WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 29 April 1998

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 11.00 am, and read prayers.

PRESENTATION OF BUDGET

Statement by Speaker

THE SPEAKER: I advise members that I have received a similar request to past years that the Budget be presented at 2.00 pm on Thursday of this week. In order to accommodate this request, I will call for members' 90 second statements at 12.20 pm on Thursday, to be followed by questions without notice at 12.30 pm. In anticipation of requests, I have approved the televising of the Budget's presentation by the Premier and Treasurer and the response by the Leader of the Opposition.

PRESCRIPTION DRUG USE BY PSYCHIATRISTS

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 59 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned are concerned that psychiatrists in Western Australia are giving too much emphasis to prescription drugs in treating their patients' symptoms and are not looking to non-drug therapies or helping the patients resolve the problems underlying the symptoms.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 191.]

BATAVIA COAST

Petition

Dr Edwards presented the following petition bearing the signatures of 1 880 persons -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petition the Government that we continue to be opposed to any additional heavy industrial and related development in area on or adjacent to the coastline in the Shires of Irwin, Greenough, Northampton, Chapman Valley and the City of Geraldton, the area known as the Batavia Coast. Viable alternative sites exist well inland which would offer the region more employment, a more stable economy, more quality of life and at less cost.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 192.]

AGRICULTURAL QUARANTINE

Statement by Minister for Primary Industry

MR HOUSE (Stirling - Minister for Primary Industry) [11.07 am]: This week marks national Quarantine Week, which is about promoting industry and community awareness of why quarantine is vital to Australia. This is designed to draw public attention to what is at stake economically, environmentally and socially if exotic pests or diseases are established in Australia. The theme "Quarantine Matters" focuses on the increasing risks with quarantine as international and interstate trade and tourism travel becomes easier and quicker.

Rural and allied industries contribute some $4.7b to the Western Australian economy each year. Agriculture Western Australia provides quarantine and protection services in support of these industries, and these activities are directed by the Agriculture Protection Board. This Government is continuing to deliver on its 1996 election commitment of an allocation of an additional $14m over four years to that agency's industry resource protection program.

A vital part of the service is the protection provided at the state quarantine barriers, including domestic airports, checkpoints at the state border and mobile checkpoints patrolling the border. Most members have seen the beagle dogs working at domestic airport arrival halls, and these beagles are a very effective way to detect fruit, vegetables or other banned organic matter, as well as raising quarantine awareness among domestic passengers.

Since 1995 these barrier operations have been provided by the Western Australian Quarantine and Inspection Service, under contract to Agriculture Western Australia. The initial contract expired on 28 February 1998, and its operation was assessed and endorsed by the Auditor General. I am pleased to inform the House that a three year contract extension has now been provided to WAQIS which will include some initiatives for strengthening the quarantine barrier. These include additional beagles attending flights; additional coverage of flights, particularly at regional airports such as Broome; the use of detector dogs at the Perth parcel centre and freight yards; the use of X-ray machines at the airport and parcel centre; and increased coverage of alternative road entry points by a mobile checkpoint.

To give the House an idea of the enormity of the task, in the past 12 months the international air terminal cleared 754 861 passengers off 4 607 flights, with up to 16 000 kilos of prohibited or infested material seized. Also, 30 000 kilos of fruit and vegetables was confiscated at the road and rail interstate checkpoints last year, and 4 900 kilos was seized or collected in amnesty bins at Perth, Kununurra, Broome and Kalgoorlie airports.

Quarantine staff examine this material for the presence of pests and diseases. Significant detections last year include Queensland fruit fly, codling moth, mango seed weevil, apple scab and brown rot. The recent outbreak of codling moth was caused by someone who bought fruit into Western Australia, perhaps without knowledge or regard for the consequences of their actions. These actions have devastated farming families who grow fruit in the south west.

I want to give a message to everyone: Take care. Only one piece of fruit or one vegetable or one flower can have a huge negative impact on our agricultural industries. If we are to maintain Western Australia's clean and green status, we must understand that protection is everyone's business. With a positive response from all Western Australians to this message, I am sure that we can improve on our current quarantine performance, which is already among the highest in the world.

BILLS (5) - INTRODUCTION AND FIRST READING

1. Appropriation (Consolidated Fund) Bill (No 1).

2. Appropriation (Consolidated Fund) Bill (No 2).

3. Government Financial Responsibility Bill.

4. Treasurer's Advance Authorization Bill.

   Bills introduced, on motions by Mr Court (Treasurer), and read a first time.

5. Petroleum Safety Bill.

   Bill introduced, on motion by Mr Barnett (Minister for Resources Development), and read a first time.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Leave to Sit on Wednesday, 29 April

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

> That this House grants leave for the Standing Committee on Uniform Legislation and Intergovernmental Agreements to meet during the sitting of the House on Wednesday, 29 April.

SUPREME COURT AMENDMENT BILL

Second Reading

MR COWAN (Merredin - Deputy Premier) [11.14 am]: I move -

> That the Bill be now read a second time.

The Bill seeks to amend section 167 of the Supreme Court Act by providing a specific head of power for the judges of the Supreme Court to make rules for prescribing scales of, or regulating any matter relating to, the costs and expenses of proceedings where those costs and expenses are not the subject of a determination under section 58W of the Legal Practitioners Act.

Determinations made by the Legal Costs Committee under section 58W of the Legal Practitioners Act relate specifically to the remuneration of practitioners in respect of -

(a) non-contentious business carried out by practitioners; and

(b) contentious business carried out by practitioners in or for the purposes of proceedings before courts.

For the purposes of the section, "remuneration" includes the reimbursement of expenses properly incurred in the course of, or in connection with, business carried out by a practitioner for a client.

The provisions of the Legal Practitioners Act are not sufficiently wide to enable determinations to be made in respect of other costs and expenses incurred in the conduct of proceedings, such as witness costs and expenses, costs for service of documents, and other miscellaneous costs incurred in the conduct of proceedings.

The current rule making powers contained within section 167 of the Supreme Court Act are not considered sufficiently wide to enable the judges to make rules prescribing scales of, or regulating matters relating to, the costs and expenses of proceedings where those costs or expenses are not, or are unable to be made, within the determinations made by the Legal Costs Committee. As a result, there are no prescribed scales of allowable costs or expenses for a range of "disbursements" incurred in the conduct of proceedings.

Consequently, when a matter is settled or determined before the court, it becomes necessary for valuable judicial and court time to be taken up listening to argument about the appropriate costs and expenses to be allowed. This time could be substantially reduced if there were scales of costs and expenses prescribed by the judges as being equitable and reasonable to be allowed as costs of the proceedings. Such scales and rules would also reflect savings to litigants, as practitioner time charges could be reduced by the amount of time otherwise taken to argue costs and expenses before the court. To provide for judges to have the rule making power to regulate matters relating to costs and expenses is a commonsense solution to the problem of determining the appropriate quantum of costs and expenses. I commend the Bill to the House.

Debate adjourned, on motion by Mr Brown.

GOVERNMENT RAILWAYS AMENDMENT BILL

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.19 am]: I move:

That the Bill be now read a second time.

The purpose of this Bill is to allow for railway land not required for railway purposes at Joondalup, Subiaco and land leased to Cooperative Bulk Handling Ltd in connection with its grain handling and storage business, to be leased for a period not exceeding 99 years. The Bill also provides for CBH to have an option to purchase the freehold estate in any such lands leased.

Currently section 63 of the Government Railways Act allows the Railways Commission, with approval of the Minister, to from time to time let or lease, for any purpose approved by the Minister, any land belonging to any railway but not required for railway purposes for a period not exceeding 21 years or where the Minister is of the opinion that, because of the special circumstances of the case, the granting of a lease for a period exceeding 21 years is justified, the Minister may authorise the commission to grant a lease for a period not exceeding 50 years.

In connection with commercial developments at Joondalup, LandCorp advised Westrail that its negotiators have experienced investor dissatisfaction with the maximum 50 year lease term, particularly because of the high capital investment required and the absence of a sufficiently long tenure for that investment.

As a result, LandCorp has sought an amendment to the Government Railways Act to permit leases of up to 99 years at Joondalup. The amendment with respect to Joondalup would have application for the section of railway only from the intersection of Grand Boulevard and Joondalup Drive to where the railway passes under Joondalup Drive to the north of Joondalup railway station.

This Government has implemented the Subiaco redevelopment project, which will sink the railway through Subiaco in a tunnel. The Subiaco Redevelopment Authority, which is managing the redevelopment works, will market the land above the tunnel which is available for lease and will receive lease revenue by way of one up-front payment. The lease moneys received will be applied to the sinking of the railway project.

Similar to the situation at Joondalup, there has been dissatisfaction with the current maximum 50 year lease term

available at Subiaco under the Government Railways Act because of the high capital investment required and the absence of long term tenure.

The Subiaco amendment would have application to railway land on top of any tunnel within the Subiaco redevelopment area as defined in schedule 1 of the Subiaco Redevelopment Act.

CBH wishes to protect the considerable investment it has in grain handling and storage facilities and has expressed a preference to purchase about 130 of the sites leased from Westrail upon which it has installed such facilities. However, the process to acquire the sites in freehold would take about five years for ownership of all the sites to be transferred due to native title considerations, land surveys, etc. Also, the costs of subdivision would be expensive in comparison to the land value of sites given the requirements for services to be provided to the created lots.

Accordingly, the option to lease the land for an extended period is attractive to CBH and is supported. I table the attached committee notes and have pleasure in commending the Bill to the House.

[See paper No 1361.]

Debate adjourned, on motion by Mr Cunningham.

RAIL SAFETY BILL

Second Reading

Resumed from 1 April.

MS MacTIERNAN (Armadale) [11.23 am]: The Opposition will be supporting the main thrust of this legislation. The Bill is part of a move to establish uniform standards for the accreditation of rail operators around Australia. It is said to incorporate some nationally agreed standards for the building, maintenance and operation of railways. It is good to see that now, a little less than 100 years after federation, given the great dramas of rail that took place at that time when railway gauges changed at the border, we are finally getting our act together in developing a rail network that will be truly national. We went a long way under the previous federal Labor Government to have a nationally compatible rail link established. We are now going the next step forward to ensure the operators of rolling stock within each part of Australia can operate throughout the entire nation. An important part of achieving that transferability has been to develop a set of rail safety standards and a process for accreditation that is accepted nationally, wherein accreditation in one State can be the basis for obtaining it in every State.

We know rail freight is a very important part of our economic infrastructure. We in the Opposition want to see more goods transported by rail than road. There are very sound environmental reasons to support a move of heavy haulage off roads onto rail. The excellent study in 1996 chaired by the member for Roleystone established that rail freight is between 2.4 and four times more fuel efficient than is road transport for heavy haulage. That has very real environmental consequences and, in the long run, very strong economic consequences for Australia once fuel starts to become more expensive. If we do not have a national freight system, we will be very disadvantaged economically in the long term and it would be very silly for us to be over-reliant on road transport.

One of our concerns about road transport policies in this State is that there has been an underlying shift from rail onto road for our intrastate transfers. The legislation is a positive move. It recognises new players are entering into the rail industry and, therefore, the provision of rail freight will no longer be a state monopoly. Although I support the retention of the rail infrastructure within the public sector, and I oppose the privatisation of Westrail, I have no difficulty in embracing the fact that we will have private rail operators. Unless we go down that path, we will not get the sorts of competition and dynamism in the rail industry that we need to ensure we have real competition for road transport. The real issue is setting up a rail system that can successfully compete with road transport.

For those reasons we are quite happy to support this Bill. As I say, it continues the excellent work done by the federal Labor Government to establish the physical infrastructure around Australia that is compatible. This is going one step further to ensure there is compatibility with what we might call the non-physical infrastructure and, in particular, the safety standards. However, the Bill in providing for accreditation and the acceptability and recognition of accreditation sets in place mechanisms for inspections, reporting, laying of complaints, deregistration and appeals. It appears to be a very comprehensive piece of legislation in that regard. Of course, once it is operational, it must be reviewed. It relies to some extent on some self-reporting. We will have to keep a weather eye on its effectiveness to see whether it is adequate to ensure certain safety standards. Unfortunately I do not have the article with me, but there is an interesting article on the number of incidents that have occurred in the United Kingdom since its rail system was privatised. It was estimated in this article that some 20 deaths and 156 injuries on the British Rail network have been a direct result of the reduction in safety standards that were consequent upon the privatisation of the rail system. Although we are supporting this Bill, we will keep a strong weather eye on its effect.

As I have previously discussed with the Minister for Local Government, knowing he is dealing with this Bill in a representative capacity, we are concerned about a couple of smaller issues. They do not go to the substance of the Bill, but we believe they unfairly and inappropriately compromise the position of employees of rail operators and go beyond what is necessary to provide decent safety mechanisms and an adequate suite of powers to rail operators to ensure that our rail network operates safely and effectively. Two sets of issues are raised here. These are not in clause order. First, the issue of self-incrimination arises in clause 50. One might argue that, in this legislation, we are proposing to give to rail investigators powers far stronger than those provided to the police. Indeed they are almost comparable to the powers given to a royal commission. As you well know, Mr Speaker, a police officer, does not have the power to compel people to answer questions, other than those relating to their names and addresses. However, we are proposing to give rail investigators much stronger powers than that. Clause 50 reads -

> It is not a reasonable excuse for the purposes of . . .[nominated sections] . . . to fail to answer any relevant questions or produce a document, object or material when required to do so under this Part on the ground that the answer, or the production of the document, object or material might incriminate the person or make the person liable to a penalty, but the answer given and the evidence of the answering of the question or the production of the document, object, or material is not admissible in evidence against the person in any civil or criminal proceedings, other than proceedings arising out of the false or misleading nature of the answer or production.

We are saying that rail investigators will be given the power of a royal commission. They can compel someone to answer questions and it is no excuse that the answers to those questions might incriminate him. We will throw in, as does a royal commission, the fact that the material that we so gather under that coercive provision might incriminate someone, unless he has his wits about him before he answers and formally raises an objection and says that he does not want to answer on the grounds that the material might incriminate him. If I may put it another way, when we call a royal commission, we grant the royal commission power to compel people to answer questions, even though the answers to those questions might incriminate them, but we provide a protection - setting aside perjury - by saying that their answers cannot be used as evidence against them in any civil and criminal proceedings. That is a rather extraordinary power to be giving a rail investigator but what is more extraordinary is that we take it a step further. We are wiping out that modicum of protection provided in a royal commission by saying to someone that unless he has his wits about him and makes the statement, "I formally object to providing this information", that little protection against civil and criminal proceedings disappears.

Imagine the scenario where, for example, a Westrail driver has been in an accident and is traumatised by it. He is subject to an interview by these rail inspectors; he is compelled to answer questions; he does not have his wits about him in that state; and he forgets to make the formal statement beforehand, "I formally object to answering these questions" on the grounds that they might incriminate him. All of a sudden all of his privileges are lost and any of his answers may be used against him. Likewise, we know that many people through lack of education or confidence will simply not be aware - in fact, probably 98 per cent of the population - that in order to provide proper protections for themselves they need to make that formal statement to ensure that their answers cannot be used in civil or criminal proceedings.

This is an extraordinary proposition: We are not only issuing these rail investigators with the full powers of a royal commission but we are also taking one step further and removing the small protections that are offered if a person does not know that he has to utter a certain set of words in order to gain access to that protection. I would imagine the member for Eyre, for example, will have a number of words to say on this. He is very concerned about the way in which royal commissions work to remove people's rights. He would be horrified to hear that in this legislation we are proposing to give rail investigators even greater powers than those we give to royal commissions.

Mr Marlborough: Or fisheries inspectors!

Ms MacTIERNAN: Yes. I will certainly look forward to the contribution from the member for Eyre on this aspect.

Mr Omodei: I thought you were waiting to hear the contribution from the member for Peel. We would be here for a fortnight!

Ms MacTIERNAN: The member for Peel will be assisting in this Bill on another provision about which he feels very strongly. That is why those members are here and paying such great attention to this debate.

There is a way in which this can be dealt with quite simply. We are proposing, not that we remove those powers of the royal commission, although I have my doubts about that, but rather that we remove the absolutely absurd provision which requires the formal utterance of a set of words before limited protection is given to a person being questioned and investigated. Earlier I pointed out to the Minister that we are talking about clause 50(2).

Clause 31 contains another issue we are concerned about - I know the member for Peel shares my strong concern -

which relates to the mechanisms being put in place in relation to drug testing. We recognise of course that a wide variety of drugs and many other things can cause serious impairment in the workplace.

The number one problem there is alcohol. We also know that one of the major impairments which is a growing problem is tiredness. We have seen in the brave new industrial relations world an increasing move to 12 hour shifts - even 14 hour shifts - and the number of accidents occurring due to impairment caused by tiredness have increased massively to the extent that the State's mining engineer is expressing alarm at the number of workers who are falling asleep on the job. We do not believe that we should put in place mechanisms to ensure that impairment resulting from the use of drugs should be dealt with, but we are concerned that we may not be properly targeting this. Rather than looking very directly at capacity and impairment, the mechanisms in place are arguably those that are used as part of a mechanism for managerial control over workers. We know that regular users of marijuana can show traces of marijuana in their bloodstreams for up to six weeks after they last used the substance. By that stage, all psychotropic effects have long passed and the presence of cannabis in their bloodstream does not in any way impair their practical performance. One has to ask whether it is appropriate that there does not seem to be a correlation in that instance between the presence of the substance in the blood and the performance. Alternatives are available to us. Companies have specialised in setting up certain procedures to ensure that a person is fully alert before he commences work for a shift and has sufficient eye and hand coordination, and sufficient alertness and responsiveness to react adequately to the safety demands of the job. That is a far better mechanism than this highly invasive and intrusive testing of urine and blood. It is also much more comprehensive because a variety of reasons that are not drug related can impact on one's capacity to operate safely. One might be tired or be emotionally disturbed for a variety of reasons. These are factors that can impact on capacity. Computer programs have been set up to provide testing each morning as a routine; for example, Westrail put its drivers through a short battery of tests that takes five minutes before they take over the operation of a train. That would adequately test eye and hand coordination. It would be far better targeted. That is the way we should be ensuring that people are not going onto the job in an impaired state; not by introducing a campaign of compulsory urine and blood testing which is highly intrusive and does not give us results that in many instances can be relied on or directly relate to the capacity for the person to perform on the job.

We are concerned about those provisions. We must move forward and embrace a system of safety that has credibility, not a system that has in the past been used by companies in many instances as a means of control over their work force and which many workers rightly feel is unduly intrusive and invasive. We hope to take these issues up in the Committee debate.

I spoke to the Minister beforehand knowing he is here in a representative capacity to give him an opportunity to discuss these important issues with the principal Minister. I do not know if he has had time to do that. If not, I do not know whether it might be wise to defer the Committee stage of this Bill so that these matters can be ironed out. We are happy to embrace any legislation that will move the cause of rail forward. Rail freight is an increasingly important part of Australia's economic infrastructure. We need to put into place every policy that we can that will encourage and give rail an opportunity of competing with road transport, because at the end of the day, vast environmental and economic consequences will flow from our moving substantially to a system of rail freight.

MR MARLBOROUGH (Peel) [11.46 am]: I ask the Minister representing the Minister for Transport to understand our concern about the provision of the Bill that gives to the appropriate officers the powers to investigate numerous matters involving employees. As indicated by the previous speaker, many of the powers that are given to these officers are far greater than would normally be allowed in the Police Force, and are far greater than would normally be given to such bodies as a royal commission. Wherever a system gives those sorts of powers to a particular officer without an appropriate safety net, there is fear and concern by workers about how those powers will be used. It can be argued that what a worker does outside of his normal hours of work in his recreational pursuits and his way of life is entirely his business. The measure should be not so much about what workers do outside their work hours, but about how, in carrying out their work, they are affected by their lifestyle, not simply because they have consumed alcohol and have alcohol in their blood, but more importantly, whether they have taken other substances. It appears these days that Olympic swimmers can take numerous forms of medicines that will give a reading of banned substances. I presume that the sorts of substances that would concern members of this place or an operator of a rail system would be the standard drugs that we know about, such as marijuana, heroin, LSD or uppers and downers.

There are reports that most of the people employed in the trucking industry run on uppers and downers. That has been well documented for many years, but I do not think anyone has ever suggested that a person's capacity to do his work should be measured by whether he has a trace of any of these substances in his bloodstream. Although we all know of the standard substances, other substances that are not generally known might be added to the list. Nothing in the Bill indicates what substances such a detection system might be looking for, and what level of various substances might lead an employer to dismiss or take action against an employee. I am sure the Minister representing the Minister for Transport will agree that the legislation contains no list of banned drugs or alcoholic substances.

Therefore, one must assume that, in line with the powers given to the investigative arm established under this legislation, in many instances a judgment will be made on people's lifestyles. I have no argument with action being taken if people are caught taking, or are in possession of, prohibitive substances while at work. I recall that when I was a union representative years ago, some workers on night shift in a depot of the then Water Authority were caught with marijuana in the glove box of the vehicle they were using. They said it was not their marijuana. It is true that the vehicle was used by many employees and was on site 24 hours a day.

[Quorum formed.]

Mr MARLBOROUGH: Having just discussed this matter with the shadow Minister for Transport, it is clear that the provisions are more restrictive than I originally suggested. It is stated in clause 31(1)(c)(i) that an employee should not carry out railway safety work -

> while there is present in his or her blood, alcohol of, or greater than, the concentration prescribed;

I presume the concentration prescribed will be the current level set for people driving motor vehicles. Alternatively, will that prescribed concentration be at a level agreed between the employers and the union?

Mr Omodei: It will be prescribed under regulation.

Mr MARLBOROUGH: Does the Minister have any idea what the level is likely to be?

Mr Omodei: I suggest that people should not go to work if they are under the influence of drugs or alcohol.

Mr MARLBOROUGH: That is what worries me. The Minister representing the Minister for Transport highlights the problem better than I can in any of my verbal gymnastics. The problem is that an employer may interpret what the level of alcohol should be or may make a judgment as to whether a person is capable of carrying out his work. The Minister is suggesting that such a judgment may be made on the basis that a person has drunk alcohol the night before. On that basis, half the Ministers would not turn up for Cabinet meetings. No doubt the Cabinet meetings would then be much shorter.

Mr Omodei: You cannot judge people on this side of the House by your own standards.

Mr MARLBOROUGH: By my standards? Everybody knows that I do not drink alcohol. I get into enough trouble without drinking alcohol. The Minister's response highlights the point I am raising. It is stated in clause 50(1) under the heading "Self-incrimination" -

> It is not a reasonable excuse for the purposes of section 42(3) or 49 to fail to answer any relevant question or produce a document, object or material when required to do so under this Part on the ground that the answer, or the production of the document, object or material might incriminate the person or make the person liable to a penalty, . . .

In most of the circumstances I can think of, if I were arrested by the police for an offence, unless the police had the appropriate documentation and authority, and I was able to be properly represented and taken through the court process, I could do all those things. Mixed together in that clause is a value judgment, which will be managed at a departmental level, as to what should be the state of play of an employee. The first thing the employee will know about not measuring up to the standard set by the employer, is that action will be taken against him because he has an alcoholic substance in his body outside the prescribed concentration. At this stage no-one knows what that prescribed concentration will be, and the Minister has said it will be set by regulation. The person involved can not only be judged and penalised, in accordance with the provisions in clause 50, but also be further penalised if he is not willing to hand over all sorts of material.

A railway employee may have been to a party and his employer may think he has been drinking and will want evidence of that. An employee may be able to provide a doctor's prescription for the pills that have caused him a problem. Clause 31(c)(ii) states that a railway employee must not carry on railway safety work while affected by a drug in a way that could detrimentally affect the person's ability to perform that work. People can take all sorts of prescribed medicines, which are legal drugs, which can affect them in that way. They range from blood pressure pills to medication for epilepsy, migraines and depression. Clause 31 refers to the accreditation process, and action can be taken against an employee before he goes through a procedure. Clause 31 states that a condition of accreditation is the responsibility for employees who perform railway safety work. I would hate to see a railway employee who is suffering from depression, migraine, epilepsy or a blood pressure disorder being penalised for taking prescribed medication. A better example would be diabetes, which varies both in degree and complexity with each patient.

Prior to passing away four or five years ago my father was a chronic diabetic. That is what eventually killed him. In the final 12 months of his employment as a senior prison officer he suffered from strokes, and the amputation of

a leg through poor circulation. He suffered from his first stroke five years after being diagnosed with diabetes. During all of that time he was on medication and, in my opinion, on a number of occasions he was not fit enough to go to work. I often said to my father that he should take the day off and not go to work. However, he was not that sort of person. He would do anything he could to get into work on the days he was supposed to be there, so would take his medication. As a middle aged man with an army background my father thought for many years that he was invincible, and it was difficult to get him to recognise the need to regulate his diet and to take his medication correctly. From time to time his medication or even his foods would affect the way that he would perform. I would hate to see a worker who may be affected by that sort of illness, who may have been unable to get a meal on time or has taken more insulin than he should on a particular day, being penalised and possibly losing his job. The penalty in clause 31(2)(b) is $5 000. The Bill does not specify a group of illegal drugs or indicate that drugs that are prescribed by a doctor are exempt. It simply states while an employee is carrying out work deemed to be of a safety requirement - most tasks in running a train on a railway track fit into that category - and the employer considers that an employee is affected by those drugs the penalty is $5 000. I can understand a penalty for people who are taking illegal drugs or drinking on the job, because that would ensure the safety of the public using that rail system. However, this clause is far too loose. It is a large dragnet that will capture everything that floats past, when it is not meant to do that.

The Minister's interjection and interpretation of the point that I made earlier about the standard that would apply - that is, somebody who had been drinking the night before and was not feeling well should not be at work - worries me, because the standard will vary from place to place. Careful consideration has not been given to the wording of this clause. I accept the general thrust that we must make the system as safe as possible. However, this wording is far too loose and will affect innocent people who are not taking hard drugs but are simply taking the appropriate medication for their ailment.

DR TURNBULL (Collie) [12.07 pm]: I will address the issue of how rail can assist the safety of people who travel on the roads in the south west of Western Australia

Ms MacTiernan: And we will send a copy of your speech to the Minister for Transport because that is what the people of Bonnierock are saying. They are sick of grain being taken off the rail system and put onto the roads and jeopardising their safety. The member should talk to Hon Eric Charlton about this.

Dr TURNBULL: I support the comments of the member for Armadale. That is exactly what my speech will be about. I would be delighted if the member for Armadale were to spread my speech from one end of Western Australia to the other. I assure the member that I have spoken with the Minister for Transport on this issue. I was a member of the Select Committee on Heavy Transport, and I am a member of the National Party.

Ms MacTiernan: Why can't you do anything then? What is the point of voting for you when one of your own members is the Minister for Transport and you can't get the rail tracks fixed and keep the freight on the rail?

Dr TURNBULL: When the Labor Party was in power in Western Australia for 11 years it did not build any rail -

Ms MacTiernan: We built lots of rail.

Dr TURNBULL: Not insofar as adding to the activities of the south west.

Ms MacTiernan: We were busy reopening railway lines that you closed down.

Dr TURNBULL: Not in the south west. The Labor Party closed the line from Donnybrook to Boyup Brook to Kojonup and from Collie to Darkan to Wagin. The Labor Party did not open up any new areas. It also closed the line from Darkan to Narrogin. I can assure the member for Armadale that the member for Eyre who was the Minister for Transport at the time reduced the Collie work force in the railways in a far more draconian manner when the Labor Party was in government.

Ms MacTiernan: Rubbish.

Dr TURNBULL: He did. The work force was reduced from 122 employees in Collie to about 30 and from 30 to three while Labor Ministers were responsible for rail. I am taking off my coat to get really wound up on this issue because the workers were facing the same problems as the Minister for Transport now faces. I will take an interjection from the member for Wagin so that he can inform the member for Armadale what is the situation.

Mr Wiese: The member for Armadale knows very well what is the situation. Her comments have been rejected and are wrong.

Dr TURNBULL: I refer now to the issue -

Several members interjected.

The ACTING SPEAKER (Mr Barron-Sullivan): There are too many interjections between both sides. Please keep them not necessarily to a minimum but at least restricted to one person at a time so that the member for Collie is not disrupted too much.

Dr TURNBULL: Thank you, Mr Acting Speaker. This debate is about the economics of rail transport versus road. It has become very clear over the years that the economics of haulage by rail are about transporting products in bulk. When bulk products are at stake, the freight rate between rail and road becomes more competitive. The issue I want to highlight today concerns haulage of timber products from plantations in the south west.

Those timber products are being grown in highly concentrated areas in my electorate such as Collie, Wilga and Boyup Brook. They have been grown by Hansol Australia Pty Ltd, Mitsui & Co Aust Ltd and Bunnings Forest Products Pty Ltd. I emphasise that the communities of Donnybrook, Dardanup and Boyanup will not accept this product being transported by road through their towns. The main highway passes through the centre of those towns and bypasses would not be constructed on the basis of road traffic density. Therefore, it is unlikely they would be considered for construction for decades. The communities of Donnybrook, Dardanup and Boyanup do not want ordinary traffic diverted from the centre of their towns because much of their business relies on that through traffic.

I alert the Parliament to the fact that this is of great concern. The communities of Donnybrook and Boyanup do not want this product transported by road through their towns. Negotiations must be conducted with Westrail to see whether this product can be transported by rail. Most important of all, the companies that own the plantations must consider planning for that transportation now and that must include consideration of rail transportation.

Woodchip is being transported from Diamond Mill beyond Manjimup to Bunbury by rail at, I have been assured by Westrail, a cost competitive rate. However, Bunnings is considering testing the market for road haulage. Many transport companies see this plantation haulage as a very good business opportunity. The companies harvesting the new plantations see this transportation requirement as an opportunity to increase their freight haulage incrementally.

As I said at the beginning of my speech, the economic benefit of transporting products by rail is dependent on the quantity of the freight hauled. Rail is not as competitive as road transport when it is done incrementally, beginning with small tonnage and increasing to a large tonnage.

I have told the Minister for Transport and the companies involved that Westrail must be proactive in its long range planning for this program in conjunction with Treasury which is from where Westrail's capital advances must be funded.

Investment in rail must be seen as a long term investment. That long term investment should benefit Western Australia and the south west on three bases: First, freight transport would be kept off the road. Drivers of private and other business vehicles do not want to be confronted by trucks loaded with plantation products. Second, general truck movement on the roads will not detrimentally affect the condition of the roads or cause deterioration of other roads. Although many of those roads are new and many new roads are planned, truck haulage of plantation products will contribute to the deterioration of other roads. Third, rail is cost competitive when it carries products in bulk.

I express my concern and that of the Donnybrook, Dardanup, Boyanup and Collie communities which I represent in the south west. I have been active in alerting the Minister and the companies concerned that the communities are greatly concerned about this issue. It is a safety issue for people driving on the south west roads and for the people living in the towns of Boyanup, Dardanup, Donnybrook and Collie.

MR BROWN (Bassendean) [12.19 pm]: I will deal with three separate matters. First, as the member for Collie said, when plantation wood comes on stream for woodchipping over the next five years, the number of trucks on the road in the south west area will be horrendous unless rail is a genuine option. The South West Development Corporation has estimated the volume of traffic entering the Port of Bunbury in those circumstances. As you are aware, Mr Acting Speaker (Mr Barron-Sullivan), if additional woodchipping is allowed to be transported by truck as opposed to rail, two and half times as much woodchip will be entering the Port of Bunbury in five years than the current level. It is estimated that one truck will enter the port every two minute unless rail transport is provided.

That increased traffic will have a significant effect on the Port of Bunbury, on the town the trucks will pass through and on the roads. Also, a significant social impact on the lifestyle of the people of those towns and their surrounding areas will be experienced, and it will also have a significant impact on the tourism industry. Tourists will quickly learn not to drive through the south west. Tourists in the south west largely travel by bus or private vehicle rather than by air. Some people involved in the tourism industry in the south west have expressed great concern to me about this increased incidence of trucks on the road, as they believe that tourists will be stuck behind a logging vehicle every few hundred metres along the road.

Although exports from the Port of Bunbury will increase, rail transport is needed to maximise opportunities. I agree

with the member for Collie that early planning decisions are required, particularly in relation to the location of chippers and such matters. This is an issue of considerable concern.

I turn now to two entirely different matters. First, how will this Bill impact on the two heritage railway organisations which operate in this State? I refer to the Hotham Valley Tourist Railway and the Australian Railway Historical Society located in the town of Bassendean. I grieved to the Premier in this place about the Government's blockage of that society's ability to continue to restore trains and carriages and run the occasional train. What impact will this legislation have on those two historical societies in their diminishing capacity to operate?

I understand that both organisations use trained Westrail staff to operate their locomotives. Most people involved in the society are former railway persons who had the necessary skills some years ago, but new requirements, safety and others, have overtaken those skill levels. Concerns have been raised in my electorate, particularly by the Australian Railway Historical Society, about their capacity to continue to operate.

I now raise two issues relating to employees, one of which was touched on by my colleague the member for Peel. Clause 31(1) reads -

> It is a condition of accreditation that an accredited person must take all reasonable steps to ensure that a railway employee who performs railway safety work . . .
>
> (c) does not carry out the railway safety work -
>
> (i) while there is present in his or her blood, alcohol of, or greater than, the concentration prescribed; or
>
> (ii) while affected by a drug in a way which could detrimentally affect the person's ability to perform that work.

Like the member for Peel, I believe that measures are appropriate to ensure the highest level of safety on trains. However, I am also aware of the ongoing debate about testing, particularly compulsory testing of employees for drugs. What is envisaged by this provision? Is it envisaged that some compulsory drug testing will be introduced whether it be for alcohol or other substances? If so, how will it be done? Various questions, ethical, medical and human rights, arise in relation to the testing arrangements - it is not an insignificant issue.

As I read the Bill, the provisions cannot be construed as giving the appropriate accredited person the authority to test; that is, it places an onus on the accredited person not to do certain things. However, it does not give the accredited person the authority to carry out those pre-employment tests. Will the Minister confirm that view? If what I suggest is not the case, and the Bill somehow provides the capacity and right to conduct tests, we must debate that aspect in view of the current debate on drug testing.

Part 5 of the Bill relates to inquiries and inspections, and provides for the employment of an investigator. Clause 42, titled "Procedures and powers of an investigator" states that the investigator is able to summons a person to attend a prescribed place, and that a person can be required to answer all relevant questions. If a person does not comply, a penalty of $10 000 will apply. The person can be summonsed by the investigator and questions can be put. If the person refuses to answer them, he can be fined up to $10 000. That suggests that the person does not have the right to refuse to answer questions. There is no provision that enables people to say that they believe if they answer the question they might incriminate themselves and therefore refuse to provide an answer.

Mr Grill: The common law right is specifically excluded.

Mr BROWN: In general terms, if a person is examined by the police about committing an offence, that person can have counsel to give advice about the law and so on. Likewise, if questions are put to them by the police, they can refuse to answer on the ground that they might incriminate themselves.

I know there is some debate in Australia at the moment as to whether that common law right should be removed. The federal Attorney-General, Daryl Williams, has recently raised in the Press the possibility of changing our system to remove that right.

Mr Grill: He is not suggesting its wholesale removal as this is.

Mr BROWN: I agree, and that debate is ongoing. However, no decision has been made by the Australian people about that issue. It is my understanding that the community supports the concept of the presumption of innocence and therefore the right of a person not to be compelled to answer questions unless, of course, the answers are protected evidence; that is, they cannot be used against them. There is no such saving clause in this legislation. It was argued in this Parliament before I became a member in respect of the Prisons Act that it was important for the administration to get to the bottom of a matter. Therefore, if people are required to give incriminating evidence, that

evidence cannot be used against them in a court of law. That gives the opportunity for the administration or the Government of the day to get back to -

Mr Grill: There is a safeguard under section 50, but only if you exercise it at the time you are questioned. If you do not have a lawyer, you probably will not exercise it and it is of no use to you.

Mr Omodei: The member for Armadale has covered this.

Mr BROWN: I have raised the matter because of a very nasty experience I witnessed when I was the Opposition's spokesperson on prisons. In 1994, this Government set up two section 9 inquiries; that is, this type of inquiry. People were hauled in and asked questions, but they were given no warning; they were not told about the provisions of the Act. As far as they were concerned, these were section 9 inquiries. They had read the Act and understood that they had to answer questions, and they did so. The inquirer passed the material to the Director of Public Prosecutions, the DPP passed it to the police and the police used that evidence to charge them under the Criminal Code. The question then went to the Supreme Court as to whether that evidence could be used. The Supreme Court held, in my view questionably, that it was not protected evidence; it could be used because the employees gave it freely. In fact, they were not told on each occasion that they must answer the question and then refused to do so. They were also not then instructed that they must answer and then gave the answer. Because that was not the process, the court held that it was voluntary evidence and therefore not protected.

Mr Grill: That is what section 50 contemplates.

Mr BROWN: Therefore it was not protected and could be used. What was the result of that? This Government spent $750 000 on those two section 9 inquiries. They went for five months; they were a dragnet. As a result of that, 11 people were charged under the Criminal Code. That is, the authorities used an administrative inquiry to get the evidence to give to the DPP, which gave it to the police, who laid the charges. That was deceptive, underhanded and unethical. If people believe someone has breached the law, they should get the police to investigate the matter; they should not have gone through this administrative ruse.

The charges against one person were dropped, but the others went ahead and those involved had to front up, and they did so. There were charges of attempting to pervert the course of justice and assault. There were three trials and a key witness was brought back from overseas by the prosecution, but all the charges were dismissed. What has that cost taxpayers? There was $750 000 spent on the section 9 inquiries, 10 officers suspended for 18 months on full pay - junior and senior officers - and three Supreme Court trials, and the Prisons Officers Union, which represented some of those charged, spent just under $500 000.

I have asked the Premier how much the taxpayers have spent on those legal proceedings. He has not answered that question, but that is not unusual. I want to know how much has been repaid to the Prison Officers Union and the Civil Service Association because all the charges were dismissed. My estimation of the cost of the original inquiry, the witch-hunt, the wages for the 10 suspended officers for 18 months and the three Supreme Court trials is about $3m. What happened as a result? Not a damn thing! That is $3m down the drain.

Why did that occur? It was the result of this sort of provision. The former Leader of the Opposition and former leader of the Liberal Party, Bill Hassell, said that this sort of provision would never be used in this way. When I was the secretary of the Prison Officers Union we told the Minister that that might be his genuine view, but that people coming after him would misuse such provisions. We predicted that people would be called to give evidence and that that evidence would be used against them in criminal courts. Sure enough, that came to pass 13 or 14 years later.

I have considerable concerns about this type of provision, because it has been used and abused by this Government at the cost of the wellbeing of many decent citizens, but also at a massive cost to the taxpayers of this State.

MR GRILL (Eyre) [12.40 pm]: I will make only a short contribution in this debate. The Opposition shares the general aims of the Government in this legislation; however, several areas give us a profound sense of disquiet. The previous speaker outlined a number of concerns I have, and the member for Armadale went into some detail about her concerns with those provisions which commence at about clause 41 - that is, part 5 dealing with inquiries and inspections - and go through to clause 50. When looking at those powers conferred upon inquiries and inspectors, any reasonable person would be filled with the sort of disquiet that I and my colleagues have about these provisions.

Clause 41 states that an inquiry will get underway when there has been serious injury, major property damage or death. It then indicates that an inquiry can be carried out by either the director general or a person appointed by that officer. We all know who the director general might be from time to time, and we can say that that person probably will be qualified. However, what can we say about the qualifications of the persons appointed by the director general to carry out such inquiries? The truth is that under clause 41, we cannot say anything about them. It is a completely open question. No guidelines are set for the qualifications such a person might have.

Normally when powers - I might say these are draconian powers - are given to persons under a piece of legislation, the qualifications of persons to whom they are given are set out. Under this legislation there are no such provisions. Any person at all could be given the authority, and the wide-ranging powers that go with that authority, to conduct an inquiry. That starts people wondering from the very beginning. We might then ask about the terms of appointment, whether they are set out in some way, categorised or tabulated. I have not read the whole of this legislation in detail, but in my scanning of it, I cannot find any provisions about the way in which the terms of an inquiry might be set. There appears to be a completely open discretion for the terms of the inquiry. A person, who might be totally unqualified, conducting an inquiry which might be as broad as the whole wide world is being given powers which in my view are draconian. It is very worrying. People will understand why members on this side of House express some concern about that.

Clause 42 indicates that the inquiry and the inquirer should endeavour to find out the cause of an accident, rather than apportion blame. That is admirable in a sense and appears to offer some sort of safeguard. However, that is a chimera; it is quite pyrrhic. Once the inspectors start to delve into these matters, whatever information they come up with ultimately will be used against the person the subject of the inquiry. It always happens, and must happen. That is the way it operates. We can talk simply about endeavouring to ascertain cause without apportioning blame, but invariably because of the way these inquiries are carried out blame is apportioned. That happens in almost every case.

Let us look at the sorts of powers being conferred upon these inspectors, which begin in clause 42, as I remember it. They have the power to require attendance, to require people to take oaths, and to force people to answer questions or to make statements, among a whole range of other powers. These powers are normally conferred in only very special circumstances, and normally are given to only police officers and judicial officers in circumstances in which there are some safeguards. This legislation does not appear to put in place any of the normal safeguards when draconian powers of this nature are conferred upon an inquirer.

We are not talking about a learned judge or a magistrate or even someone qualified in the law; we are talking about people who, pursuant to these provisions, could be totally unqualified, have no knowledge of the law and who may not even have any knowledge of the running of a railway. Immense powers, which attack the fundamentals of human liberty, of the civil rights in Australia of which we have always been extremely proud, could be conferred on those people.

A number of areas of considerable disquiet within these provisions gives us concern. I have mentioned clause 42 and the powers an inquirer might have. There is also a provision in clause 43 for the inquirer to report and to make the report public. Clause 43(4) places a requirement on the director general to remove defamatory and other prejudicial pieces of information from the report before it is made public. However, I submit that the propensity to do damage to a person being inquired into in those circumstances is extremely large. Here we have another layer of concern. A person, possibly unqualified, is making an inquiry, the terms of which are not limited and the report of which when presented will ultimately be made public - in fact, it is a requirement that it be made public - in circumstances in which it could do immense damage to the reputation of the person or persons being inquired into. It is very worrying stuff indeed.

Under clause 44, an inquiry which is being carried out in the unsatisfactory circumstances I have mentioned can continue even when a court of competent jurisdiction takes up the matter. That, in itself, is cause for concern. Under clause 44 an inquiry may start or continue and a report may be given, despite proceedings being before a court or tribunal constituted by law, unless a court or tribunal with the necessary jurisdiction orders otherwise.

Mr Omodei: In other words, they might authorise it to stop.

Mr GRILL: They might or might not. At least when people go before a court with competent jurisdiction, they know they will have the benefit of the rules of evidence; however, this legislation specifically removes that, as the previous speaker indicated. There are no rules of evidence. The inquiry can carry on just as widely and prejudicially as the inspector might like it to.

There are very few safeguards. The Minister has quite correctly indicated that a tribunal might just order the initial inquiry to cease, but it might not. It is very worrying that there are not a lot of safeguards. Some provisions appear to be safeguards but, when we analyse them, I submit that they do not amount to a lot at the end of the day.

Clause 45 deals with the appointment of an authorised officer. That person has the right to seize and retain documents and to enter property, in both cases without a warrant. We do not normally give that power to some faceless person but in this case we are giving it to a faceless person with immense powers and with virtually no qualification on the terms of the inquiry. It is extremely worrying.

Clause 46 again codifies the powers of the inspectors. It sets out very clearly the power to require a person to

produce a document without a warrant, to seize and retain documents without a warrant, and to require a person to answer questions, whether he will incriminate himself or not, subject to clause 50 of course, and without the rules of evidence being applied. These are very worrying powers.

Clause 47 contemplates a situation where the inquirer cannot enter a property. It allows for a warrant to be issued. I am not against that person having the right to be issued with a warrant to enter a property. I would have thought that safeguard should be applied in all circumstances. It appears it applies only when the person endeavours to enter a property, does not gain entry and wants to go to a court. If someone goes before a justice of the peace or a magistrate and asks for a warrant, the magistrate will look for sufficient cause or suspicion before he will issue such a warrant. However, this legislation does not require that; it simply allows the inquirer to seize documents, enter properties, administer oaths and require people to make statements. The power is simply as broad as that without any specific provision of evidence for suspicion. Therefore, all the normal safeguards of common law are swept away and are not applicable in those sorts of circumstances.

As I mentioned, clause 50 specifically removes the natural common law right of a person not to incriminate himself. The clause then indicates that the evidence that might be given to the inquirer is not admissible against the person in any civil or criminal proceedings, other than proceedings arising out of the false or misleading nature of the answer or production. On the face of it that appears to be some sort of safeguard. However, if one goes to the next subclause, the safeguards are virtually all removed. Subclause (2) reads -

> The protection afforded by subsection (1) applies only if the person objected before the answer was given or the document, object or material produced on the ground that the answer or production might tend to incriminate him or her.

That is exactly the situation that was outlined by the previous speaker. It has been subject to misuse and abuse. It is not a provision about which any Government could feel happy or proud. As we go through this legislation in Committee the Minister should think very carefully about insisting upon these provisions. I know the Minister has concern about human rights. He has shown that concern on previous occasions. I hope that on this occasion he will look very seriously at this legislation because it removes a whole host of human rights which we consider to be self-evident. This could not be done in America because America has a Bill of Rights. Here it can. The High Court has indicated that we have certain basic rights implied in the Constitution, but it has not gone very far down that track.

It is up to State Parliaments and Legislatures to ensure that these rights are not trammelled. This legislation trammels a whole range of civil rights. It gives them to faceless people in circumstances about which we need to be very careful indeed. It will be interesting to hear how the Minister responds in Committee. With his record he will, I hope, be very concerned about it and perhaps remove some of the provisions.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [12.55 pm]: The legislation before us is very important. The Bill is part of a national agreement to implement a common approach to rail safety regulation in Australia, as part of the push by industry, the States and the Commonwealth. They signed an intergovernmental agreement on rail safety in 1996 which provides for a cost effective national approach to rail safety and prevents rail safety from being a barrier to access. The legislation provides for the safety accreditation of owners and operators; the application of Australian Standard 4292, which relates to rail safety management; mutual recognition, so that there is continuity across all States; a dispute resolution process; independent investigation of major accidents; and a national information exchange to support continuous improvement of safety. The Rail Safety Bill is structured to provide these things in Western Australia. I understand that some States have already passed similar legislation.

As I say, railway owners and operators will have to be accredited for their management of safety or it will be illegal for them to operate. The accreditation will be based on Australian Standard 4292 for rail safety management, which provides an integrated railway safety management system. Rail owners and operators will have to demonstrate that they have the competency and the capacity to manage safety. They will have to prepare a safety management plan consistent with the Australian Standard and identify safety risks and propose standards and controls to control the risks. They will also have to satisfy the regulator that standards are appropriate to their railway. The Bill has so many parts and schedules which have been referred to in part by members of the Opposition.

I am pleased to see that the Opposition has indicated support for the Bill while obviously expressing concerns about various clauses, particularly clauses 31 and 50. The member for Eyre is concerned about the issue of the civil rights of workers; he expressed some considerable disquiet. We are looking at a national framework for safety. The tests as described under clause 31 by the Opposition form part of the rail safety program which will be administered by an operator.

The testing requirements envisaged in the Bill are essential following an accident or a serious safety incident. We are not talking about a trivial matter. Of course the levels for alcoholic consumption and drugs will be set under the

regulations. For example, the blood alcohol content level would be 0.02. Of course, other sections describe those regulations. A number of members opposite referred to various clauses. We are talking about fairly significant powers, I must admit. The appointment of an investigator is covered in division 1, clause 41(1), which reads -

> If an accident or other incident on, involving or associated with a railway causes or results in a person's death, serious personal injury, or major property damage, the Director General may, on the Director General's own initiative or at the request of an accredited person, and must at the request of the Minister, appoint an independent investigator or investigators to inquire into and report on the accident or incident in accordance with this Division.

We are not talking about a trivial matter. Members opposite were very much concerned about the rights of employees who are working for an operator. This Bill is about rail safety, which involves the safety of all persons, including the general public. We cannot deal with the matter in a trivial way. I would be more than happy with the assistance of parliamentary advisers to discuss the matter further during the Committee stage. I acknowledge the comments made by the member for Peel, the member for Bassendean and the member for Eyre. I will certainly be discussing those during the Committee stage of the Bill.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

BUSINESS OF THE HOUSE AND ACTS AMENDMENT (ABORTION) BILL

Suspension of Standing Orders

MR BARNETT (Cottesloe - Leader of the House) [2.32 pm]: I move -

> That so much of the standing orders be suspended as is necessary to enable -
>
> (1) private members' business to take precedence from 4.30 pm to 9.30 pm and government business to take precedence at other times on Wednesday, 29 April; and
>
> (2) the Acts Amendment (Abortion) Bill to be dealt with when government business has precedence, and to proceed through all stages at this or any subsequent sitting.

This Parliament has already had an extensive debate on this broad issue. On the so-called Foss Bill there were 46 hours of debate and on the Davenport Bill a further seven and a half hours of debate, a total of 53.5 hours. Total debating time this year on government legislation has been 30 hours. The issue has been debated somewhat ad nauseam. We are faced with a piece of legislation subject to amendments from a pro-life and pro-choice position. That makes for an extremely complex situation. The Deputy Premier will shortly suggest a mechanism to simplify the procedure for dealing with this legislation. This is obviously an important moral issue about which people feel strongly. In spite of that, I urge members to allow debate to proceed expeditiously and to reach a vote.

It is critical that these various clauses and amendments are voted on so that the will of the House can be expressed. The Government will not use a guillotine or gag motion on this issue because it is a moral issue and it would be inappropriate. However, at the same time, as Leader of the House - I am sure other members will support me - I urge that we progress this issue. The community expects that we vote on it one way or the other.

Question put and passed with an absolute majority.

ACTS AMENDMENT (ABORTION) BILL

Suspension of Standing Orders

MR COWAN (Merredin - Deputy Premier) [2.34 pm]: I move -

> That so much of the standing orders be suspended as is necessary to enable the Acts Amendment (Abortion) Bill -
>
> (a) to be committed forthwith for the purpose only of putting one question in Committee to insert in the Bill the attached schedule of amendments, and if the insertion of amendments is agreed to, to report the Bill from Committee with amendments; and the Chairman of the Committee is directed to put those questions accordingly; and
>
> (b) if reported from Committee with amendments in accordance with (a), for the recommittal of the whole Bill as amended to be set down as an order of the day for a later stage of the sitting.

Attached to the motion is a schedule of amendments put forward by the member for Perth and by the Minister for

Health that generally reflect the views of people who are pro-choice. In that sense, effectively we are suggesting that the proposed amendments to what is now called the Davenport Bill have at some stage been debated in the time alluded to by the Leader of the House. Rather than redebate those clauses I thought it would be provident for the House to consider whether it would put them all as one question. I have asked the Clerks to confirm with members that the amendments to be put as one question are the final form of the amendments that were put forward by, first, the member for Perth and, second, the Minister for Health. We would then have a Bill which reflects the views of the members of the House that to date have been in the majority and which then would produce a Bill which reflects the views of the people who are pro-choice.

The object then is to have the Bill reprinted. With a reprinted Bill that reflects pro-choice we would be able to recommit it and deal with the amendments on the Notice Paper which have been moved by the members for South Perth, Joondalup and Collie.

Other members of whom I am not aware may have presented amendments. This proposition is not to curtail the opportunity to debate those amendments proposed by various members of the House. However, I make no apology for this motion as it will permit us to decide with one vote all those things which have already been debated and decided.

I understand that the printing office has indicated that it will be able to reprint this Bill in the time normally set aside for grievances and debate on other private members' business. I anticipate - I hesitate to put this forward - that we will have around one hour or one and a half hours of debate on the suspension and the one question regarding the amendments of the member for South Perth and the Minister for Health. We would then move, as we normally do on Wednesdays, to private members' business with grievances, and then debate a subject the choice of the Leader of the Opposition - I understand it will be the waterfront in this instance. Once that debate has concluded, some form of agreement is anticipated to ensure that although a debate takes place on this Bill, it will not rage into the small hours of the night.

Therefore, once the Bill is reprinted, we can consider the amendments in the names of the various members already on the Notice Paper. We will clearly vote with one question on those issues which relate to bringing the Davenport Bill closer to what has already been determined by this House. With the reprinted Bill, we can look at amendments proposed and in many respects already debated.

Notwithstanding that, it is still envisaged that we will consider those amendments already moved by the members for South Perth, Joondalup and Collie immediately after the Bill is recommitted. I reiterate: This is not an effort to curtail debate on amendments proposed other than those which have already been debated extensively. First, I ask members to seriously consider this motion as a means to expedite debate, and to support the motion to suspend. Second, I ask members to be prepared as a Committee to vote for the amendments put on the Notice Paper by the member for South Perth and the Minister for Health as one question.

The SPEAKER: I have asked the Clerk to collect a report previously put before the Parliament by the Select Committee on Procedure. This motion proposes a pro forma committal, which means that the Bill will be reprinted containing many amendments. However, the Committee will examine the Bill clause by clause and any further amendments members may want to move. I clarify the technicalities.

MR PENDAL (South Perth) [2.44 pm]: I left the House today at 1.00 pm to attend a funeral. In discussion with members of the Government, I was told what the parliamentary day would bring. However, I returned from that funeral at 2.20 pm, and during question time I was told privately by the Deputy Premier that yet another U-turn had taken place. I was told what would occur, and that there would be no discussion.

I will explain in a moment how we now have arrived at strategy No 11 from the government benches.

If people are suspicious of each other, and all sides of this debate have developed that suspicion, this motion would add to that state unless members are given time to consider what the Deputy Premier has just stated. It is not good enough for someone to walk back into the House at 2.20 pm and be told that we will do a U-turn on what we were told at 1.00 pm that we would be doing.

We are dealing not with the Dog Act or the Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act, but with one of the most important pieces of legislation members of this House will ever be called upon to consider.

It may be that there is some merit in what the Deputy Premier has proposed - but I doubt it. Why? If he were serious about canvassing support for the motion based on its validity, there would be no point in springing it on a member an hour and twenty minutes after he was told a different strategy was to be followed. I ask members: Why do they think we are being asked - no, told - that a U-turn is to take place within a few minutes of when debate was to resume on clause 4, and when, at least from my reckoning, some chance of a breakthrough appeared imminent by which

clause 4 would pass once the Committee resumed? If we are within a few minutes of resuming debate on clause 4, and are within a hair's breadth of making progress and reaching a compromise to bring consideration to an end, why did the Deputy Premier pull out this suggestion?

Why is the Deputy Premier sponsoring this motion? Why is it, through you, Mr Speaker, not coming from the Leader of the House? A few minutes ago, the Leader of the House moved a suspension of standing orders, from which not one dissenting voice was heard. What did that indicate? Members broadly agreed with what the Leader of the House sought to achieve; namely, to find a way to expedite the vote. The members for Joondalup and Collie and I agreed, as did all other members who took part in the debate.

Why is this motion moved by the Deputy Premier, and not the Leader of the House? I have not spoken about this issue with the Leader of the House, but I hope he has not moved the motion because he thinks it stinks, is a rouse and is an ambush of the Parliament by the Deputy Premier, who, having felt left out of the affair, was not privy to the understanding that we were within a couple of minutes of discussion on clause 4 and the possibility of resolution.

Why are we seeing strategy No 11 after six weeks? The Government said strategy No 1 was to let the Davenport Bill proceed. Strategy No 2 was to reject the Davenport Bill because it might have looked like it had taken the lead. Strategy No 3 was to introduce a competitor in the form of the Foss Bill. Strategy No 4 was to pass the Foss Bill with amendments. I pause here. Notwithstanding that the Foss Bill passed in this House with a number of amendments promoted by people of like mind to me, a decision was made.

Strategy No 5 was to ensure that the Foss Bill was ruled out of order in the Legislative Council; strategy No 6 was to resume debate on the Davenport Bill; and strategy No 7 was to object to members of Parliament having taken five weeks to debate this Bill when we have debated the School Education Bill for five months. Where are our priorities? These gargantuan thinkers in the government strategy group lead by the Deputy Premier did not stop there. Strategy No 8 represented what many people thought was a light at the end of the tunnel, because the Leader of the House suggested that perhaps we should withdraw the Davenport Bill and replace it with a third Bill. That is part of the basis for the Deputy Premier's suggestion today, but he opposed that move two weeks ago. Why the change of heart now, having wasted two or three weeks as a result of his opposition? Why does he now appear to believe that there might be some validity to this? Strategy No 8 was the first sign of any political nous on the Government's part. However, it did not stop there. We were then given strategy No 9, which was to reject the notion of the third Bill - we did not want to hear about it. We were then given strategy No 11 -

Mr Shave interjected.

Mr PENDAL: I was checking that members were alert. Since the Minister who interjected has supported the pro-life strategies throughout the debate, I have no doubt he will support them again. Strategy No 10 was to resume debate on the Davenport Bill. Members were still not satisfied. The gargantuan political strategists came to the rescue again.

Ms MacTiernan: Don't be nasty; remember he was a foetus once.

Mr PENDAL: Strategy No 11 is to supersede strategies one to 10 because we cannot think of anything better at 2.50 pm on Wednesday. That is as seriously as one can take a proposition served up at 2.20 pm. It was not presented as a question - we have not been asked whether we will consider it or whether we believe it is a good idea - but as a fait accompli.

I do not understand what we are doing. If members on the pro-choice side can reassure me by explaining what it all means then they are better than me by far because I do not understand it. What is more, I do not trust the person who has moved the motion. It is very significant that it has been moved by someone other than the leader of government business in the House.

If it has not occurred to members by now, I will oppose the suspension of the standing orders along the lines the Deputy Premier has outlined. I will oppose it because this is not the appropriate way to do things. If there were even a skerrick of validity to what he is doing, he would move on to other business and let members go away to consider it.

I ask pro-choice members: Are they certain that it is not a device on the part of the Deputy Premier that will cause them some detriment? If they are not, they should at least do what I am suggesting.

I was asked by the media this morning for my view - that is the best I can give - about what would happen with the debate today. I told two journalists that if we could get early resolution of the Baker amendment to clause 4, we might be able to deal with the entire Bill today. I said that at about 10.00 am and that was my assessment then. I repeat, when I left the House to go to a funeral at 1.00 pm, my belief was that we would resume the debate at 2.30 pm and that we would deal with the amendment to that part of clause 4 sponsored by the member for Joondalup.

Throughout that period the member for Joondalup had discussions with Hon Cheryl Davenport with the aim of arriving at some form of marriage of the provisions proposed by the members for Perth and Joondalup. That is the second string to my bow - there were people moving perilously close to resumption of debate on clause 4 with the object that it may well be brought to a full vote by the end of the day.

In those circumstances, it is not only unfair, but it is also unparliamentary and a gross abuse of the system for members to sneak up like this giving no notice. Any member who feels inclined to support this motion should remember that if it can be done today with their blessing, it can be done next year or in five years to their detriment. It is a smart alec trick if the mover has no intention of providing notice and explaining the purpose behind it. I ask members why they would trust a strategic planning group that has had 11 changes of heart in six weeks. If this were a battle and we were trusting people using these tactics, we would all have been dead six weeks ago.

Mr Bridge: When you are in trouble and you know you have done wrong, you retreat and introduce all sorts of scenarios to get out of it.

Mr PENDAL: The member for Kimberley has said more directly what I suspect. However, I still like to think that my suspicions and that interjection are wrong. It is still not too late for the Deputy Premier and, for that matter, the Premier, to become involved on this point. The Premier must make a decision on this matter just like the rest of us. He is a fair minded person and I do not believe we are being treated fairly by being asked to make a decision at 2.55 pm on a motion moved at 2.20 pm. It is not only unfair, but it is also an abuse of the parliamentary system.

If the Deputy Premier proceeds to a vote now, and therefore does not give us time to consider whether we are facing a genuine way out or an ambush, he will simply invite those things later in the debate that members sought to avoid today being included in clause 4 of the Davenport Bill. What a grand strategy! I ask members, in the absence of the Deputy Premier's being prepared to withdraw this and at least giving us time to consider, to vote no on the ground that not only am I ignorant about its motives but also at least 50 others members in this House are in the same position. If the Deputy Premier will not withdraw it, I ask members to vote against the suspension.

MS WARNOCK (Perth) [2.59 pm]: To the member for South Perth I say straightaway that his suspicions are quite wrong. Like the Deputy Premier, I am a person from the country. I am simple and down to earth, and I believe we must get on with the debate. I support the proposal of the Deputy Premier because, as I said when introducing the second reading stage of this Bill, we have well and truly canvassed the issues during the debates on both the Foss and Davenport Bills in both Houses.

In essence, both Houses voted for women's choice, a view shared by a clear majority of Western Australians of all ages and backgrounds. The people in this State, particularly the women and their doctors, have made it obvious to us what they want us to do. This amended version of the Davenport Bill contains the essentials of the message I spoke of a moment ago and to which the Deputy Premier has alluded - abortion for women should be safe and legal under certain circumstances.

Those reasons, circumstances, justifications, or whatever we may call them, are all contained in this amalgamated Bill, which offers checks and controls on illegal abortion. In common with the Deputy Premier, being a person from the country, I believe this is a sensible and practical solution to this very serious problem. At the moment the law on the medical matter of abortion is up in the air - completely uncertain - as a result of the circumstances which we all know about. Therefore, we should suspend standing orders to assist in the passage of a Bill that deals with matters we have all well and truly debated already.

It provides a solution to what otherwise might be an extremely protracted matter. However, it does not prevent those who oppose choice from having their say on the amendments moved by the members of South Perth, Joondalup and Collie. Members of the public of this State believe we have resolved this matter already, thanks to several bits of media coverage over the past several weeks. Many of them are probably quite shocked and surprised to learn we are still debating it. There is an expectation among the people of Western Australia that we should carry out our responsibilities on behalf of our electors.

By suspending standing orders and allowing this amended Bill to be debated en bloc, we will be facilitating the passage of a Bill that we have already essentially agreed upon, without stifling debate on the new amendments which were presented to us in a rather difficult way - overnight - as has so often been the case in the past several weeks. Overnight we have had to come to terms with the amendments of the members for Joondalup and South Perth. If we decide to vote en bloc on the amalgamated Bill, which contains the essential elements of the Foss and Davenport Bills, we will be voting on something about which we have already agreed, without stifling debate on the other new, overnight amendments with which we have been presented. I support the motion.

MR PRINCE (Albany - Minister for Health) [3.03 pm]: I support the motion by the Deputy Premier and to some extent I disagree with his description of this as being pro-choice. I do not see it in that way at all. In the schedule

which has been circulated, the Deputy Premier is putting forward a summary of the amendments which have been discussed and debated by this Chamber in preceding weeks, which largely have been agreed, and about which one would expect there would be no debate or dispute were they to be put en bloc. I do not see any more to the device put forward by the Deputy Premier than to wind up with a print of the Bill that represents what we have largely agreed to.

I wished to see the proposed amendment about abortion in section 199 of the Criminal Code. It is a statement that abortion is wrong unless it is authorised or justified - it is slightly amended here, and I am very happy with it - by a medical practitioner in good faith with reasonable care and skill and justified under section 333 of the Health Act. The words at the beginning of proposed new section 200 are "subject to section 259". The Notice Paper has pulled together a couple of amendments and put them together, which is as they should be anyway. It puts before us a slightly better piece of consolidated drafting.

The next page of the summary contains mostly a series of amendments which follow on from the one I wanted to move in any event, which also appears on pages 12 and 13 of today's Notice Paper. That is followed by a succinct statement of the amendments moved originally, as I recall by the member for Swan Hills, dealing with the definition of "informed consent"; what that means; the information to be given to the woman concerned; by whom; and so on. Although this might be moved by the Deputy Premier, the amendment shown is that of the member for Swan Hills. The next section of amendments appearing on this page deals with the concerns of the member for Mandurah, in particular, when the woman involved is a dependent minor. Those amendments appear on page 16 of the Notice Paper. Other consequential amendments relate to the Children's Court of Western Australia Act and so on.

The only amendment that is not in the paper distributed by the Deputy Premier as being his motion - I am concerned it was not there as it appears on page 15 of the Notice Paper - deals with abortion subsequent to 20 weeks' gestation, where it must be approved by not less than two of a panel of six independent doctors. From brief consultation with the member for Perth, I understand it is not there because of an amendment foreshadowed by the member for Collie which will seek to reduce the period of 20 weeks to 16. If that amendment is successful, the question arises as to whether any form of panel can deal with abortions later than 16 weeks' gestation. That debate arises out of the attempt to reduce 20 weeks to 16 weeks. It is not that which has been put forward by the Deputy Premier. In that sense it has become contentious because the member for Collie is trying to reduce the time within which a termination can occur from 20 weeks to 16 weeks.

Otherwise I would have thought the Deputy Premier's proposition was not contentious. We have already debated these matters. The circulated paper contains amendments that have been put by various members in this place and which, in some respects, have been rewritten. I am obliged to Mr Calcutt of the parliamentary counsel for spending time doing that. The wording is better than that which we created in one long, late night session. In that sense, it is better written law.

I urge members to accept that this will put the Bill before us in the form which effectively we have already decided it should be, so that we can move forward and deal with the other amendments; for example, that of the member for Collie, which seeks to reduce the time within which an abortion can be performed from 20 weeks to 16 weeks, and those that have been crafted by the member for Joondalup dealing with offences in the Criminal Code, which I happen to agree with, but others do not.

Those issues which are likely to be controversial can be the subject of debate in a contentious sense; whereas I put strongly to members that the issues which have been put forward in the motion by the Deputy Premier to suspend standing orders are non-contentious and should be agreed. In a procedural way, this motion will help the Chamber to move forward and deal with the Davenport Bill as amended, as we would like to have seen it, subsequent to debating any new amendments that will come forward. In that sense it directs the debate, although it does not confine it, to the other matters that have been raised, many of which I agree with and some of which I do not.

It is difficult to work through amendments on amendments and contingent amendments on contingent amendments as shown in the Notice Paper. This process, which brings together the non-contentious amendments in a consolidated form, will enable us to avoid what could otherwise be somewhat cumbersome procedural difficulties. I urge members to support the motion of the Deputy Premier.

MR COURT (Nedlands - Premier) [3.10 pm]: My comments will be brief. The member for South Perth wanted to know my position on both the suspension of standing orders and the proposal to bring in those amendments from the member for Perth and the Minister for Health. The proposal being put forward is practical. I want to speak against some other amendments and provisions of the Bill.

As you have outlined to the House, Mr Speaker, when this procedure takes place we will be able to go through this matter clause by clause. At that stage I will have the opportunity to make the points that I want to make. Therefore,

the proposal put forward for the suspension of standing orders and the bringing in of the amendments is practical. I will have the opportunity of putting forward my concerns when the appropriate clauses come forward. It will also give me the opportunity of supporting the amendments being put forward by the member for Joondalup, which I went through with him last night. The proposal means that I will be able to support them more quickly.

DR HAMES (Yokine - Minister for Housing) [3.11 pm]: I reassure the member for South Perth that this is not some gargantuan plot by those who support the pro-choice argument. I found out about it probably half an hour before he did. When I heard the proposal, my first thought was, "What a good idea to put those amendments together and get a redrafted paper that lists that which has been agreed in the past. We can then get on with dealing with those amendments the member for South Perth wishes to discuss." As I informed the member privately, there has been general agreement privately to support his recommendations.

Mr Pendal: What is the point of doing what the Deputy Premier is proposing? We were about to start on clause 4.

Dr HAMES: We would have had to go through in detail all the different amendments coming from all the different members that have been gone through over and over again.

Mr Pendal: That is what Parliament is for; it is for members to put amendments on the Notice Paper.

Dr HAMES: This is a different mechanism for getting the bulk of the amendments into an order that makes it much easier for everybody to follow and then allows us to deal in detail with the amendments put forward, especially by the member. As I have said, there is fairly general support for the view that counselling be done by someone other than the person procuring the abortion. There has been general support for the Minister for Health's amendment and a degree of support for the amendment of the member for Collie.

Mr Pendal: I agree with you.

Dr HAMES: We will get through these today if we support this recommendation.

Mr Pendal: If there is unanimity, why are we bringing in some new mechanism which has never been tried before?

Dr HAMES: The Speaker in his comments suggested that it is not the case that it has not been tried before and that it is an acceptable process for this House. It is simply a matter for convenience; it is not any plot. As I said, I heard of it half an hour before the member for South Perth.

Mr Pendal: It has taken us another hour of debate, when we could have started on clause 4 of the Bill.

Dr HAMES: With respect, if the member for South Perth had not argued so long and strongly against it, we would have been through the process well before now.

Mr Pendal: Yes, we would, but I do not trust it.

MR BRIDGE (Kimberley) [3.14 pm]: The difficulty the Deputy Premier has in seeking support from those of another view on this issue is that all through this debate there has been no real preparedness by the pro-choice people to accommodate serious aspects of our concerns about this legislation.

Dr Hames: That is not true. I have just outlined what we have been prepared to do.

Mr BRIDGE: That is the bottom line. Every which way we have sought to try to reach some basis of understanding for endeavouring to put a workable package in place which has some regard for the broader aspects of this issue, we have been knocked off at the pass. We have scraped hardly a single measure of consideration from the pro-choice people since the day this debate started and over the weeks it has evolved. Today at the very last moment a proposal was put forward by the Deputy Premier asking the House to agree with this process. Members must be fooling themselves if they think that we are so light around the eyebrows and thick in the head that we would not be able to see through this motion. This motion cuts to the core of the problem that a lot of pro-choice people have with the issue. The evidence is now overwhelming that the interests of the baby are profound in this whole exercise. I will read members a letter which reflects the opinion of people out there. I will include the comments telling me how good I am, but I ask members to disregard that because I imagine that this letter has been sent to other politicians. The Kalumburu Aboriginal Corporation has got it right; it has not read things incorrectly. The member for Dawesville should listen to this. The corporation writes -

> Dear Mr Bridge,
>
> The people of Kalumburu Aboriginal Community heard that you voted against the Davenport Abortion bill.
>
> We want you to know, we love you for that, you are a good man. You stand for life, and God's call for each person to come to life. Good on you, we will respect you. God will bless you.

I have not read that because it tells me that I am a good man, but because it reflects the views of people out there, views of which many people in this place have lost sight.

As a result we have progressed to the infamous nature of this debate. When judgment is handed down, people will be judged by the side on which they sat on this matter. When the time comes for judgment, a big place in this world beyond this little Chamber will judge members for their stand. The word "infamous" will be profoundly evident for many people. Today we are being asked to consider the necessity of medical factors and the need to clarify the legislation. Again, that is an abandonment of the most central of the issues.

The SPEAKER: Order! We are debating a motion to suspend standing orders, which is a procedural matter. I have allowed and I tend to allow people a few minutes to make a point or two in general, and then I ask them to return to the substance of the matter before the Chair; that is, the motion to suspend standing orders to allow these matters to be dealt with.

Mr BRIDGE: Thank you, Mr Speaker. You need not have put your efforts into saying that because I could tell by the look in your eye that you wanted me to conclude. You know, Mr Speaker that it was necessary to make the points that I consider to be central to this issue. In that context I, like the member for South Perth, am against this proposal and will vote against the motion.

MR BAKER (Joondalup) [3.18 pm]: I support the motion. Unlike the member for South Perth, I have the utmost trust, faith and confidence in the Deputy Premier, as I have in the Premier, and for those reasons I will be supporting the motion.

MR KOBELKE (Nollamara) [3.19 pm]: The leader of government business said in his contribution that the issues relating to abortion, which are pro-choice and pro-life, have been well canvassed in this place. I accept what he said, which fits in with the advice that you, Mr Speaker, gave a few minutes ago. Members must address the detailed clauses in the legislation. That is a different issue. Like many members, I have moved from the Committee stage into broader issues, because it is often difficult to draw the line. However, the figures relating to the total hours spent on debate so far indicated that the time spent on this Bill in Committee is quite short.

The real issue now is a management issue: How should we best manage the situation? Unfortunately, the Deputy Premier has now made similar mistakes to those that were made throughout the entire debate. Poor management has been the main cause of the waste of time. I see merit in the motion moved by the Deputy Premier. However, why could we not have had it an hour or two ago? Why could we not have had a chance to go through the four pages and compare them with the eight and a half pages of amendments, to size up whether there is any significance in the way it has been reformed? I accept that the wording is almost identical. In one area, two amendments are consolidated. However, the order and positioning of the amendments can have consequences and implications for the meaning of the clauses and for the whole Bill.

We are expected to pick this up and, in a few minutes, accept there will be no advantage or disadvantage or any change in reforming the amendments on the Notice Paper into the amendments now before us. In addition, it has been suggested by the Deputy Premier that once we pass this motion, the Bill will be raced off for a reprint, the reprint will be placed before us, and we will immediately continue debate which will enable us to move our amendments. I accept the advice from the Speaker and the Deputy Premier that the procedures will allow members to put forward their amendments.

I have some amendments on the Notice Paper which have not been picked up by this motion. I accept the guarantee that I will have the opportunity when the Bill is recommitted, to move and speak to my amendments. However, if as a result of the way the Bill is reconstituted, my amendments would change in significance, I must be able to consider that situation. I will not have that opportunity if the reprint of the Bill is handed to me two, five or 20 minutes before I must become involved in debate.

I return to the mismanagement of the whole affair. I accept that there are clear advantages in the management of the House in trying to take eight and a half pages of amendments - many proposed by the member for Perth and the Minister for Health - and simplify them by incorporating them into a reprint. That process will have certain advantages, and the proposal has some merit.

We can then go through and amend the consolidated Bill rather than move amendments to amendments - which is the current situation. However, if we had the reprint half an hour before it was returned to the Chamber we could go through it, make comparisons and judgments on whether there has been a slight change in the order which could affect the way we move our amendments, and the Deputy Premier would receive unanimous support for the motion.

The Deputy Premier has put us in a very difficult position. He seeks to put in place an order of debate which will mean that we must accept the reprint without the opportunity of going through the fine detail. From what I have read

so far, I expect the changes will be minor. Nonetheless, they are there, and we can make no judgment of the consequences they may have for our amendments, or for how we may wish to contribute to the debate. We have had no time for that. In addition, the Deputy Premier has suggested that the reprint will return to the Chamber and we will have a couple of minutes before returning to debate.

If the Deputy Premier is willing to contribute to this debate in closing, he should give us an opportunity of having at least an hour in which to peruse the reprint without undertaking any other debate in this House. We should be able to sit down with the reprint and reform our amendments, if necessary, and then turn to the debate. In that way, the debate will be expeditious, and some confidence will be restored. I agree with the member for South Perth that the way this motion was foisted on us did not engender any confidence that we were not being taken for a ride. While the member for South Perth and other members made their contributions, I read through the proposal. It does not appear to be as shonky as it did when it was presented.

The proposal appears to have some merit, but I am not willing to vote for it unless we have some undertaking that the reprint will be in our hands with at least one hour of non-sitting time to allow us to sit down with colleagues of a like mind and check that our amendments still make sense in the light of the rewording.

That is the compromise I put to the Deputy Premier. I will cross the floor and vote for this motion, only on the basis that the Deputy Premier gives an undertaking that we will have the reprinted Bill in our possession for at least one hour prior to the commencement of debate, and that hour should be a non-sitting hour when we are not involved in other matters.

MR BARNETT (Cottesloe - Leader of the House) [3.25 pm]: I understand that if the motion is agreed to, and the so-called pro-choice amendments are consolidated into one Bill, it should be possible to make available a copy of that Bill at 7.30 pm. That would meet the member's request.

Several members interjected.

The SPEAKER: When the reprint is returned from the printer, Chamber staff will carefully crosscheck it before it is circulated in the Chamber, to ensure that the material has been correctly transposed.

MR MARLBOROUGH (Peel) [3.27 pm]: I seek some clarification from the Leader of the House. I support the motion moved by the Deputy Premier in an attempt to progress debate. That will be in the best interests of not only the Parliament but also the community. I thought that the two week break from Parliament may have allowed both sides of the debate to consider how debate could progress, without hindering the prospects of members who have different views and allowing them to put those matters to the Parliament.

A number of members have said - I refer particularly to those on the pro-choice side - that they are not as suspicious as the member for South Perth about the reasons the Deputy Premier has entered this process. Those members indicated that they believe they can live with the Deputy Premier's proposal. However, they want a guarantee.

That leads me to my question. The Leader of the House has indicated that a guarantee can be made. However, we need to confirm that. He indicated that the reprint of the Bill would be returned to us by 7.30 pm. It is obvious from the questions that have been asked - particularly by members who wish to move a number of amendments - that some members would feel more confident if they were guaranteed one hour to consider the situation. Can the Leader of the House facilitate that request in the management of government business?

Mr Barnett: I understand that if the motion is agreed to, the Bill can be reprinted and returned by 7.30 pm. Private members' business is scheduled to go through until 9.30 pm.

Mr Pendal: Why would we debate the Bill at 9.30 pm when, under the previous arrangement, we were to resume debate at 2.30 pm? The Leader of the House is filibustering his own Bill. We will have lost seven hours! Congratulations, Deputy Premier!

Mr MARLBOROUGH: I wanted to ask that question. I think the Leader of the House has already indicated that the concerns raised by the pro-choice argument require at least some time and will be met. I ask the Leader of the House, and even the Deputy Premier:

If for whatever reason the Bill is not returned within that time frame, will we be smart enough to manage the business of the House so that the members with concerns will have at least one hour to look at the contents of the Bill to satisfy themselves, as best they can, that they will not be short-changed? Then we can get on with the substantive motion.

Mr Barnett: I think we can guarantee that.

Question put and a division taken with the following result -

Ayes 41

Mr Ainsworth	Mr Cowan	Mr Kierath	Mr Riebling
Ms Anwyl	Mr Day	Ms MacTiernan	Mr Ripper
Mr Baker	Dr Edwards	Mr Marlborough	Mr Shave
Mr Barnett	Dr Gallop	Mr Marshall	Mr Sweetman
Mr Barron-Sullivan	Mr Graham	Mr McGinty	Mr Thomas
Mr Bloffwitch	Mr Grill	Mr McGowan	Dr Turnbull
Mr Board	Dr Hames	Ms McHale	Mrs van de Klashorst
Mr Bradshaw	Mrs Holmes	Mr Minson	Ms Warnock
Mr Brown	Mr House	Mr Nicholls	Mr Wiese
Mr Carpenter	Mr Johnson	Mr Prince	Mr Osborne *(Teller)*
Mr Court			

Noes 13

Mr Bridge	Mr Kobelke	Mr Masters	Mrs Roberts
Dr Constable	Mr MacLean	Mr Omodei	Mr Tubby
Mrs Edwardes	Mr McNee	Mr Pendal	Mr Cunningham *(Teller)*
Ms Hodson-Thomas			

Question thus passed with an absolute majority.

Committee

Resumed from 9 April. The Chairman of Committees (Mr Bloffwitch) in the Chair; Ms Warnock in charge of the Bill.

The CHAIRMAN: In accordance with the resolution of the House today, the question is that the schedule of amendments circulated in the Committee be agreed to.

Question put and passed.

Amendments agreed to pursuant to the foregoing resolution -

Clause 4

Page 3, line 9- To insert after "repealed" the following -

and the following section is substituted -

" **Abortion**

199. (1) It is unlawful to perform an abortion unless -

(a) the abortion is performed by a medical practitioner in good faith and with reasonable care and skill; and

(b) the performance of the abortion is justified under section 334 of the *Health Act 1911*.

(2) Subject to section 259, if a person who is not a medical practitioner performs an abortion that person is guilty of a crime and is liable to imprisonment for 5 years.

(3) In this section -

"medical practitioner" has the same meaning as it has in the *Health Act 1911*;

"perform" includes attempt to perform, whether or not the woman concerned is with child. ".

Clause 5

Page 4, lines 1 to 11 - To delete the lines.

Clause 6

Page 4, lines 14 and 15 - To delete the lines and substitute the following lines -

amended in Part 1 -

(a) in the item commencing "s. 199", by deleting "Attempt to procure the miscarriage of a woman"' and substituting the following -

" Abortion "; and

(b) by deleting the items commencing "s. 200" and "s. 201".

Page 5, line 1 - To insert after "***1911***" the following -

& CHILDREN'S COURT OF WESTERN AUSTRALIA ACT 1988

Clause 7

Page 5, lines 7 to 10 - To delete the lines and substitute the following -

334. (1) In this section -

"perform" includes attempt to perform, whether or not the woman concerned is with child.

(2) For the purposes of subsection (3), *The Criminal Code* and any other enactment, it is lawful for a medical practitioner to administer surgical or medical treatment to a woman for the purpose of performing an abortion if -

(a) the treatment is administered in good faith and with reasonable care and skill; and

(b) the performance of the abortion is justified.

Page 5, line 11 - To insert after "who" the following -

unlawfully

Page 5, lines 12 and 13 - To delete "unless the performance of the abortion is justified".

Page 5, line 17 - To delete "procurement" and substitute the following -

performance

Page 5, line 19 - To insert after "justified " the following -

for the purposes of section 199 (1) of *The Criminal Code*

Page 5, line 24 - To delete ", social or economic" and substitute the following -

or social

Page 6, lines 12 to 15 - To delete the lines and substitute the following -

"informed consent" means consent freely given by the woman where -

(a) a medical practitioner has properly, appropriately and adequately provided her with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term;

(b) a medical practitioner has offered her the opportunity of referral to appropriate and adequate counselling about matters relating to termination of pregnancy and carrying a pregnancy to term; and

(c) a medical practitioner has informed her that appropriate and adequate counselling will be available to her should she wish it upon termination of pregnancy or after carrying the pregnancy to term.

Page 7, lines 1 to 7 - To delete the lines and substitute the following -

(8) For the purposes of this section -

(a) subject to subsection (11), a woman who is a dependant minor shall not be regarded as having given informed consent unless a custodial parent of the woman has been informed that the performance of an abortion is being considered and has been given the opportunity to participate in a counselling process and in consultations between the woman and her medical practitioner as to whether the abortion is to be performed;

(b) a woman is a dependant minor if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and

(c) a reference to a parent includes a reference to a legal guardian.

(9) A woman who is a dependant minor may apply to the Children's Court for an order that a person specified in the application, being a custodial parent of the woman, should not be given the information and opportunity referred to in subsection (8)(a) and the court may, on being satisfied that the application should be granted, make an order in those terms.

(10) An order made under subsection (9) has effect according to its terms and is not liable to be challenged, appealed against, reviewed, quashed or called in question in or by any court.

(11) If the effect of an order under subsection (9) is that no custodial parent of the woman can be given the information and opportunity referred to in subsection (8) (a), subsection (8) does not apply in relation to the woman.

Page 7, line 9 - To delete "(1) or".

Page 7, line 15 - To delete "liability" and substitute the following -

responsibility

Page 7, line 16 - To delete "(1)".

Page 7, line 17 - To delete the line and substitute the following -

offence created by subsection (2).

Page 7, after line 18 - To insert the following new subclause -

(12) Section 335 (5) of the *Health Act 1911* is amended -

(a) in paragraph (a) by inserting after "abortion" the following -

" (other than an abortion to which paragraph (d) applies) "; and

(b) by inserting after paragraph (c) the following paragraphs -

" (d) When a medical practitioner performs an abortion, the medical practitioner shall notify the Executive Director, Public Health of the fact in the prescribed form within 14 days of the abortion being performed.

(e) A notification under paragraph (d) must not contain any particulars from which it may be possible to ascertain the identity of the patient. ".

New clause 8 -

Page 7, after line 18 - To insert the following new clause -

***Children's Court of Western Australia Act 1988* amended**

8. Section 20 of the *Children's Court of Western Australia Act 1988* is amended -

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

(b) after paragraph (c) by inserting the following -

" ; and

(d) under section 334 of the *Health Act 1911*. ".

Title -

Page 1 - To insert after "***1906***" the following -

and the *Children's Court of Western Australia Act 1988*

Progress reported.

BILLS (4) - APPROPRIATIONS

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Appropriation (Consolidated Fund) Bill (No 1).

2. Appropriation (Consolidated Fund) Bill (No 2).

3. Treasurer's Advance Authorization Bill.

4. Petroleum Safety Bill.

ORDER OF BUSINESS

Wednesday, 29 April

MR BARNETT (Cottesloe - Leader of the House) [3.39 pm]: I move -

That debate resume on government business Order of the Day No 6, the Rail Safety Bill.

I explained to members earlier that we proposed to return to continue debate on the Rail Safety Bill at 4.30 pm. Grievances will be taken and it is my understanding the Opposition may agree to private members' business concluding at 8.30 pm rather than 9.30 pm.

Question put and passed.

RAIL SAFETY BILL

Second Reading

Resumed from an earlier stage of the sitting.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [3.40 pm]: This Bill is part of a national agreement between all States, which was signed in 1996. I understand the Bill is a mirror image of legislation passed in South Australia and other States. In some cases the Western Australian legislation has strengthened the provisions.

The Opposition raised a number of concerns about clauses 31 and 50. I was advised during the lunch suspension that those fears are unfounded. Members opposite should recognise that this is a serious matter. It is not necessarily only about the safety of employees who work for a railway company. Fundamentally, it is a question of rail safety and the effect it could have on the wider community. A railway accident or serious incident, as described under the Bill, which could entail the death of one or more people, is of serious concern. The issues raised about the civil rights of employees were overstated by the Opposition. That will be debated at the Committee stage.

Some of the matters raised related to the Hotham Valley Tourist Railway and the Australian Railway Historical Society. The member for Bassendean expressed concerns about their ability to comply with this legislation. Of course, they must be accredited under the legislation, but it will not impact on their ability to operate. Generally, the industry supports the Government's proposal and the accreditation process. It will help them to organise their safety management systems better than they are organised at present, bearing in mind that the Hotham Valley Tourist Railway and Australian Railway Historical Society employ, or use in a voluntary capacity, people who were former Westrail workers. Many are very skilled in the way in which they carry out these tasks on behalf of the tourism industry.

Mr Brown: Will this Bill have an impact on them?

Mr OMODEI: No, only from the point of view that they must be accredited. They do not see that as a problem, and it certainly will not impact on their ability to operate. Generally, the industry approves this legislation. Of course, the standard of the machinery must be appropriate and that may affect a number of railways. There is one in my electorate that travels from Pemberton, on the old Pemberton-Northcliffe railway line, and another runs from Pemberton to the Diamond chip mill. It is similar to the Hotham Valley operation, and uses a steam train in winter and a diesel locomotive in summer. The operator, Ian Willis, owns a foundry in the city and already provedores the rail industry across the State. He is well qualified to ensure that appropriate standards are maintained.

Discussion took place earlier about an accredited person. The accredited person will be requested to put in place suitable procedures to ensure that workers engaged in activities affecting railway safety are not adversely affected. The regulations will ensure those procedures are put in place. They will be developed by the accredited person to suit the needs of the operation with which the railway is involved. A range of private operators will be involved in railways, and there will be varying requirements depending on the scale of those operations.

Testing will be compulsory after an accident has occurred. I refer to clause 31 relating to alcohol and drug testing.

One would expect compulsory testing to take place after a railway accident or serious incident has occurred, as described in the legislation. Other procedures may be used before starting an inquiry, as was mentioned earlier.

I refer to some of the comments by members opposite. The opposition spokesperson, the member for Armadale, talked mainly about the requirements of clauses 31 and 50. General reference was made to various clauses by other members, including the member for Peel. The member for Bassendean responded to the issues raised by the member for Collie in connection with the safe transport of chip material in the south west. Japanese and Korean companies are involved in the great southern region in transporting products to the Port of Albany. Also, those people involved in the expanded plantation projects are using the Port of Bunbury to export their product.

I found the Opposition's comments quite perplexing. I will canvass the views of the member for Bassendean about plantation timber and the number of trucks travelling into Bunbury. He indicated that there is a need to expand the rail system. I do not think the Government or the private sector have the capacity to do that, unless the Donnybrook-Boyup Brook line is to be reopened. Certainly, there could be capacity to provide loading points along the south west rail grid. It will become an issue for local government, but it will not be unlike many of the other agriculture products that are transported. Rather than there being a regular transport arrangement, whereby trucks traverse country roads, the harvesting period in a plantation will be at a specific time of the year. Local government, along with the project owner or manager, could investigate the road and take note of its standard before the harvesting operation began, and then inspect it afterwards. If an inordinate amount of damage had occurred, the company would be morally obliged, if nothing else, to contribute to repairing the damage that occurred.

At the same time, agricultural produce - whether milk, wool, wheat or fertiliser - contributes to the wear on the road system. As agriculture, horticulture and tourism become more popular, the weight of traffic will increase on those roads in the south west. It is strange that the Opposition was promoting plantation forestry to replace the native forest industry, when in fact it was arguing against its own views.

Mr Marlborough: That is incorrect.

Mr OMODEI: The member said there was not enough capacity on roads, and that it would cause all these truck movements. The only alternative is an integrated rail system with a siding for every plantation, but one must bear in mind that a plantation that comes on this year will not come on again for another 10 years.

Mr Marlborough: The Minister will know from speaking with local government authorities that a key issue is the roads to the new blue gum forests. That is, where a farmer has handed over the whole or a certain percentage of his property for blue gum forestry long haul trucks eventually will cart the logs out and local governments is looking to the timber industry and/or the Government to provide appropriately engineered roads not only on which to cart the wood away but for fire breaks to protect the community. That is a major issue.

Mr OMODEI: A crop of trees is like any other crop, although the impact on a road would occur only every eight or 10 years. The member has suggested this is a rail safety issue, when it would be impossible to have a rail link to every plantation. Timber is like any other crop - a grain crop, or potatoes and cauliflower, which are harvested annually. For the member to suggest this issue is tied to rail safety is to draw a fairly long bow. Members opposite have been promoting plantation forests but are now suggesting they will be a problem. It will be a problem and that is why we need a system in which local government and the proponent for the plantation will inspect the road before the trees are planted and after they are harvested. To give members an example of the complexity of this issue, a number of local governments want to rate pine and blue gum plantations differentially. I would find it difficult as the Minister for Local Government to allow that, unless they were to rate wheat, cauliflower, dairy and other farmers differentially. They all use roads to transport agricultural products. Timber is just another product being produced on agricultural land that, if necessary - if it becomes broadacre and large scale - would require more loading facilities at some of the sidings and towns on the south west rail link.

Mr Brown: There is nothing wrong with plantation timber for the wood chip industry. That was not the point I was making. I am not sure how the Minister interpreted what I said in that way as I was speaking in plain English. This issue was raised by people in the south west on my last two or three visits. I am happy to take back to them the Minister's view that they are wrong and they do not understand the issue and there is not a problem with additional trucks using those roads.

Mr OMODEI: I can understand plain English. I wondered what transporting plantation product by road to either a rail head or the port had to do with rail. Is the member for Bassendean proposing that as an alternative Government the Labor Party would create a whole new network of rail lines to service those plantations?

Mr Brown: I have picked up the point raised by the member for Collie. Why doesn't the Minister say that he does not agree with her?

Mr OMODEI: The member for Collie is saying that more product should be transported by rail, and I presume that is what the member for Bassendean is also saying.

Mr Brown: I have been told that the location of chippers will depend on strategic planning decisions, otherwise there will be a heavy volume of trucks going into the Port of Bunbury - every two minutes or 90 seconds.

Mr OMODEI: I do not know whether it will be two minutes or 90 seconds, but it is inevitable that traffic will increase as a result of increased agricultural activity. I would have thought that as long as tree plantations are not on an intensive horticultural scale - because that would impact on the continuity of supply of horticultural product, whether broccoli, cauliflower or whatever - the area of Boyup Brook, through Arthur River and the great southern through Mt Barker to Denmark has huge scope for tree plantations of whatever kind. That will be an adjunct to the agricultural industry. The counter argument is that tree plantations depopulate country areas.

Dr Turnbull: I agree with the Minister entirely. That is a big problem and is one reason that we want these chippers located in local areas. We want the labour done in our shires.

Mr OMODEI: I agree with that. What I am trying to say to the members for Collie and Bassendean -

The DEPUTY SPEAKER: Could the Minister address his remarks to the Chair and members save their interjections for the Committee.

Mr OMODEI: Plantation forests and other agriculture activities are not necessarily related to rail transport, unless some brilliant Government in the future has some grandiose plan for creating a lot of new rail systems. Is the member suggesting that the line between Donnybrook and Boyup Brook should be reopened?

Dr Turnbull: There are innovative and new programs which can integrated as long as they are done early, otherwise it will be incremental.

Mr OMODEI: Plantation forests will require local governments to be vigilant in the use of their roads. They will need some kind of arrangement with road users so they contribute to those roads either by an ex gratia payment or whatever to ensure that the roads are maintained into the future. Plantations will create a demand at a certain point within the growing cycle of that tree, which will be between seven and 10 years. It will be a one-off situation unless there are a number of plantations adjacent to each other. This Bill is about a rail safety mechanism that will be structured on a comparative basis with all the other States. The mutual recognition of laws in this State and other States will be an issue.

I thank members for their contributions to the Bill and I look forward to resolving any outstanding issues during Committee.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

Clauses 1 to 30 put and passed.

Clause 31: Railway employees -

Ms MacTIERNAN: I initially suggested to the Minister that I would move some deletions to this provision. However, on closer reading of the Bill I feel it is not necessary. I note that a direct monitoring process is proposed only in relation to blood alcohol. In contrast with most other psychotropic substances, alcohol has been the subject of a great deal of research to assess its capacity to impair performance in the workplace.

Various detailed studies have quantified the degree of impairment that can result from certain percentages of alcohol. One of the Opposition's criticisms of drug testing generally is that no such closely collated data is available. The Opposition is concerned about questions of privacy and the very intrusive nature of even urine sampling, albeit we can have breath sampling. Much of the criticism in respect to testing does not stand for alcohol. However, the Opposition acknowledges that research underpinning alcohol impairment tests, and that we use comparatively non-intrusive methods of testing, for alcohol.

I am pleased to note that the other provision that allows for monitoring is very carefully phrased to provide that a person does not carry out railway safety work while affected by a drug in a way that could detrimentally affect the person's ability to perform that work. If strictly applied, that would not authorise most random drug testing. It would

require that a proper process be put in place to test impairment, rather than test drug use or the presence of psychotropic substances in the blood stream.

Given the way this has been expressed, the Opposition will support this clause. However, our general comments on the approach towards drug testing in the workplace stand. I understand that Westrail is engaged with the Public Transport Union in negotiating a code of practice. I hope that it will abide by the principle that direct impairment should be determined and mechanisms put in place that test impairment rather than drug usage per se.

Mr OMODEI: Subclause (1)(c)(i) provides that a railway employee who performs railway safety work does not carry out railway safety work while there is present in his or her blood, alcohol of or greater than the amount prescribed. The amount will be dealt with in the regulations. As I said in the second reading debate, the limit will be a blood alcohol content of 0.02 per cent after an accident or serious incident. I thank the member for Armadale for understanding that situation.

Mr BROWN: I raised questions during the second reading debate about the type of monitoring envisaged. Although I was not in the Chamber during the Minister's entire reply, I was listening on the speaker in my office. What type of monitoring will be untaken?

Mr Omodei: The monitoring envisaged under the legislation will occur only after an accident or serious incident. Ongoing monitoring on a daily basis will not occur.

Mr BROWN: I gather it will not be undertaken in the same way that some of the mining companies undertake random monitorings.

Mr Omodei: I am advised that it will not be done under this clause but it may be done under the management plan.

Mr BROWN: This clause carries a fairly severe penalty of $5 000. What sort of monitoring is envisaged, if any, under the management plan? As I said during the second reading debate, I am aware of the controversy surrounding monitoring. Random and compulsory monitoring has been done in not only this industry but also other industries.

Would a worker be committing an offence if he were detected as having a greater concentration of blood alcohol than that prescribed prior to commencing work?

Mr Omodei: No, it would not be an offence. The safety management plan requirement is covered under clause 10 and carries a significant penalty. That is self-explanatory. Again, in a monitoring sense we are referring to people who have a blood alcohol level above that specified when there is an accident or a serious incident.

Mr BROWN: I am indebted to the Minister for drawing my attention to clause 10, which as I read it not only deals with the question of whether someone may or may not be affected by alcohol or drugs but also with a whole range of other all inclusive safety issues. Therefore, it would be prudent management to have a safety plan in this industry as it would in any organisation. However, this clause does not specifically refer to monitoring in the context of alcohol and drugs. Certainly, one monitors safety, and good corporate plans, whether in the private or public sector, include safety audits. Agencies monitor safety performance, accident and incident rates and take preventive action to ensure that similar accidents or incidents do not occur in the future. I understand that.

Mr OMODEI: The only person who would create an offence under that clause would be the manager for not providing safe facilities. There would be no penalty against the individual employee as a result of clause 10. The penalty would occur as a result of deficiency on the part of the manager of the operation. Clause 32 refers to compliance, inspection and reporting.

Mr BROWN: This is a penalty imposed on the accredited person rather than the employee in the event of monitoring being carried out which detects that the employee has a blood alcohol or drug level above the accepted standard.

Mr Omodei: Exactly.

Ms MacTIERNAN: It does not read that way. If that is the intention, we must put it beyond doubt. Is the Minister saying that this is a penalty against the accredited operator and not against the employee?

Mr Omodei: It is against the employee in the case of an accident or serious incident.

Ms MacTIERNAN: Is that in clause 31?

Mr Omodei: Yes.

Ms MacTIERNAN: Can the Minister explain where that is stated in respect of a serious accident?

Mr Omodei: It is referred to in clause 41.

Ms MacTIERNAN: We are talking about clause 31.

Mr Omodei: It is not stated in this clause.

Ms MacTIERNAN: There is then nothing in this clause stopping an employee being fined $5 000. That seems excessive.

Mr OMODEI: The member should refer to subclause (2), which states -

> A railway employee must not carry out railway safety work -
>
> (a) while there is present in his or her blood, alcohol of, or greater than, the concentrations prescribed; or . . .

Ms MacTiernan: Is the Minister saying that that $5 000 penalty is imposed on the railway employee?

Mr OMODEI: Yes.

Ms MacTiernan: What penalty is imposed on the rail operator as a result of its employee doing this?

Mr OMODEI: A penalty of $20 000 is provided in clause 10 if the operator fails to maintain a safe management plan, which must be submitted to the director general.

Ms MacTIERNAN: An applicant for accreditation must submit the management plan and an accredited person must revise it. It could be a perfect plan but not be implemented and the operator is absolved. It is inappropriate to have a situation in which the employee is fined but -

Mr Omodei: The plan must be implemented.

Ms MacTIERNAN: Where is that stated?

Mr Omodei: Clause 32 contains compliance requirements.

Ms MacTIERNAN: I cannot see that.

Mr Omodei: Subclause (1) refers to ascertaining the extent of compliance with the requirements of this legislation and the relevant accreditation.

Ms MacTIERNAN: There is no penalty attached to that provision in clause 32. We have a conceptual problem in respect of any obligation. All we have been able to discover so far is that a rail operator has an obligation to present a plan and to revise it. The director general may then inspect the operation every 12 months and may also give notices to direct an accredited person to cause an inspection in relation to railway tracks, infrastructure and other rolling stock. I would be interested in further advice on this. Nothing points to a penalty attaching to an employer who fails to implement properly a plan that has been set up and where the failure to implement that plan has resulted in the sort of mischief we are trying to outlaw in clause 32(2).

Mr OMODEI: We are dealing with a number of issues. The member referred first to the individual mentioned in clause 31. That person would be liable to a penalty of $5 000 if he or she had a blood alcohol level above 0.02 after an accident or serious incident.

Ms MacTiernan: There is no caveat like that; you are inventing that.

Mr OMODEI: That is normal practice.

Ms MacTiernan: A Statute has to be interpreted on the words here.

Mr OMODEI: Under clause 10, a management plan is put in place and an accredited person must revise that plan on an annual basis to the satisfaction of the director general at least 28 days before each anniversary of the accreditation, and there is a penalty of $20 000 for non-compliance. Clause 14 provides that a person must not contravene a condition of the person's accreditation, and there is a further penalty of $20 000 for non-compliance. There are enough checks and balances to satisfy the members' concerns.

Ms MacTIERNAN: I would like this made absolutely clear because it is important. Some weight is given to the debates that take place in this House when there is some ambiguity in the legislation. The Interpretation Act does not allow the ramblings in Parliament to change the plain meaning of words. The Interpretation Act only allows these debates to be taken into consideration when the words themselves are not clear on their face value. It may well be that the clause is adequate for this purpose. Is it the Government's view that, under clause 14(5), an accredited

person will be liable for a fine of up to $20 000 if he fails to implement the required plan to have a proper strategy in place to ensure that people are not drug impaired when undertaking railway safety work, regardless of whether a serious accident occurs?

Mr OMODEI: Maybe I should read the whole of clause 14?

Ms MacTiernan: We want you to confirm that the failure of an employer to implement a program designed to ensure that staff do not go on duty to do railway safety work in a drug-impaired state is actionable under this clause.

Mr OMODEI: Clause 14(1) refers to the accreditation being "subject to any conditions". Conditions are imposed under clause 14(1)(c). A person must not contravene a condition of his accreditation, dealing with matters which would include the excesses provided for alcohol and drugs.

Ms MacTiernan: I am confident that clause 14(5) taken together with clause 31(1) will ensure that a railway operator is potentially liable under such circumstances. I wanted to make sure that this big penalty is able to be applied in any circumstance where an employee who is carrying out railway safety work is found to have an excess blood alcohol level and that nothing in this clause limits it to the application of circumstances where there has been a serious accident which has caused death, serious injury or major property damage.

Mr OMODEI: I am told that one could stop people on the side of the road and breath test them but that will not happen. This clause will be used only where there is an accident or a serious incident.

Mr BROWN: I want the Minister's clarification on two issues. In the past five to 10 years there has been a raging debate about alcohol and drug testing at the workplace. It is possible that although a policy is currently in place, a different policy may be in place next week or the week after which will have to contend with this legislation. There are two distinct practices for drug and alcohol testing. One practice is that when people sign on in the morning, they are subject to random testing. I would like some interpretation on the record from the Minister. Clause 31(2) reads that a railway employee must not carry out railway safety work under certain circumstances. The definition of railway safety work includes a series of different classes of work, including work that involves or relates to the driving or operation of a train or trains. A person might go to a workplace in the morning and be asked to subject himself to some monitoring.

Mr Omodei: That comes in the management provision under clause 10.

Mr BROWN: The person is subjected to monitoring, an alcohol level above the prescribed limit is detected, but he has not yet started railway safety work. Under these provisions, that person would not be liable to be charged.

Mr Omodei: I would expect that would be the responsibility of the applicant or accredited person - in other words, the manager of the operation - whereas clause 31 relates to an inspection by an accredited person - in other words, an inspector, who would be interviewing somebody after an accident or serious incident. Obviously in the case you mentioned the manager would not allow that person to go to work, otherwise he would leave himself open to a penalty of $20 000.

Mr BROWN: As I read clause 31(1) and (2), there is no overarching paragraph so the two can stand alone, although they sit together in the one clause. A person who is found to have a concentration of blood alcohol above the prescribed limit before he starts work would not be in breach of this clause. Is that the Minister's interpretation?

Mr Omodei: Yes.

Mr BROWN: If the person said that he intended to start work anyway, that is another matter.

Mr Omodei: In that case the manager or applicant would be liable.

Mr BROWN: As a result of any random monitoring carried out in the course of the shift, if a person was detected with a blood alcohol concentration above that prescribed, he could be charged and would be in breach of this provision of the Bill?

Mr OMODEI: Subclause 31(2) reads that a railway employee must not carry out railway safety work while there is present in his or her blood, alcohol of, or greater than, the concentration prescribed.

Mr Brown: At present, although there is no policy of random testing -

Mr OMODEI: There is no policy, but the employee has a responsibility like any other employee; for example, a truck driver.

Progress reported.

DIESEL BUS PURCHASE

Grievance

MS MacTIERNAN (Armadale) [4.30 pm]: My grievance to the Minister for the Environment is on behalf of all Western Australians who breathe the air in the city of Perth. Unfortunately, the Minister has failed to act as an advocate for the environment and has extraordinarily defended the indefensible in agreeing with the Government's decision to purchase 128 diesel powered buses and only five gas powered buses. That is a scandal that should be called WA Stink.

The Minister knows that diesel fuel is a killer. The Government's own haze report said that diesel fuel is a major factor in air pollution and that our filthy air kills over 100 Western Australians each year and disables tens of thousands young Western Australian asthmatics each year. The Minister for the Environment has just returned from a press conference at which she announced that Perth will have a haze alert that will tell us just how filthy is the air in the city of Perth. Unfortunately, while the Minister is prepared to tell us how filthy it is, she is not prepared to do anything about it. She is not prepared to lend her voice in opposition to a decision that will add significantly to this haze problem.

Professor Fiones of California has reported that diesel exhaust is without doubt the most toxic set of constituents that one could ever find and that it is a brew of thousands of gases and particulates, including more than 40 compounds such as benzene, dioxins and formaldehyde that have already been declared carcinogenic. The only consolation that the Minister has been able to give us is that we need not worry because the Government may change its mind after it has purchased those 128 diesel buses and before it purchases any more. That is cold comfort. That will be our first purchase of buses in seven years, and it will be our biggest purchase of buses for the next 12 years, yet the Minister is saying, "Do not worry about this one. Let this one go through to the keeper, and we will think about doing something different next time."

Yesterday, having bowed to some considerable political and community pressure, the Minister for Transport announced that the Government will form a committee to look at the relative performance of diesel and gas buses. However, that committee will be set up after the Government has bought those diesel buses, and it will examine how good they are. That is a complete nonsense. It implies that the jury is still out and we do not already have evidence in support of gas rather than diesel.

Between 1994 and 1996, New South Wales purchased 104 gas buses. The New South Wales Government undertook a detailed comparison of the performance of those 104 buses and the performance of its diesel buses, because it was interested to know what it should do for the next generation of 300 buses. The comparison found that the use of compressed natural gas reduced particulate emissions dramatically, the result being a virtually invisible heat haze, thereby addressing the dirty diesel problem. It found that oxides of nitrogen emissions were also substantially reduced to a level of less than one-quarter of those produced by a diesel engine that was five years old, and to a level of one-half of those produced by a Euro 2 diesel engine, which is the type of engine that we are getting. It found that hydrocarbon emissions were reduced and were approximately equal to those of a Euro 2 diesel engine, although CO_2 emissions from a CNG engine were somewhat higher than those from a Euro 2 diesel engine. The comparison found also, with regard to the slightly higher CO_2 emissions, that Euro 2 diesel engines performed at that level only if they used European diesel; that is, diesel which has only 500 parts per million sulphur, not the dirty diesel that we get in Western Australia, which has 3 000 parts per million sulphur.

Why is the Minister ignoring this data? Why is she proposing to buy the buses and then conduct a trial when a comparable trial has already been conducted in Australian conditions and using Australian products? If we do need to have a trial, why not do it the other way round by buying 128 gas buses and five diesel buses and trialling those, given that the weight of evidence is strongly in favour of gas buses? Why has the Minister for the Environment not rejected the dishonest information and figures that have been put by the Minister for Transport in press release after press release? The Minister for Transport's figures on gas buses are based on technology that was developed in Western Australia over six years ago; they are based on the performance of old diesel buses that have been converted and not on gas buses that have been purpose built; and they are not based on a fuel injection system. Why has the Minister for the Environment not insisted that the Minister for Transport tell us that the figures that he has quoted for diesel are applicable only if European diesel is used, but that that is not available in Western Australia? Why are we being locked into this decision for a period of 12 years?

MRS EDWARDES (Kingsley - Minister for the Environment) [4.38 pm]: I thank the member for Armadale for raising this grievance. I want to put on record a correction. The member for Armadale is on public record as saying, and she said it again today, that 100 Western Australians die each year as a result of our air pollution. Although no health studies were conducted as part of the Perth haze study which we released in 1996, the Commonwealth Scientific and Industrial Research Organisation's division of atmospheric science, which was the consultant to the

study, extrapolated risk levels from other health studies, which included Sydney, and used local air monitoring data to suggest that airborne particles may be responsible for up to 70 premature deaths a year in Perth in at risk groups. The main at risk group appears to be people suffering from existing chronic respiratory illnesses.

Although vehicle emissions contribute to the Perth winter haze problem, the single biggest source of haze during winter months is the smoke that is generated from poorly operated wood heaters. The member knows that the Government embarked upon a major campaign last year to educate people about the use of wood heaters. The member is aware also of the legislation which is presently before the Legislative Council to regulate the sale of wood heaters as well as the sale of wood with a particular moisture content. Those are the single biggest contributing factors to the winter haze problem. Although I acknowledge that vehicle emissions contribute to the haze problem, the biggest single source is incorrectly and poorly operated wood heaters. The Government wants to ensure that people are made much more aware about what they can do to reduce the activities that contribute to the problem.

I announced today that a haze alert program will start on 1 May and continue until 30 September, on behalf of the Department of Environmental Protection, through the Bureau of Meteorology. In the same way as road weather alerts are announced, haze alerts will be announced. On the basis of last year's figures, there will be three a month. It is important that members of the public be made aware of the problems they are facing. If this State is to develop an air quality management plan - one of the first steps was the appointment of a select committee to inquire into Perth's air quality, and I hope it will report shortly - the Government must know what are the concerns of the public, and what activities people are prepared to restrict in order to provide a proper air quality management plan. Members of the public can do a number of things themselves. For example, if a haze alert were announced on Friday, helpful hints would be for people to use their wood heaters better, make sure they do not buy wet wood, not burn rubbish or garden waste, and not burn off their properties.

With regard to the diesel buses, I am on the record as saying that I would like to see an increase in the number of gas vehicles in the upgrade of the bus fleet. The contract covers a 12 year period. Altogether there are 848 buses in that fleet. The member has referred to the purchase of 128 diesel buses and five gas buses in the first year of the upgrade. That leaves more than 700 buses that will need to be upgraded over the next 11 years. During that time the DEP can work with the Department of Transport looking at ways of increasing the number of gas vehicles that will operate in the full upgrade of the bus fleet.

With regard to the other aspects of air quality and pollution of the atmospheric conditions over Perth, the Government is currently considering a trial using gas vehicles in departments and agencies. It was announced a number of weeks ago. The Government proposes to trial 300 gas vehicles in its fleet, and it will carry out an evaluation of those vehicles in comparison with the other petrol vehicles used in departments and agencies. It will consider the benefits that flow from that. That could include environmental and economic benefits.

It is not as though this Government is not taking a leadership role; it has taken a number of steps to try to improve air quality in and over Perth. It has established air monitoring programs, particularly in the south west of the State. The select committee is operating, and it is hoped that its report will be released shortly. The Government can then consider what needs to be done to establish a coordinated air quality management plan. The Government is trialling 300 gas vehicles within government departments and agencies, and the DEP will work with the Department of Transport in its evaluation of the bus fleet. More than 700 buses can still be purchased, and the existing contract does not limit or restrict the department from purchasing gas vehicles in the future. The DEP will work with the Department of Transport in an endeavour to increase the number of gas vehicles in the life of the fleet upgrade. The member for Armadale should not be negative. The Government is doing a number of things to improve the level of education and awareness among people in Perth. I hope the Opposition will support the introduction of these haze alerts, given that these programs now operate only in New South Wales and Tasmania. In New South Wales the program is called "Do not burn off tonight".

HOSPITAL AND HEALTH BOARDS

Grievance

DR TURNBULL (Collie) [4.45 pm]: My grievance is directed to the Minister for Health, and relates to the structure for managing a district council. Across Western Australia there are many different structures for country hospital and health boards. They range from the district board, encompassing Albany and its surrounding towns of Mt Barker and Denmark, to the great extreme of the upper Great Southern Health Council based on Narrogin, which encompasses 11 health services. In between, is the Wellington Health Service which has a district council encompassing four services at Yarloop, Harvey, Collie and Donnybrook.

In a grievance debate on Wednesday, 12 November 1997, I emphasised the problem faced in trying to create a district council that has an operational management structure. In reply to that debate, the Minister for Health said

a working party would be established to address this problem. I expressed concern at the time and said I did not think it would work. I had concerns about whether that working party would be able to find a solution that would be properly operational, because the committee was composed of members of the three parties - the Health Department, local hospital and health boards, and board members - who had not been able to sort out the impasse in the previous four years. I did not think they would be able to sort out the problem in yet another working party. I suggested at that time that legal opinion should be sought from outside those three bodies, to consider the legal problems associated with constructing a fully operational district council.

Today I ask the Minister a number of questions related to comments he has made in the past few weeks about this problem; that is, how to establish an operational business unit, which is associated with a district council and has legal line management to the local hospital and health boards of the surrounding towns. First, when the working party reports to the Minister, if the system involves a number of different management structures, will the Minister permit those different types of structures to continue? The Minister might be sympathetic to this as he has already allowed different types of management structures throughout Western Australia.

The other big problem of a management unit associated with a district council - called an agency - having legal management activities in relation to the local hospital and health boards, is that the staff who work in the agency do not have the same privileges as the staff who work under the Health Department employment packages. When I first heard that, I was astonished and wondered why on earth we could not resolve a situation in which the staff who are to work in this agency to support the district council do not want to work there because their salary packaging will not be as advantageous as it would if they worked for the Health Department. However, I have come to realise that suitable management staff do not want to be employed under such a structure.

When the Minister receives the report from the working party, which I understand will be soon, and finds that the legal line management factors have not been resolved will he consider a resolution which might be the only resolution; that is, will he make some changes to the Hospitals and Health Services Act that will ensure that the agency employing the management staff for the district council have line management under the Health Department criteria?

I understand that as a result of the amendments we made to the Hospitals and Health Act about two and a half years ago the agency formed to try to resolve this problem was a separate unit outside the Health Department. That is all very well and correct when it comes to the Pathcentre because it was established as a private company to run laboratory services. However, the management structure of a unit associated with a district council established to assist local hospitals and health boards should be provided with a legal line management.

I hope that the working party will recommend a legal structure which the Minister will be able to support and that he does not have to go any further. However, from the items I have read I am unsure whether that will happen.

MR PRINCE (Albany - Minister for Health) [4.52 pm]: When the matter was last raised by the member for Collie on 12 November 1997 I said that a working party had been formed to develop models for the governance of health districts in the country. The work has not been completed. I am awaiting a report from the working party which I anticipate receiving some time in May.

The object of the working party was to provide a number of models from which various health districts could select - not one model for all. As the member for Collie will be acutely aware, the Government has encouraged the involvement of local communities in decision making for all health services far more than any previous Government.

However, various structures in place need to be upgraded to reflect the delivery of health services across each district, not simply within each hospital. As I said in my previous response last November, individual hospitals cannot and do not act in isolation. The world has changed in that sense. They must be linked to ensure communities receive effective services. That includes links to larger hospitals in regional centres through to tertiary services available in the metropolitan area.

A district network of services is able to improve economies of scale particularly in areas such as corporate services, payrolls, human resources, information technology management and financial management rather than every hospital or health service duplicating those functions. As a result all districts have been required to develop these functions and responsibilities at district level. That is an appropriate way to minimise the dollars spent on that administration and bureaucracy and maximise the amount available to provide care to patients. They include services at district level as I mentioned, and also planning, financial management and other corporate services, district wide health services and the allocation of funding and establishment of policies.

I have not heard anyone argue cogently against those important functions being handled at that level, although some people, such as the member for Murray-Wellington, have different opinions but I do not have to agree with them.

Difficulties have occurred in arriving at a district approach that meets legal requirements as well as the expectations of local communities, while remaining directly involved. That is where the role of the working party is vital in developing approaches that address perspectives of all parties and that I hope will produce clear, legal models from which districts can select.

The Hospitals and Health Services Act is under review and I hope it will be completed towards the end of this calendar year. I hope next calendar year new legislation will follow - I hope it will not be too contentious. That will take some time to pass through this place. If there is to be a resultant legislative change which will assist this matter, it is likely to be at least 18 months away.

I am disappointed that the member for Collie lacks confidence in the working party which is chaired by the Country Hospital Boards Council. It includes board members, general managers and officers from the Health Department. It has been working well and is charged with recommending a series of models. It should be able to do that because it has the best understanding of the issues. That group is better informed on these matters than anyone else.

Apparently some comments were interpreted as suggesting that health districts can apply any one of 1 000 models if they wish. That is not the case. I said to some of the people in the group that, in deciding what models they wanted to recommend through the working party process, they should consider everything. Obviously they will arrive at something that is sensible and clear. Once the working party has some clear models that meet necessary legal and functional prerequisites, each health service can operate within those models in a manner that suits its circumstances.

Given the size of this State - it is the only State that runs from the tropical north to the temperate south, is 2.5 million square kilometres and has a dispersed and thinly populated hinterland with large concentrations of population in the major regional towns - I am strongly of the view, that no one model will work everywhere. Nor should we try to make it. Several models will each have strengths and weaknesses that will make them suitable for individual places. There can be any variation within the context of the models being developed by the working party.

The member for Collie sought an assurance that the concept of district councils with the retention of local hospital boards will remain an option. I have given the working party a clear mandate and the opportunity to arrive at models that work in the country. I have not ruled out any options including the district council model. I am also aware that, in considering the various options available, some misinformation has been spread to the effect that if hospital boards choose to amalgamate, hospitals will close.

I reject absolutely that assertion and reiterate the Government's policy that has stood for five years; that is, no country hospital will be forced to close. However, they are required to critically examine their services to ensure they are well matched with the needs of their communities, however they are structured and irrespective of whether they are growing or diminishing.

In summary, the working party formed to examine the matter has been given the task of developing models for the governance of country health districts. The working party is scheduled to report to me some time in May. I am expecting between two and four models to be submitted for my approval. I have not ruled out any models from their deliberations, including a district council approach. As the member for Collie is aware, a number of factors will influence the final structure of the models, including employment relationships and relationships among boards. They need to be carefully considered. Should the member for Collie wish to provide specific input to that process I am sure the working party would welcome her contribution. However, she will have to be very quick because it is into the final stages of its deliberations.

Dr Turnbull: I have discussed it with them and I have confidence in them. Thank you, Minister, for your assurance on that variation.

POLICE NUMBERS IN ROCKINGHAM

Grievance

MR McGOWAN (Rockingham) [4.59 pm]: I grieve on behalf of the people of Rockingham to the Minister for Police regarding police numbers in that area vis-a-vis other comparable areas in the metropolitan region and the rest of the State. Some time ago I raised with the Minister the subject of the Rockingham Police Station which was built in the mid to late 1950s when Rockingham was a town approximately one- tenth of its present size.

It has not been enlarged at any time since then. The Minister gave me an assurance that the new Rockingham Police Station would be completed by March next year. I make the point that that assurance was given and I seek an assurance from the Minister in his reply that the Government will adhere to plans for the construction of the police station and that, subject to any acts of God, it will be open in March next year.

The second issue I raise is police numbers in the City of Rockingham. The population of Rockingham is currently 68 000 and is rapidly approaching 70 000 people. It is an area which is growing at a rate of eight per cent per annum. It has a degree of separateness from the metropolitan area, where we are not part of the overall urban sprawl and therefore need particular resources directed to the area. Rockingham has grown 10 times in size since the last police station was constructed. I have done some research on police numbers in the Rockingham station and I am advised there is a total of 45. There are 19 general duties officers, 14 district support group officers, six detectives, one police citizens officer, one community policing officer, one school based policing officer, two prosecuting officers and one juvenile justice officer. Four officers have been seconded from the Rockingham station to the Shoalwater task force. They have lost a training officer, two Aboriginal police liaison officers and one sergeant. With the implementation of the district support group policy, Rockingham does not receive the support it should from the DSG in Fremantle. The Rockingham DSG is under the control of Fremantle and is often out of the area. In terms of overall operations in the area, the DSG is not cutting the mustard; it is not coming down and doing the work it is supposed to do. During the wharf dispute the Rockingham Police Station was closed. We also found, recently, that sometimes on weekends, and particularly during the wharf dispute, there was only one police officer on duty. In the whole area one police officer is serving a city of nearly 70 000 people. When one takes into account annual and sick leave, one finds that the Rockingham station is severely undermanned. The last increase in staff occurred over five years ago.

The station covers the area from Rockingham to Singleton, including Baldivis, which is a very large geographical area. I have compared it to, and asked questions in Parliament about, other police districts. I asked about the Geraldton police area. I am not criticising the number of police stationed at Geraldton; it is justified in what it has. There needs to be some parity between areas, and I would like to see the number of police stationed at Rockingham increased. Geraldton, with a population of 32 816, has 97 police officers - double the number in Rockingham and serving a lot less than half the population. It works out at about four or five police officers in the Geraldton-Greenough area for every one police officer in the Rockingham area. Mandurah, with a population of 45 000 people, has 74 police officers - 64 general duties officers, and 10 probationary constables - yet it is only 15 minutes down the highway from Rockingham. An area with two-thirds the population of Rockingham has half again as many police officers servicing that area. It works out at two or three police officers to every one in the Rockingham area. It is an outrageous and inequitable way to distribute police officers in this State. There is a lack of equity, recognition of growth, or any sort of managerial sensibility in the way that these officers are distributed.

The outer metropolitan area, and, in particular, my area, are suffering. It is totally inexplicable why some areas of the State have five officers and other areas have only one. Members might say that Rockingham is close to the metropolitan area; so is Mandurah. Mandurah is only 15 minutes from Rockingham; it is close to the metropolitan area. If the freeway comes through it will be 10 minutes further from Rockingham. Members will say that police officers can be moved from Fremantle, but they do not come. A major operation was planned recently for one Friday night and it was cancelled for other reasons. These operations are always being cancelled; they do not happen. An area must cope with the resources that it has. When a station which operates 24 hours a day has available about 25 officers, and the number of detectives, other community police and those sorts of people is reduced, the impact of recreational and sick leave means only one police officer is left on duty. It is outrageous and indicates to me that we must reallocate some officers out of central areas. It does not matter whether they are taken from Fremantle or from the centre of Perth.

It must be recognised that growth is occurring and that some areas do not receive a reasonable and just allocation of resources. I would like the Government to do something about it and I would also like the Minister to satisfy me once again on the subject of the new police station.

MR DAY (Darling Range - Minister for Police) [5.06 pm] The member for Rockingham contributed some interesting and novel arguments. However, they do not give any recognition to the substantial improvements that have been made regarding human resources, building resources and other facilities available to the Police Service and police officers in Western Australia. Very substantial improvements have been put in place by this Government over the past five years. It is important to note that a new police station is being constructed in Rockingham by this Government.

Mr Osborne: Bunbury does not have one of those.

Mr DAY: Yes, that is exactly right, Rockingham has come before the major need that exists at Bunbury. The allocation was made by this Government in last year's Budget. We have undertaken a substantial and extensive program of building new police stations throughout this State and about 12 will be opened in the current 12 month period. It is expected that construction of the Rockingham station will commence in October of this year. The plans are being prepared and finalised for that project and completion is expected to occur in June 1999. The member for Rockingham argued that it should be March 1999. I do not think that represents a significant delay. The point

is that things are happening in Rockingham and a new police station is being constructed. The estimated cost is $2.6m - quite a substantial commitment to the Rockingham area. The member for Rockingham made a number of other comments about the police staffing levels at that station. Firstly, he bemoaned the fact that four officers have been seconded to the Shoalwater task force. That is not surprising at all, it is a very important and major -

Mr McGowan: I did not bemoan it. I made the point that it had reduced the overall number of police officers available for general duties.

Mr DAY: That is a very important and major investigation into an extremely tragic event in the Rockingham area and I do not find it surprising that some officers have been seconded to that investigation, together with many other officers from outside the Rockingham area - specialist crime investigators who are also involved in that major murder inquiry. At present the total authorised strength of officers allocated to the Rockingham station is 33. The actual strength is a total of 32 officers consisting of one senior sergeant, four sergeants - there is one vacant sergeant's position at the moment - 25 constables and two unsworn officers. As I said the actual authorised strength at present is -

Mr McGowan: Less than I thought.

Mr DAY: No, the authorised strength is 33. I will come to the separate detectives in a moment. That compares with an authorised strength in 1997 of 27 and an authorised strength in 1992, which was the last full year of the Labor Government in this State, of 23. There has been a continual increase in police numbers at the Rockingham station under this Government. In addition to those numbers, Rockingham has seven detectives and the Fremantle district has a total of 20 officers in the district support group, including one sergeant, 16 constables and one unsworn officer. The district support group has a responsibility to cover Rockingham as much as anywhere else in the Fremantle district.

I will refer the member's comments to the senior members of the Police Service involved in allocating officers and determining operations in the Rockingham area. However, I cannot accept the suggestion that the district support group is ignoring Rockingham. I assure the member that senior officers will read his comments. I am interested to know whether he has made contact with the Fremantle district superintendent or other senior officers to discuss these concerns.

Mr McGowan: I have written to him.

Mr DAY: I encourage the member to make verbal contact and to arrange a meeting. It is the responsibility of district superintendents to meet with members of Parliament if members so desire. I am sure that he would be very happy to acquaint the member in general terms with police operations in the area and that he would listen to the member's concerns about the needs of the Rockingham area.

In addition to those numbers, one juvenile justice constable, one community policing sergeant and one constable are based at the Rockingham Senior High School.

The member mentioned the station being closed while the major operation was under way at the Fremantle wharf. A station being closed has little bearing on whether police are able to respond to incidents in the area. Police are operating in vehicles on the roads, and that is where they should be. They are in contact with the police communications centre and they can respond if required. Whether or not the station is open or closed is immaterial to the question.

The member made a comparison with Geraldton. He intimated that it is not a fair comparison and that it is not particularly relevant. Geraldton, although it does have more police officers, is a far more isolated community. Rockingham can draw on support and backup from Mandurah if there is a major problem. It can also get support from the Fremantle station, the Fremantle district as a whole and the entire metropolitan area. That is exactly what is currently happening with the Shoalwater investigation.

I could compare Rockingham with the Shire of Kalamunda, which is in my electorate and which has a population of about 50 000, but which has only 22 officers. So what? Backup can be provided from other stations in the district and more broadly from the metropolitan area, and that can and does apply at Rockingham. I encourage the member to make contact with the district superintendent.

Mr McGowan: So, you are not going to reallocate any officers.

Mr DAY: The number has increased substantially under this Government. I will not reallocate any officers, but senior police officers have a responsibility to determine Rockingham's needs. If there is a real need to respond to a problem, I have no doubt that they will make a decision to do so.

OCEAN REEF SMALL BOAT HARBOUR GROYNE

Grievance

MR BAKER (Joondalup) [5.13 pm]: My grievance is directed to the Minister for Water Resources in his capacity as the Minister responsible for the Water Corporation. I grieve on behalf of many of my constituents who are keen fishermen and who fish from the southern groyne at the Ocean Reef small boat harbour in my electorate of Joondalup. I have had discussions with the Minister about this issue over the past 12 months, and on one occasion I asked a question without notice. Of course, I received a favourable answer and I thank the Minister for that. However, this dispute, which relates to the ownership, management and control of the southern groyne at the Ocean Reef small boat harbour, has not been resolved.

In 1997, the Water Corporation built the groyne, which is now the southern arm of the Ocean Reef breakwater, to launch ocean outlet pipes. Those pipes convey sewage from a treatment facility at Beenyup to the sea. Approval was sought prior to construction from the Department of Environmental Protection. It was given, subject to the groyne being removed at the completion of the launch of the pipes. Apparently the groyne was not removed because of pressure brought to bear by the public on City of Wanneroo councillors to build a marina in the area. Subsequently the marina was built.

In early June last year, the Water Corporation was advised by the Department of Transport that the seaward end of the groyne was very unsafe. The corporation arranged for the repair of the area by dumping 55 tonnes of rock and erecting warning signs. As the Minister is probably aware, the seaward side tip of the groyne gets a thorough battering during the stormy winter months, and that is part of the problem.

At the moment, as a matter of law, the groyne is a reserve vested in the Water Corporation, and the corporation has taken the view that it is not its usual responsibility to maintain public marinas or parts of marinas, groynes or breakwaters associated with marinas or small boat harbours.

This matter came to a head from my perspective several months ago when I was contacted by a constituent who complained that, in response to the damage to the tip of the groyne, the Water Corporation had fenced off the whole groyne and barred any public access. As I said, it is used by amateur fishermen.

In response to investigations and inquiries, the Water Corporation provided me with a copy of a press release issued by the Perth north regional office acting manager, Geoff Gorham, confirming the situation. He was very apologetic but said that the groyne had to be fenced to protect members of the public. This is despite the fact that there are ample signs warning of the dangers. Following negotiations, the corporation agreed to shift the fence further towards the problem area within the groyne proper; namely, its tip. Anglers were then able to use much of the groyne area for fishing. Nonetheless, the issue has not been resolved. That is despite the fact that the 30 November edition of the *Wanneroo Times* carried an article last year - presumably written by the editor - advising that Wanneroo City Council had decided to accept responsibility for maintenance of the southern groyne of the Ocean Reef boat ramp. The article states -

> At the November 26 full council meeting, council decided to take over the operations of the groyne from the Water Corporation.

I understand that as a matter of law that may not be the current situation. While the Wanneroo City Council has resolved to do that, its resolution has not been accepted by the Water Corporation. I believe that that land is still vested in the corporation.

I know that my grievance presents some difficulty in that the Minister cannot fully respond. I emphasise that this groyne is a very important recreational facility for amateur fishermen in my electorate, particularly those who cannot access fishing boats. Many of those who fish off the groyne are age pensioners who walk from nearby aged persons' units and for many it is their major sporting interest in life. The fence still exists. Although it is closer to the tip, it still impedes public access to the tip, which I am told is the best fishing spot. People in the area are concerned about what the corporation proposes to do to resolve this problem.

I understand that the cost of remedying the erosion to the seaward side of the tip of the groyne is a problem. As the Minister is aware, various quotes for the repair have been obtained by the corporation and there is a large disparity between them, depending on the nature and extent of the project.

It was suggested at one stage that the Water Corporation could resolve this issue by simply ripping out the pipes and removing the groyne. Over time this groyne has become very popular and is used by amateur fishermen. I understand the cost of reinstating the seaward tip of the groyne is something like $120 000, which is a substantial sum of money. It seems that the potential cost is the hot potato that the Water Corporation and the City of Wanneroo are forever passing to each other. I wonder whether the Minister can assist in bringing this long running dispute to

a conclusion, so that I can report back to my constituents that the issue has been resolved, not to worry and they will be able to continue to fish on this very important groyne.

DR HAMES (Yokine - Minister for Water Resources) [5.21 pm]: I thank the member for bringing this matter to the attention of the House. As the member stated, the groyne was built by the Water Corporation for the purpose of the ocean outlet of the Beenyup waste water treatment plant. It was never designed to be there as a permanent structure. As the member has stated, it was always a requirement that it be removed at the end of its time. As that was always the intention of the Water Corporation, it had no provision for funds to continue maintenance of or upgrading that facility, given that it was known it would be damaged because of the storms that frequent that site. It was never designed with the intention of being a permanent structure, which obviously created some difficulties and probably made the groyne more easily damaged.

However, when the council and local residents indicated that they wanted it to be retained, the Department of Environmental Protection and the Department of Transport agreed to develop a marina. I suppose something should have been worked out at that stage as to who would have the long term management responsibility of the site. Unfortunately, that was not done. During the first storms, a fair amount of damage was done to the tip, which was repaired, and subsequent storms created a lot more damage. The Water Corporation did not believe it was its responsibility to maintain the groyne but it was still publicly liable because it had the ownership of the groyne; hence the fencing off of the groyne. I understand the member was present at a meeting on Friday, 18 July 1997 with the Water Corporation, the Department of Transport and the Wanneroo City Council. At that stage it was agreed that the erected fence would be moved further out to allow people better access to the groyne. From a public liability point of view it was not reasonable to expect that, despite the signs, the Water Corporation would take the risk of removing the fence. The member will have read of the dispute that occurred at Rottnest Island where, because of the absence of a sign, someone dived into the sea and damaged himself. The Rottnest Island Authority was found to be liable. Erecting signs partially, but not completely, eliminates such a responsibility unless we make strong attempts to prevent people from getting to the site on which they might be harmed. The strength of a fence is an item in question when trying to keep people out.

The Water Corporation said that a quote was to be obtained to effect permanent repairs. The member quoted $120 000 and I was told $200 000, but obviously they are still considerable sums of money. The Water Corporation and the Department of Transport would consider paying those costs, provided that the groyne and the marina were vested in the City of Wanneroo, which would be responsible for all maintenance. The Water Corporation and the Department of Transport were quite happy to pay for the upgrading, which is reasonable considering that they would have to spend a lot more money, one would think, to remove the groyne, and it would absolve them of any future costs. They did not want to be responsible for any future management or maintenance. What the member has said to me and what the Water Corporation has said to me are at variance. The information given to me by the Water Corporation was that a decision had not been made by the council, and that the Water Corporation was in frequent contact with the commissioners, seeking a response about whether they would agree to take over the management of the groyne. The member has given me a copy of a report in the local newspaper which does not have a date on it but which reads -

> Wanneroo City Council has decided to accept responsibility for maintenance of the southern groyne at the Ocean Reef boat ramp.
>
> At the November 26 full council meeting, council decided to take over the operations of the groyne from the Water Corporation.

Obviously from that report, one would expect the matter to have been resolved by now.

Mr Baker interjected.

Dr HAMES: Obviously that is the case. I will take the member's newspaper report and my briefing and put them before the Water Corporation so that it can resolve the situation. It will need to sit down with the commissioners and have further discussions. As the member will be aware, the council that made that decision is no longer there. The commissioners have responsibility. Perhaps there is some internal communication difficulty about the decision made. Between them it should not be too difficult to work out what has happened. From the Water Corporation's point of view, I can only take the note from the briefing which indicates that it and the Department of Transport are happy to put in the money to improve the facilities. It is reasonable that that should happen. I am a fisherman on occasions when I get the opportunity.

Mr Johnson: Not a very good one, I hear.

Dr HAMES: The member has been talking to the member who sits next to him. I am told he was not able to catch a barramundi on his recent fishing trip. He is not in a position to talk about catching fish.

Nevertheless, groynes are greatly treasured by fishermen. It would be a great shame to remove such an asset from people who wish to fish in that area. I am sure we can resolve this. I will give a commitment that I will sit down as quickly as possible with the Water Corporation representatives and make sure that we come to some sensible resolution of the matter.

Mr Baker: Thank you, Minister. That is very good.

The ACTING SPEAKER (Mr Sweetman): Grievances noted.

FREMANTLE WATERFRONT DISPUTE

Motion

MR KOBELKE (Nollamara) [5.28 pm]: I move -

> That this House expresses its concern at the failure of the State Government to play a constructive role in resolving the dispute on the Fremantle waterfront and calls upon the Premier to provide a detailed statement to the House on -
>
> (a) the total cost incurred by the WA Police Service by its recent extraordinary operations on the Fremantle waterfront;
>
> (b) the effect on other police operations of the futile and massive diversion of resources to the waterfront;
>
> (c) the costs incurred by other government agencies, including the Fremantle Port Authority, due to this dispute; and
>
> (d) the role played by government Ministers including the Minister for Transport in inflaming this dispute to the detriment of Western Australian industry.

I do not think anyone would dispute the importance of waterfront matters, particularly after they have had such media prominence during the past few weeks, and even during the months preceding them. The Court Government's approach to the waterfront situation has been a preference to bash waterside workers rather than address the fundamental issues. Real issues exist which need to be addressed. They were being addressed, but this Government has seen it as a political issue rather than one of trying to achieve efficiencies and improvements on the waterfront. The Government has failed time and again to present details on the issues that need to be addressed and has not been willing to sit down and work through the issues with the various players. The Federal and State Governments have distorted the truth and told untruths about this matter. The classic example was the claim by Minister Reith and echoed by the Premier that when there were strip shows at the local pub, productivity on the waterfront went up. That is a total nonsense and a joke which should never have been taken seriously. However, that is the level of debate of the Court and Howard Governments on the important matter of waterfront reform.

This Government is about confrontation, not about tackling waterfront reform in a way which will produce results. We all remember the BAAC Pty Ltd fiasco in which the Minister for Transport embarked on a course of action that led to the destruction of the state shipping service. We have watched unfold over the past few months the sorry saga surrounding Patrick stevedores, which has clearly been involved in unethical, and probably illegal, action in the way it has arranged its affairs and treated its workers. Patrick has been subverting, if not breaking, the law. I should not go into more detail because we are in a difficult area with matters before the courts, yet at the same time we have a major controversy in our community about issues that are in the courts.

We clearly know what Patrick has done and continues to do is with the connivance of the Howard Government and the support of the Court Government. Time and again this Government has not been willing to be a fair player in the important issues currently on the waterfront. The Court Government has been very partisan in supporting Patrick rather than trying to help resolve the issues and taking up real representations with the Howard Government, which is much more embroiled in this messy affair.

We have seen from Patrick the traditional corporate asset stripping. It is something that is familiar to members of the Liberal Party, although not perhaps the current batch. Not too many years ago we saw corporate asset stripping relating to the bottom of the harbour deals, which led to a lot of angst in the Western Australian Liberal Party. When the current Prime Minister John Howard moved to tighten up the tax laws to stop what clearly was unethical, if not illegal behaviour, the Liberal Party in Western Australia was very strong in its opposition to closing off those loopholes. That was very much the connection 10 to 15 years ago of the Western Australian Liberal Party, with those sharp, paper shufflers who were pulling all sorts of rorts with companies in this country. We see the re-emergence of that approach to business with Patrick. It is bottom of harbour in terms not of stripping assets in order

to avoid tax, but for the purpose of taking away the rights of ordinary working people in this State, and the people of Western Australia understand that. That is why the Government currently is on a hiding to nothing because people know that what is happening in Patrick is totally unacceptable from an ethical standard. I suspect, and hope the courts will rule, that it is illegal and totally unacceptable. Otherwise it means that all workers are totally unprotected, and that they will not have any rights at law if companies go down the road that Patrick has followed. I have read the polls very carefully and they indicate the result of the stand taken by this Government and by the Howard Government nationally.

I express my admiration for the waterside workers who are supposedly being dismissed; those members of the Maritime Union of Australia who have found their jobs pulled out from under them by this very slimy and slippery deal that Patrick has put in place; those workers who have stood firm trying to uphold their rights before the law, trying to ensure that the rights and conditions of employment that all Australians have come to expect will not be done away with by some shoddy deal that companies can enter into by moving around the holding of companies. Those workers have taken what peaceful action they can to try to uphold their rights. Having been down there and spoken to them, I feel they have stood up to the pressure admirably. I do not think many members on the government side have any appreciation of the incredible pressure that has been placed on those sacked workers and their families: The tension of not knowing whether they have a job; of waiting and listening to the radio and television for one court decision after another; and of using peaceful assembly and demonstration to try to uphold that right, and being provoked by a whole range of actions on the Fremantle waterfront.

Mr House: Like smashing bus windows!

Mr KOBELKE: When on the Fremantle waterfront were windows smashed?

Mr House: I can give you a precise time.

Mr KOBELKE: Come back and give it to me. The Minister cannot.

I am not saying there have been no illegal actions on both sides. That is clearly referred to in the judgment of Justice North.

Mr Omodei: I thought they all had halos 10 seconds ago.

Mr KOBELKE: The waterside workers did not initiate this dispute. It was not the waterside workers who put on masks or who were armed and came with big dogs; it was the agents of the company that set out to destroy the livelihoods of these workers, and the workers sought to protect themselves. I am trying to put to the House my great admiration for the control exercised by those workers. I do not know whether many members in this House would not have retaliated at having been placed in the position of having their livelihoods threatened, having their families put at risk, being confronted by hundreds of policemen, and suffering a whole range of provocation from dogs and armed guards through to trucks being driven at them. I have great admiration for the strength of those workers in standing up. That is not to say that mistakes have not been made. One or two individuals on the fringe might have done something wrong. I do not condone such actions. A community protest has clearly centred around the people who have been affected, because the ordinary working men and women of this State, and those who have some decency in them and respect the Australian way, understand what is going on here. This is a frontal assault on the working conditions of every Australian and the people have come out in their hundreds and thousands across Australia to say that this cannot be carried through in the way that Patrick wishes it to be. This must be resisted, so ordinary members of the community have stood alongside and in support of the workers who have been stood down by Patrick. The violence has been initiated by Patrick. I do not support violence from any members of the community. However, I and anyone who genuinely looks at the situation must admire the fantastic restraint, responsibility and control which those community protesters and waterside workers have exercised in legally putting forward their point of view and trying to uphold their rights. This Government does not see that; it sees just the political issue. The Government quite wrongly thought that bashing waterside workers would earn it political brownie points. Perhaps the Government is starting to wake up to the fact that it very much misjudged the public. The waterside workers have fought long and hard for whatever benefits they have gained. They have struggled over decades to gain their conditions. They have been willing in the national interest and in the need for productivity and efficiency to give up some of the rights which they earned through their struggle over many years. It may have been more than 100 years ago, but a poet said the following about the management style of British ship owners -

> Flint hearted merchant captains with hearts as hard as stone.
> Who flog men and keel haul them and starve them to the bone.

That might have been 100 years ago but it seems that this Government wants to go back to those days. This Government wants the waterside workers treated no better than slaves. They have earned the conditions under which they work. They have been willing over recent years to negotiate in order to produce greater efficiencies, but that

is not enough for this Government. This Government does not know how to negotiate; it simply wants to run a political agenda rather than look to waterfront reform.

I turn to make some comments on the importance of this issue to Western Australia. Some six months ago, when there was already in the media some inkling that there would be a stoush on the waterfront, a senior executive with a major resource company in this State said to me, "What can you do about the Howard Government and the line he seems to be taking on waterfront reform?" I will not name the company but it is a well known company in Western Australia. He said, "We ship bulk cargo - at the moment we are mainly talking about containers, but our efficiency is quite good. We would like to improve it, but the potential increase in efficiencies are really fairly marginal and we will keep working on that. The problem to us is that we are a price taker in the international marketplace and we are out there all the time trying to sell our product and get the best possible price we can. When we sit down to those hard negotiations in New York, Tokyo or London, the actual guarantee of continuity of supply is factored into the price, and customers form their view to some extent on what they get through the media. When we have the threat of troops to the waterfront as there was about six months ago; when we have an industrial disputation in the headlines, whether it is affecting our industry or not; it impacts on the price we can get in the international marketplace."

The Government is undermining this State's economy when it sets about creating a stoush on the waterfront for political purposes; it does this State no service at all. The Howard Government and the Court Government are in this up to their armpits, fuelling the flames of dispute rather than trying to quell them.

A study by Professor Quiggin of James Cook University suggests that the total cost of labour on the waterfront is about 0.1 of 1 per cent of the value of goods shipped across the waterfront. The industry comprises different sectors and some areas are more price competitive. However, in global terms, $1 in every $1 000 that goes across the waterfront goes to labour. Let us compare that with the fact that in a nine month period about a year ago the value of the Australian dollar decreased by 10 per cent. That is, in every $1 000 there was a $100 differential on exchange rates and there was a $1 cost to labour. That is the context in which the Government is seeking waterfront reform.

It is important that the Government should not smash the whole system because it wants some efficiency, yet that is the approach adopted by this Government. We need a Government that wants to sit down and go through the issues. This is not the time to debate these issues, but I will mention a couple of them. We need to approach these issues in negotiations which seek to engender goodwill and trust. Clearly Patrick's work force does not trust their boss. Corrigan is on the record as telling lies to his workers. That is in black and white. How can there be trust and respect when troops are sent to Dubai, hooded thugs and guards are placed on the waterfront, and the workforce is locked out? That approach will not work. There may be those on the fringe of the right who believe that is the way to do it - that is, smash unions and reduce the payments to workers - and suddenly they will have a rosy world. Australians will not accept that. These fascists may have a minor win here and there but that is not the future for Australia. Companies that want to take that approach are doomed to failure and do a great disservice to this country. We need Governments at both the state and federal level to sit down and negotiate with all the players for reform.

I want to make a brief comment on some issues that are not part of this debate, but which show up the total lack of effort by this Government to address the issues. The Productivity Commission report has been quoted by Peter Reith. I read the summary in full and part of the report and found that Mr Reith's statements were misleading. The Productivity Commission report points out that the causes of problems on the waterfront are not only the labour force but also a range of other issues. They include such factors as the adversarial workplace culture, which is something to which I have alluded and which has largely been created by Patrick and the Government.

Mr Graham interjected

Mr KOBELKE: Does Patrick think that dogs will help to overcome adversarial practices in the workplace? The report also refers to limited competition in the industry, the relatively small number of ships visiting Australian ports and the resultant low tonnage through our ports. It is hard to make comparisons on container rates when we are in a different ballpark in terms of tonnage. The report also mentions documentation delays, and poor coordination and planning behind the wharf issues. All of those issues need to be addressed in an integrated way, and the Government and Patrick should not blame the whole thing on the workers.

The work in the Productivity Commission report was conducted on the basis of comparing like with like using a ship typical of those operating in each trade. The commission tried to get comparability by comparing similar ships in Australia with ships operating out of ports in the United States, Europe, Asia and New Zealand. Members must be clear that the Drewry report which came out in the past few days has nothing to do with the Australian ports; it is a study of international shipping by a well recognised consultancy firm. The Drewry report points out that one must look at the percentage of cargo offloaded at any given point. The report states -

> The relationship between boxes handled per hour across the quay and the percentage of ship's capacity exchanged is a much tighter one and explains approximately 50% of the variation in performance.

The relative ship size explains about 10 per cent of the variation. The Productivity Commission report is based on a factor which can contribute about 10 per cent of the variation between ports, whereas the percentage of the cargo offloaded accounts for about 50 per cent of the variation. Dr Clive Hamilton's report on Australian ports shows that in Fremantle the vessel exchange rate - that is, the percentage of ship capacity handled - is 23 per cent. I will give a warning because one must use figures carefully, and I do not want to mislead. That is the trouble with this Government - it has not done that. These figures may overstate slightly the case I am making because the ships that come into port are often not fully loaded and these figures are based on the ship's capacity. According to the Drewry benchmark, productivity should be 15.2 containers an hour for the 23 per cent loading rate. The December 1997 quarter figure for Fremantle was 18.9 containers an hour, as against a benchmark of 15.2. This is only one measure, and shipping is complicated so not only one figure must be considered. On those figures, Fremantle is doing well. The Fremantle Port Authority figures indicate huge improvements in recent years, and there is room for further improvement.

Reform will not come about through the approach adopted by Patrick, Reith and Howard. Reith's benchmark target is 25 containers an hour. The Drewry model is based on international ports and sets a benchmark of 25 containers an hour for ships loading 80 per cent of capacity, whereas on average last quarter only 23 per cent of cargo was transferred while it was in Fremantle. To achieve Reith's benchmark ships must load 80 per cent of their cargo, which is a totally different ball game. Reith is setting targets which are unachievable in Australian conditions. That is one element of the argument. It is not the end of the matter, as many matters are involved.

This Government is not willing to sit down with the players and address those issues. This Government has presided over the extraordinary operations of hundreds of police at a peaceful demonstration. The demonstrators were clearly provoked by the WA Farmers Federation, which was seeking to apply pressure in an improper way. The general picture painted was that machinery parts and chemicals for seeding were being held up on the wharf. I have talked to a number of players and people who have been involved and they have not been able to ascertain that such cargo exists. Five containers of frozen meat were moved. The WAFF has told farmers that urgent items are stuck on the wharf, but, when asked, shippers and the Port Authority cannot find them. This whole issue has been built up by the WAFF and partially orchestrated by this Government to put pressure on the demonstrators. Who has authorised the police action that is clearly political? Hundreds of policeman have been put into a situation where they are not needed. We need them in the suburbs fighting crime. The cost has been huge and other speakers will take up that issue. It is a cost not just to the taxpayer generally, but also to residents in the suburbs where crime is not being tackled because the police have been diverted from doing their job to create some provocation and standover of the public who support the wharfies.

What has been the role of state Ministers? Have they been orchestrating things behind the scenes? What have government agencies done, not only because of the dispute, but also in support of Patrick? How has that support been integrated with WAFF and the Western Australian Pastoralists and Graziers Association, with the Premier's brother as its head? The Government needs to not only answer these questions, as the motion requests, but also address the issues so reform can take place on the waterfront. It must resolve the current debacle which is creating unnecessary tension and is a great disservice to the State of Western Australia.

MRS ROBERTS (Midland) [5.51 pm]: I second the motion, of which I shall refer to parts (a) and (b). I expect to hear from the Government the total cost which the Western Australia Police Service has incurred with its extraordinary operation on, and massive diversion of resources to, the waterfront. The public simply has a right to know how much public money has been expended, and to determine for itself whether it believes the placement of police officers and police resources has been worthwhile. It is matter of being open and accountable. Such information should not be hidden. If the Government is proud of its effort in placing many police officers in such conditions at the waterfront, it should be up-front about the real cost. In this day and age, the public has a right and expects to know the cost.

The Police Minister admitted in question time yesterday, that $450 000 was spent over 13 days on overtime alone at the wharves. Normal time worked must also be taken into account. I suspect that the bill for normal time worked will far exceed the bill for overtime. Adding those two figures together amounts to over $1m. One then realises why the Government is trying to cover-up the enormous cost of this futile police presence.

The only other cost the Minister admitted was $42 000 for warehouse rent and the kitchen and catering facilities. Presumably, personnel are working in the kitchen and providing the catering, which is added to the cost of providing the food, drink and other consumables.

The Minister for Police gave a trite answer yesterday despite the fact that I was quoted in *The West Australian* a

week earlier stating that I would be asking for a full account. I said that the public had a right to know the Police Service's expenditure on the operation. Further, I gave the Minister notice of that question early yesterday morning well ahead of question time. Therefore, it was absolutely contemptuous of the Minister and the Government not to provide a full breakdown of the cost of our Police Service at the waterfront, especially in view of two matters: First, the very tight budgetary situation the Police Service faces, as was highlighted repeatedly last year in Parliament; and secondly, the extremely bad crime statistics in this State as we unfortunately lead the nation in crime statistics per hundred thousand people for offences such as home burglary, car theft and armed robbery. It is a dire situation. We cannot afford to have massive resources taken out of operational areas of the Police budget to be consumed in Fremantle.

Mr Omodei: Are you suggesting that we will see a spike in the number of break-ins as a result of the wharf dispute?

Mrs ROBERTS: If anything, the clearance rate will reduce further. People will get a lesser service from the Police Service, and it will potentially take it longer to respond to calls if someone has a break-in or some other misadventure at a home or business.

The Minister treated the Parliament and the people of Western Australia with contempt when he refused to release those total costs. The Government and the Commissioner of Police would not enter such an operation with their eyes closed and with no estimate of the total costs involved. Once they contemplated establishing a presence at Fremantle, it would have been irresponsible of the Government and the Commissioner of Police not to estimate the costs involved. The commissioner is not so incompetent as to not make some estimate of the likely cost of the police involvement in Fremantle. He is a senior and experienced police officer. He would not commit willy-nilly massive resources with no preliminary analysis of the likely overall cost; he would not commit resources he did not have. He would not commit resources without a guarantee of recouping the cost of placing those resources at Fremantle.

That begs the question: The Commissioner of Police must have had some comprehension of the cost and the impact of the operation on the Police budget; otherwise, he would be totally incompetent or irresponsible. Either he has not told the Minister for Police the total likely cost, or the Minister for Police is not prepared to tell Parliament or the people of Western Australia that cost.

In part of his answer, the Police Minister referred to a cost of $450 000 for overtime alone incurred at the wharf. I am told that police were taken out of other areas to be directed to this operation. As far as I know, up to 900 police, who came from somewhere, have spent some time at least at the wharf over the past 13 days. Those officers came from suburban police stations and units throughout the Police Service. I am told that officers from the 79 division, the tactical response group, the child abuse unit, the drug squad, and other units were called upon to spend time on the wharf. Likewise, officers were taken from many police stations throughout the State.

What happened to the units and stations in those circumstances? The work did not disappear. Effort was required to continue to staff police stations and the units at somewhere near the normal level; therefore, officers were required to work double shifts, again increasing the costs. Those costs were incurred only as a result of the wharf dispute at Fremantle. They should be attributed to this dispute, and put on the table openly so that the public can judge the total cost of the dispute.

The workload of units, such as the child abuse unit, has not decreased. No doubt, the same, or possibly an increased, backlog of cases exists. No fewer break-ins, burglaries or car thefts occurred during this time to be attended to by officers from police stations. The work still had to be done. Other officers were paid overtime on double shifts to cover for the officers at the Fremantle wharf.

Sitting suspended from 6.00 to 7.30 pm

Mrs ROBERTS: In resuming my comments on this motion, I will also address some of the comments made by the Police Minister and others in this House yesterday when they suggested that the Opposition was somehow against the police officers involved. The Opposition and I have absolutely no beef with the individual police officers who have been directed to work there; nor do we have any particular complaint about police being there with a watching brief. However, we do have a complaint about the huge waste of resources and the fact that up to 900 police officers have been involved at one point or another. Up to 300 or more have been at the wharf at any one time. A huge command post has been set up, and air wing helicopters and a lot of other police resources and equipment have been involved.

The Opposition is asking the Government to come clean and to do what it talks about often; that is, to be honest, open and accountable - none of which is evidenced in this Parliament. What the Opposition expects of the Government, and what the community rightly expects, is a real cost analysis of the police involvement at the Fremantle wharf. How many officers have been involved? How many hours have they worked? What is the cost of the air wing's involvement? What are the transport costs, including the hiring of helicopters and other vehicles?

What are the vehicle and fuel costs? In addition to the overtime costs the Minister has provided of some $450 000 at the wharf site, what other costs have been incurred at the units and suburban stations from which officers have been removed?

Mr McGowan: Mine was closed.

Mrs ROBERTS: As the member points out, some stations have been closed for periods and others have been operating with skeleton staffs, and many police officers are working double shifts to keep the stations open during regular hours.

It is complete madness for the State Government not to ask the Federal Government to foot the bill. The Federal Government has freely admitted that it has brought to a head this whole waterfront dispute. Peter Reith has openly conspired with Corrigan and Patrick, with the obvious support of John Howard, to instigate the whole series of actions on waterfronts around Australia. The action at Fremantle is part of that national strategy. It has been wholly and solely caused by the Federal Government's support of Patrick in wanting to bring the waterfront issues to a head for their own ideological reasons. None of those costs should be taken out of our Police budget, which I have pointed out time and again in this House is highly stressed, particularly the police operations budget. Units and suburban stations have already had to tackle operating cuts of the order of 16 to 20 per cent in the past year. They should not have further cost cuts inflicted on them.

It is obvious that the costs involved have been massive. We have a Government which, for one reason or another, is attempting to cover up those costs for its own political purposes. In this day and age that is plainly and simply not acceptable. The public has a right to know how its money is being used and how much is being spent on police resources at the waterfront. I want to know the total cost of the normal time of officers, their overtime and the cost impact that is having on suburban stations and other units because of the normal workload building up. I have been told that officers have been withdrawn from the child abuse unit to go to Fremantle.

Neither the Opposition nor the public will rest until it has those figures. We will seek the information through FOI channels if that is the only means left. The Government should not be dragged kicking and screaming to produce those figures and, if it is true to its claims of being an open and accountable government, it will produce them. I cannot believe for one moment that the Police Commissioner and the Government have gone into this without an estimate of the total cost, and I suspect it may have considerably blown out. In any event, the costs are massive and we need a detailed breakdown. It is insufficient for the Minister and others to say that the costs of the aircraft and so on are being met by the police air wing's budget. That is laughable, because we already know that the air wing's budget has been blown to pieces. The Minister has still not responded to my claims that he has taken money out of the training budget to keep the air wing flying, and I made those claims some months ago. To suggest that it has so much money that it can sustain a presence at Fremantle is laughable.

As I said earlier, either the Police Commissioner is incompetent - I do not believe he is - and he did not bother to do any cost estimate before he committed the massive resources at Fremantle or we have a Minister for Police who has not been apprised of the situation, who has not found out or, even worse, knows the costs and the situation and will not come clean to the Parliament and the people of Western Australia.

MR DAY (Darling Range - Minister for Police) [7.38 pm]: This is an amazing motion. The Opposition appears to be suggesting that the police do not have any legitimate role on the waterfront.

Mr Kobelke: Not 900 of them.

Mr DAY: No-one, apart from the member, has ever seriously suggested that anything like 900 are involved. How many does the member think should be involved?

Mr Kobelke: A dozen or two dozen would be adequate.

Mr DAY: The member for Nollamara is suggesting that a dozen or two dozen would be adequate against 1 000 or 2 000 people blockading a number of roads and obstructing people going about their lawful business. The Opposition is suggesting there should be a massive outnumbering of police by protestors, who in some cases are involved in violent confrontation.

Mrs Roberts: As Police Minister you should know how many police are involved.

Mr DAY: It has been said that the number of police involved varies from about eight, as it was about the middle of yesterday, up to about 500, depending on the need at the time and the decisions of senior police on the degree of presence they need to have to deal with the problems that they face.

Mrs Roberts: They are not always the same 500.

Mr DAY: Not necessarily, no.

Mrs Roberts: If they are not, it is quite easily sustainable to say that if there are 500 at any particular time, the total number of different police officers used could be 900.

Mr DAY: I do not think that was suggested by the member for Nollamara.

Mr Kobelke: I said 900 in total.

Mr DAY: Some 300 different police officers could pass through Midland Police Station in a year. It is not likely, but so what.

Mr McGowan interjected.

Mr DAY: At Rockingham that is probably the case.

Mr Kobelke: You are acknowledging that up to 900 police officers have been in the operation.

Mr DAY: No, I am acknowledging that up to 500 have been involved at the same time, as I understand it, or were available to be involved, if necessary. The Opposition's proposition is amazing when it suggests that we should have a small number of police up against a substantial number of protesters involved in forceful, violent activity when obstructing people and not allowing them to proceed with their lawful business on those roads.

The Opposition's attitude takes me back to the situation in 1996 when there was a very violent demonstration by the trade union movement outside Parliament House in Canberra. The secretary of the ACTU police branch of the Australian Federal Police Association at the time, when there was a quite vicious attack on a woman police officer by the name of Alison Castles, said that one lesson all Australian police organisations should learn from the riot was the way the mob deliberately targeted policewomen. Female members were attacked and pulled into the crowd in an effort to break up the police line. He said that this was a troubling development and that, along with the use of acid, blunt weapons, beer bottles and paint, it indicated a level of planning and organisation by protesters not really seen before in Canberra.

I am not suggesting for one moment that the union movement in Western Australia has been involved in that sort of activity. However, quite clearly the Police Service in Western Australia needs to be prepared for that possibility on the part of some individuals - I do not lay this at the feet of the union movement - who may be involved in violent confrontation. We have seen indications of that from some individuals in the past. In some of the behaviour at Fremantle, urine has been thrown at people, gross threats have been made and those going about their lawful business have been intimidated.

The Police Service has a responsibility to act without fear or favour against anybody who may be engaged in that sort of behaviour. We need to appreciate that the Police Service does not have a role in taking sides in this dispute and it certainly does not intend to. From the level of Commissioner of Police down the police will not be taking sides in this dispute from an industrial relations point of view. However, they certainly have a role and a responsibility.

Mr McGowan: Have you discussed this issue with the Commissioner of Police?

Mr DAY: Of course I have. The member does not think I would be Minister for Police and not discuss a major issue like this with the Commissioner of Police, does he?

Several members interjected.

Mr Kobelke: Did you discuss sending the police there?

Mr DAY: I have been kept broadly aware of the police decisions in this matter, but I certainly have not in any way directed the police to attend at the Fremantle wharf. That is not my role.

The Commissioner of Police, the senior police and all the other police in this State know their responsibilities at Fremantle. They will carry them out without fear or favour. They certainly do not need to be told by the Government, will not be told by the Government and would not be told by the Government how they should conduct their business there.

Mr Kobelke: Were you advised before or after the events?

Mr DAY: I have been kept broadly informed of the role of the police at the Fremantle waterfront but I certainly have not been involved in any directions to police about how they should undertake their responsibilities there.

Mr Kobelke: So you were not informed of the strategy before it was implemented?

Mr DAY: I have been kept broadly aware of the role of the police at the Fremantle waterfront. The police have a responsibility to maintain the peace in the community generally, including the Fremantle waterfront. As I have said, they also have a responsibility to uphold the law without fear or favour, which they have been doing. They have a responsibility to allow people to go about their lawful business on public roads without being obstructed.

The police have been using a great deal of discretion at Fremantle and have not been applying the law in a partisan way. From all of my observations, understanding and briefings, they have been very tolerant of the actions of a large number of the protesters there. I am sure that their patience has been very sorely tested on many occasions. Not only has the Police Service been faced with a picket line at the Fremantle waterfront, but also there has been a blockade of roads, which should not be allowed to occur in any way. The police will fulfil their responsibilities in breaking that blockade, if drivers of trucks have a lawful reason to pass through. As I said yesterday, the police have been involved in a professional, skilful and competent manner.

All members of this Parliament and the House generally should congratulate the police who have been fulfilling their very difficult responsibilities at Fremantle. It is time the Opposition congratulated the Police Service as a whole as well as those individual officers for what they have been doing.

Mr Kobelke: They have been put in a very difficult position by your lack of leadership.

Mr DAY: Is the member for Nollamara suggesting that I should be issuing a direction to the Commissioner of Police that that number of police should not have been involved at Fremantle as have been?

Mr Kobelke: There is no reason to use 900 police officers when you cannot control the crime in our city.

Mr DAY: That is an interesting response from the member for Nollamara and the Opposition, who are suggesting that there should be government political interference in determining what the Police Service should do and that the Minister for Police should be saying to the Commissioner of Police that the police should not be involved at Fremantle waterfront and that they do not have a legitimate role.

Mr Kobelke: The proper approach was not to go in there in such a way as to aggravate the situation.

Mr DAY: Who is aggravating the situation? It is hardly the members of the Police Service who have been inciting the sorts of activities that have been occurring. It is nonsensical to suggest that members of the Police Service have been inciting the situation and the violence which has been occurring and the blockade of the roads. It is a great insult to the police officers who have been put in that position, not by any direction of the Government but by the actions of the protesters and those who are blockading roads at Fremantle.

Mrs Roberts: Do you know the costs and will you tell us?

Mr DAY: As far as the costs -

Mr Marlborough interjected.

The SPEAKER: Order, member for Peel!

Mr DAY: The members of the Police Service can read my words on their role at Fremantle. I have been extremely complimentary about the very skilful and sensitive way they have gone about their duties. However, it is very clear that the Opposition and the member for Peel in particular do not support their legitimate role. I believe that is a gross insult to the members of the Police Service.

Mr Marlborough interjected.

Mr DAY: We can see the old union hacks coming to the fore again. I gave figures yesterday of the estimates of the cost of the operation for the 13 days until yesterday. The cost was in the vicinity of $500 000, which included an expense for overtime of approximately $400 000 and the fitting out and leasing of a warehouse of about $42 000. There is no secret about that.

Several members interjected.

The SPEAKER: Order! I have allowed a lot of interjection which I guess has added to the debate previously but it is not adding to the debate now, particularly when we have the Minister trying to give the Parliament his views and then other people interjecting as well.

Mr Marlborough: Inspector Plod, get on with it!

Mr DAY: I am complimented by the reference to the rank of inspector!

As I indicated yesterday, the cost of the air wing is being funded from normal operations. I do not have the specific

figure. I am told that the helicopter was in the air for about an hour, and it is no great secret that the cost of operating the helicopter is about $1 000 an hour. I am sure members opposite could work out the equation if they tried hard.

Mr Marlborough: I was there, and there were two helicopters and a fixed wing aircraft.

Mr DAY: Perhaps the cost is a few thousand dollars. I have given an overall estimate of the total cost.

Several members interjected.

The SPEAKER: Order! Once again I have to indicate to members that there is a lot more interjecting than speech making. If the Minister would address his remarks to the Chair and not pause for such a long time, he might be able to get on with his speech.

Mr DAY: We can see how seriously the Opposition takes this motion. Members opposite regard it as a great joke. They know in their own conscience that the police have a responsibility to uphold law and order on the waterfront without fear or favour, and that is exactly what they have been doing. They have been faced with a blockade - more than just a picket. It has been a major operation, and obviously significant costs have been involved, but the people who should answer the question about the costs involved and how the funds could otherwise have been spent are those who have chosen to blockade roads at Fremantle and to prevent people from going about their lawful business. They are the people who should take responsibility for the costs of this operation.

Mr Brown: No view has been expressed by the Government - neither by you nor by the Minister for Transport - to influence that operation?

Mr DAY: The Commissioner of Police and all officers in the Police Service know what are their responsibilities, and they will act without fear or favour.

Mr Brown: That is not what I asked you.

Mr DAY: I have not issued any direction to the Police Service to turn up there. The Commissioner of Police knows what needs to be done, and the police officers have gone about their responsibilities in a very well planned and professional manner, which is a credit to this Police Service, and it certainly equals the measure of any other Police Service in this country.

Mr Brown: We have seen in this House, as the Minister would concede, Ministers distinguish between instructions and pressure that they have applied to permanent heads of departments and other people. There is a clear distinction between the two, and that is the question that I asked.

Mr DAY: No pressure has been applied to the Police Service. I have been kept informed in general terms of its actions, and I have been made aware in general terms of what options are available to the Police Service. The request for assistance on the Fremantle waterfront came from Patrick Stevedores and the Fremantle Port Authority. It is quite legitimate for those organisations to request assistance from the Police Service, in the same way as can be done by any other organisation or member of the community.

Mr Brown: Nothing from the Minister for Transport?

Mr DAY: The Minister for Transport has ministerial responsibility for the Fremantle Port Authority. Obviously he has some general interest in this issue. It certainly has not been a question of the Minister for Transport or the Government issuing any instruction to the Police Service.

Mr Marlborough: Did the Minister for Transport have any discussion with you?

Mr DAY: Of course. We are both members of the same Cabinet.

Mr Marlborough: What did you talk about - how the cricket went in India?

Mr DAY: I think he has a pretty strong interest in the football, actually.

Mr McGowan: Did he have any discussion with the Commissioner of Police?

Mr DAY: I have no recollection of the Minister for Transport having any recent discussion with the Commissioner of Police, but the member should ask the Minister for Transport; he is perfectly entitled to speak to the Commissioner of Police if he wants to.

Let us look at what the Police Service said. State Commander and Deputy Commissioner Bruce Brennan said -

> Let me say emphatically that Mr Charlton had no involvement whatsoever in operational policing decisions, neither did Police Minister, Mr Day, or any other Government Minister. I cannot make the point strongly

> enough that decisions of this kind are made by Police Operational Commanders, they are made quite independently after judicious assessment. Assistant Commissioner Doug McCaffery, is the Field Commander and is operating autonomously and independently. As Mr McCaffery said yesterday Fremantle Police, with assistance from outside resources, are managing this as a local issue despite the obvious national implications.

That is dated 17 April.

Mrs Roberts: Did they give you a briefing or did you accept what was said in the newspaper?

Mr DAY: As I said, I have been kept broadly aware of the operations of the police at the Fremantle waterfront, in the same way as I am kept broadly aware of police operations in many other areas.

Mrs Roberts: You do not know how many officers have been involved. You do not even know how many helicopters have been in the air.

Mr DAY: As I said, the number of police involved has varied from about eight up to about 500. If more police need to be involved as a result of a senior police decision, more will be involved, depending on the circumstances.

Mrs Roberts: What is the cost of their day to day salaries, excluding the half a million dollars of overtime?

Mr DAY: That is part of the overall costs of the Police Service.

Mr McGowan: How many police stations have been closed?

Mr DAY: No police stations have been closed as a result of this operation.

Mr McGowan: Mine did!

Mr DAY: Rockingham Police Station was not closed. The front doors may have been closed as a temporary situation.

Mr Brown: They were hiding inside! They were there but were not opening the door!

Mr DAY: Perhaps they were on the road where they could respond to requests for assistance, whether it be from householders, business owners or people at the Fremantle waterfront. They were out on the road, where they could do their job, rather than sitting in a police station. The police have been fulfilling a totally legitimate role in a very professional manner on the Fremantle waterfront, and it is time the Opposition got behind what they have done doing and showed a bit of bipartisanship on this issue.

Mr Brown: Can you explain why 500 police officers were there that night?

Mr DAY: It was a police operational decision that that number of police was required in order to fulfill their responsibilities.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [7.58 pm]: I represent the Minister for Transport in this House, and I have been provided with some notes to assist me to respond to the issues raised in the motion. Paragraph (c) of the motion refers to the costs incurred by other government agencies, including the Fremantle Port Authority, due to this dispute.

Mr Brown: Can you hold up the notes so that we can see how dark they are?

Mrs Roberts: What is the black bit at the top?

Mr OMODEI: Members opposite have a great sense of humour. I am referring to the motion. It certainly is a pretty ordinary motion in the overall running of this State. Paragraph (d) refers to the role played by government Ministers, including the Transport Minister, in inflaming this dispute to the detriment of Western Australian industry.

Fremantle Port Authority is the lessor of the North Quay land occupied as a container terminal by Patrick Stevedores. The port authority also has surrounding crown land under its control. As the agency responsible for all land at North Quay, the Fremantle Port Authority has a responsibility to ensure safe access and operations by all persons conducting or wishing to conduct lawful business in the area.

In fulfilling its obligation in this regard, since the dispute commenced the Fremantle Port Authority has incurred additional expenditure of approximately $23 215 on items such as employee remuneration, legal costs, telephone charges, locks and chains, perimeter fencing and gates, and fuel for transport. As the MUA, in concert with the TLC and other unions, continues to prevent persons going about their lawful business, this cost may increase.

In response to the last item (d), for a long time the Government has recognised the need for efficiency improvements

on the waterfront. The Minister for Transport has consistently stated the need for waterfront reform for the delivery of higher quality services at substantially less cost to port users and consumers. This view is confirmed by the recent report on the waterfront from the Productivity Commission, which clearly outlines that Australia's waterfront continues to operate well below the level of efficiency of ports in other countries.

Throughout this dispute the port authority has been quite clear in its communications with the TLC and the MUA that the picketers should not be on FPA land. The port authority became concerned about safety issues associated with people illegally occupying North Quay land, and requested police to remove picketers and their supporters. The port authority did this in recognition of its responsibilities under the Occupational Safety and Health Act. A public statement was released to this effect on 16 April.

The MUA, with the support of all the trade union movement, has deliberately failed to abide by the law of this State, by trespassing on FPA land, ignoring the injunction of the WA Supreme Court, and deliberately not allowing people to go about their legal business by imposing an illegal picket line. The union action has been directed to access not only on Patrick's operations but also to the North Quay port precinct, including Rous Head. This action would not be tolerated from any other group in the community and, therefore, police action had to be taken.

Another major concern was the serious impact on port trade, and the impact on the State's exporters and importers because firms were unable to access Patrick to deliver or collect containers, due to the illegal picket line. As the facilitator of trade, the Fremantle Port Authority has been facilitating the release of urgent cargos from Patrick's lease, with some success. A media statement to that effect was released on 29 April.

I find it interesting that the Opposition has introduced the motion in this place. Not long ago a federal Labor Government introduced troops into a dispute with unions in the airline pilots' strike. That strike caused many people across the nation to go broke, but I did not hear anybody in the then Labor Government express any concern in this place. In 1978 farmers had to load their own sheep onto boats at Fremantle. Where was the Labor Party in this State at that time? When did they express any concern? We hear about the people employed by Patrick who want to go back to work. Judging by the demeanour of the people I saw on television, I would not like to be the employer who re-employed them.

Ms MacTiernan: How do you know who were the Patrick employees and who were from other organisations?

Mr OMODEI: Is the member saying they were not all Patrick employees? As far as I could see, they were rabble. This Opposition supports people who were threatening others and breaking windows. They were responsible for bus drivers needing to go to hospital because they had glass in their eyes. Do members opposite think that is a good code of conduct? They have talked about people who decided they would picket the wharf. However, those people were stopping not only people going onto the wharf, but also all the traffic on a public road.

Several members interjected.

Mr OMODEI: What right have unions in this State to stop traffic on the roads? They have no right at all to do that, and I support the actions of the police.

Several members interjected.

The SPEAKER: Order! It was not too hard to hear all the members, but there were too many of them interjecting and becoming involved in the debate. I ask the Minister to address his remarks to the Chair.

Mr OMODEI: I am sorry, Mr Speaker, I do not usually raise my voice but when somebody with a carping voice insists on making inane comments in my right ear, I am entitled to respond. This is a serious matter. Farmers in country Western Australia have had one of the best breaks for the season for many years, and they want to get their chemicals and spare parts off the wharf.

Several members interjected.

The SPEAKER: Order! Members, I am afraid the situation is not acceptable. If members continue to interject in this way, it will be necessary for me to start formally calling people to order. I have been able to avoid that for some time, but if members want to take me on, so be it.

Mr OMODEI: Nobody is entitled to stop people going about their way of life, and in the case of the wheat and grain industries in this State -

Mr Thomas: Paper shufflers.

Mr OMODEI: Is the member talking about farmers?

Mr Thomas: No, I am talking about Corrigan.

Mr OMODEI: Nobody has the right to stop other people going about their lawful business. These people are part of a very important industry in this State.

Several members interjected.

The SPEAKER: Order! I formally call the member for Cockburn to order for the first time, and for the second time if necessary.

Mr OMODEI: Last year that industry produced eight million tonnes of wheat in this State. It has a big multiplier effect on jobs and businesses in this State, and produces employment for workers and business people. It is entitled to go about its business without people blocking its vehicles on a public road. If one of the members of this House stood on the road and stopped traffic, it would not be long before the police took that person away. This Government, the Commissioner of Police, and the Assistant Commissioner, Doug McCaffery, did an excellent job in making sure the police operated in a very responsible way.

This motion can be described only as a load of crap.

MS MacTIERNAN (Armadale) [8.07 pm]: The comments by the Minister for Local Government have typified the problem with this issue; that is, the Government has adopted a 100 per cent partisan view on this issue. Not one Minister nor one member of the Government has expressed any concern about the position of these Western Australian workers who were summarily dismissed by a company that had engaged in the most incredible rorting through corporate restructuring. We have heard not one bleat of concern about employees who do not have their pay or whose contributions to the Australian Taxation Office, superannuation scheme and health insurance fund have not been paid. Not one single iota of concern has been expressed by members opposite. I find it extraordinary that the Government has been so partisan in this matter.

This group of employees were not on strike. They were working legally under the terms of their enterprise agreement. They were delivering. It strikes opposition members as very strange to hear complaints that the problems were so severe on the waterfront in Western Australia that this action was required. A media release issued by the Fremantle Port Authority in January stated, with regard to further trade growth through Fremantle, that the number of containers handled through the Fremantle port in the first half of the financial year was a high 16 per cent increase on the same period the previous year. That does not sound like a crisis on the waterfront! The media release also stated that prior to this, in the six years to 1996-97 container numbers increased by 74 per cent, making Fremantle one of the fastest growing container ports in Australia.

Where is the crisis? It also stated that the Chief Executive Officer of the Fremantle Port Authority, Kerry Sanderson, said the continuing increase in container trade had been the dominant feature in the port's operations in recent years. It further stated general trade figures for the past six months were also very good, with total trade up 5 per cent over the same period in the previous year following a high 9.3 per cent increase in the previous year. If further stated one of the particularly big increases had been the number of cars imported through Fremantle - up 25.4 per cent to 27 200 in the six month period. Exports of grain through the outer harbour of the port of Fremantle increased substantially over the same period last year - wheat up 22 per cent, lupins up 78 per cent and oats up 107 per cent, and the total number of ships coming into the port continue to grow with an almost 6 per cent increase on the year earlier.

The Minister for Transport said that it was gratifying to see the continued high increase in shipping and trade through Fremantle and the growing recognition of Western Australia as the window to the world. That was said on 28 January 1998, just three months before the workers who delivered these results of which the Government was so proud were sacked. The Government has relied on myth making to get away with this. It has attempted to present those stevedores as some sort of monsters rather than as the people who achieved these incredible results of which we can all be proud. However, at the end of the day they are ordinary working Australians with families and children. They need and deserve the protection of a decent set of industrial relations laws. They are a group of Australians who need and deserve a Government that will act in their interests in a bipartisan way, not a Government that will turn on them and say they have no rights and summarily dismiss them without any excuse whatsoever. When has a single member on the liberal side expressed an iota of concern about the way Corrigan structured those companies and the manner in which those people were deprived not only of their livelihoods in the future but also of their entitlements from the past?

The member for Nollamara summarised this extremely well. This Government is not interested in trying to resolve this dispute and is not interested in waterfront reform; it is interested in bringing on a donnybrook to achieve one of its lifelong ambitions to crush the Maritime Union of Australia because it has been a pivotal union within the general labour movement of Australia.

Significant waterfront reform was achieved in Australia through the efforts of the Labor Government in the years

following 1989. It was achieved without blood in the water. This Government thinks it can get away with its stories because the general population is not aware of the extraordinary achievements that have occurred on our waterfront. Within those years from 1990 employment on the waterfront decreased from 10 000 to 3 300. Within the same period, notwithstanding that marked reduction in employment, container rates increased 40 per cent. Our bulk cargo handling has become world's best practice. All that has been achieved without blood in the water, chaos or disruption to industry. That is how waterfront reform should be achieved, not the way this Government has gone about it - by collusion. The Government cannot tell me it has not been colluding night and day, for months and months with the likes of Chris Corrigan of Patrick Stevedores to achieve this disgraceful outcome, which is neither fair nor equitable; nor will it do anything to enhance the reputation of Western Australia as a country with which to trade.

The level of industrial disputation will increase in this State as a result of government action. I will demonstrate how the Minister has changed his tune after his press release eulogising the great achievements of the workers on the waterfront. I will demonstrate the Minister's special and unique contribution to this debate and his efforts at resolving the problems on the waterfront.

I have much fascinating information about the Minister and his involvement. On 9 April, shortly after the dispute erupted, the Minister for Transport made a typically learned contribution as follows -

> WA Transport Minister Eric Charlton congratulated Patrick -

That was immediately after it had sacked 1 400 workers around Australia including a couple of hundred in Western Australia.

> - on the move and the secretive way it was carried out. "If it is happening all around Australia I think that is a good thing rather than a piecemeal approach," Mr Charlton said.
>
> "Heaven knows the waterfront does need reform.
>
> "I think they (Patrick) are to be congratulated on the way they have gone about it and I wish them all the best.

This action was praised.

Mr Omodei: What about when the Labor Government got rid of 5 000 public servants.

Ms MacTIERNAN: We are saying that we have recognised that areas within the work force -

Mr Omodei: That was okay.

The PRESIDENT: Order!

Ms MacTIERNAN: There is a big difference between offering an orderly redundancy and overnight summarily sacking a group of workers without negotiation, choice or offer of redundancy. Amazingly the Minister says not only is something that five Federal Court judges have now found to be highly probably an illegal action a good thing to do, but also he rejoices and praises the fact that Patrick did it in a secretive fashion.

Three days later an article reports -

> WA Transport Minister Eric Charlton a strong supporter of non-union waterfront competition, has praised Patrick for acting decisively to bring competition to the Port.
>
> About 20 non-union workers are now operating the Patrick terminal there.

That is very interesting because the Minister's agenda is not to achieve waterfront reform but to employ non-union labour. That obviously serves the political agenda of the Government. On 14 April he was on the rampage. Another article reads -

> WA Transport Minister Eric Charlton has attacked Australian clerics who have entered the waterfront debate, saying they have no idea about life's realities.
>
> Mr Charlton made the comment on 6PR when asked how he felt about churches praying for sacked wharfies.
>
> "I think some of the church people in Australia are so far removed from the realities of life they are a joke," he said.

Again that is an extraordinary contribution from a Minister of State which could only happen in this State.

Mr Marlborough: If we said that about his farmers he would be up in arms.

Ms MacTIERNAN: That is right.

Mr Marlborough: He just attacks the churches because they happen to make a statement.

Ms MacTIERNAN: I think that is very interesting.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Once again, members, we are drifting into the situation where, instead of the person on her feet giving a speech, there are four members from both sides of the Chamber having their own interjectory speeches. It is not acceptable.

Ms MacTIERNAN: I appreciate your concern, Mr Speaker, but this is an issue, certainly for members on this side of the House, that generates such a high degree of moral outrage that it is very difficult for members on this side not to interject to the outrageous statements from members on the other side. The member for Peel has been down at the docks on a daily basis. He has stayed there overnight. I have seen him in the morning with egg stains down his jumper and a three day stubble on his chin. He has done his bit and believes 100 per cent in this cause.

Mr Cunningham: What a lovely sight!

Ms MacTIERNAN: It was a welcoming sight.

Mr Carpenter: He is a very attractive sight in the morning. I woke up next to him one morning, and it was beautiful.

Ms MacTIERNAN: We digress. We are exploring the unique contribution made by the Minister for Transport to the resolution of this major issue. He has got his bat out and clubbed the clerics and the Archbishop over the head - presumably only the Anglican Archbishop as I do not recall the Catholic Archbishop coming out; but he was probably too busy.

Mr Marlborough: Too afraid of the Minister for Transport.

Ms MacTIERNAN: Too busy protecting foetuses.

On 18 April, the Minister for Transport took a new turn. He told various radio stations that he was the one who had directed the police to come down on the night of the reign of terror when they arrested more than 100 wharfies and their supporters.

Mr Marlborough: So he did direct the police. The Minister for Police says he did not.

Ms MacTIERNAN: The Minister for Transport claimed, on several radio stations, that he had been the one. As the member for Peel has rightly mentioned, the next day this was hotly denied by the Deputy Police Commissioner, Bruce Brennan, who said, "I have to tell you that there was no politician involved in the decision for us to commence the operation of the wharves. Mr Charlton knows he does not conduct or control police operations. This is the business of the commissioner and his senior commanders."

Mr Marlborough: The question is, who was telling the truth? Was it Brennan or Charlton?

Ms MacTIERNAN: Not only is this Minister of the Crown not making any positive contribution to resolving this dispute and acting in a highly partisan way, but also he is claiming credit for actions that he had nothing to do with.

Mr Shave: Did you pick on him in the other House as you are now?

Ms MacTIERNAN: Minister for Fair Trading, we never resile from exposing government iniquity, wherever it lies.

By 30 March, the State Minister for Transport told *The Australian* -

> the program was part of a broader strategy aimed at progressively introducing no-strike arrangements and more flexible work practices on the West Australian docks.

I do not know how much more flexible work practices must get. The wharf workers to whom I have spoken around this State, and their wives and families, have all described the conditions under which they work. They do not know until 4.30 pm or 5.00 pm on a Friday afternoon when they will be scheduled to work over the weekend. Quite often they are required to work a double shift, of which they have very little notice. That is the sort of flexibility that they have offered as part of workplace reform and it is part of the reason they are relatively well remunerated, although no better remunerated than people in the mining sector. They are well remunerated at $70 000 a year, but they are

working approximately 53 hours a week for that and are also delivering extraordinary flexibility. How much more flexible must they be? Do we want to go back to the days in the 1920s when the workers had to rock up to work each day and line up. Some of them would be selected and others would be told to go home, and only those ones selected actually got paid.

Mr Sweetman: That is a silly comparison.

Ms MacTIERNAN: It is not a silly comparison. We are talking about extraordinary flexibilities that exist now under their enterprise agreement. At 4.30 pm on a Friday they are told when they are working for the rest of the weekend. Do members have any idea of what that does to their family lives? I can assure members, after talking to the wives and spouses of the waterside workers, that it has an extraordinary effect. They can never commit to a sporting program, a child's birthday or a family social function. These are flexibilities that we demand and they have given and for that they get $70 000 a year. Big deal! There is nothing special about that; that is entirely appropriate. Yet the Minister is jumping up and down, saying, "We must sack them all because they have not given us enough flexibility." The next level of flexibility is to go back to the 1920s where they rock up every day and are selected at random by the bosses and the rest of them do not get paid. It was that treatment of wharfies in the 1920s that led to militancy and the situation where the port was overstaffed and under worked for many years. No-one denies that. The Labor Government recognised it and it recognised that the way to have reform was to bring people with them; it was not to take out a baseball bat and beat them over the head.

Mr Thomas: It is un-Australian.

Ms MacTIERNAN: It is absolutely un-Australian. The Minister for Transport has praised Patrick Stevedores and said, "Hallelujah!" The Minister said in late January that the Fremantle port was magnificent; the loading rates of containers and bulk cargoes were increasing. By March he said the workers were a mob of layabouts and they had to be sacked and the churches and all their fellow travellers needed to be beaten around the head. If that was not enough, the Minister for Transport then wanted to get stuck into their wives and children. On 15 April, the Minister was reported as warning that young children and women were being placed at risk by waterside workers picketing on Patrick's property. The Government was worried about maintaining the myth and that depended on people not seeing wharfies like the ordinary Australians that they are. It depended on their not being seen.

Mr Marlborough: Demonise the work force.

Ms MacTIERNAN: Absolutely, demonising. The Government did not want them to be seen with their wives and families and the responsibilities that we all have. That is why the Minister for Transport on 15 April was jumping up and down, telling these people to take their kids home. Why would they go home? The women wanted to be on the wharves with their men because they knew their livelihoods were being threatened. They supported their husbands and spouses in this activity because losing their jobs would undermine their whole lifestyle and future. Compare this with the contribution of Bob Carr, who is trying to work up deals. His approach is, "How are we going to solve this?" We have our Minister for Transport down there with a pair of bellows blowing on the flames. On 20 April he released a media statement in which he accused the trade union movement of using thuggery, threats and - this is very interesting - urban terrorism. We have the Baader-Meinhof now; not reds under the beds, reds at the wharf.

It says that we have this urban terrorism to scare the transport industry away from the Fremantle waterfront; that transport operators who desperately want to enter Patrick's terminal to load and unload goods have been subjected to overt and covert fear tactics. I can tell members this: I have stood on the picket line for many hours, watching what goes on. The transport drivers, the union supporters, go over and have a chat to the blokes who are standing there. The drivers say, "Righto, mate", and they turn their trucks around.

I suggest that those members on the other side who like to think they are in touch with the reality should go down and look at what is going on. These men who are employed in the transport industry know that they are there but for the grace of God. They know that this could happen to them, that if the MUA can be demolished so, too, can their union. They know that if all the MUA workers can be summarily dismissed without any due process, they are equally vulnerable. There is absolutely no reluctance on the part of those transport workers to support the union movement, and there has been no necessity whatsoever to engage in thuggery.

Mr Thomas: What side of the fence are the Rottweilers on?

Ms MacTIERNAN: That is an excellent question.

We on this side were told that we had until 9.30 pm to discuss private members' business.

Mrs Roberts: It was changed.

Ms MacTIERNAN: It may have been changed, but it was, unfortunately, not communicated to us.

I will raise one other issue; that is, the degree to which this Government and, in particular, the Minister for Transport, has been involved in these negotiations and the degree to which the Minister might be putting the Government and this State in the line of fire in a civil conspiracy action. Over time we have asked the Minister for Transport a number of questions about his involvement in this matter and the conspiracy by Patrick Stevedores to restructure its companies. The Minister has always come back and said, "I know nothing; I know absolutely nothing about this." When we revisit some of the early statements that were made by the Minister, we find that he seems to have been aware of what was about to happen.

On several occasions the Minister for Transport made veiled threats. On 10 February the Minister said that the people who operate on our waterfront should be able to enter into negotiations on agreements and not be dictated to by someone in Sydney or some little group of upstarts in the MUA. He said - this is instructive - that the wharfies should get back to work or they might not have jobs. I suspect that is a sign that the Minister was well aware of what was going on. Today he again denied that he had any knowledge of any involvement in any negotiations before the time that Patrick's staff members were sacked; that is, about 7 April.

I ask government members to provide information about whether this is true: We have information that a month prior to that, the harbour master at Fremantle, Eric Atkinson, convened a meeting with representatives of Patrick's stevedoring security company and police officers and basically the strategy was set out to address the events when they subsequently unfolded.

Mr Thomas: Ask that of the Minister for Police.

Ms MacTIERNAN: I would certainly like the Minister for Police or the Minister representing the Minister for Transport to tell us how the Fremantle Port Authority harbour master, Eric Atkinson, was convening meetings with Patrick's stevedoring security company; yet, at the same time, the Minister is able to say to us that he did not know. Our primary concern is that this dispute is not being resolved, but our secondary concern is that we in this State will be exposed to action for our involvement in this civil conspiracy. In that eventuality, we will be calling the Government to account.

MR MARSHALL (Dawesville - Parliamentary Secretary) [8.36 pm]: Mr Speaker, how much time do I have?

Mr Thomas: Too long.

The SPEAKER: Order! I think the member has 30 minutes.

Point of Order

Mrs ROBERTS: An agreement was reached between the Premier and the Leader of the House and members on this side of the House that we would curtail private members' business at 8.30 pm. I do not know where the Leader of the House or the Premier are now, but that was the arrangement. On that basis, the member for Armadale has concluded her speech. To honour our behind the Chair agreement for an 8.30 pm finish to this debate, I instructed her to do that.

Mr Omodei: I thought it was to conclude at 9.30 pm. I am sorry. I will go and check.

Mrs ROBERTS: It was originally to conclude at 9.30 pm.

The SPEAKER: Order! The motion for the suspension of standing orders did say 9.30 pm. There may well have been an arrangement entered into behind the Chair; however, it is not up to the Chair. I put the motion and if a member stands to get the call, I give it. It is up to those who have made the arrangement to cement it. Perhaps the member for Dawesville could bear that in mind.

Debate Resumed

Mr MARSHALL: I will be very brief. I thank the Opposition for allowing me to have a few minutes to speak in this debate of mixed emotions. I am probably the only member that is a third generation Fremantle person. Because of my involvement and my upbringing in a port -

Mr Thomas: The people of Fremantle told you what they thought of you, didn't they?

Mr MARSHALL: Many people say that I think Labor, but I act Liberal.

Several members interjected.

The SPEAKER: Order! The House is aware, and it has been brought to the attention of all members, that an

arrangement was made behind the Chair. I think the member for Dawesville will remember that when he is giving this speech, so that the will of the House ultimately will prevail. On top of that, we now have members who are interjecting all over the place, perhaps causing further delays.

Mr MARSHALL: I repeat that it is with mixed emotion that I get involved in this debate. I come from a city which is in crisis. I look at the news and recognise people in the workforce at the wharves I have stood shoulder to shoulder with on a football field, so naturally when I am on this side of the House I become emotional. I repeat: Some people say that I think Labor, but I act Liberal. That may be so. My grandfather was on the wharves. He came down from Kalgoorlie to play for the East Fremantle Football Club at two and six a week and a job on the wharf. He was foreman at McIlwraiths, and he was referred to as a fair person because he shared the pick-up. He was a most popular man on the wharf because between 1898 and 1920 - a period that the member for Armadale knows about so well - he was a fair man on the pick-up!

My uncle was a lumper on the wharf. Some members might ask what is a lumper. We are now calling these people by the classy title of waterside workers. However, the lumpers in those days worked reasonably hard because they lumped everything on their shoulders - hence the word "lumpers". My cousin worked on the wharves also. My grandfather played football for East Fremantle; my uncle was a state school footballer and played for South Fremantle; my cousin played for South Fremantle and East Fremantle. In Fremantle in those days a person was not worth his salt if he did not play for one of the local football sides or did not work on the wharf, therefore I am quietly emotional when I listen to the educated assessments of some members who think they know what goes on at the wharf. I may be regarded as outdated when I talk about the past, but I do know what I am talking about.

Several members interjected.

The SPEAKER: Order!

Mr MARSHALL: In our day, the member for Cockburn did not know what happened in Fremantle because when he grew up in Attadale or Alfred Cove it was bush, and everyone went to work by bicycle. There were 15 000 lumpers on the wharf and they rode five abreast. The only other transport on the roads were the trams and trucks. The camaraderie was fantastic. The youngsters in this House who grew up thinking that they knew something about the Labor movement did not learn on the tracks with their hands in the dirt; they learnt it from books. Therefore, I find this debate a little strange.

Several members interjected.

Mr MARSHALL: Such was the camaraderie on the wharf that most people had nicknames. I wonder what nickname has been given to the member for Willagee. Did he have a nickname when he was on the wharf?

I want to talk about a few of my friends, one of whom was Mr Justice Virtue. The elderly members in this House, such as the member for Peel, have mixed with men. The member for Pilbara knows something about what it is like to be involved in the work force, and how to be fair and open. In those days, many people had nicknames: Mr Justice Virtue was always sitting on a case; Mr London Fog never lifted, and Dead Tree had no moving limbs. The Minister for Gloom was always whingeing. What about old GMH who was always borrowing money? He would come up to a person and say, "How are you Holden?" They were the kind of people whom one could trust. A handshake was their word and their honour. One could loan them some money and they would always return it.

My uncle was a lovable lumper larrikin. He drank, he smoked, he gambled, and he chased all the workers' compensation he could get. He was a good union man and a good cover-up man. He died at 52 from cirrhosis of the liver, but he was a good bloke. Everyone on the wharf liked him.

For the benefit of the member for Cockburn, the Fremantle by-election was held when Parker shot through, and I was the Liberal candidate. I went to the Workers' Club on a Thursday. A half a dozen people were there, and Billy Anderton, who played for South Fremantle, rang me, and asked, "Is it true? Are you going back on Sunday? You would be too scared. They are all betting money that you will not turn up." I said, "Get the money on, Bill. I will be there." Donny Ware who was supposed to meet me and show me around, squibbed it at the last minute. My cousin, Ronny Dix, was putting up the flag when I arrived. He said, "You're not turning up, are you? This is very embarrassing for me", but in I went. I delivered a speech telling people that if they were true Fremantle people they would vote for Troy or Marshall, not the north of the river bloke whom they had never heard of. I was welcomed by the work force. History repeats itself, and I won the seat of Fremantle. I was first over the line. I do not play the handicap, where people need preferences from the Greens (WA) to get up and beat the opposition.

Several members interjected.

Mr MARSHALL: The member for Cockburn should listen to this; he will learn something. The greatest honour I received was after the election during the following week in the Roma Cafe when a lumper came over to me and

hit the table. He said, "Arthur, you are the king of Fremantle. We wanted you to win." That was the greatest thrill of my life at that time.

Several members interjected.

The SPEAKER: Order! There are far too many interjections. I remind the member for Dawesville that we are all aware of the agreement that has been reached. The member indicated that he would be brief. Perhaps he should live up to his word.

Mr MARSHALL: Thank you, Mr Speaker. In the old days, the kids up the road would be eating bananas. We would think that was great, but as I grew older I realised that the state ship had come in, the bananas had come down from Carnarvon, and there had been a little bit of pilfering. In some garages in Fremantle a person could go in and place an order for a suit or anything else a person wanted, and it would materialise! At a young age, I wanted to be a tally clerk because it was the cushiest job on the wharf and the best paid. As people get older they take things with a grain of salt -

Several members interjected.

The SPEAKER: Order! The member for Cockburn has been in this place for a long time. He knows that we do not refer to other members by their personal names. I formally call the member to order for the second time. Perhaps the member for Dawesville can continue or not!

Mr MARSHALL: I would love to continue, Mr Speaker, but very quietly.

In the environment which I have described, people do not know that they are breaking the law, because they become part and parcel of the fraternity and what goes on in the neighbourhood. That is why Australians have had enough. The polls in the Ray Martin Channel 9 phone-in showed that people have had enough, and they want waterfront reform. Holiday pay and loadings mean that we cannot compare an unskilled person on the wharf with a taxi driver or a tradesman. The Australian people are demanding better productivity. The time is right for an arbitrator to step in and suggest a compromise. The workers to whom I have spoken at the East Fremantle Football Club know that they have got away with a lot over the past few years. It is time for reform.

Several members interjected.

The SPEAKER: Order! The member for Bassendean has been trying to interject for some time. He has interjected three or four times. The member for Dawesville is not taking interjections, so perhaps the member for Bassendean will desist.

Mr MARSHALL: In 1956 I was on a freighter going to Karachi. I had to get off in Sudan.

Ms MacTiernan interjected.

Mr MARSHALL: If the member were in my class as a kid I would kick her out! She should wash her tongue with Solvol!

In 1956 I was on an Egyptian freighter. We played tennis in Cairo and Alexandria, and picked up the freighter again and went to Venice. The English captain of the ship said that a 20 per cent surcharge was imposed on the freighter in Australia because they could not trust the waterfront and strikes may occur. That was 1956. Things have not changed much since then. Like most Australian people, I believe that the time is right for waterfront reform.

MR BROWN (Bassendean) [8.49 pm]: I wish to speak for one minute, following that drivel. During the last federal election campaign the Prime Minister made a solemn commitment to each worker when he said, "Elect me, and no worker will be worse off!" Members opposite heard that commitment, because it was repeated many times. The statement was not qualified by how much people got. The Prime Minister made that statement, and he is a bloody liar. He does not tell the truth.

Point of Order

Mr BARNETT: To describe the Prime Minister as a bloody liar is totally unparliamentary reflecting unfairly on another member of Parliament and particularly on the Prime Minister.

The SPEAKER: The standing orders refer to comments that are made about members in this place. I will not take the point of order. I presume that the member for Bassendean is finished.

Debate Resumed

Mr BROWN: Almost, Mr Speaker. They do not like it because it is important to state the truth about these matters.

The political pundits said the Prime Minister played wedge politics in the last election and that is true. He played wedge politics by telling the Australian people lies - including the wharfies because they happen to be Australian people - saying that no Australian worker would be worse off. We should all learn that commitments made by the Prime Minister are not worth zip. They are not worth the paper they are written on because he blatantly tells lies. This is not something the Prime Minister was sucked into. This was something the Prime Minister and his Minister for Industrial Relations conspired to achieve; they conspired to achieve an end result which breached that solemn commitment the Prime Minister made to the workers of this country, and he will forever stand condemned for lying to the Australian people.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (33)

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

Pairs

Mr Grill	Mrs Parker
Mr Graham	Mr Kierath

Question thus negatived.

ACTS AMENDMENT (ABORTION) BILL

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Ms Warnock in charge of the Bill.

Progress was reported after the schedule of amendments had been agreed to.

Clauses 1 to 3 put and passed.

Clause 4: Sections 199, 200 and 201 repealed -

Mr BAKER: Because of the reprint and because of the need for me to incorporate my amendments to clause 4 of the reprint which requires substantial re-arrangement, I need a few more minutes. The Clerk is busy arranging a retype for circulation so that members can make sense of the incorporation process. Mr Chairman, I seek your indulgence for that period.

Mr PENDAL: The member for Joondalup is in a difficult position. Only three or four minutes ago we left the office of one of the Clerks and no doubt he will produce that document as quickly as possible. Given that it will take about five or 10 minutes, it is reasonable that members might like to use that time to have a cup of tea.

Mr COWAN: I understand that the member for Joondalup has proposed a series of new amendments that nobody has seen, so it would be impossible for the Clerks to quickly line up those amendments with the Bill. Members are expected to be astute enough to identify where an amendment is to be applied to the clean Bill, and for us to proceed. I do not deny that members have the right to seek to introduce amendments at any stage they like. However, it will be impossible for the Clerks to reword, renumber or identify those amendments with the correct line and clause to which they will apply. In this case it is appropriate to deal with the amendments on the Notice Paper and how they relate to the clean Bill. If they were available we would have a guide to how they fit in the clean Bill. However, it is impossible for this House to deal with amendments that have been reworded or with completely new material.

The Clerks should circulate a paper that indicates amendments which are in the name of the various members and which have not yet been debated and dealt with by the Committee. If members have new amendments to move, as is their entitlement, they should do so using their own skills to identify the correct place to which they refer in the clean Bill.

Mr Pendal: The member for Joondalup is capable of identifying that. The fact is that 56 other people are left without anything to follow. That is the problem.

The CHAIRMAN: A handwritten version of the amendments will be delivered to the Chamber within two to five minutes and members will have an opportunity to look at that. If members agree I will leave the Chair for approximately five minutes and return when the handwritten copy is available.

Ms McHALE: Is the member for Joondalup introducing completely new amendments or is he talking about the amendments that were on the Notice Paper?

The CHAIRMAN: I have not seen them. The member can judge that when she sees them.

Sitting suspended from 9.07 to 9.42 pm

Mr BAKER: By way of explanation members should now have a copy of my amendments. They have the letter B on the front sheet. I move -

Page 3, after line 19 - To insert the following new subclause (2) -

(2) A person who unlawfully performs an abortion is guilty of a crime.

Penalty: $50 000

This amendment relates to clause 4 of the reprinted Bill; that is, the Davenport Bill incorporating the amendments proposed by the member for Perth and the Minister for Health. If this amendment is agreed to, proposed section 199(2) becomes proposed section 199(3) and so on. The intention is not simply to delete the following proposed subsections. The provision in proposed section 199(1) does not create an offence at all. I understand the Minister for Health will confirm that in due course. It is just a general statement of principle or unlawfulness; it does not create an offence. Members will note that that provision - that general statement of prima facie unlawfulness - appears in the Criminal Code, not the Health Act. It follows that if there is to be an offence for that unlawfulness, it should also be located in the Criminal Code, not the Health Act. That is the objective of this amendment.

Rather than simply stating that something is unlawful, I go further in this amendment to create the offence pursuant to the unlawfulness. That is the intention. The words "unlawfully performs an abortion" in this amendment are intended to cross-reference with the phraseology in proposed section 199(1); in other words, if proposed subsection (1) is not complied with, that will create an offence. I want to make that clear in case members ask where is the definition of "unlawfully performs". The intention is that that definition is within the text of proposed section 199(1). Members may ask, first of all, why medical practitioners, who perform what I will generally describe as non-justified abortions, have an offence relating to them and, secondly, why that offence should be located in the Criminal Code.

I shall recap: If we accept that the general statement on lawfulness should be in the Criminal Code - I understand the member for Perth accepts that because she has endorsed the reprint of the Bill with the incorporation of the amendment - it follows that there should be an offence. Why should there be an offence? Once again, logic will dictate that if we state that something is unlawful, there must be an offence, otherwise, what is the point in having it in the legislation? It would be akin to saying that it is unlawful to drink and drive or to drive a motor vehicle with a blood alcohol content in excess of 0.08 per cent. That is a summary of the provision in section 64 of the Road Traffic Act. That would mean nothing. We would then have to go further and state that it is an offence and include the penalty. The intention behind the amendment is to give more substance to the general statement of principle.

Ms WARNOCK: I will be voting against this amendment, as I will against all of the member's amendments because I have no conviction at all that they are directed to assisting women and their doctors to solve the sad and stressful problem of an unwanted pregnancy. Having looked at the member's amendments, I believe that they are unnecessarily complicated and restrictive and are simply aimed at putting tough obstacles in the way of a woman's will and decision in this matter. All the matters dealt with in the member's amendment and suddenly listed last night and just as suddenly re-written this evening - and very difficult for those of us who are not lawyers to understand - are better dealt with in the amalgamated Bill presented to the Chamber in block form today. The member's amendments add nothing except obstruction. They are not presented in good faith.

Mr Baker: The member for Perth continually refers to amendments. We are dealing with my first amendment.

Ms WARNOCK: This amendment as well as the other amendments are not presented in good faith, but with the aim of going backwards rather than forwards in trying to deal with the policy dilemma that, goodness knows, we have in this Parliament.

Point of Order

Mrs ROBERTS: The member for Perth has suggested that these amendments are not presented in good faith. That is an extremely adverse reflection on the member for Joondalup and should be withdrawn under your direction, Mr Chairman.

The CHAIRMAN: I cannot really ask the member for Perth to withdraw, although I understand the sentiments of the member for Midland.

Mrs ROBERTS: She is impugning his motives.

The CHAIRMAN: How does the member for Perth feel about withdrawing?

Ms WARNOCK: Having been called everything short of the Ayatollah Khomeini, I would rather move on. My comments perfectly explain what I think about the member's amendments.

Committee Resumed

Ms WARNOCK: I will vote against these amendments and I urge other members to do the same thing for the reasons I have given.

Mr PRINCE: If members look at page 3 of the Bill, they will see at subclause (2), line 20, the creation of a crime punishable by five years' imprisonment. That offence is committed by a backyard abortionist who performs an abortion, commits a crime and is liable to go to gaol. I hope everybody agrees that should be the case. That crime or offence appears in the Criminal Code, which is where most of the criminal law is and should be. If members look at page 6 and what is presently listed as proposed section 334 of the Health Act, which is an amendment made to the Davenport Bill in the other place before it got here, there is the creation of an offence punishable by a fine of a maximum of $50 000 for a medical practitioner who unlawfully performs an abortion. This situation is quite distinct from that of a backyard abortionist; this involves a doctor who does not perform an abortion properly; for example, by not providing the prerequisite counselling.

The member for Joondalup is endeavouring to take that offence, which is presently to sit in the Health Act, and move it to the Criminal Code. It is the same offence. The punishment is still a maximum of $50 000. The offence still relates to the unlawful performing of an abortion by a medical practitioner. I suppose that since I am a purist, I would prefer to see offences defined in the Criminal Code and not elsewhere in legislation which is not predominantly to do with criminal law. The Health Act does contain other offence provisions but it is not predominantly a criminal Statute. Where we create an offence punishable by a maximum fine of $50 000, which is a lot of money, it should be in the criminal law. Consequently I support the amendment put forward by the member for Joondalup because it simply moves the offence from one Act to another. It does not create an offence where we do not already have one, or make it any more or less serious.

Mr BAKER: If my new subsection (2) is inserted, the backyard abortionist provisions still remain in the Bill but are contained in subclause (3). This is not a substitution. The member for Perth has acknowledged that the general statement of principle as to unlawfulness should be in the Criminal Code. Irrefutable logic dictates that it follows that any offence relating to that unlawfulness should also be in the Criminal Code.

Mr COWAN: I remind a few members in this place of what they decided some time ago. The member for Eyre drew attention to the fact that should a medical practitioner not follow the basic rules set down in what was the Foss Bill, it should be regarded as a simple offence and should have been transferred to the Health Act. We had a long debate about it. The member is now asking this Committee to put the offence back into the Criminal Code. We have a position where an unqualified person commits a criminal offence and is liable to punishment of five years' imprisonment. A doctor who does not follow a particular course of action, set of rules, guidelines or principles is guilty of an offence. As has been clearly enunciated by the Minister for Health, that offence is already in the Health Act. We are talking about doctors whom we expect to be dealt with under the Health Act if they have not followed a set of principles, as they are with any other procedure. I support the views of the member for Perth. I ask members of the Committee to oppose this amendment.

Mr BRIDGE: It does not matter what we discuss among ourselves, if members look at the nature of some of the conduct in society and the threats being made by the medical profession to us - the almost blackmailing tactics by those who have been speaking to the media - it is nothing short of a disgrace. I will not kowtow to those fellows out there who tell me that I must get on with the job of moving this legislation because it suits them. If they are so

irresponsible as to think that they can dictate to people like myself and others in this Chamber, they have another think coming. I would like somebody to jog trot out there and tell Dr Harry Cohen what I am saying. They should run and tell him real fast that he has a gall appearing on the television tonight and making threats in front of a camera about the speed with which we should dispense with this legislation. It is none of his business. I am a member of Parliament; he is not. He takes his rightful position in the medical world but he should keep his nose right out of parliamentary debate. That is the position with that kind of threat. When such a threat is made to me and I am told what I should do quickly, I will not do it. He can jog trot his pals around as much as he likes while he stands on two feet, as I do in my R.M. Williams riding boots - but he will never get me to agree to that. If ever there is an indication of why this move should be put in place, that is an example of it. As I said from day one, every aspect of this legislation should have been as closely tied to the Criminal Code as we could make it.

If we have an opportunity here at least to bring one part of the legislation under the Criminal Code, let us go for it. Let us show that we are in charge of this legislation, not the people outside who are trying to blackmail members. I hope that members have the guts to say what should be said to those people. I have been elected to serve in this place as a politician, those people have not. While I stand here as a politician I will determine the extent to which legislation will be taken or not taken, and the time frame for this Bill.

Mr BAKER: If the Deputy Premier were consistent in his views he would move to transfer proposed subsection (1) of proposed section 199 into the Health Act - if it is his view that that is the proper piece of legislation to deal with this issue. We have stated that it is unlawful in this Bill under proposed section 199 to perform an abortion unless certain conditions are complied with, and it stands to reason that we cannot deny the overwhelming logic that any offence relating to the unlawfulness should be placed in the code. Otherwise it is like having a statement in the Road Traffic Act concerning drink driving, but putting the offence in the Health Act and stating that because it is an alcohol-related matter it is a health issue. It is nonsensical.

Mr KOBELKE: I seek some clarification from the Minister for Health or some other lawyer who may be able to help. I understand that the principal part of section 199 is -

> Any person who with intent to procure the miscarriage of a woman . . . is guilty of a crime, and is liable to imprisonment for 14 years.

That makes clear sense to most people. I am unsure about how section 199 of the code stands. The Minister for Health tried to explain about the penalty in the Health Act, but the way I now read it, it is unlawful to perform an abortion unless the person is a medical practitioner who does it in good faith and it is justified. However, there is no penalty.

Mr Prince: That is right.

Mr KOBELKE: The Minister stated that the penalty was picked up in another Act. I do not know how the courts handle that. Therefore, I seek some explanation. The other question even more paramount in my mind is how many sections of the Criminal Code have no penalty attached? If the Minister cannot indicate a number, is it a common occurrence?

Mr PRINCE: In response to the member for Nollamara, in the beginning of the homicide chapter of the code, a threshold statement is made that, from memory, all killing is unlawful unless authorised, justified, or excused by law. It does not create an offence; it is a statement. I think I am right in saying that under the assault provisions of the code a similar statement is made that an assault is unlawful but does not create an offence. There are various types of assault. I think the same applies to stealing. It is not common, in that sense, and I can think of only a few.

Mr Baker: Do you agree that in the following section of the code the offence appears?

Mr PRINCE: Yes, but the member should remember the history of how this came to be. We have before us from the other place a Bill which repeals the three sections of the Criminal Code which deal with abortion. As a matter of principle I sought to put a statement back into the code which simply said originally "abortion is unlawful unless justified". Were that statement to become law it would not create an offence. It is a statement of threshold principle from which we then move - "abortion is unlawful unless . . .". The other way to do it is to say that all abortion is lawful as long as it is conducted in a certain way. In one sense one could say that is sophistry or philosophy but, to me, there is an important distinction here. Since I moved that amendment some weeks ago, others have got to it, including the parliamentary counsel, who has reworded it. I am delighted that he has, because it is well worded. On page 3 of the Bill proposed new section 199 states that it is unlawful to perform an abortion unless it is performed by a medical practitioner in good faith and it is justified under the Health Act. That is a statement of where we start when looking at the law; that is, "abortion is wrong unless . . .".

Mr Kobelke interjected.

Mr PRINCE: If it stands like that, we do not go anywhere. We would then turn to page 6 of the Bill where basically the same statement is proposed to be inserted in the Health Act, creating an offence punishable by a fine for a medical practitioner who unlawfully performs an abortion. The amendment by the member for Joondalup seeks to take the offence from the Health Act and put it in the Criminal Code. It is exactly the same offence and penalty. As a purist I am speaking as a lawyer. Offences should be in the code and not in an Act that is predominantly not to do with offences. That is my view, and I express it as a lawyer. I would prefer to see the medical practitioner offence - for want of a better way of describing it - in the code. To me, that is all this amendment does. I appreciate that, for symbolic reasons, others do not agree. The Deputy Premier has presented a reasonably cogent argument to the contrary, but I do not agree with him.

Mr McGINTY: I urge members to vote against the amendment. The scheme of the amended Bill is to take what can be described as the lesser offences relating to abortion out of the Criminal Code and place them in the Health Act. The scheme provides that the major remaining offence relating to abortion - that is, the performance of an abortion by a person who is not a medical practitioner, and we have used the term "backyard abortionist" - should remain a serious crime. The provision is that it is a crime, it remains in the Criminal Code, and it attracts a penalty of five years' imprisonment when a person who is not a medical practitioner performs an abortion. The scheme then provides that the other offences, when committed by a medical practitioner, will be dealt with as an offence under the Health Act. The further provision is that when a medical practitioner conducts an unlawful abortion he commits an offence under the Health Act and will be subject to a penalty of up to $50 000 under the Health Act.

Let us consider the nature of the offence committed by a medical practitioner: It is failing to hand the woman a brochure which properly spells out the matters required to be spelt out for the woman to give informed consent. These are breaches of a lesser nature than that committed by the backyard abortionist. Putting to one side the question of medical negligence, which is also handled at a civil level, these are very much offences of a procedural nature. I would not like to see a doctor who lacks bedside skills in counselling a person convicted of an offence under the Criminal Code and imprisoned for a deficiency in the way a woman was counselled.

Mr Prince: The penalty is monetary.

Mr McGINTY: I will come to that. If the amendment is successful, new section 199 will contain two penalties. A great complication has been introduced at the level of the penalty because there will be two penalties for the performance of an unlawful abortion. I will return to that point.

If a medical practitioner does not properly counsel a woman or hand over a pamphlet containing the requisite information, it will not be regulated under the Health Act but will become a criminal offence, on a par with a backyard abortion. As the Deputy Premier said, we have already debated that point. We have resolved that those matters be regulated in the Health Act.

Members will be aware that the Health Act is one of the largest pieces of legislation. It creates numerous offences for doctors and other health professionals, essentially of a procedural nature. Section 335 of the Health Act creates an offence for a midwife who attends on a delivery and does not furnish a report on the delivery, and the midwife is punished for the offence committed. That is not unlike what we are talking about here. This is why these offences are not crimes but are appropriately classified as offences and categorised under the Health Act. An earlier section deals with an offence committed by a doctor who fails to notify a venereal disease.

All the way through the Health Act, offences which are not as serious as the performance of a backyard abortion are created against health professionals. Those people should be dealt with under the Health Act, and the Health Act is where doctors would automatically look for these procedural matters. This amendment will undo what we have already voted on and will substantially make all offences with regard to the termination of a pregnancy a crime under the Criminal Code. We would then face the problem of having two penalties under the same section of the Criminal Code. This amendment is poorly drafted, and I urge members to vote against it.

Amendment put and a division taken with the following result.

Ayes (27)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson	Mr Shave
Mr Baker	Mrs Holmes	Mr Nicholls	Mr Sweetman
Mr Barron-Sullivan	Mr Johnson	Mr Omodei	Mr Tubby
Mr Board	Mr Kobelke	Mrs Parker	Dr Turnbull
Mr Bridge	Mr MacLean	Mr Pendal	Mr Cunningham *(Teller)*
Mr Court	Mr Masters	Mr Prince	
Mr Day	Mr McNee	Mrs Roberts	
Mrs Edwardes			

Noes (27)

Ms Anwyl	Dr Edwards	Mr Marshall	Mr Thomas
Mr Barnett	Dr Gallop	Mr McGinty	Mr Trenorden
Mr Bradshaw	Mr Graham	Mr McGowan	Mrs van de Klashorst
Mr Brown	Dr Hames	Ms McHale	Ms Warnock
Mr Carpenter	Mr House	Mr Riebeling	Mr Wiese
Dr Constable	Ms MacTiernan	Mr Ripper	Mr Osborne *(Teller)*
Mr Cowan	Mr Marlborough	Mr Strickland	

The CHAIRMAN (Mr Bloffwitch): The voting being equal, I give my casting vote with the ayes.

Amendment thus passed.

Mr PRINCE: I move -

Page 4, lines 1 and 2 - To delete the lines and substitute the following -

(4) A reference in this section to performing an abortion includes a reference to -

(a) attempting to perform an abortion; and

(b) doing any act with intent to procure an abortion,

whether or not the woman concerned is pregnant.

I am obliged to parliamentary counsel for his assistance. He has sought to explain, perhaps better than the words that appear in the Bill, what is intended by the word "performing", and has specified by this amendment that it is attempting to perform an abortion or doing any act with intent to procure an abortion, whether or not the woman concerned is pregnant.

That last point is important, because otherwise an act that was unlawful could be found to be not unlawful because, notwithstanding everyone's belief, the woman was not pregnant. That should have no effect on whether the person was performing an unlawful act. I trust that this amendment is not contentious.

Mr BAKER: I support the amendment. It is a commonsense amendment and further expands the existing definition.

Amendment put and passed.

Clause, as amended, put and passed.

New clause 5 -

Mr BAKER: I move -

Page 4, after line 2 - To insert the following new clause -

5. The following new section is inserted in *The Code* -

" **Further offences relating to abortion**

200. (1) A person who procures or attempts to procure the consent of a woman to an abortion by force, threat, intimidation, coercion, deceit or fraudulent means is guilty of a crime and is liable to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for two years or a fine of $50 000. ".

The amendment creates a new offence. It is a crime and if it is dealt with on indictment, it imposes a maximum period of imprisonment of up to five years. However, a summary conviction penalty applies. For members' assistance the term "summary conviction penalty" is defined in section 5 of the Criminal Code and I will read it that so that members understand exactly what is being proposed. Section 5 states -

The words "Summary conviction penalty" appearing after a provision of this Code mean that where a person is charged before a court of petty sessions with an offence under that provision and the court, having regard to the nature and particulars of the offence, and to such particulars of the circumstances relating to the charge and the antecedents of the person charged as the court may require from the prosecutor, considers that the charge can be adequately dealt with summarily, the charge may be dealt with summarily at the election of the person charged, and the person is liable on summary conviction to the penalty set out after the words "Summary conviction penalty".

There is a choice factor. The person charged has an election in determining whether a charge can be dealt with summarily - in other words, in the Magistrates Court or in the District Court.

All members should support the amendment for reasons which are patently obvious. People who offend against such a provision deserve the very firm and swift hand of the law, hence the substantial penalty of five years' imprisonment if the matter is dealt with by way of indictment. The words used in the proposed new section have their ordinary meaning. Certainly there is an element of overlap between a few of the words; for example, coercion can overlap with threat. The gist of the amendment is really a borrowing from section 319 of the Criminal Code, which contains a specific statutory definition of the term "consent" insofar as it applies to sexual offences.

I will read section 319 of the Criminal Code so that members will understand why the same few words and phrases have been adopted in this amendment. Section 319(2)(a) states -

> "consent" means a consent freely and voluntarily given and, without in any way affecting the meaning attributable to those words, a consent is not freely and voluntarily given if it is obtained by force, threat, intimidation, deceit, or any fraudulent means.

I have adopted that definition for the key words and phrases in the amendment. The defence of consent in relation to sexual offences has been tried and tested over many hundreds of years - well before this Criminal Code was enacted or even the Griffith Code was enacted in any State or Territory in the Commonwealth of Australia and its Territories. One might ask why it is necessary to have such a definitive definition of consent. The answer is that in cases of sexual offences and taking into account the fact that consent is often raised as a defence or mistake of factors to consent, the *Oxford Dictionary* definition of the word consent is not broad enough to cover the types of consents or the types of exclusions to the definition of the word consent that would be intended to apply to criminal offences where consent or consent to procurement in the case of abortions is a key factor or element.

Mr PENDAL: I, for one, would like to hear more of the argument from the member for Joondalup.

Mr BAKER: The other point, and there may be some argument on this point, is that it follows suit that if we do not include a provision of this kind, we are not creating an offence in respect of this sort of behaviour. We are not saying that this sort of behaviour is unlawful, and if it is not unlawful, it is therefore lawful; it follows suit. Behaviour is considered to be lawful unless it is declared to be unlawful. If members do not vote in support of this new offence going into the Criminal Code, which in my view is the appropriate location for such a offence, members are saying that that kind of behaviour should be lawful; it should be quite okay. That is absolute nonsense. I would be surprised to hear any member speak out against the need for an offence of this kind which strikes out at the people who try to suborn the will of a woman when deciding whether to consent to abortion.

Dr EDWARDS: While I understand the sentiments that the member for Joondalup is expressing, from my own experience I cannot see why this is necessary. The heart of the issue is the quality of the counselling. As I have said previously in this Chamber, as a medical practitioner I have counselled hundreds of woman who have proceeded and had terminations. Equally, I have counselled women where I have been unhappy or picked up some other undercurrent, and some of them have not gone on to have terminations; they have had their babies. From my point of view that has always been a most satisfactory experience. I have also worked at the Sexual Assault Referral Centre and with people who are victims of incest. I have never come across the type of situation to which I think the member is eluding. One of the basic tenets of counselling is that it is directed to the client, but the client makes the decision. There are some people in this Chamber who would object in some ways to what the doctor does in that the opinion of the woman's partner or any other significant person is nowhere as important as the opinion of the woman herself. When people are good counsellors, they have the ability to pick up initially intuitively and then later through their relationship with the person that some other factor is involved, and are able to sort it out properly. In my extensive experience of having counselled people, I have not come across the sort of situation to which I think the member is alluding, where perhaps there is incest or some other issue of violence.

For those reasons I do not believe the amendment is necessary. I am pleased that the Bill contains sufficient quality controls relating to counselling. For that reason I will be voting against the amendment. The other reason I will be voting against it is the penalty attached. We would have great difficulty proving what occurred. If the member for Joondalup can give further examples, I would be very interested to hear them. I think that my quite extensive experience is pertinent to my comments.

Mrs van de KLASHORST: One of the reasons we are debating this legislation is that the current law is not being adhered to, and has not been adhered to for the past 25 years. Consequently, we are trying to change the law so that the new law can be observed. I am very concerned about this. How can it be proved? Women of all ages have told me why they have had abortions. If a woman decided to have an abortion and changed her mind afterwards, could she say that she had been forced into it? How could it be proved? It is quite a good idea, but I am very concerned

that it could be twisted and it cannot be proved. I would like to know more from the member. Also, why is there reference to imprisonment for five years on one line, and to two years' imprisonment and a fine on the next line? I do not understand how that works.

Mr McGINTY: This proposed clause is completely unnecessary because it is already a criminal offence under the Criminal Code to do that which the member for Joondalup seeks to achieve by his amendment. One would have expected him to be familiar with the provisions of the Criminal Code in relation to threats and the like, contained in section 338 onwards. This amendment will be a duplication of the existing provisions relating to threats, threats with intent to influence, false statements and the like, which are contained in those sections of the Criminal Code. It deals with those sorts of matters in the general sense, which then affect the whole operation of the code. If a threat were made that induced a woman to have an abortion against her will, it would be picked up by existing sections of the Criminal Code. Section 38 states -

> In this chapter a reference to a threat is a reference to a statement or behaviour that expressly constitutes, or may reasonably be regarded as constituting, a threat to -
>
> (a) kill, injure, endanger or harm any person . . .
>
> (b) destroy, damage, endanger . . .
>
> (d) cause a detriment of any kind to any person.

The amendment moved by the member for Joondalup is adequately covered by existing provisions of the Criminal Code. Should there be any doubt, section 338A provides that any person who makes a threat with intent to gain a benefit, cause a detriment, prevent or hinder the doing of an act by a person who is lawfully entitled to do that act, or compels the doing of an act by a person who is lawfully entitled to abstain from doing that act, commits a crime and is liable to punishment under the existing provisions of the Criminal Code.

I can only presume that the member for Joondalup has proposed this amendment to add further to the criminality of those who may seek to terminate a pregnancy. In that sense, it is not well founded. It is better regulated by the general provisions relating to threats which operate against all the provisions of the Criminal Code. I urge members to vote against the amendment, because it is not necessary to clutter up this section of the Criminal Code with repetition of matters that are adequately provided for elsewhere. If there were evidence of someone threatening people that they would be acted against to their detriment if they did not have an abortion, that person could be prosecuted under existing provisions. Uncertainty should not be introduced about the section under which a person should be prosecuted. The existing provisions are completely adequate, and no argument has been advanced so far to suggest that they do not adequately cover the situation.

Mr BAKER: In response to the member for Swan Hills, section 5 of the Criminal Code contains reference to a summary conviction penalty. It gives a discount in the event that the matter is dealt with summarily in the Magistrate's Court. It applies to certain assaults that are dealt with summarily and many other offences. I can assist later in helping her to understand that.

With reference to matters raised by the member for Fremantle, he has forgotten to mention that under section 338 of the Criminal Code the penalty would be imprisonment for seven years. That is very interesting. He has certainly taken the time to harp on the word "threats", but he has forgotten the other words used in the proposed new offence - intimidation, coercion, deceit, or fraudulent means. He dismisses the whole section with a scant and pathetic argument concerning the word "threat". I invite members to read section 338 of the Criminal Code in relation to the meaning of the word. A broad argument could be constructed that it may apply in these circumstances, but there is nothing unusual in the Criminal Code containing a catch-all provision and a narrow specific provision dealing with an offence.

I remind members that it is not the intention, and it could never be, that a woman be caught up in this. I could refer to other definitions that are well outside the scope of section 338. I will touch on the word "coercion" which certainly has an Oxford Dictionary definition. It also has a judicially decided definition; in other words, it has been tested in key words and phrases in other Statutes.

Mr Marlborough: Stop being the Trojan horse of the Premier. Get the Premier in here to do his own dirty work. Has he offered you a ministry?

Mr BAKER: The member for Peel should listen. I am seeking to expose the argument raised by the member for Fremantle, without any foundation. I will give an example and quote from the text of *Words and Phrases - Legally defined, Volume 1:A-C*. It is the third edition and is written by John B. Saunder, Barrister at Law. It was published by Butterworths in 1988. It defines the word "coercion" as follows -

> 'Coercion takes an infinite number of forms, but it may properly be thus defined:- the moment that the person who influences the other does so by the threat of taking away from that other something he then possesses, or of preventing him from obtaining an advantage he would otherwise have obtained, then it becomes coercion and it ceases to be persuasion or consideration.'

Once again, returning to the word "threat", as I mentioned at the outset there is a certain element of overlap in the words used in that section. If the member for Fremantle were correct, it would not be necessary to include the word "threat" in section 319 of the Criminal Code. Of course that is nonsense; section 319 is a very important provision because it defines that key word "consent".

I also refer to fraudulent means which, by no stretch of the imagination, could include a threat. A fraudulent means inducement under this provision would be, for example, someone making a fraudulent promise to do something for a person with no intention of carrying out that promise. For example, a man could tell a pregnant woman that if she aborted the child, he would marry her, live with her, or not leave her. Of course, the words "deceit" and "fraudulent" do have an element of overlap. I will not pick and choose which word I run with in this provision, just on that basis. I am very much guided by the definition in section 319, which has been tested over hundreds of years in common law jurisdictions.

Mr JOHNSON: I seek clarification from the Minister for Health, because I have great faith in his legal knowledge. Earlier tonight I explained to the member for Joondalup my concern about the word "coercion" and I thought he would drop that word. Most lawyers would say that it is a loose term. I ask the Minister for Health to inform the Committee whether a mother or father who encourages their pregnant daughter to seek an abortion would be classed as exercising coercion. I would have difficulty imprisoning a mother or father for that. I will vote against the amendment as it stands because it could leave a mother and father open for imprisonment if they were deemed to have coerced their daughter. Could the Minister for Health advise the Committee whether that scenario is a possibility under this amendment?

Mr PRINCE: It is a matter of balance. As the member for Maylands said, counselling would involve regarding the opinions of a significant other - the partner, the boyfriend, husband - and possibly also other members of the woman's family. In that sense their opinions, feelings, thoughts and advice to the woman are valuable and important and should be sought. Perhaps a line exists between the wishes of the father of the child or the family of the woman that an abortion is the appropriate thing - that is their judgment - and an expression that goes much further than that that says effectively either do it or else. That is a form of threat, coercion or intimidation. It would be a cruel parent who would do that and it would be difficult to give the member for Hillarys a definitive answer because it would depend upon the circumstances of the case.

Mr Johnson: What if they encouraged their daughter?

Mr PRINCE: Encouragement would not be coercion. There must be something beyond the realm of giving advice; it would have to be something that would be deemed to be worthy of a criminal sanction, which would be extreme behaviour.

Mr McGinty: For instance, they say she must leave home if she does not have an abortion?

Mr PRINCE: It could be. It would depend on the age of the woman. For instance, if she were 18 years of age or older and was capable of living independently one could argue cogently that that would not be coercion. The member has posed a difficult question. As the member for Fremantle has said, there is not a lot of difference between this amendment and the existing provisions of sections 338 and 338A of the Criminal Code which deal with threats to influence people to do things they otherwise do not want to do. The benefit of the amendment before the Chamber is that it puts plainly into the same area as the law relating to abortion - if this Bill is passed - a statement of an offence that it is wrong for someone to be a standover merchant and that person should not do so. That is the extreme case that perhaps we seek to be able to modify by way of criminal penalty. It is in an area which one could debate, and perhaps doubts as expressed by the member for Hillarys could arise. We will have problems, but they would arise under sections 338 or 338A of the code anyway. It would largely depend on the circumstances of an individual case.

It is highly unlikely that anybody would be prosecuted under this provision, and most unlikely that anyone would be convicted, unless the behaviour that is said to be a threat, intimidation or coercion is of such a nature that the criminal law should attach to it. I would expect the form of behaviour to be of such a serious nature that it would not be normally countenanced by society. It would not be something of the nature of a parent saying, "I think you should have the abortion; I urge to you to do so", and so on. That would never be regarded as a threat, intimidation or coercion. However, I express a personal view. To insert this provision as intended is not a bad idea; however, if it does not pass, it is effectively covered anyway under the law's threats provision.

Dr TURNBULL: I am concerned about this amendment. The member for Maylands made a very good point, except that occasionally heavy force and coercion is applied to a person to have an abortion, particularly if that person is pregnant to someone like the de facto partner of the mother. I have unfortunately been involved in such a case where the woman was not under 16 years of age. It was a very difficult situation to detect and which did not come out at the time. This proposed provision would relate to such cases.

The other unfortunate use that I could envisage of this proposed provision would be with a woman who had an abortion about which she later feels extremely guilty. Therefore, she tries to spread the blame around to justify her action. She could then lodge a complaint against certain people, such as her boyfriend.

I have seen unfortunate consequences of the law we changed not long ago by which a woman can lodge retrospective charges against people for sexual harassment or abuse which occurred at some stage during the woman's life. Good examples of that are stalking and sexual harassment. We have seen a high profile and dramatic case recently of claims of sexual abuse in which the court finally made a decision that the woman's interpretation was far in excess of a reasonable assessment of what happened.

I have been personally involved with a number of such cases, some of which have been high profile and some which have not reached the newspapers. In a tragic case a man's life was virtually ruined by an accusation which reached court. He finally managed to defeat the charges, but the financial cost of reaching that stage was excessive.

In the first example I mentioned where a woman is threatened and coerced into an abortion, and it is revealed at a later stage that a genuinely severe threat was made, maybe this provision or section 338 of the Criminal Code could be applicable.

I fear that some of the other issues included in the amendments will open up our courts to far more people wishing to allay their own feelings of guilt or simply wanting to get back at someone out of vicious determination by trying to place undue blame. Although I appreciate the good intention of the member for Joondalup in framing this amendment, it could be misused.

Ms McHALE: We heard a legal analysis that the amendment is unnecessary based on the fact that there are other clauses in the Criminal Code. The definition that the member for Joondalup has attempted to introduce is in section 319 of the Criminal Code, which relates specifically to sexual offences. I am not assuming that he is linking termination of a pregnancy to a sexual offence. However, determining whether consent was given freely or otherwise during a sexual offence is a complex matter. Coercion and intimidation can occur in situations where, on the face of it, women may seem to have given consent. This definition of "consent" lies in and relates to sexual offences.

This Bill contains a definition of "informed consent". When we debated the Foss Bill we spent a long time considering what informed consent meant. It means giving consent freely. If a claim were proved that it was not given freely, it would be picked up as an unlawful abortion. Therefore, we do not need this additional definition. If members support this amendment, they will be not only cluttering up the Bill but also reintroducing areas of uncertainty and greyness to the legislation.

What does coercion mean? As the member for Collie suggested, a woman may subsequently regret her decision even though it was made in good faith, but she needs to find a way of dealing with that. That is not the situation we need. This amendment will reintroduce uncertainty. The Bill contains a very good definition of informed consent which stands alone and serves clearly to provide the framework we need to understand informed consent. I urge members to vote against this amendment.

Ms ANWYL: I oppose this amendment in its current form. We need to have a reality check in this place occasionally because we seem to exist in rather rarified air when considering some things and be detached somewhat from events outside the Parliament.

In terms of chapter 12 of the Criminal Code this amendment is concerned with offences against morality. We should make law according to evidence-based ethics, not moral prejudice.

My concern is that we are trying to create a huge number of obstacles to women who may be seeking terminations for totally proper reasons. I do not know of any evidence that offences are occurring of the nature that would be caught within this definition as moved by the member for Joondalup. I received some amendments from him at 11.30 pm yesterday. It is interesting to look at those amendments as opposed to this evening's amendments. Last night this offence warranted a 10 year prison sentence, but today it warrants a five year sentence. I do not know the reason for that. The Minister for Health claims some credit. There have been several weeks in which to draft that amendment and how it can change from 10 to five years overnight is beyond me. I am sure the member for Joondalup will respond in due course.

I agree with the member for Fremantle: The Criminal Code contains adequate provisions to deal with this. To introduce a fresh offence belies the question that I am pleased to say we are finally debating; that is, whether we want to repeal the Criminal Code. The vote we have just had suggests that a small majority of members do not want that. However, we must put today's events in context.

I have heard the member for Kimberley's comments. I understand that the King Edward Memorial Hospital health professionals said they will simply uphold the law from Friday for, I assume, the first time in 25 years. Let us get it right: The doctors have simply said they will uphold the law as it stands. We have heard previously that only 5 per cent of women who present for terminations would satisfy our current law if it were enforced as it is meant to be enforced. We have had lengthy debate about paragraphs (a) to (d) and we may continue it. However, in the context of that debate, we heard a lot of very clear evidence from doctors about what would happen in the case of each of those paragraphs applying. It is very important that we understand the effect of this amendment.

The amendment will do nothing to protect the women those supporting it suggest will be protected. I ask members to consider the protection of women who may need for some reason to seek a termination on the weekend or thereafter. I have said it before and I will say it again: The women who will be disadvantaged by this type of amendment are poor women, country women and women in remote areas. They are not rich women who will get on a plane and fly to another State or those who will jurisdiction or border hop, as we see so commonly in the United States of America; they are poor, disadvantaged women - the very women members say they wish to protect. I urge members to oppose this amendment on the basis that it will not do that.

Mr JOHNSON: I thank the Minister for Health for responding to my earlier query about the word "coercion"; however, he did not convince me that we should leave that word in the amendment. I also read the definition of the word "coercion" in *Words and Phrases Legally Defined.* It basically says that it can be many things. It is a very grey area. Let us take the case of a young girl who falls pregnant and whose mother and father might have the best intentions for their daughter. If they give her the ultimatum that she either has an abortion or gets out of the house and never comes back, that could be classed as a threat; however, if they say that if she goes through with having this baby, she does so without their consent and without their blessing and should not look to them for any support in the future, that is coercing the girl to have an abortion. In the speech I made during the second reading debate on the previous Bill, I said that I never wanted to see a young girl or a woman being deemed a criminal for seeking a legal abortion.

I cannot accept the term "coercion" in this amendment. This is a very loose term and it does not appear in section 338 of the Criminal Code which refers to force, threat and intimidation. I can accept all of those, but I cannot accept the term "coercion" for all the reasons I have previously outlined.

I move -

> That the amendment be amended by deleting the word "coercion".

I understand that the member for Joondalup is reasonably happy with this amendment to his amendment. I hope members will support the deletion of that word.

Mr PENDAL: I do not want to spend a lot of time on this; however, I want to go on the record as opposing the deletion of the word "coercion". There is a clear meaning to the word. The members who have made an argument in favour of withdrawing the word have made the case for leaving it as it is. That is intended to be taken as a part of a group of words which have clear meanings - force, threat, intimidation, coercion, deceit and fraudulent means. On the broader topic that has been canvassed, there are few definitions that we have dealt with that have had more precision and less ambiguity, than words referring to its being an offence to coerce someone to do something. Therefore, it is a good argument to vote against the amendment moved by the member for Hillarys, and to return to the position where the new clause would be as moved by the member for Joondalup.

Amendment on the amendment put and a division taken with the following result -

Ayes (39)

Mr Ainsworth	Mr Day	Mr Masters	Mr Shave
Mr Baker	Dr Gallop	Mr McGinty	Mr Strickland
Mr Barnett	Dr Hames	Mr McNee	Mr Sweetman
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Mr Thomas
Mr Board	Mrs Holmes	Mr Nicholls	Mr Tubby
Mr Brown	Mr House	Mr Omodei	Dr Turnbull
Dr Constable	Mr Johnson	Mrs Parker	Mrs van de Klashorst
Mr Court	Mr Kobelke	Mr Prince	Mr Wiese
Mr Cowan	Mr MacLean	Mr Ripper	Mr Osborne *(Teller)*
Mr Cunningham	Mr Marshall	Mrs Roberts	

Noes (16)

Ms Anwyl	Mrs Edwardes	Ms MacTiernan	Mr Riebeling
Mr Bradshaw	Dr Edwards	Mr Marlborough	Mr Trenordan
Mr Bridge	Mr Graham	Ms McHale	Ms Warnock
Mr Carpenter	Mr Grill	Mr Pendal	Mr McGowan *(Teller)*

Amendment on the amendment thus passed.

Mr KOBELKE: I support the amendment of the member for Joondalup, as amended. Clearly there is a distinction in this debate between those who feel that matters should be in the Criminal Code and those who do not. We should have a number of provisions in the Criminal Code which maintain respect for the life of the unborn child. I have no difficulty as a matter of principle in supporting the inclusion of this new section in the Criminal Code. I will raise two matters in respect of this. The member for Maylands said that often in counselling it becomes evident if there were any sense of intimidation or threats. I judge the member for Maylands to be a very capable medical practitioner and someone who is professional and ethical. Fortunately the standard of our medical practitioners is very high. We often, at our peril, fail to recognise that not all medical practitioners are the same. Although they may be in the minority, in some cases there will be instances of force, threat, intimidation, deceit or fraud. Therefore, it is appropriate to place such a section in the Criminal Code. That does not cast aspersions on the vast majority of medical practitioners who are engaged in some form of counselling. We are already aware of the current rate of abortion which is happening outside the law, but even under the current law, there are cases of threats and intimidation. It may be at a low level, but currently we have clear evidence of threat or intimidation. We are moving to a situation where it will be much easier for a person to have an abortion within the letter of the law. We are opening up the whole issue, according to the way the votes are being made. That being the case, it is all the more important to insert such a section in the Criminal Code to make it very clear that if anyone seeks to force, threat, intimidate, use deceit or fraudulent means to have a woman undertake an abortion, it is an offence. We seek to establish that the rights of the woman are protected. It is appropriate and necessary to include such a section in the Criminal Code.

Mr COWAN: I could not agree more with the member for Nollamara. The provision already exists in the Criminal Code. We do not need a duplication. Although I am very pleased that the amendment moved by the member for Hillarys was accepted, the fact remains that this issue is already addressed in the Criminal Code. I urge members to vote against this amendment.

Mr PRINCE: I am drawn to respond to a comment by the member for Nollamara which I find extraordinary. He seemed to imply that the amendment is designed to prevent a doctor from forcing a person to do certain things. It is an extraordinary statement. I do not think that is the intention. The amendment is designed and intended to stop a standover merchant. It is a difficult area. It is not easy to resolve. It is already covered in other sections of the Criminal Code. I doubt that this amendment would add much. It certainly does not detract. One could question whether it is worthwhile putting it in. I confess to being in two minds about it.

Mr Kobelke: I was responding to the line taken by the member for Maylands who suggested that because the need to counsel people is contained in another part of the Bill, the doctor who is doing that would often pick up any threat, intimidation, etc, and would be able to help the woman, and get around the situation. I was responding to that statement, and if my comments suggested I was taking a broader scope regarding the involvement of doctors, that was not my intention.

Mr PRINCE: In that case, I have misinterpreted the words used by the member. Even with the amendment, I cannot see that we will go much further than the existing section of the Criminal Code. In that sense, this is superfluous, but it sends a message. The question is whether we want that message placed in the code in a superfluous way. I am inclined to think not.

Mr BAKER: The offence is intended to be an offence that will only apply and can only apply to the abortion law of this State. Many other provisions in the Criminal Code can overlap in many instances, given a certain scenario. As a simple example, under the Road Traffic Act if a person is apprehended with a blood alcohol level of 0.15 or above, he or she can be charged with exceeding 0.08 rather than with driving under the influence of alcohol. In those circumstances the police always proceed with a more appropriate charge relevant to the type of offence. The same logic applies here. An intimidation, a threat, or force applied to a woman would attract a more appropriate charge under the offence which I propose to be incorporated in the code. Another simple example is the offence of robbery, which involves elements of stealing and violence, among other things. Someone who robs a bank, using violence on a person, could be charged with assault. In those circumstances, once again, the more appropriate charge is robbery or armed robbery, rather than one of assault. It is horses for courses. This offence relates to abortions, and

so it should. It is more appropriate to have a specific inclusion rather than rely on a general, nebulous version elsewhere.

Section 338 can apply only to the word "threat" anyway. I urge members once again to read section 338 of the Criminal Code. It does not include deceit or intimidation, as was stated. Section 338 defines the word "threat"; and if members read that definition, they will agree with me.

Amendment, as amended, put and a division taken with the following result -

Ayes (22)

Mr Baker	Mrs Edwardes	Mr McNee	Mrs Roberts
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Mr Shave
Mr Board	Mrs Holmes	Mr Nicholls	Mr Tubby
Mr Bridge	Mr Johnson	Mr Omodei	Mr Cunningham *(Teller)*
Mr Court	Mr Kobelke	Mrs Parker	
Mr Day	Mr MacLean	Mr Pendal	

Noes (33)

Mr Ainsworth	Dr Gallop	Mr McGinty	Mr Trenorden
Ms Anwyl	Mr Graham	Mr McGowan	Dr Turnbull
Mr Barnett	Mr Grill	Ms McHale	Mrs van de Klashorst
Mr Bradshaw	Dr Hames	Mr Prince	Ms Warnock
Mr Brown	Mr House	Mr Riebeling	Mr Wiese
Mr Carpenter	Ms MacTiernan	Mr Ripper	Mr Osborne *(Teller)*
Dr Constable	Mr Marlborough	Mr Strickland	
Mr Cowan	Mr Marshall	Mr Sweetman	
Dr Edwards	Mr Masters	Mr Thomas	

Amendment on the amendment thus negatived.

New clause 6 -

Mr BAKER: I move -

> Page 4, after line 2 - To insert the following new clause -
>
> " **6.** The following is inserted in new section 200 of *The Code* -
>
> (2) A medical practitioner who performs an abortion reasonably suspecting that a person has procured or attempted to procure the consent of the woman concerned to that abortion by any of the means mentioned in subsection (1) is guilty of a crime.
>
> Penalty: $50 000. "

I understand that the member for Collie will be moving an amendment to my amendment which will adopt the threatening behaviour referred to in section 338 of the Criminal Code that the member for Fremantle referred to earlier. That being the case I will sit down and leave it to the member for Collie to move that amendment.

Dr TURNBULL: I move -

> That the amendment be amended by deleting the words "any of the" and inserting after the word "means" the words "of force".

The proposed subsection would then read -

> A medical practitioner who performs an abortion reasonably suspecting that a person has procured or attempted to procure the consent of the woman concerned to that abortion by means of force mentioned in subsection (1) is guilty of a crime.

Very occasionally there might be a case of a person who was guilty under section 338 of the Criminal Code of applying force, that force not necessarily having to be physical force, but force by any means to a person that would harm the person, as was explained previously by the member for Fremantle. If a person was convicted under section 338 of the Criminal Code in those circumstances I consider that the medical practitioner who was knowingly aware of that should definitely be charged. I imagine this would be a very rare case but there is that possibility and members should accept this amendment.

Mr COWAN: Quite frankly I have never heard such nonsense in my life. We have now spent hours and hours dealing with the issue of informed consent, defining what informed consent means and then moving down this

particular path. Once again I cannot see that this amendment makes any contribution to this particular position and it mystifies me why the member for Collie would do this.

No medical practitioners who must follow the rules of informed consent will ever perform an abortion if they believe someone has been coerced into it. Two issues are involved. A great deal of time has been spent in previous debates establishing the issue of informed consent and getting the definition right. No doctor will move outside those criteria. Section 338 of the Criminal Code will pick up those people. This is quite meaningless, and is merely an attempt by people to overstate the obvious.

Mr McGINTY: I give members two reasons to vote against this amendment. The amendment moved by the member for Collie refers to the procurement of consent of the woman by means of force, mentioned in section 338 of the Criminal Code. However, section 338 makes no mention of force. For grammatical reasons, the amendment is a nonsense and it should not be inserted.

The second and more substantial reason is that it is completely unnecessary. To put it simply, if the consent of the woman is not freely obtained - in other words, if it is obtained by force, threats or duress - the abortion is not justified and the doctor commits a criminal offence by performing an abortion. If a doctor is guilty of performing an unjustified abortion, and therefore commits an offence under the Criminal Code, why provide in the next section of the code that he is guilty of the same thing? The reasoning escapes me. The member for Collie wants a provision whereby a doctor, who acts in bad faith and suspects that consent has not been freely given, should be penalised. We have already voted on that issue. This amendment is unnecessary.

Mr PRINCE: I am concerned about the question of a medical practitioner "reasonably suspecting". A doctor must have a positive knowledge that the person concerned has freely consented to an abortion. That is obtained through the process of informed consent. If that process is not followed properly, the doctor cannot be sure the person is freely giving consent. In that sense the potential is satisfied. If the doctor reasonably suspects, as in the example given by the member for Collie, in such a way that the doctor aids and abets an abortion, the doctor commits an offence and, under section 7 of the Criminal Code, is an offender. If the doctor has not done the counselling properly he has committed an offence under the existing provisions. It is placing a burden on the medical practitioner that is in a sense already there in a positive way by the requirement to provide counselling, which the doctor should do anyway, and perhaps coming up with an unreasonable form of offence which is covered by other sections of the code.This is going too far and is probably superfluous. It creates uncertainty and I cannot support it.

Amendment on the amendment put and negatived.

New clause put and negatived.

New clause 7 -

Mr BAKER: I move -

Page 4, after line 2 - To insert the following new clause -

7. The following is inserted in new section 200 of *The Code* -

" (3) A medical practitioner who performs an abortion knowing that the woman concerned has consented to the performance of that abortion with an improper motive is guilty of a crime.

Penalty: $50 000.

In this subsection -

"**improper motive"** means an intent of the woman concerned to have her pregnancy terminated because she believes that the unborn child is of a particular sex. ".

This is known as the improper motive or sex provision. Women have many motives and reasons for abortions - improper and proper. However, subject to the justification provisions which will appear in the Health Act, as a result of the Davenport Bill, members would agree that it is improper to use abortion as a device to select the sex of a child. During the course of the third reading debate on the Foss Bill, many members raised their concerns that the Foss Bill would permit sex selection. It is interesting to note that IVF legislation in Australia prohibits sex selection; in other words, discarding the embryos in the circumstance where the sex is not what is desired by the couple concerned. There may be many motives for an abortion but I am sure we would all agree it is improper to abort on the basis of sex. I commend the amendment to the Chamber.

Dr EDWARDS: We would oppose people who try to abort foetuses because they do not like their sex. However,

in some cases a particular sex will be carrying a genetic disease and a woman may want a male foetus aborted because of a sex-linked genetic disease. That would be caught up in this clause, because it would be regarded as an improper motive and I will not support that.

Mr BAKER: The motive is the genetic disability, disease or problem, so the justification would be proper. It is improper if the sex is the reason for the abortion. We must look at the motive. I am not splitting hairs. The intention is to determine proper motive and means. In other words, nothing else can be factored into the intent of the woman to have a pregnancy terminated other than her belief the unborn child is of a particular sex. In the example given by the member for Maylands the reason for termination is that she believes the child if born will have a genetic disability or disease.

Dr EDWARDS: Some of the defects are specifically sex linked. Some of the very serious conditions, for which women justifiably should have a termination, are sex linked. I support the sentiment of the amendment, but not its wording. Although I am not a lawyer, I believe the member's provision will catch women with a valid reason for termination.

Mr BAKER: I repeat my earlier comments: If concerns are held, simply move an amendment outlining a specific exception for sex-linked genetic defects. In the member's hypothetical situation, the genetic disability or disease, not the sex, is the motive.

Dr EDWARDS: That is not accurate in genetics. Unless it is amended to exclude the women about whom I am concerned, I will not support the amendment.

Mrs van de KLASHORST: A family of quite close friends of mine have a genetic disease which afflicts only males. It is awful. Many similar cases are found in the community. I know the hardship with which this family copes, and the child is a male. It is frightening that this amendment could catch cases of such genetic diseases, so we should throw the amendment out and look at it another time. It is too frightening to allow it to pass.

Mr KOBELKE: I strongly support the amendment moved by the member for Joondalup. We should stand up for the rights of women, although members have different points of view about how the legislation will serve that intent. This proposed provision will deal with unborn female children who will be clearly discriminated against in many ways.

We are aware of the forms of discrimination against women in our society, and a range of programs have been implemented to try to overcome that discrimination - and rightly so. Will we allow under this legislation open discrimination against unborn children? Under discrimination laws, one will not be able to make a claim that a child was discriminated against and aborted if the abortion is successful. If it is unsuccessful, the child lives and will have standing at law; therefore, he or she could make a claim for sexual discrimination while in the womb. Unfortunately, most of the abortions, if not all, we will allow under this legislation will be successful. Therefore, if parents simply do not want a female child, the legislation will say that discrimination against unborn female children is all right.

I certainly hoped when my third child was born that it would be a girl. I have three boys. When my wife was pregnant with our last child, we were very happy with the gynaecologist we visited. It was a time of great joy seeing the ultrasound. My youngest boys are now aged nine and 10, and the quality of the ultrasound at that time is not that of today's. Although we could see the child moving in the womb at a time of great joy, my wife and I could not pick at that early stages the gender of the child. Our doctor could. He suggested that we might be able to pick out the child's sex. From the way he handled our questions, it was clear he knew the child's gender. However, he would not answer my questions in that regard.

After the birth of the child I said to him that he obviously knew the sex of our son. He said yes. I asked him why he would not disclose it, to which he said, "I don't want to put people in the position where they might opt to have an abortion because the child is a girl." That was 10 years ago. A practising gynaecologist stated that abortion requests for such reasons was not an uncommon event, and as he did not believe in that practice he wished to protect against it.

The area I represent contains many people from ethnic backgrounds who would strongly rather have sons than daughters. I hear comments that they see me as being very lucky because I have three sons. It is a common value held in some cultures, although I do not denigrate it because it is their background. However, I do not want to see girls discriminated against before they are born and killed because they are female. Therefore, it is very important this provision be included in the legislation.

Concerns have rightly been raised that this may create a problem in rare cases. Those cases would be extremely rare and I possibly have a different point of view from the people who raised that. The proposed section makes it clear that if the intent concerned genetic matters one would have a defence. We should not therefore throw out an

important amendment to outlaw what would be discrimination against unborn female children because of the vague possibility an issue could arise in a limited number of cases involving genetic conditions.

Mr BAKER: The example referred to by the member earlier was a case where the motive was not the sex but the desire to avoid a genetically disabled child, disregarding the justification provision. The sex of the child is a signal, if we like, or is indicative of the propensity for prevalence of that genetic defect. The motive is the genetic defect in that case, not the sex of the child.

Mr McGINTY: Advice from crown counsel is that the amendment is too wide and will give rise to the problems to which the member for Maylands referred. Crown counsel's advice is that an amendment should be moved to avoid that situation where specifically the woman's reason for not wanting to give birth to a child of a particular sex is the likelihood of a child of that sex having a genetic defect, or something of that nature.

I agree with the member for Swan Hills that the appropriate course in the light of that advice is to defeat this amendment and to revisit it in the future. I am sure we all agree that it would be an abuse if this were to occur. It is also a question of trying to legislate for every conceivable possibility, which is not what this legislation should be about. I envisage dozens of other circumstances where we might like to make provision in this legislation for an event that might occur some time in the future. That is not appropriate with last minute amendments of this nature. It is best left in its present form. I urge members to defeat this amendment.

Mr PENDAL: It would be a pity, given as I understand it informally that we are 15 minutes away from adjourning debate in the light of things that will happen tomorrow, if the Committee were to defeat this clause, which is the only way it can dispose of it in the light of the remarks made by the member for Maylands. As I recall, the member for Maylands expressed "support for the sentiment". I checked with the Clerks whether there is any facility to postpone the clause so that it can be reshaped and brought on when the Bill returns to the Committee, which will probably be next Wednesday. I am advised by the Clerks that a clause that is not already part of a Bill cannot be postponed.

I suppose another way around it would be to vote to include it in the Bill with the common consent that at the right moment this clause will be recommitted to achieve what the member for Joondalup seeks to achieve, with the help of the member for Maylands. I am simply asking whether it might be a good time for the debate to be adjourned. Considerable progress has been made during the night and it would be a great pity if the member for Joondalup lost this amendment, especially given the remark made by the member for Maylands. I would be interested to know from the Leader of the House, given that we are 15 minutes from midnight, whether we can adjourn the debate in order not to defeat a clause that the member for Maylands has said with some work could be accepted by all members.

The DEPUTY CHAIRMAN (Mr Sweetman): Order! The member for Eyre passed twice between the speaker and the Chair. A member of his experience would be aware that that is highly discourteous.

Mr RIPPER: We should reflect on the decisions we have already made in this House. This House voted by a majority to accept the informed consent of a woman freely given as a justification for the performance of a lawful termination. Now we have an amendment indicating that we do not agree with that and that there are some improper motives. In principle, this could be the first of two dozen amendments listing motives that various members think are improper.

I do not pretend that having informed consent as a justification for the termination of a pregnancy is a perfect solution to the dilemmas that confront lawmakers on this issue. This is an imperfect world and we must make our choices between a range of options, none of which is entirely satisfactory. However, informed consent is a better rule to use than the alternative, which is an investigation into the motives of each woman seeking a termination. There might be an investigation of whether the unborn child is of a particular sex and whether that is the motive for the termination. I am sure members could suggest other improper motives. Indeed, the member for Wanneroo is notorious in the community for having suggested an improper motive. If this amendment is passed, will we have another amendment providing that if the woman's motive is how she would appear in a bathing suit, that should constitute an offence on the part of a medical practitioner under the Criminal Code? There is no limit to the number of improper motives that members could dream up.

It appears that we have a choice: We either accept informed consent freely given after counselling as the justification for a lawful termination of a pregnancy or we do not. If we do not, we are back into the morass of essential criteria and investigation of motives. Women would lose the right to control their life and once again would be subject to compulsory pregnancy following conception. Members have voted for informed consent, and we voted for it for a very good reason: It is the best solution to a difficult set of circumstances. It is not a perfect solution, but it is the best. Let us not chip away at it with this sort of amendment, which in principle could be the forerunner of another two dozen.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN: I make the point again: People in the gallery cannot interfere with the proceedings of the Committee. They are to be silent. Any further interruptions could result in their being expelled from the gallery.

Mr GRILL: Most of us would find it abhorrent that there should be a termination of a pregnancy simply on the basis of the sex of the foetus. The member for Maylands has indicated her abhorrence at that. At the same time she has brought forward an objection on the basis that a certain gender might have a particular genetic defect. That situation might be caught by this amendment. The member for Fremantle has supported the member for Maylands in that respect and obtained advice from parliamentary counsel that the amendment, as it now stands, might catch the genetic situation that might apply specifically to a male, as with diseases and ailments that only males have. Although I do not have medical experience, I suppose certain ailments and diseases may apply to females exclusively.

So that the amendment might be acceptable, I seek to remove the objection that has been made by the member for Maylands and supported by the member for Fremantle. I move -

That the amendment be amended by inserting before the word "because" the word "solely".

It would read that "improper motive" means an intent of the woman concerned to have her pregnancy terminated solely because she believes the unborn child is of a particular sex. In my view that would remove the objection made by the member for Maylands and it would bring the situation to one where the termination of a pregnancy solely on the basis of the sex of the foetus is prohibited. By using the word "solely" we make that absolutely and abundantly clear. In those circumstances we do not have the problems that have been adverted to by the members for Maylands and Fremantle. We will have a very clear set of circumstances which will not be open to interpretation and which will make it abundantly evident that it applies strictly to a situation where someone was endeavouring to terminate a pregnancy solely on the basis of the sex of the foetus.

Dr EDWARDS: Great minds think alike. I had thought of the same word some minutes ago. Parliamentary counsel said that it would not solve the problem. My understanding is that adding the word "solely" in a legal sense still does not solve the problem about which I am concerned.

Mr CARPENTER: We are wasting time and energy and thought processes over this. What we are dealing with is a nonsense. The problem that arises, whether or not we accept the amendment as amended by the member for Eyre, is whether we are to set up some sort of system where we test a woman for her motives. If a woman is seeking an abortion, are we to set up some sort of process under which she must prove to somebody, before she can have an abortion, that she is not doing so on the basis of the expected sex of the child? Are we setting up a system of thought police? Does a woman have to run the gauntlet of inquisitors about her motives?

[Interruption from the gallery.]

Mr CARPENTER: That is precisely what we are doing. We are setting up a system to inhibit a woman's access to abortion. The various amendments that have been put up are all designed for that. We would be placing the onus on the woman seeking an abortion to show that it is not based on the prospective sex of the unborn child.

This goes totally against the grain of everything we have been debating here. We have been through the process of establishing the various loopholes, obstacles and processes that a woman must go through before she is allowed to have an abortion. This is a total and utter waste of time having regard to the matters we have already debated. The amendment is designed to establish an obstacle in the way of the woman wanting an abortion, just as one of the previous amendments was to establish an obstacle in the way of a doctor and to intimidate a doctor from being involved in the abortion process. This amendment places an obstacle in the path of a woman who has decided - we have already been through this argument - through her own informed consent that she wants an abortion. Are we to say to her, "Prove to us that you are not having an abortion because you do not want a son."? After all the hours and hours of debate that we have been through, are we now to come up with an amendment which will say to a woman, "Prove that you are not doing this because the child you might give birth to could be a girl or boy."? How will the matter be proved one way or another? Are we to have see the possibility that some person or people in the community may make the allegation or assertion at any time either before or after the abortion has taken place that the woman's motive was based on the sex of the unborn child? What happens if several people in the community decide to allege against a woman that she has decided to have an abortion because she is carrying an unborn child of a sex she does not want? What situation will the woman face? How will she prove otherwise?

We are going back over ground we have already traversed painfully and very slowly but with some success. We are hearing the motivation in the comments that are being made. We do not need to go back to a position which we traversed some time ago and re-establish an obstacle which seems in its superficial nature to be fairly simplistic but would have all sorts of repercussions and dangerous potential for a woman seeking an abortion. We do not need

this amendment because we have gone past it. It will result in only confusion and distress and the possibility of action being taken against a woman who with informed consent and of her own free will has decided that she wants an abortion. We must oppose the amendment.

Mr McGINTY: The advice from parliamentary counsel is that the suggestion of the inclusion of the word "solely" will not overcome the problem that has been referred to because the issue is still a child of a particular sex. The reason for not wanting a child of a particular sex is irrelevant in the way in which the member for Eyre's amendment and the original amendment are drafted. Whether it be for medical or any other reasons, it still comes back to a choice based on the sex of the child. One could draft an amendment in other ways, as I said earlier, which would overcome the problem, but in principle there are a whole raft of reasons which many of us would regard as repugnant, such as the proposition that someone would have an abortion to avoid a child of a particular sex. Some of those reasons have been referred to.

The member for Belmont referred to the speech by the member for Wanneroo about wearing bikinis in summer. I would have thought that quite repugnant as well. One could find a whole range of other circumstances or arguments which we would not find justifiable. We might even find them completely repulsive and repugnant in their motivation. Rather than pick on one about which we might all agree, if there were a more comprehensive statement, such as "the following circumstances shall not justify abortion" based on some empirical evidence that this was what was being sought by a woman, I would not have any objection to inserting that in the Bill. To simply pick on one which might have a certain appeal is being selective. I urge members to vote against the amendment, and to get on with further consideration of the Bill.

Dr GALLOP: I ask members who are considering supporting the proposal by the member for Joondalup, to seriously consider the fundamental right of privacy in our society, and to imagine how the amendment would impact on that. If that does not satisfy members' thinking, as I think it could, they should reflect on the remarks by member for Willagee. I ask members to read Arthur Miller's play "*The Crucible*".

Mr BAKER: I understand the sympathies of the member for Willagee. However, he should look at the IVF legislation. If his remarks are correct, he should introduce a private member's Bill to amend the IVF law. He should lobby his interstate counterparts to change IVF law in other States.

With all due respect to the parliamentary counsel, I take issue with his interpretation. Had I used the word "includes" instead of "means", the door would have been open. The word "means" means what it says. I can refer to many other examples in the Criminal Code. Section 1 sets out definitions; some use the term "means", and others use "includes". "Means" means what it says. I could quote from D.C. Pearce's *Statutory Interpretation in Australia*. He is the accepted expert in this area. However, I will not take the matter further. The provision is adequate, and the phraseology used exists in other IVF legislation which has never been challenged on the basis suggested.

Mrs PARKER: I wish to address some of the comments made on choosing to abort a pregnancy based on the gender of the foetus. In this debate we have often talked about balancing two issues; that is, the health and the life circumstances of the mother and her needs and the rights of the unborn child. We would all probably draw a different line in the sand regarding how we arrive at the balance, and that is indicated by the length of this debate. It would be abhorrent to value the life of an unborn child so poorly and with such scant regard simply because it is not the gender that the mother would wish it to be, and then to consider that we would take the life of that child.

We have heard about the research confirming that the significant majority of the population - whether pro-choice or pro-life - consider that abortion is the taking of the life of a child. For us to consider not to include an amendment that would stop the mainstream activity of aborting a pregnancy and taking the life of a child, simply because the child does not fit within the preferred agenda option, is a poor reflection on the standards of this community of members. We must remember that the law is a public educator. We are setting law that sets standards. Those standards are often broken. That is why we have gaols and a Police Force. The laws are set for community standards and those who transgress the law are punished and penalties are applied - ranging from minor to very extreme penalties.

The law is a public educator. I challenge all members tonight to consider that when they register their vote on this amendment, they will be recording what value they place on the life of the unborn child. Members may vote quite differently from me with regard to how much weight should be placed on the mother's circumstances, but on this fundamental issue of human rights, how will members record their vote? Eighty per cent of the population will say that abortion is the taking of a human life.

The law is a public educator. It prescribes shared community values. Tonight, we have an opportunity to say that we do not want the situation that we see in some countries where the boys in the family are more highly valued than the girls. In fact, as a person who stands up for the status of women, I do not want to have in this State the policies

and practices that we see in some countries that so assault the status of women that a great majority of the unborn girls are not given the chance to even see the light of day. We certainly do not want to disregard a child because of its sex.

It is absolutely important for us as members of Parliament to say that we believe the law is a public educator and to record what value we place on the life of the unborn child. This amendment has nothing to do with a threat to the mother's circumstances but has everything to do with what value we place on human life. This is a human rights issue. It is time we took a principled stand and supported the amendment.

Mr TRENORDEN: This amendment is a nonsense, even though I will support it, because back in the dark, dark ages we passed a clause at page 7 of this Bill that said that an abortion is justified where the woman concerned will suffer serious personal, family or social consequences or will suffer serious danger to her physical or mental health. There is a large enough gap there to drive a truck through. It makes the amendment proposed by the member for Joondalup laughable. However, the amendment does make a statement with which I agree. Therefore, while I am sorry that the member has taken the trouble to put it on the Notice Paper, I will support it, only because of the principle, because in practice, once this Bill has been passed, what has been happening for the past 25 years will continue to happen.

Mr THOMAS: I oppose this amendment. I ask members to consider what they are doing. Do we want to leave the Chamber tonight having done good or do we want to leave the Chamber feeling good? Some people feel it is wrong for a woman to seek to have an abortion because of the sex of the child or because of how she may look in a swimsuit, or whatever. They may think it is good to pass laws to prevent a woman from having an abortion based on those motives.

However, motive is incapable of being proved. The member for Fremantle alluded to the fact that caught by this amendment is the fact that a woman may seek to have an abortion because she does not like the gender of the child that has been conceived. He then said, quite correctly, that if we could empirically prove a set of motives, perhaps we should think about doing that, because we would all agree that that was an improper or undesirable motive. The simple fact of the matter is that we cannot prove motive. We have set in this legislation a number of categories which will permit a woman to have an abortion, which are found in paragraphs (a), (b), (c) and (d) of proposed section 334(5).

Informed consent is a very wide category. If a person is to be accused by the thought police of seeking to have an abortion for an improper motive, and I agree it is an undesirable reason for a person to do that, there is nothing to stop them from saying, "I am not doing it for that reason, I am doing it because it will adversely affect me personally", and that is good enough under the provisions that we have already carried. Those who are seeking to promote this amendment know full well that it is impractical and that the matters to which they are alluding are incapable of proof. They want to leave this Chamber feeling good but they will not be doing good, because the sorts of provisions they seek to put into the legislation will be incapable of proof and they will be dead letters. We should reject such an amendment and pass laws that are able to be practically implemented.

Mr BRIDGE: We should vote on this issue because, like bantam roosters, everybody is deciding now to jump to their feet. I do not know what is the protocol, but I would be happy to move that we report progress, because I think it is highly necessary at this time. This debate is now starting to get a bit wishy-washy.

Mr BARNETT: There has been considerable debate on this clause. Most people have formed a view and it is reasonable that we should vote on it and then adjourn.

Ms McHALE: I want to be on the record on this matter, so that in the future I cannot be accused of supporting sex linked abortions. I, like many others, find that a repugnant reason to have an abortion; however, the point is that we are trying to frame legislation which will have some meaning, sense and certainty. Including a clause creating an offence which we have already heard will be impossible to prove does not make for good legislation. While I intend to oppose this amendment, its sentiment is shared by members. However, there are other reasons for abortion that people might want to mention, yet they are not coming forward. The member for Maylands' concerns have not been addressed and I believe they would not be addressed in the amendment moved by the member for Eyre. I urge members to vote against this amendment. If future amendments are moved, so be it; but at the moment this amendment should be defeated.

Mr BRIDGE: I move -

> That the question now be put.

The DEPUTY CHAIRMAN: The member for Kimberley is effectively seeking to gag debate and I will be putting the question that the amendment to the amendment be agreed to.

Mr BRIDGE: A general view seemed to be emerging that the debate should end now because of the requirements for tomorrow, and a reasonable stage has been reached by the practical and mature grown up people in this Chamber.

Motion, by leave, withdrawn.

Mr PENDAL: I express my disappointment at the masochistic tendencies of the Leader of the House, who said he wanted the debate to be finished by midnight. The member for Joondalup moved an amendment, which was on the Notice Paper, to prevent abortions based on the ground of sex. A glimmer of hope came when the member for Maylands said she sympathised with what the member was trying to do but she was not sure that the right words had been used. Later, the member for Eyre injected an eminent piece of sense into the debate by moving a further amendment, which is now before the Chair.

Members in this Chamber do not have to vote in accordance with what parliamentary counsel says. That point was made quite adequately by the member for Joondalup. I said it was within the province of the Leader of the House to report progress, so that a vote was not taken. That would allow some time for discussion behind the Chair in the next week or two so that some progress could be made in determining whether the amendment moved by the member for Eyre provided the answer or whether there was a better way of dealing with this matter that would serve the purpose of the member for Maylands. The Leader of the House will lose nothing by reporting progress and delaying the vote, because he wanted to finish by midnight anyway.

There appears to be some measure of goodwill from both sides of the House to pass a clause similar to that before the Chair. I cannot work out what the Leader of the House will lose by that, or is it an invitation on his part for us to talk all night? I thought the Government wanted to be out of this Chamber by midnight because the Budget will be brought down tomorrow. No-one could accuse any member of delaying or filibustering tonight. I am absolutely puzzled as to why the Leader of the House will not allow the Committee to report progress and seek leave to sit again, because not only did he want to finish at midnight, but also the Committee has reached the stage at which one amendment might be agreed on both sides of the Chamber.

Mr Ripper: We are ready to vote.

Mr PENDAL: We are not ready to vote. A number of members take a different view. I ask the Minister to respond.

Mr BARNETT: Right or wrong, my assessment is that the overwhelming majority of members have formed an opinion and are ready to vote on this clause.

Amendment put and a division taken with the following result -

Ayes (31)

Mr Ainsworth	Mrs Edwardes	Mr Marlborough	Mr Prince
Mr Baker	Mr Grill	Mr Masters	Mrs Roberts
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr McNee	Mr Shave
Mr Board	Mrs Holmes	Mr Minson	Mr Trenorden
Mr Bradshaw	Mr Johnson	Mr Nicholls	Mr Tubby
Mr Bridge	Mr Kobelke	Mr Omodei	Dr Turnbull
Mr Court	Mr MacLean	Mrs Parker	Mr Cunningham *(Teller)*
Mr Day	Ms MacTiernan	Mr Pendal	

Noes (24)

Ms Anwyl	Mr Cowan	Mr Marshall	Mr Strickland
Mr Barnett	Dr Edwards	Mr McGinty	Mr Thomas
Mr Bloffwitch	Dr Gallop	Mr McGowan	Mrs van de Klashorst
Mr Brown	Mr Graham	Ms McHale	Ms Warnock
Mr Carpenter	Dr Hames	Mr Riebeling	Mr Wiese
Dr Constable	Mr House	Mr Ripper	Mr Osborne *(Teller)*

Amendment thus passed.

The DEPUTY CHAIRMAN (Mr Sweetman): The question now is that the new clause, as amended, be agreed to.

Mr WIESE: I strongly urge the Chamber to vote against what is now before it. I have not spoken in this debate previously. However, by inserting the word "solely" we have potentially destroyed what we have been endeavouring to do in the past six or eight weeks; that is, to reinstate into the State of Western Australia what previously existed for the past 25 years. By putting that word in the legislation, we have potentially jeopardised everything we have done so far. This is my opinion, to which I am as entitled as anyone else in this place. We have created the situation where an immediate conflict arises between the grounds on which a person may seek a termination of pregnancy.

We established those grounds in the Foss Bill, and those grounds have now been re-established by amendments made today to this Bill. Those grounds are established in the clauses dealing with mental health and other reasons for a termination of pregnancy.

We have inserted a clause which raises substantial doubts about whether the initial provisions to re-establish what was in place for the last 25 years will be potentially overridden by the inclusion of the word solely. We have created a raft of potential doubts, first, in the mind of the person seeking a termination of pregnancy, and second, for anybody involved in procuring the termination. Therefore, we have potentially risked everything we have attempted to do on this issue. For that reason, we should vote strongly against the clause as amended.

Mr SHAVE: I have spoken only once on this Bill, and that was on this very issue in the second reading debate. I do not support the proposition of the member for Wagin because "solely" applies only to this clause. It states that people cannot cause a termination on the basis that the foetus is of a particular gender.

I have spoken to many people in my electorate who are either pro-choice or anti-abortion. The people to whom I have spoken who are pro-choice, to a person, answered the same way when I put the following proposition to them: Under the original proposal people could find out from the local doctor that they were having a daughter rather than a son, and a husband may want a termination to produce the son he always wanted. Every one of the pro-choice people said that they would not agree to that situation.

The members for Joondalup and Eyre have created a provision by which that will not occur. I urge members who have voted for the amendment proposed by the member for Eyre to continue to give it their support.

Mr CARPENTER: I made some of the points relative to this debate earlier. The Minister for Lands is wrong if he thinks that by inserting a clause, he will stop people who are so motivated from having that abortion. If it is true that the motivation for an abortion is the sex of the child - although nobody has brought it to our attention that it is happening in Western Australia - and we make such abortion an offence, nobody will visit the doctor and say, "I want an abortion because I know the child I am to have is a boy."

Mr Shave: Do you think we should be legalising to allow it to happen?

Mr CARPENTER: No. Let me finish. They will visit the doctor and give another reason for the termination. However, we open the door to other possibilities with this provision. The member for Nollamara spoke as the father of three boys, and I speak as the father of four daughters. We open the potential for one of my daughters, should she decide to have an abortion for some reason, to face the prospect of someone making an allegation that she had the abortion only on the basis that she knew the child was of a certain sex. She then must be investigated with a case initiated against her. The member for Eyre has introduced something which is a terrible prospect - he did not think clearly about it.

The member for Cockburn said the problem is that the motivation cannot be proved. Proof is very difficult, but it will leave the way open for someone attempting to prove it. The member for Eyre said we are wrong because the Criminal Code is full of things which should be proved. They are proved in a trial. We are opening up the prospect of a woman going on trial because she had an abortion which some people asserted had been done on the basis of the sex of the unborn child.

Mr Shave: That does not put her on trial.

Mr Wiese: It would be the doctor.

Mr CARPENTER: It could be her doctor facing trial. No woman will walk into a doctor's surgery in three weeks time and say, "I understand the child I am to bear is a male and I want an abortion", knowing that is a crime. We will open up the much worse prospect of other people intervening in the process. We do not want people intervening in the decision making of a woman. I, as the father of four daughters, do not want the prospect of somebody making allegations against one of my children who would need to substantiate her motivation that she had an abortion not based on the prospective sex of the child. That is the possibility the member for Eyre has opened up.

The member for Wagin is correct in saying there would be an investigation of the doctor for his part in the termination.

Mr Grill: There cannot be a trial of the woman.

Mr CARPENTER: The member for Wagin is correct also in that we have opened up an iniquitous prospect which must be stopped now.

Dr HAMES: Like the member for Maylands I have not had anyone come to me seeking a termination as a result of the child's sex. That is not to say that it has not happened. It has not happened to me because I do not think any

woman would come and tell me she was going to have a termination because of the sex of her child, even though it is not illegal. No-one would be silly enough to say that to me, even though it is not against the law, because it is morally objectionable to every one of us. If it is against the law they would be even less likely to say that to me.

When we next debate this issue on the number of weeks of pregnancy I will try to convince members to bring the age threshold down to 16 weeks. Some members still have views about 20 weeks. One reason I will try to convince members to agree to reducing the age to 16 weeks is that it is very difficult to be certain of the sex of the child using ultrasound. The usual time for an ultrasound is 17 to 18 weeks. We can tell earlier but not with absolute certainty. By bringing the age down to 16 weeks the risk of people having terminations because of the sex of a child will be considerably reduced.

At the end of the day people will not say they are having a termination because of the sex; they will find some other reason to say that is why they are having a termination. It is morally objectionable to all of us. There are a number of reasons for wanting an abortion, which we would regard as morally objectionable, including, as one member said, the difficulty of wearing bikinis. I urge members not to get caught up on minor issues, although the issue of sex is not a minor issue. We are all strongly opposed to terminations for that reason.

We are forgetting the advice parliamentary counsel put before this Chamber. The member for Eyre tried very hard to resolve this situation and proposed something we all thought might resolve it. However, parliamentary counsel has advised us that it will not resolve the issue of sex linked abnormalities where people may require a termination as a result of the sex of a child. He has said that that will not resolve this problem, yet members intend to vote ignoring that advice. If passed, this amendment may significantly impact on those unfortunate people who face a severe sex linked abnormality. It would put extreme hardship in the way of those people.

Mr McNEE: The member for Willagee, full of self-righteousness, stands and defends the woman's decision to have an abortion. Strangely enough, I support him in respect of people making a decision. However, I remind the Committee that the unborn baby is not considered. Nowhere in this Bill is the baby considered. We are forgetting about that.

This amendment refers to an improper motive and what that might be. We appear to be having some difficulty with who is right and who is wrong - who is offering the correct advice. All members have been the recipients of advice and they will probably realise that some advice is right and some is wrong. However, the two practical lawyers in this Committee appear to agree on this wording, and I understand other eminent counsel share that opinion. I am prepared to accept the opinion of my learned colleague.

It is clear to me that if we say "solely for the purpose" that is what it means. I understand that "improper motive" means "improper motive". What else can it mean? I wonder.

Members are all feeling uneasy. I do not have any trouble with this debate; my conscience is clear. I do not have to walk out of this place asking myself whether I did the right thing or the wrong thing and reassure myself because I want to feel better. I know that what I am doing is right.

Mr Bridge: Most people understand that "solely" means solely.

Mr McNEE: It means solely. In fact, I looked at a drum of oil the other day and the label read "solely for the purpose of use in refrigeration machines". I put it in the tractor.

Several members interjected.

Mr McNEE: How dumb can a person be?

Several members interjected.

Mr McNEE: The member for Fremantle is trying to get into the act, but he is too late.

Several members interjected.

Mr McNEE: Members have been laughing for the past couple of minutes. The little baby is not laughing. When those callipers are inserted to remove the baby, and it moves away and its heartbeat increases, members should remember that they have obliterated its rights. It has no choice.

As a member said, the termination might be happening just because the baby is a girl. Not every doctor believes the philosophy that the member for Kimberley mentioned tonight. They have told me that women have presented themselves for a termination with no better reason than that they have two or three children and want no more. Members should face the facts. They might not like it, but unless we in this place face the truth, we are wasting our time. I do not mean to be insulting and unkind to women who have done that. I simply remind members that that

is what life is all about. I am not prepared to accept that standard. I strongly support this amendment. If it puts a hurdle in the way, so be it.

Mr MARLBOROUGH: Unlike some of my colleagues, I supported the amendment of the member for Eyre to insert the word "solely". In my opinion it greatly improved the amendment of the member for Joondalup. I have made it quite clear to the member for Eyre and others that I will not be supporting the amendment proposed by the member for Joondalup either with or without the word "solely". The comments of the member for Moore have shown us precisely the concerns that should be in everybody's mind when they look at the effect of this amendment; that is, it would water down what informed consent is about.

I have some disagreement with some of the interpretations of my colleagues about what this total amendment is about. I disagree that it is necessarily a direct attack on the woman. The original amendment is an absolute attack on the woman. Unlike the member for Joondalup, I do not have a law degree; however, in the 12 years I have been in Parliament I have been either part of or privy to about four royal commissions. I know that the people who are under most scrutiny, those who are to be charged with an offence or those who before they get through a royal commission process are accused of an offence, do not go through that process without those closest and dearest to them also being put through it. All people who have been through a royal commission process will know it is within the realms of possibility that at five o'clock in the morning there will be a knock on the front door and in will come the appropriately qualified inquiry officer, demanding to know of the spouse of a member of Parliament the involvement that that family member may have had in the issue before the royal commission.

The member for Joondalup seems to think we can fine a doctor under the Criminal Code and somehow leave the woman out of this because he has put forward a fine form of words that says that this is a penalty attached to a doctor. In getting to that position, he forgets the process that people must go through to get there; that is, the requirement to hold an inquiry into the facts. The woman procuring an abortion - for whatever reason - would be the person under investigation. We cannot lay a charge against the doctor if he is saying that he is not guilty of any offence; that no-one raised with him the suggestion that the woman wanted the unborn child to be aborted because of its sex. The other party in this horrendous crime - that is how the member for Joondalup wants to paint it - will say that she did not say that to the doctor. Then the inquirer will say that he does not believe her; that he wants to pursue things; that he wants to talk to her family members, to her husband or to her boyfriend.

Mr Baker: That can happen already.

Mr MARLBOROUGH: Of course it can. In the debate this evening we have heard from the member for Joondalup and other members, particularly the member for Moore, some interesting comments. How would members like the member for Moore to be the bloke running the inquiry, leaving his farm at three o'clock in the morning and knocking on their door at five o'clock in the morning? One would hide one's animals because they would be at risk from mental disturbance if the member for Moore knocked on one's door.

Several members interjected.

Mr MARLBOROUGH: We have Tweedledum and Tweedledumber trying to run a show which is beyond their capacity. This is an attack on the mother while trying to nail the doctor. It would be a silly law which people would bypass.

Mr WIESE: I will explain the comments that I made because apparently I did not explain them very well. The Bill at present reads that the performance of an abortion is justified for the purposes of section 199 of the Criminal Code if, and only if - paragraph (a) is the broadest of all of the reasons - the women concerned has given informed consent. Paragraph (b) is that the woman will suffer serious personal, family or social consequences if the abortion is not performed. Paragraph (c) refers to serious danger to the physical or mental health of the woman concerned. I put to the Chamber that paragraphs (a) and (b) are the key requirements that must be met to allow a woman to have a termination of pregnancy and would justify it. Those have been the sole criteria on which we have been working until now.

This amendment would be adding a qualification to those criteria which would make it possible for anyone who wishes to attack the whole legislation that we are putting in place to make the allegation against a doctor that the termination of pregnancy he performed was not because the woman had given informed consent or there was a belief that the woman concerned would suffer serious personal, family or social consequences but because the woman wanted a termination of pregnancy because she did not like or want the sex of the embryo she was carrying. We would sow the seeds of doubt and make it possible for anybody who wishes to oppose what we are endeavouring to put in place in this Parliament, to attack the whole basis on which we are legislating. We would make it possible for them to sow the seeds of doubt in the minds of the medical practitioners and anybody else who may be involved in that termination of pregnancy. That is why I say that if we pass this amendment we are attacking the whole

legislation that we have spent six weeks trying to put in place. That is why we should vote against it. I hope that makes very clear why I believe that what we would be doing here is putting in a qualification that attacks the whole basis of the legislation. For that reason and that reason alone we should throw this amendment right out.

Mr SHAVE: It is quite interesting to listen to the member for Wagin and the member for Willagee going on about allegations and charges. I could say that the member for Bunbury is a bank robber. If I made that allegation, it would not mean that he would be charged. People could say that the Deputy Premier is involved in corruption. People make allegations about things every day. Because people make allegations, we cannot say that charges will be laid. The people who oppose this clause are saying that it will destroy all the legislation because people would make allegations. That is utter nonsense. If people made allegations and there were to be a charge, the doctor would be asked, "Did this lady come in and say that she wanted a son and had found out through a test that she had a daughter on the way?" Of course the doctor will give the information. The doctor will not say that the woman did it if she did not do it. It would not be in his best interests to do that. He will tell the truth. It is a nonsense to say that frivolous allegations will lead to charges being laid.

Mrs PARKER: The issue of informed consent has been raised, and that this amendment violates everything we have argued and debated in achieving the definition of informed consent. At page 7, the Bill provides a definition of informed consent, and a reading of this shows the amendment does not violate that principle. There are two issues here: Informed consent means that a woman has been provided with enough information to enable her to make a well-informed decision, so that later on she will say that the decision was made based on the best available information; she knew what she was doing; it was a difficult and terrible decision but she made it, and she can deal with it and move on. Informed consent means that a medical practitioner has counselled the woman about the medical risks involved in an abortion; for example, the fact that one abortion almost doubles the risk of breast cancer. When counselling a woman, the first point made by the medical practitioner should be the medical risks of abortion. Secondly, the medical practitioner must provide the woman with an opportunity of counselling at the time. Thirdly, he must provide advice that counselling is available should she wish it if she proceeds with a termination. That is what we mean when we talk about informed consent.

The principle of whether we as a Parliament believe that it is morally right and good law to enable an abortion, and the taking of the life of a child, simply because the gender is not the gender preferred by the parents, is the issue at stake; it is not an issue related to the principles of informed consent. It is a principle relating to violence against an unborn child; it is a principle of the human rights of the child. It is also an issue faced in other countries, when the unborn child is female. In some countries it is almost genocide against unborn daughters.

It is not an issue of informed consent. It is the public educator aspect of the law. What law will we pass in this Parliament, and how frivolous should abortion choice be in this State? Most of us have agreed that the current rate of abortion in Western Australia over the past year, being one in every four pregnancies, is simply too high. If we are to achieve a reduction in the ratio we must set some standards. We agree that to abort, to take the life of a child because the gender is not preferred by the mother or both parents, is morally objectionable. This amendment will set in place that statement of principle. The member for Eyre has proposed a very sensible amendment, and I urge members to consider it positively.

Ms MacTIERNAN: I seek some advice from the parliamentary counsel. Under this clause, is there any risk that a woman who allows herself to be the subject of an abortion, when her motivation is solely that she believes the unborn child is of a particular sex, will perhaps be culpable as an accessory to the crime for which the doctor is charged?

The DEPUTY CHAIRMAN (Mr Sweetman): The member would be aware that parliamentary counsel cannot respond to the question. Obviously the question was put to the member for Perth, who has stewardship of the Bill, and she will respond if she is able.

Mr MARLBOROUGH: I am concerned that some of the debate about this amendment seems to suggest that the women who may have an abortion on the basis of the sex of the unborn child are not necessarily Australian. A number of members opposite are indicating by their nods that they have heard the same debate. I would be extremely concerned if we did not keep in mind that this clause may affect a group of Australians who come from a different ethnic background. At least two speakers this evening have said that in their community, the people who have indicated that they prefer boys to girls have a different ethnic origin. I do not know whether this clause will affect any race discrimination legislation that we have at a state or federal level.

I am concerned that no speaker this evening has produced any evidence to support the view that abortions on the basis of sex are being performed in the community. I am not aware of any medical or historical documents that indicate that that has happened in this State in the past. I am concerned also that the sort of debate that says that certain ethnic groups have a preference for one sex rather than another is not that far removed from the sort of debate

that we had in Australia in the 1940s and 1950s about the white Australia policy. That debate was not based on any evidence before the nation or the politicians that a certain group of people would act in a certain way in a given set of circumstances. However, that was the sort of rhetoric and thinking that went on at that time and that one can argue is continuing even today with regard to the Aboriginal community. What evidence was there prior to 1967 that Aboriginal people would vote differently from any other group of Australians? What evidence was there that once they had been counted in the census of Australia as part of the population of Australia, they would act any differently?

There has never been any evidence that people of a certain race or creed act in a certain way, yet on at least two occasions this evening I have heard that argument put. All members should be extremely wary of enacting any law that may be used against a certain group of people. That is what we are seeing on the waterfront today. That is why it is in trouble. We must be extremely wary of enacting any law that can be used against a certain group of people, not simply people who want to have an abortion, but people with a certain ethnic background or religious belief which causes them to prefer boys to girls. That is a very dangerous path to take. This nation has a history of not being very good at handling that situation. This nation has a recent history of putting in place through the Parliament - this House of knowledge - laws which discriminate against people on the basis of their ethnic background or religious belief.

Thankfully in the 1970s and 1980s we overcame it. Hopefully in the 1990s this sort of legislation will not be interpreted in the way it was in the 1940s and 1950s under the White Australia policy.

Mr BAKER: I challenge those members of this Chamber who are poll driven - and I made some comments about that in the third reading debate on the Foss Bill - to go to their constituents and put this provision to them. I guarantee that the overwhelming number of their constituents will say, "Yes, support this provision." That is for those members who are poll driven.

Ms MacTiernan: Unlike yourself!

Mr BAKER: Not at all.

The DEPUTY CHAIRMAN: Order, members!

Ms MacTIERNAN: Earlier I raised the prospect of a woman who had an abortion finding herself subject to criminal prosecution as a result of this provision we are now considering. It is the member for Joondalup's view - I do not want to put words in his mouth, but he is not here to speak for himself - that he did not think it was likely, but that it was arguable.

Mr Shave: How could we trust your interpretation; we know what you are like!

Ms MacTIERNAN: I suggest that the Minister pop up there and ask the member for Joondalup himself. I know that the member for Applecross is a highly intelligent man, even though he is not qualified in law as the member for Joondalup is, but he will nevertheless be capable of understanding a few basic principles.

I would like members to consider section 7 of the Criminal Code. Section 7 basically spans the categories of people who will be liable as principal offenders. The first is that every person who actually does the act - in this case the doctor - or makes an admission which constitutes the offence, may be charged. It states that every person who does or admits to doing any act for the purpose of enabling or aiding another person to commit the offence is also capable of being charged for that offence. A woman who consciously allows herself to undergo an abortion having told the doctor that she wants the abortion because the child is of a particular sex becomes equally liable with that doctor for prosecution as a principal offender. It further refers to any person who counsels or procures another person to commit the offence. Quite clearly a woman going to a doctor to seek an abortion would be a person procuring the doctor to undertake the offence that we are proposing to insert into the Criminal Code. I ask members to consider this very carefully. I think section 7 of the code clearly opens the way for women who seek an abortion on these grounds to be prosecuted. We should be aware of the words that have been uttered from the other side of the argument by members who quite conveniently forget the operation of section 7 of the Criminal Code and ignore the fact that a woman can be brought into this loop for going to a doctor and seeking an abortion. We will find ourselves faced with some very ugly possibilities if this provision is supported.

Mr McGINTY: Extensive debate has been held on this clause, more so than the other clauses dealt with tonight. For the sake of the record, the view of parliamentary counsel on the point raised by the member for Armadale, is that it is unlikely that a woman could be charged with being an accessory. The essential element in the offence that would be committed by the doctor relates to his state of mind, and it is hard to see how a woman could be an accessary to the state of mind or the state of knowledge of the doctor. That is the basis on which it is thought to be unlikely. Nonetheless, it might well be arguable. I urge members to vote against this proposition.

New clause, as amended, put and a division taken with the following result -

Ayes (28)

Mr Ainsworth	Mrs Edwardes	Mr Masters	Mr Prince
Mr Baker	Mr Grill	Mr McNee	Mrs Roberts
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Mr Shave
Mr Board	Mrs Holmes	Mr Nicholls	Mr Tubby
Mr Bradshaw	Mr Johnson	Mr Omodei	Dr Turnbull
Mr Bridge	Mr Kobelke	Mrs Parker	Mr Cunningham *(Teller)*
Mr Court	Mr MacLean	Mr Pendal	
Mr Day			

Noes (26)

Ms Anwyl	Dr Edwards	Mr Marshall	Mr Strickland
Mr Barnett	Dr Gallop	Mr McGinty	Mr Thomas
Mr Bloffwitch	Mr Graham	Mr McGowan	Mrs van de Klashorst
Mr Brown	Dr Hames	Ms McHale	Ms Warnock
Mr Carpenter	Mr House	Mr Riebeling	Mr Wiese
Dr Constable	Ms MacTiernan	Mr Ripper	Mr Osborne *(Teller)*
Mr Cowan	Mr Marlborough		

New clause, as amended, thus passed.

Progress reported.

LIQUOR LICENSING AMENDMENT BILL

Returned

Bill returned from the Council with an amendment.

House adjourned at 1.10 am (Thursday)

QUESTIONS ON NOTICE

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

CRIME RATES

2949. Mr RIEBELING to the Minister for Police:

In relation to the State's crime for the year 1993, the first full year of a Liberal Government -

(a) what was the number of motor vehicles stolen;

(b) what was the number of break and enter offences reported;

(c) what was the number of assaults reported;

(d) what was the number of assaults against police reported;

(e) what was the number of stealing with violence (including armed robbery) reported;

(f) what was the number of drug offences reported;

(g) what was the number of damage offences reported; and

(h) what was the total number of offences reported to Police?

Mr DAY replied:

The Commissioner of Police advises the following figures for the 1993 calendar year.

(a) 16712.
(b) 53114.
(c) 9023.
(d) 624.
(e) 989.
(f) Not recorded in the Offence Information System prior to August 1993.
(g) 31377.
(h) 203274.

CRIME RATES

2953. Mr RIEBELING to the Minister for Police:

In relation to the State's crime rate for the year 1997, the fifth full year of a Liberal Government -

(a) what was the number of motor vehicles stolen;

(b) what was the number of break and enter offences reported;

(c) what was the number of assaults reported;

(d) what was the number of assaults against police reported;

(e) what was the number of stealing with violence (including armed robbery) reported;

(f) what was the number of drug offences reported;

(g) what was the number of damage offences reported; and

(h) what was the total number of offences reported to Police?

Mr DAY replied:

The Commissioner of Police, advises the figures below are for the 1997 calendar year.

(a) 15486.
(b) 56422.
(c) 13573.
(d) 910.
(e) 2131.
(f) 13825.

(g) 43108.
(h) 241355.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3034. Mr BROWN to the Minister for Police; Emergency Services:

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

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

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

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

(5) What work has been contracted out?

Mr DAY replied:

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

COMMUNITY POLICING CRIME PREVENTION COMMITTEE, SOUTH HEDLAND

3170. Mr GRAHAM to the Minister for Police:

(1) Did the Minister receive a letter from me dated 27 June 97 regarding rental premises for the Community Policing Crime Prevention Committee office in South Hedland?

(2) If yes to (1) above -

(a) what action did the Minister take as a consequence of receiving the letter;
(b) on what date did the Minister take action?

Mr DAY replied:

(1) Yes.

(2) (a-b) In addition to receiving Mr Graham's letter, I was made aware of the situation regarding the office premises by the Western Australia Police Service District Officer, Superintendent Matson and local police when visiting Port Hedland and South Hedland on Tuesday 12 August 1997.

I then visited the Crime Prevention and Community Policing Committee Resource Centre (CPCPCRC) in the South Hedland Shopping Centre during which I undertook to assist in ensuring a location within the shopping centre for the CPCPCRC. This I did on 21 August 1997. On 16 September 1997, I received a letter from Mr Don Humphreys, Chairman of Foodland Associated Limited, informing me that the CPCPC has been offered an alternative site within the centre. I am pleased that Mr Graham is supportive of this very valuable community resource and the officers and volunteers who contribute to it.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3187. Mr GRAHAM to the Minister for Works; Services; Multicultural and Ethnic Affairs; Youth:

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

(2) If yes to (1) above -

(a) for what purpose was the application made;

(b) which organisation made the application;

(c) how many applications were made;

(d) how much funding is each application seeking;

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

(f) which other State bodies are joint applicants;

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

(h) on what date was each application submitted;

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

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

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

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

Mr BOARD replied:

I am advised that:

(1) No.

(2) Not applicable.

(3) The agencies within my portfolio do not have a regional presence and would have no reason to apply for funds under this program.

POLICE SERVICE - SENIOR EXECUTIVES

3262. Mrs ROBERTS to the Minister for Police:

Who will review the appointments of senior Police Service executives whose contracts will expire in June next year?

Mr DAY replied:

All Commissioned Officers and Senior Executive Staff participate in a Performance Agreement and Performance Assessment System. Prior to contract expiry a term assessment will be completed by the Regional Commander/Portfolio Head and forwarded to the Commissioner for his consideration.

POLICE SERVICE - VEHICLE USE

3265. Mrs ROBERTS to the Minister for Police:

(1) Are there any persons, who are not sworn officers or employees of the Police Service, who have use of cars that are either owned, leased, or paid for out of Police Service funds?

(2) If so, what is the full name of each of those persons?

(3) For each of those persons -

(a) is that use exclusive use;
(b) for how many hours each week do they have access to the car;
(c) who pays for petrol consumed;
(d) who pays for other vehicle expenses; and
(e) what is the registration number, make, model and year for the motor vehicle they have access to?

Mr DAY replied:

(1) Only those persons who are sworn officers, employees and nominated persons are entitled to the use of cars either owned, leased or paid for out of Western Australia Police Service (WAPS) funds. A nominated person may use WAPS vehicle where an entitlement exists under a senior officer employment contract or through the Executive Vehicle Scheme. Vehicle usage by a nominee must be in accordance with the guidelines prescribed under the Executive Vehicle Scheme.

(2)-(3) Due to necessary security provisions existing for police officers and their families, I am unwilling to provide this information. However, if the member has any questions relating to specific licence numbers or desires a briefing on this matter, I am happy to provide further information.

MINISTER'S FAMILY

Government Credit Card Issue

3328. Mr RIPPER to the Minister for Family and Children's Services; Seniors; Women's Interests:

(1) Has the Minister's spouse, or any other member of the Minister's family, been issued with a Government credit card?

(2) If yes, who was the card issued to and for what purpose?

Mrs PARKER replied:

(1) No.

(2) Not applicable.

HEDLAND SENIOR HIGH SCHOOL

Building Condition Report

3524. Mr GRAHAM to the Minister for Education:

(1) When was the last building condition report on Hedland Senior High School carried out?

(2) Did the report show any major problems with the school?

(3) If the answer to (2) above is yes -

(a) what are the problems identified;
(b) how are those problems to be remedied; and
(c) when will those problems be remedied?

Mr BARNETT replied:

(1) In April 1997.

(2) Yes.

(3) (a)-(c) The roof to the manual arts building leaks during very heavy rain. Repairs to the roof have corrected this problem, however, in the longer term, a replacement roof will be required. This work has been listed for consideration in a future roof replacement program and will likely be completed within the next 2-3 years.

RED TAPE FORUMS

3536. Mr GRAHAM to the Minister for Regional Development:

(1) How many "red tape" forums have been conducted in regional Western Australia since 29 November 1996?

(2) Where was each forum conducted?

(3) What was the cost of each forum?

(4) Who conducted each forum?

(5) What was the result of each forum?

(6) Which Government regulations have been removed as a result of each forum?

(7) Which Government regulations have been amended as a result of each forum?

Mr COWAN replied:

(1) Nil.

(2)-(7) Not applicable.

CONSERVATION PLANS PREPARED BY CONSULTANTS

3618. Ms McHALE to the Minister for Services:

(1) I refer to the reply to question on notice No 3228 of 1998 and ask, how much money was paid to the private consultants to prepare the conservation plans in the years -

(a) 1996-97;
(b) 1995-96;
(c) 1994-95?

(2) How many conservation plans were undertaken during the financial years -

(a) 1993-94;
(b) 1992-93?

(3) What were the costs of the plans?

(4) How many private consultant companies were contracted to prepare the conservation plans?

Mr BOARD replied:

I am advised that:

(1)	(a)	1996-97	$182,047.
	(b)	1995-96	$193,436.
	(c)	1994-95	$85,168.
(2)	(a)	1993-94	7 (Includes 2 prepared by the BMA.)
	(b)	1992-93	2 (Includes 1 funded by the Commonwealth.)

(3) $514,936.

(4) The former Building Management Authority (BMA) used a combination of private consultants and inhouse resources to prepare conservation plans. The Department of Contract and Management Services (CAMS) contracts private consultants with experience in heritage assessment techniques to prepare conservation plans on behalf of Government agencies. Seventeen private consultant companies have been contracted to prepare conservation plans since 1992.

QUESTIONS WITHOUT NOTICE

CAPITAL WORKS ALLOCATION

1084. Dr GALLOP to the Premier:

I refer to media reports that tomorrow's State Budget will include an additional capital works allocation of up to $250m from the proceeds of the gas pipeline sale and ask -

(1) Is it not true that the Liberal Government has underspent its allocation to the tune of $117m since coming to power and that it was done at a time of record revenue growth?

(2) Is it not also true that when Treasurer's advances are excluded, the budgeted capital works program has actually been underspent by more than $300m?

(3) Does the failure not to spend what has been allocated for capital works mean that any additional funding tomorrow will do little more than replace what Western Australians missed out on in previous years?

Mr COURT replied:

(1)-(3) In the 16 years that I have been in this Parliament, capital works programs have been underspent and there has been a good reason for that; it does not matter whether it was under a Labor Government or in the early stages of this Government. In relation to capital works, we have implemented a number of changes since coming to government whereby projects which are often given authorisation to proceed are held up for one reason or another. We have developed a management of capital works where we can now quickly replace other projects which are in the priority listing. The Leader of the Opposition will know from his own experience in government that often there are holdups for quite legitimate reasons. We have made changes to the management of the capital works programs in recent years. It is much better managed now than it was when the Opposition was in government. The Leader of the Opposition will find out what the capital works programs are tomorrow and he will then be able to make a judgment on the speed with which those programs are implemented.

KWINANA FREEWAY EXTENSION

1085. Mr MARSHALL to the Minister representing the Minister for Transport:

The Government's $1.3b 10 year Transform WA package has been accepted with some scepticism by local Peel region leaders. Can the Minister say whether this new package will see the Kwinana Freeway extension reach Mandurah?

Mr OMODEI replied:

I thank the member for some notice of this question. The Minister for Transport has provided the following response.

I know that the members for Mandurah and Dawesville have been lobbying extensively for at least the past five years on this issue. The transport initiatives in the Transform WA program include an extension of the Kwinana Freeway to Safety Bay by December 2000. Previously the plans were only to start the works in 2001, so I am sure the members for Dawesville and Mandurah would be happy with that. The link to Rockingham Road and Ennis Avenue will be upgraded and will provide for free flowing traffic with an interchange to Ennis Avenue to service Safety Bay Road. The users of the Kwinana Freeway will also see the replacement of the traffic signals with five interchanges, and major work on the Narrows Bridge and its approaches. This will significantly improve the safety and efficiency of the freeway and I am sure will be welcomed by the people of the Peel region. Considerable funds have been committed to improve public transport facilities to service areas south of the city. Subject to the Federal Government contributing to the freeway project, it may even be possible to extend the freeway further south to Pagononi Road. The Premier and the Minister for Transport have both pursued this project strongly with the Commonwealth.

GOVERNMENT INTRASTATE TRAVEL

1086. Dr GALLOP to the Premier:

(1) Does the Premier stand by his claim in this place yesterday that details of intrastate travel are included in the quarterly travel reports tabled in this Parliament?

(2) Is the Premier aware that those reports only include details of interstate and overseas travel by Ministers, members of Parliament and public servants?

(3) Will the Premier now correct his misleading statements to the Parliament and the public?

Mr COURT replied:

(1)-(3) The reports that the Leader of the Opposition is referring to cover interstate and international travel. Intrastate travel, which accounts for 70 per cent of travel, is the responsibility of chief executive officers and is a part of their reporting processes.

Dr Gallop: My statement on the weekend referred only to these documents.

Mr COURT: My point is that this is the first Government to provide that information to the Parliament.

WATER LAW REFORM

1087. Mr MASTERS to the Minister for Water Resources:

Water law reform has been subject to public consultation for several months, with predictions being made from several quarters that the original discussion paper reflected the Government's final position on the subject. Now that an overview report has been published on the public responses to the discussion paper issues, can the Minister advise how the Water and Rivers Commission's latest recommendations have changed in order to take account of genuine community and farmers' concerns?

Dr HAMES replied:

I thank the member for some notice of this question.

The reform process undertaken by the Waters and Rivers Commission has been very detailed and to some degree controversial in that we are required to take note of the Commission on Government agreements on national competition policy in the water reform process. That involves a series of requirements that we have had to present to the community on directions that we should be taking through the Water and Rivers Commission. In the process of doing that, there has been some degree of misunderstanding and also some fear within the community that this

was the Government's position and was the direction it was about to take. That was never the position. The process was really to provide the opportunity for communities to have their input.

Since that time we have now issued an overview paper. That has been very well received by the community because there have been a lot of changes that take note of those community concerns. In some areas the people were worried about losing their existing rights as water users and the recommendation strengthened those rights. There was also concern about trading in water rights. The paper will provide tremendous opportunity for those who will be involved. It will not be everyone; it will only be those in areas where the water allocation has been fully used and there is demand for trading within that community. The last area of concern was with people along streams where there was no mechanism for dispute process management. There was a great deal of difficulty with people thinking that their right to access that water would be taken away. The Government will set up a process that allows community groups to form their own management of local issues. That has been welcomed by many of the people involved. They will now have much better access to a system that enables them to negotiate. If someone upstream takes away a water supply that would otherwise have been available to them, they will have a mechanism by which to resolve those areas of disagreement. There is a long way to go. The Government has issued an overview paper and is awaiting responses. Changes to legislation will be required. When the responses have been received at the end of year, I hope the matter will be brought to the Parliament and perhaps will proceed next year.

PUBLIC HOSPITAL PATIENT FEES

1088. Mr McGINTY to the Premier:

On Saturday the Minister for Health was reported in *The West Australian* as claiming that the introduction of fees for public hospital patients could not be ruled out and that such fees were a logical possibility. Does the Premier agree that public hospital patient fees are a possibility, or will he rule out their introduction altogether?

Mr COURT replied:

It is very unlikely that it will occur. If a Medicare agreement is not in place by 1 July, there are basically no guidelines.

Dr Gallop: There are.

Mr COURT: In what?

Dr Gallop: The hospitals Act.

Mr COURT: If no Medical agreement is in place by 1 July and the Federal Government continues to provide funding, it cannot set any guidelines on how the money is spent. A Medicare agreement must go through the Federal Parliament in relation to the new changes. It was said in Tasmania recently - I could be corrected on this - that if a Medicare agreement is not in place, those options are open in that State.

It is very unlikely in Western Australia, and I hope we will be able to reach agreement with the Federal Government in relation to a reasonable funding proposition for the five years.

WESTERN AUSTRALIA'S FISCAL SUBSIDY TO COMMONWEALTH

1089. Mr BLOFFWITCH to the Premier:

Will the Premier advise the House of the latest estimates of Western Australia's net fiscal subsidy to the federation?

Mr COURT replied:

Treasury does a comprehensive study of the amount of taxes going to the Federal Government and the expenditure from the Federal Government on services in Western Australia.

Mr Graham: I do a similar one between the Pilbara and Perth, and you will not agree to that.

Mr COURT: I know. Last year the Government published the figures for 1994-95, and identified a surplus of funds of $1.5b going to Canberra compared with the money received in this State. Treasury has revised that figure up to $1.6b for 1994-95. Its latest figures for 1995-96 show an increase of 22 per cent in that subsidy, and that surplus is now up to $1.9b. It has increased in one year by 22 per cent. Every Western Australian is now subsidising people in the rest of the country by something like $1 100 a year. It is the second highest rate of all States. Western Australia had had the highest rate, but in that year Victoria made a one-off repayment of debt to the Federal Government.

These figures highlight the fact that Western Australia has become a major contributor to Canberra's finances. When WA is trying to negotiate a reasonable Medicare agreement for the next five years, it is galling that this Government is not able to put an adequate funding position in place when WA is making such an important contribution.

In general terms, in one year the subsidy to Canberra has increased by 22 per cent from $1.6b to $1.9b. States that are performing well should be rewarded and not penalised. It is appropriate for stronger States to support weaker States, but not to that extent. On a per capita basis, of all States Western Australia certainly makes the largest contribution to Canberra.

SCHOOL CLOSURE PROTESTS

Use of School Distribution Channels

1090. Mr RIPPER to the Minister for Education:

(1) Why is the Minister preventing parents and citizens associations that are campaigning to save their schools from closure, from distributing their newsletters through school distribution channels?

(2) Is the Government trying to stop these parents from promoting their proposed rally at Parliament House tomorrow?

(3) Will the Minister direct his department to cease these authoritarian practices?

Mr BARNETT replied:

(1)-(3) I do not know if the Deputy Leader of the Opposition has a copy of the relevant pamphlet. I saw a photocopy of it. I have no desire to stop parents, parents and citizens associations, and community groups protesting or doing whatever they like. However, I will not permit - and I support the decision of the district director - students to be involved in protests, and I will not allow pamphlets advocating student participation in protests to be distributed by students through the school system. I stand by that. If parents want to protest, that is fine but schools will not be used to rally protests by students. That is not a proper use of their time or the education system.

SCHOOL CLOSURE PROTESTS

Use of School Distribution Channels

1091. Mr RIPPER to the Minister for Education:

Will the Minister allow parents to use school distribution channels to encourage parents to attend rallies against the closure of their schools?

Mr BARNETT replied:

Parents and citizens associations can mail information or do whatever they want to promote rallies. However, I will not allow students to be used for the distribution of pamphlets advocating students to participate in protests. The P & C associations can deal directly with parents, and not through students handing out pamphlets or being given pamphlets to take home.

HEALTH EXPENDITURE

1092. Dr TURNBULL to the Minister for Health:

Before I ask my question, I advise the member for Fremantle that former Minister for Health Keith Wilson proposed a state health charge.

(1) Will the Minister for Health please detail the spending on health per capita of population for the past six years?

(2) How does this relate to the statement made in Collie last week by the opposition spokesman on Health, that current annual health expenditure is $27 a head less than it was six years ago?

(3) Do the Opposition's figures include the expenditure by this Government on mental health, community health and all other components which were not itemised separately six years ago?

(4) While in Collie the Opposition spokesman claimed that money will go from local health boards to help fund the South West Health Campus. Will the Minister ensure that an allocation of money will be made to the South West Health Campus to contribute to its establishment costs?

(5) Is that allocation additional to the budgets of the hospital and health boards in the south west?

The SPEAKER: Order! The member for Collie has tested even my patience. I remind her that question time is an opportunity to ask questions, which are supposed to be short and to the point. If the Minister can remember that, will he now attempt to answer the question?

Mr PRINCE replied:

I am obliged to the member for Collie for reminding the House of the situation with the former Health Minister, Hon Keith Wilson.

(1) In detailing spending on health per head of population for the past six years I refer to statistics from the Australian Bureau of Statistics, Government Financial Estimates reference 5501.1 of 1997-98 on the total outlay for health purposes from 1992-93 to 1997-98. In 1992-93 actual expenditure was $820 per head; in 1993-94, $849 per head; in 1994-95, $831; in 1995-96, $864; and in 1996-97, preliminary expenditure was $864; and in 1997-98, estimated expenditure was $963.

(2) I understand that the member for Fremantle quoted figures released by the Leader of the Opposition in a media statement in which he claimed that funding from State Government sources for public hospitals had fallen from $334 for every Western Australian in 1992-93 to only $307, which is a misleading claim of a decrease of $27 per head. The Opposition was using raw, own source expenditure figures. It did not take into account changes in financial assistance grants that accompanied the introduction of the Medicare Agreement, over which the former Labor Minister for Health resigned because it was totally wrong. The Medicare advances and the fiscal contribution to help address the commonwealth budget deficit were not taken into account. Who caused that?

(3) The spending on health per head of population does not relate to the opposition figures as hospitals are only one component of health expenditure. The opposition figures include only hospitals expenditure. They do not include expenditure on community and public health and would include only part of mental health in the health program. I remind members opposite that in a bipartisan way they supported what the Government has done in mental health. That has been community based and in recent years a great deal more money has gone into the system outside of the hospitals, and that is not taken into account in the figures that are being bandied around by the Opposition.

(4) The project control group for the South West Health Campus has an allocation of funds for commissioning the campus and for equipment purposes.

(5) The allocation for commissioning and equipment is not from any health service operational budget; it is part of the additional funds for the overall development of the campus. That is exclusive of what the Sisters of St John will do for their part of the campus, which is entirely up to them.

SMOKING BAN

1093. Mr McGINTY to the Minister for Health:

I refer to government regulations which seek to ban smoking in all enclosed workplaces.

(1) Is it government policy that smoking be allowed in bars, clubs and restaurants after 1 August?

(2) If so, under what conditions will smoking be allowed?

Mr PRINCE replied:

(1)-(2) This is the question which the tacticians on the opposite side forgot to ask yesterday.

Dr Gallop: No, we did not. We asked the other bloke yesterday; we thought we would save you for today.

Mr PRINCE: Yes, they did. Members will recall that this Government set up a task force that was chaired by Hon Ian Taylor to look into the issue of passive smoking. He did an excellent job. He brought together the different sides of the debate and they found much common ground. However, there were differences and they have been well recorded in the task force's report. I give full credit to the chairman who came down with a series of recommendations which were sensible and pragmatic.

I am sure I speak for the whole Government when I say that I would prefer that no-one smoked. That is because the effects on the smoker, the family of the smoker, and the people with whom he associates are well understood.

Mr Carpenter: Do you smoke?

Mr PRINCE: No, I have not smoked for three years. That is well quoted, and, as the Premier has said, I have been grumpy ever since.

Mr Carpenter: I have seen you smoking outside.

Mr PRINCE: No, not since new year 1995.

Dr Gallop: You don't sneak one out the back?

Mr PRINCE: No.

Mr Shave: It is the reformed smokers you have to worry about.

Mr PRINCE: I know. Any concern should be about the Minister for Labour Relations and me, because we are both former smokers and both of us would prefer that no-one smoked.

Several members interjected.

The SPEAKER: Order! Many members are interjecting and the Minister is allowing these interjections but they are all over the place, so perhaps the Minister could address the Chair.

Mr PRINCE: It should be self evident that, if we try to regulate smoking in only one place, we must ask what can be done about smoking elsewhere; for example, in the situation where a parent smokes at home in the presence of children. The deleterious effect on the children is well known. Cogent evidence indicates a higher rate of sudden infant death syndrome in houses where people smoke. What do we do about a person smoking in a motor car with a child in the baby seat?

It is a difficult proposition and, in the end, the only way in which we will be successful is by education, persuasion and evidence so that people generally cut down smoking and ultimately stop. That is the best way. This State has a good record over 25 years of reducing the rates of smoking from 60 per cent to just under 25 per cent. Presently I am charged with coming up with an implementation plan for the recommendations of the task force on passive smoking. I hope that work will be completed by about the end of next week, when I will take it to Cabinet. I expect that the Cabinet process and the processes of our party will produce a policy.

SMOKING BAN

1094. Mr McGINTY to the Minister for Health:

Will the implementation plan the Minister has spoken about involve a watering down of the complete prohibition on smoking in enclosed workplaces which is the current law in Western Australia?

Mr PRINCE replied:

I cannot answer a speculative question like that as I have not seen the implementation plan.

Mr McGinty: You have endorsed the Taylor plan and that is what it involves.

Mr PRINCE: The member for Fremantle has answered his own question, but I have not seen the plan so I cannot answer.

BURNS BEACH ROAD AND CONNOLLY DRIVE, JOONDALUP

1095. Mr BAKER to the Minister representing the Minister for Transport:

The intersection of Burns Beach Road and Connolly Drive in Joondalup is by far the most dangerous intersection in my electorate. Does the Department of Transport have any plans to install a traffic negotiating facility at this intersection?

Mr OMODEI replied:

The Minister for Transport provided the following response: It is acknowledged that this intersection is a black spot. The project is estimated to cost $600 000; $200 000 of which has been provided by the Federal Government under the federal black spot program fund. The member for Joondalup has been most persistent on this issue. I am sure he will be pleased to know that the Minister for Transport has advised that the two roads are local roads under the care and management of the City of Wanneroo. I understand from Main Roads that the council has commenced the construction of a roundabout at the intersection of the two roads.

PUBLIC HOSPITAL PATIENT FEES

1096. Dr GALLOP to the Premier:

I refer the Premier to his answer to an earlier question tonight from the member for Fremantle on the charging of fees for public hospitals. Is the Premier aware that in section 34 of the Hospitals and Health Services Act, headed "Medicare principles and commitments", principle 1 reads -

> Eligible persons must be given the choice to receive public hospital services free of charge as public patients.

How would it be possible for any move away from that principle without changing the legislation of this Parliament?

Mr COURT replied:

It is difficult for me to answer without the benefit of the exact wording of the question asked by the member for Fremantle who used words to the effect "would it be a possibility?" My answer to the question was that it was very unlikely and if it were to be implemented we would have to change the legislation.

Dr Gallop: You did not say that. You did not refer to the legislation.

Mr COURT: No. I was asked a question by the member for Fremantle and I answered him. The Leader of the Opposition has asked a second question about what is in the Hospital and Health Services Act.

DISABILITY SERVICES COMMISSION'S BUSINESS PLAN

1097. Mrs HOLMES to the Minister for Disability Services:

I am aware that the Government has a commitment to fund the Disability Services Commission's five year business plan to 1999-2000. Can the Minister advise what provision has been made for the new millennium?

Mr OMODEI replied:

I have received a number of questions along these lines.

Mr Carpenter: You will not be in government for a thousand years, so make the plan a short one.

Mr OMODEI: As the member for Willagee knows, we have in train two five year business plans. Like many members on this side of the House, the member for Southern River has a real concern about people with disabilities. I have answered questions similar to this. The "Count Us In" program, which the Premier launched in 1996, was unprecedented in the history of disability funding in this State.

The program will provide an additional $125m over five years to 2000. More important, it will be topped up from the State Government's Budget by $500 000, increasing to $3m in 2001 specifically for the provision of additional respite. We all know how important respite is, particularly when it comes to giving carers a break. I am pleased to say that a further commitment to growth funding of an extra $7.9m over years one and two of the next five year plan from 2002 has been included in Treasury's estimates.

In addition we are planning for the development of a second five year plan to meet the needs of people with disabilities and their families into the new millennium. I am sure members on both sides of the House will be pleased to see the activities in this area proposed by the Government. It augurs well for people with disabilities in this State.

VEHICLE REGISTRATION FEE INCREASE

Economic Benefits

1098. Ms MacTIERNAN to the Minister representing the Minister for Transport:

Will the Minister explain how the Minister for Transport reached the fantastic conclusion that Western Australians would save $7 for every $1 extra paid for car registration fees? What figures, assumptions or formulas did the Minister for Transport use to calculate the alleged savings? Will the Minister table any documentary evidence he has to support the assertions of the Minister for Transport?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

> These conclusions were not reached by me; that is, the Minister for Transport.

Mrs Roberts: That's right, dissociate yourself from them.

Mr OMODEI: They were not conclusions by me or the Minister for Transport. Members will be pleased to know that the calculations were prepared by Main Roads Western Australia using standard techniques for calculating micro-economic benefits accepted by AUSTROADS and other state road authorities for this type of calculation, plus some of the additional elements to the macro benefits relating to the Western Australian economy as a whole. These include savings in accidents, vehicles, road maintenance and travel time as well as greater business efficiency, including freight delivery and commerce, trade and tourism benefits.

Ms MacTiernan: Have they been checked by the individual departments?

Mr OMODEI: I am just giving the House what the Minister gave me.

Mr Brown: You do not understand it.

Mr OMODEI: I know it is difficult for the member for Bassendean to understand.

Main Roads officers are available to brief any member on the methodology and outcomes. I will be interested to see how many members opposite take up that offer.

The member need only ask the City of Armadale and people in her electorate about the benefits that will occur when heavy vehicle traffic is removed from the area. The people of Sandstone and Wiluna and industry in those areas will reap the considerable benefits of lower transport costs.

Several members interjected.

The SPEAKER: Order!

Mr OMODEI: The member for Armadale asked the question so she should listen to the answer.

In fact, each project provides benefits which were ignored by the Labor Party to the detriment of all Western Australians.