WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE ASSEMBLY

Tuesday, 29 October 1996

Legislative Assembly

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

PETITIONS - ALINTAGAS, REBATES

DR GALLOP (Victoria Park - Leader of the Opposition) [2.02 pm]: I present the following petition, which is similar to other petitions I have presented -

> To The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned call on AlintaGas to establish a scheme of rebates or discounts for senior citizens, pensioners and other low income earners.
>
> AlintaGas is alone among the public utilities in not providing some form of assistance for low income earners and the elderly and we call on it to display social responsibility in conducting its business affairs.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears eight signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

A similar petition was presented by Mr Brown (20 signatures).

[See petitions Nos 184 and 189.]

PETITION - CATS, COMPULSORY STERILISATION LEGISLATION

MS WARNOCK (Perth) [2.03 pm]: I present the following petition -

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, urge the Government of Western Australia to enact and implement legislation enforcing the compulsory sterilisation of all cats, with the exception of those under the care of approved, licensed breeders.
>
> Your petitioners therefore humbly ask that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

The petition bears 1 705 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 185.]

PETITION - ROYAL FLYING DOCTOR SERVICE, CARNARVON BASE

MR LEAHY (Northern Rivers) [2.04 pm]: I present the following petition -

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned, call on the Parliament and the State Government to intervene to ensure that the Royal Flying Doctor Service base remains in Carnarvon fully staffed and equipped.
>
> If the Royal Flying Doctor Service of Western Australia wish to provide a 24 hour service in the region then such a service can be adequately provided by sharing resources between the Meekatharra and Carnarvon bases.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound will ever pray.

The petition bears 23 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 186.]

PETITION - EUTHANASIA LEGISLATION

DR WATSON (Kenwick) [2.05 pm]: I present the following petition -

> To: The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned request that because the criminal code law in Western Australia is such that suffering people have no legal right to be actively helped to die, no matter what their degree of suffering nor the urgency of their pleas for release by death, the Legislative Assembly, in Parliament assembled, should enact legislation that makes the right to be thus helped to die a legal option on the request of persons who are suffering more than they wish to bear; and that other persons participating in the fulfilment of such a legal option shall not be subject to adverse legal or professional action.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears five signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 187.]

PETITION - SENIORS' MOBILITY PROGRAMS, FUNDING

DR WATSON (Kenwick) [2.06 pm]: I present another petition -

> To The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia are dismayed that the Government is withdrawing funding from the seniors' mobility programs. The men and women who are referred by their doctor to participate are able to keep fit and well, saving costs in the health care system. We urge the Government not to defund this sensible and practical initiative.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 13 signatures, but it adds to the signatures of several hundred people on petitions that I have already presented. I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 188.]

BILLS (5): ASSENT

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

1. Acts Amendment (ICWA) Bill.
2. Railway Discontinuance Bill.
3. Government Railways Amendment Bill.
4. Revenue Laws Amendment (Assessment) Bill (No 2).
5. Financial Legislation Amendment Bill.

MINISTERIAL STATEMENT - MINISTER FOR LABOUR RELATIONS

Minimum Wage Increase; Plowman Report Tabling

MR KIERATH (Riverton - Minister for Labour Relations) [2.11 pm]: Last year Professor David Plowman, an expert in industrial relations at the University of Western Australia, gave me a report recommending a way in which the minimum wage should be defined, determined and adjusted. That report recommended that the minimum wage be defined as the lowest weekly wage payable to an able-bodied, single, full time employee regardless of his or her

industry or calling but having regard for the reasonable needs of that person. At my request the Department of Productivity and Labour Relations commissioned Professor Plowman to undertake a survey using housing expenditure data to determine a minimum wage.

Increasing the minimum wage is all about social justice and should not be linked to any specific tradesperson's rate of pay as previously recommended by the Western Australian Industrial Relations Commission. Professor Plowman has provided a scientific reason for assessing the needs of a single, full time employee and the wage that person needs for reasonable living in the Western Australian community. On his recommendation I have increased the minimum wage to $332. This is a realistic wage based on needs, and has been justified by real expenditure figures from the Australian Bureau of Statistics. Setting the wage in this way is an Australian first and an important benchmark which provides a justifiable way to set the minimum wage. Professor Plowman's methodology has been examined by the Treasury Department and the Department of Productivity and Labour Relations, which have found no flaw in it.

I have been criticised for rejecting past WAIRC recommendations, but I have done so because there has not been sufficient justification for the way in which it has arrived at any given number. We now have a base figure from which we can calculate next year's figure, the year after and so on.

The Government introduced the minimum wage in 1993 to ensure that low wage earners were protected by a weekly pay safety net. Since that introduction, the Government has increased the payments to workers on the minimum wage by almost $60 a week, and now we have a justifiable base figure from which to continue increasing that weekly wage. The WAIRC has foreshadowed that it will examine Professor Plowman's methodology when making next year's recommendation for the minimum wage, and I look forward to the outcome. The new minimum wage will apply after gazettal, which should take place today. I table Professor Plowman's report.

[See paper No 679.]

MINISTERIAL STATEMENT - MINISTER FOR SERVICES

Contracting Out Program; Facilities Management Contracting, Summary Tabling

MR MINSON (Greenough - Minister for Services) [2.13 pm]: On 25 September the then Leader of the Opposition, on behalf of the current leader, moved a motion that demonstrated little understanding of the Government's successful contracting out program. It is important that the House know the facts. P&O Facilities Management has not awarded cleaning contracts for public buildings to its subsidiary - Berkley. Contracting out services to the private sector is good news: Business investment in Western Australia is now 77.1 per cent above its March 1991 trough; 104 900 jobs have been created; and debt reduction of $1.6b between 1993 and 1997 means that taxpayers are saving $228m in interest payments - money better used for education and health.

The Department of Contract and Management Services' five building facilities management contracts demonstrate its success. Covering about 900 buildings in the metropolitan area, the contracts are performing better in areas of timeliness and cost; 95 per cent of customers are satisfied; savings of $5m a year are anticipated - and we are on target; and they are recognised in the industry as best practice contracts.

The facilities managers replace a level of government bureaucracy. Their small in-house work forces - mostly former Building Management Authority tradespeople - primarily do urgent emergency repair work. The contracts are not exporting jobs. It is ridiculous to think that a plumber in the United Kingdom or a carpenter in the Eastern States could win a maintenance contract for a Perth high school. About 80 per cent of the work - comprising 50 000 repair jobs and 10 000 maintenance projects worth at least $32m - will be subcontracted to local small business this year. By "small" I mean businesses with 10 employees or fewer. In 1990 a mere $4m worth of work was let to contractors. CAMS can scrutinise the contracts between the building facilities managers and their subcontractors at any time during the life of the contract. The Auditor General can study the CAMS audits. CAMS and the Master Cleaners Guild have endorsed the process used for the calling of expressions of interests for cleaning, and CAMS is represented on the evaluation panels to develop the pre-qualified lists of suppliers.

The facilities managers request standard commercial information from their subcontractors and a facilities manager's subsidiary company must undergo a tough selection process before it can win any work. Building facilities management is a marketable service to Governments and the private sector around Australia. In sharing the efficient process developed by the Government, the facilities managers will create even more opportunities for small business. This is in addition to the financial savings which will result in more work for small business, and the extra maintenance this Government has funded to help clear the huge maintenance backlog on public buildings. I table a summary of the facilities management contracting in this State.

[See paper No 680.]

[Questions without notice taken.]

MOTION - BUSINESS OF THE HOUSE, CHANGES

Private Members' Business; Grievances; Passage of Bills

MR C.J. BARNETT (Cottesloe - Leader of the House) [2.47 pm]: I move -

That for the present session, unless otherwise ordered -

(a) private members' business shall take precedence on Wednesdays from 4.30 pm until 6.00 pm and government business shall take precedence at all other times;

(b) Standing Orders Nos 224 and 225, relating to grievances, be suspended; and

(c) that so much of standing orders be suspended as is necessary to enable Bills to be introduced without notice and to proceed through all stages on any day and to enable messages from the Legislative Council to be taken into consideration on the day on which they are received.

This motion is similar to what is traditionally moved towards the end of a parliamentary year. Paragraph (a) of the motion reduces private members' business from approximately four hours to one and a half hours each Wednesday. The practice prior to this Government assuming office was that private members' business was cut off anywhere between two and four weeks from the end of both the spring and autumn sessions. In 1994 I introduced a fairer system; that is, as the parliamentary year draws to a conclusion private members' business is not completely cut off, but reduced to one and a half hours. It is a reasonable compromise.

Paragraph (b) of the motion suspends grievances for the remainder of this session. However, members will have the opportunity this week and in the ensuing weeks to raise matters of concern to them or their constituents in the debate on the Appropriation (Consolidated Fund) Bill (No 4).

Paragraph (c) of the motion provides for Bills to progress through all stages on any day and again that is a standard motion which is put in place towards the end of a parliamentary year. I do not anticipate the Government making very much use of that paragraph of the motion. The business of the House is already listed on the Notice Paper and the House should be able to deal with it in an orderly fashion. I draw the attention of members to the fact that the Government is keen to deal with a significant number of Bills. Accordingly, I advise members that this House will sit on Thursday evening this week.

MR RIPPER (Belmont) [2.49 pm]: This motion is usually moved at the end of a parliamentary year. The Leader of the House was correct when he said that previously, including the time I was Leader of the House, private members' business was effectively abolished for the last three weeks of the sitting. He is correct when he argues that reducing the allocation to an hour and a half is a fairer arrangement than to have private members' business completely abolished. However, we do not know for how long private members' business will be reduced to an hour and a half. Will it be just for this week, and will we be going to our crayfish supper on Thursday night? Will it be reduced for two weeks and the crayfish will be served on Thursday of next week, or are some longer parliamentary sittings to be held?

Mr Cowan: The crayfish season does not start for a couple of weeks.

Mr RIPPER: Do I take that to be a clue about the length of the sittings?

Mr Cowan: Take it any way you like.

Mr RIPPER: It would be of interest for the House to be advised of the Government's intention with the parliamentary sittings. On the program advised, we are not expected to sit next week but we are expected to sit on the following three weeks. Indeed, a suggestion has been made around the corridors that we will be sitting next week.

Mr C.J. Barnett: The Legislative Assembly will not be sitting next week.

Mr RIPPER: It is good to have that confirmed.

Mr Brown: When will we sit again?

Mr RIPPER: Indeed. As the Leader of the House is in such a cooperative and informative mood, will we sit in the week after the recess? No answer is given to the very good question asked by the member for Morley.

Mr C.J. Barnett: I would be very surprised if we weren't.

Mr RIPPER: The Leader of the House would be surprised if we did not sit in the week after the recess; that is an interesting answer indeed.

Returning to the question of the reduction in private members' time, it is true that we usually have a reduction in that business at this time of the year, and that a reduction to an hour and a half is better than the practice which used to apply. However, the difference is that, by and large, we have a guillotine applied each week, which is meant to provide for the orderly passage of the Government's legislation; to reduce the need for a last minute legislative rush; and to reduce the need for extraordinary measures to be applied at the end of year to ensure that the Government's program is concluded before the Parliament rises. If the Opposition is asked to tolerate a guillotine a week, an appropriate quid pro quo would be for the Government to abandon its other measures to force the legislative program through. In other words, we should be entitled to the continuation of private members' business at the same rate as that which applies in other weeks of the year by virtue of the fact that the Government has repeatedly used its numbers to guillotine legislation through this place. That should be considered by the Leader of the House, who has argued strongly the benefits of the weekly guillotine including the legislative rush and late night sittings. However, as well as the guillotine, he wants to resort to the other measures usually applied by Governments to avoid late night sittings at the end of the year and which apply pressure on the Opposition to pass legislation in a hurry. Also, the Leader of the House proposes a reduction in private members' business.

It is not as though the Opposition wants to frustrate the Government's legislative program. We have been saying to the Government that important pieces of legislation are on the Notice Paper which should be dealt with before this Parliament rises. These matters should not be dealt with at five minutes' notice with five minutes' debate. These significant pieces of legislation - such as the Mental Health Bill, the Mental Health (Consequential Provisions) Bill and, the third Bill in the package, the Criminal Law (Mentally Impaired Defendants) Bill - should be debated properly and be fully endorsed by both Houses of Parliament before Parliament rises for the state election. We are not in the business of seeking to frustrate the Government's program. The Government has an obligation to have parts of this program passed through the Parliament before it faces the people at the next state election.

The Government should be not only dealing with these items on the Notice Paper, but also honouring the promises it made to introduce legislation on important topics. We will raise a number of issues tomorrow about which the Government made solemn promises to the community that it would introduce legislation. For example, the promised legislation regarding marine parks has not been forthcoming or seen by this House. If the Government made a promise to introduce legislation, it should do so before Parliament rises. Certainly, the Government should not bring a premature end to the deliberations of Parliament without honouring its promise to the community to introduce legislation, and without debating matters of great importance to the community already on the Notice Paper.

The Opposition will not vote for this motion moved by the Leader of the House because the Government has not been fair in its treatment of the Opposition over four years with its use of the guillotine and its approach to private members' business. The amount of time allowed for private members' business by this Government is less than that allowed by the previous Labor Government when the coalition was in opposition. Also, the placing of private members' business in the parliamentary schedule under this Government has been very unfavourable to the Opposition: It has been shuffled to the end of the day after media deadlines, which even makes it difficult for *The West Australian* to cover matters raised in private members' time. On those two counts, the Opposition has not been treated fairly. The previous Opposition was treated in a much more favourable manner.

If the Government brings on the Mental Health Bill with sufficient time for the second reading debate to be concluded, it will then have the option of referring it to a legislation committee for its Committee stage. That would be a way of getting the Committee stage of that Bill dealt with expeditiously; the legislation committee could sit at the same time as the House dealt with other legislation. Therefore, we could double the amount of legislation considered by the House at any one time. I ask the Government to think about its schedule for the Mental Health Bill. It is scheduled for consideration on Thursday in the program advised to the Opposition, but that allows no time for a legislation committee to sit this week. If the Bill were scheduled for consideration tonight, a committee could be formed to deal with the matter tomorrow and Thursday.

Mr Prince interjected.

The SPEAKER: Order! I advise the Minister not to inject from that place.

Mr RIPPER: The legislation should be dealt with expeditiously, but properly. The Bill is significant and of importance to the community. The Opposition does not intend to filibuster

Mr Prince: You have one amendment on the Notice Paper. A former Labor member, now with the Schizophrenia Fellowship of WA, has been saying to me and to the public, "Gag it; guillotine it; get it through."

Mr RIPPER: It is not right to gag and guillotine such legislation through the House; there is no practical need to gag and guillotine the measure. The Government need only give adequate priority to the matter, and the Opposition will be cooperative in a proper debate and not impose undue delay upon the passage of the legislation.

Mr Prince: Is that an undertaking?

Mr RIPPER: Of course it is an undertaking, but the issue is in the hands of the Government. It should bring the Bill on earlier than programmed in the advised schedule so the Parliament can establish a legislation committee to debate the Committee stage at the same time as the House is debating other pieces of legislation. Significant progress would be made in that way.

It seems to me that the Government has formed the judgment that it cannot get the Bill through both Houses of Parliament before Parliament rises. The Government is making gestures to the mental health community, but has no real intention of getting it through the Parliament because of the judgment it has made. It could be passed through both Houses if the Government were prepared to let Parliament run its natural course and if it were prepared to make use of a legislation committee.

It is a pity that grievances have been suspended, because following the recommendations of the Select Committee on Standing Orders and Procedure, we have had a weekly opportunity to present grievances and there has never been any shortage of members wanting to do so. It is a very popular device and it will be missed, particularly by the member for Balcatta, who has had considerable success with his grievances over the past few weeks.

The last part of the motion allows for Bills to be introduced and passed in one day. The Opposition is not unhappy with that, provided of course that we receive adequate notice of the Government's intentions.

Mr C.J. Barnett: To my knowledge we will not need to use that device, but we may need to accelerate the passage of some Bills.

Mr RIPPER: There are sometimes formal delays that do not add to the scrutiny that the Parliament can give to a Bill. We are not concerned that those formal delays are dispensed with, but we do want adequate notice of the Government's intentions to debate particular legislation.

We will not vote for this motion, but neither will we divide on it. It is a traditional motion moved at the end of parliamentary sittings. However, the context has changed - the weekly use of the guillotine should obviate the need for this sort of motion.

MR GRAHAM (Pilbara) [3.03 pm]: Every now and then in politics one gets an opportunity to lean across the Chamber and say to the Government, "I told you so." I know the leader of government business in this place would be disappointed in me if I did not do that. In the early days of this Government when the guillotine was introduced I spoke vehemently against its use. I did that based on the short experience we had had of the leader's ability to manage the affairs of the House.

There was no clearer example of the leader's duplicity and his mendacity than the other day when he stated publicly that the Opposition had not lived up to its commitments in relation to the firearms legislation because we had spent 14.5 hours debating a Bill of national importance. He suggested that we had in some way backflipped, reneged or changed some implicit agreement we had with him. He did not say that when the debate finished at 10.26 pm on 17 October, after we had agreed to sit Thursday night and to shorten the dinner break - as we should have because it was important legislation. In fact, he said:

> I thank members for dealing with the firearms legislation. I realise it involved an extra night's sitting, but I am sure that everyone agrees it is an important piece of legislation. I move -
>
> That this House do now adjourn.

Members here at the time will remember the looks of surprise, because we were ready, willing and able to move on to the third reading.

Mr C.J. Barnett: It was amended and we needed a clean copy of the Bill.

Mr GRAHAM: So it was not the Opposition's delaying the legislation.

Mr C.J. Barnett: If you had dealt with it quickly -

Mr GRAHAM: Why did the leader say that it was the Opposition's fault when clearly it was not? It was one piece of legislation handled more effectively by this House. I have previously stated that in respect of this legislation the Minister for Police was prepared to sit and listen to arguments, to bounce them off his "experts" and to make necessary changes where they had some value. It was the House at work and conducting its business in the way that it should, until the leader opened his gob publicly and said it was the Opposition's opposing and delaying the passage of the legislation. It was not what he said at the time and not what is borne out by the facts.

Let us go back in time, because it is important that we look at why the guillotine was introduced. This restriction is part and parcel of the management of the House. The leader's argument for moving these motions is that they have always been moved: Traditionally these "rights" with regard to private members' business - which is generally opposition business - and grievances must be curtailed because they have always been curtailed. That was the logic of his argument. Apart from a change in Government in the past four years, we have seen changes in the processes of the House. For the first time in Western Australia's history we have an institutionalised guillotine operating at the whim of the Government that puts legislation through this Chamber regardless of anything. Once that guillotine is put in place, no factors can change the Government's intention.

There is no evidence that the Opposition has filibustered or misused its private members' time or grievance debates, and the leader offered none in his contribution. His sole reason for making this change is that the Government needs it. It is open to people to ask: Why does the Government need this change? My explanation has traditionally rested with him; that is, his inability to manage the affairs of the House. At one stage I called him the worst manager of government business this Parliament has ever had.

The reasons for the introduction of the guillotine are threefold: Firstly, for the orderly handling of business; secondly, to remove or reduce the number of late night sittings in the Assembly; and, thirdly, to remove the end of the year log jam of legislation.

Mr C.J. Barnett: And we have done it.

Mr GRAHAM: If that is the case, why does the Government need to remove private members' time?

Mr C.J. Barnett: There is not a log jam, but there is pressure of government business. The Premier has said publicly that he wants a number of major Bills to pass. So, as is the convention of this House, we have reduced private members' business. It is not the panic of the last day of the previous Labor Government, when 14 Bills went through. You will not see that or anything like it under a coalition Government. That is a log jam and an abuse of Parliament.

Several members interjected.

Mr GRAHAM: Members opposite came into government three and a half years ago committed to reforming the mental health legislation. The Premier thought that it was important enough for him to change Health Ministers. He issued an edict to the previous incoming Health Minister, the member for Riverton, that the reform process - contracting out and changing the way the Health Department operates - was too slow and that he should give top priority to changing the system. That was two and a half years ago.

Mr Prince: No, it was March or April last year.

Mr GRAHAM: Why did the Premier not say at that time to the Minister for Health - or he could have done it when the member for Albany took over that portfolio - "I instruct you that mental health is the top priority of the Government, and that legislation must be organised, finalised and brought into the Parliament with a degree of haste"?

Mr Prince: Because it had to be done properly.

Mr GRAHAM: I accept that argument, although I do not agree. The Premier could, and should, have done it with a degree of haste. Why can it not be dealt with properly through the normal processes of the House without removing from the Opposition its time to use the Parliament for its purposes, which is what the Government is seeking to do?

We must bear in mind when we look at the way this House and our system of government works that the current Government has the numbers in both Houses and, as I have said previously in the guillotine debate, the Government can do exactly what it wants to do. The Opposition in either place can do nothing to affect the outcome of the Government's legislative program. The Government can whack Bills through this place. Mr Speaker, you were around in 1976 - I was only looking in from outside - when Sir Charles Court put legislation through both Houses in a day - signed, sealed and delivered. I think the Governor even stayed up late that night to sign it.

Mr Thomas: They woke him up.

Mr GRAHAM: That is right. The Government can do whatever it wants to do. The Opposition has some time in the parliamentary week to deal with matters that are important to it and to the public. Those rights have been removed.

It should also be noted that the number of opportunities and the length of time that opposition members are given to speak have been reduced. I intend to write to you, Mr Speaker, to ask you to give a ruling about the 20 minute-10 minute speaking time in the half hour that is allocated to us for speeches. In private conversation, I have been told that we can speak for half an hour without the leave of the House, but it seems that every time we do that, the ruling

from the Chair is that when we get to the end of 20 minutes, we must get the approval of the House for what is now known as the additional 10 minutes, which was originally included in that half hour speaking time.

In conclusion, I want to deal with the matter raised by the Minister for Health about the view of Hon Bob Hetherington that legislation should be guillotined through this Parliament. I know Bob; I served with him when he was a member of this Parliament, and he was the secretary of our Caucus for some time. I understand the pressure that he is under and his desire to have mental health legislation passed, and I know his longstanding interest in the issue, but on this matter he is wrong. If the argument put by Hon Bob Hetherington were adopted - namely, that because a particular group has not received legislation that it wants in the time line that it wants, it should be guillotined through the Parliament in the interests of that group -

The SPEAKER: Order! The member should relate the Hetherington argument to the motion more closely than he is doing at the moment. I think he is moving a little away from the essence of the motion.

Mr GRAHAM: Two points, Mr Speaker: Firstly, it was a point of some extended debate between the member for Belmont and the Minister for Health. Secondly, it is my closing comment.

The SPEAKER: That is excellent. A brief reference is always acceptable.

Mr GRAHAM: It is open to any lobby group in Western Australia to argue that it is in its interests to have legislation pushed through the Parliament with no public exposure and debate. The pro-gun lobby, for example, has claimed a number of times that there is no need for a matter to be debated in the Parliament because that will draw undue attention to that issue. In my view, the mental health legislation can, and should, be brought on by the Government, and it can, and should, be dealt with by the Parliament in the normal course of events, including bringing it on quickly and sending it to a legislation committee to allow the Parliament to do its business.

MR BROWN (Morley) [3.16 pm]: I, too, wish to raise concerns about the motion moved by the Leader of the House. At the commencement of the year, the Leader of the House circulated to members in this place the timetable for the Parliament for this year, which indicated that the House would sit this week, there would be a one week break, and the Parliament would then resume for three weeks. If that is the case, I fail to see the reason for the argument by the Leader of the House that we should curtail private members' time at this stage. I accept that it has been the practice of Governments of different political persuasions to curtail private members' time towards the end of the parliamentary year. However, if we accept for the moment that there will be three more weeks of the Parliament after this week, it is pertinent to examine what is on the Notice Paper for those last three weeks. A good number of the Bills that are on the Notice Paper for the last three weeks of the Parliament are, to my understanding, either machinery Bills or Bills that are not very contentious. One is a Bill to amend the Workers' Compensation and Rehabilitation Act. That Bill was introduced by the Minister for Labour Relations in 1995 and was reintroduced at the commencement of this year's session of Parliament. One could hardly say that is a pressing Bill for the Government to address in this session, because it has been on the Notice Paper now for 13 months, so unless there has been a rush of blood to the head to say that this Bill must go through the Parliament urgently for some other reason -

Mr Minson: It is not unusual for a Bill to sit on the Notice Paper for a long time and then have people agree suddenly that it must be dealt with; in other words, a lot of negotiation and consultation comes to a head. For example, during the previous Administration, the Nurses Bill was on the Notice Paper for three or four years.

Mr BROWN: I am aware that the Minister for Labour Relations has introduced a subsequent Workers' Compensation and Rehabilitation Amendment Bill, which includes a number of the provisions that were part of the first Bill. Essentially the Government has sought to remove some of the more contentious provisions in the original Bill. That may have nothing to do with the relative merits of the argument about those provisions, but more to do with the timing of a state election.

If we are to sit for the three weeks scheduled for the remainder of this sitting, for the life of me I cannot work out why the House would curtail private members' time today, and what the panic in the popular Press has been about with regard to getting some of this legislation through. After all, we still have another three sitting weeks according to the schedule.

There has been much debate in the public arena about the Parliament passing the Minimum Conditions of Employment Amendment Bill, which we are to debate later this afternoon. It has been said publicly that unless this Bill is passed by this House this week, it will be too late. It is not my understanding that this House loses its authority in the last three sitting weeks; rather, whenever this House sits it has authority to pass Bills and it is entitled to pass that Bill, or any other Bill for that matter, if the House sits in the three weeks that are scheduled. The Government determines whether this House will sit or whether it will not.

Mr Speaker, as you will well be aware, the convention in Western Australia is for the Government to go to the people in February in the year in which the election is due. That convention has been followed by Governments of both political persuasions in the past 20 or 30 years, to my knowledge, if not before then. Previously the only speculation about the date of the poll has been whether it will be held on 4, 11 or 18 February; we know the election is usually held about that time.

If for political reasons it wishes to maximise its opportunity for re-election, under the Constitution the Government can decide to go to the polls earlier. Equally there are pitfalls to making that decision. One of the drawbacks is that the Government must accept the responsibility for the fact that a number of the Bills that would be passed automatically by this House in the next three sitting weeks will not now be passed. That responsibility falls on the Government. As we all know, there are pluses and minuses in politics. A plus for the Government might be that going to the people earlier will maximise its political opportunity; the minus is that the Government must go to the groups in our society to which it has for some time promised the passage of legislation and say, "It is our view that the people of Western Australia are better served by our having a political advantage than by having your legislation passed." The extent to which the Government seeks to curtail the debate in this House about some legislation, is the same as if it seeks to curtail the proper activities of this House for its own political advantage. If that is the case, this House cannot operate in the way it is intended.

I am at a loss to know why this suspension of standing orders is proposed by the Leader of the House. Although I may not agree, I might understand if the Leader of the House were to stand up and say, "Here is our program for this week; here is our program for the following three weeks; all of these Bills must go through in the next four sitting weeks and it is clear that over that four weeks there will be insufficient time to deal with those Bills if the time normally allocated to the Opposition remains; we need that time to progress our legislative timetable." That is not being said.

All of these Bills we have been notified are to be passed this week, with the exception of the ones referred to by the member for Belmont and perhaps one or two others, are fairly standard, machinery-type Bills. I do not understand the rush and why it is necessary for us to go down this path with such undue haste, unless it is to create an opportunity for the Premier at the end of this week or next week to exercise his discretion about whether we should go to the polls earlier than has been the case. If the Government wishes to reserve that political position for itself, and the Premier wishes to take the opportunity to exercise that discretion, the Government must bear the consequences of that decision in facing the groups and constituents in the community who would prefer to see the House sit for its full term, thus allowing a number of Bills that are on the agenda to be passed by this Parliament.

I refer also to the Mental Health Bill. Much has been said about the Government's concerns about getting this Bill through. It does not appear to me that the Government has too many concerns about getting it through at all: It is listed as the last item to be handled on the last day of this sitting week. That is the priority that the Government has given to getting the Mental Health Bill through. On the agenda it has been placed behind the Road Traffic Amendment Bill, the appropriation Bill, the Settlement Agents Amendment Bill, and a host of other Bills.

Mr Shave: Are you getting ready for an election?

Mr BROWN: If the member for Melville wants to make a speech, he is entitled to do so. If he wants to mumble in his beard, he can do that, too. If he wants to wake up, he can make a speech then.

Mr Shave: Don’t get grumbly; take it out on someone else. Take your nastiness away. Go home and take it out on somebody else.

Mr BROWN: If the member for Melville wants to make a speech, he can do so whenever he wants. If he wants merely to grumble, pretending to say something, but saying nothing, he should just get on with it. I do not know whether the member is this grumpy in his party room. The way he is carrying on might indicate the support he has. He was a lot better a couple of years ago when he just about fell asleep all the time.

Mr Shave: You worry about your party; we will worry about ours. You are the last bloke we need advice from.

Mr BROWN: That is all very nice; we do not need the advice or the mumbling from the member for Melville.

The DEPUTY SPEAKER: Order! The member for Melville will come to order.

Mr BROWN: I will be interested to hear whether the member for Melville has anything coherent to say on this matter, or whether he will continue to mumble. If he has anything coherent to say, I invite him to get up and say it.

As I was saying before I was interrupted, the Mental Health Bill is given such a high priority by the Government that on the Notice Paper it is placed behind the Road Traffic Amendment Bill, the Appropriation (Consolidated Fund) Bill (No 4) - which provides for a general debate in this place - the Settlement Agents Amendment Bill, and the

Dental Amendment Bill. It does not seem to be a huge priority. It is the last Bill on the agenda to be debated in the next three days - and the House is also having an evening sitting on the last of those days. That is the priority! If the Bill is not passed, the Minister for Health will no doubt be prodded by his colleagues to say that the dreadful Opposition did not pass the Bill and did not give it priority. However, the Government will not say to the public that the degree of support the Government gives this Bill is that it puts it last on the agenda to be considered; and that it does that as a parliamentary device because it knows the Opposition wants to get that Bill through. Therefore, it uses that Bill to put pressure on the Opposition to get other Bills through.

That is the contempt the Government has for the Mental Health Bill. It is prepared to use, for no other purpose than as a device to try to create that sort of pressure, the legislation and the people who want that Bill to come into operation. I could understand it if, for example, the Government listed the Bill as No 1 or No 2 on the Notice Paper for a period and returned to it if it was not passed. However, the Government is not doing that. The Government says that this Bill will be the very last legislation that is debated. At the end of the sitting on Thursday night when everyone is nearly exhausted the Government will bring it on for debate and will continue to use it as a device to try to put pressure on the Opposition to get the other Bills through. If the Mental Health Bill has not been passed in this place by the end of the week, I hope that we see in the Press a full account of the Government's contempt for the people who want to see that Bill adopted by this House.

I do not see why it is necessary to introduce this change to the standing orders. I understand the precedent in that argument. If the Leader of the House were able to demonstrate to the Opposition a heavy legislative program for the next four weeks and that the change was needed to accommodate that program, that would be one case. However, it has been demonstrated that there is not a heavy legislative program; indeed, the program will be light after this week if all the Bills the Government wants to get through this week are passed. All the Government is seeking to do by this change is facilitate its political agenda, rather than allow the House to get on with what it should be doing; that is, considering the detail of each of these Bills in an appropriate manner.

MR KOBELKE (Nollamara) [3.33 pm]: I will make some brief comments in addition to those of my colleagues on this side of the House. I will not canvass the range of issues they have raised; however, I strongly support most of what members on my side have said. A number of pieces of legislation should be discussed, and this motion means that members are not likely to discuss them or have adequate time to discuss them.

Mr C.J. Barnett: We're quite keen to get on with it.

Mr KOBELKE: I will be brief. If the Minister treats my comments with some respect, I will be extremely brief. The point I want to make, which has not been made previously, is that this Government was committed to bringing in a new Education Act. Will members see that legislation in the remaining week or weeks of this Parliament?

Mr C.J. Barnett: No, you won't.

Mr KOBELKE: That concerns me, because the Education Act review project was established in August 1994. There are important reasons the Education Act should be reviewed. The Act dates from 1928. Major changes have been made in education since that Act was introduced, and the Act has been amended many times. It is necessary to ensure that legislation on the Statute book for the control of schooling in this State is up to date and meets the needs as we move into the next century.

The Public Sector Management Act and the Disability Services Act have come into play. They have implications for education and must be reflected in various ways in the Education Act. The Department of Training now operates separately from the Education Act, whereas previously it came under that legislation. All these changes have occurred and we are left with legislation for schools that is not adequate. The Government acknowledged that in 1994 when it set in place the review project to bring in a new Act. It is my understanding that that Act was to apply to schooling between kindergarten and year 12. In the original time frame for this project a draft Bill was supposed to be widely circulated for comment in 1995 and dealt with in 1996. I appreciate the way these things go. Regardless of which party is in government, one expects a bit of slippage in projects as large as that. However, the Bill is 12 months behind schedule. If most of the work has been done, the Government could at least introduce the Education Act and let it lie before the Parliament so that public debate could occur on it. Why can the Government not at least introduce the Bill so there can be public discussion on it over the break? If the Minister can give me an explanation on that matter, I will sit down.

Mr C.J. Barnett: It is because the Bill is not yet complete or in a form sufficient to be circulated. The review group is being chaired by the Parliamentary Secretary to the Minister for Education. The Government has reaffirmed the membership of the review group. The group will continue to work over the summer months. It is planned to introduce the Bill in the autumn session and to allow the Bill to lie on the Table for sufficient time to allow full consultation.

Mr KOBELKE: For how long?

Mr C.J. Barnett: I think it will be for a minimum of three months; something of that order.

Mr KOBELKE: I do not think three months is very long. I will not get into that debate now.

Mr C.J. Barnett: It could be longer; I don't know.

Mr KOBELKE: I have concerns about this. A reasonable degree of public discussion has taken place on the legislation, although perhaps on only certain parts of it. The general understanding in various sectors of the education community was that the Bill was largely finalised. Perhaps the drafting work got behind; however, my understanding was that a range of key decisions were discussed. It was incumbent on the Government to bring that forward as a Bill. I accept what the Minister says; namely, that the legislation has been delayed. I have great concerns about that because this Government will go to an election without presenting to the people something that it has in the top drawer and that with a bit of work could have been brought to Parliament so it could be seen how the Government would address these major educational issues that must be reflected in the Statutes of this State.

Question put and passed.

BANK OF SOUTH AUSTRALIA (MERGER WITH ADVANCE BANK) BILL

Second Reading

Resumed from 17 October.

MR RIPPER (Belmont) [3.39 pm]: This legislation provides for the Western Australian consequences of the merger between the Bank of South Australia Limited and Advance Bank Australia Limited. It is similar to legislation that this House dealt with previously, such as that relating to the merger between Westpac Banking Corporation and Challenge Bank Ltd. Essentially the legislation provides for the transfer of assets and liabilities of the Bank of South Australia to Advance Bank Australia Limited. It provides for the bulk transfer of those assets and liabilities rather than the thousands of individual transfers which would have to be processed failing the passage of legislation such as this. The Government said in its second reading speech that the legislation is indicative of the Government's commitment to business efficiency. It certainly is more efficient for a significant transfer of a large number of assets and liabilities to be conducted via an Act of Parliament rather than through the individual processing and stamping of thousands of different documents. However, it is also indicative of some of the unusual business in this State Parliament that we should deal with legislation such as this from time to time. The legislation deals with one of those issues which is of concern to the Opposition. The revenue of the State is protected by virtue of a single payment being required from the merged entity. The State will receive the same revenue as it would have had those thousands of individual transfers taken place. I am concerned that from time to time this Parliament passes legislation such as this, and it seems there might be a case for some amendment to the principal Acts which would allow procedures such as this to be accomplished without reference to a separate Act of Parliament.

Mr Court: I think we are running out of banks.

Mr RIPPER: That might be the case, and I will come to that at a later stage. In principle, this legislation could be used for other sorts of business transactions which involve a large number of documents being transferred and stamped. This is a more efficient way of dealing with those mass transfers and the collection of the revenue. I suggest the Government consider some overall amendments to, say, the Stamp Act, which would allow for this sort of procedure to be conducted without the need for a separate Act of State Parliament. It may be that some accountability procedures would be required, such as the tabling of certain documents in the State which could be subject to disallowance. I do not have a comprehensive package in mind, but on a number of occasions this Parliament has dealt with similar legislation and quite often delays occur in the legislative process because it takes some time to draft legislation and get it through the Parliament. Therefore, it would be a further advance in business efficiency if the legislation contained provisions which enabled the Government to proceed in this direction without a separate Act of Parliament. I will be interested to hear the Treasurer's comment on whether this is a feasible proposition.

One interesting feature of the legislation is that this Parliament will adopt a South Australian Act of Parliament, with the exception, I am pleased to note, of that part which provides for a government guarantee for certain liabilities of the merged organisation. When I first read the Act, I thought this State might be involved in some provision of the guarantee, until my attention was drawn to clause 4 of the Bill which omits that part of the South Australian Act in so far as this legislation applies to Western Australia.

I understand from the second reading speech that approximately 4 000 accounts in Western Australia will be affected by this legislation. Obviously, it is not a major event so far as the consequences in Western Australian are concerned. The principal impact of this merger is in South Australia and is covered by the South Australian Act.

The South Australian Act, which will be adopted under this Bill, contains two interesting features which might be considered when legislation is considered by this Parliament in future. The commencement clause states that the provision for automatic commencement of statutory provisions two years after assent does not apply to this Act. It appears that in South Australian law, if Parliament has endorsed an Act and it has been given assent within two years the Act will come into effect. That would deal with the situation in Western Australia in which legislation is endorsed by the Parliament but not proclaimed at the whim of the executive Government. Under South Australian law, unless specific exemption is provided in the legislation, a maximum period of two years after assent is allowed before the Act comes into effect, regardless of proclamation. That provision should be considered in Western Australia, because too many examples have occurred already of this Parliament endorsing legislation which has never come into effect. By and large the community is not aware of that. That legislation has not come into effect because the Government has decided, for one reason or another, not to proclaim it. The most significant example is the Electoral Legislation Amendment Bill whereby the Government has given itself the right to proclaim certain sections of the legislation regarding the disclosure of political donations, but has clearly indicated it will not proclaim those sections that relate to restrictions on government advertising and travel during pre-election periods. The Act has been endorsed by both Houses of Parliament and has been given assent, but it will never come into effect while this Government is in power. Although it initiated this part of the legislation, it does not intend to proclaim it. The South Australian system could be superior to that in Western Australia because that sort of manipulation by a Government could last for only two years, after which the legislation would automatically come into effect.

The second part of the South Australian legislation which interests me is part 4, which relates to the transfer of staff from the Bank of South Australia to the employment of Advance Bank Australia. It contains a number of protections for employees, which I think should be considered by this Government when legislative action is taken to help companies involved in mergers. Section 13(5) of the South Australian legislation states -

> A transfer under this section must not involve -
>
> (a) a reduction in the employee's status; or
>
> (b) a change in the employee's duties that would be unreasonable having regard to the employee's skills, ability and experience; or
>
> (c) a change in the employee's place of employment unless -
>
> (i) the change is in accordance with existing terms of employment; or
>
> (ii) the new place of employment is within reasonable commuting distance from the employee's former place of employment.

These are decent measures which help to minimise the level of insecurity felt by employees when the organisations that employ them are merged. It is a commendable part of the South Australian Act.

Job insecurity is a very significant phenomenon. Many people in the community are affected by the lack of traditional permanent jobs. A middle-aged man who came to see me in my office a couple of months ago had been given a large redundancy payout by a large mining company. He spent the redundancy money. It seemed like a large amount when he got it, but it went quickly. His view of the labour market was applicable 20 years ago. He thought he would have no trouble finding a real job, as he called it, when his redundancy was exhausted. However, he found that "real jobs" do not exist in such numbers as they used to. He said that everything is casual or part time or short term. He said that it was very difficult to find a permanent full time job with all the privileges and rights that a permanent full time employee would have. He was moving from part time position to part time position and from casual opportunity to casual opportunity. Many people are finding that this is the way the job market works. So many people having this sense of insecurity is very damaging to family lives and to community life. It promotes antagonism between ethnic groups and hostility towards people on social security. It promotes also negative feelings in the community when large groups of people do not have any income or sense of employment security.

This may seem an odd argument to be advancing on a banking Bill. However, banking employees have as much threat of job insecurity as anyone else, and maybe more so. There is pressure for more bank mergers in this country. The Treasurer joked earlier in the debate by interjection that we are running out of banks. We have not quite run out of banks. Currently there are barriers to mergers of the four major banks. However, those barriers may not exist for much longer. An international management consulting company investigating productivity and efficiency in various

Australian industries has argued that we should reduce the barriers to bank mergers in this country so that we can have a more efficient and productive banking sector.

The Federal Government has established a new inquiry into our financial system, colloquially referred to as the daughter of the Campbell inquiry. It is possible that inquiry will recommend some leniency in regulations and policies restricting bank mergers. Therefore, a number of developments could come together which could see a merger between two of the four major banks. There would be very significant job losses - estimated at between 20 000 and 30 000 across the nation - if two of our major banks amalgamated. Such an amalgamation with its job losses would come on top of other trends which are also undermining job security in the banking sector. Increasingly, people are more and more willing to use electronic and telephone banking facilities. That willingness and the expensive nature of branch operations means that already job security of bank employees is under threat. Banking jobs will be lost whether or not there is a merger. If there is a merger, they will be lost in great numbers. That is why I appreciate the provisions of the South Australian Act, which provide some measure of additional job security for employees.

I do not think a mere Act of Parliament will provide that measure of security if we have a merger between two of the big four banks. However, there will be serious social and economic consequences if there are job losses of that magnitude. There will be consequences for family life and for community life. At the moment a number of economic sectors which depend on the decisions of workers as consumers are not prospering. Housing is not prospering and retail sales are sluggish. People do not have the confidence to make big financial decisions which are necessary to help keep those sectors ticking over. If people on short term workplace agreements think their jobs may last only six months or a year, they will not make big financial decisions, and demand, which is dependent upon those big financial decisions, will be weak. There will be deleterious consequences for the housing sector in particular and for the retail sector generally.

Will the Treasurer assure us that the revenue of the State is absolutely protected under this legislation? My reading of the legislation and the second reading speech is that the revenue of the State is absolutely protected. Will the Treasurer elaborate on that and also indicate the size of the single payment which has been made, or is expected to be made, as a result of this merger? I would also like some indication from the Treasurer after he has consulted his advisers whether some general provisions in legislation could enable this sort of transaction to take place without the necessity for a specific piece of legislation. This is not a major piece of legislation. We are adopting it on the request of the South Australian Government. The Opposition is pleased to support its speedy passage through this Parliament.

MR COURT (Nedlands - Treasurer) [3.57 pm]: I thank the member for Belmont for indicating the Opposition's support for the legislation. I am a little surprised that a number of these Bills have gone through this Parliament. I did not realise that many state banks were being sold or were merging. The legislation is designed to expedite what would otherwise be a very complex procedure in transferring the assets. The member asked whether we could amend Acts such as the Stamp Act to facilitate bulk transfers of mortgages and other stampable transactions. That falls within the Minister for Finance's portfolio.

This Bill provides for the payment of an amount in lieu of stamp duty paid. That payment is not made under the Stamp Act. I guarantee that the revenue is protected. The negotiations that have taken place ensure that all the payable stamp duty will be paid. Those negotiations have been protracted. It would be difficult to achieve what the member asked for. We are talking about - I do not have the numbers of transactions here -

Mr Ripper: There are 4 000 accounts in Western Australia, as I recall.

Mr COURT: We can look at it. The Minister for Finance has been trying to bring about reforms in stamp duty. However, I guarantee that the revenue is protected. I thank the member for his support of the legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Council.

CIVIL AVIATION (CARRIERS' LIABILITY) AMENDMENT BILL

Second Reading

MR COURT (Nedlands - Premier) [4.01 pm]: I move -

That the Bill be now read a second time.

Over the past two or three years there have been two major air crashes by commuter airlines in which a number of passengers were killed. One was near Scone in New South Wales and the other en route to Lord Howe Island. In

each case the airworthiness of the aircraft was a matter of concern. In those circumstances there could have been potential grounds for the insurer of the carriers to void the policy and refuse to compensate the families of the victims of the crashes.

The Commonwealth has legislated to ensure that all commercial operators have the necessary third party liability insurance and that a function of the newly-established Civil Aviation Authority will be to ensure compliance. In addition, the commonwealth legislation will ensure that insurance pertaining to passenger liability does not contain exclusions on safety and voluntary agreements between carriers and passengers that could void liability in the event of a passenger being killed or injured. The commonwealth legislation applies only to operations between States or Territories, and not to wholly intrastate operations. As a consequence, the commonwealth, state and territory Transport Ministers agreed that for the scheme to work on an Australia-wide basis complementary legislation would be required in each State and Territory. This Bill will facilitate those amendments to the State Civil Aviation (Carriers' Liability) Act to provide uniform provisions, Australia-wide, in respect of -

> ensuring that it be mandatory for all air carriers to be fully insured to meet the passenger liability limits prescribed, which is currently $500 000 per passenger; and
>
> ensuring that such insurance policies do not contain exclusion clauses that would permit the insurer to void the policy if the aircraft operated and violated any safety related requirements.

Finally, all States, Territories and the Commonwealth are proposing similar legislation which will be proclaimed on a common date. This Bill will provide the public travelling on commercial aircraft with a greater degree of certainty that compensation will be paid in the event of death or injury in an air crash. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ELECTRICITY AMENDMENT BILL

Recommittal

On motion by Mr C.J. Barnett (Minister for Energy), resolved -

> That the Bill be recommitted for the further consideration of clause 12.

Committee

The Chairman of Committees (Mr Strickland) in the Chair; Mr C.J. Barnett (Minister for Energy) in charge of the Bill.

Clause 12: Section 33B amended -

Mr C.J. BARNETT: The reason for recommitting this Bill is that when the Bill was debated in Committee the member for Cockburn moved amendments which the Government accepted in broad terms, although it was necessary to reword them. Unfortunately, an error was made in where the amendment was actually inserted. I will move amendments to correct the error, but they will in no way change the substance of the amendments moved by the member for Cockburn.

Mr THOMAS: I am pleased to confirm the Minister's reason for recommitting the Bill. The Bill was debated in Committee last week and the Opposition moved amendments, which the Government was kind enough to accept after they had been reworded, to correct a defect. The Bill is being considered once again and, as one would expect in a case like this, the Opposition will accept the proposed amendments. The purpose of the Opposition's original amendment was to correct an anomaly. The Bill provides for the Director of Energy Safety to authorise people to label electrical appliances as safe. The Opposition's amendments made sure that the authorisation would not be given to a self-regulating industry - people who have a financial interest in the manufacture of appliances as well as wholesalers and retailers - to have the capacity to mark appliances as being safe for use. The Opposition is pleased the Government accepted the thrust, if not the wording, of its amendments, but it was subsequently discovered that the wording was defective and this third try should achieve the Opposition's aim. The Opposition supports the Government in this issue.

Mr C.J. BARNETT: I move -

> Page 7, lines 20 to 24 - To delete the lines.
>
> Page 7, before line 30 - To insert the following paragraph -
>
> > (c) The recognition of a person by the Director as a competent authority for the purposes of paragraph (b) does not have any effect in relation to the approval or marking of an

electrical appliance if the person may have a financial interest in the manufacture, sale or hire of that appliance.

Amendments put and passed.

Clause, as further amended, put and passed.

Bill again reported, with further amendments.

STRATA TITLES AMENDMENT BILL

Cognate Debate

On motion by Mr C.J. Barnett (Leader of the House), resolved -

That leave be granted for the Strata Titles Amendment Bill and the Settlement Agents Amendment Bill to be debated cognately, and that the Strata Titles Amendment Bill be the principal Bill.

Second Reading

Resumed from 17 October.

MR KOBELKE (Nollamara) [4.14 pm]: I address my remarks to the Strata Titles Amendment Bill. I do not have opposition responsibility for the Settlement Agents Amendment Bill, so I was surprised to discover that the Bills were to be debated cognately. I am not sure who is handling the Bill for the Government.

Mrs Edwardes: The Minister. I am standing in for him until he arrives back in the House.

Mr KOBELKE: It is difficult to consider this issue when the Minister is not available to clarify the issues.

The Strata Titles Amendment Bill results from a long series of deliberations and proposals stemming back to before the time of this Government. The previous Labor Government was well aware that the amendments made in 1985 left a number of unresolved problems. Those problems were addressed at the time through a range of working groups and a process of consultation. Discussion papers were released which clearly indicated the necessary amendments to improve the Strata Titles Act. When the current Government came to power in 1993, that process had reached its conclusion and clear guidelines were in place. It had just about reached the stage of drafting legislation.

Upon coming to power, the Court Government revisited the issue. At the time I indicated publicly that the consultation process was very thorough. The then Minister, Hon George Cash, did not simply release the legislation for comment; he went back to the working groups stage through which he developed proposals, and had legislation drafted which passed through Parliament earlier this year.

Following the change in government, another three-year delay occurred before we saw amendments to the Act which were passed by Parliament fairly quickly. I spent some time debating that Bill and teasing out the details and the meanings of the measure. I have no difficulty acknowledging to the House that this is not an area I easily understand. I do not have a close working knowledge of all the matters involved with the Strata Titles Act; therefore, I had difficulty with the contents of the amending Bill which dealt with a complex area of law. The Government has recognised that difficulty in understanding the matter and has made the Act available in a Blue Bill form containing the amendments. I commend the Government for that initiative. Although my understanding is not advanced any further by this consolidation, I cannot blame the Government for that situation; it has presented the legislation in its most readable form. Although it is a difficult area, one need not juggle two or three piece of paper to see how an amendment fits into the Act.

Despite the best efforts of the Opposition to go through the legislation and contact as many interest groups as possible on this matter, it found major problems with the Act as amended earlier this year. I will not apportion blame to the Government for that situation - it simply did not get it right. The law is complex and lengthy consultation occurred, but the amendments did not work out. Perhaps the Minister may respond to that aspect because the second reading speech makes no explanation of why things went wrong. Clearly, these problems caused a great deal of angst and concern in the community, especially among senior citizens who had to meet the requirements and burdens of the amended Act. The Bill is an attempt to overcome at least some of the problems besetting people, especially those living in duplexes and triplexes.

During debate on the April amendments I made it clear that the Government needed to run comprehensive education programs to ensure that people understood the workings of the amended Strata Titles Act. People required assistance to meet its requirements. The education programs to make information available and to talk to community groups have been reasonably good. I ran a public information evening on the Strata Titles Act, and I am grateful to the

Department of Land Administration officers who did their best to explain the workings of the Act and owner responsibility with duplexes and strata titles.

However, the Government failed to recognise the difficulty people faced at an early enough stage. It soon got its act together and had in place a hotline and additional measures to try to explain those issues. The real difficulty, which the Government did not, and perhaps could not, address was that the people who were affected by the legislation needed to have their circumstances looked at and their queries answered. However, the Government will not, and was not about to, give free legal advice; therefore, it was not always possible to give exact solutions to aggrieved pensioners who wanted to know what they should do in their circumstances. Much of the information that was given out was probably accurate in a general sense, but people have told me that it did not address their concerns. That was a major problem. While the Government could have done better, I realise that in some instances that would have required it to give free legal advice on a range of matters that were perhaps the province of settlement agencies, and that a government agency would have difficulty in doing that and in standing by the advice it had given. However, that meant that many people in the community had to incur considerable costs to preserve their rights and entitlements and to meet the requirements of the Act.

This Bill aims to smooth over many of those difficulties. One may ask: Why was this not done in the first place? Why did we not look at the need to have laws for the owners and residents of duplexes and triplexes that were internally consistent and workable? Why did we not appreciate that because of the complexities of this situation, we needed to have a model which better suited the needs of those owners? This Bill provides a different model for how certain things must be done.

Many of the owners of duplexes and triplexes are senior citizens who regard that duplex or triplex as the home that they can enjoy now that they have retired. People at that stage of their lives want certainty. They do not want to get involved in a lot of hassles which may call into question the validity of their title. Those people were very concerned when they heard about the liabilities that they might incur if they did not have adequate insurance.

Mr Lewis: The insurance requirement has been there for 40 years.

Mr KOBELKE: I will say something about that in a moment.

Another problem for many of those senior citizens was that they had to incur additional costs. A strata title serves a useful purpose in enabling people to live in the area of their choice and on a small piece of land which does not require a great deal of upkeep, but they must ensure they can meet their ongoing costs. People who live in a retirement village may have had to buy their way in and may be expected to make a weekly or monthly payment for the running costs of the home and the services that are offered to them, but people who live in a duplex do not expect to have to incur additional costs for the upkeep of the common property. They want to enjoy living in that duplex, and hopefully having a neighbour with whom they can share some companionship. However, many elderly people do have problems. Last weekend, I visited a lady who had moved into a unit in a small complex but found that she was quite isolated and did not have a friend with whom she could go shopping or share the time of day.

That form of housing is very attractive to elderly people for a range of reasons, but they cannot cope with additional costs. Many people find it very difficult to bridge the gap between the price of their older home, particularly if it is in a suburb like Nollamara, and that of a new duplex or triplex, without discussing the value of those properties on the market, and they often have to raise some money to be able to afford that move. Most pensioners do not qualify to take out a mortgage, so they have to get support from their family or friends. These pensioners cannot afford additional costs, whether they be for workers' indemnity insurance, for legal advice, or for a survey to guarantee that the area that they thought was for their private use is recorded on the title. The Act placed additional costs onto many of those people, and that caused a great deal of concern in the community.

One example that was drawn to my attention was of a woman in her senior years who wished to sell her property, in which she had lived for some years. The Act required her to obtain the necessary insurance and make available the necessary statement. She was advised by her real estate agent that to get the maximum price for her property, she should ensure that the common property that was clearly for her private use, through fencing and established practice, was registered on the title. The real estate agent suggested that that procedure would cost a few hundred dollars. However, when the survey had been completed and the title had been lodged, she was told that the cost was nearly $1 000. One might say that that had added to the value of the property that she was selling, so perhaps in the wash up she would incur no additional cost. However, the difficulty was that her neighbour, who had been a good neighbour for years and agreed to embark on the process of registering that part of the common property which has been set aside for her neighbour's private use, also had to pay $1 000, because the total cost was nearly $2 000, and both of the owners had to share that cost.

That story has been repeated all over the metropolitan area, and I suspect beyond. People who have settled into a home which meets their needs with regard to location and the amount of house and garden that they have to maintain are now finding that because of these changes, additional burdens have been placed upon them. Through this legislation, we must address that situation. The extra requirements must be met, but the changes in this Bill will address some of the problems besetting many residents in duplexes or triplexes. In part, these changes were suggested by Hon Mark Nevill in the other place, the opposition spokesman on land matters. Although he did not hold that responsibility for long, when the problem occurred - we have received many complaints - he delved into the situation and got on top of the legislation admirably. In debate in May in the other place, he suggested that the Government should adopt some of the changes we now see in this Bill. Through Hon Mark Nevill, the Opposition has been very constructive in seeking to ensure that we reduce the unnecessary burden which has been placed on many duplex or triplex owners in this State.

I turn now to the insurance aspects of this legislation. By way of interjection the Minister for Planning suggested that the requirement was always in place.

Mr Lewis: It is true.

Mr KOBELKE: Let us tease out the exact meaning. I do not want to criticise the Minister. I accept that people have always had a legal liability to ensure they were adequately insured. Owners of duplexes or triplexes are responsible for that part of the property they own, but the difficulty is that the half of the duplex in which people live is not actually what they own. They own a half share of the total property -

Mr Lewis: They do not necessarily.

Mr KOBELKE: I am using the example of a duplex where the owners have an equal share.

Mr Lewis: Sometimes the unit entitlement may be different, and it may depend on the value.

Mr KOBELKE: I wish to cite a simple case. The Minister is making it more complicated. I offer the example of a duplex where the owners have separate strata titles and have an equal share. The interjection was that people have always had a requirement, in some form, to take out joint insurance for the property.

Mr Lewis: The requirement was to insure the common property.

Mr KOBELKE: The Minister is alluding to the different types of title under different Acts. I wish to put my argument, and the Minister may correct me if I am wrong.

Mr Lewis: The fundamental point is forgotten: The Strata Titles Act has incorporated by Statute two or more owners as owners in common. As a result of the common ownership, we cannot have a situation where one person elects to insure and the other does not. The Strata Titles Act has always prescribed a property will be insured.

Mr KOBELKE: I think the Minister is repeating what I said, but in a different form: I said that there was not necessarily a legal requirement under the Strata Titles Act; that the amendments early this year put in place a requirement for insurance. Prior to that people were liable for the properties they owned. As an example, I am trying to work through the duplex situation, when two owners have an equal share; they are owners of a half share of the common property, when the common property must be looked after - whether it be the roof or part of the grounds. Therefore, if people did not have insurance and there was some liability on the owners, they would share that liability. In that sense, I agree with the Minister: There has always been a requirement to insure the common property but that was more by way of liability rather than a requirement of the Statute. The amendment in 1986, which made it a requirement under the Act, gave it more prominence, so people became more aware of the liability that had generally always existed, by placing the specific point in the Act. If I am not correct, I am sure the Minister will correct me. The difficulty was that only one model was offered in the Act this year: That the body corporate take out joint insurance - as a simple example, the two owners of the duplex - but that led to a range of difficulties. In a moment I will speak about the changes which raise an alternative model which Hon Mark Nevill put forward in May.

The Act requires that common property be insured with a common policy. In the duplex example, that has generally led to two owners insuring with the same company. A number of pensioners are able to obtain a lower insurance premium through companies offering policies to pensioners, or they may obtain a lower rate because they have a policy through the mortgagor, through the Defence Service Homes or some other organisation. However, when they were required to take out a joint policy, they found they had to pay an increased premium, and that disadvantaged some people. Probably the majority of people would receive a reduction because when an insurance company puts together a policy it considers the establishment costs and an increasing scale to cover the increasing amount of insurance. Therefore, the premium is partly a flat amount and partly on a sliding scale depending on the total amount of insurance. With one policy, the lump sum tends to be less. An example provided to me was that each half of a property was insured by a premium of $300. Therefore, the total bill was $600. However, when two parties took

out a common policy under the strata title plan for the corporate body, the total bill was around $500. Therefore, the saving to the residents was considerable. In some instances, because the owner of a strata title was able to take out a lower rate of insurance, the requirements of the Act increased the insurance costs.

One can be critical of the insurance industry. I understand that the industry was involved in discussions with the Government in the preparation of the amendments to the Strata Titles Act earlier this year. The industry understood the direction being taken, yet I have seen little movement by insurance companies to tailor policies to meet the requirements of the Act and the specific needs of thousands of householders in Western Australia. The insurance industry did not, to my knowledge, really respond with a range of policies which would meet those needs. It would be good business practice to realise that thousands of householders must comply with the Act, to steal a march on one's competitors and offer a product which would pick up many people. The insurance industry did not respond.

I turn now to the requirement for workers' indemnity insurance. This requirement is not different from a green title: If a person employed someone to cut the lawn and that employee had an accident which could be attributed, in some way, to something that the home owner had done or had not done, the liability would fall on the home owner. If the person cutting the lawn or providing any other service has his own workers' compensation insurance, there will be no problem. However, the difficulty for many people is that they do not know how to ascertain whether a possible employee carries workers' compensation insurance.

That opens up many more complexities of which many people are not aware. The option then would be to take out insurance regardless of the circumstances. My understanding is that someone, who for five or 10 years operates as a company employed to cut a lawn, would have to cover himself for workers' compensation and no liability could be passed on to the home owner. However, if someone who operated under a different corporate structure were to take over the lawn mowing round, the home owner would find himself liable for workers' compensation in the event of an accident.

I understand that amendments to the workers' compensation legislation which will directly affect these cases will be introduced to the Parliament. Although we cannot discuss them now, the Minister who has control of this Bill also has control of workers' compensation. He may like to comment on that in his response. Will those amendments have any implication for an owner of, say, a duplex who employs someone to cut his lawn if that person's lawn mowing business is not established as a company?

Although, as I have indicated, the responsibility is the same whether the person is the owner of a green title or duplex title, there is a difference because a duplex title is common property. If an accident which incurred a liability on the owners took place on common property, such as a duplex, the liability would fall on both owners. A person in that case could be liable for workers' compensation as a result of something that was initiated by the neighbour in the other duplex. That is an added difficulty to the general insurance requirements which are the same whether they be on a strata title or green title. That opens up uncertainty for elderly people. As a result of the strata title structure and common property any liability on the neighbour who employed the worker would also accrue to the owner of the other duplex half. That would create a great deal of concern and uncertainty about what people should do.

It should not be difficult for the insurance industry to offer policies covering workers' compensation in those cases. If someone were employed casually on a part time basis on a wage of $15 000 a year, his employer would be responsible for taking out workers' indemnity insurance to cover him. My inquiries indicate that the cost of that worker's indemnity policy would be about $70 or $80. However, a duplex owner who may employ someone to cut his lawn at, say, $20 a time, 10 times a year which would amount to $200 a year, would also have to pay a worker's indemnity insurance premium of about $70 a year. There is no justice in that.

The insurance industry has not responded to what is clearly a requirement under the Strata Titles Act and what the Minister has told people they must do. Why cannot the insurance industry put together a policy which would meet the legal requirements for workers' compensation and enable home owners who rarely employ people to pay a much lower premium? Many pensioners would be quite willing to do that. An extra $10 or $20 on top of their home insurance policy to cover workers' compensation would meet their needs. To my knowledge the insurance industry has not responded to that. I raised that with a spokesman from the insurance industry and I hope that in the near future positive action will be taken.

The Minister may find that there are some impediments to it. I realise a range of actuarial matters must be considered because companies will not leave themselves open to huge liabilities. Given that in very few cases action has been taken against home owners for some form of liability as a result of workers having accidents on private properties, the insurance industry should be able to offer a policy at a very low rate. As with workers' compensation insurance, an annual return may be required at the end of the year indicating that the total amount paid for services such as lawn mowing or window cleaning did not exceed, say, $1 000. People who seldom employ people to work on their properties should have to pay only small premiums. I am not talking about general public liability which is required

under the Act. I believe all household policies offer that form of public liability. We are dealing with workers' compensation where a householder employing someone to work on his property can be assured that he will not be liable for a major payment should an accident befall that worker as a result of something the home owner failed to do.

The amendment in this Bill provides an out with an alternative policy so that people can insure their own areas and have an add-on to cover common property. That is an excellent solution. There are some limitations, but it clearly applies only to single tier titles. The issue becomes more complex when multistorey units are involved. This legislation addresses only small scale developments, particularly duplexes and triplexes. It is an option that will help alleviate the problem and allow people to choose whether they take out a common joint insurance policy or their own policy with an add-on to cover common property. I will not go into detail. The Minister has outlined the position on insurance and we can talk about it at the Committee stage.

The provisions which allow for the conversion of common property within strata schemes are complex. I am not sure what steps have been taken by the Minister and the Department of Land Administration to clarify this, but it will need to be clarified. As occurs already under the Act, we will have a person saying to DOLA, "This is my type of title. What can I do to ensure that I have the use of property I consider to be private property? It is currently classed as joint property but I have private usage of that property. I will have it registered on my title, so that, if I have a neighbour with whom I don't get on, I can be guaranteed of having it registered on the title." The difficulty is that we have so many variations in the types of titles. Another problem is that the strata that is registered on the title is sometimes rather technical and unclear. Therefore, people do not understand, even when they have the strata title in front of them, exactly what it means. DOLA has obviously tried to explain it, which usually means that it has to explain a particular title, because any general description is in the pamphlets which cover the rules.

Individuals who are affected will need to know the position in their circumstances. It is difficult to ensure the information service which is available to people can address the needs of specific individuals seeking help. That is compounded by the possibility of proceeding in a number of different ways. People are told to engage someone to give them advice. It opens up the spectre of costs. Individuals in duplexes and triplexes and owners of units in small developments will have to pay someone to give them advice, draw up documents, attend strata title meetings for the formalities and lodge the documents. We are doing away with stamp duty but I understand there will be some lodgement fee. Again perhaps the Minister will help me there? Clearly an undertaking has been given not to require any stamp duty when an individual owner moves to register some part of the property for private use or moves to take up one of the available merger options to change the structure of the ownership so that he has a clearer understanding of what belongs to him.

There are four options. The first is the automatic merger of buildings. I understand that six months after these amendments come into force the whole of the structure of the buildings on the plan is automatically to be included in the strata lot. This process will occur unless an owner objects or other conversion options are put into effect. The second is the merger by resolution of buildings, which can occur if the strata owners agree that the whole of the structure of the building be included in the strata lot. It includes anything attached to the building, such as solar hot water systems and airconditioners. The resolution would be noted on the strata plan so that any future purchasers would know the boundaries of the lot. The third option in the Bill is a merger by resolution of land. This option would be of most use to schemes that were registered before 1 July 1985 for which different provisions apply and where the whole of the garden area is common property. This option would allow additional buildings, such as patios, or land, such as backyards, to be brought into the strata lot. A surveyor's and valuer's certificate would be required for this type of merger. The resolution would be registered on the strata plan. The fourth option would be a conversion of the strata plan, and all owners of strata titles within the body corporate would have to agree to this form of conversion, which would require a surveyor's and valuer's certificate. Laying out easements to ensure services and access are enjoyed by all of the lot owners would be the responsibility of the surveyor and would have to be registered.

We can see from that brief overview that an explanation of the options will leave many people just as perplexed as they were previously, because it is a difficult issue. Many people do not understand the law on title and how they can best preserve their interest in their homes and land. The right to property has been of fundamental importance to people in our society going back through time to our heritage from Great Britain. We are dealing with something which is most important to people. They need to understand that their rights are preserved and upheld. When they are given a whole lot of information that they do not understand, it causes them great consternation. People feel that somehow their homes are under threat. It may not be true, but they perceive that the legal basis that guarantees the security of title to their homes is somehow threatened because they do not understand what is really involved. We must ensure that the options are explained as simply as possible and that the education program and brochures are in simple English. I understand the Minister has given an undertaking that there will be a version in simple English. Perhaps he could indicate whether that is in production. I do not underestimate the difficulty of the problem. Most

people would have difficulty in understanding this whole area of law. To condense it to a form people can understand, and yet still retain accuracy, will be a great challenge. I wish the Minister and DOLA well in that challenge. Hopefully they will produce a range of educational products and pamphlets which will enable ordinary citizens to understand their titles and how they can convert them to give greater security to land they consider to be for their private use, although part of a strata title.

Another amendment contained in this Bill relates to fencing. We now find that the Dividing Fences Act may be used in some respects for fences between properties. All members would have had experience of constituents who needed to call on the Dividing Fences Act. It is often over a contentious matter. I am not sure whether we have the right mix here. In Committee I shall ask the Minister for information as to how we will use the Strata Titles Act, through a body corporate and the Dividing Fences Act, to ensure people can resolve disputes over fences.

Fences between houses on green titles are not as closely associated with the houses as they are under strata titles. Planning provisions under green titles require more significant setbacks and greater areas of yard between the properties. Therefore, although disputes arise over fences, they tend to be somewhat remote from the residences. When we move to strata titles we find that properties are generally much closer together and frequently fences are built as part of the structures; so the potential for difficulties over fences to arise in strata developments is even greater than with green titles. Therefore, it is very important that these provisions are correct and that the interplay between the rule making powers of the body corporate under the Strata Titles Act and the provisions under the Dividing Fences Act ensures other mechanisms are available for resolving problems.

The difficult issue of green titles is not addressed by this Bill. The Opposition wishes the Government well in its preparation of further amendments to undertake that change. It is a complex area. We must address the requirements of various utilities, particularly the Water and Rivers Commission, and the Minister has stated publicly that is in hand. More fundamental are the requirements of planning law for those properties. The existing requirements of a minimum area of land, setbacks and yard areas for a particular zone cannot be thrown out the window. I can only guess at the direction currently being taken from the few comments that have been made, although it seems to be a proposal to allow conversion to green title for a small percentage of existing strata title developments with a small number of residences such as duplexes and triplexes. However, those buildings have been constructed in such a way that no room exists on the properties to enable conversion to a green title in conformity with the town planning and building requirements which exist. We will get into hot water if we suddenly start making major changes to planning and building requirements to enable a conversion. It will be excellent if the Government comes forward with a method to convert those strata titles to green title. However, I cannot see that applying to other than a small percentage of people who experience problems with their strata titles and look to a green title for greater security and enjoyment of their property.

Another important issue that is not adequately addressed in this Bill, although the Bill is not the only way to deal with this issue, is the provision of an umpire or referee to deal readily with disputes. Having to take those disputes to court will impose a burden that most householders cannot overcome. Residents in strata title developments need a referee to resolve any disputes. The current arrangements in the legislation and the resourcing of this office are totally inadequate. At a public meeting an angry resident pointed out the total ineffectiveness of the current dispute resolution provisions. His dispute related, in part, to the builder who had set up the strata title and so had control of the body corporate. He paid $30 to lodge his objection. However, under the mechanisms available he was not able to enforce the decision. The determination gave him no joy. Although there will always be hard cases, we will have far too many hard cases resulting from the current provisions and the resourcing of the system. We must establish a more workable system for the resolution of disputes over strata titles.

I refer now to developers who wish to construct a range of facilities and modern developments which have been restricted under the Strata Titles Act. One example relates to major tourist developments. For example, if a company develops a major tourist infrastructure that could cost hundreds of millions of dollars, it will want control of the land to ensure that the standard of the development is maintained, such as the maintenance of canals. To do that it wants to levy the body corporate that comprises the owners of strata titles. Similar issues could apply to industrial areas where the developer wants to provide a high quality development that has shared facilities that will be used by the businesses. I understand a facility of this type already exists at Canning Vale. I understand that developers use the structure of the Strata Titles Act for that purpose; however, the existing Act has created a difficulty for some developers. I understand that the amendment will address that problem and we will look at that in detail during Committee.

One of the problems is that the developer must stage the development and bring it on the market in such a way that it can be sold and the funds used to build the next stage. That is standard business practice for land and property developers. However, the Act requires the developer to take the process step by step. Without getting involved in the details, because I do not understand them fully, that creates an impossible situation in some developments. The

first stage may be sold to 20 people. However, when the developer is ready to go to the next stage, because the first stage is selling well, he must apply to restructure the strata title. Under the current requirements, because of the voting requirements, the developer must get those 20 people to agree to the next stage. The owners might comprise companies - some companies may be in liquidation - and overseas investors. It is an impossible task to chase up those 20 owners to meet the exact legal requirements to move to the next stage. The amendments propose to address that problem by providing that the developer must obtain approval for the first and the last stages of a multistage development. However, the developer will not be required to dot every "i" and cross every "t" all the way through the development.

It is important that the strata title owners control the final product. A you-beaut developer who has sold a total concept to the first people purchasing strata titles might change the concept and therefore undervalue the properties that were bought at high prices by those who got in early. To control the whole scheme we should ensure that strata title owners' voting rights are preserved to the final stage of the development. However, if the details are in fine print, the whole system will not be workable.

I am also advised that developers currently are losing large sums of money because they are caught up in the amendments made earlier this year. Development projects take a while to work up. Having committed themselves to a project, having turned the ground and started building the project, they find that the legal requirements in the Act, as amended earlier this year, have stymied their developments and titles are not granted because of the problems brought in earlier in the year. I am sure those people have made representations to not only me but also the Minister. They are faced with considerable financial losses if these amendments are not passed. The Opposition is keen to pass these amendments through the Parliament.

I will draw to the Minister's attention a similar issue. The requirement currently in clause 8 allows for the resubdivision of a scheme. I alluded briefly to major tourist developments such as those in Port Kennedy and Exmouth that provide a range of facilities catering mainly to the tourist industry. It makes sense in terms of maintaining the quality of the development and meeting the ongoing maintenance costs to do it through a strata title scheme. Again, if that is to be done in stages, as it usually must be with multimillion dollar projects, one does not necessarily have in place the strata title for a hotel or timeshare units on a strata title lot. Under clause 8 that cannot be done. Once the project is started as a strata scheme one can subdivide it again as a strata scheme, and if it is started as a survey-strata scheme, one can subdivide it again as a survey-strata scheme, but the two cannot be mixed.

There is no amendment on the Notice Paper from the Minister and I am unsure whether we can achieve an amendment in the limited time available. However, there is concern on the part of some developers that if they were to establish a major tourist development, they could not put aside lots to be subdivided again later for some form of timeshare or serviced apartment and sell off those units. According to clause 8 that would not be allowed.

The whole area is complex. I do not want to see the House embarking on something that creates other problems. However, we must look very carefully at this issue, because the tourist industry has great potential in Western Australia. In Queensland these major tourist developments have been a huge drawcard. The equivalent strata title legislation in Queensland allows this to occur; a major developer can develop the land under strata title to be sold off to individual owners and those owners may themselves be companies or businesses. They can then go back to the strata titles and do a subdivision of the other form. They can then construct a building and sell off the strata title. We will not be able to match those major Queensland tourist developments if we do not have a legislative framework to enable that to happen. I am not sure how we could amend the clause to allow for that. However, by the time we finish the Committee stage the Minister might have had his advisers consider whether it is a major matter. If it is, the Minister might then give an undertaking to establish some form of inquiry or committee to see what can be done. If it is a simple matter, perhaps we could slip it in as this Bill goes through the House.

Mr Kierath: I will put in train a major review of the entire Act early next year.

Mr KOBELKE: I accept that, but that is different from the point I am raising in relation to clause 8. The Minister should keep in mind that a review of the entire Act would require it to be in place for some time. While a review next year might be appropriate if we are anticipating problems - I hope that we are not - the full implementation and working of the Act can be judged only after it has been in operation for three to five years.

Mr Kierath: I thought you were asking for additional provisions.

Mr KOBELKE: Not if they are simply another issue on the list. I am asking specifically for that to be considered. If the Minister says that he will add that to the terms of reference for the review, I would appreciate that. However, I am also asking that it be considered. When the Minister responds, he could indicate what he understands in respect of the limitations in clause 8. I commend the Bill to the House.

MR STRICKLAND (Scarborough) [5.15 pm]: I will be brief and I will not go into the detail that the member for Nollamara covered. I support most of the comments that he made. In fact, it is good to see bipartisan support for this legislation. It affects people in all electorates and suburbs and there is a common desire in the House to fix the problem.

I commend the Minister. I am one of those members who has been banging on the Minister's door and ringing him repeatedly since this problem arose. We have been patient and the Minister and the member for Nollamara have indicated that we are going a long way towards solving the problems that have surfaced with this legislation. I note also that the Minister has indicated that we are not solving all the problems - it is impossible to do that in the time frame of this Parliament - and a commonsense decision has been made to sort out the vast majority of them this year.

The background to this issue is interesting. Most members in this place are probably far more aware of the strata titles legislation and many of the complications arising from it than they were a few months ago. The Government had the noble intent of solving a potential problem. If people were underinsured on common property and an accident occurred, even if they did not employ the person involved, they could be called upon to find a large amount of compensation. One unit owner even had to sell their property to pay compensation. Correcting that situation is an appropriate aim for the Government, but that has brought to light all the problems that members have raised.

The legislation was designed to cover multistorey strata titles. Its drafting was not necessarily very suitable for duplexes and triplexes, which are single storey developments. My parents have a multistorey strata title unit in South Perth and I have been involved with that property. Now there are maintenance questions 20 years down the track, I have found that many problems were not considered in the drafting of the original legislation and regulations. I will not go into that issue, because in the main we are dealing with other aspects. When the Minister undertakes the major review he will find that it will make a lot of sense to have the multistorey strata titles legislation revamped as it is, and separate legislation - called the village titles Act or something like that - to handle the problems of the duplexes, triplexes and so on.

The complexities are enormous. People are starting to learn that what one sees is not necessarily what one gets. Some people believe in the notion of buyer beware. An enormous number of people have assumed that their fences prove that they have their little plot of land at the back of their duplex or triplex. However, if they had looked at their title, they would have realised that in reality they own only the volume inside the walls of their unit. Who is to blame for that? Developers have found a cheap way of building duplexes and triplexes and avoiding subdivision costs. They have built these developments all over the place using the strata title legislation as the vehicle and have saved money by not using surveyors to survey and subdivide the lot at an early stage. The real estate agents then come along to sell the development. I do not know whether they have fully comprehended the information in the legislation, which provides that the householder owns only the volume of space between the walls, ceiling and floor. It certainly has not been explained to the people buying the units that that is all they are buying and that the rest of it is common property.

It makes sense that there is only one piece of land involved in multistorey strata titles, that that must be common property and that everyone in the development is entitled to a share of that land. People buy duplexes and triplexes so that they have not only a unit, but also a little land associated with it where they can have barbecues or on which they can park their cars. That is a different scenario.

To some extent I blame the developers who 20 or 30 years ago started this trend. At that stage no-one realised the problem that was being created. However, it is here and the Government must deal with it. I have already commended the Minister for taking some positive steps, albeit a bit of a bandaid solution, that will provide options under which people can solve the vast majority of the problems they are facing at the moment.

On behalf of my constituents, I say well done to the Minister; however, a serious look must be taken at this legislation and serious consideration must be given to having what I loosely call a village titles Act, which is separate from the strata titles legislation, because a whole range of problems is associated with duplexes and triplexes.

I will not go into the detail because it has been placed on the record previously. This legislation affects many people in my electorate who are eagerly waiting to see whether the commitments made in the announcements by the Minister in the newspaper, saying that the problems are being fixed, will be met. I support the suggestion of the member for Nollamara for an education program in this matter. Quite a few people have come to me seeking my advice. I understand the difficulties the departmental officers face in providing this information. It is not that they cannot give free legal advice; it is that if they give wrong advice, we can guess who will be liable. There is a fair amount of concern among the administrators in the bureaucracy about that issue.

In the case I spoke of where I helped my parents, we had to get some legal advice to try to address the problems faced by them. It is unfortunate that obtaining such legal advice costs a bit of money, but that is the only way information

can be gained. Those in the bureaucracy naturally must be reluctant to provide that advice because it is subject to interpretation.

MR PENDAL (South Perth) [5.22 pm]: I will be even briefer than the member for Scarborough, given the lateness of the parliamentary session. I do not know whether anything is on record to indicate the electorate that has the greatest number of strata titles in Western Australia. I will bet it will probably be the electorate of South Perth. Given the number of strata titles in Como and South Perth, my electorate will go close to leading the charge.

I shall confine my remarks, brief as they will be, to the question of freedom of choice of insurance that has been introduced into the equation. We thought it was available previously, but it was not present at all. I have noted with some interest the advertisements placed by the Minister for Lands. I gently remind him that, when I drew public attention to the matter on 30 April this year, he responded in *The West Australian* by saying that he did not necessarily accept my allegations were true and found them hard to believe. In the meantime, his advertisements reflect the gravity of the situation because far more strata title owners are affected than was earlier thought to be the case.

I ask the Minister to address a further complaint I made on 30 April, given that he has commendably addressed himself to the major problem of insurance. At that time I complained it was very difficult for people to get quick and easy access to foreign or interstate owners of strata title properties. From my combing through the Bill, I am uncertain whether that has been addressed. It may be that it is addressed automatically by making the freedom of choice of insurer a clearer option. It may be that the complaint I relayed to the Government is now redundant, given that this option is available. I am unsure of that, and I will be interested to hear what the Minister has to say.

I am pleased to see some clarification about the requirement for workers' compensation insurance in the second reading speech which states -

> Workers' compensation insurance is compulsory only if the strata company is an employer under the provisions of the Workers' Compensation and Rehabilitation Act.

I have not had time to address myself to the detail of that statement; however, I understood that much of the problem revolved around contractors and whether painting contractors or lawn mowing contractors are employees. By definition, there is a suggestion that is not the case. In the second reading speech the word "clearer" is used where it states -

> The Bill makes it clearer -

That implies that it does not make the situation clear, merely clearer -

> - that workers' compensation is only compulsory if the Workers' Compensation and Rehabilitation Act applies. It is up to the strata company to decide whether that Act does apply, but prudence would suggest that workers' compensation insurance should be taken out to protect against any possible contingency that might arise.

I would appreciate further clarification. In the sort of unit in which your parents, Mr Deputy Speaker (Mr Strickland), live - they choose to live in a fine place like South Perth - a multistorey set of strata units, prudence will dictate that insurance be taken out under the Workers' Compensation and Rehabilitation Act. It is inevitable that the relationship with the painting contractors or the lawn mowing contractors vis-a-vis the multistorey building owners may well be different from the case of a duplex, for example. I would welcome some clarification about whether prudence prevails even in the case of the minimum number, which I suppose is a duplex property.

One of the things that concerns me is that, through no-one's fault, we discovered only in this controversy early this year that people had misunderstandings that went back 30 years. Although some things were clear in the 1966 legislation, what was thought to be clear was not common perception. That bothers me and brings me to my final point. I promised to be brief.

It is a real worry when people need some of the best lawyers in town to tell them about the conditions under which they own a property and live in it. When the Bill before the House is incorporated into the Act, the legislation will be in excess of 310 pages. Given that the Minister acted promptly, albeit that he was not keen to accept right up-front that there was a problem, I suggest that one of the biggest challenges that might confront him, the officers of the Department of Land Administration and people in the position of referee, is not only to review the Act, which is their role, but also to bring back to Parliament something that is much briefer and, it is hoped, much more intelligible. I do not say that in a glib way. I know that it is a complex area of the law. However, a law is always a bad law if people do not readily understand it. To think that for 30 years we operated under a Statute that not many people really understood is a reflection ultimately on Parliament. After all, those who were here in 1966 passed the Act.

Notwithstanding the controversy that occurred earlier this year when my constituents from South Perth and Como flooded my office with complaints, I was the first to acknowledge that in the final wash, the blame - if we want to attach blame to anyone - rested with members of Parliament: It was members of Parliament, myself included, who passed those major amendments. It is one of those cases where we think we know what we are passing and it is not until it is put into practice that we get the real life feedback that shows it is full of deficiencies. I hope the Minister will take that on board.

I heard the reference from the member for Nollamara to a plain English Statute. That in itself is a good thing. However, this legislation of 310 pages reflects more than just a problem of not being in plain English; it is a problem of our over-legislating. We have attempted to cover every eventuality. It is not just a problem with this Bill; it is a problem with other legislation. As members will know, in some parts of the world people still prefer to legislate in the broad; for example, to say that people shall not commit a fraud and then to leave it to a court of law to determine what is a fraud. One does not need to be a Queen's Counsel for a jury to decide what is a fraud, yet Parliaments have a propensity to want to cover every single eventuality. We are being led down the path where we are confronted with unintelligible legislation that many members of Parliament - perhaps most members - do not understand when they pass. Members must admit that that is the worst case scenario.

I commend the Government for at least introducing an amending Bill in the same year as the legislation was found to be deficient. However, it has a huge way to go to reduce it to the intelligible stakes, so that not just the owners of strata titles may understand what they are up against, but so too may their members of Parliament.

MR RIEBELING (Ashburton) [5.34 pm]: The comments of the member for South Perth in his contribution to this debate are interesting. The lawyers in South Perth will be interested to hear that he wants the legislation to be simple to do them out of work. I have no doubt that the member for South Perth's electorate has an exceptionally high number of flats; however, it probably also has the highest number of lawyers.

The member for Scarborough mentioned a number of interesting points. He spoke about a matter of history - the development of duplex sites and developers taking up duplexes and quadruplexes as a way of providing a cheap alternative to individual lot development. Not only the development industry, but also the Government, took that up with great relish. Most of the problems that have come to my office are in relation to Homeswest dwellings that are sold to individuals. The member for Scarborough mentioned that people who dealt with strata titles did not know exactly what they were purchasing. Most people did not understand exactly the implications of purchasing a strata title property, and I do not think the Government understood what the obligations were either. The estate agents who dealt with the people did not understand, nor did the managers of Homeswest properties. The amendments that passed through Parliament earlier this year indicate that the Government also did not understand the problems with the legislation.

I commend the Minister for Lands for setting up a system by which the public could have a say in the problems that were occurring. His office endeavoured to solve some of the problems that were highlighted by the amendments to this legislation that were passed earlier this year. It is a pity that the fact finding did not occur prior to the last amendments that highlighted the problem. I do not think any Minister would be happy some 10 months after a major piece of legislation was amended to have to bring into this House 69 pages of further amendments to the same legislation. That indicates that the major concerns and problems the community had with the strata titles legislation were not addressed in the first amendments. I commend the Minister for acting quickly to introduce amendments to solve the problems.

Another attempt was made to fix up title in this State through, I think, purple title, which was to give an option to people. That proved to be worse than the strata titles legislation and it created many problems for people who thought that was a solution but then found out that it was not. It is probably still causing problems for people who are involved in that attempt to remedy the situation.

I am somewhat interested in the Minister's second reading speech where it gives an example of Bill and Mary - I presume a fictitious couple - in reference to a damaged roof. My understanding of joint liability is that if damage occurred to Bill's roof and Mary had her part of the roof insured, in a strata title situation the insurance would naturally follow that it covered the entire roof. Perhaps that would not be for the full amount of the damage, but each owner or part owner of the strata title would be liable for the entire roof in that case. In my view the insurance Bill took out for his roof would have been covered in that example. Perhaps the Minister will explain how the insurer could avoid covering the damage to a common roof in that situation. Until now there has been much confusion among strata title holders, especially with insurance. A number of groups of strata title owners came to me once this legislation went through to find out where they stood with regard to insurance and what their common obligations were. Most of the problems have arisen in my area because Homeswest is encouraging people to purchase their units. There is nothing wrong with that system, but once these people have purchased their units, they become aware of the problems. It appears that in my area real estate agents and Homeswest, if asked, have not advised people of the

restrictions in the legislation. I notice from recent newspaper advertisements by the department that the problems are being solved, and shortly the public will be made aware of the solutions. I also note that the advertisement contains a big picture of the Minister. It is beyond me to understand how that explains anything.

Mr Bloffwitch: Are you being cynical?

Mr RIEBELING: Not at all. I hope the education program the Minister has promised will not be a blatant advertising campaign for the Government and that it will not contain any material that is not purely for information. No doubt the Minister will confirm that will be the case. I hope he does so, because the Government should provide a real education program rather than one designed for a political purpose.

The House is also considering the Settlement Agents Amendment Bill as part of the cognate debate. This Bill contains only five clauses. However, clauses 4 and 5 do not appear to be linked to the Strata Titles Act. Although there is some reference to the Strata Titles Act in clause 5, the clauses contain a number of other provisions which appear to have no connection to it. Clause 4 provides for the insertion of a new subsection in the Settlement Agents Act as follows -

> (2a) The Board may refuse to renew a triennial certificate if the licensee has not met prescribed educational requirements.

Surely other legislation provides that a person holding a certificate must have a certain educational standard? No doubt those levels have been set by regulations which control the issue of such certificates. I do not understand why this amendment is included in legislation dealing with strata titles. Clause 5 will amend schedule 2 of the Settlement Agents Act, and contains the provision that a licensee may draw or prepare such documents that are to be registered or lodged under or for the purposes of the Land Act 1933, Registration of Deeds Act 1856, Strata Titles Act 1985, or Transfer of Land Act 1893, as are prescribed and subject to such conditions as are prescribed. Proposed new subclause (2)(d) of the schedule will be amended to read -

> a statutory declaration to support any of the documents that are referred to in paragraphs (a) and (b) or that are prescribed under paragraph (c).

I agree that some amendments to the Settlement Agents Act are necessary to deal with the amendments to the Strata Titles Act. However, this legislation seems to have broader scope than members were led to believe was the case, and a cognate debate is required to deal with the amendment.

It is vital that the legislation be passed through the House as quickly as possible to rectify the lack of accurate information in the community. The Minister said in the second reading speech that once this amending Bill is passed - all 69 pages of it - we can look forward to another amending Bill dealing with green titles. No doubt the Strata Titles Act will grow even more when those amendments are made to it.

The member for South Perth highlighted the problems of dealing with a 311 page Act when he spoke about the use of ordinary or common language. It is a large Act, no doubt because it is complex. I do not resile from the fact that complex legislation may be needed to deal with this area. For many people the purchase of a property is the biggest investment they make in their lives and rules should be in place to protect that investment. It is obvious from the problems that have arisen since the legislation went through at the beginning of the year that the vast majority of people who own strata title properties do not know exactly what they have purchased.

The Minister's second reading speech indicates that the amendments deal with the issue of common fences. It appears that a new system is to be used for dealing with disputes in this area. The provisions in the Dividing Fences Act are often used by neighbours in dispute, and those disputes often are heard before the courts. The old system, which the Minister is amending, is preferable. Under that system all the parties to the strata title were involved in determining a dispute about fences. The condition or standard of fences between neighbours may impact on all the people within the strata title property and not necessarily just the warring parties or the two neighbours directly involved. I ask the Minister to explain why he has decided to provide that only the two neighbours whose properties adjoin shall be party to the dispute, when the issue may well impact on the entire strata title property. Disputes over these dividing fences can result in huge problems in a close community. It would be better for all concerned if a dispute were resolved by four or five shareholders in the strata title. As others have said, it is important that, once the amendments pass this place, an education program be put in place to ensure that we do not go down the same path of presuming that people are advised of what the rules require. Estate agents and people in the industry have not been giving owners of properties the correct information. I am not suggesting that they have done that for any devious reason. Education will not only help people in the industry understand what is happening but also help people who purchase strata titles to fully understand what they are purchasing and their obligations under this new legislation.

People have brought the management costs of strata titles to my notice. Strata managers tell people what the management fee is and that there is no way to change that figure. After negotiations with both the managers of the strata titles and the residents it has been my experience that the management fee is reduced by many thousands of dollars because most of the management of those strata titles involves supervision, and very scant supervision at that. The owners do the vast majority of work relating to the management of the property. An education program is important.

It is important to protect strata title owners. I hope that the amendments do not reduce that protection. The Minister in his speech referred to the referee. I hope he has not set up a system of solving disputes cheaply rather than effectively. Currently, most orders of the referee are not enforceable. Will the judgments of a referee be registered in a civil jurisdiction so that they can be enforced as a normal debt or order would be?

MR BROWN (Morley) [5.54 pm]: This is a complex Bill and is one that is difficult to comprehend. For that reason I requested a representative from the Department of Land Administration to attend a meeting of my constituents to go through the Bill in detail and explain to those who had raised concerns about the operation of the current provisions exactly what was proposed and to hear first-hand from that person what remedies were proposed in this Bill. I was advised by the Department of Land Administration that that was not possible for a few weeks until such time as all the matters to which the Government had to attend were attended to. It concerns me that this Bill has come on for debate before I could obtain the considered opinion of my constituents. I have not been able to obtain that because I do not have the capacity to explain in a detailed, precise and accurate way the full intentions and implications of this Bill. I understand the reason for its coming on and the concerns that have been raised with me and with all other members about strata titles. However, I am concerned at not having the opportunity to go through this legislation with the officers and my constituents and be assured this Bill will go some way to resolving their problems. It was accepted that was the case with the previous Bill. That was not the case and major problems arose. Now we are being asked to accept, to a large extent in good faith, that this Bill will resolve those issues. While I understand the need for this legislation, I am concerned that dealing with this Bill in haste will result in other problems.

I understand the Bill clarifies that the obligations on strata title owners are the same as apply in the Workers' Compensation and Rehabilitation Act; that is, this Bill makes no difference to the obligations on strata title owners today. There is a change in the language, but there is no change in fact. I ask the Minister to clarify that in response to the second reading debate because many of my constituents have raised concerns about workers' compensation. As I interpret the second reading speech and as much of the Bill as I have been able to interpret, it does not change anything in respect of workers' compensation.

I hope the Bill is successful. It must bring people together and find ways through some complex relationships that overlap into home ownership and unit ownership matters.

MR RIPPER (Belmont) [5.57 pm]: I will make some brief remarks on this Bill because I will not be available after the suspension and I am sure the second reading debate will be concluded before I return to the House. Strata titles issues have been of great concern to my constituents. Sixty people attended a meeting that I called to discuss strata title issues. Another 60 asked my office for an information booklet and calls are still coming in about strata title matters. It is a matter of great concern to my electorate. People were not told of the implications when they purchased strata title units. Many people thought they were buying something equivalent to a dwelling with a conventional or green title. Now they find that they must have all of this interaction with their neighbours, despite the fact that in many cases there is no physical connection between their duplex units with which they are involved in a strata title arrangement. People have been upset about the requirement that they obtain joint insurance. One set of constituents are in a state of intractable antagonism with their neighbour. They have been advised by their lawyer not to speak to the neighbour because there is a matter before the strata title referee. There have been physical altercations and fights over gardening. One lot planted some plants and the neighbour came along and removed them and planted other plants; and these people are supposed to agree on some sort of joint insurance arrangement. It will not happen. It is causing a lot of stress. People have cried in my office about the complexity of these arrangements.

This legislation is welcome because it will go some way towards overcoming those problems. However, it will not overcome the fundamental problem that people have. Basically, people do not like strata titles. If they buy a duplex, they want a green or a conventional title. They do not want to be involved -

Mr Kierath: Last month we received the largest number of inquiries on strata titles on record.

Mr RIPPER: That may be the case; however, if people had a choice, they would prefer to buy a dwelling on a conventional title. They buy a dwelling on a strata title because it fits within their income range.

Mr Lewis: That is not right.

Mr RIPPER: The impression I get from my constituents is that they are not interested in becoming involved in these arrangements with their neighbours. They would rather be on their own.

Mr Lewis: There is a fundamental difference between strata ownership and green titles.

Mr RIPPER: I understand the Minister's point. He is interrupting me and I have only a couple of minutes to make my point. People are not comfortable with the strata title arrangement. It is a second best situation which they are forced into because of their income arrangements.

Mr Acting Speaker (Mr Johnson), I ask for your indulgence because I will not have the opportunity to continue my remarks after the dinner suspension and I do have two more points to make.

I was not impressed with the Department of Land Administration's performance or the helpfulness of the Strata Titles Referee Office. However, as this issue has proceeded DOLA's performance has improved. It is an ill wind that blows no good. DOLA has become more user friendly because of the pressure of this issue.

I note in the Minister's second reading speech that an advisory or mediation service is under consideration. I hope the consideration will be given more impetus because there is a desperate need for this service.

Mr Acting Speaker, I can see that you are impatient and want to suspend the proceedings; therefore, I will make my remarks in the third reading debate.

Sitting suspended from 6.03 to 7.30 pm

MR BLOFFWITCH (Geraldton) [7.31 pm]: The Strata Titles Amendment Bill reflects the community concern about the unknown when it comes to dealing with insurance companies and title issues about which people have very little knowledge. The Strata Titles Act comprises 330 pages and it is no wonder the community has little knowledge of it. The irony is that strata title developments of five or six units appear to operate in accordance with the Act by holding annual general meetings and taking out public liability and other insurance cover considered necessary for developments of that size. The confusion arises with the smaller properties - the duplexes and triplexes. In the case of duplexes or triplexes, often the dwellings are occupied by members of the same family and, because they are relatives, they do not see the need to be involved in any of the formalities outlined in the strata titles legislation. This sort of attitude prevailed from when the Act was first introduced until it was amended earlier this year.

The amendments to the legislation alerted the insurance companies to the opportunity to make a quid. They decided that they would advise the occupants of the smaller strata title developments that they must take out joint insurance policies rather than individual policies. Members can imagine that the people who had insured their properties for years on an individual basis were concerned. In some cases they did not know the occupants of the other dwelling or dwellings, yet they were being told that they must take out a joint insurance policy. These people were alarmed at the change in attitude of the insurance companies. I agree with the members who have spoken in this debate that the insurance companies did not take a responsible attitude towards this legislation. I also agree that, in most cases, the insurance companies worked the system so that they could get the maximum benefit from it.

I advise members that I own a unit in South Perth which is part of a strata title development. I paid cash for the unit and because I did not take out a mortgage, I did not encounter any problems. However, I decided to use the unit as security for another purchase. The bank manager told me that I would need to take out insurance cover on my property because I would have a mortgage on it. I told the bank officer that the strata title development had a $700 000 insurance cover for the six units. In other words, my insurance cover was over $100 000 and the bank wanted cover for only $100 000. In other words, the corporate policy was more than an individual policy. I argued very strongly with the bank manager and his final retort was, "Bob, if you want the facility of the $100 000 you will pay $27.50 for the insurance policy." I told the manager it was ridiculous because I was taking out a double lot of insurance over my property. I was doing it at a corporate level as well as individually. I asked the manager why I should do that. I have been told that, under the circumstances, it is illegal to take out double insurance. The bank forced me to do that. The Minister told me that the department was addressing the situation and was telling insurance companies that, where there was sufficient cover in a corporate policy, they should cover mortgages.

I do not believe I am the only person who has applied for a mortgage on a strata title property after owning it outright. I am sure that many people who buy strata title properties take out mortgages. If the banks as well as the corporate bodies are charging them for insurance cover, it is a duplication and it must be addressed. I ask the Minister to address this issue in his response to this debate. The thousands of people who have mortgages over their strata title properties should not be compelled to take out individual insurance to satisfy mortgagees. They should be given some respite by not having two insurance policies for the same properties.

I commend the Bill to the House.

MR KIERATH (Riverton - Minister for Lands) [7.38 pm]: I will try to address the issues raised during this debate. The member for Nollamara referred to insurance companies failing to provide individually tailored policies.

Mr Kobelke: They are not being creative by looking for new markets that would meet the requirements of the Act.

Mr KIERATH: The member is correct. There was an obvious misunderstanding by the insurance companies about the original insurance policies. The changes to the Act in April this year alerted not only insurance companies, but also the strata title owners to the imperfections that existed. The insurance companies had, in a de facto way, insured the properties both individually and collectively. I met the Insurance Council of Australia Ltd and sought an assurance regarding the provision of appropriate packages tailor-made to suit individuals. I am also advised that two companies are prepared to offer tailor-made insurance packages. If the other companies do not follow suit, the providers will gain market share and force others to respond. I am confident that we will end up with appropriate packages in the marketplace.

I accept that a lot of misunderstanding has been evident with all the major players. In fact, I was surprised to see how much misunderstanding was involved with many of the major players, some of whom have access to the best legal advice.

The member for Nollamara raised the issue of workers' compensation, lawn mower contractors and how owners will know about the change in status. The April amendments were an attempt to indicate to people their obligations under workers' compensation insurance. However, by the nature of the wording, people felt that some new obligation was being imposed on them, but the Workers' Compensation and Rehabilitation Act imposes the obligation on people regarding when they will and will not insure for workers' compensation. In all honesty, there is not a simple answer; it is an extremely complex matter and cannot be fixed with this legislation.

The member for Morley raised the issue of the wording, and he was right: The wording indicates that the obligation arises under the workers' compensation Act, and the Strata Titles Act will not impose any additional obligations. The amendment was designed to alert the parties to their obligations in that area. That explains the change in the wording. It is not an additional, but an existing, responsibility imposed by the workers' compensation legislation. This question arises when one has strata, green, freehold or whatever form of title; the obligation is the same. We felt that this was not the mechanism to overcome any shortcoming in the workers' compensation legislation apart from making it plain that no additional obligations to the workers' compensation legislation obligations apply under the Strata Titles Act.

A difficulty arises with insurance companies providing domestic workers' compensation packages. A large number of companies operate in the area of general insurance, but only 21 or 22 companies are authorised to provide workers' compensation insurance. The bottom line is that most of the insurance companies are not authorised to be workers' compensation insurers. In many cases they take out what we call an agency agreement with a licensed workers' compensation insurer who provides a package, and that is why a minimum amount is involved. The member for Nollamara raised the quantum of that amount.

One of the current difficulties is that the 21 or 22 insurers operate under a licensing arrangement, and an administrative fee is charged for providing that insurance. This fee often does not relate to the value of the property insurance, but to a basic administration fee. The member is right: If the fee covered the straight insurance cost, the amount involved would be smaller; however, as it is calculated on an administrative amount, it is artificially higher than it should be.

The April amendments should have made it cheaper for people to insure. Rather than placing the minimum administrative component in the individual policies, which combine in two or three lot units, the combined total was still not above the minimum. Therefore, one policy was cheaper than two or three separate policies. That notion has applied in the broader sense of the word, but not necessarily in individual cases. This applied to insurers such as the Australian Pensioners' League of WA. The insurance scheme behind the defence service homes which are basically self-insurers, can cover that area but cannot cover somebody who is not a member of that scheme. That is why some anomalies have arisen in the economies of insuring.

The member raised general support for changes in insurance, especially about giving additional options compared with those of the April amendments. Since 1966, the Act has required building insurance; since 1985, it has required public liability insurance; and workers' compensation insurance has been required for the life of the workers' compensation Act, the last major review of which was in 1979 or 1981.

The April amendments ensured that the Act required insurance of entire properties; it applied to not only the strata lots and individual parts, but also the common property. It is fair to say that, although the Act always had that requirement, many people had not been adhering to it.

The member also raised the education campaign regarding conversion options. The member is right; this area is vital. I also agree with the member that, apart from notification of information to be provided, the Minister may be involved at only one more level; that is, notifying every strata title owner of the changes. After that requirement, my involvement will disappear. It will then very much be an education and information campaign of the various options.

One needs to look at this process in terms of time constraints. In considering the number of amendments drafted in a short time, I owe a great debt to all those involved in the change. I particularly thank the task force for the work performed with me in developing these changes. I intended to spend a lot of time with the group but, as it turned out with other commitments, my time devoted to this matter was somewhat limited. I promised that I would not name the group members individually; nevertheless, they volunteered their time, energy and efforts, sometimes at great personal cost, to this project.

This was a workable group. At one stage I thought of using the consultative committee to work through the issues. However, my experience of working with the mental health task force, which contained more than 20 people, and took 12 months to achieve a reasonable outcome, indicates that I could not meet the time constraints involved in working with such a large consultative committee. I said to the committee, "I'm sorry; I cannot work with a group of this size in the time constraints involved." Therefore, half a dozen people were hand picked to consider the matter. I physically could not manage a group comprising more than 10 people.

Mr Kobelke: For the record, could you outline the structure of the task force and the consultative committee? I do not ask for names. What were the different roles of those groups?

Mr KIERATH: The consultative committee had been around for five years to my knowledge, and contains a representative from almost every group with an interest in the issue of strata titles and, in some ways, land titles. People with interest in strata titles, real estate, the law and a range of areas are involved. That is the appropriate forum for dealing with certain issues, but it is a slow consultative forum.

Mr Kobelke: They go back to their representative bodies?

Mr KIERATH: Yes. The task force was hand picked by the department at my direction. If I were to meet the time frame, I needed a small group of people to make the decisions. I as the Minister will wear the responsibility for that, but that was the only way I knew of meeting those time constraints. I relied heavily on the advice of the Department of Land Administration about who those people should be. In hindsight, they were an excellent group of people and represented all the various interest groups, whether professional people or consumers. They did not agree on everything every time, but they showed a great spirit of trying to resolve the difficult issues.

I remember mentioning to the Minister for Planning at the beginning that I thought we had some simple solutions to strata titles, but the more we went into the detail, the more complicated the issue became. There is no such thing as a simple issue. That is one of the reasons that the amendments in this Bill are so lengthy and complex. The only other legislation for which we had a Blue Bill was the firearms legislation, where we had a copy of the Act showing the proposed additions and deletions. That is the right way to go, although it is a much more expensive option, because it allows members to see what will happen to an Act. If only the amendment Bill is before us, it can be very difficult to relate that to the parent Act. I acknowledge that to have a Blue Bill for the strata titles legislation was not my idea; it came to me from the firearms legislation, and it was an excellent idea. Some people were worried about the firearms legislation when they came to my office, but after they had seen the Blue Bill they felt much more relaxed because they could see everything in toto. I congratulate DOLA, parliamentary counsel and everyone involved in producing that composite Bill, despite the fact it has all those disclaimers on it.

The member for Nollamara raised the issue of lodgment fees. We have waived the lodgment fees. The maximum that will cost the Government is $750 000; in practice, it is likely to cost us about $350 000, or half that amount, but only experience will tell. The member for Nollamara made some comments about the conversion to green title. That matter is ongoing, and the task force has made some decisions about progressing that issue. It is a mixed issue. I have no hesitation in reducing or eliminating some of the red tape that is associated with green titles, but I will not interfere with the basic principles of green title, and the Minister for Planning will support me on that. Had we decided to deal with green title in this Bill, this Bill would not be before the House now because it would be another three to four months, at best, before we could resolve that matter. We considered it was important to proceed with what we had and to continue with further options.

The member for Nollamara referred to the referee. I am not happy with the current referee system, and I say that with no disrespect to the people involved. The current referee regards her role as a judicial role, where the referee is a decision maker and not a decision explainer. In my view, the role of the referee should be an administrative tribunal role and not a judicial role. I intend over time to take the referee out of the judicial system and into the administrative system, where we can publish the findings of the referee and explain the reasons behind them so that people can

understand why decisions have been made. That will go a long way towards overcoming the information gap that some people have.

Mr Riebeling interjected.

Mr KIERATH: The referee clearly sees her role as a judicial role and not one of providing advice or information to other people.

Mr Riebeling: The decision can still be published.

Mr KIERATH: It can be done administratively, but under the current system, I have no control over it. Part of the recommendation that I put to Cabinet was to bring the referee, perhaps within six months, under the administration of the Department of Land Administration so that it was an administrative role rather than a judicial role. That will help to dispel some of the mystique that surrounds the decision making role of the referee. I also want to have an information service, and we could expand that to include a conciliation service. That will help to resolve many of the misunderstandings. In many cases, people look for some guidance. They want to know what types of decisions will be handed down, and that is an important part of that education role. I have given that my support. I commissioned Rod Chapman - I hesitate to raise this, but he was instrumental in reviewing the dispute resolution side of workers' compensation - to look at this area also, and he recommended that we go down this path.

We stopped short of putting in mediation, because in New South Wales that is a relatively new concept and it is unproved and untried at this stage, but we will have the conciliation, the information and some justification of the referee's decisions, and that is as far as we can go without introducing compulsory mediation. We can do that administratively; we do not need to do that legislatively. I hope that those provisions and procedures will resolve many of the problems that are associated with information about strata title decisions.

With regard to staged developments, it is perhaps a fair comment that the legislative amendments in April did the preparatory work for staged developments. The changes that we have now made will allow for a staged development if the information is provided up-front so that people know about it before they go into a strata title development. The Act does not allow for staged developments in any great way unless the parties have been informed beforehand. That is perhaps an issue that we can review at a later date. When I responded to some comments from the member for Nollamara, I mentioned the word "review", and perhaps I misled the member. I have undertaken to completely rewrite the strata titles legislation. As the member for South Perth said, the language in the parent Act is extremely complex and, as a consequence, the amendments had to be extremely complex. If we were drafting a new Act today, we would perhaps use quite different language. However, in the time constraints that I had, that was not an issue that I could embrace. I have asked the Department of Land Administration to begin a complete rewrite of the Act.

The member for Scarborough referred to village titles, but I think he meant the villa titles. The ultimate will be villa titles legislation and strata titles legislation; whether they will be separate Acts or separate sections within the same Act is still being decided. We all agree that we need one set of criteria for the dividing up of land and a different set of criteria for the dividing up of a building. That is one of the difficulties that has come through. A number of other people have said that developers have used strata title to do developments that otherwise would not get up, and that is a fair comment.

To overcome the difficulties that the April amendments created would be very simple if it was just a matter of changing or reversing a few words, but it ended up not being so. It started as an insurance problem, and ended up with people realising what they owned -

Mr Strickland: How little they owned!

Mr KIERATH: The member is correct. I hesitate to give this example, because some people may think I have a vested interest. My mother bought a unit in a three unit development. The three areas were divided, and there were three driveways. Each person thought he or she owned the building and the land, and that the only common property was at the front on the complex. In fact, these people did not own the external walls, the roof or the driveways. What began as an insurance requirement, resulted in people discovering they did not own what they thought they owned under their titles. We could blame people, but it was never my intention. I accept that there has been a lot of confusion and misunderstanding, and that we should do whatever we can to rectify the situation. That is the reason I give full credit to the task force for the work it has done. The members of the task force did not always agree, but they did agree that they would resolve the matter amicably, and that they would find a solution as best they could to cover all the different competing interests. At times it appeared the task force could find no middle ground, but eventually it found middle ground to accommodate as many individual circumstances as possible.

Members referred to the mix of strata and survey strata schemes. That issue will be covered by the next round of amendments, which will be part of the overhaul of the Act. We had no chance to accommodate that situation in this

round of amendments. Even though we limited ourselves to basic matters, we still ended up with a complex amending Bill.

Mr Kobelke: It is a matter of speed. This matter needed to be addressed in all haste, and bringing in extra matters could have delayed passage of the Bill.

Mr KIERATH: If we had raised all the issues, we would find ourselves here in a year -

Mr Kobelke: The incredible thing is that the amendments this year have been five or six years in the drafting.

Mr KIERATH: The member is right. This goes to consultation. What happens with an issue when consultation takes place for five years and it is still wrong? I return to my earlier comments: The issues have been fairly simple. However, it caused many people to realise the type of title they own, and in many cases people misunderstood the form of title. By way of interjection the Minister for Planning said that the problem has been around for 30 years. It is correct that people have misunderstood for 30 years - it is not just the latest amendments -

Mr Strickland: And developers have taken short cuts, and the problem has exploded 30 years later.

Mr KIERATH: I will not be as blunt about the short cuts, but if there was an easier way to undertake a development, people found that way; it is human nature; it is a natural reaction. If we allow that to happen, it will happen. This legislation has been 30 years in the making. Although I cannot guarantee that it is right this time, I am confident that we have done the best we can within the constraints put upon us.

The member for Nollamara referred to the conversion procedures.

Mr Kobelke: I briefly summarised the four conversion procedures in the Act, I hope correctly. I pointed out that there would be difficulties for the owners of strata title properties being able to make an assessment of what was involved in each conversion or merger, and to determine what would be in their best interests. It is difficult to pay someone to get it done -

Mr Strickland: People must spend money to obtain legal advice.

Mr KIERATH: Unfortunately, legal advice is necessary. There has been some reluctance by the Department of Land Administration to provide legal advice on the hotline, because if that advice were wrong - no matter how well intended - it would have disastrous consequences for all. These amendments have caused some trepidation because if they are wrong, many people could either benefit or be disadvantaged. Therefore, these provisions have been approached with a great deal of caution on my part.

The "how to do it" folders are relied on by the legal profession, despite the legal complexity of the legislation. That is fascinating. We will undertake a number of information procedures, the first of which will be a simple, one page brochure for strata title owners which will outline the major concepts. It will not contain the finer detail. I hope that information will be available within one month. Other information, which will be more detailed and technical, I hope will be available by Christmas or before January when the provisions are proclaimed. I hope that the "how to do it" manual will be provided by Easter next year.

Mr Strickland: Another point is that it has become apparent to many members that people do not know their rights and responsibilities, which the Act covers in great depth. Therefore it is difficult for elderly people to come to grips with this legislation, particularly if, for example, a husband has been handling matters and the widow suddenly becomes responsible. That is a very frightening aspect. The member for Nollamara made the point that we must do more towards the cleaning up process and to provide more guidelines.

Mr KIERATH: The member is right. That was what I was trying to say earlier about the advisory and conciliation service; it will not be a mediation service. The referee's decision will be explained, and the flow-on effect. That will cost the Government about $500 000. However, it will be money well spent because the more informed people become, the better. We stopped short of compulsory mediation. We will review that situation early next year. I am sure the Opposition will support that procedure. We will look at the New South Wales situation to see if it provides any additional benefits -

Mr Kobelke: I assume that the regulations will need to be ready at the time the Act comes into effect.

Mr KIERATH: That is one of the reasons it will not be proclaimed immediately after it passes both Houses; the regulations must be provided.

I think I have addressed most issues raised by the member for Nollamara. Perhaps he can indicate whether that is the case.

Mr Kobelke: I thank the Minister for being so direct in trying to address the issues I have raised; in large part he has done so. The others can be taken up during Committee.

Mr KIERATH: I thank the member for Scarborough for his comments. He was quite correct. He was on my back from the beginning. He might take issue with the member for South Perth regarding how many strata titles he has in his electorate. Nevertheless I thank the member. He was instrumental in encouraging me to initiate an education program.

The member for South Perth raised a number of issues. In particular, he spoke about access to absentee owners. In the last round of amendments in April, which some people criticised, small strata schemes were covered by the requirement for owners to notify each other of their names and addresses. There was also a change in procedure to resolution without dissent. That covered the situation of an absentee owner and there no longer being a requirement for a unanimous decision, but only one without dissent. Again a number of provisions are included in these amendments which relate to both the conversion and insurance options. We have chosen to use the words "without dissent" as opposed to "unanimous" because we believe that will cover those areas. I am sure we could take it further. No doubt a more detailed review of the Act would result in recommendations for further changes. However, we had to draw the line somewhere and we felt that under the time constraints, that was as far as we could go.

The member for South Perth also referred to workers' compensation and I think I have satisfactorily answered his query. No new obligation is proposed under the Bill. The obligation remains under the existing Workers' Compensation and Rehabilitation Act. One regret I have is that the obligations under the existing Act are complex because they are decided by the courts rather than by black letter law.

Mr Riebeling interjected.

Mr KIERATH: The member is right, although I think some provisions of the workers' compensation Act allow for discretion. Generally the test is whether somebody is defined as an employee or a genuine subcontractor. I think that somewhere between 30 and 40 tests exist in the legal system to establish that. It is not a simple answer; it is highly complex. Someone with extensive legal qualifications is needed to explain it. This amendment is an attempt to alert people to their obligations regarding workers' compensation when they employ someone to work on common property.

Mr Riebeling: Should a company have workers' compensation insurance?

Mr KIERATH: Yes, a company should. The member for South Perth was right when he said that the language in the Bill was extremely complex. However, if we were to redraft it now to bring the language closer to plain English as he suggested, it would be drafted in a different language from that which the Bill contains now. I agree with him, but if we delayed the legislation for that purpose we would still be here in 12 months.

The member for Ashburton referred to insurance covering a roof that is common property.

Mr Riebeling: If there is damage to my neighbour’s property my insurance would provide common obligations for the whole lot.

Mr KIERATH: My understanding is that the insurance policy would cover the obligation of the party who had taken out the insurance and no-one else's obligation.

Mr Riebeling: In a common property all parties are equally liable for all of the roof.

Mr KIERATH: All parties are equally liable. The share of the liability of a party who is insured would be covered in the event of a claim. However, the insurance companies have said to me that traditionally where all parties have been insured, insurance companies have resolved a claim among themselves without obligation on the owners. I was surprised at the level of misunderstanding of this issue by large insurance companies, despite their access to legal advice. They had it quite wrong, but in practice they had basically done the right thing.

Mr Riebeling: If someone had a $100 000 cover on a property and $10 000 damage was done to his neighbour’s part of the roof, that insurance would still cover it. Each party is liable to indemnity.

Mr KIERATH: Where they were insured, administratively the insurance companies did the right thing. It was only where a major claim was made and someone was not insured that companies retreated to their legal positions.

Mr Riebeling interjected.

Mr KIERATH: That is absolutely right. The fact that they did the right thing is the reason we did not have many more glaring problems earlier. As soon as a large claim emerged and parties retreated to their legal rights the

shortcomings were exposed. It highlighted obligations and liabilities that people had even though they did not realise it.

I will be writing to inform individual strata owners of the changes. After that, my personal involvement as part of the educational or information campaign will cease.

Mr Riebeling: Including photographs?

Mr KIERATH: Yes.

Mr Kobelke: When do you anticipate writing?

Mr KIERATH: As soon as this legislation is passed in both Houses.

Mr Kobelke: Even before the regulations are up?

Mr KIERATH: Yes.

Mr Kobelke: There could be problems with that.

Mr KIERATH: I could write to every strata title owner now; I do not need the legislation. However, I thought it would be courteous to have the legislation passed before doing that. I am open to suggestions.

Mr Kobelke: It may be seen as politically opportunistic to be advising people of what is happening given that the regulations are important to some of the fundamental definitions.

Mr KIERATH: I can understand the concerns of the member for Nollamara about my involvement. When I was sworn in as Minister, the switchboard of the Department of Land Administration was unserviceable and it made it very difficult for many people to perform their functions. Three quarters of an hour after I was sworn in I had to devise a strategy to lift that burden and allow those people to get on with their normal functions. It is an extremely complex issue. Only personal assurances have held back the great tide of queries from people in the community, which is the reason I adopted that strategy. The member for Nollamara may not agree with what I did, but that was the strategy devised and agreed to. Strata owners are still awaiting the details of these changes. Members can imagine what would be the reaction of most people who own strata titles if we sent them 66 pages of amendments. If we as legislators find it difficult to work our way through them, what chance does the ordinary person in the community have? Once I have written to all strata title owners, that will be the end of my personal involvement in any educational or information campaign.

The member for Ashburton referred to proposed sections 4 and 5 of the Settlement Agents Amendment Bill. They are administrative changes. We do not agree that the Act should stipulate which forms should be filled in; it should be part of regulations. Proposed sections 4 and 5 also allow for continuing education of the various parties and allow settlement agents to do much of the paperwork that other professionals may have had to do.

The issue of dividing fences carries the same options as conversion options. If owners do not want to go down that path, they can object and the status quo will remain. We have tried to propose as many options as possible to cover the various circumstances. I have covered the issue about whether judgments can be registered by stating that the Government intends to provide explanations on referees' decisions.

Mr Riebeling interjected.

Mr KIERATH: We are in limbo land. We will put in place a detailed conciliation and advisory service. I say openly that the next logical step, if that does not solve most of the problems, would be some form of administrative tribunal and enforcement associated with it. The member for Belmont raised the issue of people not wanting strata titles. I do not agree. When our task force went through the issues it recommended that there should be more promotion of the advantages of strata title over green title. Green title is about the ownership of a property on its own and not about the management of the people involved. Strata title is about managing people; in fact, the task force said after one meeting that it decided during heavy discussion that strata titles should be called the fourth tier of government. If members think that through, they will realise that in some respects that is probably quite right.

The member for Belmont was critical of the Department of Land Administration; I am not. At first I was, but I do not think its people had ever encountered a problem like this. Having never experienced it before, they were at a bit of a loss as to what they should do. As a new Minister, it was very easy for me. I was saying that from my own experience something had to be done to sort it out and that DOLA had to move and be prepared to spend money on public relations and communicating with the public and not only with the professionals. That is most important. One thing I have brought to this whole debate is to try to quarantine, as it were, the role of the professionals and reduce the debate to language and issues that most people can understand. The strata titles issue is highly complex. I said

at the outset that I thought there was an easy answer, but there was not. The more we deliberated, the more complex the issues became. On the one hand, technically the issues are highly complex; on the other hand, most people who want to use strata titles want the position put in very simple terms. I used my mother as an example. Her husband has been dead for a number of years. She wants the position explained in terms she can understand and not in terms that a lawyer, professional, parliamentarian or politician might provide to her. Those were the competing aims. These amendments are an attempt to try to balance all of those considerations. I have strongly encouraged the department to engage in a public relations and information campaign to try to provide people with information.

I think I have covered all the issues that members have raised. In the minute I have left I give any member the opportunity to raise any issue I have not covered. I compliment the Opposition. Opposition members gave me an undertaking that they would support the passage of this legislation through the House. I give them a great deal of credit today for having done so and for not prolonging this debate so far. I express my personal gratitude for their support.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mr Osborne) in the Chair; Mr Kierath (Minister for Lands) in charge of the Bill.

Clause 1: Short title -

Mr KOBELKE: Clause 1 gives me the opportunity to make some brief general comments following the Minister's speech. I appreciate the way in which he addressed the issues raised in the second reading debate. What we will be dealing with in Committee will very soon become very complex. I fully concur with the Minister's suggestion that the whole structure of the Act is the real problem. I support his view of a review, not so much a review of the Act but -

Mr Kierath: A rewrite.

Mr KOBELKE: - a total rewrite, which would adopt an alternative structure and perhaps models for strata title so that we have a comprehensible Act. As we go through the clauses, I will attempt to try to obtain some understanding of what the sections as amended will do. I would appreciate any help the Minister will be able to give. It is not that I want to become an expert on the Strata Titles Act by this process. However, when the amendments which created this problem went through earlier this year, I had the carriage on behalf of the Opposition. From memory we spent a couple of hours at the Committee stage. My understanding at that stage did not show up any of the problems which have so affected people.

The whole intent is to get the Bill through as quickly as we can but to try to go through some detail to ensure that we are not tripping ourselves up with other little issues. I appreciate that my level of expertise and that of most members on the opposition side will not be adequate to run a legal mind over the fine detail. However, I hope that we can work very cooperatively because our intention is not to vote against any clause but simply to put on record the Government's understanding of the amendments and to tease out as far as we can both the meaning and the implications which will flow from the way the Act will be structured. In the first clause that will become clear in such things as the role that regulations play. I thank the Chair for giving me the opportunity to make those brief comments on the way we hope to progress fairly efficiently through the Committee stage of the Bill.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 3 amended -

Mr KOBELKE: Section 3 of the Act is the interpretation section, which deals with a number of definitions, one of which is "lot". It is clearly fundamental to our understanding of the Act and the amendments we are now making. One definition of "lot" relates to a survey strata scheme; no amendment is made to that, so I will not touch on it. The other definition of "lot" relates to a strata scheme. The definition as it stands is worth putting on record. It reads -

> **"lot"**, in relation to a strata scheme, means one or more cubic spaces forming part of the parcel to which a strata scheme relates, the base of each such cubic space being designated as one lot or part of one lot on the floor plan forming part of the strata plan, plan of re-subdivision or plan of consolidation to which that strata scheme relates, being in each case cubic space the base of whose vertical boundaries is as delineated on a sheet of that floor plan and which has horizonal boundaries as ascertained under subsection (2), but

does not include any structural cubic space unless that structural cubic space has boundaries described as prescribed and is described in that floor plan as part of a lot;

The definition is complicated. We will amend that definition, because the idea of the lot under the strata scheme is being enhanced largely through proposed section 3AB, which will move the boundary to the external surface of the building, rather than what is laid out on the plan. That definition becomes fairly complex. The amendment to the definition of lot provides that, except where the boundaries are fixed by section 3AB, structural cubic space has boundaries described in accordance with regulations and is shown in the floor plan as part of a lot. That is one example, and I will comment on at least one or two others, where the basic definition is in part being left to regulations.

I appreciate that the Government wants flexibility; however, we do not want to find, as with the previous amendments made by the Government, a range of problems that the Government cannot get out of without bringing back an amendment Bill. I have two serious concerns about that. Firstly, the Parliament's control over regulations is less than if the provisions were laid down in the Bill. Secondly, the Bill is so complex that a definition provided by regulation adds an extra layer to its complexity. We will not be able to pick up the Act and get some understanding of the basic definition of a lot under a strata scheme. Will the Minister address the issue of regulations and also the extension of the definition of a lot under strata schemes so the definition can extend beyond the external walls?

Mr RIEBELING: Clause 4(1)(b) refers to permitted boundary deviations for the purpose of the definition of single tier strata scheme and other provisions. That means a part of a lot that is above or below another lot in the circumstances allowed by the regulations. That definition contradicts the definition of a single tier strata scheme.

Mr KIERATH: Subclauses (1)(a) and (b) must be read in conjunction. That also relates to the permitted boundary deviation. The member for Nollamara pointed out the complexity of the drafting. In simple terms a single tier scheme does not relate to units that are above each other. The regulations will contain exceptions such as footings, eaves, gutters, downpipes, and television antennas. It was decided that those issues should not be part of the Act, but part of regulations. Situations are not always clear-cut, so the regulations will encompass those items that might overhang.

The clause relates to not only conversion options, but also any future options. The regulations will provide for a range of items such as common airconditioners and television antennas.

The intent of clause 9, which is section 5 amended, is that a plain English statement on the plan will outline what is included.

Mr KOBELKE: That reinforces the difficulties I have with including a basic definition in the regulations. I can understand the need for flexibility, and there will be many cases that may be hard to fit into a definition with the model the Minister is adopting. In single tier strata schemes there may be instances where a slope or a step up of a building will mean that an eave or a television antennae will hang over the top of another part of the building. Those are fairly minor matters where regulations will provide flexibility to deal with them. I am concerned that the definition that applies to what is a lot will be contained in the regulations and either through an error or by abuse of regulation procedures something very different will crop up. Why is that contained in the regulations, and how far will that go in the definition of lot?

Mr KIERATH: The basic definition is in the Bill but the variations will be via regulations. It is a very difficult thing to define. In the end we must draw the line somewhere and say that this is the basic definition and that any further extension will be defined in regulations.

Mr Kobelke: It is clearly in there as part of the definition. The regulations could run contrary to the clear intention of the legislation.

Mr KIERATH: If they ran contrary, they would not stand up in a court of law. One cannot use regulations to override the wording of an Act; one can use regulations only where the Act is silent or imposes a head of power. I would like to find a way for regulations to override the Act but it is not possible. I have sought extensive legal advice.

Mr KOBELKE: I would like to ensure we have clear this new concept of a single tier strata scheme. It means a strata scheme in which a lot or part of a lot is above or below another lot or which comes within paragraph (a), except any lot that has a permitted boundary deviation. In order to understand a single tier strata scheme we must fall back to a new definition, which is a permitted boundary deviation. We then turn to "permitted boundary deviation", which provides -

. . . for the purposes of the definition of "single strata scheme" -

It seems a bit circuitous to come back to the same thing but there obviously needs to be a reference -

> - and other provisions, means a part of a lot that is above or below another lot in circumstances allowed by the regulations;

Again we see that re-emphasis of regulations in the same definition. We will talk about single tier strata schemes in respect of the development or the extension that we are giving to the definition of a lot in a strata scheme. It is as far removed as one can get from a simple English explanation. I do not know why it must be so complex. Perhaps it rests on the fact that we already have a number of forms of strata title with minor variations having been made due to the development of strata title through our Statutes. Perhaps the legal argument that has been put to the Minister is that we want to sit in that same developmental stream rather than take a totally different approach. Therefore, we have found that one must bolt on bits and pieces to maintain the same format or structure as has been used for the purposes of limiting the legal confusion between previous strata forms that have been enacted and the new strata form that is built upon. I am doing a bit of guesswork as to why we have ended up with something that is very convoluted to provide a definition. Someone who wants to find out whether their lot can have this extension must understand the new definition of a lot, a single tier strata scheme and permitted boundary deviations and then research the regulations.

First, will the Minister give some explanation as to why we could not have a simpler form? Secondly, will the Minister put in simple terms the new form of the definition which all this is leading to and which changes the current requirement of the lot under the strata scheme to give a choice, and what the new choice will be?

Mr KIERATH: We are making specific provisions relating to a group of strata titles, which we are calling "single tier strata schemes". We have included a definition of "permitted boundary deviation", and that applies to this new definition of single tier strata schemes as against the multiple tier strata scheme, which is what the Act was designed to encompass. We are simply saying that some boundary deviations are permitted under these schemes. They will cover situations where footings, eaves, gutters, downpipes and so on, will go over the boundary. This is a way of accommodating those deviations. Whether we think it is simple or complex, it is a strategy devised by parliamentary counsel to provide for those various options. It results from including these different provisions applying to single tier strata schemes as opposed to multiple schemes. If we were then required to include all of those deviations in the legislation, we would not be here today. The bottom line is that there must be an element of trust in terms of the regulations; there is no other way around it. However, it was considered by parliamentary counsel that this provided the main definition, and the slight deviations that this permits will be provided for in regulations. We cannot overturn the definition.

Mr KOBELKE: I thank the Minister for answering that question. The other part of my query related to the wider definition. Perhaps we can pick that up in the later definition, which provides the detail.

Mr RIEBELING: I refer the Minister to the meaning of "structural cubic space". Reference is made to "vertical structural member". I presume "member" is a vertical structure. This is a classic example where, without requiring huge amendments, we might have been able to make it a little more user friendly. What is a "member"?

Mr Kierath: A column.

Mr RIEBELING: What does a normal person understand it to mean?

Mr Kierath: We have obviously tried to correct some things and there are many others that we have not. Perhaps that is one issue we might look at in a different light.

Mr RIEBELING: A simple amendment would be to change it to "vertical structure". Everyone would have known what that was.

Mr Kierath: I am not sure about the legal interpretation. We did not look at the existing Act and how it could be improved. We have had no queries in relation to this; the queries related primarily to the two, three and four unit developments. I make no apology for it. Most of the amendments have been aimed at those schemes.

Mr RIEBELING: They have, but this paragraph has been amended.

Mr Kierath: We did not amend this paragraph.

Mr RIEBELING: But the other bits have been amended.

Mr Kierath: To solve a particular problem.

Mr RIEBELING: The amendment to paragraph (b) removes the reference to exclusive enjoyment of one lot, and that appears to be a sensible thing to do. However, I notice that it has been put back in at the end of the clause. Why

has it been removed from one paragraph and included in another? Paragraph (c) is exactly the same as the old provision.

Mr Kierath: The words underneath say "except where section 3AB" applies.

Mr RIEBELING: Yes, it has been removed from paragraph (b) and inserted at the end of the clause. Paragraph (c) remains the same.

Mr Kierath: It says that that applies to both paragraphs (b) and (c).

Mr RIEBELING: How does that amend section 3C of the principal Act? It is basically the same as it was previously.

Mr Kierath: Amended section 3C applies, except where proposed sections 3CA and 3CB apply. It does not include the other provisions to which I have referred.

Mr RIEBELING: I take it that what follows on the next page is the rest of the proposed new section 3AC?

Mr Kierath: Yes.

Mr RIEBELING: I thought that was the end of the definition.

Mr KOBELKE: A number of these amendments bring in the respective parts of the definitions; that is, section 3 of the principal Act and the connection to proposed new section 3AB. I have no difficulty with those definitions, other than that they are quite difficult to understand when taking into account the connection with proposed new section 3AB in a number of places. I raised in the debate earlier this year the fact that the previous amendment caused problems. For the life of me, I do not see why there is a definition for "strata/survey-strata plan" and also a definition for "strata plan". It makes it very difficult to explain these forms of strata plans. There are two plans, and they are discussed in terms of lots; that is, there are lots in relation to a strata scheme and lots in relation to a survey-strata scheme. Why one could not have been called a building strata scheme - something with totally different wording - is beyond me.

It has made it incredibly difficult to take on the educational role the Minister has promised. The basic definitions of the two types of schemes have similar terminology about which people can become confused very quickly. Having explained the differences between the two schemes, very often the person who is explaining the difference must do it again. I get confused. I know this is not part of this amendment, but I do not understand why different wording could not have been used that conveyed the difference in the two plans, rather than having two very similar terms.

Mr Lewis: The definition of "lot" is also in the Land Act; the common understanding of what is an allotment. They have some commonality of understanding of what it is because of the provisions of those other pieces of legislation.

Mr KOBELKE: My comment was not directed to the use of the word "lot"; it was that there is a survey-strata plan and a strata plan. One relates to buildings and the other more to land. The word "building" could have been brought in relating to the survey-strata plan. It would have made it easier for people to understand.

Mr Lewis: I do not believe we should have a survey-strata.

Mr KIERATH: The Minister for Planning has interjected! If we had our time over, we would probably put under the villa titles part of the legislation which is called in this scheme a survey- strata title.

Mr Lewis interjected.

Mr KIERATH: As the Minister will know, it is not green title; it is somewhere in between. It is going down that path. It is a form of green title that is still subject to the management of people in strata titles issues, but it gives a form of green title within the Strata Titles Act. From a political point of view, if we redo the Act, we will probably have a strata titles section and a villa titles section. This part will be under villa titles, not strata titles. That decision was made previously. We looked fleetingly at it, but we did not pursue it any further because we had more pressing issues to consider.

Clause put and passed.

Clause 5: Section 3A and other sections amended -

Mr KOBELKE: This seems to be a technical amendment. It makes no sense to me. Will the Minister give a brief overview of the key to the amendments in this clause?

Mr KIERATH: I will provide the explanation given by the experts. It says that section 3A of the principal Act has been renumbered section 3AC as new sections 3A and 3AB have been inserted and consequential amendments have

been made. That highly technical explanation is basically to do with renumbering and the sections that are proposed to be inserted.

Mr Kobelke: Repositioning is in order because of the renumbering. What is the consequence of the table?

Mr KIERATH: They are the consequential amendments to proposed new section 3AC, which was formerly 3A.

Mr Kobelke: They are to do with the structure of the Bill, rather than major changes?

Mr KIERATH: Yes.

Clause put and passed.

Clause 6: Sections 3A and 3AB inserted -

Mr KOBELKE: I referred to part of these proposed sections earlier. The clause brings in the single tier strata schemes. That appears in both proposed new sections 3A and 3AB. Clause 6 deals only with proposed new sections 3A and 3AB. Proposed new section 3A refers to single tier strata schemes to which proposed new section 3AB applies, with proposed new section 3AB referring to alternative boundaries for lots in single tier strata schemes. I asked the Minister a question about this earlier, but perhaps it is more appropriate to deal with the issue now.

I want to put on the record what exactly we are dealing with here. I ask the Minister to give a simplified version of what is involved in this clause. The first part relates to the single tier strata schemes and seems to relate to the requirement to fix it into the legislation. It fixes the boundaries of lots or parts of lots, other than boundaries that are external to a building, which can relate to resubdivision or consolidation in a scheme. There is a natural complexity because not only do we have to take account of the fact that strata schemes as well as lots can be established, but also the potential to amend them - it comes under another part of the legislation - must be left open, by being able to resubdivide or consolidate. I will take up that matter later.

I ask the Minister to put in as simple English as possible what we are creating with the single tier strata schemes. Obviously it varies from what we had previously. It appears that we are retaining the old definition, but there is an option where in some cases people can go to the single tier strata schemes. I seek to have on the record a clearer English definition of this matter.

Mr RIEBELING: I, too, seek an explanation about proposed new section 3AB(2)(b). This provision seems to say there is a fixed plan for the strata title and if the boundary becomes a vertical plane from the baseline shown on the strata plan within 12 months, without altering the existing strata plan, that becomes the new strata plan by magic. What is the impact of this? Does the Bill contain a provision that if a strata block is sold, and the vertical structures become part of the strata plan, a person must have the strata amended? Because the structures have been there for that period, is there provision to have the strata plan amended or removed, or is it just taken as read? What will the provision mean to the average person on the street? Does it mean that he does not have to do anything about them; or if he wants to sell, must he register all the bits that have been added?

Mr KIERATH: The answer to the last question is no; he does not have to do that. The best way I can explain it is that the strata plan is shown in basically two dimensions. There might be a vertical dimension and an overhang of eaves. If the eaves are destroyed during that time, the plan reverts to the vertical boundary. The eaves might have been covered by the conversion options during that time. If they are destroyed or removed, for whatever reason, the plan reverts to that vertical line. That is what I understand these provisions to mean.

Mr RIEBELING: Is this provision to allow for the removal of horizontal structures?

Mr Kierath: They will be external surfaces of buildings that might go over the vertical line on a plan.

Mr RIEBELING: Is it to allow for the removal of horizontal boundaries that form the vertical boundary at the edge?

Mr Kierath: It covers horizontal intrusions into someone else's cubic space. It means they revert back to the original.

Mr KOBELKE: My understanding - it may be faulty - is that the Bill is also shifting the basic definition under new section 3AB to the external walls. It seems to be a fundamental point as to what it is under the strata scheme for the lot, and then what it is for the strata scheme subject to new section 3AB. If I have it correctly, that allows for a variation. In addition to the matter the Minister has tried earnestly to answer on the difference in the basic definition of permitted boundary deviations, what are the details of the variation?

Mr KIERATH: Overhangs into another's cubic space form part of the title. If that is destroyed or removed, the plan reverts to that straight line, but gives the other party the right to go back to what he originally had before it was destroyed.

Mr Kobelke: I am not clear on that.

Mr KIERATH: Let us say that the building wall was on the edge of the boundary, but that the eaves overhung a driveway that was part of another lot. Let us say that someone came into that driveway one night, after a bit too much to drink, and demolished the whole side of that wall. In that case these provisions would revert to the boundary line but the right would exist to reinstate the building to the original position, which was with the eaves overhanging.

Mr KOBELKE: I thank the Minister for trying to work through this with us. I think it is worth the effort, because if we cannot apply ourselves to the legislation and make sense of it, it will be very difficult for owners of strata titles to do that.

Mr House: That doesn't necessarily follow.

Mr KOBELKE: Does the member for Stirling think that out his way he can just stick a bit of straw in their mouths and strata titles will all become eminently clear?

Mr Kierath: I don't believe many lawyers will be able to work their way through it, never mind about strata title owners!

Mr KOBELKE: But the bush lawyers would not have any trouble with it? New section 3AB deals with the external surfaces of the building occupying the area represented on the floor plan, including any part that is attached to and projects from the building and is prescribed by regulations, but excluding anything that is prescribed by the regulations. The Bill picks up the regulations both ways as an add on and a take away. However, it deals with cubic spaces forming part of the parcel on which the strata title scheme relates. Is the definition of the strata scheme as it relates to a lot the same where there are external surfaces? The Bill refers specifically to external surfaces.

Mr Kierath: Yes, but there is variation.

Mr KOBELKE: The Minister has done a satisfactory job covering that. External surfaces form part of the definition under new section 3AB. Under section 3(2) of the Blue Bill the definition is basically of the floor plan. Can we take it that there is no ambiguity between the use of "floor plan" and the use of "external surfaces"?

Mr KIERATH: I am advised that the answer is no, because new section 3AB also picks up the wording that applies in that subsection (2) in relation to the words "floor plan".

Mr Kobelke: I refer to proposed section 3AB(4) which states that where the section applies it displaces the operation of subsection (2)(a) of section 3 but does not affect the operation of subsection (2)(b) of that section. The change, if any, is to (2)(a) and (b) under the strata scheme and this adaptation which takes place under 3AB.

Mr KIERATH: It basically facilitates strata plans in the future by defining all sorts of lots if they do not want to use external surfaces.

Mr KOBELKE: I refer to pages 4 and 5 of the Blue Bill, and the definition under lots per strata scheme which relates to amendments under subsection (2). That definition of "lot" and the horizontal boundaries are ascertained in accordance with the definition in subparagraph (ii) on page 11 of the Blue Bill. It refers to the inner surfaces of the wall. In the case of horizontal boundaries it refers to the cubic space - the upper surface of that floor and the under surface of that ceiling. They are the internal surfaces. However, proposed section 3AB refers to external surfaces.

Mr Kierath: That relates to the single tier scheme.

Mr KOBELKE: The single tier schemes are a change from straight lots and we have spoken about the permitted boundary deviation. The other change is the move from internal surfaces to external surfaces. Will the Minister confirm that that is being done, because it could be a major difference in the scheme?

Mr Kierath: Yes, it is.

Clause put and passed.

Clause 7: Section 3CA inserted -

Mr KOBELKE: I understand this amendment is required because some developers were caught up in the previous amendments. If that is the case, will this adequately meet their needs? I understand it relates to matters that occurred prior to the commencement day of the previous amendments; that is, when these amendments were introduced certain people had schemes up and running and through their body corporate they had agreed on a future stage of the development. The staged development for the subdivision of the strata plan was set up and under the amendments the developers were required to obtain the approval of the strata title owners to advance to the next stage of the scheme. That created some problems because of the requirements in the Act for obtaining the approval of the body

corporate. It has been suggested to me that it was likely to be impossible to obtain that approval and at least one developer had committed a great deal of money to a staged development. After the amendments were passed the logistics were such that it was very difficult, if not impossible, for him to obtain the necessary approval. Proposed new section 3CA deals with certain resolutions deemed to be resolutions without dissent or special resolutions. That will allow those developments to continue. If that is the case, how will it work? Clearly, it is fairly complicated because it relates to not only the type of strata development undertaken but also the approval process required under the body corporate. What is the intent of the amendment?

Mr KIERATH: This amendment allows a formal resolution, which in certain circumstances would have required a unanimous resolution, to be a resolution without dissent, which is of a lesser standard. It is harder to obtain a unanimous resolution than a resolution without dissent. Under the wording of these provisions the unanimous resolutions may be deemed as resolutions without dissent.

Mr Kobelke: To what classes of approvals will it apply?

Mr KIERATH: There are a number of provisions but basically it relates to any provision that requires a resolution without dissent. It will deem the higher level of resolution - a unanimous resolution - as a resolution without dissent for those provisions with that requirement under the Act. It includes resubdivision, insurance provisions and a range of other areas.

Mr Kobelke: Is it caught only by decisions made in a certain time span?

Mr KIERATH: Previously a decision may well have been made that required a unanimous resolution, and it will now be deemed a resolution without dissent for the provisions with that requirement.

Mr Kobelke: Does it relate to decisions already made?

Mr KIERATH: Yes.

Mr Kobelke: Does it water down the level of decision-making for future decisions?

Mr KIERATH: It also says in proposed section 3CA(1)(b) -

> A resolution expressed to be a resolution without dissent but passed in such a manner as to satisfy the requirements of this Act for a unanimous resolution;

Put simply, paragraph (a) relates to a past decision but paragraph (b) is a future decision.

Mr Kobelke: "Unanimous" is a stronger requirement than "without dissent"?

Mr KIERATH: Yes. It says if it is a unanimous resolution, it still qualifies as a resolution without dissent for those provisions in future decisions. That is a good example of how highly complex a seemingly simple definition is. It is trying to cover all the options including past and future decisions when the definitions are changed along the way. Of course, there are also the transitional ones.

Mr Kobelke: If body corporates are to be run generally by the owners and will have to employ someone with legal expertise, provisions such as these voting provisions will be nearly impossible for the owners to understand and run their own meetings to get the right resolutions.

Mr KIERATH: Bearing in mind this covers past, transitional and future we hope that in the future we will have information that deals with the existing Act rather than past and previous ones and perhaps even the transitional ones.

Clause put and passed.

Clause 8: Section 4 amended -

Mr KOBELKE: Why is there a let out in proposed section 5D of not having to take effect and be notified on the folio?

Mr KIERATH: Those easements under the conversion options will have to be shown on the title and cannot be implied.

Mr Kobelke: So it is a tidying up exercise?

Mr KIERATH: Yes.

Mr RIEBELING: I wonder whether the member for Nollamara understands what that means. Is the Minister saying that if substantial amendments are to be made to the strata plan, the survey- strata plan must be altered?

Mr KIERATH: No, this is a little different. This allows for the creation of easements over survey- strata plans. They will have to be shown on the title. Driveway easements, for argument's sake, would have to be shown on the title.

Clause put and passed.

Clause 9: Section 5 amended -

Mr KOBELKE: Section 5 has a list of requirements in respect of the registration of a strata plan. Will proposed paragraph (aa) provide a simple way of adding to the plan? I understand that in most cases it will be straightforward. However, taking account of the fact that we still have these regulations and provision for boundary deviations, while it is a single tier strata the boundary variations may allow a limited degree of height overlap, if that is an adequate way to describe it.

Mr Kierath: This is not to do with the overlap.

Mr KOBELKE: We already have the provisions for the strata plan. However, it seems we are now making allowances for sections 3A and 3B, which allow for the overlap.

Mr KIERATH: Section 5 is to be amended to require that all new strata plans will be required to contain a statement as to whether the boundaries of the lots or part lots comprising buildings are to the internal surfaces of the wall, floor and ceiling or the external surfaces of the buildings. That will be required to be stated unless the strata plan expressly adopts some other form of boundary.

Mr Kobelke: The other form of boundary will be, on the basis of commonsense, a clearer way of expressing it. Will it open up a whole range of other things?

Mr KIERATH: Let us say the front of the property has some form of heritage value and the owner wants that to be part of the lot, but the rest might not. Again, it is a combination of mix and match, where part would not be the property of the lot, but the other part would be and this provision allows that to happen. It might be the facade of a building.

Mr Kobelke: It would have to be a boundary on the strata plan. It is moving the outer boundary to part of the strata scheme boundary.

Mr KIERATH: In the vast majority of cases they indicate whether it is the internal or external surface. It allows for situations where there is a mixture of both. If the external surface has a particular value and they do not want it to be part of an individual lot, it can be defined as the internal surface and the other part can be the external surface. This is an example of where there would be a variation.

Clause put and passed.

Clause 10: Section 5C amended -

Mr RIEBELING: It appears that proposed subsection (3) is similar to the subsections which will be repealed because they relate to the requirements of the commissioner and local government to register the grievance. I assume the existing subsections of the Act provided protection for management statements which affected the titles of lots on a strata plan. It appears that this amendment will remove the provision for the management scheme to be noted on the title. Will the Minister advise what provision will replace the subsections which will be repealed?

Mr KIERATH: In relation to the last point made by the member, I advise that the amendments made to the legislation when the Bill was debated earlier this year - the parts ruled out in the Blue Bill - state "has no objection" which is different from "gaining consent". The amendment in clause 10 will overcome this situation.

Mr Riebeling: Doesn't it remove the requirement for the commissioner to register the grievance?

Mr KIERATH: No, but the consent of the Western Australian Planning Commission and local government is not required. It does not change the registration.

Mr Riebeling: As the Minister, are you not concerned about the lack of protection if that safeguard is removed?

Mr KIERATH: I am advised it never gave any protection in the first place.

Mr Kobelke: The provision for a management statement has been in existence only since the Bill was amended earlier this year. There has not been much time to test it.

Mr KIERATH: I am advised they were not bound by it anyway.

Mr Kobelke: Who were not bound by it?

Mr KIERATH: Neither the WA Planning Commission nor local government were bound by it.

Mr Kobelke: It is not a matter of being bound by it; a management statement is important to the owners of strata lots and, particularly, for somebody buying into a strata development. They must be able to see the management statement to know the details of what they are buying into. The involvement of the commission or other government agencies is simply to provide a higher level of certainty that the management statement is fair and accurate.

Mr KIERATH: If they are not bound by it, they do not have that certainty. Neither the commissioner nor local government are bound by that provision. I refer members to page 28 of the Blue Bill which refers to specific items and reference is made to matters described in items 4, 5 and 6 in schedule 2A. That is all it does - there are no other approval procedures.

Mr Kobelke: I was not suggesting for a moment that such authorities would be bound by the management statement, but they would seek to correct a management statement which was contrary to their requirements. They don't have the power to do that. Surely they would advise the management of the body corporate that the management statement contained things that were not possible under the local government by-laws?

Mr KIERATH: It is not their responsibility to do that. I have had discussions on the conversion of other titles with the Minister for Planning and I was assured that the WA Planning Commission does not look at it in that light.

Mr Kobelke: Would you advise what are the penalties attached to the registered proprietor or other persons with a registered interest who knowingly sign a management statement that is false and misleading?

Mr KIERATH: The management statement is really a by-law and if it is inconsistent with an Act, the Act will override it. It can apply only if it is consistent with legislation.

Mr KOBELKE: It is worth making sure that there is not a problem with this clause.

Mr Kierath: I will give members the official reason for this clause to put it beyond all doubt. Clause 10 repeals and replaces section 5C(3) and (4) of the Act to the effect that a management statement is required to be consented to only by the registered proprietor of the land and any encumbrancer or caveator of the land. Consent of the WA Planning Commission and local government is no longer required. There is no intention for the clause to do anything other than that.

Mr KOBELKE: I accept the Minister's explanation. Hopefully the concerns I have are ill- founded. I am concerned that the management statement is part of the guarantee with respect to what a person is purchasing under a strata title. The debate so far indicates that people do not understand what they are buying when they buy a strata title property. It is a process of educating people.

Mr Kierath: They are disclosure provisions. This relates only to the provision of the management statement which is made without the consent of the various bodies. Although there are provisions in the legislation, previously they did not need to give consent.

Mr KOBELKE: The disclosure statement, I presume, would contain the management statement.

Mr Kierath: Yes.

Mr KOBELKE: In that respect, the management statement could help to convey to a would-be purchaser of a strata title lot the rights, obligations and functions relating to the body corporate and areas other than the strata lot.

Mr Kierath: The management statement would be greater than a normal strata statement.

Mr KOBELKE: I assumed so. My concern is minimal, but we let the other Bill go through when things seemed to be okay; therefore, I want to ensure that no restriction occurs in the reliability or quality of the management statement by the changes occurring. I know that that is not the intention, but concern has arisen that when the legislation had the requirement for endorsement by the commissioner - even though the commissioner may not have interfered or imposed greater conditions - some matters required in the management statement would have been checked off regardless of a legislative requirement about the degree of supervision. The fact that the requirements applied previously may have led to some form of additional oversight. If a management statement were misleading - we are looking at a small number of such cases - procedures must outline that the management statement has a problem.

Mr Kierath: I can give you no more assurance than to say that my advice is that that is not the case. I have stated that the provisions do not require the approval of those two authorities. I can do no more than give the assurances already given.

Mr KOBELKE: I thank the Minister for that comment. I am happy to place on record the possibility of a route we need not take. If we find in the future that a mistake has been made, we have placed possible concerns on the record.

Clause put and passed.

Clause 11: Sections 5D to 5H inserted -

Mr KOBELKE: I want a better understanding of easements. I am not sure whether easements regarding a survey-strata plan are different from what we regard as easements generally in respect of green titles. Obviously, we are dealing with a different arrangement with a strata title. Where do we find the definition of "dominant" and "servient" lots?

Mr Kierath: They are in proposed section 5D(2)(b).

Mr KOBELKE: That is where they are mentioned, but where are they defined? Is it in the context of the section?

Mr Kierath: It is. The definition is in the context of that section.

Mr KOBELKE: If it is in favour, it is the dominant lot; if it is against, it is judged to be the servient lot.

Mr Kierath: Yes.

Mr KOBELKE: I am not sure how the problems I can see arising here will be picked up by the legislation. I will raise an example or two and the Minister may outline the situation.

One form of easement might be right of carriage. In a strata title development, maybe as a result of changes permitted by the amendments, previous common property may belong to a strata lot. However, an owner of one unit may have to traverse what will be laid down as part of another lot to access his or her lot; therefore, that person would need an easement for right of carriageway. Will it be picked up under this form of easement?

The second matter is a practical example brought to my attention. In a current unit development, the septic tank systems - it was built in an area where such systems were allowed - are all in the yard of one lot. A question was raised with me regarding making use of the April amendments: Can a person register private usage under by-laws on the strata title for the rear part of his or her lot, given that it is totally for private use? The difficulty arises because the septic systems are in the yard. Is that situation picked up by this form of easement?

Mr Kierath: I told you before that they are implied by section 11. This is page 48 of the Blue Bill under "support for services". That covers the matters you were talking about with respect to sewerage and so on.

Mr KOBELKE: That requires easement, and that is what we are dealing with in this provision.

Mr Kierath: That section states that in respect of each lot, an easement shall be implied for the subjacent and lateral support thereof by the common property and by every other lot capable of affording support. It refers to the easements for the passage or provision of water, sewerage, gas, electricity, artificially heated or cooled air, heating oil and other services including telephone, radio and television services through or by means of pipes, cables or ducts. They are implied. These ones will be additional. The member is right as the type to be included would be the right of carriageway, driveways, support for common walls or other encroachment and for permitted overhangs or intrusions; it could be light and air on the boundaries of lots, as a window might be involved.

Mr KOBELKE: The Minister has clarified the matter. This area is in addition to that covered in another section. We have implied easements and the creation of easements under proposed section 5D?

Mr Kierath: Yes.

Clause put and passed.

Clause 12: Section 8A amended and transitional provision -

Mr RIEBELING: This amends the Act from the "resolution without dissent" reference substituting "unanimous resolution". I think I was out of the Chamber when this change was mentioned earlier. Why the change? I would have thought that the resolution without dissent was relatively easy to understand. The amendment does not appear to take the legislation any further. This amendment relates to section 8A, which is the requirement for plans of a subdivision. Will the Minister explain how this provision will assist the problems which he outlined in the second reading speech, in reference to the certificates being given by a person with the registration of interest? Why is it necessary to have this new paragraph (j) when the former paragraph (j) would have covered almost exactly the same provisions?

Mr KIERATH: The reason is that the Act required a resolution without dissent, and it also required the further consent of each owner. The feedback from the developers was that that was too cumbersome and complex and they

wanted to return to the original situation of unanimous resolution. That recommendation came from the consultative committee.

Mr Riebeling: Was the same concern expressed by owners?

Mr KIERATH: They had previously been operating under those provisions and there had not been any complaints because they were protected by the unanimous resolution. However, the developers said that the new procedures were very complex, time consuming and frustrating, and they agreed that it was easier to return to the original unanimous resolution than to have the two stage process.

Mr Riebeling: For how long has the protection of a resolution without dissent been in place?

Mr KIERATH: It has been in place since April. Prior to that, the provision was for a unanimous resolution.

Mr Riebeling: The new provisions meant that the developers had to contact every person, whereas now it will be the unanimous decision of those who turn up at a particular meeting?

Mr KIERATH: The unanimous resolution would include everyone, but the developers would have to do it only once.

Mr Riebeling: The developer could get a unanimous resolution but someone could change his mind?

Mr KIERATH: The developer had to get a resolution without dissent, and consent from each individual owner. Rather than have that two stage process, it is easier to get a unanimous resolution up-front.

Mr Riebeling: Prior to these amendments, a series of decisions had to be made?

Mr KIERATH: No. The previous provision was a unanimous resolution. The new provisions were a resolution without dissent and a second process to get the individual consent of the owners.

Mr Riebeling: Previously the developer simply had to go back to the owners to confirm agreement?

Mr KIERATH: Yes.

Mr KOBELKE: The next amendment is to insert the words "otherwise than as the proprietor of the lot". It is important that a certificate be given by every person who has a registered interest in any lot proposed to be affected and that the rights of those people are not infringed by other unit holders in the strata development being able to do things that are adverse to their interests. What is the intention of that amendment?

Mr KIERATH: The words "otherwise than as the proprietor of the lot" were with regard to the separate consent that was imposed. We are taking out the requirement for that separate consent and are changing that to unanimous resolution.

Mr Kobelke: So you are putting in the words "otherwise than as the proprietor of the lot"?

Mr KIERATH: We are taking out the two stage process and returning to the one stage process of a unanimous resolution.

Mr Kobelke: I accept that, but the words "otherwise than as the proprietor of the lot" are not clear in that context.

Mr KIERATH: Those are the words of parliamentary counsel. I am not the person who should justify that choice of words.

Mr Kobelke: I think the Minister is suggesting he has as much knowledge of that as I do. Page 15 of the Act defines the relevant period, but I cannot find that in the Blue Bill.

Mr KIERATH: It is a transitional provision and appears at page 310.

Mr Kobelke: It is certainly difficult to find. Why are there two different dates and what is the effect of those two different dates?

Mr KIERATH: It is a transitional provision to cover the interim period between the provisions in the Act and the proclamation of this new Bill. It is basically to convert the provisions in the Act to the previous provisions. Is that a good layman's explanation?

Mr KOBELKE: My concern does not relate to the explanation by the Minister regarding the changes to the requirement for uniform resolution and plans for resubdivision. Given that we are amending the relevant period -

Mr Kierath: I am talking about the resolution.

Mr KOBELKE: Please hear me out. We are dealing with an amendment to section 8A of the principal Act which relates to the plan of resubdivision. I am satisfied that the Minister has identified the relevant period as a provisional issue. My point is that the relevant period, as amended here, relates to the schedule. Does the relevant period also relate to other matters in the Act as amended? Through the establishment of by-laws or by other requirements, many people have sought to take action before April 1997. The Minister must be aware of the advertisement regarding certain things being easily available if people act by April. People were advised very recently that given these amendments they should hold off from embarking on possible courses of action to ensure their rights are protected, because the provisions in this Bill may open up better avenues to address the situation which people need to fix. Does the relevant period relate in a broader way to other matters in the Bill or does it relate only to this section?

Mr Kierath: At this stage, it relates only to this section.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Section 19 amended -

Mr RIEBELING: This amendment relates to leases on common property. I refer to the words to be deleted - "subsection (11), except with the prior approval in writing of the Commission and of the local government". Will this ensure protection for the parties involved in transactions for leases of common property? I understand the requirement for approval in writing by the commissioner on a transfer of common property, but I question the same requirement relating to leases of common property. Is it expected that, say, a local government authority would check the use of the lease to see whether it conforms to by-laws on planning, the zoning of the property, or the property use within the zone?

Mr KIERATH: The lease provisions have not changed. I do not follow the member. Perhaps the member can clarify by way of interjection.

Mr Riebeling: Why does local government need to be involved in such an approval?

Mr KIERATH: The Act contains that provision currently. It has not been changed.

Mr Riebeling: Have you decided to leave it in?

Mr KIERATH: It is not a matter of my deciding to leave it in. We did not make a deliberate decision to either change it or not change it. We did not visit many areas of the Act, because we did not have time. We chose the areas which we had to change to solve the immediate problem. We did not go looking for anything that did not involve the immediate problem. It does not mean we chose to leave that provision in; we chose not to revisit it.

Mr Riebeling: You made a conscious decision to remove the provision from one section, because of subsection (11); is that correct?

Mr KIERATH: Section 10 currently requires prior approval in writing. "With the prior approval in writing of the commission" means that if that prior approval were given, a person could go through the various processes. This provision will allow a person to obtain approval in writing but it can be after the event.

Mr Riebeling: Is that not dangerous?

Mr KIERATH: Why would it be?

Mr Riebeling: What if a person does not receive approval?

Mr KIERATH: A person can enter a lease subject to approval being granted.

Mr Riebeling: Has the provision caused problems before?

Mr KIERATH: Yes.

Clause put and passed.

Clause 16: Division 2A inserted in Part II -

Mr KOBELKE: The first matter relates to the merger of common property into lots in certain strata schemes. I understand this provision applies only to existing small strata schemes. For an extended type of strata, with section 3AB implied, that provision is not available under this merger provision. My understanding is that this merger approach can be taken only once and after that one must revert to a different mechanism such as resubdivision. What administrative procedures will be required? It covers another section in part, but on first reading that did not make

much sense to me. I presume that the register of titles and the procedures to be followed will be laid down by regulation?

Mr KIERATH: Proposed division 2A is headed "Merger of common property into lots in certain strata schemes". Underneath is the subheading "Subdivision 1 - Preliminary". Each scheme would have to be examined to determine otherwise.

Mr Kobelke: I am seeking a brief definition of each so that we can have on the record how they will apply and the difference between each. How will that be managed? What will be the actual effect of all those amendments without going through each one?

Mr KIERATH: Proposed section 21A is headed "Interpretation" and gives a definition for an existing small strata scheme. It applies only where a subdivision says it applies.

Mr KOBELKE: As the Minister clarified, we will be dealing where mentioned with existing small strata schemes as applied under the existing Act. Exemptions were granted relating to small strata schemes. Existing small strata schemes do not pick up provisions in proposed section 3AB.

Mr Kierath: There was no definition in the Act. It is a new delineation.

Mr KOBELKE: Which definition was used for the exclusions with respect to some of the requirements of the body corporate? Was that not picked up in the same definition?

Mr Kierath: It referred to schemes not having more than five lots. Other provisions are associated with this in proposed subsections (a) and (b).

Mr KOBELKE: The Minister must be able to see the difficulty people will have with the Act. Most people will say they had the small scheme exemption which meant that they did not have to have body corporate meetings or whatever, but that came under the definition of lots of not more than five units; whereas here we are dealing with small strata units which also have five lots but obviously for a different purpose; that is, in relation to the mergers of common property.

Mr Kierath: As you pointed out, that is in relation to the merger of common property, not the other provisions.

Mr KOBELKE: I understand that. It is probably totally logical for a legal mind who wants to work through it, but for an ordinary person whose own property is involved, it is quite incomprehensible. That is a problem for which we must accept responsibility.

Mr Kierath: You will not hear argument from me over that.

Mr KOBELKE: To conclude such a merger, a resolution is required by the strata company, a lodgment of notice of resolution, the registration of that notice of resolution, the effect of the registration and the register of titles amending the strata plan in light of that. We are dealing with one mechanism by which the common property can be varied. This provision, as I read it can be enacted only once. To achieve the same ends an alternative mechanism such as resubdivision must be used.

Mr Kierath: Yes. Earlier you asked about the four methods. Merger by resolution of buildings is in subdivision 2, automatic merger of buildings is in subdivision 3, merger by resolution of land is in subdivision 4, and survey-strata is in clause 21.

Mr KOBELKE: I am trying to get on the record a clearer overview of all the proposed sections which are preceded by 21 through to 21S. My understanding is that they encapsulate the four sections to which the Minister alluded. Perhaps they are so intertwined that it is not easy to drag out a brief summary of which sections apply to each and what are the major provisions. The Minister's second reading speech gave a bit of an explanation of each provision. However, I am having difficulty locating which proposed sections of the Act will apply to which form of merger the Minister has outlined in his second reading speech. Is it possible to give some explanation of that?

Mr KIERATH: If the member will be patient, I will go through this section by section.

Mr Kobelke: Briefly if you could.

Mr KIERATH: Because the explanation gets technical it is difficult for me to go through it briefly. New section 21B: This division applies only to a single tier strata scheme. New section 21C(1): After a notice of resolution has been registered under new section 21H in respect of the strata scheme, no further notice of resolution may be registered under that section in respect of that scheme. New section 21C(2): After a resolution has been registered under new section 21X in respect of a strata scheme, no further resolution may be registered under that section in respect of that scheme. New section 21D: Nothing in this division prevents or limits the resubdivision of lots by the

registration of a plan of resubdivision under section 8. Subdivision 2 applies only to strata schemes registered before 1 January 1998. The merger procedures address the current public concerns in relation to common property anomalies in existing schemes. There are also new schemes which are currently proceeding through the planning processes, which will also suffer from the same anomalies. These schemes may take advantage of the merger procedures. Given the public awareness of the issue, it is expected that new schemes registered after 1 January 1998 will not suffer from the same problems and should not be able to avoid the usual planning requirements by registering the strata plan and then taking advantage of the merger procedures.

New section 21F provides that a strata company may agree that the boundaries of the lots or part lots comprising buildings are to be the external surfaces of the buildings. The change applies only to buildings shown on the strata plan and not to buildings which are not shown on the plan. The strata owners may take the opportunity to update their plan and show additional buildings as well as bring land in to be parts of the strata lots. Under subdivision 4 the resolution is to be in the prescribed form. It is envisaged that the regulations will contain the wording of the resolution, so that the desired change of boundaries occurs; that is, to the external surfaces of the buildings, and further anomalies are not created by incorrect wording of the resolution. The resolution is to be by resolution without dissent or a unanimous resolution in a two lot scheme. If the necessary resolution is not passed by the strata company, the strata titles referee can order that it is deemed to have been passed. Any notice of resolution to change the boundaries of the lots or part lots comprising buildings is to be lodged with the registrar of titles for registration together with a certified copy of any order made by the strata titles referee. The notice of resolution is to be in the prescribed form. This will permit a standard form of resolution to be prescribed which will ensure that the registration of the notice will have the desired effect of changing the boundaries to the external surfaces of the buildings and not some other boundaries. The notice of resolution may be lodged by the strata company or the owners of a two to five lot scheme or one owner in a scheme where the referee makes an order deeming the resolution to have been passed. The notice of resolution is to be signed by the strata company under seal, all of the owners in a two to five lot scheme or one owner where the referee has made an order deeming the resolution to have been passed. The registrar of titles is to register the notice of resolution if the requirements of the division are satisfied. The effect of the registration of the notice of resolution is that (a) the boundaries of the lots or part lots comprised in doing so change the external boundaries of the buildings and (b) the lot changed by the redefinition of the boundaries is subject to the same encumbrances and caveats which were registered under the lot by the change. Any encumbrance or caveat against the lot as taken to relate to the lot is changed by the redefinition. The registrar is to amend the plan to show that the boundaries of the lots have changed. Subdivision 3 deals with the automatic merger of common property and buildings only and not land to become parts of the strata lots.

New section 21K defines "change-over day" to be the day six months after the day on which the amendments come into force, or six months after the day on which the strata plan is registered, "if it is registered after the amendments come into force". This definition relates to new section 21M, being the day on which the automatic merger operates under that section and new section 21O, being the period in which the owner may object to the operation of the automatic merger.

Mr KOBELKE: I thank the Minister for putting that on the record and would appreciate it if he could continue to his conclusion on those four sections.

Mr KIERATH: The subdivision applies only to existing small strata schemes; that is, two to five lot schemes which are registered before 1 January 1998, unless the plan expressly provides that the external surfaces of the building are not the boundaries of the lots or part lots comprising the building. The automatic merger is designed to overcome problems experienced by existing schemes currently proceeding through the planning process. New section 21M provides that if on the changeover day a notice of resolution has not already been registered by the strata company or owners, and no objection has been lodged, the boundaries of the lots or part lots comprising buildings, will automatically be extended to the external surface of the buildings. The strata companies or owners are not required to register any documentation. The change applies only to buildings shown on the strata plan. Where new section 21M operates so that external surfaces of the buildings automatically become the boundaries, the Registrar of Titles is required to amend the strata plan to show that the boundaries have been changed by the automatic operation of new section 21M.

New section 21O allows an owner to lodge an objection to the automatic change of the boundaries. The objection must be lodged with the Registrar of Titles before the changeover day; that is, within six months of the amendments coming into force or six months of the strata plan being registered, whichever happens last. The objection must be recorded on the plan, so that any person dealing with the plan of strata lots knows what are the boundaries of the lots. If an owner lodges an objection, the registrar is required to notify all of the other owners in the scheme by notice sent to the address of each lot. Subdivision 4 deals with the merger of common property lands to become parts of the strata lots by agreement with strata owners. The subdivision applies only to strata schemes which are registered before 1 January 1998. The provisions are designed to overcome problems experienced by existing schemes and

schemes currently proceeding through the planning process. Given the public awareness of the issues, it is expected that new schemes registered after 1 January 1998 will not suffer from the same or similar problems and should not be able to avoid the usual planning requirements by registering the strata plan and then taking advantage of the merger procedures. New section 21Q provides that a strata company may agree to change the strata plan, (a) to show an extension or alteration to a building already shown on the plan; (b) to add a new building to the plan; or (c) to merge land that is common property to become part of the strata lot. A resolution is to be in a prescribed form. It is envisaged that the regulations will contain as much of the wording of the resolution as will be standard across the schemes, so that the desired change to the plan occur and further anomalies are not created.

This resolution and the resolution of new section 21F, to change the boundaries of the buildings to the external surfaces may be passed at the same time. The resolution is to be by resolution without dissent, or unanimous resolution in a two lot scheme. If the necessary resolution is not passed by the strata company, the Strata Titles Referee can order that it is deemed to have been passed. The resolution cannot increase the number of lots in the scheme. For example, if there are two lots in the scheme prior to the resolution, there must be two lots in the scheme after the resolution is passed and registered. The procedure is designed to allow the current situation in reality to be reflected on the plan and not for new lots to be created. Where common property land is becoming part of a strata lot, the resolution must specify the upper and lower limits of the lots outside the buildings. This is required because the Act requires all strata lots to have an upper and lower limit. If an extension or alteration to an existing building, or a new building is being shown on the plan, the resolution cannot be passed unless the extension or alteration, or new building was the subject of a building licence issued by the local government and has been approved by the strata company or the strata owners. This is because ordinarily a strata plan or strata plan of resubdivision will not be approved by the local government unless a building licence has been issued; the strata company must consent before any building works of these types can be carried out. The resolution is also to specify if an easement is being created under new section 21W.

New section 21W permits the creation of the right of carriageway, so that the strata owners may continue to have rights over a shared driveway. The notice of resolution is to be in a prescribed, form. This will permit a standard form of resolution to be prescribed which will ensure that the registration of the notice will have the desired change to the plan and further anomalies are not created. The notice of resolution may be lodged by the strata company or the owners of a two to five lot scheme or one owner in a scheme where the referee has made an order deeming the resolution to have been passed. The notice of resolution is to be signed by the strata company under seal, all of the owners in a two to five lot scheme, or one owner where the referee has made an order deeming the resolution to have been passed. The following documents must be lodged with the notice of resolution: A certified copy of any order made by the Strata Titles Referee, except where a plan is not required under new subsection (2); a sketch plan showing the change to the existing buildings or the new buildings, any common property land that is becoming part of the strata lot; and any easement created under new section 21W, such as a licensed surveyor's certificate, except where a plan is not required under new subsection (2), the matters to be covered in the certificate set out in new section 21U. A licensed valuer's certificate must state whether or not the unit entitlement has changed and, if so, what is the changed unit entitlement. The unit entitlement is important to determine the relative contribution of strata owners to strata company outgoings and for the apportionment of other rights and responsibilities under the Act. If the pro rata unit entitlement has changed, the consent of every encumbrancer and caveator of the lots is required. The decrease of the pro rata unit entitlement has the effect of decreasing the lot owner's interest in the common property and therefore adversely affects an encumbrancer's or caveator's security or other rights. An adverse effect on a person's security or rights should not occur without the person's consent. The registrar has a discretion not to require a sketch plan if there is sufficient information on the existing strata plan and in the notice of resolution to allow the boundaries of the lots to be identified. For example, the boundaries of lots may be changed to merge common property land by extending a building line already shown on the plan. The licensed surveyor's certificate must deal with the matters contained in new section 21U and as may be prescribed in the regulations. If the strata plan has been amended to show an extension or alteration to an existing building, or new building, the surveyor must certify that -

(a) the extension or alteration, or the new building was the subject of a building licence issued by the local government;

(b) the extension or alteration of the new building had been approved by the strata company or all of the strata owners;

(c) any building shown on the plan is within the surface boundaries of the lots shown on the plan, except for permitted deviations such as overhanging eaves and intruding footings;

(d) where any common property building or land is becoming part of a lot that the building or land does not encroach on to adjoining land not within the scheme, or if it does encroach, that suitable easements have

been granted. That is similar to the certification required in section 22(1)(b) and (c) in the case of new strata plans.

If any common property land is becoming part of a strata lot the surveyor must certify that the rights and amenities required under the relevant town planning scheme are, or will be, provided to the lots when the change of boundaries occurs. The surveyor is required to certify to these matters, as ordinarily under a strata plan or a plan of resubdivision local government would ensure these services and amenities are provided to the lots before giving its consent to the plan. The consent of the local government or Western Australian Planning Commission is not required to this merger procedure. The surveyor's certification is intended to protect to some degree and ensure the continuation of strata owners' existing rights.

The regulations may prescribe the matters in the town planning scheme that the surveyor is to certify. It is envisaged that the certificate will deal with such matters as rights of carriageways for driveways, support for common walls, encroachments for permitted overhangs or intrusions, and light and air for windows in walls on the boundaries of lots. The surveyor's certification as to the requirements of the town planning scheme is limited to the matters prescribed in the regulations, and not to all matters in the town planning scheme. If no matters are prescribed, the surveyor is not required to certify as to any town planning matter. These matters are limited, to keep the surveyor's cost and responsibility to a commercially acceptable level.

The surveyor is also to certify that -

(a) the lots are given the same lot numbers on the sketch as on the strata plan. This is to reduce administrative work, and therefore costs, as strata owners will not be required to produce their certificates of title for the change to be registered;

(b) there are not more lots being created on the sketch than are on the strata plan. This will ensure that the procedure is not used as a method of creating more lots without the relevant planning authorities' consent or to avoid stamp duty.

Except where a disposition statement is used under new section 21V(2), transfers and other documents are required to be lodged to give effect to the changes of interests in common property provided for in a notice of resolution.

New Section 21V is similar in terms to the existing section 8B, where interests are being changed in a plan of resubdivision. The regulations may set out a shortened procedure for registering the changes of interests in common property, by a "disposition statement". The disposition statement prescribed under section 8B is a one page document which sets out the lots, who owns which lots after the change, what encumbrances each lot is subject to after the change, and the consents of those encumbrancers. It is envisaged a disposition statement in similar form will be prescribed for this merger procedure. The disposition statement may also contain a certificate that no consideration, other than an interest in the common property, is passing between the owners. If none is passing then the disposition statement is exempt from stamp duty under the consequential amendment to the Stamp Act in clause 40.

The sketch plan may create an easement relating to motor vehicle access, parking or turning, in the same way that an easement of this type may be created on a survey-strata plan under new section 5D. This will allow a simple and cost effective way of protecting strata owners' rights in respect of shared driveways. The easement may be discharged or varied in the same way as provided for in new section 5F.

New sections 5D and 5F apply to easements created under new section 21W, except the easement is created on registration of the notice of resolution, and the local government's consent is required to a variation or discharge of the easement instead of the Western Australian Planning Commission's consent. This because it is anticipated that most strata schemes that will take advantage of the merger procedure ordinarily only require the local government's consent.

The Registrar of Titles is to register the notice of resolution if the requirements of the division are satisfied.

In addition to changing the boundaries of the lots and the interests in the common property and creating any easement under new section 21W the registration of the notice of resolution has the following effects -

(a) any exclusive use by-law or grant of exclusive use ceases to apply to any common property land which has merged to become part of a strata lot;

(b) each lot, as changed by the resolution, is subject to the same encumbrances and caveats which were against the lot before the change;

(c) any lot or part of a lot which becomes part of the common property is held by the strata owners as tenants in common in the same shares as their unit entitlements;

Mr Kobelke: Although I have not taken in all of what the Minister has read, it is important to get that on the record.

Mr KIERATH: To continue -

(d) the share in any additional common property is subject to the same encumbrances and caveats against the lot; and

(e) any encumbrance or caveat against a lot is taken to relate to the lot as changed by the resolution

Essentially, the lot and interest in the common property of each strata owner after the change are subject to the same encumbrances and caveats as were against the lot of the owner before the change.

The registrar will amend the plan to give effect to the changes to the strata plan set out in the resolution, and any easement which is created on the sketch. The registrar will amend the original certificates of title to show any change of unit entitlement. Some certificates of title of older strata lots show the actual unit entitlement of the lot, which determines the interest of the owner in the common property. The registrar may amend the duplicate certificates of title to show a change of unit entitlement when the title is produced later for a dealing, such as on a sale. Where the lot is subject to a mortgage, this will save the strata owner incurring an additional cost in getting the mortgagee to produce the duplicate title solely for the purposes of changing the unit entitlement.

Mr KOBELKE: I appreciate the Minister's reading that into the record. It is important in this area to convey to people the options that are available to them if they are considering a merger. Those options should be presented in a simplified form, perhaps schematically or in a chart. I do not know whether that will be done before the legislation reaches the other place.

Mr Kierath: We are working towards provisions in a simplified form. I would like a one or two page statement, with brochures available to show more detail.

Mr KOBELKE: The information as detailed by the Minister could be provided in the form of a chart. Proposed section 21E refers to schemes registered on or after 1 January 1998. That contains assumptions about the enactment of the amending Bill. However, these issues are not always as simple as we might like. Problems that are not apparent to the Minister or his advisers may occur because certain things must be done by a certain date. I do not suggest that we can do anything but leave it as it is and hope that things will go to plan. However, it opens a range of issues about whether people should act now or hold off until this comes into effect because it may be to their advantage to do so.

Mr KIERATH: This shuts the gate on any future schemes coming in under these provisions. The delay accommodates those in the system and moving through the process that have not been delivered. We did not want to open up a mechanism for future schemes. By that time everyone will be aware and we will be able to close the gate.

Mr KOBELKE: I was using that as an example. In some cases the wording allows that it is the date or the commencement, so there is that flexibility. Nonetheless, while that does not present any difficulty that one could be caught on the technicalities, it does open the way for people considering what merger they would adopt and the date the provisions may be available. We need to get out very clearly the message about the date at which various provisions will apply. In addition, we must ensure that the legislation is in place to meet some of these dates. We have already discussed briefly that that is not simply a matter of getting it through both Chambers, which should be smooth sailing. However, we may need the regulations and other things outside the Minister's control, the development and finalisation of regulations or some other such technical requirement, may lead to a problem with meeting these deadlines. I hope that does not happen. However, I draw that to the Minister's attention and hope we can provide information so that these dates can be adhered to; if not, it will add to the complexity of the whole issue.

Mr KIERATH: It applies only to schemes registered before 1 January 1998. It prevents any future schemes using these provisions. It can be used at any time, but only once by eligible schemes. There is a number of dates, and the dates have alternatives, but in terms of 1 January 1998, if this is not passed early in the new year and proclaimed, a lot of this will be irrelevant. This date prevents future schemes and caters for those that have begun the various processes.

Clause put and passed.

Clause 17: Section 25B amended -

Mr RIEBELING: This section of the Act is entitled "Subdivision in survey-strata scheme requires approval by Planning Commission". Subclauses (3) and (4) are new to the legislation. Section 25B(2) of the Act provides that survey-strata schemes must have the permission of the commission, but subclauses (3) and (4) change that somewhat.

First, subclause (3) provides that the Minister or the Town Planning Appeal Tribunal can be appealed to or can uphold an appeal under section 26 of the Town Planning Development Act. Therefore, there is a new provision to appeal either to the Minister or to the Town Planning Appeal Tribunal. I presume that is either/or or both: The Minister or the Town Planning Appeal Tribunal can hear appeals in relation to applications that have been rejected by the commission.

The Bill then provides that the Registrar of Titles "may accept". Will the Minister explain why that term is included? Why is it not "shall accept" or "shall register" or something along those lines? The reference to "for registration" also worries me slightly. I do not know whether it is technical. Why is the wording "for registration" not "registration"? Does that suggest that the registrar "may accept" and then not register? Is it envisaged that there could be some reason it may not proceed to registration? Presumably the word "may" is there to allow some discretion.

Subclause (4)(b) also worries me. It provides that the registration can proceed if the certificate referred to in subsection (3) accompanies it. However, the next paragraph then refers to its otherwise complying with the Act. That leads me to believe that subsection (2) can be got around other than by an appeal to either the Minister or the Town Planning Appeal Tribunal. Will the Minister explain why the words "may accept for registration" are included instead of "shall register"?

Mr Kierath: Because it is consistent with sections 26(11) and (12) and section 27(10) of the Act.

Mr RIEBELING: Why have those words been used?

Mr Kierath: They are in other parts of the Act.

Mr RIEBELING: What impact does that have on this clause? Why is there a discretion when the clause indicates that an appeal has been set up and then we have a clause which provides that, despite the appeal, there is no requirement on the registrar?

Mr KIERATH: In simple terms, the scheme might well receive approval but not actually be in the right form. The concept could have been approved but it might need some variation to meet technical requirements. That is the reason for the discretion. This is a mechanical process to allow the Minister to issue a certificate and the certificate to go to the registrar, who registers the title. I have explained that the inclusion is similar to the terminology in later sections of the Act. In those situations there must be discretion because it could be approved but might need to be modified to meet other administrative or technical requirements.

Mr RIEBELING: I thank the Minister. I find this difficult to accept, but I might have missed the point. The appeal is against subsection (2) of the requirement, is it not? I am sure the Minister is not saying that if the commission knocks it back, the Minister or the Town Planning Appeal Tribunal would allow a technically flawed document to go through.

Mr Kierath: I did not say flawed.

Mr RIEBELING: We are talking about the permission of the commission for the registration to occur.

Mr Kierath: They would only look at provisions under their Act. They would not look at it to see that it met all of the technical requirements of the Strata Titles Act. They are not their provisions. It may well be that it meets all the approvals, but is not in the form that the Strata Titles Act requires.

Mr RIEBELING: We are talking about the structure of subsection (2) that deals with registration. The commissioner determines that. I am talking about an appeal against that decision of the commissioner not to grant, therefore the Registrar of Titles may accept a decision. It is not on a technical basis.

Mr Kierath: I will take this one step at a time. The issue relating to boundaries and similar matters would be looked at. A whole range of other certificates would come into being. They would not necessarily be checked; they would merely be accepted.

Mr RIEBELING: This proposed new section about registration specifically refers to subsection (2).

Mr Kierath: You are right, but it relates to only one part of that registration procedure, not all of it.

Mr RIEBELING: It says "Notwithstanding that it does not comply with subsection (2)". How more flexibly should I read that? It specifically mentions subsection (2). The appeals system is set up in subsection (3) and refers to

exactly the same decision. It is not open for the Minister to say that we are talking about other sections when this matter flows from that. Does this matter flow from the decision?

Mr Kierath: At the top of page 90 paragraph (b) reads "otherwise complies with this Act".

Mr RIEBELING: That was another part of the question the Minister has not yet answered. If paragraph (a) is not complied with, can the registration still proceed?

Mr Kierath: If there is no consent and no certificate, it cannot proceed.

Clause put and passed.

Clauses 18 to 24 put and passed.

Clause 25: Subdivision 2 inserted in Part IV Division 4 -

Mr KOBELKE: I ask the Minister to provide a brief, but accurate, explanation about this clause, somewhat similar to that which he provided earlier. I ask him to relate the changes in insurance to the proposed new sections from 53A as they will appear in the principal Act to proposed section 53E. As I read the Bill, we are allowing for schemes that are single tier strata, and opting out of the common insurance arrangement, if that terminology is not too inaccurate.

Mr Kierath: Is this the last detailed explanation you want from me?

Mr KOBELKE: I want to get on the record quite clearly the changes in insurance, and the last matter that has to do with dividing fences. After that, I think we will have done the Bill pretty well.

Mr KIERATH: New subdivision 2 which deals with insurance and single tier strata schemes is inserted by clause 25. Section 53A provides that references to 'scheme', 'strata company' and 'proprietor' in the subdivision are references to a 'single tier strata scheme' and a strata company for a scheme of that type, or strata owner in such a scheme. Proposed section 53B(1) provides that a strata owner has the choice whether to take out building and public liability of the lot and if so, for what risks and what degree of cover.

A strata company may pass a resolution to take out building and public liability insurance of lots. The resolution may be revoked later. If a strata company passes a resolution to insure the lots, it must comply with proposed section 53D. Proposed section 53C requires a strata company to take out building and public liability insurance in respect of the common property. The obligation of the strata company to ensure that common property does not apply if, firstly, the only common property in the scheme is effectively cubic air and soil space on which there are no man-made improvements. and fences; or, secondly, the strata company has passed a resolution without dissent, or a unanimous resolution in a two-lot scheme, not to take out insurance of the common property. The resolution of a strata company not to insure the common property ceases to have effect if it is revoked by resolution of the strata company or an owner serves a notice under proposed section 53C(4).

Any owner may at any time serve notice on the strata company, or the other owner in a two-lot scheme, requiring the strata company to insure the common property. This allows any strata owners to insist on strata company insurance if they are concerned about the risks involved if the strata company does not insure. Although the strata company is not obliged to insure the common property, each owner may decide whether to take out building and public liability of his interest in the common property and, if so, for what risk and degree of cover.

Proposed section 53D applies where, firstly, the strata company resolves to insure the lots; secondly, the strata company is required to insure the common property; or, thirdly, the strata company decides to insure the common property, even though it is not obliged to because the only common property is cubic space in which there is no man-made structure and fences. If proposed section 53D applies, the strata company is required to take out insurance to the following levels of cover: Firstly, building insurance - to its replacement value, as currently defined in proposed section 53; secondly, public liability insurance - for at least $5m or such other amounts as may be prescribed, which will allow the amount to be reviewed as changes in values occur. A penalty of $400 is imposed for a breach of this obligation. The penalty is consistent with the existing penalty in sections 54(1) and 55(1).

Current section 54(2) and (3) also apply to insurance by the strata company in a 'single tier strata scheme'. Section 54(2) allows the strata company to take out a building insurance policy for a fixed amount instead of for its replacement value. Section 54(3) provides a defence to the strata company for not taking out the building and public liability insurance, if it proves that no insurer is willing to provide that insurance on reasonable terms.

Proposed section 53E applies to two to five-lot schemes where the strata company is not required to keep an administrative fund under the Act. In that case, if an owner receives notice of an insurance premium which the strata company is obliged to take out, the owner may give notice of that premium to the other owners in the scheme and require them to pay their share before a specified time. This is to streamline the management obligations of the strata

company where the only ongoing obligation is to take out insurance. An owner's share of the strata company's insurance premium is the same as his proportion of unit entitlement, or such other amount as may be fixed by a by-law.

Where an owner has been notified, but failed to pay his share of the premium, that amount becomes a debt owed to the strata company, which may be recovered by court proceedings. Ordinarily a strata company must raise a levy before it can recover moneys from strata owners. However, in two to five-lot schemes, the strata company may be exempt from holding meetings and keeping an administrative fund, and an insurance premium may be the only financial obligation of the strata company. Proposed sections 53E(3) and (4) provide practical mechanisms for recovering atheshare of the premium, without having to comply with these management provisions just for this purpose. If an owner has failed to pay his share of the insurance premium due by the strata company, another owner may pay the premium and recover the defaulting owner's share under section 103L, as amended by clause 34 of the Bill.

Mr KOBELKE: From what I have read and from what the Minister has just read into the record, my understanding is that the general exemption is a move that the Minister is explicitly taking to assist people with insurance, and applies to only two-unit schemes; that is, duplexes. The other provision to which the Minister has alluded, relating to two to five lots, gave a means by which the costs of the insurance could be recouped if there was some dispute between the different proprietors. The difficulty I have with that - I am not saying that we can resolve it - is that the resolution of such a dispute in terms of getting the money from proprietors rests with the court.

Mr Kierath: The second bit is right. In the first bit, no distinction is made between two-lot schemes and two to five-lot schemes.

Mr KOBELKE: My understanding was that the motions, which could be passed to opt for the alternative arrangement, were for two-lot schemes only.

Mr Kierath: No; it is only single tier strata schemes.

Mr KOBELKE: It mentions the two-lot scheme, but I have misinterpreted the effect of that. I can see that is a requirement in new section 53C(4)(b) as well as in other places.

Mr Kierath: I have repeated that in the case of a two-lot scheme, it must be a unanimous resolution.

Mr KOBELKE: The other matter that will be of concern to many proprietors is the collection of the insurance payments when there is dispute with one of the proprietors. As the Minister indicated, that will be resolved in the courts. In difficult cases that will be a real problem. Can the Minister and his people put their minds to how we can get around that and whether the referee can have a role? Leaving that to the courts will be a problem.

Mr Kierath: I said that the referee had a role. Only if the person refuses to abide by the referee's decision will the enforcement of the referee's decision be in the courts. The majority of decisions are abided by.

Mr KOBELKE: We have yet to see that in the provisions of the Bill. It may mean that if there is a dispute, even though the referee has given a determination, the disputing parties may be such that one or more persons still do not wish to abide by the referee's decision. The only redress would be to take the matter to the court and it will be up to the majority of the proprietors to pursue that action, with all the costs and uncertainties that surround that.

Clause put and passed.

Clause 26 put and passed.

Clause 27: Section 54 amended -

Mr RIEBELING: The provision that is being removed contains the same wording as that which is being inserted. The Minister has said previously that that is because the intent of the wording remains and he did not want to change things other than the amendments. However, we are amending a section that causes some concern, especially in areas where there is a danger of flooding by an inundation of the ocean or by an ordinary flood. There is a great deal of concern in my electorate that cyclone surge, for instance, may cover many strata title properties. It is not possible to get insurance for that in my area. That is a decision of the insurance companies rather than anyone else. Is any consideration being given through the department to putting some pressure on insurance companies to cover areas for inundation by ocean, flood and erosion? I am not sure what sort of claim would come under erosion.

Mr Kierath: The issue has not been raised before.

Mr RIEBELING: It has been.

Mr Kierath: Not through our forum.

Mr RIEBELING: It has been raised in my office by companies trying to get access to insurance. A concern exists in the north of the State about the inability of strata owners to get that coverage.

Clause put and passed.

Clauses 28 and 29 put and passed.

Clause 30: Transitional provisions as to insurance -

Mr KOBELKE: What are the problems of transitional provisions as they apply to insurance and how does the Bill cover those transitional provisions?

Mr KIERATH: If, before the amendments come into force, a strata company in a single tier strata scheme has taken out insurance of the lots and the common property - as it is currently required to do, unless it has an exemption from the Strata Titles Referee - the strata company is deemed to have passed a resolution under new section 53B to take out building and public liability insurance of the lots. In other words, owners in existing strata schemes may continue to have one insurance policy for all lots and the common property in accordance with the current provisions of the Act, without having to do anything further.

A strata company may revoke the resolution that it is deemed to have made to take out insurance of the lots and common property. If the strata company for a single tier strata scheme obtained an exemption from the Strata Titles Referee to take out insurance of the lots and common property, that exemption would continue to apply to the strata company after the amendments came into force. The referee's exemption will cease to apply if any owner, at any time, serves a notice on the strata company, or the other owner in a two-lot scheme, that he requires the exemption to be terminated, and the notice is recorded on the strata plan. One owner may serve notice, as this is consistent with new section 53C(4), in the case of insurance of the common property in 'single tier strata schemes'. This will allow strata owners to insist on strata company insurance if they are concerned about the risks involved if the strata company does not insure, and is consistent with the insurance provisions in the Act prior to the Strata Titles Amendment Act 1995 coming into force.

The notice is required to be recorded on the strata plan because the original exemption of the referee was required to be recorded on the plan, so the plan will accurately show the position in relation to the continuing effect, or otherwise, of the exemption. The person who serves the notice requiring the strata company to take out the insurance is required to lodge a copy of the notice for recording on the plan.

Clause put and passed.

Clause 31: Section 70 amended -

Mr RIEBELING: Why has the 18 month provision been removed from this section? Have there been problems with that?

Mr Kierath: Yes.

Mr RIEBELING: Is it the purchasers or the vendors who have been having problems with it?

Mr Kierath: There have been many developments in which for various reasons they cannot get all the processes completed in that period. It is causing great difficulty. It is a real problem, especially for more complex developments. The provision has been through the consultative committee. It has the recommendation of all the parties and was strongly endorsed.

Mr RIEBELING: If people purchase a unit under this provision and they have trouble proceeding with the sale some time between the six and 18 month period, after six months can they opt out of it if they think it is an unreasonable delay?

Mr Kierath: Only if the contract does not state the period. In other words, the parties can agree on the period; they can agree on a longer period. If they do not state a period, it defaults to the specified times. If they thought they could do it in three years and if the parties agreed, they could insert three years.

Clause put and passed.

Clauses 32 to 36 put and passed.

Clause 37: Section 123 repealed and sections 123, 123A, 123B and 123C substituted -

Mr KOBELKE: I seek some clarification of the role that will be played by the Dividing Fences Act. Under the current legislation the Dividing Fences Act applies only to fences between the boundary of the strata scheme and

properties outside the strata scheme. The Dividing Fences Act can also play a role in disputes between owners within the strata title scheme. What is the extent of the application of the Dividing Fences Act within the strata title scheme? I assume the remaining issues about fences will be left for resolution by the body corporate and the by-laws under the strata scheme.

Mr KIERATH: The Dividing Fences Act will apply automatically unless someone objects. This clause brings it under the provisions of the Dividing Fences Act. If the parties object to that, it will be resolved by the current body corporate.

Mr Kobelke: In cases where the body corporate takes no action, will it remain under the Strata Titles Act?

Mr KIERATH: No. One owner must object for it to remain under the Strata Titles Act.

Mr Riebeling: Most disputes involve neighbours. In a strata title situation it may not be the neighbour who is objecting to the standard of a fence. The owner of unit 1 may object to the type of fence being built by the owner of unit 7 because it lowers the standard of the lot. Is it possible under the Dividing Fences Act to object in those circumstances?

Mr KIERATH: Not under the Dividing Fences Act. That would be covered by the by-laws of the strata title scheme. There may be circumstances in which the Dividing Fences Act is not appropriate. In most cases it will be but if it is not, there is provision for an individual owner to object.

Clause put and passed.

Clause 38: Schedule 2A amended -

Mr KOBELKE: This clause will amend item 8 of schedule 2A. I understand this relates to a matter raised in the second reading debate; that is, in a staged development of a major project, the final form of the strata title scheme must be outlined and a starting point is needed. If there are a number of stages to the development, under the current requirement the developer is obliged to go back to the body corporate to obtain approval for each proposed resubdivision. Will this amendment ensure that approval is obtained for the initial strata scheme as proposed and the final strata scheme, but bypass the need to obtain approval for interim stages of the development?

Mr KIERATH: It does not relate to the approvals, but to the unit entitlement. The developer need only show the final unit entitlements and not those as the stages progress.

Mr Kobelke: Is their interest preserved in the final form of the scheme?

Mr KIERATH: Yes.

Mr Kobelke: We want a guarantee that it is there.

Mr KIERATH: Yes.

Clause put and passed.

Clauses 39 and 40 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

MR KIERATH (Riverton - Minister for Lands) [11.17 pm]: I move -

That the Bill be now read a third time.

MR KOBELKE (Nollamara) [11.18 pm]: A few issues emerged in the second reading debate and in Committee, on which I will briefly comment at the third reading. The Minister has admitted that he is not happy with the complexity of the legislation. I certainly am not either, and I hope some work will be done to ensure that a new Strata Titles Act is prepared which provides a much simpler form of legislation for people with strata title properties. The Bill contains such a convoluted set of provisions that it is impossible for people who must run their body corporates to make sense of their obligations under the Act and to uphold their rights as property owners under a strata title scheme. It is a cause of great concern in a democracy. People cannot take charge of their own affairs without paying a great deal of money to experts to do the work for them. I do not know whether lawyers or people with expertise in land matters have taken charge of this Bill, and have entrenched in it the complexity that requires people to use

their services. People cannot make sense of the legislation without the help of experts to look after their interests and ensure the proper provisions are applied under the Act. I hope that the Act will be redrafted, as promised by the Minister.

I indicated briefly that the form of the legislation was not necessarily a conspiracy to ensure it was complex, but that the people drafting the legislation, seeing the complexities with the different forms of strata titles already in existence because of the changes that have been made since the establishment of the first Act, felt it was incumbent on them to continue down the same path. In order to bring in the improvements which the Government seeks, they have resorted to an extremely complex piece of legislation. I regret that.

The Minister gave an undertaking that he will write to all owners of strata titles and then will butt out of the information process and leave that to the department. This debate has been held in an excellent spirit. We have sought to ensure that the legislation receives proper scrutiny. The Minister has accommodated our requests and for that I thank him. However, if the Minister embarks on that plan, he will be seen as being totally political. Whether the election is this year or next year, for him to write to every owner of a strata property indicating that the problem which this Government created has been fixed is highly political. It might be a different matter if the letter were written with some input from the Opposition. If the letter were one of contrition and admission that the problems which have been visited on so many people were of the making of the Court Government, and the Minister has fixed those problems, it may have a nonpolitical flavour. However, if the letter is a sell job along the lines of the advertising we have seen in the newspaper, it could not be interpreted in any other way than a use of taxpayers' money for political purposes. I warn the Minister not to proceed down that path.

The Minister has indicated already that the regulations must be put in place before the Bill can be proclaimed. Therefore, if he writes and gives general assurances about what he is seeking to do, it will not convey the full information to the community because he will not have developed the regulations. It will not enable him to present people with a detailed, simple English guide to what will be available. Without that information and without the Bill being in effect, such a letter will be seen as purely political and nothing more. That would be a very sad end to the process which has occurred in this place with our trying to improve the strata titles laws of the State in a cooperative and bipartisan way and to pass on to the people of this State information in the simplest form possible. To write to everyone on the eve of an election telling them what a good guy the Minister is and how he has saved the day for them, given that the previous amendments that created the problem went through before he became Minister for Lands, will be seen as a cynical exercise. I hope the Minister has listened to my arguments on this as he has to the detail of the Bill and will not embark on that course of action. The Minister would be heralding a false dawn if he wrote to people immediately on the passage of this legislation, and prior to proclamation and the development of the regulations, and told them that he has fixed the problem. That is what his predecessor said when the amendments went through earlier this year. The comment was made that the problems were created by the amendments introduced by Labor in 1985 and the amendments that were put through in 1986 fixed the problems; and the people in duplexes and triplexes would have it much easier because the Court Government had amended the legislation. That was not true. That might have been the intention, but it was not the truth. The truth was that those amendments created extra problems for many strata title owners. If the Minister wrote in a week or two and told people that what he hoped to achieve had been achieved, that would be nothing less than a political statement, rather than specific information on the requirements of the Bill.

What will be the Department of Land Administration's advice in respect of the deadline that existed on some provisions for people to take action by April 1997? Is the Minister clear about the events to which I am alluding?

Mr Kierath: Yes.

Mr KOBELKE: The message has gone out to people that they can take certain actions by April 1997 if they wish to preserve rights of private use to backyards, etc, which are currently common property under a strata title scheme. Given now that we have included other provisions, what happens to the 1997 deadline? I did not hear as we went through the Committee stage where that is picked up in the transitional provisions.

Some of the new provisions contain time lines which should be met. As I have already indicated I hope the Minister will produce charts which indicate the key dates that will apply to various provisions.

The debate has been productive. This is an extremely difficult piece of legislation for people to understand. I hope our questioning has helped the Minister clarify what he is seeking to do in the Bill. We also hope that the intention of the Bill is now on the record. We hope this Bill will be more effective than the last one. The Government's amendments to the legislation earlier this year were totally honourable. They sought to improve a difficult situation. It all fell over unfortunately. It did not achieve improvements in all areas. We hope that, while the legislation is complex, we have patched up some of those difficulties. Others have not been addressed. The Minister stated that upfront and therefore, much more work must be done.

Finally, this Bill is far too complex. We should not be dealing with legislation as complex as this when it affects so directly the lives of so many people, particularly seniors, who wish to enjoy the comfort and peace of their homes with some certainty. These changes threaten that certainty. Legislation as complex as this does not provide that certainty. We hope these amendments will be effective.

MR RIEBELING (Ashburton) [11.28 pm]: It is important that we summarise what has occurred tonight. I thank the Minister for his attempts to explain what is a very complex piece of legislation. I found this legislation exceptionally difficult to take on board. Over the past decade the Strata Titles Act has gone from 30 pages to 300 or more pages and it has taken what used to be a simple process into the realms of exceptional difficulty. I was pleased to hear the Minister agree that the legislation is too complex and that if the Government wins the next election - I have doubts about that - and he is appointed Minister for Lands he will seek to rewrite the Statute so it is easier for people to understand. After all, this House should be producing legislation which the citizens of this State can readily understand, especially when it involves their homes. In most cases a home is the biggest investment people will make in their lives. It is not good enough to have legislation which only lawyers can understand.

I accept the need for this version of the legislation because it solves a number of problems in the Act. It is important that the adverse sections of the legislation are amended. This Bill is by no means small; it consists of 69 pages.

I am concerned at the way in which the Minister will advise people of the changes to this legislation. He said that he will advise in writing each person involved in a strata company in this State, and I presume that will be shortly after the legislation passes through this place. No doubt he will do that as Minister for Lands. I do not know whether the people who have their names and addresses registered at the Titles Office will be very happy that the Government will use those records for a political campaign to actually shore up support for the Government. People should be advised by a general advertising campaign if the department considers it is necessary. I believe there should be an advertising campaign, but not one in an election environment. Given that we are in that phase in the life of this Parliament, the incumbent Government must be very wary to ensure that it does not use government money in a political campaign. I urge the Minister to reconsider his thoughts in that regard.

Problems do exist with respect to dividing fences and perhaps the Minister will consider amending the Dividing Fences Act to provide for the disputes to which I alluded in the second reading and Committee stages to be covered by that legislation. The court should resolve disputes which cannot be resolved by other means. If a person wishes to erect a fence that is substandard to the other fences in the complex it will impact on the other people in the strata title complex. I do not think that would happen very often. However, if a person decided to replace an asbestos or fibre cement fence with a chicken wire fence some of the people in the strata title complex could be of the opinion that it would devalue their investment in the property.

This Bill, which contains a large number of amendments, has gone through this House in one day. I thank the Minister for his forthright answers to the Opposition's questions.

MR RIPPER (Belmont) [11.36 pm]: I want to make a few brief comments at the third reading stage because unfortunately I was out of the House in my electorate for most of the second reading and Committee debates. I want to take up the question of insurance arrangements. I know the Bill provides for various arrangements by which people can convert common property to the property of individual lot owners. In many cases, it will not be possible to entirely dispense with common property.

The Bill provides that in a duplex the owners, by unanimous decision, can decide to have sole insurance arrangements instead of taking out insurance in the name of the strata company. It concerns me that while the Bill allows for sole insurance arrangements, it does not do away with the risks that might surround the common property that remains. As a Parliament, we are saying that people do not need to take out joint insurance if they agree to do that. However, they can take out sole insurance and it is hoped that the insurance industry will come up with the type of policy that will allow for some coverage of the risks associated with the common use areas, provided the common property areas are relatively restricted. Of course, there are two problems with that. First, that general strategy relies on the cooperation of the insurance industry which might not come up with the policies that are required. It might come up with policies that provide for some coverage of very restricted common property areas, but not policies that cover the full extent of those areas. I wonder whether we have reached an ideal solution. I know many people will welcome the insurance provision, but I do not know whether they will realise that the Bill does not abolish all the risks that brought about the joint insurance requirements in the first place.

My second comment is that a lot of people will be disappointed that very little progress has been made on the question of giving people easier access to green or conventional titles. That was one of the big demands from a number of people in my electorate. Some of them bought a duplex half or a triplex unit and as far as they were concerned the dwellings looked like separate units and there was no physical connection. The whole strata title business for them was effectively just a nuisance. In some cases they had not understood what they were buying when

they made their purchase. I had one constituent say, "I specifically asked my real estate agent not to involve me in a strata title arrangement, but the agent went ahead and eventually wore me down and I found myself involved in a strata title arrangement with which I did not want to be involved. I wanted a separated dwelling. How soon can I get on the conventional title?"

People in my electorate have been waiting for this legislation in the hope that getting a conventional or green title will be easier after this legislation is passed by Parliament. I will have to tell them that further legislative changes will be required before the process of obtaining a green title is made easier. In the end, it may not be that much easier because of the planning and sewerage restrictions in place. I am concerned that we have not entirely solved the insurance problem and certainly have not solved the problem of people wanting a green or conventional title for strata title dwellings. It is very difficult and expensive to obtain.

Despite the view expressed by the Minister for Planning by interjection that strata titles are popular, that people know what they are buying and that people want strata title circumstances, many of my constituents are involved with strata titles only because their income level dictates that they must buy a duplex half rather than a dwelling on a conventional title. If they could afford one, they would rather have a dwelling on a conventional title. To them, it is a massive disappointment and inconvenience to be involved in these messy and sometimes difficult arrangements with neighbours. As most members will know, neighbours have a great propensity to argue. The more they must cooperate on a matter, the more likely they are to fall out with each other. Once neighbours have fallen out with each other, it can be stressful to jointly operate the strata title arrangement.

MR KIERATH (Riverton - Minister for Lands) [11.43 pm]: I will answer the points as they were raised. The member for Nollamara commented about the provisions that must be changed by April of next year, and I am advised that they relate to the exclusive-use provision relating to the 1966 Act. They are not shown on the plan. They will have the ability to take those provisions and have them shown on the plan. If that is not done, nothing will stop them from registering new by-laws. These changes do not change that situation in any way, otherwise I would have changed the time frame involved.

Mr Kobelke: There may not be an area of overlap. My concern is that because provisions open up mechanisms to try to make it easier for people to uphold those rights, in some cases people under that privacy provision which you mentioned from the 1966 legislation may need to make a choice. There may not be an overlap and choice available for those people. If they must wait to see your Bill enacted, obtain the education and information and then decide whether there is an opportunity to do something -

Mr KIERATH: They do not have to wait; they can do that all along regardless of whether they register new by-laws. If they do not meet the date, they can use the provisions to obtain resolution without dissent. If they miss the deadline, they could take new by-laws. Obviously, that would be before the owners agreed to them. They must agree to a resolution without dissent and have it registered. They are not losing anything. There is a provision for those to conveniently transfer them so they are shown on the plan.

Mr Kobelke: The point is, which one has the greater cost?

Mr KIERATH: I cannot offer a greater explanation than that. The member raised the issue of the letter, which does not require legislation - I can do it right now. However, I have not done so as I wanted to see whether the legislation had general support. The biggest criticism about the last lot of changes was that people did not know about them. Letters were sent to body corporates, not the owners. The overwhelming response on the hotline was that people wanted to be notified directly. Ultimately, I will decide whether that is done by me or somebody else. However, the decision has been made to inform every strata title owner we possibly can of the changes and the rights and privileges conferred on them.

The member for Ashburton raised the issue of dividing fence, and we will wait and see on that matter. The member for Belmont covered insurance and green titles, which I covered earlier.

Mr Ripper: I was out in my electorate.

Mr KIERATH: I was supposed to be in my electorate tonight giving a book presentation at a local high school.

However, let us not be sidetracked. The member is right about exposure to liability. We will not reverse the insurance arrangements. We will not revert to the previous wording. Everybody who has an interest said that people need to be insured. One of the difficulties was that under the wording they were compelled to use the same insurer to insure their common share of the liability. The first discussions with some insurance companies indicated that they did not have such insurance policies. However, the Insurance Council of Australia Ltd said that such policies would be available as they were provided prior to the true legal situation coming to light.

I am aware that two companies are prepared to offer such policies. For many people, a difficult situation can be resolved without watering down the obligation for people to insure in areas without common property; in this matter we are talking about cubic space above and below the strata, rather than land. We think we have provided as many options as we can. They are the best that people can come up with.

Mr Ripper: I agree with the arguments you are making about common property being only air and soil, but regardless of the common property situation, can the owners of a duplex pair decide by unanimous resolution to insure separately rather than jointly? I am concerned that unless the insurance company comes up with precisely the right sort of policy, people might not be covered for all the risk to which they are subject.

Mr KIERATH: They must make a deliberate decision rather than not make a decision at all, as was happening before. The party's individual rights are protected. The member is right in that it is a judgment call, and it is a matter of whether the judgment can be made easier.

The member for Belmont referred to green title. An issue raised with the task force was that not enough was done to promote the benefits of strata title over green title. I reject the point the member made that strata title is an inferior form of title - it is superior. It provides a mechanism to resolve many issues over which parties might otherwise end up in the courts or some other forum. There are some good advantages in strata title. The member for Belmont raised the issue of duplexes, but one can have a strata title on a duplex under the current legislation which in practical effect is almost the same as green title. Each part of the land can be lot one and lot two. In fact, many of the more progressive duplex owners have the minimum common property that they can get away with under the Strata Titles Act, and that gives them all the advantages of green title and also the advantage that one party cannot thumb its nose at the other party by not being consistent with the scheme.

Mr Ripper: A lot of people in the community do not see it quite that way and regard it as a green title.

Mr KIERATH: The task force recommended that we conduct a promotional campaign to promote the benefits of strata titles, and I will take that up with the real estate industry to see whether that can be included.

Mr Ripper: We will support such a campaign provided your photo is not part of it!

Mr KIERATH: This has been very difficult and complex legislation, and I thank the Opposition for its cooperation in the speedy passage of this legislation through this House.

Question put and passed.

Bill read a third time and transmitted to the Council.

SETTLEMENT AGENTS AMENDMENT BILL

Second Reading

Order of the day read for the resumption of debate from 17 October.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mr Ainsworth) in the Chair; Mrs Edwardes (Minister for Fair Trading) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 31 amended -

Mr KOBELKE: This clause provides that the board may refuse to renew a triennial certificate if the licensee has not met prescribed educational requirements. What are those educational requirements likely to be? The current trend in Australia is to move away from such forms of regulation. I do not see any problem with forms of registration which require standards to be tied to particular educational requirements, but I would like the Minister to convince me that this amendment will be worthwhile. This clause is quite broad and there is no indication of whether it will also pick up the requirements listed in clause 5.

Mrs EDWARDES: It can be as broad as the board prescribes, and while there may be a move away from regulation, there is also an increasing trend for professional organisations to maintain their skills and knowledge, particularly in an area where there has been constant change. It was not only the board that requested the power to determine whether settlement agents should be required to complete additional professional development as a condition of their

licence renewal; it was also a unanimous recommendation from the reference group which was established, comprising all stakeholders in this area. We are prescribing that specific documents must be prepared to deal with strata titles, and, given that increased power of settlement agents, it is appropriate that additional professional development be undertaken if the board so determines. It will be done by way of regulations; as such, it will come back to the Chamber, so full information will be provided.

Mr KOBELKE: The strata titles legislation is complex, and the people who will assist in the drawing up of the various documents will need to have some understanding of and expertise in the preparation of those documents. That is good reason for having such an education requirement. On the other hand, the very complexity of the strata titles legislation opens up the possibility of restrictive trade, because it may mean that only certain people will have the expertise to prepare and draw up those documents. We hope the educational programs will be readily available so that a sizeable pool of people will have the background and skill to perform these duties.

Mrs EDWARDES: The board and the various other stakeholders have discussed this matter and are looking at how they can improve the education process. The matter will be dealt with by way of regulation, and I will keep the Chamber informed.

Clause put and passed.

Cause 5: Schedule 2 amended -

Mr KOBELKE: This clause will amend schedule 2 of the Act to provide that a licensee who holds a real estate settlement agent's licence and a current triennial certificate may draw or prepare a range of documents. Nine classifications of documents are set out, some of which will remain the same: An offer and acceptance form; requisitions on title in such form and subject to such conditions as are prescribed; a statutory declaration to support any of the documents that are referred to; and a declaration to confirm that a power of attorney remains unrevoked. Others are removed and replaced by the documents referred to in subclause (2)(c) - that is, a real estate settlement agent will be able to prepare such documents to be registered or lodged under or for the purposes of the Land Act, the Registration of Deeds Act, the Strata Titles Act or the Transfer of Land Act as are prescribed and subject to such conditions as are prescribed. It appears to be a very workable way of grouping the provisions under the general Act aimed specifically at the Strata Titles Act as amended, therefore it will enable the real estate settlement agents to prepare the necessary documents. Those documents will be required by regulation under the Strata Titles Act and will vary from time to time the need for the real estate settlement agents to be up to date. It may be necessary for them to meet certain educational standards to ensure they understand the documents and can correctly and properly assist people in the preparation and completion of documents for the purpose of the Strata Titles Act. On the face of it, it is a very good way to go. When put into effect we hope that it will provide a simple method by which real estate settlement agents can provide an effective and cheap service to people who must meet the requirements of the Strata Titles Act.

Subclause (2) provides for the insertion of a new paragraph which relates to business settlement agents. I am not sure why it relates to the Bills of Sale Act. Perhaps the Minister can clarify that point. It does not pick up the Acts listed earlier which relate to real estate settlement agents. I have received some explanation but I have become a little mixed up. A suggestion was made that some part of this had been addressed in previous legislation, but I am not sure whether that applied to this provision.

Mrs EDWARDES: I do not understand the member's last comment. However, I understand his comment about the Bills of Sale Act. The member has identified the reason for the changes in general. The reference group is working through the specific documents to be prescribed. That involves the Law Society, the Settlement Agents Association, the Real Estate Institute of WA, the Department of Land Administration, and consumers. We will prescribe the documents only when agreement has been reached across the board. Some of the documents we are considering prescribing are the application for registration of the strata title plan, notice under section 69A and C - that may be qualified where representation is of the vendor only; notice by a proprietor of a strata company requiring a resolution to grant exclusive use; forms 10, 11, 12, 13 and 15, which may be qualified to restrict it to sections 31 and 30A(2)(a), and so on. When considering business settlement agents and bills of sale, we will deal with matters in which business settlement agents may have an interest. I refer here to the memoranda of satisfaction of bills of sale, and the discharges of charge where there is full and partial satisfaction. The discharges of charge may not be a document prescribed by regulation, because there is no agreement with the Law Society on that matter. However, we have considered those two matters under the Bills of Sale Act.

Mr KOBELKE: This provision will enable the real estate settlement agents to assist in the preparation, registration or lodgment of certain documents. Will that preclude individuals from preparing the documents? Would any other law prevent those people from preparing such documents, if they were able to and wished to?

Mrs EDWARDES: In other matters, some people are limited under the Legal Practitioners Act. A person may not be able to assist other people in this way, but individuals who have the ability can prepare, register or lodge such documents for themselves.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mrs Edwardes (Minister for Fair Trading), and transmitted to the Council.

JOINT STANDING COMMITTEE ON THE OFFICIAL CORRUPTION COMMISSION

Assembly's Resolution - Council's Amendment

Message from the Council received and read notifying that it had concurred in the Assembly's resolution, subject to an amendment.

House adjourned at 12.08 am (Wednesday)

QUESTIONS ON NOTICE

NATIONAL PARKS - NATURE RESERVES, NEW; ADDITIONAL AREAS; EXCISIONS

1298. Mr McGINTY to the Minister representing the Minister for the Environment:

Since 6 February 1993 -

(a) what new national parks have been created and what is the area of each;

(b) what additional areas have been added to any national parks;

(c) what area has been excised from any national park;

(d) what new nature reserves have been created;

(e) what additional areas have been added to any nature reserves;

(f) what area has been excised from any nature reserve?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

As the member is aware, changes to land tenure and purpose involves significant administrative work. The Government is in the process of creating significant national parks at areas such as Dryandra and Two Peoples Bay. The Government has created new conservation parks and nature reserves totalling 133 000 hectares and added 63 000 ha to national parks, conservation parks and nature reserves during its first term.

(a) None.

(b)

National Park	Additional area (ha)
Leeuwin Naturaliste	229
Stirling Range	259
Tuart Forest	265
Karijini	20 848
Rudall River	15 400
Purnululu	31 000
Nambung	44
Yalgorup	113
D'Entrecasteaux	1 221

(c)

National Park	Excision (ha)
Kalbarri	3 045
Serpentine	3
John Forrest	0.1
Tuart Forest	0.3
D'Entrecasteaux	0.6
Rudall River	15 100

(d) 55 nature reserves totalling 46 937.9 ha.

(e) A total of 6 470.7 ha has been added, comprising additions to 26 nature reserves.

(f) A total of 1 379.7 ha has been excised, comprising excisions from 23 nature reserves.

EDUCATION DEPARTMENT - EMPLOYEES, WOMEN; MEN

1839. Dr CONSTABLE to the Minister for Education:

Of the following positions in the Education Department, what percentage are occupied by women and what percentage are occupied by men -

(a) principal;
(b) deputy principal;
(c) primary teacher;
(d) secondary teacher;
(e) teacher's aide;
(f) school psychologist;
(g) school welfare officer;
(h) school social worker;
(i) head of department;
(j) librarian; and
(k) music teacher?

Mr C.J. BARNETT replied:

The following information has been extracted from the existing Human Resources Payroll System as at 30 August 1996. The figures are made up of substantive employees only. They do not include relief employees, employees in acting or relieving in higher duties positions or employees on leave without pay longer than 20 working days.

	% Male	% Female
(a)	82.59	17.41
(b)	56.65	43.35
(c)	16.04	83.96
(d)	44.36	55.64
(e)	3.74	96.26
(f)	23.23	76.77
(g)	58.82	41.18
(h)	27.27	72.73
(i)	81.06	18.94
(j)	7.46	92.54
(k)	37.35	62.65

EDUCATION DEPARTMENT - EMPLOYEES, WOMEN; MEN

1840. Dr CONSTABLE to the Minister for Education:

What percentage of women and what percentage of men, in teaching, senior administrative or managerial positions in the Education Department are -

(a) permanent part time employees;
(b) temporary part time employees;
(c) permanent full time employees;
(d) temporary full time employees; and
(e) employed on a contract basis?

Mr C.J. BARNETT replied:

The following information has been extracted from the existing Human Resources Payroll System as at 30 August 1996. The figures are made up of substantive employees only. They do not include relief employees, employees in acting or relieving in higher duties positions or employees on leave without pay longer than 20 working days. Teachers are defined as level 1 and level 2 Education Act employees. Senior administrative are level 3 to level 6 Education Act employees. Managerial are level 6 Public Service through to the Director General of Education.

	Group	% Male	% Female
(a)	Teachers	9.26	90.74
	Administrative	0	0
	Managerial	0	100
(b)	Teachers	10.04	. . 89.96
	Administrative	0	0
	Managerial	50	50
(c)	Teachers	37.06	62.94
	Administrative	72.94	27.06
	Managerial	69.10	30.90
(d)	Teachers	23.65	76.35
	Administrative	0	0
	Managerial	66.66	33.34
(e)	Teachers	0	0
	Administrative	0	0
	Managerial	51.85	48.15

POLICE SERVICE - RESTRAINING ORDERS, TRAINING

1918. Dr WATSON to the Minister for Police:

(1) I refer to the Crimewatch report in the *Kalgoorlie Miner* (12 August 1996) and ask, what is the Minister's response to the advice of the first class constable that applicants (for restraining orders) should exhaust all avenues of resolution and give serious consideration to the implications involved in initiating this action?

(2) What training do police officers now have in relation to restraining orders?

(3) When will police officers follow the lead of police officers in other States and initiate applications for restraining orders?

Mr WIESE replied:

The Commissioner of Police has provided the following advice -

1. The comments made refer in the main to restraining orders of 'the to be called Misconduct type' eg. Neighbour disputes not the to be called Violence type.

   In relation to Family and Domestic Violence, Police policy states:

   "Police should provide every assistance to victims requiring Restraining Orders. This may include making application on behalf of the victim for their protection, as provided for by Section 172 of the Justices Act.

   The highest priority is to be given to the service of Restraining Orders relating to domestic violence.

   Police should consider and utilise all options available for victims of domestic violence.

2. All recruits are provided with a lecture specifically targeting the issue of Restraining Orders and the relevant legislation. Following this they are required to demonstrate their knowledge through production of written assignments and practical court brief preparation.

   In service training in relation to the issue of Domestic Violence, including the use of Restraining Orders has been carried out by the District Training Officer in Kalgoorlie. Domestic Violence training reinforces to officers the need to advise victims regarding restraining orders and to be supportive of requests from victims to initiate them.

3. Section 172 of the Justices Act provides the option for police to take out Restraining Orders on behalf of victims.

   The potential for police in Western Australia to take out the majority of orders as is done in NSW and SA was considered by the Review of Restraining Orders Committee in 1995.

   The Draft "Restraining Orders Bill 1996" includes application for Restraining Orders by telephone where the applicant is introduced by a police officer or the applicant can be a police officer on behalf of a victim and this is currently done when officers are requested to do so by the victim.

GOVERNMENT EMPLOYEES - NUMBERS; WORKPLACE AGREEMENTS

1980. Mr BROWN to the Minister for Mines; Works; Services; Disability Services; Minister assisting the Minister for Justice:

(1) How many employees are employed in each agency and department under the Minister's control?

(2) How many of these employees are employed under the terms of a workplace agreement?

Mr MINSON replied:

For the member's information a table is set out below which is based on full time equivalents staffing level information collected by PSMO and a recent survey conducted by DOPLAR. The figures relating to the number of employees covered by workplace agreements are the number of employees covered by individual and collective agreements registered with the Commissioner of Workplace Agreements as at 30 June 1996. They are based on estimates provided to DOPLAR by agencies.

Agency	(1) Actual FTEs June 1996	(2) Estimated total number of staff covered by WPAs
Minerals and Energy, Department of	669	523
Building Management Authority	419	307
State Services, Department of	207	
State Supply Commission	22	
Disability Services Commission	1 622	
Total	2 939	830

SCHOOLS - SOUTH PERTH PRIMARY, CENTENARY CELEBRATIONS

2100. Mr PENDAL to the Minister for Education:

I refer to a variety of requests and proposals submitted to the department in respect to the approaching centenary celebrations for the South Perth Primary School in Forrest Street and ask -

(a) have any plans been finalised by the department for improvement/additions in time for the school's anniversary celebrations;

(b) if so, will the Minister detail them;

(c) if not, when will a decision be made?

Mr C.J. BARNETT replied:

(a) No.

(b) Not applicable.

(c) It has not been determined when an upgrade project will be undertaken at South Perth Primary School. Such decisions are announced annually within the context of the State Budget.

EDUCATION DEPARTMENT - TEACHING OF ETHICS IN HIGH SCHOOLS AND PRIMARY SCHOOLS

2102. Mr PENDAL to the Minister for Education:

(1) Is it correct that the general question of ethics is currently taught in, or being considered for, high schools in Western Australia?

(2) If so, has any consideration been given to the teaching of such a subject in primary schools?

(3) If not, will the Minister give consideration to such a possibility and report to the House?

Mr C.J. BARNETT replied:

(1) Ethics is a component of values. Values education is being and will continue to be taught in Western Australian primary and secondary schools. Values education is currently being taught in the years K-10 in schools through the existing social studies and health education programs. The Interim Curriculum Council is currently developing a K-12 curriculum framework for all schools and is examining the integration of some broadly shared core Australian values within curriculum documents for each of the eight learning areas. The curriculum documents are expected to be ready for community consultation early in 1997.

(2)-(3) Not applicable.

SCHOOLS - EDUCATION SUPPORT, KENWICK

Accommodation

2165. Dr WATSON to the Minister for Education:

(1) Will the Minister provide the students, parents and teachers at the Education Support School in Kenwick, with assurances that there will be appropriate room at the start of the 1997 school year?

(2) Will the Minister assure them that in order to accommodate more children at Kenwick, more facilities such as lavatories for students and teachers will be installed?

(3) If these assurances are unable to be given, why not?

Mr C.J. BARNETT replied:

(1)-(3) The need for additional classrooms and other facilities at Kenwick school will be assessed later this year. Depending upon the projected and actual enrolments at the commencement of the 1997 school year, every endeavour will be made to provide the appropriate facilities.

CONTRACTS - GOVERNMENT, NOT PUT OUT TO TENDER

2185. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) In the departments and agencies under the Minister's control, how many let contracts in the 1995-96 financial year without such contracts being put out to tender?

(2) What was the nature of each contract?

(3) What was the contract price of each contract?

(4) Who was allocated the contract?

(5) How did the department or agency select the company/person to carry out the contract?

(6) Has each department or agency advertised for expressions of interest from contractors and individuals who may wish to carry out small contract work from time to time?

(7) If not, why not?

(8) Does each department/agency have a list of companies or individuals that may be used for particular work?

(9) How do the companies or individuals get on the "list" if the work is not advertised from time to time?

(10) To what extent are such small contracts allocated to 'mates', 'colleagues' and 'confidantes'?

Mr HOUSE replied:

(1)-(10)

The letting of all contracts, unless otherwise exempted by the State Supply Commission, is subject to the policies and guidelines of the State Supply Commission. A copy of the relevant State Supply Commission Policy Statement (1.3) and Policy Guidelines is tabled. [See paper No 674.]

Government agencies routinely contract external providers to undertake a range of services in support of the delivery of their programs. Given the large number of contracts in place at any time the details sought are not readily available. I am not prepared to direct the considerable resources to obtain this information. However, if the member has a specific query I will have the matter investigated.

CONTRACTS - GOVERNMENT, NOT PUT OUT TO TENDER

2190. Mr BROWN to the Minister for Planning; Heritage:

(1) In the departments and agencies under the Minister's control, how many let contracts in the 1995-96 financial year without such contracts being put out to tender?

(2) What was the nature of each contract?

(3) What was the contract price of each contract?

(4) Who was allocated the contract?

(5) How did the department or agency select the company/person to carry out the contract?

(6) Has each department or agency advertised for expressions of interest from contractors and individuals who may wish to carry out small contract work from time to time?

(7) If not, why not?

(8) Does each department/agency have a list of companies or individuals that may be used for particular work?

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Mr LEWIS replied:

(1)-(10)

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Government agencies routinely contract external providers to undertake a range of services in support of the delivery of their programs. Given the large number of contracts in place at any time the details sought are not readily available. I am not prepared to direct the considerable resources to obtain this information. However, if the member has a specific query I will have the matter investigated.

EDUCATION DEPARTMENT - SPEECH PATHOLOGY SERVICE, NORTHERN SUBURBS, REDIRECTED TO JOONDALUP CHILD DEVELOPMENT SERVICE

2275. Dr GALLOP to the Minister for Health:

(1) Is it true that the northern suburbs school based speech pathology service will be redirected to the Joondalup Child Development Service?

(2) What is the justification for the dismantling of this highly successful school based program?

(3) Is it not true that a long waiting list exists at the Joondalup Child Development Service?

Mr PRINCE replied:

(1) The northern suburbs school based speech pathology service has been relocated to the Joondalup Child Development Centre site.

(2) The Joondalup site provides better office accommodation. There are no plans to dismantle or change the existing service delivery arrangements.

(3) The current waiting list at the Joondalup Child Development Centre for speech pathology services approximates 12 months. However, urgent cases are assessed and given priority.

EDUCATION DEPARTMENT - SENIOR HIGH SCHOOL, CANNING VALE, PRIVATE LAND PURCHASE PROPOSAL

2326. Dr WATSON to the Minister for Education:

(1) Further to the tabling of a petition regarding a needed senior high school in Canning Vale, what is the rationale for the Education Department proposing to purchase privately owned land for the school?

(2) Will the department allocate crown land or purchase vacant land for this purpose?

Mr C.J. BARNETT replied:

(1)-(2) The Education Department has been unable to identify a 10 hectare site within suitable crown land or vacant land which is strategically located within the proposed school's future catchment area.

METROPOLITAN REGION SCHEME - AMENDMENT 981/33 PROPOSAL, IMPACT ON KENNELS ZONING, CANNING VALE AND BANJUP

2336. Dr WATSON to the Minister for Planning:

(1) In relation to proposed metropolitan region scheme amendment 981/33, what are the implications for "kennels" zoning in Canning Vale and Banjup?

(2) Will the properties within those zones continue to retain that zoning?

(3) If a property is sold, will it remain zoned for current use?

(4) Will extensions to existing kennels be allowed?

(5) If new owners buy a property within the zone but on land without kennels, can they build appropriate kennels?

(6) What restrictions will there be on expansion of kennels?

Mr LEWIS replied:

(1) Currently the Western Australian Planning Commission is progressing an amendment to give statutory effect in the metropolitan region scheme to some of the recommendations of the Select Committee on Metropolitan Development and Groundwater Supplies through the introduction of a new 'rural ground water catchment protection' zone located over the capture areas of the existing well field and its proposed extension on the Jandakot ground water resource area. The amendment also proposes the extension of the 'water catchments' reservation over crown land, within the above area. The amendment proposes a number of changes to the MRS affecting land in the cities of Cockburn, Canning, Gosnells and Armadale, the Town of Kwinana and the Shire of Serpentine-Jarrahdale. The majority of the land is in private ownership and currently zoned rural under the MRS. The remainder includes land currently reserved for public purpose and parks and recreation.

As a principle, the proposed MRS zone acknowledges existing land use but restricts those activities which could have an adverse impact on ground water. A 'kennel' land use generally poses a potential risk to the ground water resource in the disposal of animal excrement and chemicals associated with the care of animals. The implications for kennels regarding additional usage and extension of existing usage is a detail to be considered at the level of planning approval related to the local government town planning scheme.

(2)-(3) Yes.

(4) Yes. The rights of lawfully established kennels to extend are protected by town planning legislation.

(5) Planning approval from the relevant local government will still be required for all development proposals inclusive of kennels.

(6) Existing establishments will be unaffected; however, expansion would be subject to the proper containment and treatment of animal excrement.

ANIMAL WELFARE BILL - INTRODUCTION DATE

2375. Mr PENDAL to the Minister for Local Government:

(1) When does the Minister plan to introduce the Animal Welfare Bill into the Parliament?

(2) If so, is it correct that section 3 of the Bill will propose to regulate the use of animals for scientific purposes?

(3) Is the Minister aware that such regulation already occurs on a uniform basis across Australia in the form of a code of practice for the care and use of animals for scientific purposes and is used by the National Health and Medical Research Council?

(4) If yes to (3), why does the Government propose altering a successful uniform scheme of self-regulation in favour of a statutory based scheme operational only in Western Australia?

(5) Will the policing and regulation of the system proposed under section 3 add to costs within the Western Australian Government?

(6) If yes to (5), what is the justification for that?

(7) Why does the Government support and impose a duplication of services required to approve facilities and equipment when this is already covered under the national code?

(8) Does the proposed Bill give inspectors the power to halt experiments in progress without consultation with the appropriate animal experimentation ethics committee and, if so, can the Minister indicate how disputes between the two authorities would be settled?

(9) Has the Minister sought input from the NHMRC on these issues and, if not, will the Minister undertake such consultation?

Mr OMODEI replied:

(1) Subject to the Government's legislative program I intend to introduce the Bill in 1997.

(2)-(3) Yes, subject to Cabinet and party room approval.

(4) To enhance the current regulatory system and increase public confidence.

(5) The Government will need to consider the resource implications to facilitate the operation of the Animal Welfare Act.

(6) To enhance the current regulatory system and increase public confidence.

(7) The proposed legislation is designed to complement and enhance the national code rather than duplicate it.

(8) As a basic principle, an inspector of scientific establishments will be required to consult with the principal investigator and/or the chairperson of the relevant animal experimentation ethics committee if the inspector wishes to suspend an experiment. However, if the inspector finds that an animal is being subjected to a significant level of pain, suffering or distress beyond that which was predicted in the proposal approved by the AEEC, the inspector will have the power to have the animal treated or euthanased without consultation. The proposed legislation will provide no right of appeal in such circumstances because of the significant suffering being inflicted upon the animal.

The Animal Welfare Advisory Committee which developed the proposals for the new legislation, recommended that an investigator or a scientific establishment be permitted to lodge a claim for compensation where it is believed that an animal has been unjustifiably or unreasonably euthanased. This recommendation is still under consideration.

(9) A discussion paper on the proposed new legislation was released for public comment in February 1994. The proposals were amended following consideration of the comments. The NHMRC has written to the State Government about the proposed legislation. In addition, I recently appointed Dr Alan Purcell to represent Western Australia on the national body responsible for reviewing the Australian code of practice for the care and use of animals for scientific purposes. This will facilitate direct liaison with the NHMRC and other relevant bodies on this issue.

GOVERNMENT EMPLOYEES HOUSING AUTHORITY - HOUSE MAINTENANCE

2385. Dr WATSON to the Minister for Housing:

(1) Are all Government Employees Housing Authority residences well maintained?

(2) What is the Government's policy on house maintenance for GEHA housing?

(3) What standard is used in houses, in the north west, to ensure they are habitable?

(4) How are rents calculated?

(5) Is there a proposal to charge commercial rates for rents and how would that be calculated?

(6) What allowances do government workers currently receive to compensate for living in the north west?

(7) Would these allowances be increased if commercial rates were to be charged?

Mr KIERATH replied:

(1) The member's question is unclear as to what is meant by "well maintained".

(2) Maintenance is provided on request from government employee tenants occupying authority accommodation. All reasonable requests are dealt with promptly by either the authority's regional offices or Homeswest which acts as the authority's agent in other localities.

(3) All accommodation provided to government employees is habitable in accordance with the Residential Tenancies Act.

(4) From 1 July 1996, rents for employee tenants occupying authority accommodation are set by employing departments but there is to be no significant change from the heavily subsidised rent previously set by the authority.

(5) Commercial rents have been charged to departments by the authority since 1 July 1996 on the basis of recovering the full cost of the authority's operations.

(6) Government employees living in the north of the State and other remote locations receive a district allowance to assist with the extra cost of living. Employees in the north of the State and other specified areas receive an air-conditioning subsidy to assist with the cost of electricity for running air-conditioners within their accommodation.

(7) Not applicable, as commercial rates for rent are not intended to be charged to government employee tenants.

BOARDS AND COMMITTEES - WOMEN APPOINTMENTS; MEN APPOINTMENTS

2393. Dr WATSON to the Minister for Primary Industry; Fisheries:

(1) How many women are on boards and committees in the Minister's administration?

(2) How many men are on boards and committees in the Minister's administration?

(3) How many women have been appointed since October 1995?

(4) How many women members whose terms had expired by October 1995 were not reappointed?

Mr HOUSE replied:

Agriculture Western Australia -

(1) 329.

(2) 2 258.

(3) 42.

(4) This information sought by the member is not readily available and would require a search of individual departmental files. I am not prepared to allocate resources for that purpose.

Fisheries Department -

(1) 13.

(2) 257.

(3) Seven.

(4) This information sought by the member is not readily available and would require a search of individual departmental files. I am not prepared to allocate resources for that purpose.

BOARDS AND COMMITTEES - WOMEN APPOINTMENTS; MEN APPOINTMENTS

2395. Dr WATSON to the Minister for Labour Relations; Housing; Lands:

(1) How many women are on boards and committees in the Minister's administration?

(2) How many men are on boards and committees in the Minister's administration?

(3) How many women have been appointed since October 1995?

(4) How many women members whose terms had expired by October 1995 were not reappointed?

Mr KIERATH replied:

Department of Productivity and Labour Relations -

The term "boards and committees" is taken to mean statutory boards and committees set up under Acts of Parliament. The following answers adopt this definition -

(1) Two.

(2) 19.

(3) One.

(4) Nil.

Commissioner of Workplace Agreements -

(1)-(2) There are no boards and committees which have members from this office.

(3)-(4) Not applicable.

WorkSafe Western Australia -

(1)-(2) The WorkSafe Western Australia Commission - formerly the Occupational Health, Safety and Welfare Commission - comprises 13 members of whom two are women and 11 are men.

(3) No appointments have been made to the commission since October 1995.

(4) No appointments have been made to the commission since October 1995.

WorkCover WA -

(1) Three*.

(2) 20*.

(3) Three*.

(4) Nil.

* Includes committees constituted under section 100(A) of the Workers Compensation and Rehabilitation Act 1981 by the Workers' Compensation and Rehabilitation Commission.

Western Australian Industrial Relations Commission -

(1)-(4) Nil. The Western Australian Industrial Relations Commission does not administer any legislation and is therefore not involved in statutory appointments. The commission does appoint chairpersons and members to boards of reference to deal with general industrial matters as required, and with long service leave matters on an ongoing basis. As at 16 October 1996 there were seven men appointed to long service leave boards of reference. This information is the same as that provided in answer to question 3375 on 17 October 1995. Since that date the board of reference under the Long Service Leave Act no longer exists. The membership of that board was the same as for board under the commission's order, which continues.

Homeswest -

(1) 18.

(2) 48.

(3) Five.

(4) Since October 1995 three committees have ceased operation which has displaced eight women.

Government Employees' Housing Authority -

The following information is provided in respect of the Board of the Government Employees' Housing Authority -

(1) There is currently one woman on the board.

(2) Three men are currently members of the board - there are currently four vacant membership positions.

(3) No women have been appointed since October 1995.

(4) One woman retired from the board and her position was filled by a man.

Rural Housing Authority and Industrial and Commercial Employees' Housing Authority -

(1) One woman, who is the chairperson of the Rural Housing Authority.

(2) Seven men.

(3)-(4) Nil.

Department of Land Administration -

(1) Nil.

(2) 13.

(3) Nil.

(4) Not applicable.

LandCorp -

Response provided relates to the Western Australian Land Authority -

(1) One.

(2) Six.

(3)-(4) Nil.

BOARDS AND COMMITTEES - WOMEN APPOINTMENTS; MEN APPOINTMENTS

2398. Dr WATSON to the Minister for Planning; Heritage:

(1) How many women are on boards and committees in the Minister's administration?

(2) How many men are on boards and committees in the Minister's administration?

(3) How many women have been appointed since October 1995?

(4) How many women members whose terms had expired by October 1995 were not reappointed?

Mr LEWIS replied:

(1) 30.

(2) 151.

(3) 10.

(4) Nine.

BOARDS AND COMMITTEES - WOMEN APPOINTMENTS; MEN APPOINTMENTS

2400. Dr WATSON to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) How many women are on boards and committees in the Minister's administration?

(2) How many men are on boards and committees in the Minister's administration?

(3) How many women have been appointed since October 1995?

(4) How many women members whose terms had expired by October 1995 were not reappointed?

Mr OMODEI replied:

Department of Local Government -

(1) Members - 36
Deputy members - four

(2) Members - 121
Deputy members - 27

(3) Five.

(4) Two.

Office of Multicultural Interests -

(1)-(4) There are no boards or committees with terms of appointment in the Multicultural and Ethnic Affairs portfolio. The Office of Multicultural Interests convenes ad hoc committees for particular projects as required. Membership is usually invited through organisational representation.

HOSPITALS - PORT HEDLAND

Power Failures

2416. Mr GRAHAM to the Minister for Health:

(1) Has the Port Hedland Regional Hospital suffered power failures recently?

(2) If so -

(a) on what dates did the power fail;
(b) for how long did the power fail on each occasion;
(c) did the emergency power supply work on each occasion;
(d) was there any occasion when the hospital was blacked out?

(3) If the answer to (2)(d) above is yes -

(a) when did the total blackout occur;
(b) for how long did the total blackout occur?

Mr PRINCE replied:

(1) Yes.

(2) (a) 24 August 1996 - normal power available; shutdown of emergency power to replace essential power distribution to switchboard.

14 September 1996 - normal power available; shutdown of emergency power to replace faulty phase failure relay.

(b) 24 August 1996 - 1.5 hours.
14 September 1996 - 0.5 hours.

(c) 24 August 1996 - no, being replaced.
14 August 1996 - no, being repaired.

(d) No.

(3) Not applicable.

COMPENSATION (INDUSTRIAL DISEASES) FUND - BODY RESPONSIBLE FOR

2418. Mr GRAHAM to the Minister for Labour Relations:

(1) Which government department/agency/instrumentality has responsibility for the Compensation (Industrial Diseases) Fund?

(2) Which Minister has responsibility for the Compensation (Industrial Diseases) Fund?

Mr KIERATH replied:

(1) State Government Insurance Commission.

(2) Minister for Finance.

WATER CORPORATION - SEWERAGE RETICULATION AREAS SPEARWOOD 13K, SPEARWOOD 21D, TENDERS RECALLED

2421. Dr EDWARDS to the Minister for Water Resources:

Further to question on notice 1174 of 1996, why did -

(a) the Premier in a letter dated 28 December 1995; and

(b) the then Minister for Housing in a letter dated 29 June 1995,

write to Mr Simon Hall of 1 Lynn Street, Hilton advising that the sewerage tender was delayed and recalled?

Mr NICHOLLS replied:

Parliamentary question 1174 relates to sewerage reticulation areas Spearwood 13K and 21D. These works were constructed by the Water Corporation, and tenders were not required. Parliamentary question 2421 relates to sewerage reticulation area Spearwood 21A managed by Homeswest, and should be referred to the Minister for Housing

MEDICARE - PROVIDER NUMBERS TO MEDICAL GRADUATES RESTRICTION; POSTGRADUATE TRAINING; GRADUATES MISSING OUT

2438. Dr CONSTABLE to the Minister for Health:

In relation to the Federal Government's Budget measure to restrict Medicare provider numbers to medical graduates who have completed postgraduate training -

(a) what institutions in Western Australia will provide the postgraduate training required under the budget measure;

(b) what will that training comprise;

(c) what are the criteria for eligibility to training places;

(d) how many training places will be available each year;

(e) what is the estimated number of graduates expected to apply for such places each year;

(f) what is the estimated average cost of the postgraduate training;

(g) how many Western Australian graduates are expected to miss out on a provider number?

Mr PRINCE replied:

The Commonwealth has not yet provided detail on how the postgraduate training arrangements will work or how many places it intends will be made available in Western Australia. The relevant colleges and hospitals will be continuing their normal postgraduate training programs, and the Post Graduate Medical Education Committee of the University of Western Australia and the Australian Medical Association are actively addressing the mechanism of intern training and developing strategies for training in other areas. The State Government recognises that the Commonwealth needs to address the oversupply of doctors in the Eastern States. However, there is a shortage in Western Australia especially in the State's rural and remote areas. The Government is concerned that there should be special consideration of the circumstances in this State so that solutions to address the oversupply elsewhere do not have the effect of exacerbating the shortage here.

MEDICARE - AVERAGE PER CAPITA COST OF USE

2440. Dr CONSTABLE to the Minister for Health:

(1) What is the average per capita cost of Western Australia's use of Medicare and how does this compare with other Australian States?

(2) In what areas of Western Australia is there an -

(a) oversupply;
(b) undersupply of doctors?

(3) How many new doctors will be needed in each of the next five years to meet Western Australia's anticipated need for doctors?

Mr PRINCE replied:

(1) In 1995-96 the average expenditure in Western Australia on the Medical Benefit Scheme was $294 per person. That is significantly below the national average which is about $332 per person. The average per capita expenditure is lower only in Tasmania and the territories.

(2) There is not an oversupply of doctors in Western Australia. Overall there is a shortage, especially in rural and remote areas. The State also generally has a shortage of specialists.

(3) On average the University of Western Australia Medical School has 100 to 110 graduates per year. On top of that the State has to recruit between 30 and 40 overseas trained doctors each year.

MEDICARE - PROVIDER NUMBERS RESTRICTION; WOMEN DOCTORS, DIFFICULTIES

2456. Dr WATSON to the Minister for Health:

(1) What plans does the Minister have to ensure that newly qualified women doctors are not discriminated against because of announced restrictions to Medicare provider numbers?

(2) Does the Minister acknowledge that it will be difficult for many women doctors to -

(a) access training positions;
(b) obtain part time work;
(c) pursue postgraduate studies while relying on part time work?

(3) How will the recently negotiated changes redress these matters?

Mr PRINCE replied:

(1)-(3) The Western Australian Government is anxious to have more women entering into general practice, and especially in rural and remote areas. I am pleased to report that in the vicinity of half of the graduates from the University of Western Australia Medical School are women. As a result a growing proportion of Western Australian medical practitioners will be women.

In regard to the Commonwealth Budget decision to restrict provider numbers, I acknowledge that the Commonwealth has to take action to address the oversupply of doctors in the Eastern States, but am concerned to ensure that the decision does not exacerbate the shortage of doctors in Western Australia. I agree that there is the potential for woman graduates to be affected by the changes. I am communicating with Dr Wooldridge regarding the situation in this State.

ALLEN, MARK - DEATH ON CONSTRUCTION SITE, SAFETY AUDIT

2479. Dr WATSON to the Minister for Labour Relations:

(1) Was a safety audit of the construction site on which Mark Allen was killed done following his death?

(2) If not, why not?

(3) If so, what were the findings and recommendations?

(4) When will any report be tabled or disseminated?

Mr KIERATH replied:

(1) WorkSafe Western Australia has inspected the construction site where Mr Mark Allen died. On the basis of the department's inspections of the site, a number of improvements and prohibition notices have been issued under the Occupational Safety and Health Act 1984. One of the prohibition notices directed the demolition contractor working at the site to undertake an independent safety audit of the site before work recommenced. The audit report was required to be provided to the department.

(2) Not applicable.

(3)-(4) The audit report is tabled with this question. [See paper No 675.]

QUESTIONS WITHOUT NOTICE

LIVE SHEEP TRADE - BUNBURY

633. Dr GALLOP to the Minister for Commerce and Trade:

I refer to an article in today's *South Western Times* headed "Farmers Boycott Bunbury", which carries claims that farmers are now boycotting Bunbury businesses because of opposition in the town to exporting live sheep.

(1) Is it National Party policy to allow live sheep exports through Bunbury?

(2) Does the Minister support such exports?

Mr COWAN replied:

(1)-(2) I have not read the article to which the Leader of the Opposition refers. I understand there is a proposal by a Saudi Arabian group which has purchased land, I think in the Capel Shire, to examine the prospect of using that land to bring sheep up to a standard that would make them acceptable for export. That decision may have been made in the private sector, but we have a long way to go before one can speculate -

Dr Gallop: You do not rule out the export of live sheep from Bunbury!

Mr COWAN: I do not rule it in either. The question will need to be put to the Minister for Transport. I am sure the Leader of the Opposition, through his colleagues in another place, has the ability to ask that question of the Minister for Transport, who will provide an answer.

SCHOOLS - MT LAWLEY SENIOR HIGH

Performing Arts Centre and Gymnasium Joint Proposal

634. Dr HAMES to the Minister for Education:

The Mt Lawley Senior High School and the Edith Cowan Academy of Performing Arts have been very pleased to follow the suggestion of the Minister to develop a joint proposal for a performing arts centre-gymnasium, and are very appreciative of his support. Is the Minister in a position to provide funding for a consultant to coordinate the development of this plan so that further funding can be considered in the forthcoming Budget?

Mr C.J. BARNETT replied:

The Mt Lawley Senior High School has a very enviable record in performing arts. However, it lacks an adequate facility. It also has a very small and inadequate gymnasium facility. It is a happy coincidence that the Academy of Performing Arts adjoins Mt Lawley Senior High School. There has been some discussion between the academy and

the high school about developing a joint performing arts facility and gymnasium to serve both institutions. The school's No 1 priority is to develop a performing arts centre and gymnasium. It is too early to indicate whether funding is available for it. We are talking about a substantial complex designed specifically to meet the needs of the Western Australia Academy of Performing Arts. The Education Department will appoint a consultant to undertake initial schematic work and to work with the academy and the school. The road between the two may need to be closed so that initial work - I stress initial work - can be done. Nonetheless, I hope it will lead to something worthwhile for both the academy and the school.

LIVE SHEEP TRADE - BUNBURY

635. Dr GALLOP to the Premier:

(1) Did the Premier attend a large community forum in Bunbury on 6 August at which his Transport Minister said that the Government had no intention of allowing livestock exports through Bunbury and that government policy was to move the trade to Kwinana?

(2) Is the Premier aware that page 1 of the *South Western Times* of 24 October carried claims by the same Transport Minister that he was powerless to stop the export of 800 000 live sheep from Bunbury?

(3) Is the Premier aware that in today's *South Western Times*, in yet another twist, the Transport Minister's principal policy officer is reported as saying that the Minister can legally intervene to stop the live sheep exports?

(4) Given the Premier's early interest in this matter, why has he allowed such contradictory statements to be made and when will he move to prevent live sheep exports from Bunbury?

Mr COURT replied:

(1)-(4) The Leader of the Opposition is homing in on an interesting subject. Yes a community forum was held at Bunbury at which the issue was raised of live sheep exports out of Bunbury. We made our position clear that we believe a specialised facility should be built for live sheep and that Kwinana is the appropriate place. As the Leader of the Opposition will know, almost all the live sheep trade goes through Cottesloe and Fremantle. The number of live sheep exports is falling.

Dr Watson interjected.

Mr COURT: I agree and have said in this Parliament that I would like more sheep to be processed in Western Australia before they are shipped. I certainly support that. However, a specialised facility is needed at Kwinana. I do not see Bunbury ever becoming a large shipping area, if it were to become a shipping port. I see Fremantle-Kwinana remaining as the main centre. The Leader of the Opposition will be aware that the main facilities required for that trade are the yards where the sheep are corralled and conditioned on the feed that will be used throughout the trip. The member for Roleystone probably has the largest holding yards for that industry in his electorate.

As I said, the trade is currently out of Fremantle and if it moves it will probably be to a specialised facility at Kwinana.

Mr Ripper: You will not rule out Bunbury?

Mr COURT: I cannot -

Dr Gallop: Yes you can. You can write a letter to the Bunbury Port Authority. We know what is your position.

Mr COURT: If the Leader of the Opposition has a policy to rule out what should be shipped out of ports, I would not mind if he tabled a list of that.

LIVE SHEEP TRADE - BUNBURY

636. Dr GALLOP to the Premier:

Will the Premier confirm that he will not give a guarantee to the people of Bunbury that live sheep will not be exported through that port?

Mr COURT replied:

What a cheap political stunt. Surely the Leader of the Opposition has more sense of responsibility than that. It would be irresponsible of me or the Leader of the Opposition to rule out the possibility of any agricultural product being shipped out of a regional port.

Dr Gallop: We know your policy now.

Mr COURT: As a responsible leader, I will not rule out what might or might not be shipped from a port. I said that I believed the trade would shift from Fremantle to Kwinana, and I do not envisage Bunbury ever being a major port for the shipment of live sheep. I do not believe it is at all necessary for any sheep to be shipped from Bunbury. From an economic point of view it makes sense to have a specialised facility, with people trucking to that facility.

MINIMUM WAGE - INCREASE

637. Mr JOHNSON to the Minister for Labour Relations:

There has been some criticism by the Opposition that the recent increase in the minimum wage is insufficient. Will the Minister inform the House of the level of increase in the minimum wage under this Government?

Mr KIERATH replied:

I am very pleased the Opposition has now decided to agree with and support the formula for setting the new minimum wage. We know that the Opposition did not agree that the Minister concerned should be responsible for setting that wage, and I would expect the Opposition to support anything that makes the Government more accountable and responsible. Members on this side of the House have always supported that proposition.

With regard to the comment that the increases are not big enough, I draw the attention of the House to a comparison between the increases in the minimum wage under the last four years of the Labor Government and those in the first three and three-quarter years of a coalition Government. It is an interesting comparison. In 1990 under the Labor Government no increase occurred at all. The workers have been far better off under the coalition Government. From 1989 to 1993 the minimum wage increased from $248.80 to $275.50, an increase of 10.73 per cent. The total increase under Labor was slightly less than 11 per cent. Under the coalition Government the minimum wage has increased from $275.50 to $332 a week, an increase of 20.5 per cent. The increase in less than four years of a coalition Government is almost twice the increase in a full four year term under the previous Labor Government. The only substantial increase under the Labor Government was in the pre-election years when there was a rush to increase the minimum wage before the election. The figures demonstrate that workers are far better off under coalition Governments, and that the Labor Party and union movement scare campaigns cannot get around the truth. When it comes to performance and putting money in workers' pockets, the workers have a far brighter future under this Government than under a Labor Government.

TRUANCY - AND JUVENILE CRIME

638. Mr KOBELKE to the Minister for Education:

I refer the Minister to his statement yesterday that it was nonsense to draw a link between truancy and juvenile crime. I also refer the Minister to the comment last month by the Attorney General who said on a radio program - -

> It's not every truant that ends up house-breaking, but most of the kids who are house-breaking do truant, and they do it by truanting from school, and it is a very clear litmus test that you've got . . . a developing problem.

What is the Government's position on this important issue of children committing offences, such as housebreaking when they should be at school?

Mr C.J. BARNETT replied:

The Opposition implied over the weekend that crime in the suburbs by juveniles was a result of truancy and, therefore, somehow it was the Government's fault. It drew the conclusion that if truancy were stopped, there would be no more crime. The Opposition grossly simplified the issue. I was misquoted in *The West Australian*. I did not deny there is some relationship or link between truancy and juvenile crime. It is true that some truants commit housebreaking - that is obvious and everyone knows it. However, the Opposition implied it was the cause of crime in the suburbs. That is quite spurious. The Opposition also grossly exaggerated the extent to which truancy occurs. Approximately 1 per cent of children play truant, which equates to approximately 2 500 students. Truancy has always been an issue. The Leader of the Opposition was an Education Minister. I cannot remember his saying anything about truancy or about literacy programs and the like! I would be interested in some of the results relating to truancy when he was an Education Minister.

Dr Gallop: They were pretty good, my friend.

Mr C.J. BARNETT: Perhaps a few results should have been made public. Truancy has always been an issue in schools and probably always will be. All schools have a truancy policy and some schools are achieving spectacular results. As I said on the weekend, Kelmscott Senior High School halved its truancy rates in 1995 and halved them again in 1996. At the other end of the spectrum, it is just as important that children continue through years 11 and 12 because it may not be only truants who are causing these problems; children who leave school may also be causing problems. They may be absent from school with the support and knowledge of their parents. A year ago, 30 per cent of children at Kwinana Senior High School went on to years 11 and 12. This year 70 per cent have gone on. All of those programs - there are dozens of them - are working in individual schools and are being supported by this Government. It is misleading the public to suggest that stopping truancy will stop crime in the suburbs. Truancy is a factor, but it is not the sole factor and it is being addressed.

WORKPLACE AGREEMENTS - OPPOSITION AND TRADE UNION MOVEMENT STATEMENTS

639. Mr McNEE to the Minister for Labour Relations:

The Opposition and the trade union movement have said that Western Australia's workplace agreements have resulted in wages being cut and that there is no evidence of benefits from industrial relations reforms. Will the Minister inform the House as to the accuracy of these statements?

Mr KIERATH replied:

I cannot believe the things the Opposition mutters. Four years ago the Labor Party and the trade unions predicted four major things: That awards would be abolished; the State Industrial Relations Commission would be scrapped; wages would be cut by 25 per cent; and there would be no safety net. All of those predictions have been proved totally false. The spokesman at the time said there would be a massive reduction in wages and conditions. It does not matter which measure is used, whether it be average weekly wages or full time earnings, wages are rising faster in this State than they are in the rest of Australia. Wages are going up, not down. Therefore, the Opposition cannot be believed. Not long ago, Tony Cook, whom I accuse of being the de facto shadow Labour Relations Minister, because the official spokesman has no credibility at all, said there was no evidence that the economy was improving. The facts say otherwise. More than 100 000 new jobs have been created, the State has gone from having the worst level of unemployment in the country to having the best level of unemployment, we have the best level of youth unemployment in the country, and at the same time, exports have been up by 25.9 per cent in the last three years. It is time for people to stand up and be counted. Our record is better than the best produced by the Opposition when in government. It shows that all of the Opposition's predictions four years ago were totally false.

When Labor was in office, we had the highest levels of unemployment in the country, some of the highest levels of youth unemployment in the country, and a disgraceful reputation of government - our name was brought down into the mud. If the Opposition were an Australian Football League club, it would have lost its licence and it would be known as the Fitzroy of politics.

PRISONS - ESCAPES

640. Mrs HENDERSON to the Minister assisting the Minister for Justice:

I refer to the mass breakout of 11 prisoners, three of whom are considered by police to be very dangerous, and ask -

(1) Is it not true that our prison system is so grossly overcrowded that inmates are being transferred to medium and then to minimum security institutions where they can walk out the gate?

(2) Why do police consider three of the escapees to be dangerous when prison authorities officially classified them as not dangerous?

(3) Will the Minister accept responsibility for this debacle and apologise to the public for putting people's safety at risk?

Mr MINSON replied:

(1)-(3) Emotive terms like "mass breakout" are ridiculous.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: Anybody who knows anything about minimum security knows that there is very little to stop people walking out; in fact, that is exactly what happened.

Mr Graham interjected.

The SPEAKER: Order, the member for Pilbara!

Mr MINSON: With respect to the term "dangerous", police classify someone as dangerous by virtue of the crime which put them into prison. The justice system has an entirely different process whereby it assesses people's security rating by whether they are likely to abscond. From time to time the ministry people get it wrong; most of the time they get it right. Police do not take into account what has been achieved with a prisoner over a period. Everybody on the other side, including the shadow spokesperson, knows very well that minimum security is a very necessary step in rehabilitation. I know that because I heard the member on television a little time ago. Members opposite know of the existence of minimum security in its current form. However, we may have to consider a fourth classification somewhere between minimum and medium.

With respect to overcrowding, I do not accept that people are being transferred prematurely from one category to another. The Ministry for Justice has well qualified people who assess whether prisoners should be classified as maximum, medium or minimum security. The member also asked whether I accepted responsibility. Under the Westminster system, as I say probably once a week in this place, the Minister must accept responsibility. If members opposite think that I will fall on my sword over the matter, they are wrong; I will not.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: I will accept responsibility for making sure that appropriate action is taken to ensure that the incident is not repeated. It is not acceptable that 11 or 12 people have absconded from albeit minimum security establishments over the past week. Having said that, I note that the overall escape rate has fallen; therefore, although 11 or 12 escapees in one lump is a lot, in the main the system has worked well, and the escape rate is fairly static. I acknowledge that what has happened in the past few days is not acceptable. I have taken steps to see that it is not repeated.

PRISONS - ESCAPES

641. Mrs HENDERSON to the Minister assisting the Minister for Justice:

Will the Minister advise the public whether the prisoners are dangerous?

Mr MINSON replied:

Three of the escapees were put in prison for violent crimes. I am not sure of the length of their terms or how much of the terms had been served. As for violent crimes, I understand three escapees were in for this category.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: The rest were there for crimes such as car stealing. However, the fact of the matter is that people spend a given time in maximum security and then time in medium security and then they are classified for minimum security, depending on their progress and assessments by Ministry of Justice experts, such as psychologists. The member asks whether they are dangerous. I would remind her that every person who goes inside will come out some day.

WESTERN POWER - SOUTH WEST GRID 400MW REQUIREMENT, OPEN TENDER ACCESS

642. Dr TURNBULL to the Minister for Energy:

Last Thursday the Minister officially opened the new Ewington coalmine at Collie. During the opening ceremony the Minister spoke of the future requirements for coal, and indicated that the demand for electricity was increasing and that to satisfy that demand the supply of a further 400 megawatts would be required by 2002. Will the Minister please assure the House that there will be an open tender process for the construction and fuel supply of the additional 400 MW?

Mr C.J. BARNETT replied:

Members opposite should visit Collie. The member for Collie is pleased that the Ewington coalmine was opened last week in her electorate. The Collie power station is 26 storeys high - it is visible on the skyline - and Western Collieries Ltd is developing the premier coalmine. The people of Collie are optimistic about their future. Western Power estimates that a further 400 MW of power will be needed in the south west grid to cover the period 2002 to 2006. The legislation provides for a competitive procurement process. Competitive bids will be invited from coal and gas, and from power generation within Western Power's system such as the Collie power station or from a third

party independent power producer using whatever fuel. It will be an open and competitive process. The procedures for that process have been determined, and Western Power, through its board, will seek those tenders in an orderly way.

Mr Thomas: Will you disclose the tender details and the results of the competitive processes?

Mr C.J. BARNETT: The member for Cockburn is incredible. Collie was facing an uncertain future. It now has major investment in a power station and two new major mine developments are underway. Optimism has returned to the town. If Western Collieries can provide the cheapest source of fuel, through Western Power or an independent power producer, it will secure the rights to provide that power. The Collie power station has been designed to cope with a second 300 MW unit.

POLICE SERVICE - SWORN POLICE OFFICERS' EMPLOYMENT

643. Mr CATANIA to the Minister for Police:

According to the annual report of the Police Department there were 4 211 sworn police officers in Western Australia in 1993. What is the number of sworn police officers currently employed in this State?

Mr WIESE replied:

I thank the member for some notice of this question. As at September 1996, 4 636 sworn police officers were employed in Western Australia. That is an increase of 425 police officers on the figure the member for Balcatta has cited. The Government's commitment to increase the number of police officers by 500, plus the civilianisation of 300 positions to enable police officers to move from desk duties to front-line duties, is on target. To add more woe to the Opposition's bleatings, I am pleased to inform the House that the number of Aboriginal police aides will be increased by 40. I had the pleasure of noting the graduation of the first 20 or so of those aides on Friday, 18 October. Not only has the number of police officers and civilian personnel increased - hence, an increase in police officers on front-line duty - but also more Aboriginal police aides are in the community. That is a marvellous plus because they do a fantastic job in the community.

AMARILLO - DEVELOPMENT PROPOSALS

644. Mr BOARD to the Minister for Housing:

Some Labor Party candidates have criticised the State Government over the planned development at Amarillo. Will the Minister provide the House with some details on the development proposals?

Mr KIERATH replied:

Amarillo was originally a farm 50 km south of Perth in the Rockingham region. It is a large area of land. The development will assist the Government to do two things: First, to meet its land supply target and, secondly, to allow for a staged development. It is true some environmental concerns exist. A major submission has been made on nutrients, drainage and ground water. System 6 wetlands will be protected. They will be purchased by the Ministry for Planning. The development of this region is an ideal opportunity not only to unlock the lower south west corridor to balance urban development but also to recognise the special needs of first home buyers.

I turn now to the political issue: Members must wonder about the motives of two potential members of Parliament, who want to win votes to get into this place, criticising the purchase of Amarillo for housing. Guess who initiated that development? It was the Labor Party when it was in government. It was the brainchild of yesterday's man, the former Leader of the Opposition and now Deputy Leader, when he was Minister for Housing, and he was strongly supported by the member for Mitchell who was, at that time, the Minister for Planning.

Mr Nicholls: Do you remember who they bought it from?

Mr KIERATH: I do not know, but it would be interesting to find out. It was the brainchild of the Labor Party when it was in government and it purchased the land for housing development. However, two Labor Party candidates are criticising the purchase of the land for a housing development. Members opposite are very silent about that.

The logic of the Amarillo scheme stands up, and the scheme is going through the approval process. If there are any difficulties, I am sure they will be sorted out in that process. I ask both the Leader and the Deputy Leader of the Opposition to show some leadership by bringing those two candidates into line and pointing out to them that the people in the region would greatly benefit from a scheme like this. We will see whether the Labor Party has real leadership or whether this is a cheap political, vote buying exercise.