made the application;
(c) how many applications were made;

(d) how much funding is each application seeking;
(e) what amount of state funding is committed to each application;
(f) which other State bodies are joint applicants;
(g) which other State bodies have an interest in each application;
(h) on what date was each application submitted;
(i) has the Minister sought discussion with the Federal Minister to support each application;
(j) which Federal Members of Parliament have supported each application;
(k) will the Minister make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr HOUSE replied:

AGRICULTURE WESTERN AUSTRALIA

(1)-(3) Agriculture Western Australia has over the last few years, established a statewide communication network. The Agency is aware of the "Networking the Nation" program and is investigating the appropriateness of submitting an application targeted at extending our existing network infrastructure.

FISHERIES WESTERN AUSTRALIA

(1)-(3) Fisheries Western Australia was not aware of this funding source. Consideration will be given to submissions in future rounds.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3181. Mr GRAHAM to the Minister for Labour Relations; Planning; Heritage:

(1) Has any organisation within the Minister's portfolio area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;

(b) which organisation made the application;

(c) how many applications were made;

(d) how much funding is each application seeking;

(e) what amount of state funding is committed to each application;

(f) which other State bodies are joint applicants;

(g) which other State bodies have an interest in each application;

(h) on what date was each application submitted;

(i) has the Minister sought discussion with the Federal Minister to support each application;

(j) which Federal Members of Parliament have supported each application;

(k) will the Minister make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr KIERATH replied:

Labour Relations:

Department of Productivity and Labour Relations
(1) No.

(2) Not applicable.

(3) The Department of Productivity and Labour Relations has had no need to make such application.

Commissioner of Workplace Agreements
(1) No.

(2) Not applicable.

(3) It was not appropriate to the situation of the Commissioner of Workplace Agreements.

WorkSafe Western Australia
(1) No.

(2) Not applicable.

(3) The Fund does not have a direct application to the activities of WorkSafe Western Australia.

WorkCover Western Australia
(1) No.

(2) Not applicable.

(3) WorkCover WA made no application as it does not appear to meet the funding priorities and criteria.

Department of the Registrar - WA Industrial Relations Commission
(1) No.

(2) Not applicable.

(3) The WAIRC is focussed on other business issues. If it requires regional telecommunication it purchases services from the appropriate providers.

Planning:

Ministry for Planning
(1) No.

(2) Not applicable.

(3) It is not considered appropriate for the Ministry for Planning to directly apply for such grant funds.

Subiaco Redevelopment Authority
(1) No.

(2) Not applicable.

(3) The grant does not apply to the operations of the Subiaco Redevelopment Authority.

East Perth Redevelopment Authority
(1) No.

(2) Not applicable.

(3) Not relevant to the East Perth Redevelopment Authority.

Heritage:

Heritage Council of WA
(1) No.

(2) Not applicable.

(3) The core business of the Heritage Council of WA does not include telecommunication infrastructure, technology services, awareness, training or employment.

SCOTT RIVER NATIONAL PARK - WATER PIPE INSTALLATION

3253. Dr EDWARDS to the Minister for the Environment:

(1) Who gave permission for a pipe to be placed in the Scott National Park transporting water from the Scott River to Beenyup?

(2) When was permission given?

(3) When was the pipe installed?

(4) Was advice sought from the National Parks (NP) and Nature Conservation Authority (NCA) about the pipe?

(5) If yes, when and what was the NP and NCA's response?

(6) If not, why not?

(7) What volume of water is intended to be transported?

(8) When will use of the pipe cease?

Mrs EDWARDES replied:

(1) CALM Busselton District office.

(2) 11 November 1997.

(3) Installation of the pipeline commenced on 11 November 1997 and was completed within two days.

(4) No.

(5) Not applicable.

(6) The pipe was temporarily laid over existing tracks and there were no environmental impacts.

(7) 80 350 cubic metres approved of by the Water and Rivers Commission.

(8) Pumping ceased on 6 December 1997.

GUARDED SCHOOL CROSSINGS

3299. Ms MacTIERNAN to the Minister for Police:

(1) How many new guarded school crossings were provided with funding in 1997?

(2) What were the schools whose applications led to the additional funding and when was each of the relevant applications made?

Mr DAY replied:

(1) Six. There were four new type 'A' Children's Crossings installed with a further two existing Type 'B' Children's Crossing facilities being upgraded to Type 'A' status.

(2) Greenwood Primary School, September 19, 1996.
Leda Primary School, October 30, 1996.
Sutherland Dianella Primary School, January 22, 1997.
John Forrest Senior High School, February 4, 1997.
Perth Modern School, July 1, 1997.
Corpus Christi College, August 8, 1997.

All of the above Crossings were funded using existing Western Australia Police Service budget allocations.

MR IAN FLETCHER

Employment at Ministry of the Premier and Cabinet

3322. Mr RIEBELING to the Premier:

With regard to the employment of the Premier's Chief of Staff, Ian Fletcher:

(a) when was he employed;

(b) what position at the Premier's Department does he occupy;

(c) was the position advertised and if so when;

(d) what is the term of Mr Fletcher's contract;

(e) what is his annual remuneration; and

(f) is Mr Fletcher's salary paid to a company and, if yes, what is the name of the company?

Mr COURT replied:

(a)-(e) Mr Fletcher was employed for a 5 year period as my Chief of Staff, commencing 16 August 1993. The position was not advertised. Mr Fletcher is employed at the same rate of remuneration as officers employed

at the classification of Special 6 - $129,958 salary, plus 20% loading in lieu of continuity of employment, plus superannuation and a vehicle (or equivalent value) as determined by the Salaries and Allowances Tribunal.

(f) No.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Allocation and Guidelines

3355. Mr RIPPER to the Minister for Health:

(1) How many staff in the departments and agencies under the Minister's control have been allocated Corporate Credit Cards?

(2) Is there a policy in place to guide staff in the use of these credit cards?

(3) If yes to (2) above, where is this policy published?

(4) If no to (2) above, why not?

Mr PRINCE replied:

Health Dept of WA

(1) The number of Corporate Credit Cards issued to staff within the Health Department Corporate Office is 147. In terms of Health Services Statewide, this information has been sought and will be forwarded as soon as it is available.

(2) A Corporate Credit Card policy and guidelines does exist for the Corporate Office and has been recently updated to reflect current practices.

(3) The Policy and guidelines is available on the Health Department's Intranet and the Accounting Manual. Also a hard copy of this policy and guidelines is to be issued to all General Managers.

(4) Not applicable.

Alcohol and Drug Authority

(1) Two - General Manager and Library Services.

(2) Yes. Treasurers Instruction 321 of 4 July 1997.

(3) Financial Administration and Audit Act 1993 (FAAA).

(4) Not applicable.

Office of Health Review

(1) Two.

(2) Yes.

(3) The Corporate credit card policy and guideline is published in the Health Department of WA's Accounting Manual, and this document can be accessed on the Health Department of WA's Intranet.

(4) Not applicable.

Healthway

(1)-(4) Healthway does not issue credit cards.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Allocation and Guidelines

3361. Mr RIPPER to the Minister representing the Minister for the Arts:

(1) How many staff in the departments and agencies under the Minister's control have been allocated Corporate Credit Cards?

(2) Is there a policy in place to guide staff in the use of these credit cards?

(3) If yes to (2) above, where is this policy published?

(4) If no to (2) above, why not?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

Ministry for Culture & the Arts

(1) One.

(2) Yes.

(3) Ministry Accounting Manual.

ArtsWA

(1) Two.

(2) Yes.

(3) Policies and Procedures Manual.

Library & Information Service of WA

(1) Four.

(2) Yes.

(3) The policy is available to all LISWA staff as an official internal policy. An electronic version will be placed on LISWA's intranet. Each cardholder is provided with a copy of the policy.

(4) Not applicable.

Western Australian Museum

(1) 89.

(2) Yes.

(3) Accounting Manual and signed by all card holders as being read and understood.

(4) Not applicable.

Art Gallery of Western Australia

(1) Four.

(2) Yes.

(3) The Policy on use of Corporate Cards is incorporated into an agreement signed by each holder of a card. The Art Gallery will shortly adopt the Ministry for Culture & the Arts Corporate Card policy which will be provided to each cardholder.

Perth Theatre Trust

(1) One.

(2) Yes.

(3) The policy followed by the Perth Theatre Trust is in line with the Treasurers Instruction No 321, published in the FAAA Act.

Screen West

(1) Three.

(2) Yes.

(3) Ministry for Culture & The Arts Buying Procedures.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Allocation and Guidelines

3363. Mr RIPPER to the Minister representing the Attorney General:

(1) How many staff in the departments and agencies under the Attorney General's control have been allocated Corporate Credit Cards?

(2) Is there a policy in place to guide staff in the use of these credit cards?

(3) If yes to (2) above, where is this policy published?

(4) If no to (2) above, why not?

Mr PRINCE replied:

The Attorney General has provided the following reply:

Director of Public Prosecutions

(1) Four.

(2) Yes.

(3) The policy is published in the Ministry of Justice Financial Resources Manual.

(4) Not applicable.

Equal Opportunity Commission

(1) Four.

(2) Yes.

(3) The policy is published by the Ministry of Justice.

(4) Not applicable.

Law Reform Commission

(1) Nil.

(2)-(4) Not applicable.

Legal Aid WA

(1) Three.

(2) Yes.

(3) Instructions and procedures will form part of the updated Finance Section Accounts Manual.

(4) Not applicable.

Ministry of Justice (inc Crown Solicitor’s Office)

(1) 144.

(2) Yes.

(3) The Corporate Credit Card Policy forms part of the Ministry of Justice Accounting Manual.

(4) Not applicable.

Office of the Information Commissioner

(1) Three.

(2) Yes.

(3) The Corporate Credit Card Policy forms part of the Accounting manual.

(4) Not applicable.

Solicitor General's Office

(1) Two.

(2) Yes.

(3) The Ministry of Justice Corporate Credit Card Users' Manual.

(4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Allocation and Guidelines

3365. Mr RIPPER to the Parliamentary Secretary to the Minister for Justice:

(1) How many staff in the departments and agencies under the Minister's control have been allocated Corporate Credit Cards?

(2) Is there a policy in place to guide staff in the use of these credit cards?

(3) If yes to (2) above, where is this policy published?

(4) If no to (2) above, why not?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(4) I refer the member to my answer to Question on Notice 3363.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3374. Mr RIPPER to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Minister -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Mr SHAVE replied:

DEPARTMENT OF LAND ADMINISTRATION

(a)-(b) Corporate credit card expenditure transactions are verified and certified by authorised officers within the Department of Land Administration in accordance with the Financial Administration and Audit Act. In addition to this, specified positions within the Department monitor usage of corporate credit cards and ensure they comply with the Department's Use of Corporate Credit Card policy. A manual check of all credit card receipts against bank statements is undertaken by the appropriate officer.

(c) Yes.

LANDCORP

(a)-(b) Corporate credit card expenditure transactions are verified and certified by authorised officers within LandCorp in accordance with the Financial Administration and Audit Act. In addition to this, these supports are in turn matched with the monthly statement and any anomalies brought to the attention of the Manager Administrative Services.

(c) Yes.

MINISTRY OF FAIR TRADING

(a)-(b) Corporate credit card expenditure transactions are verified and certified by authorised officers within the Ministry of Fair Trading in accordance with the Financial Administration and Audit Act. In addition to this,

all transactions on the credit card statements are matched monthly with credit card slips together with any available supporting documentation. This information is crosschecked by the Finance Officer.

(c) Yes.

WESTERN AUSTRALIAN ELECTORAL COMMISSION

(a)-(b) Corporate credit card expenditure transactions are verified and certified by authorised officers within the Western Australian Electoral Commission in accordance with the Financial Administration and Audit Act.

(c) A register is not required due to the small number of credit cards held within the Commission.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3375. Mr RIPPER to the Minister for Housing; Aboriginal Affairs; Water Resources:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Minister -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Dr HAMES replied:

(a) Monthly statements are checked against cardholder transactions to ensure that policy is adhered to.

(b) Reconciliation against supporting documentation.

(c) Yes.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3376. Mr RIPPER to the Minister for Local Government; Disability Services:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Minister -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Mr OMODEI replied:

With respect to the Department of Local Government

(a) Corporate Services Officers monitor each type of expenditure.

(b) There is a payment process used by Incurring and Certifying Officers and the Manager, Corporate Services.

(c) Yes.

With respect to the Fremantle Cemetery Board

(a)-(c) Not applicable. There are no corporate cards allocated to FCB officers.

With respect to the Metropolitan Cemeteries Board

(a) Designated Finance Officers check accounts usage against card holder's delegation.

(b) Internal comparison of account against required documentation for card holder.

(c) Yes.

With respect to the Disability Services Commission

(a) All transactions are monitored centrally for compliance to policy by reference to reports and transaction data provided by the bank.

(b) All transaction dockets are verified by the card holder's supervisor and then these are checked off against the transaction reports provided by the bank.

(c) Yes.

With respect to the Keep Australia Beautiful Council

(a)-(c) Not applicable. There are no Corporate Credit Cards allocated to KABC officers.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3383. Mr RIPPER to the Minister representing the Minister for the Arts:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Minister -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

Ministry for Culture & the Arts

(a) Checking Officer and Incurring Officer.
(b) User attaches receipts and supporting documents.
(c) Yes.

ArtsWA

(a) Checking Officer and Incurring Officer.
(b) User attaches receipts and supporting documents.
(c) Yes.

Library & Information Service of WA

(a)(b) Expenses incurred on corporate cards are reviewed by the cardholders' supervisors and also by Incurring and Certifying Officers within the agency. Supporting documentation must accompany the invoices prior to payment. It is planned to incorporate a review of corporate card usage into the internal audit program.

(c) Yes.

Western Australian Museum

(a) The cardholder’s supervisor ensures and vets all expenditure on monthly statements.
(b) The authorising officer (Departmental head) verifies monthly transactions.
(c) Yes.

Art Gallery of Western Australia

(a) All transactions are independently checked by the Principal Accounting Officer for compliance with the Art Gallery’s Corporate Credit Card policy.

(b) The cardholder must prepare a voucher for each transaction which is then verified against the Corporate Card statement.

(c) Yes.

Perth Theatre Trust

(a) All transactions for the single credit card used by the Perth Theatre Trust are authorised by the Chief Executive Officer and subject to normal internal controls.

(b) Credit card dockets (containing relevant purchase details) are used as supporting documentation for transactions listed on credit card statements.

(c) As there is only one corporate card issued for use by the Perth Theatre Trust a register is not kept. However, where a card is cancelled notification is given to the appropriate officer to monitor any unauthorised activity.

Screen West

(a) Monitoring is managed through the accounts processing and certifying procedures.
(b) Transactions are verified through the management of the monthly accounts.
(c) Yes.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3385. Mr RIPPER to the Minister representing the Attorney General:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Attorney General -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Mr PRINCE replied:

The Attorney General has provided the following reply:

Director of Public Prosecutions

(a) The Office of the Director of Public Prosecutions has restricted the availability of corporate credit cards to four key personnel. This minimises the risk of misuse of credit cards. Each cardholder is required to sign an undertaking which sets out the terms and conditions of use.

(b) Procedures are in place where vouchers and records for all corporate card transactions are delivered by the cardholder to a DPP accounting assistant immediately after each transaction along with a form detailing the nature of the transaction. All individual transactions are checked against the credit card account submitted monthly by the card provider. All accounts are checked and signed by a DPP Incurring Officer and are verified by a Certifying Officer employed by the Ministry of Justice.

(c) Yes.

Equal Opportunity Commission

(a) It is checked by an Incurring Officer.
(b) Transactions are certified by the Administrative Assistant.
(c) Yes.

Law Reform Commission

(a)-(c) There are no Corporate Credit Cards issued to staff within the Law Reform Commission.

Legal Aid Commission

(a)-(b) Daily reconciliation and third party verification of credit card use.
(c) Yes.

Ministry of Justice, Solicitor General's Office, Crown Solicitor's Office and Office of the Information Commissioner

(a) The Corporate Credit Card Manual forms part of the Accounting Manual which specifies:

authority to issue Corporate Credit Cards;
expenditure which may be incurred using Corporate Credit Cards;
spending limits; and
authority in clearance of outstanding Corporate Credit Card balances.

(b) Cost Centre Managers must ensure that the cardholder has reconciled each month with transaction dockets against the corporate credit card statement, that the expenditure is authorised and that all internal transfers have been authorised by an authorised Incurring Officer who is not the cardholder. Monthly statements of each cardholder's purchases are scrutinised to ensure compliance with credit card purchasing policy.

(c) Yes.

GOVERNMENT DEPARTMENTS AND AGENCIES

Corporate Credit Card Monitoring

3387. Mr RIPPER to the Parliamentary Secretary to the Minister for Justice:

In relation to use of Corporate Credit Cards in departments and agencies under the control of the Minister -

(a) what type of monitoring mechanism is in place to ensure that policy regarding usage of these cards is being adhered to;

(b) what system is used to verify transactions; and

(c) is a register of issued and cancelled cards maintained in each department and agency?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(a)-(c) I refer the member to my answer to Question on Notice 3385.

SALE OF GOVERNMENT ASSETS OVER $1 MILLION

3419. Dr GALLOP to the Minister for Housing; Aboriginal Affairs; Water Resources:

Will the Minister provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of $1 million or more -

(a) name and nature of the asset;
(b) date sold;
(c) nature of sale and name of buyer;
(d) proceeds received from the asset;
(e) associated revenue from the sale, such as stamp duty;
(f) the application of the funds received; and
(g) any associated costs incurred in the sale process?

Dr HAMES replied:

Response relates to Water Corporation:

(a) (i) Welshpool Depot Kew Street, Welshpool Lot 4, Pt Lot 406.
(ii) Welshpool Depot Kew Street, Welshpool Lot 21, 403, 404.
(iii) Canning Vale Wastewater Treatment Works Magnet Road, Canning Vale Lot 71, 92.

(b) (i) 25 June 1996.
(ii) 1 July 1996.
(iii) 20 June 1997.

(c)-(d) This information is commercial in confidence.

(e) Stamp duty is not known. It was paid by the buyer to Government State Revenue.

(f) Funds were paid into Corporate Revenue.

(g) This information is commercial in confidence.

SALE OF GOVERNMENT ASSETS OVER $1 MILLION

3427. Dr GALLOP to the Minister representing the Minister for the Arts:

Will the Minister provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the

Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of $1 million or more -

(a) name and nature of the asset;
(b) date sold;
(c) nature of sale and name of buyer;
(d) proceeds received from the asset;
(e) associated revenue from the sale, such as stamp duty;
(f) the application of the funds received; and
(g) any associated costs incurred in the sale process?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

(a)-(g) No agency within the Arts portfolio has sold any asset which had a sale value in excess of $1 million.

SALE OF GOVERNMENT ASSETS OVER $1 MILLION

3429. Dr GALLOP to the Minister representing the Attorney General:

Will the Attorney General provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of $1 million or more -

(a) name and nature of the asset;
(b) date sold;
(c) nature of sale and name of buyer;
(d) proceeds received from the asset;
(e) associated revenue from the sale, such as stamp duty;
(f) the application of the funds received; and
(g) any associated costs incurred in the sale process?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(a)-(g) Nil.

SALE OF GOVERNMENT ASSETS OVER $1 MILLION

3431. Dr GALLOP to the Parliamentary Secretary to the Minister for Justice:

Will the Minister provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of $1 million or more -

(a) name and nature of the asset;
(b) date sold;
(c) nature of sale and name of buyer;
(d) proceeds received from the asset;
(e) associated revenue from the sale, such as stamp duty;
(f) the application of the funds received; and
(g) any associated costs incurred in the sale process?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(a)-(g) I refer the member to my answer to Question on Notice 3429.

ARGENTINE ANTS

3445. Mr BRADSHAW to the Minister for Primary Industry:

(1) Is the spread of Argentine ants in Western Australia being monitored?

(2) If yes, what is the increase in area in the last five years?

(3) At what stage are the investigations and trials to contain or eradicate Argentine ants in Western Australia?

Mr HOUSE replied:

(1) The locations of Argentine ants, identified as a result of samples submitted by the public, are recorded. There is no systematic program to monitor the spread of infestations.

(2) The area infested with Argentine ants in not known.

(3) Trials have demonstrated that a bait developed by Agriculture Western Australia can eradicate Argentine ants when the whole infested area is treated in the correct manner. As a result it may be possible to consider eradication of well defined infestations. A number of agencies involved in local government, conservation and public health are being involved in considering the feasibility for an organised control or eradication program.

DORSET HOSTEL, ARMADALE

3448. Mr McGINTY to the Minister for Disability Services:

(1) Does the Government fund or subsidise the Dorset Hostel in Armadale?

(2) Does the Government have any intention regarding the future of the Hostel?

(3) Are the families of residents being given a choice to continue to use the Hostel or transfer to another facility?

Mr OMODEI replied:

(1)-(3) In response to this parliamentary question please refer to parliamentary question in the Legislative Assembly 3477, dated 31 March 1998.

OMEX SITE

Survey of Residents

3449. Mrs ROBERTS to the Minister for the Environment:

(1) Did anyone from the Waste Management Division of the Department of Environmental Protection request the Valuer General's office or LandCorp to conduct a survey to 'gauge' the influence of the Omex Pit Site on the purchasers of houses within a 400 metre radius of the site'?

(2) If so, who made the request, what form did it take and on what date was it made?

(3) Who determined the timing for the survey and on what basis?

(4) Is the Minister aware that the Omex Site Remediation Implementation Consultative Committee at its meeting on Monday 9 March 1998 passed a motion to conduct its own survey, with survey questions being determined at that meeting?

(5) Is the Minister further aware that I was asked to check that the survey questions accurately reflected the Committee's decisions and that I was further asked to coordinate the distribution and collection of the survey?

(6) Is the Minister aware that the Committee discussed the danger of over-surveying the Bellevue community over a short time frame?

(7) Is the Minister aware that Ms Jane Bremmer stated that she would be coordinating the Bellevue Action Group's Health survey on 23 March 1998?

(8) Is the Minister aware that the Valuer General's Office's survey has been distributed in the interim with a collection date of 24 March 1998?

(9) What is the point of the Omex Site Remediation Implementation Consultative Committee meeting and determining courses of action if those determinations are countermanded by Government agencies?

(10) Will the Minister outline the role of the Omex Site Remediation Implementation Consultative Committee?

Mrs EDWARDES replied:

(1) I understand LandCorp and DEP instructed the Valuer General's Office (VGO) to undertake some valuation studies of Bellevue and surrounding suburbs. As part of this study interviews and/or questionnaires have been given to relevant real estate agents and relatively recent property purchasers in parts of Bellevue.

(2) I understand LandCorp made the request, in a brief to the VGO, on 3 March 1998.

(3) The VGO determined the timing of the whole study, including any survey work, in liaison with LandCorp and DEP to meet a commitment to report on the study at the 6 April meeting of the Omex Site Implementation Consultative Committee (and answer queries raised at the Consultative Committee meeting on 12 February 1998).

(4)-(5) Yes.

(6) I understand a lengthy discussion on several proposed surveys, for different ends, occurred at the meeting of the Committee on 9 March. The issue of over surveying was raised during the discussion.

(7) Yes.

(8) Yes, to a relatively small group of residents who purchased their properties in recent years.

(9) The decisions of the Consultative Committee have not been countermanded by the agencies involved. I understand that when the VGO's pending report on values in Bellevue was discussed at the 9 March meeting, the process was clearly set out to include both interviews with relevant real estate agents, and if the VGO needed more information, with some property purchasers. The Committee has asked the VGO to advise on valuation matters and needs to obtain relevant information in order to advise the Committee thoroughly.

(10) The role of Omex Site Remediation Implementation Consultative Committee is to:

> provide a forum for interested community members to raise issues relating to the site remediation;
>
> to allow people the opportunity to be advised of activities and plans for the project and question these;
>
> to provide the opportunity for the technical experts working on the project to brief the community about the issues relevant to environmental protection, ground water protection, and occupational and public health in the project, and to receive comment on this; and
>
> to ensure all the relevant data, plans and monitoring results relating to the project are publicly available.

The Committee is chaired by Mr Michael Breen, whom I appointed to perform this role. It contains representatives of the Government agencies involved in project management and regulation, the Shire of Swan, local Parliamentary representatives, community members who responded to a newspaper advertisement, and the Bellevue Action Group.

OMEX SITE REMEDIATION IMPLEMENTATION CONSULTATIVE COMMITTEE

Minutes of Meetings

3450. Mrs ROBERTS to the Minister for the Environment:

(1) Is the Minister aware of persistent concerns about the objectivity and accuracy of the minutes of the Omex Site Remediation Implementation Consultative Committee meetings?

(2) Is the Minister aware that the difficulties with the minutes delay and frustrate committee meetings inordinately?

Mrs EDWARDES replied:

(1)-(2) I understand that at the last two meetings a small number of the Committee members have raised issues in relation to the Minutes. However I also understand that in both cases the Committee resolved to accept the previous Minutes with only relatively minor changes. The Shire of Swan was approached to provide a Minute taker but was unable to do so, and for the present I understand DEP officers will continue to perform the task.

KANGAROO DEATHS ON PASTORAL STATIONS

3453. Dr EDWARDS to the Minister for the Environment:

What reports have been received by the Minister or the Department of Conservation and Land Management of kangaroos dying on destroyed pastoral stations, due to lack of water?

Mrs EDWARDES replied:

The Government has received expressions of concern from people in relation to the impact of the closure of artificial watering points on kangaroo populations. The provision of artificial watering points for stock in the pastoral rangelands has led to artificially high populations of kangaroos.

In the process of destocking rangeland areas for natural vegetation recovery, artificial water points may be closed, with the consequence that kangaroos that utilise such sources have to revert to natural water points or artificial water points elsewhere.

To minimise short term impacts on kangaroos it is recommended that water points be decommissioned during the wetter part of the year. In the longer term the closure of water points will clearly be of benefit to the conservation of all the natural values of the rangelands both in terms of the recovery of natural vegetation and maintaining fauna populations at a natural level and therefore deserves the support of all people committed to nature conservation.

MR KEVIN PAYNE

Special Leave

3455. Mr RIEBELING to the Minister representing the Attorney General:

(1) Will the Attorney General confirm that Kevin Payne is on "special leave"?

(2) If yes, when is he due to return?

(3) If he is not due to return, what other positions in the public service have been offered to him or are under consideration to be offered to him?

(4) What conditions are attached to Mr Payne's special leave?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) Yes.

(2)-(3) This matter is still under consideration.

(4) None.

MR KEVIN PAYNE

Consultancy Agreement

3456. Mr RIEBELING to the Minister representing the Attorney General:

(1) Is Kevin Payne performing any duties for the Ministry while on special leave?

(2) If so, what are those duties?

(3) Has the Government offered or does it propose to offer Mr Payne any consultancy work for the Ministry of Justice or any other department or agency?

(4) If so, what is the nature of the consultancy agreement and what service is Mr Payne to provide pursuant to it?

(5) When was an agreement signed?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) No.

(2) Not applicable.

(3) No.

(4)-(5) Not applicable.

MR KEVIN PAYNE

Return to Ministry of Justice

3457. Mr RIEBELING to the Minister representing the Attorney General:

(1) If Kevin Payne returns to the Ministry of Justice will he occupy the position of Director of Offender Management?

(2) If he does not continue in that position, why not and what position will he occupy?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1)-(2) I refer the member to my answer to question on notice 3455.

MINISTRY OF JUSTICE

Director of Offender Management

3459. Mr RIEBELING to the Minister representing the Attorney General:

(1) Who is currently acting in the position as Director of Offender Management while Kevin Payne is on special leave and what salary are they being paid?

(2) If no one, who is responsible for prison management?

(3) If Mr Payne is not to be reinstated, when will the position be filled?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) Mr Athol Jamieson - Class 4.

(2) Not applicable.

(3) I refer the member to my answer to question on notice 3455.

MINISTRY OF JUSTICE

Director General

3460. Mr RIEBELING to the Minister representing the Attorney General:

(1) Who is currently acting in the position of Director General of the Ministry of Justice?

(2) If no one, who is responsible for the running of the Ministry of Justice?

(3) When will the position of Director General of the Ministry of Justice be advertised?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) Mr Alan Piper.

(2) Not applicable.

(3) Mr Piper is acting in the position of Director General for a period of 12 months. The situation will be reviewed during that time.

MINISTRY OF JUSTICE

Director General

3461. Mr RIEBELING to the Minister representing the Attorney General:

(1) What experience does the current Director General of the Ministry of Justice have in the administration of:

(a) courts; and
(b) prisons?

(2) What are the professional qualifications of the current Director General?

(3) Since the inception of the Ministry of Justice, who has held the office of Director General and for what periods?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) The Acting Director General of the Ministry of Justice has extensive experience at Chief Executive Officer level.

(2) MBA, BE (Hons), MIE (Aust).

(3) Mr David Grant, 6 July 1993 to 9 January 1996.
Dr Michael McCall, 11 January 1996 to 3 November 1996.
Mr Gary Byron, 4 November 1996 to 13 February 1998.

DR WARREN LOUDEN

Employment by Ministry of Justice

3462. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Has Dr Warren Louden been engaged to undertake work for the Ministry of Justice currently and/or during the past three months and if so -

(a) what is the nature of the work he is/has been engaged to perform, what is/are his brief/terms of reference for each component of the work he is/has been engaged to perform;

(b) what is the estimated/quoted cost of each component of the work he is/has been engaged to undertake; and

(c) on what date was Dr Louden engaged to undertake each component of the work he is/has been engaged to perform?

(2) Were quotes obtained from other potential providers of the services that Dr Louden is/has been engaged to provide to the Ministry of Justice and, if so -

(a) who was contacted to provide a quote; and
(b) what date were they contacted; and
(c) who contacted the other potential providers?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Yes.

(a) Dr Louden was selected by the Acting Director General of the Ministry of Justice from the list of independent reviewers provided by the Office of the Public Sector Standards Commissioner. Those independent reviewers are on a panel contract established by the Commissioner. Dr Louden was engaged by the Acting Director General under a contract for service under section 100 of the Public Sector Management Act 1994 to review a grievance complaint lodged by a Ministry of Justice employee.

(b) $1,912.50.

(c) 6 March 1998.

(2) No.

MR LES SMITH

Employment by Ministry of Justice

3463. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Is Les Smith currently engaged to undertake work for the Ministry of Justice and, if so -

(a) who engaged him;

(b) on what date was he engaged; and
(c) what are his terms of reference/brief;

(2) Were other quotes obtained for providers of these services and, if so -

(a) who was contacted;
(b) on what date were they contacted; and
(c) who contacted them?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Yes.

(a) The then Director General of the Ministry of Justice, Mr Gary Byron.

(b) The first contract for service under section 100 of the Public Sector Management Act 1994, dated from 13 January 1997, and the second from 16 April 1997.

(c) Under the first contract, Les Smith was primarily engaged to examine correspondence from Mrs F Whittaker to the Ministry of Justice, investigate the issues she has previously raised and report to the Director General on those issues. The contract also allowed for Les Smith to be engaged by the Director General to gather information about other issues of a review nature in the Ministry of Justice and report to the Director General on those issues. Under the second contract, he was primarily engaged to assist the Attorney General of Western Australia in negotiations between the Commonwealth of Australia and the State of Western Australia in reviewing arrangements for legal aid for people who are in need of that aid in Western Australia.

(2) No.

CARAVAN INDUSTRY

Collection of Statistics

3469. Mr BROWN to the Minister for Small Business:

(1) Is the Minister aware of concerns expressed by Caravan Industry Australia, Western Australia (Inc) about the Federal Government's decision to axe the collection of Australian Bureau of Statistics collections of importance to the industry?

(2) Is the Minister aware why the statistics formerly collected by Australian Bureau of Statistics are no longer collected?

(3) Did the Western Australian Government press the Federal Government to discontinue the statistical collection process which benefited the industry?

(4) If not, will the State Government make representations to the Federal Government on behalf of Caravan Industry Australia, Western Australia (Inc)?

(5) If not, why not?

Mr COWAN replied:

(1)-(2) Yes.

(3) No.

(4) The Government is aware that the Australian Bureau of Statistics has discontinued a series of statistical collections which benefited small businesses in line with its overall cost reduction targets. Statistics collected for caravan park occupancy rates in metropolitan and regional areas have also been discontinued. The Government is aware these statistical collections have been of benefit to the caravan industry in planning and marketing for domestic tourism accommodation, particularly in regional areas, and for an increasing share of retirement accommodation. The Minister for Tourism is making representations on behalf of the Western Australian Government to the Federal Government for these statistical collections to be resumed by the Australian Bureau of Statistics.

(5) Not applicable.

UNEMPLOYMENT RATE

3476. Mr BROWN to the Minister for Employment and Training:

(1) Further to question on notice 2985 of 1998, does the Department/ Government have any forecast on the likely growth in the number of people ready, able and available to work in each financial year between 1997-98 to 2001-02?

(2) What is the expected increase in that number for each financial year between the 1997-98 and 2001-02?

(3) Has the Government/Department estimated or forecast the unemployment rate for each financial year between the 1997-98 and 2001-02 financial years?

(4) What is the forecast rate of unemployment in Western Australia for each of those five financial years?

Mrs EDWARDES replied:

(1) Yes, State Treasury produces an estimate of the likely number of people employed and unemployed in Western Australia for the next five years. The following are numbers of unemployed people estimated for Western Australia:

(a) 64,800 unemployed persons during 1997-98
(b) 65,800 unemployed persons during 1998-99
(c) 64,600 unemployed persons during 1999-2000
(d) 64,000 unemployed persons during 2000-01
(e) 61,300 unemployed persons during 2001-02.

(2) According to these projections Western Australia is expected to register the following movements in the number of unemployed people for each financial year between 1997-98 and 2001-02:

(a) a decline of 4,200 persons during 1997-98
(b) an increase of 1,000 persons during 1998-99
(c) a decline of 1,200 persons during 1999-2000
(d) a decline of 600 persons during 2000-01
(e) a decline of 2,700 persons during 2001-02.

(3) Yes, State Treasury has also estimated the unemployment rate for each financial year between 1997-98 and 2001-02.

(4) According to these projections Western Australia is expected to register the following unemployment rates during the next five financial years:

(a) 7.0% during 1997-98
(b) 6.75% during 1998-99
(c) 6.5% during 1999-2000
(d) 6.25% during 2000-01
(e) 6.0% during 2001-02.

DORSET HOSTEL

3477. Mr BROWN to the Minister for Disability Services:

(1) Have any plans been made to close or relocate residents in Dorset Hostel?

(2) Have plans been made to close the hostel?

(3) If so, when is it anticipated the hostel will close?

(4) Have plans been made to relocate residents from Dorset Hostel?

(5) If so, when is it envisaged that residents will be relocated or commence to be relocated?

(6) Will residents be given the option of remaining at Dorset Hostel?

(7) If so, will residents who elect to remain be permitted to stay there and continue to reside at the Hostel ad infinitum?

(8) Will residents who elect to remain at the Hostel be required to nevertheless move to another place of residence after a period of time?

(9) If so, what period of time?

(10) Will Dorset residents be provided with alternative accommodation?

(11) What is the nature of the alternative accommodation that will be provided?

(12) Will alternative accommodation provide for improved quality care?

(13) What will be the nature of the care provided (please explain the nature of the care over a 24 hour period)?

(14) Will residents be provided with better accommodation?

(15) If so, please describe how the accommodation will be better than that provided at Dorset Hostel?

(16) Will residents be provided with a higher standard of care?

(17) If so, please explain how the care will be of a higher standard?

(18) If residents elect to remain at Dorset Hostel, will they receive the same or a higher level of care than that currently received?

(19) If not, why not?

Mr OMODEI replied:

(1) There are no plans to close Dorset Hostel. A recent review by the National Standards Monitoring Committee recommended a reduction of three (3) beds to stop overcrowding and meet national standards. Four (4) residents have elected to move to Nulsen Haven's accommodation service.

(2) No.

(3) Not applicable.

(4) Yes, four residents will be relocated.

(5) Late in 1998 and early in 1999.

(6) Yes.

(7) Residents will continue to receive permanent accommodation.

(8) Only if medical or social needs require it or residents elect to move.

(9) Not applicable.

(10) Currently four residents have elected to move to Nulsen Haven.

(11) Group Home care with Nulsen Haven.

(12) The same standards at least, or better.

(13) Care is on a 24 hour roster - two staff for the morning shift, two staff for the afternoon shift and one staff member for the night shift.

(14) Yes.

(15) Brand new group homes within the community.

(16) The same standards at least.

(17) Not applicable.

(18) The same standards at least.

(19) Not applicable.

CHILDREN WITH DISABILITIES

New Carers' Payment

3488. Mr BROWN to the Minister for Disability Services:

(1) Is the Minister aware of an article that appeared in *The Australian* on 11 March 1998 concerning parents of children with profound disabilities missing out on the new carers payment under the draft social security legislation?

(2) Is the Minister and/or the State government aware of the categories of carers who will miss out on the new carers payment?

(3) Has the State Government and/or the Minister made any representations to the Federal Government in this regard?

(4) What is the nature of the representations the Minister and/or the Government has made in this regard?

Mr OMODEI replied:

(1) Yes.

(2) Yes. The National Carers Association has identified the carers who are likely to be excluded by the criteria as those who care for children with severe cases of conditions such as;

uncontrolled epilepsy; or
children with contractures (who need frequent pressure exercises);
spina bifida; and
cystic fibrosis

and those that need to provide full time assistance and supervision for children with;

severe autism
intellectual disability
acquired brain injury and
certain psychiatric conditions (especially older children)

(3) Yes.

(4) The Disability Services Commission was not advised of the proposed changes. I have written to the Federal Minister for Social Security supporting the concerns detailed by the National Carers Association and have sought further information on how those concerns will be addressed.

BANKING OMBUSDMAN SCHEME

3489. Mr BROWN to the Minister for Small Business:

(1) Is the Minister aware of an article that appeared in *The West Australian* on 7 March 1998 concerning changes made to the Banking Ombudsman Scheme under which small business sole traders and partnerships could pay hundreds of dollars to have their cases fully investigated?

(2) Has the Minister or the Small Business Development Corporation examined the proposed changes?

(3) Has the Minister or the Small Business Development Corporation made any representations on behalf of small business to ensure such fees are not required by small business operators who take their complaints to the Ombudsman?

(4) What is the nature of the submissions made?

(5) When were the submissions made?

Mr COWAN replied:

(1) Yes.

(2) The Small Business Development Corporation has examined the changes to the Banking Ombudsman Scheme as part of its review of the Federal Government's response to the recommendations of the Fair Trading Inquiry.

(3) The Small Business Development Corporation has discussed the issue of fees charged to small businesses with the Office of the Banking Ombudsman. I am advised the scheme would be open to businesses of up to 15 employees with a turnover of $1m and below and claims must be up to $150,000. The Ombudsman will give a free assessment of the merits of the case to a small business complainant, leaving open options for accepting the assessment, pursuing the matter through legal channels or asking the Ombudsman to give the matter more detailed consideration. The service will be free of charge to small business customers unless more detailed investigation is explicitly sought by the complainant after the Ombudsman's initial report. In that case, any fees will be on a cost sharing basis and if the Ombudsman ultimately finds in favour of the complainant, the fees will be refunded. Based on the pattern of dispute resolution in the existing scheme, the Ombudsman expects that over 95% of small business matters will be dealt with free of charge.

(4)-(5) Not applicable.

HERDSMAN LAKE DIESEL SPILL

3495. Dr CONSTABLE to the Minister for the Environment:

With regard to the contamination of Herdsman Lake by a diesel spill into the Selby Street drain, which was reported to the Water Corporation and the Department of Environmental Protection on 10 October 1997 -

(a) what measures were undertaken to identify the cause of the spill; and
(b) has any person or organisation been charged with this offence?

Mrs EDWARDES replied:

(a) Officers from the Department of Environmental Protection (DEP) and Water Corporation attended the scene. Water Corporation investigated and found no traces of oil dumped within the catchment area. It is suspected, though not confirmed, that the oil was dumped in a road drain.

(b) No.

MINING CONTRACTORS

Regulations

3503. Ms McHALE to the Minister representing the Minister for Mines:

Under the Mining Act 1978 and regulations, what statutory provisions apply to contractors undertaking mining operations on a minesite -

(a) to keep and maintain accident report books;
(b) mines inspectors log books?

Mr BARNETT replied:

(a)-(b) No such provisions apply under the Mining Act 1978 and the regulations made under that Act. The Mining Act deals, principally, with matters relating to land tenure for mining and exploration purposes. Since 9 December 1995, matters relating to contractors have been dealt with under the provisions of the Mines Safety and Inspection Act 1994. Prior to this date, these matters were dealt with under the Mines Regulation Act 1946. Under section 77 of the Mines Safety and Inspection Act 1994, contractors are not required to keep and maintain accident report books; rather, the manager of a mine must cause an accident log book to be kept at the mine and must cause a record of any accident to be entered, without delay, in the book. The Mines Safety and Inspection Act 1994 makes no reference, either in respect of contractors or at all, to mines inspectors' log books. Under section 23 of the Act an inspector must enter in the Mine Record Book certain specified details of any inspection which he carries out. Keeping of the Mine Record Book is the responsibility of the manager of a mine under section 89 of the Act.

DEPARTMENTS AND AGENCIES

Millennium Bug

3505. Ms McHALE to the Minister representing the Minister for Arts:

(1) I refer to the "Millennium Bug" computer problem and ask, is the "Millennium Bug" problem an issue for any of the departments or agencies under the Minister's control?

(2) If so, when will those departments or agencies have installed and tested all Year 2000 corrections?

(3) What have been the total funds expended to date to correct the "bug"?

(4) What is the total cost estimated to be to install all corrective measures?

(5) Do those departments or agencies intend to engage external resources to manage the process?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

The Ministry for Culture and the Arts

(1) The millennium bug presents a problem of an exceptional nature. The Ministry's head office has relatively standard hardware and software.

(2) The head office is in the process of checking all systems for the bug. Both the two major operating systems are new and have been designed to be Year 2000 compliant.

(3) Expenditure has been part of the development of new systems. No specific allocation has been made to date.

(4) No accurate estimate has been made. However, given the major operating systems have been recently developed and are Year 2000 compliant it is not expected that any further corrective measures will require substantial expenditure.

(5) The head office will be engaging an external consultant to run a check of all hardware and to report on any risks that may have been overlooked.

Library and Information Service of Western Australia

(1) Yes. A project team has been working on the Year 2000 problem for over 12 months to minimise the risks associated with the problem.

(2) All Year 2000 corrections are planned to have been installed and tested by July 1999.

(3) $35,000.

(4) The total cost estimated to install and test Year 2000 compliance is $550,000.

(5) No. The Year 2000 project is being managed using existing internal resources within LISWA.

Art Gallery of Western Australia

(1) Yes.

(2) Risks and priorities are currently being assessed. The problem is only considered to be moderate at the Art Gallery and only minor corrections are likely. These will be scheduled for completion before the year 2000.

(3) $5,000.

(4)

Computing	$15,000
Embedded Chips	$10,000

(5) Yes.

Western Australian Museum

(1) Yes.

(2) The WA Museum plans to have systems tested by the end of 1998 with residuals arising from testing defects by the end of the first quarter in 1999.

(3) $40,000 approximately.

(4) $110,000.

(5) Yes.

Perth Theatre Trust

(1) Yes.

(2) 31 December 1998.

(3) At this stage no funds have been expended of the $25,000 allocated for corrective measures. However, the Perth Theatre Trust has allocated 1 FTE to manage and undertake the necessary corrections.

(4) $25,000.

(5) No.

WILDLIFE CONSERVATION ACT 1950

Review

3509. Dr EDWARDS to the Minister for the Environment:

(1) Is the Wildlife Conservation Act 1950 currently under review?

(2) If so, what is the status of that review?

(3) If not, when is a review of this Act expected to commence?

(4) How is the review of the Act expected to proceed?

(5) What is the timetable for the review?

Mrs EDWARDES replied:

(1)-(4) I refer the member to my answer to question 3259.

(5) A timetable for completion of review of the Wildlife Conservation Act 1950 has not been set. The review will involve consultation of stakeholders.

DR WARREN LOUDEN AND MR LES SMITH

Employment by Ministry of Justice

3510. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Has Dr Warren Louden been engaged to undertake work for the Ministry of Justice currently and/or during the past three months and, if so -

(a) what is the nature of the work he is/has been engaged to perform, what is/are his brief/terms of reference for each component of the work he is/has been engaged to perform;

(b) what is the estimated/quoted cost of each component of the work he is/has been engaged to undertake; and

(c) on what date was Dr Louden engaged to undertake each component of the work he is/has been engaged to perform?

(2) Were quotes obtained from other potential providers of the services that Dr Louden is/has been engaged to provide to the Ministry of Justice and, if so -

(a) who was contacted to provide a quote;
(b) what date were they contacted; and
(c) who contacted the other potential providers?

(3) Is Mr Les Smith currently engaged to undertake work for the Ministry of Justice and, if so -

(a) who engaged him;
(b) what date was he engaged; and
(c) what are his terms of reference/brief?

(4) Were other quotes obtained for providers of these services and, if so -

(a) who was contacted;
(b) what date were they contacted;
(c) who contacted them?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(2) I refer the member to my answer to Question on Notice 3462.

(3)-(4) I refer the member to my answer to Question on Notice 3463.

WORKERS' COMPENSATION PREMIUMS

3516. Mr KOBELKE to the Minister for Labour Relations:

(1) Is it correct that the total amount of insurance premiums paid by employers for workers compensation insurance in 1992-93 was $299.026 million?

(2) If yes to (1) above, was the answer given to question on notice 3266 of 1998 correct in stating that the total amount of insurance premiums paid by employers for workers compensation insurance in 1992-93 was $276.001 million?

(3) Is it possible that both amounts are correct and if not, which was the incorrect amount?

(4) If no to (2) above, what is the reason for the discrepancies between the two amounts?

Mr KIERATH replied:

(1) No.

(2) The answer given to question on notice 3266 of 1998 was correct.

(3) No.

(4) The amounts relate to different components of the workers' compensation scheme. The figure of $276.001 million relates to the actual premium income of insurers, that is, the total amount of insurance premiums paid by employers for workers' compensation insurance in 1992/93. The figure of $299.026 million is the total premium income for the scheme made up of $276.001 in actual premium income, plus $23.025 million in notional premium applied to self insurers in the State. Self insurers do not pay premiums, however for statistical purposes notional premium is calculated for self insurers by applying recommended premium rates to wages figures.

OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Allocation of Funds

3517. Mr KOBELKE to the Minister for Labour Relations:

(1) In the current 1997-98 financial year, how much money has been allocated to non-government organisations to assist in occupational health and safety programs for workers in primary industries?

(2) What are the names of all organisations receiving funding to assist in the development of programs to improve occupational safety for workers in primary industries?

(3) What was the specific allocation for each organisation?

(4) What were the objectives or required outcome for each of these allocations?

(5) What are the answers to all of the above questions for the 1997-98 financial year and the 1996-97 financial year?

Mr KIERATH replied:

(1) $85 000.

(2)-(3) Farmsafe WA (Inc) - up to $85 000.

(4) The grant provides support for specific activities to promote farm safety. Outcomes are:

reduction in the incidence of injury in agricultural industries;

delivery of occupational safety and health training in the farming sector;

achievement of specific learning objectives by participants in the abovementioned training;

dissemination of occupational safety and health information; and

promotion of farm safety through Farmsafe Week and at field days.

A strong emphasis is placed on the delivery of training with the grant payment being linked to the number of participants trained.

(5) Answers (1) to (4) above relate to 1997/98. In relation to 1996/97 the respective answers are:

(a) $85 000.
(b)-(c) The Western Australian Farmers Federation (Inc) - $85 000.
(d) The objectives, to be met over a three year grant period, were to:

develop a code of practice for rural employers;

establish regional cells of Farmsafe throughout rural and regional Western Australia;

develop an awareness of farm safety throughout all rural industries in WA;

effectively encourage farmers to adopt safe working practices in accordance with a code of practice to be developed by the industry;

reduce the rate of lost time work related injury and disease in the rural sector throughout Western Australia by 10% between July 1993 and July 1997 and in the same period achieve a 50% reduction in the level of tractor related fatalities;

liaise with other primary and secondary industries in order to promote compatible uniform safety standards throughout the State;

promote farm safety through written publications and the electronic media;

coordinate with secondary and tertiary institutions in respect to developing course curriculum; and

encourage, where applicable, the development and presentation of appropriate education and training programs.

ELECTORAL COMMISSION'S AUDITS

3519. Mr PENDAL to the Minister for Parliamentary and Electoral Affairs:

I refer to the current audits being conducted by the Electoral commission -

(a) are all members being subjected to the audit;

(b) if yes to (1) above, is it expected that all such audits will be completed; and

(c) if no to (1) above, how many are being audited and how is the selection made?

Mr SHAVE replied:

(a) No.

(b) Not applicable.

(c) A sample of 10% of the 234 candidates and the 41 groups who contested the 1996 State general election, were selected for the process. As there were only four 'other persons' who lodged returns, all of those are being audited. Candidates and groups were listed alphabetically and each tenth person or group chosen.

MS WINNIE MICHAEL'S DEATH

3520. Ms MacTIERNAN to the Minister for Health:

(1) What was the date and time of the late Ms Winnie Michael's death at Fremantle Hospital in January 1998?

(2) What was the date and time of her admission to Fremantle Hospital?

(3) Was she taken to Fremantle Hospital from the Armadale Kelmscott Memorial Hospital?

(4) Was Winnie Michael admitted to Armadale Kelmscott Memorial Hospital and if so, and what was the date and time of her admission and discharge?

(5) What treatment did Winnie Michael receive at Armadale Kelmscott Memorial Hospital?

Mr PRINCE replied:

(1)-(5) The Coroner is investigating this matter and no comment will be made until the investigation is complete.

GOVERNMENT EMPLOYEES HOUSING AUTHORITY

Investigation of Sale of Property in Kununurra

3522. Ms MacTIERNAN to the Minister for Fair Trading:

(1) When did the Ministry of Fair Trading commence investigating the sale of a Government Employees Housing Authority (GEHA) property in Kununurra by Northern Realty to a related company?

(2) Has that investigation been completed?

(3) If not, how much longer is it expected to take?

(4) If yes, what was the outcome?

(5) Was it established that GEHA had paid a commission to the real estate company?

Mr SHAVE replied:

(1) 5 June 1996.

(2) No.

(3)-(5) The investigation has revealed certain matters which are outside the ministry's jurisdiction. These matters have been referred to the appropriate authorities and that referral prevents me from making further comment about the matter.

INVESTMENT INCENTIVE PROGRAM

3529. Mr GRAHAM to the Minister for Regional Development:

(1) Has the Government amended the Investment Incentive Program to significantly increase the incentive for overseas and interstate companies to locate their businesses in regional Wester Australia?

(2) If the answer to (1) above is no, why not?

(3) If the answer to (1) above is yes;

(a) in what way has the program been increased;

(b) what is the budget allocation for this particular program;

(c) which overseas companies have relocated to regional Wester Australia as a consequence of the program;

(d) which interstate companies have relocated to regional Wester Australia as a consequence of the program;

(e) in which towns are the overseas companies who have relocated now based;

(f) in which towns are the interstate companies who have relocated now based;

(g) what was the cost to the program of each overseas company that has relocated as a consequence of the program;

(h) what was the cost to the program of each interstate company that has relocated as a consequence of the program;

(i) how many jobs have been created as a consequence of each overseas company that has relocated as a consequence of the program; and

(j) how many jobs have been created as a consequence of each interstate company that has relocated as a consequence of the program?

Mr COWAN replied:

(1) Yes.

(2) Not applicable.

(3) (a) The Investment Incentive Program guidelines have been amended to broaden criteria to take into account employment thresholds which will result in expanded opportunities for regional assistance. In September 1997 Cabinet approved the amended guidelines and the name was also changed to the Industry Incentives Scheme. There was already a lower capital investment threshold for overseas and interstate companies locating in regional Western Australia and a similar lower employment threshold is contained in the new guidelines. The Industry Incentive Scheme, by which incentives are offered to companies proposing to locate in Western Australia, was codified in September 1997 so that the conditions and requirements were clarified and simplified to ensure complete transparency of process.

(b) There is no specific budget allocation for this program. Incentives are provided on a case by case basis and approved by Cabinet. Supplementary budget allocations are then provided to meet these incentives as they arise.

(c)-(d) None.

(e)-(j) Not applicable.

COMPANY RELOCATION FROM PERTH TO COUNTRY AREAS

Government's Program

3530. Mr GRAHAM to the Minister for Regional Development:

(1) Has the Government developed a special program to assist companies to relocate from Perth to Regional Western Australia?

(2) If the answer to (1) above is no, why not?

(3) If the answer to (1) above is yes;

(a) what is the special program;

(b) what is the budget allocation for this particular program;

(c) which Perth companies have relocated to regional Wester Australia as a consequence of the program;

(d) in which towns are the Perth companies who have relocated now based;

(e) what was the cost to the program of each Perth company that has relocated as a consequence of the program; and

(f) how many jobs have been created as a consequence of each Perth company that has relocated as a consequence of the program?

Mr COWAN replied:

(1) Yes.

(2) Not applicable.

(3) (a) Relocation Feasibility Scheme and the Industry Relocation Scheme.

(b) The schemes have no specific budget allocation but are funded from the Department of Commerce and Trade or Treasury depending on the amount of funds assessed as necessary for a particular project.

(c) Nil.

(d)-(f) Not applicable.

Note: Attached are brochures on the two schemes for the member's information. [See papers Nos 1354A and 1354B.]

REGIONAL HEADWORKS SCHEME

Budget Allocation

3533. Mr GRAHAM to the Minister for Regional Development:

What is the budget allocation for the Regional Headworks Scheme for the years -

(a) 1996-1997;

(b) 1997-1998?

Mr COWAN replied:

(a)-(b) $5 million.

REGIONAL HEADWORKS SCHEME

Forward Estimates

3534. Mr GRAHAM to the Minister for Regional Development:

What is the forward estimates for the Regional Headworks Scheme for the years -

(a) 1998-1999;

(b) 1999-2000?

Mr COWAN replied:

(a)-(b) $5 million.

REGIONAL DEVELOPMENT COMMISSIONS

Trade Officers

3535. Mr GRAHAM to the Minister for Regional Development:

(1) To which regional development commissions have regional trade officers been appointed?

(2) On what date was each officer appointed?

(3) Have all regional development commissions had regional trade officers appointed?

(4) If the answer to (3) above is yes -

(a) on what date will each development commission have a regional trade officer; and

(b) what was the increase in the budget of each development commission to accommodate the appointment of each regional trade officer?

(5) If the answer to (3) above is no -

(a) which development commissions do not have regional trade officers appointed;

(b) what is the reason for these commissions not having a regional trade officer appointed; and

(c) on what date will each development commission have a regional trade officer appointed?

Mr COWAN replied:

(1) No regional trade officers have been appointed in development commissions to date. In cooperation with the Federal Government, the Mid West Development Commission established a Trade Start Office approximately eighteen months ago and the Great Southern Development Commission is seeking to establish a Trade Start Office in mid-May. These offices deliver Austrade facilitation services, focusing on exporting. The Mid West Development Commission is also developing a proposal to establish a Trade Facilitator for appointment within this financial year. This will assist with local and national trade opportunities.

(2) Not applicable.

(3) No.

(4) Not applicable.

(5) (a) Nil.

(b) The development commissions have been progressing initiatives in partnership with the Federal Government as outlined in (1). Their trade activities are also supported through the Department of Commerce and Trade's Perth, Bunbury and overseas offices.

(c) It is not intended that every regional development commission have a regional trade officer appointed. It is planned to appoint regional trade officers attached to three regional development commissions within the current term of government.

ABORIGINAL COMMUNITIES

Power, Water and Sewerage Services

3543. Mr GRAHAM to the Minister for Aboriginal Affairs:

Which are the 48 remote aboriginal communities for which the State is responsible for repair and maintenance of power, water, and waste water services?

Dr HAMES replied:

(1)

Balgo
Bardi/One Arm Point
Bayulu
Beagle Bay
Bidyandanga/La Grange
Blackstone
Burringurrah
Cheeditha
Cherubun/Djugerari
Christmas Creek
Coonana
Cosmo Newberry
Guda Guda
Iminji
Jameson
Jigalong
Kadjina/Milijidee
Kiwirrkurra
Kulumbaru
Kundat Jaru/Ringers Soak
Kupungarri/Mt Barnett
Lombardina
Looma
Lundja
Mindibungu/Bililuna
Mowanjum
Mt Margaret
Mulan/Lake Gregory
Muludjia
Ngangganawili
Ngumpan/Pinnacles
Ngurawaana
Nookanbah
Oombulgurri
Pandanus Park
Punmu
Tjaalka Warra
Tjirrkarli
Tjukurla
Wannan
Warakuna
Warburton
Warmun/Turkey Creek
Warralong
Wingelina
Woolah
Yandeyarra
Yiyili

CAMPING GROUNDS LEGISLATION

3544. Mr McGOWAN to the Minister for Local Government:

(1) Under the new Caravan Parks and Camping Grounds Act and Regulations, have the rules in relation to camping outside of established camping grounds been changed?

(2) If so, what was the situation prior to this change?

(3) Has the ability of people to camp outside established camping grounds been further limited?

Mr OMODEI replied:

(1)-(2) No, except where a person wants to camp on land that is not a caravan park or camping ground for more than three months, then the Minister's approval is required.

(3) No.

RESTRAINING ORDER APPLICATIONS

3545. Mr RIEBELING to the Minister representing the Attorney General:

Prior to the introduction of the new Restraining Orders legislation -

(a) how many applications for restraining orders were made to the Central Law Courts in the six month period immediately prior to the enactment of the new legislation;

(b) of those restraining order applications how many resulted in an order being made for a restraining order to be issued; and

(c) how many of those orders were later confirmed as restraining orders?

Mr PRINCE replied:

The Attorney General has provided the following reply:

For the period 1 March 1997 to 12 September 1997 the following apply -

(a) 1321 applications for restraining orders were received at Central Law Courts;

(b) 942 resulted in an order being made for a restraining order to be issued; and

(c) 379 were later confirmed as restraining orders.

RESTRAINING ORDER APPLICATIONS

3546. Mr RIEBELING to the Minister representing the Attorney General:

In relation to your answer to question on notice No 2947 in which you indicated that 82 restraining orders have been made as a result of direct contact to magistrates after hours over the telephone -

(a) is it possible to give the geographic locations of where the 82 applications emanated from;

(b) if yes to the above please indicate the number of restraining orders from each identifiable region of the State; and

(c) in relation to the large number of applications for misconduct restraining orders being unsuccessful what action if any is being considered to change the rules in relation to these matters?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(a) Yes.

(b) Allocated according to the most likely major court at which the application would otherwise have been heard, the following numbers apply:

Perth	21	Kalgoorlie	4
Joondalup	11	Albany	3
Midland	8	Bunbury	2
Armadale	8	Northam	2
Fremantle	10	Geraldton	2
Rockingham	2	Port Hedland	2
Mandurah	7		

(c) No rule changes are being contemplated at this time. The apparent lack of success of Misconduct Restraining Order applications reflected in the answer to question on notice 2947 can be explained by the time lag between the time of application and the time of completion of the court process. The difference between applications made and orders made comprises those applications still in the court system, those struck out, those withdrawn and those refused.

Due to inconsistencies in the data recorded for the first month of the new Restraining Orders Act a number of applications are known to have not resulted in an order being made but it is unclear whether they were refused, struck out or withdrawn.

BUSHPLAN

Release for Public Comment

3565. Ms McHALE to the Minister for the Planning:

(1) Why has the "Bushplan" not yet been released for public comment?

(2) Can the Minister assure me the "Bushplan" will be released for public comment before June 1998?

Mr KIERATH replied:

(1)-(2) "Perth's Bushplan" is in the final stages of preparation. There are a number of complex issues which are being worked through with the agencies involved and across Government Portfolios. These matters are being progressed as a priority and the draft of "Perth's Bushplan" will be released as soon as these issues have been resolved.

STATE WEED STRATEGY

3566. Ms McHALE to the Minister for the Primary Industry:

(1) Why does Western Australia still not have a State weed strategy?

(2) What obligation does the Government have to implement a State weed strategy?

(3) When will a State weed strategy be prepared for Western Australia?

Mr HOUSE replied:

(1)-(3) Government agencies involved in weed management are currently formulating a coordinated approach to the development of a State Weed Strategy. Stakeholders will be consulted about the strategy in late 1998.

LOT 560 MANAKOORA RISE, SORRENTO

3579. Mr McGOWAN to the Minister for Local Government:

In a letter addressed to Mr Rob Rowell, Commissioner of Wanneroo Council, a local ratepayer, Mr Keith Holmes, makes reference to a number of concerns he has about a house constructed on Lot 560 Manakoora Rise, Sorrento -

(a) as the letter was dated and sent on 3 February 1998 when can Mr Holmes expect a reply to his letter;

(b) have the Commissioners considered Mr Holmes' concerns, and if so, what, if any, action will they be taking; and

(c) if the Commissioners have not considered these concerns when will they do so?

Mr OMODEI replied:

The City of Wanneroo Commissioners were appointed to act independently and carry out their functions under section 2.3 of the Local Government Act 1995. Consequently, as Minister for Local Government I can not interfere in the daily operations of the Council or the Commissioners. This question should be directed to the City of Wanneroo Commissioners.

LOT 560 MANAKOORA RISE, SORRENTO

3580. Mr McGOWAN to the Minister for Local Government:

In relation to the stop work notice imposed by Wanneroo Council on August 1996 on Lot 560 Manakoora Rise, Sorrento -

(a) have the amelioration measures agreed to by the owner, Mr Parin, prior to the lifting of the stop work notice, been carried out; and

(b) if not, what action does the Minister intend to take through his Commissioners to ensure that these measures are in fact carried out?

Mr OMODEI replied:

The City of Wanneroo Commissioners were appointed to act independently and carry out their functions under section 2.3 of the Local Government Act 1995. Consequently, as Minister for Local Government I can not interfere in the daily operations of the Council or the Commissioners. This question should be directed to the City of Wanneroo Commissioners.

LOT 560 MANAKOORA RISE, SORRENTO

3581. Mr McGOWAN to the Minister for Local Government:

(1) What actions are the Commissioners appointed by the Minister to administer the City of Wanneroo taking to ensure that the building at Lot 560 Manakoora Rise, Sorrento conforms with building codes and adheres to the approved building plan?

(2) What actions are planned by the Commissioners to address the criticism levelled at senior staff of Wanneroo Council by the Lawrence report in relation to the same issue?

Mr OMODEI replied:

(1)-(2) The City of Wanneroo Commissioners were appointed to act independently and carry out their functions under section 2.3 of the Local Government Act 1995. Consequently, as Minister for Local Government I can not interfere in the daily operations of the Council or the Commissioners. This question should be directed to the City of Wanneroo Commissioners.

QUESTIONS WITHOUT NOTICE

STATE GOVERNMENT CHARGES

1064. Dr GALLOP to the Premier:

I refer to the Premier's claim that the announcement of higher state government charges earlier this month was good news for "the needy in our community".

(1) Who precisely does the Premier define as "the needy in our community" and why should they welcome the announcement of higher motor vehicle registration and insurance fees, water and sewerage charges and public transport fares?

(2) What is the overall impact of these higher charges in dollar terms on the average annual household budget?

Mr COURT replied:

(1)-(2) I was asked a question this morning about the average annual cost to a household budget, and I said that I would provide that information. My point was that there has not been an increase in electricity or gas charges in the metropolitan area. As every member is aware, over the past six years there have been very few increases. In fact, there has been a real decline in those areas, and we are proud of that. There has been an increase in water charges, public transport fares and motor vehicle licences. However, my point was that in the critical areas of electricity and gas there have been no increases.

STATE GOVERNMENT CHARGES

1065. Dr GALLOP to the Premier:

As a supplementary question, is it not the case that as a result of the two Budgets since the 1996 election the average family in this State has been hit to the tune of $350 rather than receiving the social dividend promised by the Government during that election campaign?

Mr COURT replied:

I dispute that figure. I will provide the relevant figures when the Budget is handed down on Thursday.

LOCAL GOVERNMENT BOUNDARIES REVIEW

1066. Dr TURNBULL to the Minister for Local Government:

Can the Minister please detail to the House the process for the report by the local government boundaries review? This information is especially important for the Shires of Dardanup and Capel in my electorate.

Mr OMODEI replied:

The process is very clearly set down in the Local Government Act. As to the Shires of Dardanup and Capel, I am currently considering a report by the Local Government Advisory Board, a statutory body set up under the Act to assess these matters. The board has outlined options for possible boundary changes in the Bunbury area. Should I decide to submit a proposal for boundary changes to the advisory board, the board would undertake a formal inquiry and report to me with a recommendation, which under the legislation I can only accept or reject.

LOCAL GOVERNMENT BOUNDARIES REVIEW

1067. Dr TURNBULL to the Minister for Local Government:

As a supplementary question, does the Minister have a timetable for that process?

Mr OMODEI replied:

The issue of the doughnut councils has been referred to in the structural reform advisory board report which was submitted to me more than 12 months ago. I will take recommendations on the doughnut councils to Cabinet in the near future.

SMOKING BAN

1068. Mr KOBELKE to the Minister for Labour Relations:

I refer to the regulations which seek to ban smoking in all enclosed workplaces.

(1) Will the Minister's WorkSafe regulations outlaw smoking in bars, clubs and restaurants from 1 August this year?

(2) If not, under what conditions will smoking be allowed in bars, clubs and restaurants?

Mr KIERATH replied:

(1)-(2) I remind members that under the Productivity WA 2000 program launched a year or so ago, Western Australia was to have the safest workplaces in the world by 2000. The smoking issue was certainly part and parcel of that program.

I will take a few moments to explain to the House the true situation: The Act and the regulations work together. Part of the Act had not been enforced previously, and three events caused those provisions to be enforced: First, the confession of the tobacco companies in the United States of America; second, the regulations; and third, and most importantly, the National Health and Medical Research Council report of November last year which established beyond doubt that exposure to environmental tobacco smoke is a health hazard. Also, I announced to the House last year that a review was to be conducted into the Occupational Safety and Health Act. I have been working through those matters, and some changes might result from that review when it reports and I present a Bill to the House. I find it untenable to have one group exposed and another group not exposed to a known hazard to workers' health.

The issue of other recommendations or regulations overriding those provisions is something for the Government to consider. Currently, the Act and regulations stand. The regulations were laid before the Houses of Parliament and no-one moved a disallowance motion in either this or the other House. As Minister for Labour Relations, and the person responsible for workplace safety, I will do all I can to uphold the health and safety of workers in the workplaces of Western Australia.

WATER LEVEL, LAKE JOONDALUP

1069. Mr BAKER to the Minister for Water Resources:

The water level in Lake Joondalup appears to be at an all-time low with much of the lake bed exposed.

(1) Does the Minister have any concerns about the possible cause or causes of this drop in the water level?

(2) If so, is the Minister's department prepared to take any steps to remedy the situation?

Dr HAMES replied:

I thank the member for his question and particularly for drawing this matter to my attention.

(1)-(2) The member is correct: The water levels are particularly low at Lake Joondalup, and this is due to climatic variations. In 1994, we had particularly low rainfall in Western Australia; 1995 was an average year; in 1996 we had late rainfall; and 1997 was another year of low rainfall. As a result, the lake's water levels have been very low. Given that this is part of the normal climatic variation, no action should be, or will be, undertaken by my department.

GOVERNMENT'S POLICY ON SMOKING IN THE WORKPLACE

1070. Dr GALLOP to the Premier:

I refer the Premier to the recent answer by the Minister for Labour Relations to a question about smoking regulations and to uncertainty in the hotel and restaurant industry which is holding up investment.

(1) Do the statements of the Minister for Labour Relations represent the Government's policy on smoking in enclosed workplaces?

(2) If not, what precisely is the Government's policy?

Mr COURT replied:

(1)-(2) The Minister for Labour Relations outlined the situation as it stands in law. A couple of weeks ago, Cabinet asked the Minister for Health to develop a strategy to implement the recommendations of the Taylor inquiry. We await those proposals. This is a difficult issue - we do not deny that - but in no way -

Dr Gallop: The difficulty you have is the Minister for Labour Relations going around Cabinet.

Mr COURT: Hang on. In practical terms, there is no way that we can see that one can stop people smoking in front, public bars.

Dr Gallop: Is that your policy?

Mr COURT: No; I am just saying that it is a difficult issue. Unlike the Opposition, the Government has accepted the recommendations of the Taylor inquiry, and has asked the Minister for Health to develop an implementation strategy for that inquiry's recommendations. When that process is finished, the Opposition will be informed.

GOVERNMENT TRAVEL AND USE OF CONSULTANTS

1071. Mr MARSHALL to the Premier:

In response to the Leader of the Opposition's call for the Government to be open and accountable about the use of taxpayer funds on government travel and the use of consultants, will the Premier explain to this House how the Government reports in an open and accountable manner to the taxpayers of Western Australia on this form of expenditure?

Mr COURT replied:

I thought it was a bit rich when over the weekend the Opposition put out a statement criticising travel, consultancy and advertising expenses.

Dr Gallop: You got it wrong. It was a good statement.

Mr COURT: No. All members opposite can do is compare our expenditure with our expenditure. They cannot say publicly, "When we were in government, we spent this much, and this Government is spending this much", because they refused to provide that information when in government. As members know, we now come out with regular reports so that the information is made public. When I asked the now Leader of the Opposition in his last year in government to give us some figures on consultants, the last part of the report stated that in line with government practice, details of personal contracts are not divulged. I was asking about a consultancy. Let us get it on record that the report said that in line with the former Government's practice, it would not provide that information; as a Government, we do. If members opposite want to compare our expenditure with our expenditure, they can keep doing that, but they should not have the nerve to try to make a comparison when they cannot do so.

Dr Gallop: You got it wrong. You referred to intrastate travel. None of the intrastate travel is in the concealed documentation.

Mr COURT: It is all travel in the State.

Dr Gallop: It is interstate travel, not intrastate.

GOVERNMENT TIPPING POLICY

Use of Credit Card

1072. Mr RIPPER to the Premier:

Mr Speaker -

Dr Turnbull interjected.

The SPEAKER: Order!

Mr Marlborough: Go back to sleep!

The SPEAKER: Order! I suppose the member for Collie could take the other member's advice.

Mr RIPPER: I refer to the breach of policy by the Minister for Finance in using his government credit card to tip staff at Mead's Fish Gallery and ask -

(1) Does the Premier believe it appropriate that the Minister be allowed to change the policy on tipping after it had been brought to his attention that he had breached the policy?

(2) Has the Minister been required to repay the $100 in tips charged to his taxpayer funded credit card?

(3) If the change in policy on tipping on the public purse is to remain, will the Premier explain to taxpayers why they should be expected to foot the bill for the Minister's tips?

Mr COURT replied:

(1)-(3) I am not aware of a tip being refunded. I believe it was the practice under the previous Government for tips to be paid where appropriate; so perhaps the member for Belmont might want to ask the question: Did his Government accept the payment of tips? I believe the policy is reasonable -

Mr Ripper: Which policy - the one before or the one after?

Mr COURT: It is a commonsense policy that tips be paid where appropriate. Similarly, in many overseas countries, a tip is an accepted part of the bill. I would be interested to know whether that was the policy when members opposite were in government.

Mr Ripper: You changed the policy after he had been caught breaking it.

Mr COURT: We changed it because we did not believe it was appropriate.

RETROSPECTIVE POLICY CHANGES

1073. Mr RIPPER to the Premier:

I ask a supplementary question. What other rules or policies have Ministers been allowed to change retrospectively once they have been found to have breached the rules?

Mr COURT replied:

Mr Speaker -

Dr Gallop: I will give one example: The Minister for Labour Relations' sacking Solomon and White from the Health Department. He is No 1. Pick another few.

The SPEAKER: Order! Supplementary questions are supposed to relate to the original question; and because this does relate in an obscure way, I will allow it.

Mr COURT: As a Government, we are always upgrading our policies because we are proud of the fact that we have been open and accountable. We are the first Government in this State to operate under freedom of information, which members opposite refused to bring in.

THERAPY SERVICES FOR CHILDREN WITH DISABILITIES

1074. Mr BARRON-SULLIVAN to the Minister for Disability Services:

As the Minister is aware, access to therapy services by children with disabilities is vital to enable them to develop their skills and abilities. Will the Minister advise the House what is being done regarding the provision of therapy services for children with disabilities?

Mr OMODEI replied:

I thank the member for some notice of this question. Currently the Disability Services Commission provides $18.5m annually for a range of specialist services for school age children to maintain their health and wellbeing and to develop their skills and abilities to the maximum. In terms of growth funding, this is a very important area and the Government has provided an extra $7.5m over five years to 2000 for a range of therapy services. This is the first time in the State's history that a State Government has made such a significant long term commitment to the provision of additional funding for people with disabilities.

I am pleased to announce that, with the extension of the current five year business plan for a further two years, an additional $1.4m will be made available in 2001 and 2002. A second five year business plan for disability services in Western Australia between 2001 and 2005 is in the planning stage. A therapy advisory group has been established to inform the planning group on therapy needs into the new millennium. The group includes representatives of parents, key service providers such as the Cerebral Palsy Foundation and Rocky Bay Inc. and other relevant public sector agencies.

POLICE COSTS AT FREMANTLE DOCKS

1075. Mrs ROBERTS to the Minister for Police:

(1) What is the total cost so far to Western Australian taxpayers of the police operation at the Fremantle docks including overtime payments for the hundreds of officers involved; the leasing and fitting out of a warehouse near the community picket line; and the use of police helicopters and fixed wing aircraft?

(2) Does the Minister intend to ask the Howard Government to pay for this drain on the public purse and, if not, why not?

Mr DAY replied:

I thank the member for some notice of this question.

(1)-(2) It is important to appreciate at the outset that the Police Service takes no side in this dispute. However, it does have a role, first, in maintaining the peace, second, in upholding the law without fear or favour - that is exactly what the officers have been doing - and, third, it has a responsibility to ensure that people can go about their lawful business in a proper way.

The police at Fremantle were faced not only with a picket situation but also a blockade of the roads. They had a responsibility to clear that blockade so that people could go about their lawful business in a proper and effective manner. It has been my observation, and it is very much my view and that of the Government, that in this issue the police have been professional, skilful and competent in the way they have conducted themselves. It is time the Opposition offered a few congratulations to the police who have been involved in the difficult job in Fremantle.

Dr Gallop: Did you go down there and talk to them? I'll bet you didn't.

Mr DAY: I certainly did not go to Fremantle to incite the situation.

Dr Gallop: We talked to them.

Mr Court: Very reluctantly.

Dr Gallop: If they had some leadership from someone like you informing them about this situation of urban terrorism, we might get somewhere in Western Australia.

The SPEAKER: Order! We cannot have members interjecting like that.

Mr DAY: It was interesting to note that last week the Opposition estimated the total cost of this operation to be $2m. That is grossly overstated. It is very early days and we must recognise that not all costs have been determined and not all accounts are in. The estimated cost of the operation so far over the past 13 days is $500 000, of which the cost for overtime is estimated to be $450 000.

Mrs Roberts: If $450 000 is for the overtime, what is the cost for the rest?

Mr DAY: Does the member want the answer?

The SPEAKER: Order! I call the member for Midland to order.

Mr DAY: The cost of leasing and fitting out of the warehouse, including the provision of mobile catering and kitchen facilities, is estimated to be $42 000. I am not aware of the precise cost of the use of the helicopter and the fixed-wing aircraft, but they have been funded from the normal operational allocation to the air wing.

Mr Ripper: What is the total?

Mr DAY: I have given the total. The member for Belmont should listen. This operation has been, and is being, funded from within the Police Service budget. The Commissioner of Police is well aware that he can come to the Government if he needs additional funding, in view of the fact that this has been an extraordinary operation and unplanned expenditure, and I encourage him to do so. It is not intended to ask the Federal Government for reimbursement of the cost of this operation. It is the responsibility of the State Government, through the Police Service, to fund the enforcement of Western Australian laws. However, it might be appropriate to ask those who have been involved in instituting the blockade at Fremantle to make some contribution.

Mrs Roberts: I have a supplementary question.

The SPEAKER: Order! There were so many supplementary questions during this question, I am hardly inclined to allow it; however, the member may ask the supplementary question.

POLICE COSTS AT FREMANTLE DOCKS

1076. Mrs ROBERTS to the Minister for Police:

Does that figure include the cost of taking police officers out of stations and units throughout the State which has caused other officers to work double shifts?

Mr DAY replied:

The Police Service has a responsibility to deal with issues as they arise and with serious law and order problems. I ask the Opposition this question -

Mrs Roberts: Answer my question, yes or no.

Mr DAY: Is the Opposition seriously suggesting the police should not have been involved at Fremantle in any way? Is that what those opposite are suggesting?

Mrs Roberts: Absolutely not.

Mr Court: Yes, of course they are.

Mr DAY: The Police Service has a responsibility to maintain the peace.

Mrs Roberts: I answered your question; answer mine.

The SPEAKER: Order! It is highly disorderly for the member for Midland to keep interjecting while I am on my feet. The level of interjection has gone beyond what is acceptable. That is the second caution I have given the member for Midland.

Mr DAY: As I was saying, the Police Service has a responsibility to respond to issues as they arise, to ensure people can go about their lawful business in a proper way. The police have been acting entirely appropriately and lawfully in all cases, in my view. In exactly the same manner as the police mount a major operation to deal with the Australia Day fireworks or some other major community activity -

Mr Court: The macro task force.

Mr DAY: - such as the macro task force, as the Premier interjects, they have a responsibility to deal with the situation at Fremantle so that law and order is maintained. I compliment the police who have been involved for the way they have conducted themselves.

ARGENTINE ANTS

1077. Mr OSBORNE to the Minister for Primary Industry:

Will the Minister advise the House and the people of Bunbury of the progress of his program to eradicate the Argentine ant menace in the City of Bunbury?

Mr HOUSE replied:

Argentine ants are a serious problem in many parts of State, and have become more of a problem since the banning of chemicals, such as Dieldrin, a few years ago. We established a pilot program in the Bunbury region 18 months ago to ascertain whether a new chemical which was recommended to us by an American company would help with this problem. Those trials have been very successful and I have asked Agriculture Western Australia to work with some of the other agencies - the Department of Conservation and Land Management, the Department of Environmental Protection and the local authorities - to see whether we can get a coordinated approach to eradicating Argentine ants, not just in that region but across other parts of Western Australia.

Two things must be done: First, we will need a coordinated approach, because it is no good doing half a job. This chemical is transported back to the nest and eradicates the ants in the nest. However, we have a problem with the registration of that chemical for broad use in Western Australia. The outcome depends on successful negotiations with the American company. Provided that we can do that and bring together and coordinate agencies, I am confident that we will have a chemical and a program which will eradicate Argentine ants from Western Australia.

CHILD CARE FUNDING

1078. Ms ANWYL to the Minister for Family and Children's Services:

(1) As Minister responsible for child care, why did the Minister fail to make a submission to the Senate inquiry into child care which is hearing evidence in Perth this week or direct her department to do so?

(2) Is the Minister aware that Western Australia has been the State most affected by the Howard Government cuts to child care?

(3) Is the Minister's silence not an endorsement of the effect that these cuts are having on ordinary Western Australian families?

Mrs PARKER replied:

(1)-(3) I am aware that the committee will have hearings in Perth later this week. I have had discussions with my federal counterpart, Hon Warwick Smith, on child care and on those hearings as they have been conducted around Australia. It will be interesting to hear the outcome. Far from being silent or having a lack of commitment, I am in contact with the sector on a regular basis. We need to be careful about the sorts of statistics that are being quoted to the Senate committee. It will be important to get the right information in order to balance the report with the statistics from the sector and the Federal Government to see what are the outcomes after the new policy has settled and the new arrangements have taken place.

CHILD CARE FUNDING

1079. Ms ANWYL to the Minister for Family and Children's Services:

As a supplementary question, is the Minister aware that advocacy works, as evidenced by her counterpart in the New South Wales Government whose lobbying secured an emergency $2.5m funding from the Federal Government to prop up ailing child care services?

Mrs PARKER replied:

I am absolutely certain that advocacy works. The reason we did not have problems in this sector is that within weeks of being appointed as Minister, I wrote to Hon Judi Moylan, the then federal Minister, about issues such as subsidies for rural and remote areas, Western Australia was a very significant benefactor. Advocacy is very important. In the final shakedown of the Budget we saw last year from the Federal Government, the package contained significant benefits for Western Australia as a direct result of my advocacy in the preceding six months.

INDUSTRIAL RELATIONS LAWS

1080. Mr MASTERS to the Minister for Labour Relations:

Claims have been made that the Government dare not enforce the industrial relations laws of the State. Will the Minister comment on the accuracy of this comment?

Mr KIERATH replied:

Recently the Secretary of the Trades and Labor Council, Tony Cooke, claimed that the Government dare not enforce the industrial relations laws of this State. He further claimed that "we" - which I presume is he and some of his associates - "are committing breaches on a daily basis but not being charged". Tony Cooke has his Governments mixed up. Since 1993 this Government has upheld the law without fear or favour. He has remembered when the Labor Party was in power. Whether it prosecuted depended on whether the unions would wear it, not on the justice of it. Unfortunately, that is the sad behaviour of a few people in the union movement. Tony Cooke has found that there are no real problems with the law, so he is trying to provoke some confrontation. I asked the Department of Productivity and Labour Relations if it had received any complaints. The answer was that it had received no formal complaints. There have been a few media queries. Interestingly, DOPLAR has had two union requests for access to time and wages information. Those requests have progressed without incident. Therefore, two unions are using the new provisions without any problems. This shows that the new laws are working well. It also shows that the parties are acting responsibly. I congratulate the employers and employees for their very mature attitude. It is a pity that others in the trade union movement do not display the same attitude.

GOVERNMENT'S PROPOSAL TO PURCHASE DIESEL BUSES

1081. Ms MacTIERNAN to the Minister for the Environment:

(1) Was the Minister present at the Cabinet meeting when the decision was made to endorse the purchase of 128 diesel buses?

(2) Does the Minister support the purchase of these 128 diesel buses when economic modern gas technology is readily available?

Mrs EDWARDES replied:

(1) Yes, I was.

(2) We are talking about a 12 year contract involving the purchase of 848 buses. I am as keen as anyone to ensure that any buses operating on our streets are environmentally friendly and that emissions are reduced. As such, I have asked the Department of Environmental Protection to work with the Department of Transport on the evaluation of the trials.

Ms MacTiernan: What about the 128 diesel buses?

The SPEAKER: Order!

Mrs EDWARDES: I have done this in an endeavour to increase the number of gas vehicles in all stages of the bus fleet upgrade.

GAS BUS EVALUATION

1082. Ms MacTIERNAN to the Minister for the Environment:

As a supplementary question -

(1) Is the Minister aware that extensive evaluations have been done on gas buses in Sydney, Adelaide and Jakarta?

(2) If he is aware of this, why will the Government proceed with the purchase 128 diesel buses early next year?

Mrs EDWARDES replied:

(1)-(2) I am aware of a number of evaluations. It is important to bring to the attention of members two of the conditions contained in the contract. These conditions have been set for the 12 years of the initial contract.

Ms MacTiernan interjected.

The SPEAKER: Order! The member for Armadale has asked her supplementary question.

Ms MacTiernan: I want a supplementary answer.

Mrs EDWARDES: That includes the 128 and the five which will be gas buses. The conditions include noise and emission levels being maintained at, equal to or better than other chassis manufacturers. A fuel consumption condition requires the Mercedes product to lead with fuel efficiency as well as offering alternative forms of power. The 12 year contract does not restrict future purchases of gas vehicles.

AUSTRALIAN LABOR PARTY'S HOUSING POLICY

1083. Mr JOHNSON to the Minister for Housing.

Is the Minister aware of the Australian Labor Party's platform on housing that was adopted at the ALP National Conference in Hobart in January of this year? If he is, could he comment on the impact on Western Australia if the Commonwealth-State Housing Agreement were based on that platform?

Dr HAMES replied:

I was interested to read the national ALP policy on housing. In a general sense it is quite reasonable. It adopts a lot of the policies that this Government has already put in place including the new living program that members on the other side are so pleased with. It also adopts a lot of the agreements that are currently being put in place through the Commonwealth-State Housing Agreement being negotiated at present. Two aspects of the proposal cause concern. The first is under point 47 -

> Labor's national housing strategy will be advanced by:
> - setting targets . . . based on national assessment of need.

Through the agreement all State Governments have been pushing strongly for the commonwealth government funding not to be on a needs basis but rather on a per capita basis. Our current base funding is $83.549m. Being paid on a needs basis and not a per capita basis would result in a reduction of $17.6m in funding to Western Australia to $65.95mm. I encourage members of the Western Australian Labor Party to be aware of that problem.

Mr Brown: You are misinterpreting it.

Dr HAMES: I am not misinterpreting it at all. There is no doubt that needs assessment is done. All States perform needs assessment. There are two ways of calculating commonwealth grants: The first is on a needs basis; and, the second is on a per capita basis.

Mr Brown: It depends on the formula.

Dr HAMES: If one follows the needs basis, Western Australia will miss out on $17m. The member should look at the figures. The shadow Minister for Housing has a much better handle on it. The next policy of concern is that rent subsidies for private tenants are to be set closer to the level of subsidy for public tenants to reduce housing related

poverty in the private rental market. One concern is that this recently has been strongly promoted by the Commonwealth Government. However, the Commonwealth Government takes away Western Australia's base funding, increases the level of rental subsidy and returns the money to the States. All State Ministers, including the New South Wales Minister, strongly oppose this. We pointed out that this had occurred in New Zealand and had been an absolute disaster. The private rental market has jacked up the rents, so no matter how much the subsidy is increased, New Zealanders can never keep up with the rent that is increased by the private developers. Many people in government supplied housing move out, leaving empty houses, and two or three families crowd into the one house because it is all they can afford. Members opposite should note the proposals by their federal colleagues and ensure that they advise them.

Mr Brown: That is the Howard Government's policy.

Dr HAMES: This is not the Howard policy; this is federal Labor policy and the member needs to take close note of it and ensure his colleagues are properly advised.