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Thursday, 27 March 1997

THE SPEAKER (Mr Strickland) took the Chair at 10.00 am, and read prayers.

MOTION - MINISTER FOR LABOUR RELATIONS

Censure - Leave to Move

MR KOBELKE (Nollamara) [10.04 am]: I seek leave to move a motion without notice as a matter of privilege. That motion censures the Minister for Labour Relations for abusing the privilege of free speech provided by this House during question time yesterday when he referred to a court case involving a union official that is yet to be dealt with in the court and misled the House when responding to a clear warning by you, Mr Speaker.

The SPEAKER: The member for Nollamara has raised some serious matters. In matters of privilege, it is in the hands of the Speaker to decide whether there is a serious matter to be considered. I believe there is and I will allow him to move it.

MOTION - MINISTER FOR LABOUR RELATIONS

Censure

MR KOBELKE (Nollamara) [10.05 am]: I move -

> That the protection of the privilege of this House requires that the Minister for Labour Relations be censured for his actions in question time yesterday when he -
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> (1) abused the privilege of free speech provided by this House in that he commented on a case which is yet to have its day in court;
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> (2) breached the convention requiring the separation of Parliament and the courts by stating his view on the guilt of a person charged but yet to go to trial; and
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> (3) misled the Speaker and the House when in responding to a clear warning by the Speaker on the sub judice rule, stated that the trial had concluded when the union official to whom he was referring has not yet come to trial; and
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> that the Minister for Labour Relations withdraw his remarks and apologise to the House.

Yesterday, the Minister for Labour Relations spoke of criminal behaviour between a construction manager and a union official involving a corrupt payment of $20 000 to a supposed official of the Builders' Labourers, Painters and Plasterers Union. He spoke about the union official's motives and, if I remember his words correctly, his "ratting on his members in return for a personal kickback". At that point in question time, the member for Belmont took a point of order and drew to the attention of the House that the Minister may be contravening the sub judice rules that apply in this place.

You, Mr Speaker, asked the Minister to give an assurance that the matter was not to be adjudicated upon, and only then would you allow the Minister to continue his remarks. The Minister - I understand still at that stage subject to the point of order - stated that he was quoting from an article in *The West Australian.* He said that he was quoting from the article, which referred to circumstances that took place in the District Court the day before. He went on to say that a person was found guilty because he confessed his crime and that the trial had concluded. On reading the article - I have no reason to doubt it - I found that it is true that a person confessed to crimes and is awaiting sentence in relation to a court case that took place the day before. According to the article, that person is a Mr Stuart MacGregor, a construction manager with Fletcher Constructions, who would appear to be guilty of some form of corruption. However, the Minister's answer to the question referred to a union official. The article does make mention of a union official, but it refers simply to allegations; there is nothing suggesting that the union official has had his day in court and been found guilty. I have checked with the lawyer representing the person to whom the Minister has referred as a "union official" and I was told that charges were laid last year and the matter is yet to come to trial.

This Minister has set up a task force to investigate the building industry. He has people out in the field trying to lay charges against union officials; there is no doubt about that. That is important to this matter because it proves that the Minister cannot plead that he does not know about it or that he is ignorant of the details. He is involved almost on a daily basis with a special group under his control out in the building industry that is trying to rig up charges and get convictions. He knows what is going on and what charges have been laid against union officials, that a BLPPU official was charged last year and that those matters have yet to come to court.

I have been informed that the gentleman concerned has not been a union official for nearly 18 months because he is not very well.

This is another little matter where the Minister has misled the House. A point of order was taken that the Minister could be contravening the sub judice rule. You, Mr Speaker, quite rightly pointed out to the Minister that he could have your assent to continue his remarks only if he could give an undertaking that the matter to which he was referring was not before the courts. The Minister in a clever play on words led the House to believe that was the case. He stated that the matter was concluded in the court yesterday because a conviction was recorded as a result of a person pleading guilty to certain charges. The whole essence of his discussion and attack related to union officials. Every member in here had the clear belief that a union official had been convicted of certain charges of corruption. That was to totally mislead this House. A union official has been charged in relation to the matter which the Minister raised. However, he is contesting that charge or charges. I have been told today by his lawyer that there is no substance in the charges laid and that on that basis the case, if necessary, will be taken to the High Court. The Minister for Labour Relations has a little group of people running around trying to fix charges or offences on union officials. The Minister is trying to stir up a total misconception about what goes on in the building industry and implying that it is full of forms of corruption.

We did see a day or two ago that the Minister's task force got a conviction in the courts. It related to the manager of a construction company who, according to the newspaper article, was found to have been involved in having work done illegally for a person who was either a senior manager or a proprietor of the company. That article and what the Minister raised yesterday is the evidence I have. That now guilty construction manager made allegations about a union official. That is the substance of the issue at the moment. The union official has been charged with certain offences, but that matter has yet to proceed to court. On that basis I believe the Minister totally broke the fairly well accepted sub judice rule in this place. He made allegations that the union official sought personal gain in pocketing an amount of $20 000.

The SPEAKER: Order! I caution the member not to break the sub judice rule himself and not to venture into matters that may yet have to come before the courts.

Mr KOBELKE: Thank you, Mr Speaker. I am very mindful of that and I accept your guidance that we must be careful. For that reason I have not mentioned the name of the union official. I have merely reflected upon what transpired yesterday in this House. I have attempted to put the record straight. The Minister has quite deliberately misled this House, avoided telling the truth and led everyone in here to accept the substance of the issue he was raising in a totally false way. We see here the way in which this Minister continually treats the members of this House, this House and the wider public in Western Australia. He has absolutely no regard for the truth. Because he does not care for the truth, he does not care for the ordinary working men and women of this State. He is willing to inflict on the people of this State an attack on their working conditions, employment, take home pay and security of employment. It does not matter what device he uses. He will use the power of government to try to lay charges on union officials - charges which may have no substance at all - which will destroy the life of union officials and cost unions large amounts of money when defending them. He is about destroying the unions because, if he could do that, he would continue his attack on working men and women in this State totally unabated as the unions would not be there to protect them.

Yesterday we saw one more clear example of this Minister having no regard for the truth. I do not believe the Minister gets too concerned about whether he tells the truth. I followed through on this yesterday because when you, Mr Speaker, quite rightly said to the Minister for Labour Relations, "Can you give an undertaking that your continuing remarks will not interfere with any court proceedings?" the Minister hesitated for a moment. That is not like this Minister; he tends to stand up, his tongue starts wagging, and then it runs away with him because he has no regard for the truth. The look that came over his face was not one of guilt but of fear. He realised he had said something that could catch him out because the public record would show that he was not telling the truth. To me it showed on the Minister's face immediately that he had gone beyond the truth of the matter, and he knew it. It was evident to anyone looking at the Minister's face yesterday. We have here a very clear example of a situation which you, Mr Speaker, put to the Minister when you ruled that there were standards in the House and that he could not continue to make remarks attacking a union official, if the matters to which he was referring were in any way before the courts. I put to the House today that that is the fact of the issue.

The newspaper article to which he was referring did comment on a conviction the day before, but that conviction was not of the union official but of the construction manager. It also alluded to the fact that there was an allegation of a $20 000 payment to the union official. I can inform the House that charges have been laid over that or related matters and that the so-called union official, who happens no longer to be one, is contesting those charges. He will use whatever means he has through the courts to uphold his rights and plead his innocence.

We have here a Minister with no regard for the rights of people and a total disregard for the rights of union officials. He has made it his personal vendetta to attack union officials. We saw yesterday that he will stoop to any depths to do it and go totally beyond the truth of a matter to try to cause problems for the union movement.

Unfortunately, he has very clearly broken what I believe, and all fair minded members would believe, are the acceptable standards in this place. Therefore, it is quite right that as a matter of privilege we censure the Minister for his comments yesterday and that we call upon him to withdraw those remarks and make a full and public apology to this House.

MR GRAHAM (Pilbara) [10.20 am]: It is worthwhile pointing out to the House exactly what this is about. It is about a matter of privilege and members understand fully what our privileges in this place are. In the nine years I have been here we have had any number of discussions, debates, committees and deliberations about our privileges. It has been part of the public debate. I have sat on the other side in government and listened to people such as the now Premier, the then Leader of the Opposition, Hon Barry MacKinnon, the now Leader of the House, the member for Kingsley and the member for Riverton lecture us ad nauseam - 18 hours in a day at one stage - on the rights and privileges of members of Parliament. None of the people directly involved in this debate can pretend they are not aware of what are the privileges of members of Parliament. I remember distinctly the member for Riverton speaking at great length about matters relating to Bob Pearce - I think the other fellow's name was Metaxas - and the need to preserve the privileges of members of this House and the requirement for them to give honest answers in the House. I have listened to members from both sides talk about it ad nauseam for nine years.

This debate is about a matter that is sub judice or could be sub judice. It is worthwhile having a look at the standing orders to see what that means. The standing orders state on page 11 -

> Matters *"sub judice"* include -
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> (a) Any matter awaiting or under adjudication in any court exercising a criminal jurisdiction or in a court martial;
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> (b) Any matter awaiting or under adjudication in a civil court from the time that the case has been set down for trial or otherwise brought before the court; or
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> (c) Any matter awaiting or under adjudication in a civil court prior to the time that the case has been set down for trial or otherwise brought before the court if it appears to the Chair that there is a substantial danger of prejudice to the trial of the case;
>
> but a debate on a Bill to amend the law arising in any pending case in any court shall always be permissible.

The last paragraph does not apply in this case. It was not a Bill; it was a parliamentary question. That definition of sub judice was accurately paraphrased by you, Mr Speaker, during question time yesterday when the Deputy Leader of the Opposition took a point of order about exactly this case. Let us go through what happened yesterday. I will be brief because my colleague, the member for Nollamara in moving the motion spoke at length on the topic. Let us get things clear and the House must be aware of these things. Unfortunately, we are not allowed to quote the uncorrected version of *Hansard*. I will watch the editing of yesterday's answer with great interest. I have often watched this Minister's editing of *Hansard* and it is innovative to say the least.

The Minister cannot claim that he got it wrong because he did not know what he was talking about; he cannot claim that he was unfamiliar with the subject and made a slip of a few words; and he cannot claim that he was not aware of the matter officially or through his ministerial responsibilities. He cannot say that anyway, Mr Speaker, because you would not have allowed him to answer the question if it was not within his ministerial responsibilities. You will remember, Mr Speaker, that the answer was in response to a question from the member for Vasse, who, when he asked the question, said that some notice of the question had been given to the Minister. It was not an impromptu question; it was a government dorothy dixer, and we all know how dorothy dixers are developed in government: The Minister or a minder has a good idea for a political point the Minister can make and they ask a backbencher to ask the question. I suspect that is exactly what happened in this case. The question was prepared by the Minister's office - I have no evidence of that but that is what I suspect. However, notice of the question was given.

Mr Ripper: You would have to have some sympathy for the gullible backbencher who asked the question, wouldn't you?

Mr GRAHAM: Trust me; I always have sympathy for backbenchers. When the question was asked after some notice had been given, the Minister, in his normal pompous and arrogant way, not only began to answer the question, but also confessed that, while it may have been news for some people, some of us - I assume he was talking about himself because he used the word "us" - had known about it for a long time; it was not something that dropped on him at

question time. He knew about it and he informed the House about it. I will be interested to see whether that changes in the *Hansard*.

The question was about whether it is uncommon for unions to negotiate away their right to strike. Members may remember that I laughed at the Minister at the time and at the question. I owe him an apology because I said that the first one I could recall was in the Pilbara 17 years ago where we negotiated away our right to strike in return for some things. It was not 17 years ago; it was 22 years ago. We started doing those sorts of deals in 1975, so they are not even new. Even on the facts of the case and the Minister's political rhetoric on industrial relations he is wrong. That is what the question was about. In his answer, the Minister left absolutely nobody in any doubt that there had been a corrupt payment to a corrupt union official who, in the Minister's words, had ratted on his members. No-one could have listened to the answer and come to any other conclusion than that that was what happened.

Mr Speaker, you will recall that a point of order was taken at about that stage. Again, I will look to see what sort of editing takes place in the *Hansard* because at the time the point of order was taken - it was the reason the Deputy Leader of the Opposition took the point of order - the Minister was in the process of saying the union was appearing in court. From his own lips, the Minister clearly admitted that the matter was sub judice. That is why the Deputy Leader of the Opposition took the point of order.

When the point of order was made, you, Mr Speaker, outlined accurately what is sub judice. The Minister then said that he was quoting from an article in *The West Australian*. He waved what he said was the article in the air. We have caught him out many times waving papers and not telling the truth about what is in them. However, he waved the paper and said that it was an article from *The West Australian* and the matter had concluded the day before. On that basis, Mr Speaker, you allowed the question. No other course of action was open to you because a Minister of the Crown in a point of order told you that this matter had concluded in the courts the day before. That is not the case and the article does not say that; the article says the exact opposite. The gentleman concerned is not a union official, and nothing in the article is about a union official pleading guilty. It is about the construction manager of a company who pleaded guilty - not a union official - for negotiating secret deals which saw the concreting, electrical work, plumbing, and ceilings installed at his boss's new home. That is what it was all about. No-one could read this article and come to the conclusion it was about a union official being involved in a corrupt deal. I could not do it not having heard of the case until yesterday and I could not do it if I had the knowledge that the Minister had. No-one could arrive at that conclusion if one had the intimate, personal and ongoing knowledge of this matter that he admitted to at question time.

Having done that, what happened next? The question was allowed and the Minister, in seeking to pursue it, made those points and then slagged the union official. We should remember what the sub judice law says about prejudicing a trial. If the union official had been found guilty yesterday, there would be no argument today, other than the political argument about whether the Minister should or should not be hooking into working people and unions. That is a political argument. However, that is not what happened. The union official - ex-union official - has been charged. Those charges are before the court.

The matter is sub judice, and the Minister should have known about it. What should a Minister do in that position? What should a Minister do in the 1990s when he is in the middle of making a political point and discovers that he has misled the House? Should he just sit down, and say, "Oh well, I have got away with that" and then go out and have a giggle with his minders. Should he say, "I fixed them up at question time" or should he take the next opportunity to correct the matter in the House? That is what he should have done. No doubt the Minister has misled the House. No doubt the matter is before the court and therefore is sub judice. With whom does responsibility lie to ensure that a sub judice matter does not come before this House? In this place, who is the person responsible for ensuring that we do not breach the rules? It is not the Opposition, even though we have a duty and honour that duty by taking points of order and expressing concern to the House? It is not the member for Vasse, the guy who asked the Dorothy Dix question. I assume that the Minister asked the member to ask the question - and he did, but it is not the member's responsibility. Even if it were his responsibility, being a new member his responsibility would be diminished because he has been here only a short time.

Is the Speaker responsible? The answer is yes, partly. Ultimately the Speaker is responsible, but he must exert the will of the House. Mr Speaker, you fulfilled your responsibility by warning the Minister about what was sub judice and what was not. You asked the Minister to assure you that the matter was not sub judice. That is his crime. That is his real offence, because when he had the opportunity to deal with the matter fairly, openly and honestly, he chose not to. He chose deliberately to mislead the House. Therefore, the only person who can carry that responsibility is the Minister. He was the person who had the knowledge. I assume he instructed the preparation of the dorothy dixer. It was his own parliamentary question. He was the person who had intimate knowledge of the affair, therefore he is the only person who has responsibility to deal with that.

I get quite cranky when I am lectured by the Premier about the need for improved standards now that the filthy socialists have lost government, and the need for collective responsibility of Cabinet and ministerial responsibility to this place. I get cranky when I listen to this Minister because he maintains his position in the Government. I have caught him lying before -

Withdrawal of Remark

The SPEAKER: Order! The member knows that he cannot impugn another member of this place. I ask him to withdraw his remark.

Mr GRAHAM: I withdraw, Mr Speaker.

Debate Resumed

Mr GRAHAM: Mr Speaker, you will be aware, as will many members, of the Minister's allegations about the patient assisted travel scheme. Those allegations were made in this place and publicly but they were patently false. When they were investigated by the Auditor General they were found to be false. Therefore, I have no great truck for this Minister's friendship with the truth. He is friendly with it, and he does not waste it on too many of us.

The only other connotation which could be put on this effort is that the Minister made an honest mistake. He either deliberately misled the Parliament or made an honest mistake. If he were like that senator from Queensland, he might be able to blame his staff, but his staff did not speak in this place, so he cannot do that. The options are that he either misled the House or made an honest mistake.

I would be a happy man if, when I sit down, the Minister stood and played it straight. He pretends to be a tough man in politics. He should say, "I apologise to the House. I misled the House yesterday. It was not my intention to mislead the House but nonetheless I misled the House, and I apologise for that and for any damage caused to the individuals in this case." As I said, I would be a happy man if the Minister did that. Incidentally, if he did that, the Premier should sack him, but the Premier would not do that.

If the Premier and the House take on board what I have said - I will listen to the Minister with interest - there can be no interpretation that it was an honest mistake. I will finish on the same note on which I started: The Minister could not help himself when he stood up yesterday. He had to brag about how much he knew about the matter and how long he had known. There is no alternative for this House other than to adopt the motion moved by the member for Nollamara.

MR KIERATH (Riverton - Minister for Labour Relations) [10.36 am]: I will certainly play it straight -

Mr McGinty: It will be the first time.

Mr KIERATH: It is not the first time. I play it straight every day.

Mr McGinty: You could not lie straight in bed.

Mr KIERATH: This is a case of the Opposition getting it wrong again. Let us consider what I said. It is important to consider the issues. In a moment I will read the article which appeared in yesterday's newspaper. It goes further than anything I said. I took a great deal of care not to mention any union official's name. That goes to the heart of the matter, and three areas are crucial. The article reads -

> At the same time, MacGregor handed over a corrupt payment of $20,000 to an official of the Builders Labourers' Federation as a "sweetener" to ensure industrial harmony -

Mr McGinty: That was alleged by the prosecutor. It is not a fact.

Mr Court: The Minister is reading from *The West Australian*.

Mr McGinty: The prosecutor said that; it is not a fact.

The SPEAKER: Order!

Mr KIERATH: I will read it again.

The SPEAKER: Order! This is a very serious matter. The first two speakers were heard in virtual silence. They were able to be heard by every member in this place. The Minister who is responding deserves that opportunity.

Mr Marlborough: Paragraph four!

The SPEAKER: Order! Member for Peel.

Mr KIERATH: Paragraph three of the article reads -

> At the same time, MacGregor handed over a corrupt payment of $20,000 to an official of the Builders Labourers' Federation as a "sweetener" to ensure industrial harmony -

[Interruption from the gallery.]

The SPEAKER: Order! I want to indicate to the public in the gallery that it is the practice in this House to welcome members of the public to watch and listen to debates. However, there is a condition upon people who come to the gallery. They are not entitled to interfere with the debates in this place. The people who preside over this place and sit in this Chair have the responsibility to ensure that the proceedings of the House are not interrupted. I know that many people come here because of their great interest in matters before the House. We want people to come here to see and hear what is going on, but we cannot allow people to interfere with proceedings by interjecting or doing a range of other things. I draw that to the attention of the public and request that they consider that matter, because an option open to me would be to preclude people, and one would not want to do that. However, one will do it and must do it if the House cannot conduct its business without interruption.

Mr KIERATH: The three key areas, and I will read paragraph four -

Several members interjected.

Mr KIERATH: I will go through it again. I will read the whole paragraph. It states -

> At the same time, MacGregor handed over a corrupt payment of $20,000 to an official of the Builders Labourers' Federation -

That is the first point.

Mr Marlborough interjected.

The SPEAKER: Order! I formally call to order the member for Peel for the first time.

Mr KIERATH: The second point is as follows -

> - as a "sweetener" to ensure -

Point of Order

Mr MARLBOROUGH: The Minister is deliberately misleading the House. He is setting out to convince you, Mr Speaker, in looking at this matter, as well as, I suggest, his colleagues, that the paragraph three to which he referred in *The West Australian* is a correct interpretation and is, in fact, the exact words of paragraph three.

The SPEAKER: Order! Will the member make his point of order?

Mr MARLBOROUGH: I will make the point, and I will finish on this. He knows, in setting out to mislead the House, that that is not the correct interpretation of paragraph three and is not even the correct words of paragraph three, because, once again, he has not finished it off. I will read the final line -

The SPEAKER: Order! The member for Peel will now take his seat. The member for Peel has given his point of view and, if the debate progresses, I am sure that the opportunity for members in this place to express their point of view will become available, subject, of course, to the length of time that the matter is debated. The member does not have a point of order. He has raised a point of view. The Minister is entitled to present his argument to this House. The first two speakers had a very good opportunity to lay out their arguments clearly, and I intend to give the Minister the same opportunity.

Debate Resumed

Mr KIERATH: Thank you, Mr Speaker. I will read the whole lot in a moment, but I want to read the paragraph. There are three important points. The first one is as follows -

> At the same time, MacGregor handed over a corrupt payment of $20,000 to an official of the Builders Labourers' Federation -

The article named the union. It used the words "an official" and "a corrupt payment".

Mrs Roberts interjected.

The SPEAKER: Order! I formally call to order the member for Midland for the first time.

Mr KIERATH: The second point is as follows -

> - as a "sweetener" to ensure industrial harmony at the Midland Gate site, prosecutor John Foulsham said.

The third point is as follows -

> MacGregor, 50, of John-Farrant Drive, Gooseberry Hill, pleaded guilty yesterday to five charges of defrauding Fletcher Constructions and one charge of making a corrupt payment to an agent of the BLF.

He confessed in court to making a corrupt payment to an agent of the BLF. Those are the three points.

I believe the record will show what I said with regard to that matter. The record will show that I said that it came to light yesterday that a deal involving criminal behaviour had been made between a construction manager and a union official involving a corrupt payment of $20 000. I did not even name the union official. I was particularly careful not to identify the union official.

Point of Order

Mr RIPPER: In preparing for this debate, I have sought information from Hansard as to whether the corrected transcripts of yesterday's debate are available for members to quote from. Hansard has advised me that those corrected transcripts are not available to quote from, so members on this side have to operate from their memory. It appears that the Minister is seeking to quote from the uncorrected version of *Hansard*, which I do not think he is allowed to do under the rules of this place.

Mr KIERATH: I used the words "I believe the record will show", and I then indicated the words that I believe the record will show. I did not set out to quote from uncorrected *Hansard*, for that very reason.

The SPEAKER: Order! All I need to do is remind the House that members cannot quote from uncorrected copies of *Hansard*.

Debate Resumed

Mr Court: I detect a few preselection speeches here this morning!

Mr KIERATH: So do I.

I believe I did then name the union and I did say that I believed this was a sweetener to ensure industrial harmony. Those were the notes that I had prepared for that. On the point of order, I pointed out that I was quoting from *The West Australian*. The reason I did that was in case the matter was sub judice. I actually tried to think through all the propositions. This Opposition is so predictable. When I knew that this question would be asked, I sought advice on this issue to try to find out -

Mr Graham: From whom?

Mr KIERATH: I will not tell the member from whom I sought advice. I sought advice from a number of quarters. The example that I was given is that it applies while there is any chance of prejudicing the trial. However, in this case, the man had pleaded guilty, and only sentencing remained to be done. Other precedents around the place say that one cannot comment during the course of a trial, but once a decision has been made, one can. I believe the reason *The West Australian* published that article yesterday is that the man had pleaded guilty and there was no way of jeopardising the trial of that person before the court. I also believe the record will show that I said the person had been found guilty because he had confessed to the crime; the trial had concluded; and the reason *The West Australian* ran the article was that the matter had legally been concluded. That was in response to the remarks made by the Speaker.

Any analysis of this would show that I was very careful not to mention the union official's name. I mentioned the construction manager and the corrupt payments in the three points that I read out. I took great care not to prejudice any future charges or trials. I confined my comments strictly.

Let us see what the article actually said, because the article goes a lot further than I did. It is headed "Man admits quotes fraud".

Mr Carpenter: Not the man you are talking about.

Mr KIERATH: Members opposite jump to conclusions. They do not listen to the words carefully. They get an idea in their mind and nothing can shift it. The article states -

> Quotes from sub-contractors working on the $35m Midland Gate shopping centre were increased to cover the costs of building a private house in Sorrento, the District Court was told yesterday.

I do not know what members opposite would call that; I know what I would call that. It continues -

> The construction manager of Fletcher Constructions, Stuart MacGregor, negotiated secret deals which saw the concreting, electrical work, plumbing and ceilings installed at his boss's new home.
>
> At the same time, MacGregor handed over a corrupt payment of $20,000 to an official of the Builders Labourers' Federation as a "sweetener" to ensure industrial harmony at the Midland Gate site, prosecutor John Foulsham said.
>
> MacGregor, 50, of John-Farrant Drive, Gooseberry Hill, pleaded guilty yesterday to five charges of defrauding Fletcher Constructions and one charge of making a corrupt payment to an agent of the BLF.

He confessed to making a corrupt payment to a BLF agent. It continues -

> The offences occurred between March 1993 and November 1994.
>
> Judge Peter Williams remanded MacGregor in custody for sentence.
>
> Mr Foulsham told the court that in 1993 Fletcher Constructions won the Midland Gate contract and it was MacGregor's job to negotiate prices with sub-contractors.
>
> About the same time, MacGregor was approached by John Turner, the company's State manager, who wanted some of the construction costs for his home at Ashmore Way, Sorrento, to be hidden within the sub-contractors' quotes.

I think that might be an offence in itself. It continues -

> Mr Foulsham said the deals were done with Salvatore Mangione, of Concrete Boys ($40,000 of concreting), Anthony Gilliland, of Mapstone Carter ($12,250 for plumbing), Joe Impicciatore, of N.K. Ceilings -

The SPEAKER: Order! The debate has some difficulty in that we still have to consider the sub judice rule. I advise the Minister to be very careful not to stray onto other matters that may be before the courts; otherwise, there will be a complication and I will not be able to allow him to continue. If the Minister breaks the rule, I will have to discipline the matter in some way.

Mr Riebeling: It is okay because allegations have been made.

The SPEAKER: Order! I formally call to order the member for Burrup for the first time.

Mr KIERATH: By way of explanation to the House, I was reading from the article in *The West Australian* which is in the public domain and has been published for all to see. I will finish reading the article because it goes much further than anything I have said in this House. The article in *The West Australian* yesterday, which was circulated throughout the State, goes on -

> . . . of N.K. Ceilings ($10,000 for ceiling work), and Noel Anderson, of O'Donnell Griffin ($10,000 for electrical work).
>
> At the same time, MacGregor became involved in negotiations with BLF vice-president Ronald Kinney.

Mr Cunningham: That is an assertion.

Mr KIERATH: I am reading from the article, which states -

> It was agreed that a payment of $40,000 to the BLF would ensure industrial harmony at the Midland Gate site.
>
> To arrange this deal, MacGregor again met Mr Mangione of Concrete Boys, who agreed to increase another quote by $40,000. Another $20,000 was included to cover the extra tax borne by the concrete company.
>
> Mr Foulsham said that on September 9, 1993, Mr Mangione withdrew $20,000 from a Morley bank and handed it to MacGregor. Mr Kinney turned up at MacGregor's office that day and collected the $20,000.

I stayed right away from all that information, although it was published in *The West Australian*. I would have loved to raise the issue quite candidly.

Mr Graham interjected.

The SPEAKER: Order! I formally call to order the member for Pilbara for the first time.

Mr KIERATH: If anybody breached the rules of sub judice, it is quite clearly *The West Australian*. I did not go as far as it did. I did not raise in this Parliament as much information as was published in *The West Australian*. I asked myself what I would do if I were in the Opposition's position, and I would do exactly that. However, I sought advice and tried to confine myself to the charges to which the man had pleaded guilty, which had been concluded that day in the court. I would love to have raised other issues, but I held back because I believed that could jeopardise some matters. I did not go as far as *The West Australian* and I confined my comments specifically to a matter that had already been concluded before the courts. If the issue I have raised has been concluded before the courts, it is impossible for my comments to be labelled sub judice.

If I had done something that offended somebody else, I would be only too willing to apologise. I believe I stayed within the rules of this House. I believe I am entitled to read anything that is within the public domain by virtue of its having been published in *The West Australian*. I did not read all of the information in this Parliament. I kept a lot of it in reserve. In fact, the only people who can be accused of being responsible for giving the matter another set of legs today is the Opposition. I would not have given any of this information if this motion had not been raised by those opposite in the House today. None of the matters referred to in the motion has occurred. First, I have not abused the privilege of free speech in this House because the case I commented on has had its day in court with a confession -

Mr Kobelke: It has not; tell the truth.

Mr KIERATH: The details to which I referred related to a case that had already been concluded in the court, in which a man had confessed, had been found guilty, and the only matter to be concluded was the issue of sentencing. That takes us to the second point in the motion. If that is the case, it is impossible to breach the convention requiring the separation between Parliament and the courts. I have not done that. As to the third point, there is no way I can be accused of misleading the Speaker and the House because I took great pains to be careful about the matter before I came in here to answer a question. I believe the three points raised in this matter of privilege, by any reasonable assessment, will not stand up.

MR BROWN (Bassendean) [10.55 am]: I will raise two matters very briefly. The first is that when we consider the matter of sub judice, we must be very careful about not implying claims to people who are not involved in the instant case. When the Minister for Labour Relations spoke in the Parliament yesterday he used a finding in court proceedings in relation to one person to accuse another who has not yet been before the court. That is quite a different proposition. As we all know, individuals go to court, and sometimes, by virtue of their evidence, they implicate others. Those others are not guilty until such time as they are charged and found to be guilty by the court. To the extent that a member comes in here and impugns them and denigrates them, or seeks to interfere in the court processes, that person is acting in contravention of the sub judice rule.

Yesterday this Minister impugned the motives of a union official, who is before the court but who has not been found guilty. Yesterday this Minister impugned that person by referring to the fact that he had ratted, so-called, on his mates. That matter is before the court. It is not a matter that is determined by the court - and this Minister knew that. Why did the Minister continue in this way? Not only did he know the situation, but I have been informed that in a few weeks this Minister will announce a major inquiry into the building industry and corruption in the building industry, and this is part of the build-up and the hype to get that inquiry under way.

Not only did this Minister go beyond the rule in this House, not only did he throw the rule book in the bin for his own political motives, but also he ignored the concerns that were put by you yesterday, Mr Speaker, as well as the points of order. He simply thumbed his nose at this House for an ideological position and a political position that this Minister will announce, I am told, in two to three weeks. That is what this is all about. That is why the Minister is scurrying for cover today. This is nothing more than a cheap, dirty, political stunt by the Minister to use an opportunity in Parliament to denigrate people who are before the courts, to throw the rule book in the bin and to influence public opinion. That is what this Minister is all about. We can forget the separation of powers and all of the niceties of those things.

The SPEAKER: Order! I do believe we should be sticking reasonably close to the motion before the Chair, and perhaps not speculating on events that may, or may not, occur that are not contained in this motion.

Mr BROWN: It is interesting that the Minister has not sought to interject, to tell us that what I am saying is wrong. I take his silence to be acquiescence that that is the case.

Mr Kierath: Don't do that. That is what you are scared of. What are you frightened of?

Mr BROWN: The Minister is normally very quick to interject. This is a difficult debate because it requires a mind to be able to separate issues, to separate what happens to one person, without implying that to another. Some people have the ability to separate those issues, and some do not. Some people think others are condemned by virtue of what happens to other people. This Minister does not have that ability.

The Minister for Labour Relations cannot separate in his mind the fact that one person went to court and there were findings in relation to that person; however, those findings do not condemn the other person until such time as the charges are brought and heard. It is a difficult concept to come to grips with, particularly for a novice going through his first year in law.

One can understand students making those mistakes and see the necessity for lecturers to get the ruler out and give him a rap on the knuckles and say, "Naughty boy, you have not understood the basic lesson; let me help you." One can only hope that the Minister's colleagues are a bit brighter than the Minister and they will give him lessons on some of these issues. If this is the standard we can expect from the Minister, at the end of the year I do not think we will see any new members of the legal profession in the Minister's family.

All the arguments the Minister has raised in his defence are shallow. If this is the standard of argument that he presents when he finally gets his law degree, God help those he represents!

MR RIPPER (Belmont - Deputy Leader of the Opposition) [11.01 am]: The Minister speaks a different language from the rest of us. He comes into this place this morning and says "Yesterday, I exercised restraint." Is saying that someone has taken a kickback and has ratted on his members an example of restraint? Let us consider the Minister's defence. He relies on two points: First, that he was quoting from *The West Australian*; second, that he spoke only about a concluded case, the case of a construction manager.

He is absolutely wrong on both counts because he did more than quote from *The West Australian*. He commented on a case, and he added his own colourful analysis of the events which occurred. More to the point, not only did the Minister talk about a concluded case - the case of the construction manager - but he also specifically referred to the motives and actions of a union official. That union official is facing charges to which he is pleading not guilty. We could not get a clearer case of a member of Parliament breaking the sub judice rule.

The Minister not only commented on a case where someone has yet to appear before a court, but also did so in highly prejudicial terms. He assumed the guilt of that person and he added the weight of his ministerial office to the assumption of guilt of that union official. What the Minister has done is different from what is contained in the report in *The West Australian*. That is probably a fair report of a court case, and if there were doubt about that report, *The West Australian* would face its own legal sanctions. However, the Minister has not given a report of the case; he has sought to make negative comments about someone who is involved with these events who is still to face the courts.

I am particularly upset at the turn of events, because I raised the point of order that the sub judice rule was being breached. Along with the rest of the House I accepted the Minister's assurance that his comments were not a breach of the sub judice rule. I accepted his assurance that his remarks related to a concluded case. Each of us has been misled by this Minister. It is clear from his comments to this House today that it was not an accident. It was not that the Minister did not know that someone else had been charged, and was before the courts. By what he said this morning the Minister has indicated that he had a clear understanding of all the circumstances surrounding this case.

That makes his offence yesterday all the more serious, because it was not an accident; it was not carelessness. He thought about it and then he went ahead and he misled you, Mr Speaker, and I, the Leader of the House for the Government, and all members in this place. It was not a trivial matter; it was on a matter of the rights of citizens to have cases against them in the court heard without prejudice. It was a matter which related to the sensitive relationship between Parliament and the courts.

The Minister has deliberately breached the sub judice rule for his own political purposes. He has shown no care at all for the legal rights of that union official. He has shown no respect at all for the traditions of this place for the doctrine that what occurs in Parliament should not impinge on what occurs in the courts. I cannot think of a more serious offence by a member of this place.

Mr Speaker, I wonder how you must feel in the conduct of your position having received an assurance from the Minister about the facts of a particular circumstance and then to find today that the Minister left out a crucial fact. The Minister was asked, following my point of order, whether the matter was sub judice, whether the matter was before the courts. He told us that his comments related to a concluded case. We know that he was talking about a union official.

That was the whole point of the question and the answer; and the concluded case relates to the construction manager. The unconcluded case relates to the union official. The Government has no option except to support a censure of

the Minister. If the Government cannot bring itself to support a censure of the Minister, it will show that it has no respect for the traditions of this place, for the obligation on members to tell the truth in this place, and for the need for some separation between events in the courts and in Parliament. The test is on the Government. I have some sympathy for government members, because once again this ratbag Minister -

Withdrawal of Remark

The SPEAKER: I ask the Deputy Leader of the Opposition to withdraw.

Mr RIPPER: I withdraw.

Debate Resumed

Mr RIPPER: Once again this Minister has placed government members and the entire Parliament in a difficult position. I know there will be members on the government benches who will be very concerned about the turn of events, because all of us, on an individual basis and as an institution, have been misled by the Minister's response to your ruling following the point of order which I took yesterday. I cannot think of a more serious case in the time I have been in Parliament and the Minister deserves our censure.

MR PRINCE (Albany - Minister for Health) [11.08 am]: I will comment on the privileges of Parliament and the courts and make a few observations that have not been made with enough strength in the debate so far. This man, who was an employee of Fletcher Construction Australia Ltd, faced five charges. According to the report in *The West Australian* he pleaded guilty to all five charges; four of which related to moneys that were paid by subcontractors for work to be done on the house of the manager, Mr Turner. The fifth charge related to making a corrupt payment to an agent of the Builders' Labourers, Painters and Plasterers Union.

I am not criticising the report in *The West Australian*. As the Deputy Leader of the Opposition said, it is probably a fair and accurate report. The report goes through the charges and details some of the salient facts on money, times and so on. On the fifth charge, which is the corrupt payment to an agent of the builders' labourers union, the reports states that a payment of $20 000 to the union would ensure industrial harmony on a Midland Gate construction site. The Minister for Labour Relations has already read this article into *Hansard*, so I do not need to go on about it. The article then refers to how this money was paid. What has occurred is that the one and only daily newspaper in this State is reporting - I accept fairly and accurately - what was said in the court. The court has a privilege.

Mr Graham: Did you say fairly and accurately?

Mr PRINCE: I assume that the report by *The West Australian* on what was said in the court is both fair and accurate. Newspapers have known for a long time that what is said during a case before the court is privileged. Mr Foulsham, the prosecutor, gave facts and details about those five charges on a plea of guilty, as he is obliged to do, and he has detailed the circumstances. What is said in the court is privileged.

The newspaper, in this instance *The West Australian*, reported what was said in the court. It is privileged; it is fair and accurate and is in the public domain. Yesterday, the Minister commented on one of the five charges. Had there been only one charge involving the corrupt payment to the Builders Labourers Federation, he would have been quite entitled to raise it. In which case, would the member for Nollamara have raised this matter today? The only reason he raised it is because four other charges involved the construction manager of Fletcher Construction Australia Limited.

The Labor Party is trying to draw a distinction between four and one.

Mr Carpenter interjected.

The SPEAKER: Order! The member for Willagee has made many interjections; I now call him to order.

Mr PRINCE: The comment made under privilege in here yesterday repeated what was written in the newspaper which was in itself repeating privileged comments made in the Criminal Court. It is ludicrous to suggest that a breach of privilege of this House can occur simply in reporting and commenting on what was said under the privilege of the Criminal Court. It is a nonsense; there is no logic and no reason for the Opposition's proposition. It should be dismissed out of hand.

MR PENDAL (South Perth) [11.11 am]: From what I have heard so far I can honestly say I know where neither the truth nor the law lies. That comes from someone who I thought was reasonably familiar with the laws of sub judice. However, I know that a matter of this seriousness - the Minister has acknowledged its seriousness - should not be dealt with in the "hot-house" environment of the floor of the Chamber. Notice of Motion No 6 on today's Notice Paper calls for a standing committee on privilege of this House. This Parliament does not seem to have learnt in more

than a century how to deal properly with matters of privilege. I read briefly the relevant extract from the proposed standing committee on privilege and the way in which this matter might otherwise have been dealt with -

> A Standing Committee on Privilege of this House be established to -
>
> (a) prepare a uniform code of conduct for the guidance and governance of members in relation to possible breaches of parliamentary privilege;
>
> (b) place before the House such a code for its adoption;
>
> (c) recommend ways to incorporate into the House's procedures, the right of citizens to respond to statements made about them under parliamentary privilege; and

Is this not also an issue where it is being claimed that a person has been adversely named by someone? To continue -

> (d) to respond to all relevant recommendations made by the Commission on Government.

Needless to say, that mechanism is of no use to the House today because it is no more than a notice of motion. However, the allegations are of sufficient seriousness that they should be examined. The only other way they can be examined, apart from being made the subject of a substantive motion now before the House and which frankly will solve nothing, is by their going before a select committee of privilege.

Amendment to Motion

Mr PENDAL: Accordingly, I move -

> That the motion be amended by inserting after the word "that", where first occurring, the following -
>
> a Select Committee of Privilege be established to consider whether the Minister
>
> (1) abused the privilege of free speech provided by this House in that he commented on a case which is yet to have its day in court;
>
> (2) breached the convention requiring the separation of Parliament and the courts by stating his view on the guilt of a person charged but yet to go to trial; and
>
> (3) misled the Speaker and the House when in responding to a clear warning by the Speaker of the sub judice rule, stated that the trial had concluded when the union official to whom he was referring has not yet come to trial;

The committee would have the normal powers to call for papers and persons and report back to the House within a month.

DR CONSTABLE (Churchlands) [11.15 am]: In seconding the amendment, I concur that we are dealing with a most serious matter which is beyond the bounds of the knowledge of most members of this House to draw a proper and sensible conclusion this morning, especially in the present emotional environment.

I support the notion expressed by the member for South Perth that the Minister's actions in this House yesterday should be investigated in a more dispassionate environment and more systematically than is possible this morning, so that proper information can be collected on procedures of courts and sub judice.

MR MARLBOROUGH (Peel) [11.16 am]: In speaking in favour of the amendment, I think it is fairly obvious that the -

Mr Barnett: You are well qualified in this area.

Mr MARLBOROUGH: Members opposite are alive; that is good to see! The events of the past 24 hours should be investigated thoroughly. Yesterday, in using the privileges of the House, the Minister firmly intended to put in place the appropriate pieces necessary to support his ongoing attacks on the trade union movement. That is evidenced by the way the Minister concluded the debate.

By referring to the evidence in *The West Australian* it was clear that he wanted to convince the Parliament of the importance of implementing his draconian legislation because he believes a number of corrupt unions operating in the community, particularly within the building industry, should be pulled into line to protect the people of Western Australia from them.

When members have the opportunity of reading what he said in *Hansard* yesterday they will see that that was where he concluded. He tried to draw a picture which demonstrated that "my legislation, is the only way to fix this; it is

the only method by which corrupt officials who delve into these arenas can be pulled into line". With that plan in mind the Minister set about deceiving the House. A point of order was taken on this side of the House by the member for Belmont, who gave both you, Mr Speaker, and the Minister on his feet the opportunity of considering whether the Minister was in breach of the sub judice rule. It is no use the Minister standing today and saying that such inflammatory and well aimed words as "one wonders what drives a union official to go to these lengths to rat on his union or his members" -

The SPEAKER: Order! I have given the member for Peel about three and a half minutes to lead in to the motion before the Chair, which is an amendment that seeks to have a select committee of privilege established to pursue this matter. I think I have given the member enough latitude. He is really talking about the main debate. I ask the member to start his comments on the amendment before the Chair.

Mr MARLBOROUGH: I thank you for your patience, Mr Speaker. I thought I was right at that point. As has been indicated by debate in this place today, this matter is viewed by both sides of the House as extremely serious. There must be doubt in the minds of government backbenchers that suggests a breach of privilege has occurred. A reading of page 11 of the Standing Orders of the Legislative Assembly will indicate to any fairminded person that such a breach has taken place. It may be that that is best ascertained in the atmosphere of the committee process as suggested by the mover of the amendment. It may be that a privilege committee is the best process to look at what drove the Minister to use the article in *The West Australian*. It may be that the committee process, removed from the elected Assembly, is the best way to look at what drove the Minister to continue to misquote the article in *The West Australian*.

It may be that the committee process is the best method by which to ask the Minister why he started his answer in the Parliament by suggesting that such a payment had been made and that a union official had ratted on his membership by receiving that payment. It may be that the committee, unlike any other body of the Parliament that has had to deal with the Minister in the past 10 years, will be able to work its way through that cranium of his and find out just what motivates him. Members on this side of the House have a fair idea of what does.

It will be important for such a committee to find out what motivates him because it is that motivation in which members are interested. It is that motivation that people in the area of industrial relations are interested in because it has turned industrial relations, particularly in some sectors of Western Australia, completely on its ear.

Point of Order

Mr BARNETT: Mr Speaker, I draw your attention to the relevance of the comments in the context of the motion, which is about whether the committee should be established. It is not a general debate about industrial relations philosophy.

The SPEAKER: The Leader of the House beat me by a matter of seconds. The member for Peel is managing to make all sorts of statementsand then to include comments relating to the motion by talking about a select committee of privilege and so on. However, the essence of it is that he is straying significantly from the amendment before the Chair.

Debate Resumed

Mr MARLBOROUGH: I thank you for your guidance, Mr Speaker. I thought I was pretty well on line with what the amendment was suggesting. The motion states -

> That the protection of the privilege of this House requires that the Minister for Labour Relations be censured for his action in question time yesterday when he -
>
> (1) abused the privilege of free speech provided by this House -

Points of Order

Mr BARNETT: The member for Peel is talking about the motion. If he had followed the debate, he would understand that we are on the amendment to the motion. As the Opposition's third speaker on the amendment he has let his team down somewhat.

Mrs ROBERTS: I draw the attention of the House to the fact that in moving to establish a select committee of privilege the member for South Perth listed the three reasons he thought a select committee of privilege should be established. Those three reasons are the same reasons the Opposition gave in its motion to condemn the Minister for Labour Relations. It is a matter of how we go about it; that is, whether we condemn him today or send the matter to a select committee. The content of the motion, amended or not, contains the three points on abusing privilege, breaching convention and misleading the Speaker in the House. All of those points are relevant to the amendment.

The SPEAKER: The amendment before the House seeks to amend the substantive motion by deciding whether there is to be a select committee of privilege. That is what the amendment is about and that is what the debate should be about.

Debate Resumed

Mr MARLBOROUGH: In supporting the establishment of that select committee, I indicate that all the matters that motivated the Minister yesterday when he made his statement and that led to this debate in the Parliament today on the use of privilege, the breaking of privilege and the question of sub judice, will be looked at by that committee. The Minister's selective quoting from *The West Australian* article has led him to the problem he now faces and it is why many of his colleagues on his side of the House are wondering what their position may be if faced with similar action from this Minister in the future.

Members opposite cannot continue to prop up this Minister when he blatantly breaks through the standing orders barrier. At no time during statements he made yesterday, before the Speaker intervened when a point of order was raised, or after, did he refer to the fact that all the accusations about the $20 000 being paid to a union organiser were details put before the court by the prosecution.

The SPEAKER: Order! The member is pursuing the substantive motion.

Mr MARLBOROUGH: I am.

The SPEAKER: I ask him to address the amendment. The member is straying.

Mr MARLBOROUGH: It is difficult under those rules to know how to debate this matter going to the committee process without touching on the action taken by the Minister.

In conclusion, the issue has been well covered in debate here today. The Minister at no time took the opportunity to inform this House that any of the accusations he made against the union official so involved were made by the prosecutor. That key matter should be examined by the committee process. At no time did he advise this House that the union official had not had the opportunity of even putting his evidence before the court.

It is demonstrated clearly that this is a significant breach by this Minister, who set out simply to paint a picture of why his legislation, which continues to put in place draconian laws, is the most appropriate way to handle industrial matters. Members should hand this matter to a privilege committee. The committee should be able to report back to this House on all the matters that have been discussed today.

MR CARPENTER (Willagee) [11.30 am]: I support the amendment which seeks to set up a Select Committee of Privilege to pursue this matter. I do so because it was quite clear to everybody who listened to what was said in this House yesterday that a breach of privilege occurred; everybody in this House knows that, perhaps with the exception of the Minister for Labour Relations himself.

We can argue about this matter all day and in the end, if we do not agree to a select committee, we will divide along party lines and that will be the end of it. However, whether the Minister is aware of it or not, two very serious things took place yesterday. First, the Minister made an assertion about the guilt of a man who had not been to trial. That is a fact. He came into the Parliament with a question designed to allow him to construct an argument to attack the union movement and the official in particular -

The SPEAKER: Order! For the benefit of new members I indicate that the opportunity may present to debate the substantive motion if we return to it after dealing with the amendment. It is my job in the Chair to ensure that we deal appropriately with the amendment before we move on to other matters. My difficulty is that members want to deal mainly with the substantive motion and not the question of whether a Select Committee of Privilege should be formed to deal with matters raised in the motion.

Point of Order

Mr RIPPER: I seek your guidance on that same matter, Mr Speaker. When members argue for the establishment of a Select Committee of Privilege, they need to advance the reasons that a select committee should be established and to canvass the matters they think should be investigated by such a committee. I heard the member for Willagee advancing the allegation which he thought a Select Committee of Privilege should be constituted to investigate. To what extent in your view, Mr Speaker, can members canvass the reasons for a select committee to be established?

The SPEAKER: The member is correct when indicating that members should have some reasonable opportunity to develop their argument before moving to the motion. I intend to allow that to happen. We are reaching the stage of repetitious debate as far as the amendment is concerned. Many members have spoken on the substantive motion and many are saying similar things to other members. It is a matter of judgment from the Chair whether to allow members

to repeat points before they reach the point of debating whether we should establish a Select Committee of Privilege and why it is important to establish the committee as opposed to dealing with the substantive motion. It is a question of the degree of relevance; the debate has been ongoing and many members have already made many of the points being raised.

Debate Resumed

Mr CARPENTER: Thank you for those comments, Mr Speaker. I would hate to set a precedent in the Parliament by repeating what someone has already said, as I realise that that would be a terrible blow to democracy!

I will address the matter in a serious way because it is a serious issue. Let me ask in a general sense a question relating to the reasons in favour of establishing a select committee: Is there anyone opposite who does not believe that a breach of privilege occurred yesterday?

Mr Bloffwitch: Yes.

Mr CARPENTER: There are about two or three. Did any member opposite who listened to what was said yesterday not believe that they were misled? All members were misled. To sit here and listen to arguments to-and-fro, and then dismiss the matter as not important would be a great tragedy. All members know they were misled. I was misled. If members were not misled, they knew in advance that what the Minister said would be misleading. Members cannot say they were not misled when they listened to allegations made about a man, heard a point of order taken and then heard the person making the allegation say that a case has been concluded and that a person had been found guilty because he admitted guilt. The Minister did that.

Mr Kierath: Rubbish.

Mr CARPENTER: I do not have the corrected version, but it is there in *Hansard*. The Minister made allegations about a person, and when he was questioned about the allegations he said that the case had been concluded and a man had pleaded guilty.

Mr Kierath: The construction manager.

Mr CARPENTER: The Minister did not say it was a construction manager. The Minister was talking about a union official who accepted kickbacks and a $20 000 bribe and who had ratted on his mates. When the Minister was questioned about it, he said the man had pleaded guilty. The Minister totally and utterly misled the Parliament, and everybody knows it. The Leader of the House knows it. It would be wrong for this matter to be brushed aside on party lines.

Mr Kierath: What are you doing now?

Mr CARPENTER: I am talking about a matter of principle and a matter of privilege of the Parliament. I refer to what is right and what is wrong. The Minister made comments which were misleading. If he does not understand that, it is very sad for the Minister and for the Murdoch law school. What the Minister was trying to say was obvious to everybody, and everybody opposite knows that he or she was misled. We know it - probably, so does the Minister.

The Minister cannot come into the Parliament of Western Australia and deliberately mislead everybody and get away with it. I had to sit for years in the Press Gallery listening to allegations made about people on the Labor side of politics misleading the Parliament. That is one of the reasons that I am here, and now I have to put up with it from the Minister! No member opposite has the guts to say that the Minister is, and was, wrong. The Minister cannot make those sorts of allegations.

Several members interjected.

The SPEAKER: Order!

Mr Shave: You played the part of being impartial when you were sitting up there; what a hypocrite you are!

The SPEAKER: Order! I formally call the Minister to order.

[Interruption from the gallery.]

The SPEAKER: Order!

[Interruption from the gallery.]

The SPEAKER: Order! I remind people in the Public Gallery, as I have already indicated once this morning, that we welcome you here, but that is conditional upon your not interfering with the debates and proceedings of this place.

I have just heard an outburst which was totally unacceptable which interrupted the proceedings. If it occurs again, I will have to take action.

Members, the interjections are getting beyond what is acceptable. I call the Minister for Fair Trading to order.

The member for Willagee is making a good speech on the substantive motion. I find it difficult to get the point over to him that, as well as matters of relevance, repetitious debate creates difficulties. Once the amendment has been dealt with, the House will return to the substantive motion. The matters being raised by the member for Willagee would then present no difficulty. The member needs to deal with whether, according to the amendment, we should form a select committee to deal with the matter, or continue with the main motion.

Withdrawal of Remark

Mrs ROBERTS: I distinctly heard the member for Alfred Cove describe the member for Willagee as a hypocrite as part of that interjection. He has clearly impugned the character of the member for Willagee and if you are to be consistent in your rulings, Mr Speaker, you should ask him to withdraw that remark.

The SPEAKER: If the Minister called the member for Willagee a hypocrite, I ask him to withdraw.

Mr SHAVE: I withdraw.

Debate Resumed

Mr CARPENTER: We now know that members on the other side of the Parliament also believe they were misled -

Mr Shave: Because you told us.

Mr CARPENTER: - because I have given members opposite the opportunity to express otherwise and only two or three members have.

Mr Shave interjected.

The SPEAKER: Order!

Mr CARPENTER: Therefore, the only way for this matter to be resolved in a proper way outside the party divide we have in the House, is for the issue to be taken off to a select committee where it can be discussed in a calm light and where party political differences might be put aside. We cannot allow the situation to drift along and be dismissed purely on party lines. Most of the members opposite agree with me. Therefore, I support the amendment.

MR KOBELKE (Nollamara) [11.42 pm]: I am most willing, together with members on this side, to support the amendment. The amendment is tougher than the motion I moved. Clearly, the Opposition does not have the numbers. The motion I put to the House was one of minimal condemnation of the Minister for Labour Relations in the hope that the facts are evident and government members, not being willing to dump totally on the Minister whom they are unfortunately locked in behind, would be presented with an option that was palatable to them. Even though they would not like it, they would be willing to accept the facts laid out today and the motion would be passed.

The two Independent members believe the issue is so serious, and I agree with them, that they believe the House should take the next step of forming a select committee to look into this matter of privilege. Given that they will support the amendment and, if it is passed, the motion as amended, I am most willing to support the amendment, which gives greater strength to the issue which has seen a major breach of privilege in this place.

The select committee can be more thorough in looking into this matter. It is difficult in a Chamber of 57 members to debate issues of this nature. Yesterday the Minister for Labour Relations was talking about condemning people because of extortion and corruption. Clearly, the debate is colourful. With so many members in this Chamber it is easy to fall in along party lines and not address the issue. The member for Willagee was opening up that issue, because one can see that in a debate in this place members opposite would not be willing to acknowledge the facts. The very dynamics of a committee of five or seven members who are seated around a table in a small room make it more likely that members will not adopt a partisan political position but will address the facts of the matter. The facts of the matter will show that the Minister has breached the privileges of this place.

If we go to a select committee the actual penalty which is contained in the motion of simply asking for an apology could be varied. The report of the select committee might suggest that the seriousness of the breach by the Minister for Labour Relations and his demeanour in this debate, where he has failed to be honest, suggest a far more serious penalty should be imposed on him for his total disregard for the truth and his inability to behave in this House in a proper way. For those reasons I support the amendment.

Amendment put and a division taken with the following result -

Ayes (18)

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

Noes (31)

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

Pairs

Ms MacTiernan	Mr Cowan
Mr Thomas	Mr Nicholls
Mr Grill	Mr Omodei

Amendment thus negatived.

Motion Resumed

The SPEAKER: While members are returning to their seats, I indicate to members of the public in the Public Gallery that it has come to my attention that information has been put about that if the clocks are not running they can interrupt this place. That is not accurate and interjections at any time while the House is sitting are not acceptable and will cause me to take action. I remind members of the public that action is totally within my discretion.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (29)

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

Pairs

Mr Thomas	Mr Cowan
Mr Grill	Mr Nicholls
Ms MacTiernan	Mr Omodei

[Interruption from the gallery.]

The SPEAKER: I direct the Sergeant-at-Arms to remove the lady in the rear seat of the gallery and the gentleman in the green shirt with his arms over the balcony.

Question thus negatived.

STATEMENT - MINISTER FOR HEALTH

St John Ambulance Association

MR PRINCE (Albany - Minister for Health) [11.55 am]: When I became Minister for Health, one of the first initiatives brought to my attention was a review of the ambulance services. The review, which had been commenced by Hon Graham Kierath, was established in the first instance to examine issues of funding and the exposure of interhospital patient transport to competition.

The review was conducted by a joint community and health industry based committee chaired by Hon Bruce Donaldson. The review committee conducted weeks of public hearings and community consultations across the State and sponsored the most intrusive and detailed financial analysis of the operations of the principal provider of ambulance services in Western Australian, the St John Ambulance Association - WA Ambulance Service.

Soon after the review was commenced, it became clear that if Western Australia were to be guaranteed a viable ambulance service today and into the future, other issues would have to be addressed, in particular, those relating to the support of volunteer operations and the protection of paid and volunteer ambulance officers in their various roles.

At this point, I would like to praise St John Ambulance, which not only cooperated with the review but as a private organisation also granted access to the review committee to every aspect of the operations and detailed commercial and financial records.

In essence, the review committee's recommendations can be summarised as follows -

(1) that there should be a single statewide provider of emergency ambulance services;

(2) that interhospital patient transfer services should continue to be exposed to competition in the metropolitan area, particularly in light of the State's responsibilities regarding competition policy reform;

(3) that there would be no benefit from exposing interhospital patient transfer services in country Western Australia to competition;

(4) that appropriate minimum regulatory structures should be provided to protect the just actions of ambulance officers and address other legislative deficiencies;

(5) that volunteers are critical to the maintenance of high quality ambulance services outside the Perth metropolitan area and that there is a clear need to provide some financial assistance to volunteer operations which have insufficient access to other sources of income;

(6) that there is a need to develop more effective and responsive performance monitoring systems within the purchaser-provider relationship;

(7) that there is a need for the purchaser to approach the further deployment of paid ambulance services on a planned basis with the major provider; and

(8) that there is an urgent need for relevant public sector agencies to work with ambulance service providers in developing a strategy for addressing the issue of bad debts attributable to indigent Aboriginal persons.

As I have previously stated, the review report itself contains highly sensitive commercial information for both St John Ambulance and the Government and, for these reasons, I have determined not to release the review report.

Following receipt of the review report from the review committee chairman, it was provided to St John Ambulance Association and the Commissioner of Health for the development of an implementation strategy to give effect to the review committee's recommendations. Considerable time has been spent arriving at the consensus strategy, which is being tabled today. The validity of this strategy can be confirmed by the fact that many of its recommendations have already been implemented and have contributed to a more efficient ambulance service and a more productive working relationship between that service and government agencies.

The document I will table today is a tribute to Hon Bruce Donaldson, the members of the review committee, and St John Ambulance and the Health Department, all of whom have worked together to produce a strategy that will ensure

that Western Australians continue to be protected by what is in my view the best and most efficient ambulance service in Australia.

[See paper No 313.]

MOTION - JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Establishment

MR BARNETT (Cottesloe - Leader of the House) [11.58 am]: I move -

(1) That a joint standing committee of the Legislative Assembly and the Legislative Council be appointed -

(a) to monitor and review the performance of the functions of the Anti-Corruption Commission established under the Anti-Corruption Commission Act 1988;

(b) to consider and report to Parliament on issues affecting the prevention and detection of "corrupt conduct", "criminal conduct", "criminal involvement" and "serious improper conduct" as defined in section 3 of the Anti-Corruption Commission Act 1988. Conduct of any of these kinds is referred to in this resolution as "official corruption";

(c) to monitor the effectiveness or otherwise of official corruption prevention programs;

(d) to examine such annual and other reports as the joint standing committee thinks fit of the Anti-Corruption Commission and all public sector offices, agencies and authorities for any matter which appears in, or arises out of, any such report and is relevant to the terms of reference of the joint standing committee;

(e) in connection with the activities of the Anti-Corruption Commission and the official corruption prevention programs of all public sector offices, agencies and authorities, to consider and report to Parliament on means by which duplication of effort may be avoided and mutually beneficial cooperation between the Anti-Corruption Commission and those agencies and authorities may be encouraged;

(f) to assess the framework for public sector accountability from time to time in order to make recommendations to Parliament for the improvement of that framework for the purpose of reducing the likelihood of official corruption; and

(g) to report to Parliament as to whether any changes should be made to relevant legislation.

(2) The joint standing committee shall not -

(a) investigate a matter relating to particular information received by the Anti-Corruption Commission or particular conduct or involvement considered by the Anti-Corruption Commission;

(b) reconsider a decision made or action taken by the Anti-Corruption Commission in the performance of its functions in relation to particular information received or particular conduct or involvement considered by the Anti-Corruption Commission; or

(c) have access to detailed operational information or become involved in operational matters.

(3) The joint standing committee consist of six members, of whom -

(a) three shall be members of the Legislative Assembly; and

(b) three shall be members of the Legislative Council.

(4) No Minister of the Crown or Parliamentary Secretary to a Minister of the Crown be eligible to be a member of the joint standing committee.

(5) A quorum for a meeting of the joint standing committee be three members, each House of Parliament being represented by at least one member.

(6) The joint standing committee have power to send for persons, papers and records, to adjourn from time to time and from place to place, and, except as hereinafter provided, to sit on any day and at any time and to report from time to time.

(7) The joint standing committee not sit while either House of Parliament is actually sitting unless leave is granted by that House.

(8) A report of the joint standing committee be presented to each House of Parliament by a member of the joint standing committee nominated by it for that purpose.

(9) In respect of matters not provided for in this resolution, the Standing Orders of the Legislative Assembly relating to select committees be followed as far as they can be applied.

MR COURT (Nedlands - Premier) [11.59 am]: I will make a couple of brief comments in relation to this motion, which establishes a joint standing committee in relation to the Anti-Corruption Commission. There has been some debate and discussion as to whether we should have a joint standing committee or a committee of one of the Houses. It is appropriate that we establish the joint standing committee and see how it operates over a period. Members on both sides of the House can then have a discussion or debate as to whether it is more effective to have it in one House or both Houses.

It is appropriate that we try running the committee as a joint standing committee in the first place. The Anti-Corruption Commission, which is now in operation, has recently appointed Mr Graeme Charwood as director of investigations. He is a former assistant commissioner of the Northern Territory police. He commenced his appointment in February of this year. The members have had a quite extensive debate on the matter. I support the motion.

MR THOMAS (Cockburn) [12.01 pm]: I am pleased to support the motion. Members of previous Parliaments will be aware that I have been advocating the creation of such a committee for five or six years.

I will not rehash in full the history of the proposition, other than to say that it was a recommendation of a select committee of this House in the Parliament before last. The committee reported first in 1991 and then in 1992, as I recall. The proposition has been before the Parliament in one form or another for some five or six years. I was very disappointed that the Government did not support any of the several propositions that I put before the Parliament to create this committee between 1993 and 1996. Both the Premier and the then Attorney General exhibited an incredible amount of cynicism and prevarication when the propositions were put forward. All sorts of excuses were raised by them as to why they were not prepared to support the creation of the committee of the Parliament to oversee in a sense the operations of the then Official Corruption Commission, the Anti-Corruption Commission as it has become. One of the excuses was that they were awaiting the Commission on Government report. When the report finally came out it was revealed that there was no reason the committee could not have been up and operating and working during the time that COG was conducting its deliberations. I can speculate on all sorts of reasons for the motivation of the then Attorney General, who is studiously avoiding this debate, as well she might, because she has every reason to be embarrassed, as does the Premier, about why this never saw the light of day.

The most cynical misuse of the forms and procedures of Parliament I have ever seen was when a motion was moved that the committee be created on the last day the Parliament sat; the next day Parliament was prorogued and the committee ceased to exist. We went through the charade of passing a motion, appointing people and then having the committee cease to exist. The Government was then able to say that it had acted on the recommendations of the original select committee on the Official Corruption Commission and other recommendations to create such a committee. It could say that it had honoured its undertakings in creating the committee. When the Governor prorogues the Parliament he does so on the advice of the Premier, so the Premier knew full well when he moved the motion that day that Parliament would be prorogued within 24 hours. That was a shallow misuse of the forms of Parliament and should be exposed for precisely what it was.

I do not want to spend the next four years raking over old coals about the history of the proposition because I am enthusiastic about the proposal that the committee exist and get on with its job. However, when we form the committee we should note that the Government's performance is very tardy in relation to legislation to reform the Official Corruption Commission.

Legislation was introduced in the last term of a four year term of government. The item had no budgetary implications and the proposal needed no parliamentary drafting because all the work had been done. There were no financial or drafting excuses for being so tardy. Nonetheless, the Government did not get around to it until the last year of a four year term. It then did not create the committee until the very last day that Parliament sat, knowing cynically that the record would show the committee had been created. Those who know how the system works know that it existed merely on paper because the moment that Parliament was prorogued the committee ceased to exist. That happened within 24 hours of the motion being passed.

I am not sure whether I should debate this now or subsequently when a motion is moved to appoint members to the committee. I do not know whether it is the intention of the Leader of the House to do that today. We must look at

the composition of the committee. One of the recommendations of Royal Commission into Commercial Activities of Government and Other Matters was that for the Parliament to oversee the Executive it is important that the parliamentary system works. The commission recommended that the Government should not always have a majority or chair such committees. The Government has a majority and the Government provides the chair for parliamentary committees. For that reason it is most often the case that committees tend to follow the government line. In part II of its report the Royal Commission into Commercial Activities of Government and Other Matters said that the committee system is an important tool of the Parliament in overseeing the Government. A body of fifty-seven people cannot be expected to conduct a detailed investigation. A committee that is created and delegated with terms of reference and responsibilities is small enough to conduct a detailed investigation within fairly narrow terms of reference.

The royal commission's recommendation that the Government should not always have a majority on committees makes sense. If a committee is to oversee the functions of the Executive and report back to Parliament, it is most desirable that the Government should not necessarily have a majority, so that there is not the automatic political assumption that the committee will be trying to justify the actions of the Government. The proposition I put to the Leader of the House is that if there is any committee on which the Government should not have a majority, it is the one overseeing the functions of the Anti-Corruption Commission. If there is any committee of the Parliament for which we would want detachment from the Executive and political loyalty, it is this committee. I would like the Leader of the House, now or subsequently, to respond to that proposition. It seems to be an unanswerable one and one that, if the Government is committed to having a parliamentary committee system which works in supervising, overseeing and questioning the actions of the Executive, and if it is committed to following the recommendations of the Royal Commission into Commercial Activities of Government and Other Matters, this is an opportunity for it to show the colour of its money. It is a simple proposition for the Government to agree that the committee should not have a government majority or the Government should not necessarily be the body that provides the chair of that committee, so that it is able to act in a manner that is and is seen to be independent of government.

I would like the Leader of the House to respond to that proposition now.

Mr Barnett: It is not my motion. I am not handling it.

Mr THOMAS: The Leader of the House moved the motion.

Mr Barnett: As leader I did. I do for all committees.

Mr THOMAS: Can I put to the Leader of the House the general proposition that the Government should not always have a majority on committees?

Mr Barnett: I concede there is merit in that argument.

Mr THOMAS: Would the Leader of the House also agree that of all committees, this is one of those, with the public accounts committee being the other, on which there should not be a government majority or a government chairman?

Mr Barnett: I will not absolutely agree. I agree there is merit to that argument. It is common in other Parliaments to have Governments in minority positions on committees.

Mr THOMAS: I am pleased that the Leader of the House is prepared to entertain argument on that matter because it is important. Will we move to constitute the committee today?

Mr Barnett: No, we will advise the upper House and it will then constitute the committee. The composition from this House is agreed.

Mr THOMAS: We will have the opportunity to debate that proposition on another occasion. I am somewhat concerned about the statement by the Premier that there would be a trial to see whether a joint House committee would work. That should not be an impediment. Once committees get operating, whether the members originate from this House or the other House is a matter of no practical significance.

As I indicated earlier, I do not want to appear churlish. I am pleased that the Government at last is prepared to act on the recommendations which have been before it for five or six years. It has had opportunities on three or four occasions to act on those recommendations and has deliberately not done so. The former Attorney General and other Ministers have actively misled the House about the Government's intentions in relation to this matter. All those matters notwithstanding, it appears that the Government is prepared to create the committee. I am pleased about that and look forward, if I might be so presumptuous, to being a member of the committee.

Mr Barnett: Love to have you on it.

Mr THOMAS: Right. However, I would like to have a majority. I look forward to working creatively on that committee.

Question put and passed, and the Legislative Council acquainted accordingly.

HAIRDRESSERS REGISTRATION REPEAL BILL

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

TRUSTEES AMENDMENT BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [12.15 pm]: I move -

That the Bill be now read a second time.

This Bill makes the most significant amendments made to the Trustees Act 1962 for many years. Minor amendments are made also to the Public Trustee Act, the Trustee Companies Act and consequential amendments are made to many other Acts which authorise organisations to invest surplus funds according to law.

Trustees have always been required to act prudently in making investments on behalf of a trust estate. However, boundaries have been placed on the range of those investments by what the Trustees Act describes as "authorised trustee investments". This has sometimes been described as the "designated list", a term that has led to misinterpretation of the effect of an investment being on or off that list.

While it is true that many investments that are authorised are clearly very safe investments, it is possible for quite unsafe investments also to be contained within the definition. Furthermore, a trustee has a duty to invest in the best interests of an estate and to place all investments in low-yielding cast iron investments may itself be a breach of that duty. Unfortunately, many trustees believe that there is some sort of assurance from government by inclusion within the definition and that no more inquiry need be made so long as an investment is "authorised". Neither proposition is correct.

This amendment removes the concept of "authorised trustee investment" and leaves behind the prudent person duty. This duty has been expressly stated in the amendments, but is not a new concept. The amendments also re-enact, in the light of the change, various other measures in the Trustees Act relating to investment and clarify some of the areas that have proved unsatisfactory over the years and which are usually corrected by any properly drawn trust deed.

Attempts have been made since 1990 to secure the agreement of the States and Territories to proposals for uniformity throughout Australia on authorised trustee investments. The Council of Australian Governments has noted a working group recommendation that the "prudent person" approach be adopted across Australia and effectively referred the matter back for individual States to adopt as they each see fit.

The Government, like the South Australian, Victorian and Northern Territory Governments, has determined that it is appropriate to adopt the "prudent person" approach to authorised trustee investments. The amendments are based on the changes made in the other States which are themselves modelled on legislation enacted in New Zealand some seven years ago.

The investment powers of trustees are listed in the Trustees Act. The Act lists the investments in which trustees are authorised to invest where no express powers of investment have been given by the court, a Statute or the instrument creating the trust. Authorised trustee investments listed in the Act are within power and thus permissible for trustees, although trustees must still consider whether a particular listed investment is suitable or prudent in the circumstances of the trust or of the current facts.

The "designated list" in practice has effectively diverted trustees from their responsibility for determining whether investment in a particular category - for example, government bonds, shares and so on - is prudent. The "designated list" approach has many shortcomings. It has the potential to mislead the inexperienced trustee and the public because it is read as implying a basic presumption that those investments included on the list are safe, but does not indicate which investments are suitable for which types of trust. In fact, some investments which have complied are, on examination, quite hazardous. Rothwells Ltd is a case in point. It met the test of capital and dividends, but prudent inquiry would have cast great doubt on its probity.

In addition to being a moral hazard for the Government, its inflexibility means that in a rapidly changing financial environment many new investment instruments likely to be just as sound by objective criteria are not authorised investments. Examples of companies that do not meet the requirements because of their lack of dividend history are

Qantas, the State Government Insurance Office and BankWest. If Telstra is floated, it similarly would be out of power for Western Australian trustees.

The Bill repeals the "designated list". This means a trustee can invest in any kind of investment as long as it is prudent, having regard to the circumstances of the trust. As already noted, a trustee must always act prudently, so the effect is to take away that boundary line over which trustees could not previously step. This is the so-called "prudent person" approach to trustee investments. The prudent person rule requires the trustee to act prudently in determining the suitability of a particular investment as well as when considering actual proposals for investment. I believe this change is similar to the change effected when the ultra vires rule was effectively removed from corporations. The duty to act remains the same, but the artificial limitations and boundaries have been removed as to where the act can take place.

The flexibility and diversification that the prudent person approach brings to investment choices could be considered vital to the wellbeing of any trust fund in today's economy. Indeed, the practice among professionals who draw trust instruments to confer wide investment powers on trustees has meant that, to that extent, those trustees have been operating under this regime. Investments should be labelled as prudent or imprudent not because of their being on a list, but because of their appropriateness taking into account the terms, purposes and circumstances of the trust.

The proposed amendments are based on the South Australian and Victorian Acts. They give trustees power to invest in any property, unless the instrument creating the trust otherwise provides. A trustee exercising any power of investment is required to exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of others. A trustee whose profession, employment or business is or includes acting as a trustee or investing moneys on behalf of others is required to exercise the care, diligence and skill of a prudent person engaged in that profession, employment or business in managing the affairs of others - that means that a higher standard is required for professional trustees.

An important feature of the provisions is the codification of factors which should be considered by trustees in making investment decisions.

The purposes of the trust and the needs and circumstances of the beneficiaries are important factors. Other matters include diversification and factors such as value of the trust estate, duration of the trust, risks of capital losses/gains, costs, tax and marketability which can all be critical depending on the circumstances of each trust. Further, the court may set off investment gains and losses.

The provisions recognise that in a managed portfolio of investments, a trustee should be given protection against the claims for loss on individual investments if they can demonstrate that the investments were part of a diversified management strategy which was established and operated in a prudent manner.

Additionally, the Bill clarifies the ability of trustees to utilise the electronic processes of the Reserve Bank information transfer system. The RITS system provides a means of transferring and settling transactions in securities. It is destined to play an increasing role in the transfer of securities in the future, and it is essential that trustees should not be denied access to the system.

By an amendment to the Trustee Companies Act the Bill allows trustee companies to invest estate common trust funds and investment common trust funds in "prudent person" investments as authorised by the Trustees Act.

[Interruption from the gallery.]

The DEPUTY SPEAKER: Order! The people in the Public Gallery have had numerous warnings this morning about interrupting the business of this House.

[Interruption from the gallery.]

The DEPUTY SPEAKER: Order! You have had your last warning, I promise you. Any more interjections, and the Public Gallery will be cleared.

Mr PRINCE: The Government has decided to preserve the "designated list" in relation to two particular matters pending a review to be undertaken by Treasury in 1997. A number of statutory authorities which are largely taxpayer funded, and the Public Trustee, will continue to be bound by the current regime in the interim.

[Interruption from the gallery.]

The DEPUTY SPEAKER: Order! I direct that the Public Gallery be cleared.

Mr PRINCE: The passage of the Bill will once again demonstrate this Government's commitment to the Western Australian economy. With the repeal of the "designated list" of trustee investments there will no longer be emphasis

on the securities of a body achieving trustee status to the point where achieving and maintaining such status becomes more important than achieving a record of good financial management. Competitive advantages will be removed from those institutions which by explicit statutory authorisation qualify for authorised trustee status.

Adoption of the flexibility and diversification encompassed in the "prudent person" approach to trustee investment will ensure investment decisions are based on market prices and returns and assessment of financial and other market information in Western Australia's rapidly changing financial environment rather than an outdated approved list of investments. I commend the Bill to the House.

Debate adjourned, on motion by Mr Brown.

SEA-CARRIAGE DOCUMENTS BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [12.25 pm]: I move -

> That the Bill be now read a second time.

The legal process associated with international transport of goods is centuries old and remarkably efficient. There are three major characteristics in all jurisdictions around the world -

(a) a document of title to the goods which enables transfer of property in the goods by delivery of the documents;

(b) a policy of insurance covering the goods so that the transferee has the assurance of receiving either the goods or their worth;

(c) a uniform regime of liability for loss governed by international treaty so that contracts for sale and insurance tie into that regime wherever the goods may travel.

Historically the negotiable document by which goods were transferred was the bill of lading. Bills of lading legislation is contained in various state Statutes dealing with the sale of goods and applies to bills of lading issued in Australia. The reason that documentation ostensibly dealing with international trade is enacted by the State is that the law of transfer of property, under private international law, is the law where the property is situate at the time of transaction. The rights under a bill of lading are usually created when goods are delivered on board ship. At that time, the goods are situate within the State and state law applies.

Western Australia, by an ordinance - 20 Vict No 7 (1856) - adopted the Bills of Lading Act 1855 (UK) concerning the law relating to bills of lading. For example, section 1 of that UK Act provides -

> Every consignee of goods named in the bill of lading, and every endorsee of a bill of lading, to whom the property in the goods therein mentioned shall pass upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.

A bill of lading is a formal document issued by or on behalf of a carrier of goods by sea to the person - usually known as the shipper - with whom the carrier has contracted for carriage of goods. At common law, based on the doctrine of privity, the buyer of the goods, being the consignee or an endorsee of the bill of lading, is not a party to the contract of carriage and shipper - consignor. However, the bill of lading legislation provides that every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods covered by the Bill passes "upon or by reason of consignment or endorsement" has the same rights of suit and is subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with such person.

There were and continue to be sound policy reasons for that qualification. Since the bills of lading legislation was introduced in the middle of the nineteenth century, legal, commercial and technological conditions have substantially altered. For example, bulk cargoes were largely unknown in the 1850s. There now exist a number of circumstances where the buyer does not acquire rights envisaged in the bills of lading legislation. In addition, ordinary practices have altered within the shipping industry and different documentation and methods of communication are used. Legislative inadequacies should be removed to accommodate the new circumstances so that the consignee or endorsee of a bill of lading has the same contractual rights as those entered into between the carrier and the shipper and to accommodate these other documents such as sea waybills and ship's delivery orders.

The Standing Committee of Attorneys General has agreed to the provisions of a model Sea-Carriage Documents Bill and agreed to implement that proposed legislation as soon as practicable. The object of the draft Bill is -

first, to allow the transfer of contractual rights from the shipper to the lawful holder of the bill of lading and for such transfer to occur irrespective of whether property has passed upon or by reason of consignment or endorsement of the bill of lading so as to accommodate changes in the legal and commercial environment;

secondly, to extend contractual rights to persons to whom delivery of goods is to be made under a sea waybill or a ship's delivery order which are becoming increasingly used in carriage of goods by sea;

thirdly, to provide functional equivalence to paper and electronic bills of lading to recognise technological advances being made by industry in this area; and

fourthly, to improve the evidentiary status of a bill of lading.

Amending the bills of lading legislation in Australian jurisdictions will have at least three advantages. It will have a beneficial impact on the shipping industry generally, including carriers, shippers, freight forwarders and buyers of goods moving under sea-carriage documents, including financial institutions involved in such transactions. Secondly, it will improve the legal environment for Australia's international trade. Thirdly, it will be similar to reforms taken by the United Kingdom and New Zealand and a number of Australia's other trading partners, including Japan, the People's Republic of China, Thailand and Taiwan. Enactment of this Bill by this Parliament and other State Parliaments will facilitate, and therefore assist, overseas trade.

Members may wish to note that the law regulating the substantive obligations of the principal parties to a contract of carriage by sea under which a bill of lading is issued is governed by the Commonwealth's Carriage of Goods by Sea Act. That commonwealth legislation implements an international regime to govern maritime cargo liability by adopting the International Convention for the Unification of Certain Rules Relating to Bills of Lading as amended by the Brussels Protocol of 1968 and the SDR protocol of 1979, the Hague-Visby Rules. This regime limits the circumstances in which a carrier may exclude liability under a contract of carriage. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Second Reading

Resumed from 20 March.

DR GALLOP (Victoria Park - Leader of the Opposition) [12.30 pm]: The issue before us today goes to the heart of our community and to the democratic system that underpins it. Serious questions are posed by this legislation that require serious analysis and serious conclusion by this Parliament.

It is interesting to reflect that the concept of hope in our society appears to have vanished from the vocabulary of many of our citizens, particularly the young. They look to the future and see nothing but increasing control over their lives and declining living standards. This view of the future has penetrated, in a very serious and disturbing way, significant parts of our population. It lies behind the lack of commitment of many people to our democratic system, and it lies behind the despair and hopelessness that many people see when they look to the future, and it causes them to turn to other "solutions" to the problems that they seem to confront. It seems that no matter what we say to these people, particularly the young, about our prospects as a State and a nation and, therefore, about their prospects as citizens of this State and this nation, they still see too little hope and too little progress.

When we consider legislation in this Parliament, we need to consider not just the details of that legislation but also its potential impact on the perceptions and views of people when they look to the future. We must ask ourselves whether the legislative framework that we are establishing for the new millennium is inclusive, and also whether it is progressive in that it is promoting and encouraging participation and involvement in our society, rather than sending out a message that the future will be one of control and one in which the individual will stand alone and isolated when confronting the State and the employers in our community.

This legislation poses questions about not just industrial relations but the type of society that we will leave to the young people who will build Western Australia into the twenty-first century. We have a responsibility to ensure that the legislation that we pass through this Parliament supports the principles of participation, involvement, freedom of association and community-based organisation, rather than contradicts those principles, so that when young people look to this Parliament and what this Parliament offers to them as they enter the next century, they will see a genuine offer that no matter what their philosophical preconceptions, no matter what their views, no matter what their politics, no matter what their commitments, there is a place for them in Western Australia.

This legislation poses serious questions about whether that offer will be made to the young people of Western Australia. It poses serious questions about whether we will be one community in the twenty-first century or whether

there will be a fundamental division right down the centre of our society where citizens will be on this side and non-citizens will be on that side, and where unionists will be on this side and non-unionists will be on that side, where the State and employers will be on this side and employees will be on that side. It also poses serious questions about whether we will have a society of division, conflict and hatred, in which the basic trust that is necessary for a community to function and that makes a civilisation civilised is no longer part of our normal social relationship.

I ask all members of Parliament to reflect on this legislation as being not just a piece of industrial relations legislation but a statement about what sort of society we will be into the twenty-first century, and about whether we will include all people, or whether we will divide our society into two classes of people and create a class society in which hatred and conflict are the basis of our social relationship, because that is the road upon which this legislation will take us.

I want to make the position of the Opposition absolutely clear. This is a most appalling piece of legislation. It will have not only a significantly negative impact on the freedom to associate and organise, which is recognised as being one of our fundamental human rights, but also the potential to permanently damage civil society and social harmony. Earlier today, we had a short dose of the disharmony that this type of legislation creates, because when we debated whether the Minister for Labour Relations had contravened the principles and conventions of this House yesterday when he attacked an individual who was subject to court proceedings, the passions rose immediately and the type of future that is in store for us bubbled to the surface.

What lies behind this legislation is the ideological obsessions and hatreds of a certain segment of the Liberal Party in Western Australia that does not have a breadth of vision that can incorporate trade unionism, that does not know anything about trade unionism, that does not care to find out about trade unionism and how it operates, and that has a false view about the realities of trade unionism.

This legislation has the potential to permanently damage our civil society and the social harmony that goes with it. This legislation derives not only from a badly mistaken view of the facts with regard to industrial relations, but also from a maniacal hostility to trade unions and their members. In other word, the legislation is flawed both ideologically and empirically. We on this side of the House will mount arguments on both fronts. We will point to the ideological biases of this legislation, and we will also point to how this legislation is empirically flawed. In other words, the facts upon which the Minister builds his case are reflections of his prejudice and not reflections of the reality of industrial relations.

This legislation will create two classes of citizens. It will also create double standards of judgment. In this important respect, it contravenes the rule of law as we know it, and possibly also section 117 of the Commonwealth Constitution, which proclaims the doctrine of legal equality. This legislation is clearly designed to undermine the freedom of registered voluntary organisations - in this case, trade unions - to participate in the political process.

No such restrictions are proposed for companies or business associations. According to the Minister for Labour Relations there are two classes of citizens; there are two standards of political judgment. No society can work if there is a double standard, if one group of people is not recognised as having a legitimate sphere in which it can exercise its influence. Members of the Government should not be fooled by the rhetoric. We must go beyond the rhetoric of choice, freedom and democracy, and look at what the law says and how it will impact on the nature of democracy, on a voluntary organisation, and on political participation. They are the real issues, not the rhetoric the Minister uses to defend this piece of legislation.

It is also petty and vindictive legislation, deliberately designed to discriminate against individuals and unions that make choices not to the liking of the Minister, be that a choice to stick with the union or with an award, or to move to the federal jurisdiction. People can exercise those choices, but when they do someone will be watching them, trying to influence them in that choice - and that someone will be the Minister for Labour Relations, backed up by a piece of law that gives enormous power to the executive arm of government in Western Australia. That leads me to the question of power.

This legislation gives the whole concept of executive power a new and frightening persona, by allowing for significant interference in the functioning of voluntary associations in Western Australia. It foreshadows a society in which an individual, isolated and alone, faces not only the State, but the State and the employer as a united force. If people in our community want to create the preconditions for class conflict, to create a situation where people have a natural instinct and desire to oppose one another and to fight one another, this is the legislation for them. This legislation is for those people in our society who want to fight and struggle, and who love and are predisposed to conflict. On the other side of the House the class warriors within the Liberal Party are only too pleased to support this legislation because it creates those preconditions for conflict within our society, from which no good will come.

It is a fundamental feature of a progressive community, of a community that has economic growth, that there will be a pursuit of not only economic efficiency, but also social justice. It is a truism that if we try to pursue social justice

at the expense of economic efficiency, we will get neither. By the same token, if we try to pursue economic growth without social justice, we will also get neither. The truly progressive communities in our world are those that combine both social justice and economic efficiency. This legislation is based upon a very narrow view of what it means to participate in the work force and in our economy and, by so doing, undercuts the necessary unity between justice and efficiency. By so doing, it will undermine the very process of economic growth in Western Australia.

If there is any evidence for the proposition I have put forward, it is this: This legislation, which is so extreme that not even Peter Reith and his federal colleagues and the federal Liberal Party and its approach to industrial relations legislation are trusted by this Minister and his Cabinet colleagues. This legislation lacks decency and, if passed, is bound to create conflict and resentment in our community. It is so relentless in its pursuit of trade unions that even legitimate attempts to escape its net by moving to the federal jurisdiction will be met by government interference. There is no doubt about this Minister: He is on a relentless course. If any little loophole is created that might allow people to exercise a choice that will get them around this legislation, he will be there or, if it is not he, one of the agents of the State of Western Australia will be there, just to make sure that choice cannot be exercised freely and without constraint. So paranoid and distrustful is the Minister that he does not even trust Peter Reith and his federal colleagues. Indeed, this legislation will isolate and expose Western Australia to ridicule and contempt within our nation and the democratic world that accepts the freedom to associate.

I remind members of the House that the freedom to associate and organise is not a principle that is in our system of government just implicitly; it is in our system explicitly through the international conventions we have supported. I refer to the International Labour Organisation Freedom of Association and Protection of the Right to Organise Convention 1948 which came into force in Australia on 29 February 1994. It contains several articles of association in respect of worker and employer organisations, and their membership, establishment and administration, and article 11 deals with the protection of the right to organise. This convention seeks to protect workers against acts of anti-union discrimination in respect of their employment, to protect worker and employer organisations, to ensure respect for the right to organise, and to encourage and promote the full development of collective bargaining machinery. Those conventions have stayed intact throughout the years of the Fraser Government and the Hawke and Keating Governments. They are accepted as being a fair description of what is at the heart of our society in the way in which it organises its affairs, understands industrial relations, and accepts the freedom that people should have to organise and associate in the labour market.

This legislation is designed to place so many constraints on Western Australia's traditional industrial relations system and the unions that work within the system that it cannot work effectively and efficiently. In other words, so many constraints are placed on this State's traditional industrial relations system, the set of awards that go with it, the Industrial Relations Commission, and the unions that are organised under it, that we can conclude only that the real objective of the Minister and the Government is to strangle the system, to make sure it cannot work effectively and efficiently on behalf of those who utilise it.

Following on from that, we know that the real aim of the legislation is to shift Western Australian employees slowly but surely out of the awards system, out of the framework of trade unions into the workplace agreement system.

This Government understands only too well that its objectives are best achieved step by step. Members on the other side of the House who have convinced the Cabinet and the coalition parties to support this legislation are truly Leninist in their approach to politics. They understand that step by step they can create the new order, and sometimes they must take two steps back in order to go one step forward. They understand that it is all about shifting the balance of power, and when that balance of power accumulates on their side they can take it a little bit further and, drip by drip, step by step, our community changes. At the end of the process we will see a new form of community and society in which individuals do not have the ability to protect themselves in the industrial relations system.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on page 1090.]

STATEMENT - MEMBER FOR PERTH

Vitamin A Program

MS WARNOCK (Perth) [12.51 pm]: I condemn this State Government for refusing to fund the vitamin A program at Sir Charles Gairdner Hospital that works to prevent asbestos diseases. For the want of several thousand dollars the Government has surely put many Western Australian lives in jeopardy. Asbestos related diseases, tragically, are common in Western Australia, where, because of an accident of our industrial history, Western Australian workers were too often unknowingly exposed to the dangers of asbestos, and are too often now its victims.

Just as Western Australia has many asbestos diseases sufferers, at the same time this tragic accident has led us to develop the best research program in Australia. This Government should be prepared to support it. I support the Asbestos Diseases Society of Australia (Inc) in its wonderful work for asbestosis and mesothelioma sufferers. The Australian Labor Party is committed to investigating the funding requirements for asbestos related diseases of the research unit currently headed up by Professor Bill Musk and Professor Bruce Robinson. An unconditional guarantee is given committing any future Labor Government of Western Australia to re-establish funding for the vitamin A program to continue to benefit those members of society who are suffering as a result of exposure to asbestos fibres.

STATEMENT - MEMBER FOR BUNBURY

Be Seen Be Safe Road Campaign

MR OSBORNE (Bunbury) [12.52 pm]: With the imminent arrival of the Easter holiday period I doubt there would be a more important civic cause for members than to be involved in the Royal Automobile Club's Be Seen Be Safe road safety campaign, which I was privileged to help launch on Monday, 17 March in Bunbury. Road safety has always been a high priority of this Government. The previous Minister for Police, the member for Wagin, instituted the Select Committee on Road Safety. I applaud him for that initiative. I also applaud his colleague in the other place, the current Minister for Transport, for his personal commitment to road safety in Western Australia.

The timing of the Be Seen Be Safe campaign could not be better. Western Australia's road toll has been rising in the past two years, and we are approaching the Easter period when a great many people will be on the roads. It stands to reason that the poor visibility of motor vehicles on shaded and dappled roads must be a cause of road accidents in Western Australia. The idea of the Be Seen Be Safe campaign is that motorists turn their headlights on in daylight running, and therefore improve the visibility of their vehicles. For the campaign to be successful a range of people must be involved. I urge all members in this place to be involved in the Be Seen Be Safe campaign and to turn their headlights on in the Easter holidays, so their vehicles will be seen and be safe.

STATEMENT - MEMBER FOR KALGOORLIE

Golden Reflections Hospice

MS ANWYL (Kalgoorlie) [12.54 pm]: The Golden Reflections Hospice Inc has been left without any clear indication by the state Health Department whether it will receive funding for the next financial year. The hospice provides home care to terminally ill people in Kalgoorlie-Boulder, and respite and support for their families. This occurs mainly in people's homes and in Kalgoorlie Regional Hospital; however, it is planned to extend beyond that with a permanent hospice to be established with the support of KCGM and the City of Kalgoorlie-Boulder. The hospice is run by a management committee of volunteers.

According to yesterday's debate, social dividends are supposed to be raining down on people in this State, particularly in the fields of health and education. However, the reality is that there is no guarantee of funding for the terminally ill, thereby leaving staff at the Golden Reflections Hospice in a state of uncertainty. The reality is that the euthanasia legislation of the Northern Territory has been overturned, without any real commitment to increasing palliative care dollars. Archbishop Rayner has said that in the light of that decision there is an urgent need for all Governments to improve facilities for the terminally ill. A hospice committee member tells me that a promise of $40 000 in funding was previously made by the state Health Department; however that will be removed. I call on the Minister for Health to investigate this, and guarantee funding to relieve the suffering of the terminally ill.

STATEMENT - MEMBER FOR VASSE

Bilby

MR MASTERS (Vasse) [12.55 pm]: I thank the member for Bunbury for jogging my memory that today is Easter Thursday, and the four day Easter break is coming up. I urge this House and all members of Parliament to consider adopting the bilby, a native Australian animal, as the emblem for Easter and do away with the rabbit. The bilby is a critically endangered animal and its numbers have suffered a severe decline throughout Australia because of predation by cats and foxes. It is found in only a small number of locations, yet it is a most attractive animal. On the other hand, the rabbit is an introduced animal from Europe. It has no real place in the Australian environment, and it is alien to our environment. I hope that the calicivirus, that was supposed to have devastated the rabbit population but has not yet had that effect, might well be applied to Easter eggs and chocolate bunnies, so that we can replace the Easter rabbit with the bilby. I hope that rabbits will not be part of our future. However, remembering that children are our future it is appropriate that we try to push this idea of an Easter bilby rather than an Easter bunny.

STATEMENT - MEMBER FOR ROCKINGHAM

Police Station and Courthouse

MR McGOWAN (Rockingham) [12.57 pm]: I inform the House about the appalling conditions under which police officers and court staff in my electorate of Rockingham serve. The Rockingham Police Station in conjunction with the courthouse was constructed in the late 1950s or early 1960s. It is now at least 37 years of age. It is dilapidated and falling apart. The staff in the Rockingham Police Station are working in conditions where prisoners who are brought in are left sitting in offices, because there is nowhere else to put them. Office space is minimal with about four offices for more than 43 staff. The building is insufficiently airconditioned, which is totally out of place in this day and age.

A new police station is urgently required. The population of Rockingham has increased 10 times in size since the police station-courthouse complex was constructed. Before the election the Government made a firm commitment to fix the problem. Its election advertising stated, "New Rockingham police station and courthouse in 1997". I call on the Government to follow up on this commitment that was made in the last election campaign by its candidate for Rockingham and the upper House team in the South Metropolitan Region and to address the situation in the upcoming Budget.

STATEMENT - MEMBER FOR SOUTHERN RIVER

Jandakot Primary School Bus Service

MRS HOLMES (Southern River) [12.58 pm]: I speak on behalf of my constituents of Southern River who reside in the new suburb of Atwell. Although they are pleased that the State Government has provided them with a state of the art primary school to be opened at the beginning of the 1998 school year, they face great difficulties getting their children to the Jandakot Primary School because no bus service is available.

Parking outside the school is at a premium both in the morning and afternoon. The Atwell Community Association advised me in a letter that -

1. The 140 bus gets the children to school at approximately 8 am.
2. The school does not open until 8:30 am.
3. Because of the above, the school has to employ a 'bus monitor' to collect the children from the nearest bus stop (the route does not take the bus past the school) and supervise them until the school opens.
4. The bus route does not take into account the newer sections of Atwell, requiring young children to walk 3/4 of a kilometre and stand next to an extremely busy Forrest Road with no shelter.
5. If a child misses the bus, he/she then has to cross the Kwinana Freeway by themselves as there is no 'Lollypop Lady' to assist them (this is a distance of approx 5 kms).

For the safety of the children we ask the Minister for Transport to provide us with prompt action immediately to resolve this grossly unacceptable situation.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

MATTER OF PUBLIC INTEREST - SCHOOL CLEANING

Retention of Day Labour Force

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

> Pursuant to Standing Order No 82A I propose that the following matter of public interest be submitted to the House for discussion today.
>
> > That this House calls on the State Government to make the cleanliness of our schools a priority and to abandon its plan to replace day labour school cleaners with contract cleaners of dubious reliability.

The matter appears to be in order. If sufficient members agree to this motion, I will allow it.

[Five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis with half an hour allocated to members on my left, half an hour to members on my right, and five minutes in total to the Independent members should they seek the call.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [2.37 pm]: I move the motion.

In recent days disturbing information has come to light about the failure of a contract cleaning company to honour its contractual obligation to obtain a police clearance for all its employees. As we know one of the employees of that company has been charged with molesting a girl in school grounds. Naturally, the Government has been quick to point out that the company failed to meet an obligation which was imposed on it in its contract. I point to the failure of the Government and its monitoring of this cleaning contract. What checks did the Education Department make in this case and others to ensure that the contract cleaning company was held to the terms of its contract? What processes are now in existence in the department to monitor the terms of the contacts and the way in which the contract cleaners are performing according to those terms? What action has the Minister taken given the failure of the monitoring processes to ensure that the company obtained the police check?

This issue impacts on the claimed savings arising from contract school cleaning. Often when estimates are made about savings, the costs involved in arranging, letting and monitoring the contracts are not taken into account.

In this case it appears that perhaps they are not taken into account because the monitoring is not sufficiently rigorous. If it were sufficiently rigorous, additional costs would need to be added to the calculations of the impact of contract cleaning on school budgets. This is an important issue because the Government intends to expand contract cleaning in our schools. I refer now to a letter from the Director General of Education addressed to all cleaners. It states -

> . . . the Minister indicated his intention to
>
> . continue with the progressive implementation of contract cleaning in all metropolitan government schools and those in large regional centres (where contractors exist);
>
> . allow contract cleaning to be implemented in schools in smaller rural and remote centres where a local business or the local community is willing and able to take on the contract;

The National Party should please take note! The letter states that contract cleaning is to be extended to schools in large regional centres and to schools in smaller rural and remote centres. This is a challenge for National Party members because they know the impact of contract cleaning on local rural communities. What will those members do about it?

Mr Trenorden: I cannot speak. I am not in my seat.

The SPEAKER: Order! That is correct.

Mr RIPPER: Perhaps the National Party members will enter debate later and make a more significant comment than that made by the member for Avon. What will National Party members do?

Mr House: I am not in my seat either.

Mr Brown: The quality of debate has not improved much.

The SPEAKER: Order!

Mr RIPPER: The National Party has failed to meet the basic requirements for participating in this debate. Perhaps that is an indication of the fate of the day labour cleaners in rural and remote schools and in the larger regional centres.

The Government is proceeding to expand contract cleaning despite the views of the people who have most experience of the impact of contract cleaning on schools. The Government commissioned a review of cleaning in Western Australian government schools. It is interesting to read what the review said about the views people in schools have on contract cleaning. In its "executive summary" at page 3, it states -

> The move to contract cleaning has had an unsettling effect on many people. According to the results of a survey of schools, very few people thought there had been an improvement and significant numbers of people (especially in schools cleaned by contract) considered that the changes had made things worse, or much worse.

Those are the views of people in schools who have daily experience of how contract cleaning has affected the standard of cleanliness. The author of the report is Dr Philip Deschamp. The comment in the executive summary is borne out by a table at page 19 which reports in more detail the ratings for the standard of cleanliness given by principals in schools cleaned under different systems. A question put to the principals was, "How would you rate

the average standard of cleaning in your school?" The principals were asked to rate the overall standard on a scale of 1 to 5, where 1 represented a very low standard, 5 a high standard, and 3 a satisfactory standard. For day labour cleaned schools the average rating was 4.08, meaning that those schools were approaching a rating of very high. In contrast, the rating for schools cleaned on contract was much worse. In schools where the first contract was let in 1995 the rating was 2.84, and in schools where the contract was first let in 1996 the rating was 2.75. That is, for schools cleaned by contract, the average rating by principals of the standard of cleanliness was less than satisfactory, because 3 is satisfactory and the ratings were 2.84 and 2.75. These were the views of the people who have closest and most prolonged experience in this area.

Of course the department will want to point to other figures in the review where inspections by departmental staff seem to indicate that the cleaning standards are satisfactory. Even on those inspections the report admits that there were problems in 23 schools cleaned by contract labour. We need to be a bit sceptical about the results of the so-called independent inspections because I do not think we need to be too cynical to wonder whether contractors had some warning that the schools for which they were responsible were to be subject to inspection. There is evidence that in schools with problems, the contractors knew that an inspection was about to occur. For example, I am told that at East Victoria Park Primary School more cleaners were put into the school to work additional hours when the contractor knew an inspection would occur. The Miscellaneous Workers Union has also made the same claim in its response to the Minister's review. At page 2 that response reads -

> For example one of the Union's officials was at Willetton Senior High School (contract cleaned) on the day they were expecting an inspection. The area Supervisor was there with equipment to assist the morning cleaners to detail areas, ie cobwebs, high dusting, manual art area.

We have reason to be sceptical about the parts of the independent review which rely on so-called spot inspections, because the people who experience the situation day-by-day and who have responsibility for schools, give a different report.

The Government is going ahead with an expansion of contract cleaning, despite the poor reports by principals, because it says that it will make savings. Savings are a good thing. If the Government can make savings, that is of value to the education system if money can be put into educational programs. What real savings will be made, taking into account some of the points I made about contract monitoring costs? How sustainable will the savings be, given the complaints about quality and the extra monitoring costs which will result as more matters, such as the recent one this week, come into the public view, and at what cost will the savings be achieved?

To give an example, an additional load will be placed on principals as a result of contract cleaning. The Public Sector Research Centre of New South Wales' report on the privatisation of cleaning services states that since the privatisation of cleaning services, 22 per cent of 1 182 responding principals reported spending more time dealing with cleaning administration. There is a problem here. Principals will be distracted from their primary responsibility, which is ensuring quality of education in schools. Principals will have to devote time to following up complaints about contract cleaning, and liaising with contract cleaners. Those costs will not be taken into account when the Government claims a saving. In effect there will be a deterioration in the quality of education because of the distraction that will be forced on principals. A most important question is how will the savings be achieved. Anyone can make savings in any area of the Public Service if one is prepared to cut the quality of services. That is what this Government is doing. The cleaning industry is very labour intensive.

There are not many ways to save money. One way to save money and claim that contract cleaning is more cost effective than day labour cleaning is to reduce the hours that are allocated to the cleaning of each school. On average, the hours that are allocated to the cleaning of each school have suffered massive reductions of around 60 per cent; some schools have had reductions of 70 per cent and others have had reductions of 40 per cent. Day labour cleaners are expected, according to their award, to clean 250 square metres per hour. Contract cleaning employees are expected to clean between 450 and 600 sq m per hour. It is no wonder there are complaints about dirty schools and that principals think the overall situation is less than satisfactory in those contract cleaned schools. It is just inconceivable that those reductions in hours and increases in the area expected to be cleaned in each hour can arise solely from some magical efficiency in the private sector. It is not due to magical efficiency improvements. It is due to sacrificing quality. We can make savings in any area of the public sector if we are prepared to sacrifice quality.

This motion is about the value that we place on education and on children. We are sacrificing the standard of the environment in which our children learn and our teachers teach. We are getting constant complaints that toilets are not cleaned properly, that verandahs are not swept and that classrooms are not dusted or vacuumed. It is no wonder we are getting those sorts of complaints. There is a real threat that the situation will get worse, because there is competition between contract cleaners to obtain new contracts. The only way in which they can compete is by cleaning a particular school for which a contract has been let in fewer hours than did the previous contractor.

Wanneroo Senior High School had a change of contractor, and the new contractor reduced the time allocated to the cleaning of that school by 55 hours. It is no wonder complaints are made about quality.

It is not a question only of the standard of cleanliness in our schools. Cleaners also do other important jobs. Cleaners on the day labour staff were part of the school community, and they were often asked by the school, and often acceded to the request, to do extra things to assist the operation of the school. They were known to the teachers, the principal and the children. Contract cleaners lead to an erosion of the school community, because people do not know who is whom, and to threats to security. I am told that on one occasion, people who were caught stealing from a school portrayed themselves as school cleaners. On another occasion, a contract cleaner was not given a police clearance before he was employed. I am sure there will be other circumstances like that. Given the workload imposed on these cleaners and the sloppy administration in some private cleaning companies, I would not be surprised if friends and relatives of contract cleaning employees occasionally did shifts in schools; and who would be the wiser, because no-one knows the people?

Security is also compromised in other ways, because when the day labour cleaners were on the school site, the principal would often ask them to schedule their hours to accommodate school security requirements. That is not possible with contract cleaners, who come and go whenever they want and have no commitment to the overall school community. The National Party knows the value of the community in rural areas. The National Party knows that there would be an erosion of the sense of community in small rural schools if day labour cleaners were dismissed and contract cleaners took their place. It will be interesting to see whether the National Party takes up the cudgels on behalf of its constituency.

Another problem is the working conditions of the people who are employed by the contract cleaners. Those workers must be under incredible pressure, given the reductions in cleaning hours and the areas that they are expected to clean per hour. I have had reports of cleaners being subjected to verbal abuse by supervisors, of poor equipment, of occupational health and safety problems, and of absolutely no commitment to training in these private companies. Many things are lost when we move from day labour cleaning to contract cleaning. What we lose above all is quality and a high standard of cleanliness in our schools.

Earlier in the debate, I referred to some figures. I do not have confidence in the independent spot inspections by the Department of Education, because the inspectors are there for only a short time and, no doubt, often the cleaning companies know that the inspection will occur. I do have confidence in the reports from the principals, who are in the schools every day, who know what the cleaning was like before contract cleaning began, and who see on a continuing basis what is happening in their schools. They say the schools are getting dirtier and the standard of cleaning is less than satisfactory. Why is the Minister sacrificing the standards in our schools in order to make savings?

MR KOBELKE (Nollamara) [2.56 pm]: When I had carriage of Education for the Opposition, on a number of occasions I drew the Minister's attention to the health and welfare problems that were caused by the contracting out of cleaning in some 160 schools. When I made those general comments, I did not foresee that an incident would occur so quickly that might be attributed to that change in cleaning practices. I realise that it is very difficult to prevent this unfortunate incident of sexual interference with a student from occurring again. The incident also cannot be blamed on the fact that it happened under contract cleaning; it could have happened in another setting where there was not contract cleaning. However, the fact remains that this incident did occur under contract cleaning.

The effect of contract cleaning on the health and welfare of our students should be considered more carefully. If there is no supervision and we do not ensure that the procedures are followed, we will increase dramatically the potential for such totally unacceptable incidents to occur and to occur with greater frequency. The concern is that in order to save money, we are freeing up the whole process. We are trying to shoot it through more quickly, and the checks and balances, the controls, are simply not there. That is a major problem with contract cleaning, and it occurs generally when we have contracting out.

The Deputy Leader of the Opposition has referred to the inspections that take place. One incident that came to my attention involved ongoing problems with contract cleaners in a particular school, where, in the end, after many complaints from the principal and parents, the district superintendent went to the principal and said, "You are a good principal. You can look after this, can't you? You don't have to keep making complaints. The ministry does not like them. Just look after it. You are the principal." He was a good principal, so he did look after it and the complaints stopped coming through. However, the situation did not get any better, and the principal, who should have been looking after educational matters and the safety of his students, spent a great deal of time unnecessarily running around and fixing up after the contract cleaners.

Unfortunately that has been reflected in a whole range of schools. I know of another incident that has happened in at least two schools and relates directly to the potential for sexual attack or abuse of children. The current contract

cleaners are under incredible pressure to clean a certain area of a school in a totally inadequate time. I am aware of two schools where, to keep the job, the contract cleaner has relatives and friends helping with the work. Those people do not appear on the department's books. They do not require a police clearance. They are merely voluntary workers in the schools. They go in to help with the cleaning because the friend or relative cannot do the job in the time allocated. The contract cleaner wants to keep the job because that person needs the money, as poor as it is. That is another problem I have raised with the Minister recently to which I have had no response about how he will address it. Will the Minister ban honorary cleaners from schools who are helping contract cleaners, or if he will let them in, on what basis? This issue has simply been swept under the carpet.

Mr Tubby: That has been going on for years under day labour.

Mr KOBELKE: I can provide the member for Roleystone with the names of schools where this is happening. I was not aware of any schools where that occurred when day labour was used to clean the schools.

The point that has been raised opens up another issue; that is, the climate at the school and how it is affected by the administrative changes currently being made. Whether those changes are about contract cleaning, closing down and amalgamating schools, or cutting out gardening staff, many of them subtly and slowly eat away at the caring fabric in our schools. Of themselves, those things do not destroy the caring environment, but they have a negative impact.

I have been given examples of cleaners who have worked in one school for over 20 years. They would know a second generation of kids coming through the school, having known their parents when they were children at the school. These cleaners belong to the school. They care for the school. They know the children. They may help kids across a busy road or pick up their bag or piece of clothing that a primary school child left in the playground. They know their local community. That is being destroyed with contract cleaning because we must find cleaners who will work at a much lower level of pay, who have no commitment to the school.

That is a growing problem when we come to the care of and concern for our students. One might say that is rhetoric; however, I put to the Minister quite genuinely that I honestly and firmly believe those measures are attacking the quality of education, care and health considerations in our schools. They might be minor, but education is so important that we should look beyond saving a bit of money at the expense of the quality of education and care of our children. That is clearly what is happening. I implore the Minister to look away from the dollars and to look carefully at the quality of education in our schools. In the next round of cleaning contracts, I ask him not merely to decide that he will save money regardless of the cost to our children and the quality of education in our schools.

The Deputy Leader of the Opposition drew to the attention of the House a report which I hope the Minister has read. It points out there has been a major drop in the quality of cleaning in our schools. There are concerns that that goes beyond contract cleaning; that the care and safeguarding of our children could be put under threat if the Government continues along the road on which it has embarked with contract cleaning.

MR BARNETT (Cottesloe - Minister for Education) [3.04 pm]: The 1996 review of cleaning in Western Australian schools was released on 22 February this year and was released for public comment for one month to at least one organisation, the teachers' union. I have recently provided an extension to the Federated Miscellaneous Workers' Union of Australia to put in its comments. We have received a significant number of responses and submissions.

Schools have always had a mixture of contract and day labour cleaning. It is nothing new; however, this Government made a decision in 1995 to extend contract cleaning. At that time contract cleaning was introduced to 160 schools and it raised a lot of public debate. The review has been put out for public comment. In releasing it, I made a number of comments about contract cleaning which I will restate briefly. First, I stated that the Government will continue with contract cleaning and extend it progressively throughout the school system. I also recognise there were some deficiencies in the way in which the scheme was introduced. For a start, to introduce a once-off change to 160 schools simply affected too many too quickly. It presented a number of management problems.

It is intended to continue the program of introducing contract cleaning in the metropolitan area and large country centres, but to do so on a progressive basis as opportunities arise and circumstances dictate. Indicatively, that might be a dozen schools a month.

Mr Ripper: Perhaps.

Mr BARNETT: There is limited scope for contract cleaning in many small schools. I imagine this process will take several more years, perhaps five. By the end of that time perhaps two-thirds of government schools will have contract cleaning and the other one-third will continue with the day labour arrangement. We will continue to extend beyond what is now in place.

I will say a number of things about contract cleaning, one of which is that the costs of contract cleaning are 70 per cent of the costs of using day labour. On an accrual basis across a full year that saving represents $4.6m on just the

160 of the total of 170 government schools. That saving of $4.6m is sufficient to build one entirely new, state of the art primary school. I do not deny there have been problems, but there are significant savings.

Mr Kobelke: What is the total cleaning bill?

Mr BARNETT: The member has had his say. He should look at the education report where he will find it is about $25m a year, or something of that order. That saving of $4.6m represents a 30 per cent saving on 160 schools.

I have proposed a number of changes in releasing the review. The deficiency in the system was that often contracts were let for groups of schools, with one contract covering perhaps six or seven schools. That led to a lack of accountability and some management problems. I intend to move to a basis where there will be one cleaning contract for each school. That will give a far greater level of accountability. The schools will also be given the choice of managing their contracts, not in the sense of working out the financial details but in terms of the ongoing management. I have a clear expectation that in most cases the principals will take on that role. If we are talking about leadership, management and principals being the key people in the schools, there is an expectation by this Government that they provide academic leadership and strong management of their school environment - and I do not apologise for that. That will be the name of the game for leadership in schools.

We are also proposing joint monthly inspections by the contractor, the principal and Education Department staff in circumstances where that is required. Perhaps one of the most important changes is that any shift from day labour to contracting in a school will be entered into during a vacation period in the school calendar. At that time a vacation clean will be undertaken. It will be a very high standard clean, using high pressure hoses - the lot. When we shift a school from using day labour to a contract system, we will give the school a high level, industrial clean. We will raise the cleanliness of the school to a standard not previously matched. The contractor will then be required to keep to that new high standard. Indicatively, the vacation clean will cost between $3 000 and $5 000 per school. This is a serious clean.

Mr Ripper: Who will do the vacation clean?

Mr BARNETT: It will probably be done by the contractor. It will be inspected and the contractor will be required to maintain that standard.

Many contractors have complained that they have been criticised for problems in schools that existed long before they took on the contract. Members in this Parliament have complained about carpet stains that have been there for 10 years!

Mrs Roberts: How do you know?

Mr BARNETT: In that case the principal told me that the stain had been there for 10 years. He is not happy about the stain, but it was not the fault of the contractor.

The contractors will do a high standard industrial clean, and the contract will require that the school buildings be maintained to that standard. That is a sensible change. I recognise there have been problems. However, there are problems with day labour and contract cleaners. We cannot ignore the significant savings.

Mr Kobelke: The survey results are very different.

Mr BARNETT: The conclusion from the survey is that while there has been some drop in cleaning standards in both day labour and contract cleaned schools, in all but a few schools which have just moved to contract cleaning, the standard was satisfactory or better. The difference is that contract cleaning has been far more cost effective. Follow up surveys and inspections have been conducted. The quality assurance work carried out in February showed that the level of satisfaction with contract cleaning had increased substantially from its previous rating of 2.8 - on the scale of one to five - to 3.8. That reflects that the management and performance of contractors has improved substantially. I have received fewer complaints than at the end of last year. I will take note of the feedback from the 100 submissions that we received that are currently being analysed.

The Deputy Leader of the Opposition raised what I agree is a most unfortunate and disturbing occurrence at a school that involved a contract cleaner. Every contract imposes a clear obligation on the company to obtain police clearances on every employee before those employees enter a school. Failure to do that is a breach of the contract and would normally lead to the termination of that contract. The contract specifies that the department must immediately notify the contractor that it has failed to meet its contract requirements, and if the contractor does not rectify the situation, the contract is terminated. In this case the contractor failed to obtain the necessary police clearance. The Education Department notified the contractor, who then terminated the employment of that person. I do not make any excuse for this: The contractor failed, because he did not carry out the police check. When the

material was sent to the Education Department to be checked, there was an error in that process. I concede that both the contractor and the Education Department failed. The system in place failed.

Work must be done on the issue of paedophilia in schools. I talked about that earlier in the week. This is one instance on which we will act. I have a view about that contract, and we are currently seeking legal advice on the contract. We have also contacted all other contractors and reminded them of their responsibilities and obligations. I do not offer an excuse or make any explanation other than to give the facts. The contractor failed and the check within the Education Department also failed.

Mrs Roberts: Will you provide us with that legal advice?

Mr BARNETT: I will read it, before I make any commitment. The member can ask questions once I have received the advice.

Mr Ripper: How many people in the department monitor the contractors' performance?

Mr BARNETT: I cannot answer that off the top of my head. A small team works on it.

Mr Ripper: Too small perhaps?

Mr BARNETT: I have acknowledged the problems with contract cleaning. However, there have always been problems with school cleaning. The survey shows that the contract cleaners are achieving standards equal to, or in many cases better than, those of day labour cleaners at substantially reduced costs. Member opposite talked about reduced hours. The Government did not reduce the hours. The contracts do not relate to hours of work, but to cleaning a school to a specified standard. The contractors bid on the value of the work.

Mr Kobelke: That is sophistry.

Mr BARNETT: No. The contractors allocate the hours and how they manage the contract. In some cases contractors have bid too low for the work. That has been reflected in what the school community interprets as the Government's reducing hours. The contracts do not say anything about hours of work. The contract has a dollar value to clean a school to a set standard.

Mr Ripper interjected.

Mr BARNETT: That lack of accountability has arisen because of the grouping of several schools into one contract, and a lack of clear specification and costing in bids. Having one contract for one school will solve that misbidding process.

Mr Ripper: My comment was that anyone can save money if they reduced the hours allocated for cleaning.

Mr BARNETT: The Government has not reduced hours. That survey shows that principals have reflected a level of dissatisfaction; however, the standard of cleaning is as good if not better than that done by day labour. I know that school communities become affectionately attached to their cleaners; that can be a problem. However, it has not been uncommon for school principals to ask when the Government will put their schools on contract cleaning, so they can get performance and standards about the cleanliness of their schools. It is horses for courses. In some cases day labour has worked well, and in other cases it has been a complete failure. Many principals are frustrated about the standard of day labour cleaning. We have shifted 160 schools to contract cleaning. We will continue to do that. However, it will be done in a far more moderate way. We will manage it better, and the contracting process will be better. Already that policy will deliver one new primary school a year.

Much has been said about pressure on the Education and Health budgets. Those pressures exist because they are growing sectors in our economy. We do not have the problems of contracting school numbers as do the other States. We have a growing population and demands for new and better schools to meet areas of growing population. I do not apologise for emphasising, since I first came into the Education portfolio, that the human effort and dollars are directed at children and the teaching function in the classroom. Part of that implicitly means that we will look at more efficient and cost effective ways of delivering ancillary services such as contract cleaning. There are and always have been problems; however, they are being managed well.

Mr Ripper: You can turn off the lights; that will save money.

Mr BARNETT: That is an important contribution to this Parliament.

MR HOUSE (Stirling - Minister for Primary Industry) [3.17 pm]: I support the argument of the Minister for Education. In the 18 months he has been the Minister he has implemented some very important reforms in education. Although education in the classroom is the core business of schools, many of the other activities associated with

education are also very important. The current Minister for Education has been at the forefront of making sure that those activities are managed in an appropriate manner.

Mr Pendal: You are not after some improvements down in Stirling are you?

Mr HOUSE: Absolutely, and in the whole state education service. I am confident that this Minister will deliver them.

The Opposition has some philosophical concerns about contracting out. This Government has implemented that policy in a range of government departments to improve service delivery. That will continue. Although the Opposition might have some difficulty coming to terms with the policy, those reforms have been very beneficial to the State. We need those efficiencies. We should give people control of their destiny. People want the opportunity to work for themselves, as occurs in contracting out.

As the Minister indicated, contracting out is not an option in some small country towns. The rapport that is built up between cleaners and gardeners is very strong. In some of those towns contracting out is not viable, and they cannot take advantage of some of the benefits that have been produced in the metropolitan region. In those small country towns that the Minister has alluded to, cleaners and gardeners do a good job and take on some of other small jobs that need to be done around the schoolyard and classrooms, such as repair work. In many country towns those services cannot be provided by anybody else. Those small towns and small schools are reliant on cleaners and gardeners to do those jobs

We cannot continue to provide services as we have in the past simply because that is the way we have always done it. Although some of the contracting services implemented in schools and other areas had some teething troubles they are working very well and will continue to work well. I am equally sure that where problems occur in schools the Minister for Education will work through them particularly in regional Western Australia. That is his style. That is what he has done when confronted with problems in rural areas. He has talked to the people involved and quickly sorted out the problems. I am sure he will continue to do that and take notice of members on both sides of this House who have concerns about the service delivery of contracting out in rural towns. I am sure his style will not change.

The Minister is to be congratulated and supported in implementing these reforms because they have been beneficial to this State and to education generally.

MR TUBBY (Roleystone - Parliamentary Secretary) [3.21 pm]: I do not support this motion. The Deputy Leader of the Opposition referred to a survey conducted by principals. Of course principals rated their own cleaners more highly than contract cleaners. If schools are not cleaned properly by their own staff the buck stops with the principals. They will naturally rate cleaning by their own staff more highly than cleaning by contractors.

I was a principal for 14 years and worked at eight different schools. I employed both contractors and day labour staff at the various schools. The supervision of contract cleaners was far easier than supervision of my own staff. The principal must check the work, at least weekly, irrespective of whether he has contract cleaners or day labour. If the school has not been cleaned adequately by a contract cleaner he is the person who must rectify the problems or face losing the contract. If day labour is employed it is the principal's problem to sort it out. It is necessary to go through all the problems by showing them how to clean the floor, the toilets and the tiles. A principal becomes an expert cleaner in his own right. He has the responsibility for training his staff. No-one will do it for him; the buck stops with him. If at the end of the day he needs to fire those staff he must go through a protracted process because they work for the Government and are difficult to get rid of. After successfully doing that the principal is then faced with employing and training new staff.

Supervising contract cleaners was a dream compared with employing day labour staff. Far more time was spent supervising them than pointing out to the contractor the error of his ways and telling him to fix it or his contract was down the drain. That was the easy way.

The member for Nollamara mentioned that contract cleaners have other people helping them. Around the country areas where I spent most of my career people would have their husbands, wives or older children help with cleaning. Some of the women we employed did not want to be working on their own at all hours of the night in country towns. Therefore, to keep them company and for security reasons they got their family members to help them. Many of them were not strong enough to handle the large bins or to clean the incinerators. They were not always able to oil the wooden verandahs or do all the scrubbing and cleaning of the tiled floors in the classrooms on their own. Their husbands helped them, they finished the job more quickly and went home together as a family. Every principal I know in country areas turns a blind eye to that practice. If that was how they wanted to work in their workplace that was fine with us. At the end of the day we paid one person to do the job. If a woman managed to get her husband to give her a hand for security reasons and to get him to handle some of the heavier tasks, good luck to her. In small

country areas I preferred that the family worked together rather than the children and father stayed at home while mum slaved away at the school at all hours of the night on her own in the dark.

Of course contracting out schools has resulted in fewer hours being worked. Contract cleaners use large machines and different work practices. Day labour employees like specific classroom and toilet areas to clean. They do not work in teams. They do their own bit and when they are finished they go home. Contract cleaners work as a team. One person goes throughout the school and does one thing, while the next person does something else. They have access to much heavier, larger industrial cleaning equipment, which we should have put into the state schools. However, we could not afford to re-equip all our state schools from the Education budget. Contract cleaners already have the equipment.

Prior to the Labor Government's taking office we had a good mix of contract cleaning and non-contract cleaning. When Bob Pearce was the Minister for Education he put off contract cleaners and re-employed day labour. That cost money. In 1987, to accommodate that within the Education budget, he stopped maintaining our schools. Maintenance was no longer done on a cyclical basis. It became a needs basis. They were maintained purely on a political needs basis; it had nothing to do with the needs of the school. That was an absolute disgrace. By 1991 the Labor Government, which had wasted its extra money on employing cleaners who became members of the Miscellaneous Workers Union, borrowed $20m to try to catch up on the outstanding maintenance. It put that funding on Bankcard in order to maintain schools. Maintenance funding should be allocated from the annual consolidated revenue budget and spent in that year on things such as maintenance. We should not borrow in order to maintain schools, but that is what the Labor Government did in 1990-91.

Taxpayers do not want to pay any more money. We must balance the Education budget, but we will not waste $4m a year on day labour when we can better spend that money on extra teachers and resources and on maintaining and building new schools. The member for Girrawheen has been screaming out for a new school for his area for years. We cannot do those things if we waste $4m a year on day labour rather than contract labour.

MR BOARD (Murdoch - Minister for Works) [3.28 pm]: The motion moved by the Deputy Leader of the Opposition implies that the contracting of cleaners in schools is driven by ideology and the Government has no concern about the cleanliness of schools. His motion implies that for some reason we are against people working for the Government, that we believe the private sector can do everything better and that we are not interested in the way our schools look. Obviously he is wrong. The Government wants to deliver better services to the community, which constantly demands better services. If we are not to be a high taxing Government we can borrow the money.

Mr Graham: You are the biggest taxing Government in the State's history.

Mr BOARD: No we are not. If we do not intend to impose more taxes we must make savings. Many government contracts do not go to the bottom line. In my role as Minister for both Works and Services I receive letters across my desk everyday of the week from companies complaining that although they submitted the lowest tender they were not selected to undertake the contract. It is because quality of delivery of service is inbuilt in all those tenders. The Opposition talks about the Government having lowered the number of hours. The Government did not set the number of hours for each of the schools to be cleaned. It asked for a good result. The Government raised the benchmark for cleaning: It went out to tender. The cleaners said they could reach that level with a certain number of hours because of their equipment, the quality of the delivery of their service, and the number of people they would bring in at any one time to deliver that service.

This issue is not just about the bottom line; it is about quality. Each year 10 000 major contracts are written by the Government; that is $6b worth of construction and procurement each year by government. A 5 per cent saving on those contracts amounts to $300m a year. Do members opposite know how many schools, roads and police stations that money could build? It is not only the responsibility of government, but it is incumbent on government to find better ways of delivering quality service. It is our responsibility.

Mr Ripper: In other words, they are quality services?

Mr BOARD: That is right. Many contracts and surveys across government will show where better quality services are being delivered, for either the same price or a better price. The motion mentions nothing about the maintenance in the schools or the facilities manager contracts. If the Opposition conducted a survey on how schools perceived the speed, quality and extent of their maintenance now compared with prior to 1993, it would find there was 90 per cent satisfaction and 90 per cent improvement. That is what the Government surveys show.

Mr Ripper: Bring some of those surveys to the House.

Mr BOARD: They are common knowledge. Members need only speak to the principals in schools in their electorates about whether they are happy with the maintenance of the schools and the contracting.

Mrs Roberts: They are not.

Mr BOARD: Yes they are.

Mrs Roberts: Many of them who have spoken to me are not.

Mr BOARD: I am sorry, but that is not what is being indicated. The member might like to pick holes in individual situations. I have been associated with schools and teaching for a long period because of my wife's involvement. Cleaners previously performed many tasks other than cleaning. They were favoured people within the school. Because of the extent of the hours they had open to them, in many of those hours they were not cleaning. They did odd jobs and assisted around the school. That is fine. I know that was important to some school communities, but it was not what they were employed to do.

Mr Carpenter: Who is doing that now?

Mr BOARD: The Government and principals have found other ways to have that work done.

Mr Carpenter: It must be paid for.

Mr BOARD: It is not for cleaners to do that. That is the issue. The cleaners are doing their job; they are doing it well and they are achieving a quality result. It is incumbent on government to find ways of delivering quality service. The Government has a responsibility to the taxpayers to ensure that the delivery of services is provided at a level they expect, but at a level at which they are not paying too much. That is what this Government must do. The Government cannot borrow money. Opposition members know better than I the debt the State had. They know that when the coalition came to government it had to do a number of things. More and more schools are being built and more and more people want services. If the Government is to continue delivering those services and improving them, it must find better ways of achieving those results. I congratulate the Minister for Education.

Mr Graham: What are you after in your electorate?

Mr BOARD: My schools had some problems with contract cleaning; however, we resolved them. They were not related to the level of the cleaning, but were management problems, some of which the Opposition touched on. Many problems like that will occur with contracting, as occurred with the day labour force, who were all employees of the Government. Those problems are resolved because when the private sector is involved it has a responsibility under the contract to fix them, otherwise the contract is not renewed. Therefore, there is a pressure on private sector operators to achieve a result. That is what this is about; namely, getting a good result for the right price.

MR CARPENTER (Willagee) [3.34 pm]: I support the motion. The problem with the Government's position is that the decision has been made and it will be stuck with and maintained, no matter what. The Government's review of contracting is indicative of its attitude towards this area and its refusal to accept the reality of what has occurred in the two years since contracting out was introduced. The report contains the figures. The Minister for Services should look at the report. It refers to the average level of satisfaction of principals.

Mr Barnett: What is satisfaction? By whose standards?

Mr CARPENTER: I will get on to the standards. Information on the average level of satisfaction with cleaning methods indicates that satisfaction with day labour is much higher.

Mr Barnett: What does satisfaction measure?

Mr CARPENTER: Principals in schools with day labour are much more satisfied with the activities of their cleaners than are principals in schools with contract cleaners.

Mr Barnett: You cannot define it. You shouldn't talk about it if you cannot define it.

Mr CARPENTER: The report refers to cleaning quality.

Mr Barnett: Quality is set by the contract.

Mr CARPENTER: What is quality? Why does the Government bother to produce a report if it then argues that what is in it means nothing?

Mr Barnett: You misinterpret it, that is what I am saying. There is a measure of satisfaction -

Mr CARPENTER: The report refers to the level of satisfaction. This is the Government's report and the Leader of the House says that satisfaction does not mean anything. Why does the Government bother producing the report?

Mr Barnett: You should read the report and make the distinction the report makes.

Mr CARPENTER: The rating for the quality of cleaning is around the same. However, if the Minister takes notice of his local constituents, and if people in his constituency are complaining about the quality of cleaning in their schools as mine are -

Mr Barnett: Why don't you do something about it?

Mr CARPENTER: I am. The schools that say they have a problem say that when they complain about that problem and an inspection is set up, the cleaners are notified in advance of the inspection so they can make the necessary arrangements to clean up the school to the required standard. It is much more likely that the principals who are in the school every day -

Mr Barnett: Which school?

Mr CARPENTER: I have told the Minister; we will go down to Hilton. Principals are more likely to know what is going on and how satisfied they are with the activities of the cleaners than people who make inspections, when preparations have been made for the spot inspections and the schools have been cleaned to a satisfactory standard for that purpose. The evidence in the report is clear. Why did the Government bother to produce it if it is going to ignore it, so that it is meaningless?

Mr Barnett: It is not. I asked you to define satisfaction and you couldn't, because you haven't read the report.

Mr CARPENTER: The level of satisfaction is according to the principals of the schools.

Question put and a division taken with the following result -

Ayes (16)

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

Noes (31)

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

Pairs

Mr Marlborough	Mr Cowan
Mr Grill	Mr Nicholls
Ms MacTiernan	Mrs Edwardes

Question thus negatived.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Second Reading

Resumed from an earlier stage of the sitting.

DR GALLOP (Victoria Park - Leader of the Opposition) [3.44 pm]: Perhaps the most frightening part of this legislation is that the Minister tells us that more is to come. Indeed, the second sentence of his second reading speech tells us that two other Bills will follow shortly. We wait with great interest to see the further industrial legislation from this Minister, who has introduced so much legislation that I do not know whether it is a fatal attraction or an indecent obsession. Undoubtedly, he is a driven man and has his sights on some people involved in a registered voluntary activity in our community called trade unions.

I now look at some of the details of the legislation while outlining the Opposition's concern. I will go through this step by step, restraint by restraint, prejudice by prejudice, constraint by constraint, and restriction by restriction and indicate to the House that the legislation represents an imposition on a normally functioning democratic community, rather than a piece of legislation which expands the range of choices and freedoms in our community.

Let us start with the right to strike, a very complex yet fundamental right in any genuine democratic society. The right to strike is important not only in itself, but also in the preservation of other rights, including the right to vote. Members should remember that important point. The right to strike is not just an industrial right but also a political right which is part of every free and democratic society. The rights we have must be not only created, but also protected.

My former tutor at Oxford University wrote in a 1991 Penguin book "The Right to Strike", which I recommend to all members, that -

> Where no right to strike exists, other human rights too will be found to have a mere paper existence.

Regimes of the extreme right and extreme left understand that fact only too well. The right to strike is not just an industrial right but also a political right. If it is taken away, one threatens industrial rights as well as a range of rights in the community. This legislation tries to circumscribe our right to strike by placing it in a bureaucratic straightjacket which has the appearance of democracy but in reality is unnecessarily restrictive and discriminatory.

Firstly, let us note that the legislation is specifically anti-union. The pre-strike ballot provision does not relate to employees under the state Workplace Agreements Act. However, where a federal union operates in conjunction with a state body, as though they were the same body, the pre-strike provisions may come into effect. As the Minister puts it in his usual delicate and sensitive way, this will ensure that "unions cannot hide behind the shield of federal registration". The persistency of this Minister to ensure that any loophole which can be used by unions to protect their position in the industrial process has been closed never ceases to astound me.

A strike is defined in the legislation as any action by two or more employees or by an organisation of employees that involves a stopping of, or ban or limitation on, the performance of work required under an employee's contract of employment. In other words, we are talking about any industrial action which may stop well short of an actual stoppage and may simply involve a ban or a limitation. Members must remember that this legislation sets out a certain procedure to follow before a strike becomes legal, although it does not necessarily follow that the strike will then be indemnified. That procedure applies to any industrial action which comes under the extremely broad definition of a "strike" under this measure. That is a cause of concern regarding the potential for the legislation to cause enormous frustration within the workplace.

To avoid a fine of $1 000 and a daily penalty of an additional $200, union members will not be able to involve themselves in any strike - read, industrial action - unless certain procedures are followed. The relevant figures are $5 000 and $1 000 for an organisation. However, union members should note that even if a pre-strike ballot is finally held and a vote in the affirmative is decided, nothing in the Bill gives that strike protection from legal action; on the contrary, the enormous procedure will legitimise a strike action, yet it will not mean that the strike is indemnified from criminal or civil action.

The extremism in the Minister's logic should not escape the attention of this House. Unionists can forget about strikes as this procedure must be followed. An application must be made for a ballot in a complex formula required by the Bill. The ballot must be held and participation in the strike must take place within 28 days, and notice of intention to participate in the strike must be given to the employer.

Application for pre-strike ballots can be made to the commissioner by a union; by members of a union; by an employer who has reason to believe that his employees are contemplating a strike, and that a strike is likely to occur; by an employer who has reason to believe a strike is likely to occur, and that he or she is likely to be directly affected by a strike; or by an organisation of employers. Why, members might ask, should employers have the right to interfere in the activities of a registered voluntary organisation which is a union? Why should they have a right to be involved in the internal processes of a voluntary organisation? I ask members to reflect upon that clause.

The commission must make a decision within five days, but is not obliged to order a pre-strike ballot. The commission must be satisfied that dispute resolution procedures which apply to an award, order or industrial agreement have been exhausted or that exceptional circumstances apply. However, in what appears to be contrary logic, the commission must order a ballot if directed by the Minister if he or she is of the opinion that a form of strike is considered and the safety, health and welfare or economic wellbeing of the community, or part of it, will be at risk if a strike occurs. Employers will not only have a role to play in the internal affairs of unions, but the Minister for Labour Relations is taking it upon himself to be involved in the internal affairs of unions.

I will keep coming back to this point: What sort of a society will we have in which a voluntary organisation, which is registered and subject to regulation under the laws of our society, is subject to these extra regulations to the point at which the voluntary nature of that organisation starts to become highly questionable? What will it mean for the nature of our society? What will it mean for our democracy? What will it mean to know that a community, or an association which is based in the community, which can come between the individual and the State will have its independence and power significantly undermined by the State? What does it mean for our freedom in the future? I ask members to reflect upon that. Is it not ironic that under the proposal the Minister will have this power, but the unionists, who will be required to go to a ballot, are not given protection against any form of litigation? It is not as though people will have any choice in the matter because if they strike without a ballot, the full force of the law descends upon them in any case.

Mr Tubby: You beauty!

Dr GALLOP: I hope that was recorded.

Appeal rights in relation to decisions of the commission are given to any person given notice by the commission of its decision on the matter, including employer organisations. Such cases to the full bench of the State Industrial Commission can take months. It has been calculated that the minimum time period from the commencement of the dispute resolution procedure to industrial action is seven working weeks.

Mr Kierath: That is in the 1995 Bill, not the 1996 Bill.

Dr GALLOP: Well, that is the situation this State faces. What will happen to people in the community? Imagine the frustration that will occur in the workplace. Members opposite should not treat this issue theoretically, but in terms of the human beings who are actually working, have problems and feel the need to express themselves by way of industrial action. I hope all members agree that is a legitimate and fundamental human right. Imagine the frustration this legislation will cause. Do members opposite think it will solve industrial problems, promote industrial harmony in the workplace and lead to a better environment? If they do, they have a completely false view of human nature. They do not understand what it is to be a human being and to protect one's rights and interest. If members opposite do not understand that, we are on the slippery slope to an authoritarian society.

Mr Kierath: People are asking for it.

Dr GALLOP: I will not take interjections from the Minister today because the Opposition has had enough of him deliberately misleading and misrepresenting a position to Mr Speaker in order to defame a person in this Parliament, which he did only too freely yesterday, and today using the numbers of this Parliament to back him up.

Withdrawal of Remark

The SPEAKER: Something that has crept into our Parliament is that members put the word "deliberately" next to the words "untruth" or "misleading". I intend to make a statement to the House on that. The Leader of the Opposition and the other members in this place know that the House does not allow members to accuse other members of telling a deliberate untruth - which, in effect, is saying, "That a member is a liar." They are serious matters and do impugn people, and it is time we took great care with these things. I bring it to members' attention and I will be asking the Chairmen to take a harder line when members use the words "deliberate untruth", or the words "deliberately misleading". It is a serious offence for Ministers or anyone to deliberately mislead this House.

Dr GALLOP: I withdraw the reference to deliberately misleading.

Debate Resumed

Dr GALLOP: Can members imagine employers accepting such impositions on their internal decision-making processes? Can members imagine legislation like this being accepted by members opposite if it were imposed on employers? Of course it would not be.

A company under this legislation does not need permission to take industrial action; for example, through a lockout or sackings. Nor is a company required to take a ballot of its members - shareholders - before taking industrial action. What is the reason for the double standard? Why should it be a standard for a union, but not the same standard for a company? It is a simple question for which there is no answer unless one happens to be a class warrior. The segment of the Liberal Party which supports this Bill does believe in class war. That is what motivates them. That is why they are in this Parliament. It is the essential nature of their politics.

If all of this was not intrusive enough on the functioning of the union as an institution, its members should know that they must be personally identified and their names and addresses delivered to others before a ballot can occur. Any

party to an application for a pre-strike ballot, including an intervener, is entitled to appoint a scrutineer, meaning that they have access to the list of names and addresses of union members.

Let us contrast this legislation with the federal situation. The Opposition is not happy with the federal workplace relations legislation. It is interesting to get a feel for the extremism of this Bill by putting it alongside Peter Reith's federal law. Even under the federal Workplace Relations Act, any union in dispute with an employer concerning wages and conditions can formally notify a bargaining period and upon notice of an intention to take industrial action, including strike action, can with some exceptions take that industrial action which is protected against any legal action. This seems to confirm the right of employees to strike. I ask members to contrast that with the state law and ask themselves a simple question: Which is extremist legislation? One can make a case that the federal law imposes real restrictions, but when it is put alongside this law it looks like liberation for workers and their unions in the workplace. This legislation frustrates and denies the right to strike and may contradict the federal Constitution. It is based on the false view that industrial action is always imposed on a workplace by union bosses and that unions are undemocratic and unaccountable in all their functioning. These are the myths that may fire up people in Liberal preselection meetings and right wing powwows, but they have little relationship to reality. Unions are registered voluntary organisations subject to a complex range of regulations to guarantee democracy and accountability.

Right wing Governments are making it harder for unions to function efficiently and effectively, despite the empirical evidence that industrial disputation has been falling in Australia since the mid 1980s; in the past decade we have seen declining rates of industrial disputation. Anyone who visits workplaces in this country knows that workers throughout Australia understand the competitive challenges that face us and have participated in a significant process of change. In many ways that has gone against their interests because they have the view that we need to accept this competitive challenge. Will this State Government reward those people for participating in that process of change? No, it will not reward them: It will kick them in the teeth and remove more of their rights by legal action. Do we really want a society in which the right to strike is so circumscribed that the choice facing individuals is mindless complacency on the one hand or deliberate rebellion on the other? Either way, our community will be the poorer for it. That will happen. If this legislation comes into force, in some sections we will see a mindless complacency descend upon people and, on occasions, there will be deliberate rebellion. That is the only choice this legislation gives people; it does not make it possible for industrial relations to occur in a normal way as part of our democratic society.

The House should note also that clause 97 of this Bill provides that if a related federal body participates in a strike then a state union member, who is also a member of the related federal body, is taken to have participated in that strike as a member of the state union and is open to prosecution, even if the action is authorised under the commonwealth Workplace Relations Act. There is clearly a conflict of jurisdictions that poses questions under section 109 of the Constitution, which deals with inconsistency of state and federal law. That section states -

> Where a law of the State is inconsistent with the law of the Commonwealth, the latter shall prevail and the former shall, to the extent of any inconsistency, be invalid.

Members should make no mistake: Yet again, this Minister is taking us down the road to litigation. That means the expenditure of more taxpayers' money and more trips by the Minister to Crown Law for advice to back up his theories about the nature of our legal system and the doctrines that underpin it. It will be more money down the litigation tube. That has been our experience of this Minister and we are probably going down that path again.

That is the whole point of pre-strike ballots: It looks like democracy but it is not. It is designed to put a bureaucratic straightjacket around unionists - and only unionists - to make it harder for them to exercise their legitimate right to take industrial action. It is such a straightjacket that enormous frustration will be created in the workplace and that will manifest itself in varying cycles of complacency and rebellion. That is no basis upon which to build an inclusive society.

Let us now consider the clauses dealing with political expenditure. If all of this government concern with the right to strike were not enough, we have the obsession with unions as participants in the political process. The 1995 amending Act is yet to be fully comprehended by all concerned and here we have even more change. However, the intent is the same: To restrict the right of a voluntary organisation - in this case a union - to decide through its normal processes to donate money to parties or candidates. All that has happened with this Bill is that the intention is given more teeth and a wider application. The new definition of political expenditure is very broad. It refers to expenditure incurred for or in connection with directly promoting or opposing a political party or the election of a candidate or candidates in parliamentary elections. Examples include making payments to or paying expenses directly or indirectly incurred by a party, candidate or groups of candidates. The Bill goes on to limit political expenditure by a union to those amounts specifically received by the union from its members to be applied to political expenditure. In effect, the unions are prevented from making any decisions about supporting political parties or candidates unless the moneys in question are separately provided to the union by its members.

Will the Government also legislate so that companies cannot make political donations unless the money is directed through each shareholder? Of course it will not. It would be described as too intrusive and too undemocratic to interfere in the functioning of a company, let alone any of the many registered associations or voluntary associations in our society that feel the need to take part in politics.

However, the same logic does not apply to unions despite the fact that, in respect of political donations disclosure legislation, all contributions to the political process are treated in the same way. One can assume only that the Minister is motivated by a desire to restrict the ability of unions to donate to the Australian Labor Party and other non-conservative parties in Western Australia.

The Bill is designed to stifle opposition to the Government and make it easy for it to exercise power without constraint in the community. That is the only interpretation that can be placed on these clauses of the legislation. They do not apply to companies in the same way, despite the fact that political donations legislation applies equally to all donors. Political expenditure within trade unions is treated completely differently from that for political parties. This Government is taking us down the slippery slope to one-party politics. Members should make no mistake about it: The Government is very serious about this section of the legislation. Any officer of the union committee making a political donation not out of the fund and in contravention of the Act is automatically disqualified from holding office. This comes from a Minister who forced the former Commissioner for Health to act illegally in dismissing two senior Health Department officials, as established by the Doig report into this matter. However, he is still in his office as the Premier's battering ram - extremely useful, but ultimately disposable. This is the Minister who is trying to impose this condition on the political activities of trade unions. This is the Minister who will set the full force of the law onto those individuals if they contravene this Act but who was not willing to face up to his responsibilities when he had the Commissioner for Health deliberately break the law.

Members should also note that any unauthorised payments are forfeited to the Crown. I know that the Budget is tough, but is it so tough that expropriation of this sort is necessary? I simply leave that question for members to contemplate.

I now refer to the area of federal award coverage. The Minister's supreme arrogance is perhaps best revealed in the section of the legislation dealing with federal award coverage. The second reading speech is so matter of fact, yet so extraordinary in its implication. These words should ring through this Parliament -

> An organisation whose federal counterpart seeks federal award coverage for employees covered by a state award, may have all its rights as a party to the award cancelled and such rights may be given to a substitute organisation.

The implications of this for our system are potentially explosive, in both industrial relations and constitutional terms. As I read it, it works something like this: If a federal union is a party to or obtains a finding of industrial dispute in the Australian Industrial Relations Commission, the federal union's state counterpart union as defined in the Act can, by application, be struck out as a party to any state award or industrial agreement and have another state union substituted as a party to the award or industrial agreement in place of it. In addition, it can have its state constitutional coverage - that is, eligibility for membership - cancelled or varied and given to another state union. Applications can be made by an employer or another union. If there is no application, the chief commissioner can nominate a substitute union. Members should note that under clause 84(g), the Full Bench must cancel the coverage of the existing state union, but may substitute an alternative union.

Note also that a substitute union has no choice and cannot refuse to be added as a party to an existing state award or industrial agreement. Note finally that the Minister can intervene. The Minister reserves his or her right to apply to the Supreme Court for a writ forcing the performance of any duty on the commissioner or registrar under these new sections. Once again, we see the reserved right of the Minister to force an outcome on the industrial relations map. What sort of society and independence is that?

These clauses have a number of clear consequences. First, they promote demarcation disputes within a stable workplace environment; indeed, a competing union can apply for the cancellation of the rights of another union and seek to have itself imposed on employees irrespective of their wishes. Secondly, they contradict well established principles of freedom of association. In their book *Retreat from Injustice - Human Rights in Australian Law*, Nick O'Neill and Robin Handley list five components of the freedom to associate as applied to the area of labour relations: One is the freedom to organise into trade unions; the second is the freedom to take part in trade union activities; the third is the freedom to take collective action in dealing with employers, including strike action; the fourth is the freedom to join a trade union of one's choice; the fifth is the freedom not to join or belong to a trade union. Quite clearly the fourth component, the freedom to join a trade union of one's choice, is contradicted. The legislation also involves an attempt to destroy the existing and fundamental right of people to organise and represent their own interests in their own way, subject only to clearly needed public interest requirements.

The legislation may also be contrary to the federal Constitution. It seems a penalty is applied by the state legislation whenever a union applies for a federal award. That penalty is that the state union may lose its state award and its members at the state level under the state system. This may be inconsistent with federal legislation and, therefore, invalid under section 109 of the Constitution. Once again, we see the high risk, maximum confrontation strategy of the Minister supported by his Cabinet colleagues. Unfortunately, however, it is not his money that is put at risk but money provided to the Government of Western Australia by its taxpayers. Make no mistake, there will be more litigation and more expense for our stressed out Budget. Why? It is not in order to defend a recognised and accepted principle of law but to defend an ideologically and personally motivated attack on registered voluntary organisations in our community.

One of the most important features of the Government's recent changes to industrial relations law was that preventing the commission from empowering a union representative to enter any premises which are the principal residence of the employer or any other residential premises. It is now proposed that the commission be prohibited from allowing a union representative to enter any premises of an employer unless the employer is the employer or former employer of a member of the organisation. Union members can enter premises only to deal with an industrial matter involving a particular member. An employer, former employer or union may apply to the commission regarding any dispute over the proposed arrangements. Employers can refuse a representative of the union access to records if they are of the view that to grant access would infringe the privacy of non-members of the union. Currently the provision allows non-members of a union to notify the employer that they wish to have their records kept confidential from a union representing the work force. This allows a positive effort by the non-union members to respect their own privacy. The Minister now thinks he can protect the privacy of workers better by ensuring that their records are kept secret by an employer claiming to protect the privacy of a worker. Clearly the opportunity exists for the employers to cover their breach of existing award conditions regarding minimum rates of pay and conditions. This new paragraph allows employers to have the opinion that access to the records may infringe the privacy of non-union members to keep the record confidential from the union. There is no ability for the non-union members to allow their records to be inspected or to override the will of the employers wishing to keep their records private. This limits the ability of non-union members to ensure that they are receiving their correct entitlements.

Where employers refuse to allow a union official to inspect records, they must undertake to produce the records to an industrial inspector within 48 hours of being notified of the requirement to inspect by the union representative. Obviously this becomes a resource issue in terms of the availability of any industrial inspectors in our society. Again, it is a matter within the control of government and the employer. Although the employers may have the records available within 48 hours, it may be weeks, months or years until an industrial inspector becomes available. Once again, we see a very bureaucratic imposition on the union movement. Employers will find it very easy to frustrate inspections of time and wages records by simply applying to the commission for a determination of any dispute. This is likely to take weeks, if not months. It makes it very easy for employers to underpay workers and get away with it.

I also note that the new provisions covering the power of entry are out of tune with the federal Workplace Relations Act. We can only predict that there will be a stampede by WA employees to the federal industrial relations system, even with its deficiencies and the constraints placed in the way of such a move by this legislation. Perhaps the real intention of this Bill is to create a Western Australian industrial relations system which is nothing but an empty shell, hence justifying its dismantlement and the leaving behind of the Government's much beloved workplace agreements system. What a tragic result that would be for the working people of our State. Since Federation there has always been a mixture of state and federal awards in industrial agreements in many industries State by State. Even the federal coalition's Workplace Relations Act recognises that mix and has properly accommodated the existence and operation of the state system.

I remind the Minister and the Government of the doctrine of legal equality in our system of government. It has two distinct but related aspects: The first is the subjection of all persons to the law; the second is the underlying or theoretical equality of all persons under the law and before the courts. In Leeth v the Commonwealth 1992 Justices Deane and Toohey said -

> Conforming to its ordinary approach of fundamental principles, the Constitution does not spell out that general doctrine of legal equality in express words. The question arises whether it adopts it as a matter of necessary implication. In our view, several considerations combine to dictate an affirmative answer to that question.

I am not sure that the Government of Western Australia and the members of the coalition have thought seriously enough about the constitutional implications of this legislation, both in terms of section 109 and also the doctrine of legal equality. Reference to this doctrine also leads me to look at the legislative steps taken to deal with the implications of the commonwealth's Workplace Relations Act. If anything, that Act criticises our own legislation

by imposing the no disadvantage test. What does our Government propose to do about that? The Minister has been forced by his federal colleagues to insert a no disadvantage test for Western Australian workplace agreements covered by federal awards. It has been done simply so that Western Australian workplace agreements will not be overridden by federal awards under the Workplace Agreements Act. In workplace agreements for persons not covered by federal awards, they are not protected by any such test. Quite clearly two classes of citizens under workplace agreements have been created, which is discriminatory and unfair. What a bewildering scene we now have with two types of employee - those under awards and those under workplace agreements; two types of union - those under state and those under federal awards; and two types of employee under workplace agreements - state and federal. None of this is necessarily problematic except that the Minister has imposed on the situation his own biased interpretations of choice and freedom. The Minister's freedom is to agree with him or else; it is a version of workplace agreements or "consider yourself persona non grata" under the State of Western Australia and all the instruments of power it has.

We can talk about much more in relation to this legislation. Members on this side of the House will be doing so both in the second reading debate and the Committee stage, but what I have referred to thus far represents a clear indictment of this legislation in that it places unnecessary and unacceptable constraints on the freedom to associate and organise. Secondly, it discriminates against citizens who exercise their freedom of choice on industrial protection; thirdly, it undermines the proper regulation of a range of industrial and work standards that are part and parcel of our democratic way of life; fourthly, it places at risk taxpayers' money because of its potential conflict with the commonwealth Constitution; fifthly, it isolates Western Australia from the mainstream of Australian life, even that set down by the Federal Government through its divisive Workplace Relations Act; sixthly, and finally, it creates real inequalities in the process of political campaigning that have the potential to undermine our democracy.

There is no mandate for this legislation. It was not put on the table for consideration at the last election. Indeed, the Minister was muzzled by the Government throughout the election for fear that he would inflame the electors with his extremist disposition and language. Nor is it the same as legislation that was introduced into the Parliament and withdrawn prior to the last state election. The Minister and the Government know this. That is why the matter is being considered now and not after 22 May. It is illiberal and authoritarian legislation whose only chance of passage through this Parliament is based on two preconditions: Firstly, keeping the mandate and more sensible members of the coalition in the dark about its real intentions and inevitable consequences; and, secondly, ensuring that it is dealt with before 22 May when the balance of power in the Legislative Council will change. As *The West Australian* editorial of 24 March stated so well -

> By exploiting a constitutional technicality - which prevents the new Council from sitting before May 22 - Mr Kierath is deliberately and cynically thwarting the will of the people. He is trying to avoid a review of his Bill by an Upper House elected to be free from domination by the executive and to provide proper scrutiny of legislation.
>
> This is a serious reflection on the Government's fundamental view of democratic principles and fair play.

There is a certain symmetry to the desire of the Government to ram through illiberal and authoritarian legislation in an illiberal and authoritarian way. One hoped, however, that more sensible counsel would prevail in the way the issue was handled in Parliament. I ask members of the coalition to reflect on the fact that none of their Eastern States' colleagues, even the redoubtable Mr Kennett, have taken their so-called industrial relations reforms down this path. It is extremist and unnecessary; a reflection of the biased thinking of an anti-union ideologue. I ask members of the Cabinet to reflect on whether the Minister fully briefed them on all aspects of this Bill before it went to Cabinet. Were they fully aware, for example, of the possible constitutional implications? Were they told about all the matters that impinge on the federal-state relationship? Were they told about the additions to earlier legislation? Were they aware of the punitive provisions contained in this Bill? If they allow this legislation to pass, the consequences will be on their shoulders and on their consciences. They should reflect on the fact that implicit in our democracy is a contract between the people and the Government. Should the Government undermine that contract by imposing authoritarian constraints on the ability of the people to associate and organise, a radical imbalance will be created. It is a well-established principle of democratic pluralism that there must be workplace and community based associations that mediate between the individual and the State if our rights and freedoms are to be protected and promoted. Sporting clubs, political parties, cultural societies, neighbourhood organisations, interest groups, and trade unions are all part of that package. This Government wants to restrict unions so that they will not be an effective check on the powers of the employers or the power of the State. That will take us on the slippery slope to authoritarian rule in which the only choice available to people in our society is rebellion. What a prospect; what a future.

MR KOBELKE (Nollamara) [4.25 pm]: To use the Minister for Labour Relations' metaphor, this legislation is part of his third wave. While we address the contents of this Bill, and examine its implications for the people of Western Australia we can look back at the wake of the other two waves and see what damage has been done by legislation

brought in by the Court Government over the past four years. That legislation has created a real problem of job insecurity; people do not feel they are secure in their jobs. Conditions and wages have fallen under the Court Government, whether that has been caused directly by the legislation or by the moves made by the Government at the same time to reduce the number of people in government employment. Mr Kierath is the Minister who prior to the 1993 election said he would resign if anyone was dismissed from government employment. That promise meant absolutely nothing because a huge number of government employees have lost their jobs through retrenchments and sackings - whatever term one wishes to use. Working conditions have been eroded by the introduction of workplace agreements.

This Minister took issue with the Federal Government when it put in place its Australian workplace agreements. The Minister was reported in the newspaper as saying that Mr Reith had wimped out because he had not introduced tougher legislation. His legislation would not drive down the cost of labour as quickly and as far as this Minister for Labour Relations wanted! In that statement, the Minister's real objective was absolutely clear; that is, the bottom line of the earlier waves of industrial legislation and of this wave is to reduce labour costs, which equates to reducing job security and reducing the take-home pay of the men and women of Western Australia. That is what this legislation is about. To do that the Government must nobble the unions. It has to nobble workers' ability to organise and protect their conditions of employment.

The Government says it is a strong supporter of small business. If it is, it should understand the whirlwind in the small business world being caused by this approach to industrial relations. That is not happening because of the up-front issues that have arisen through industrial disputation. That is not a problem. That is not a reason for introducing this legislation. The whirlwind in the small business world is being caused by lack of job security and workers' being unable to invest and purchase in Western Australia. For small business to thrive, people must have confidence in the economy. People must be willing and able to buy new houses and all the goods that go with the new houses. They must be willing and able to buy a new car. However, when people have no job security and their wages and conditions have been cut, they are not in a position to buy those goods or to make any sort of commitment to buying those goods. That is what is causing stagnation in the building industry and the small business sector in Western Australia. I thought government members would have woken up to that. The Government should have woken up to that by now. The Opposition is not the only organisation to say that. Twelve months ago, Anne Arnold, the Executive Director of the Urban Development Institute of Australia said that suppressing the housing market was a new factor to be considered in respect of the economy of this State. She said that people do not have job security because of the industrial changes introduced by the Court Government.

The Court Government has no mandate for this legislation. Premier Court made it very clear in 1996 that he would not support the Minister for Labour Relations' further attack on unions and working conditions. He made it absolutely clear with an election coming up that his Government had fulfilled most of its ambitions in the area of industrial change. When the people went to the election they believed, because the Government had made that commitment, there would be no further major changes to industrial legislation. Therefore, this Government has no mandate for the legislation that is now before the House. This legislation will wreak major changes on the industrial scene in this State. It is extremist legislation. It is not a matter of minor tinkling to try to improve the system. It is trying to take an axe to the major part of the industrial system in Western Australia and, for that, the Court Government has no mandate.

Why is this legislation being rushed through? A couple of days ago we were told that we had to deal with the Kingstream agreement for an iron and steel plant in Geraldton. I thought that such a Bill passing through this House, which according to the Government will create 2 000 construction jobs and 1 000 jobs ongoing with the maintenance and operations of the plant, would have had some significance to this State, but no! This shows clearly the priorities of this Government. It will put aside a Bill required to create those jobs, according to the Government's proposal, and bring forward legislation which will destroy jobs in this State - legislation that will attack the working conditions and job security of Western Australians. That reflects the priorities of this Government.

In addressing the reason for the haste, one cannot get away from the problems we face in trying to get any real discussion from the Minister, or convincing him to engage in factual discussion about what he is trying to achieve. I wrote to the Minister on 5 March, because there had been discussion in the Press about industrial legislation and I wanted some knowledge of such legislation so that I could discuss it with a wide range of people in the community and obtain some feedback. The response from the Minister arrived in my office on 18 March. In part, the Minister states -

> I am unable at this time to provide you with details of the contents of the Bills or specify exactly when they will be introduced because they are still in the preparation stage.

The letter arrived in my office on 18 March in response to my letter dated 5 March. This Bill was first read in this Chamber on 19 March, and second read on 20 March; yet the Minister in his letter said that he did not know when

the Bills would be introduced because they were still at the preparation stage. They are the facts! This Minister is not willing to enter any reasonable and factual debate. He simply provides that sort of trash and treats people in that way. He suggests he cannot provide information, but the next day the Bill arrives in Parliament.

The Government needs to rush this legislation because the complexion of the Legislative Council will change on 22 May. This is because the Government called an election outside the normal time, and we have this unusual situation with members continuing to sit in the upper House until 22 May even though they may have lost their seats or had not sought re-election. With the numbers currently in its favour the Government thinks it can ram legislation through both Houses and have it take effect, despite having no mandate for the legislation.

If we reflect on that situation, it drives home a very clear comment by the Government on its own legislation. After 22 May the Legislative Council numbers will be evenly divided, and the Liberal and National Party members will not have a majority. Five members will belong to minor parties. Among those minor parties, the Democrats have shown through their national colleagues they were willing to accommodate the Howard Government and put forward major industrial changes. They may have looked for a few amendments but they were willing to discuss the Federal Government's legislation and make a judgment on its merit. I do not agree with it, but they made the judgment about what is acceptable to the community in Australia. I suspect that the Democrat members after 22 May will be expected to take the same position. Any industrial legislation brought in by the Government will be judged on its merits. They will decide whether it is acceptable to the vast majority of people in this State. One cannot argue that the Democrats who will take their seats in the Legislative Council are somehow tied to the unions or sympathetic to the union movement. We in the Labor Party are. We accept that, but one cannot say that about the Democrats. Similarly, the three new Green members have not shown in the past that they will be tied to supporting unions. They will take an independent stance on how they judge legislation.

When the Legislative Council takes on its new complexion and the Government loses its majority, it will require only one of those five members of minor parties to vote for government legislation. Therefore we have here today changes to our industrial legislation which this Government will have no problem getting through this place because it has the numbers, and it will need to convince only one member of the minor parties that it has some merit, in order to gain full passage through Parliament. Yet this Government does not believe that there is any substance in this legislation, that there can be any rational debate that is likely to convince one of these five members to support it. That is what the Government is saying.

In trying to rush legislation through the Parliament the Government is making it clear to the Parliament and to the people of Western Australia that this legislation is outlandish. It is so extreme that it would have no chance of getting support from any of the five independent members soon to be in the other House. The people of Western Australia will very soon recognise this. Already the media have picked up that the Minister for Labour Relations is out of control. We saw it in Parliament today, and we have seen it on many occasions; he has such a quick tongue that people often do not understand what he is saying or that they have been misled. I genuinely think that most, if not all, his fellow Cabinet Ministers do not have any understanding of this legislation. They have simply been conned by the Minister into thinking that this legislation somehow will serve the interests of this State. It will not.

This legislation is a travesty. It will wreak havoc on this State. Unfortunately it will pass through this Parliament because the Government will use its numbers to rush it through - before the damage it will do becomes evident. We on this side hope that at least some government members will listen to the debate and start to understand what the consequences of this legislation will be. Through that means, we hope we might be able to convince the Government to pull back from the many excesses contained in the legislation. The Government's desire to rush the legislation through is evident to everyone. The legislation will not benefit the State. The Government has made the judgment that it could not convince the upper House to pass the legislation now before us.

The Leader of the Opposition raised an argument, which is perhaps too subtle for members opposite, relating to the need for a sense of community. An important point needs to be made and I will touch on it briefly. The push for this industrial legislation reflects a continuing emphasis on extreme individualism. We must be driven into individual contracts; we must compete one against another in the work force, which locks out a cooperative approach, a collective approach where people form a team and support each other, both in the workplace and in the community. People need to be seen as members of families. The family is the most important group in our community. People should not have their conditions so eroded that they cannot support their families, that they are forced to work extra hours or unsociable hours with the result that they cannot have time to spend with their family and their wider network of friends. That is the theme in this Government's approach to people in this State. The causes of crime in our community are many. Suicide is a major problem, and its causes are many. To solve the problems of lawlessness and suicide in our community we must build a cooperative and collective approach.

We must encourage people to work together - not divide and rule, as this Government would have it, and not single people out and tell them to fight one another in a dog eat dog world so that we might have some form of economic

growth. That view is totally discredited, and this State will continue to have problems while this Government fails to realise the strength that can be gained when people work together collectively.

Unions have been a great strength in our community for well over 100 years and have made a fantastic contribution to the quality of life in this State. The Minister cannot see that while he persists with his hatred of unions and his blinding drive to try to crush unions. Not only have unions been fighting in the workplace to maintain living standards, but often they have played a wider social role. The union movement is all about helping people, whether it be through the welfare unit that is currently being run by the Trades and Labor Council of Western Australia, or whether it be through individual unions that support their members and former members when they fall on hard times. Unfortunately, this Government appears to totally ignore that, and that is why this legislation strives to attack unions and individuals, and to leave them without the support they need, whether that be from union, family or other groups in our community.

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

Mr KOBELKE: I will outline three reasons that this legislation is totally unacceptable, appalling, extremist and of no benefit to this State. Firstly, it reflects the Minister's prejudices against and hatred of the union movement. He is totally erratic when it comes to trying to debate this issue. I gave one example earlier today. The Minister cannot present a case which he can substantiate. He is driven by his blind prejudice against unions. I suppose that is due to his former experience as an employer, where he was found to be doing things that were not for the benefit of his employees. That seems to have driven him to want to attack unions. Secondly, the legislation is highly destructive of our community and of families as the central unit in our community. It will foster conflict. It is extremist. It strives at rampant individualism rather than at getting people to work together for the betterment of our community and the whole of Western Australia. Thirdly, it is a blatant attack on unions. It seeks to bind them up in a range of bureaucratic measures which will prevent them from looking after the rights and preserving the conditions of their members.

This legislation reflects the personality of the Minister, because it is dictatorial and intrusive. The Minister will be able to play a role in telling people what to do in a range of areas and will take away any sense of choice or self-determination by individuals and the groups that represent them collectively.

Two of the changes in this Bill illustrate my argument that this legislation is an attack on unions. Proposed section 78 states that a person who fails to comply with an order of the industrial magistrate to do any specific thing or to cease any specific activity is guilty of an offence and liable to a penalty of $5 000 and a daily penalty of $500. That penalty will not necessarily apply to the employer. That is unfair. The size of the penalty is also discriminatory, because a penalty of $5 000 may be an inconvenience for an employer, but it is a huge amount of money for a union member to have to find. If the union employee or official does not comply with that fine, the matter is regarded as a contempt of court and is taken further.

Why does the Government not impose these sorts of conditions on Mr Buckeridge? Mr Buckeridge just thumbs his nose at authority. He contravenes the conditions of a building permit and does whatever he wants, and the Minister says, "That is okay. I will sign it off after the event." The legislation which Mr Buckeridge has contravened has similar penalties, but no action has been taken to enforce them. This Government is very keen to attack unions and working people, but it is a different matter when the person concerned is its mate.

I do not have any difficulty with secret ballots prior to the taking of industrial action if there is a democratic process and if, where appropriate, there is some form of confidentiality. However, that is not what is proposed. This Minister is proposing to impose on unions a range of bureaucratic red tape to try to prevent them from functioning properly, and also, where industrial action is taken, to impose penalties. This legislation is not about secret ballots. It is another example of this Minister's twisting and misusing words.

A few weeks ago, I watched a very good television program about Hitler's henchmen. Unfortunately, I did not see all of the series. The program I saw was about Goebbels. Although I do not wish to compare the Minister with Goebbels, there is one area in which I think the reality does fit. The program was about the Nazi occupation of Holland in the early days of the war and about what the Nazi's called their program for dealing with the Jewish problem. What they meant was the murder and extermination of the Jewish people. Goebbels came on the scene and found that they were not liquidating the Jewish people quickly enough, so he put in place a major program of reform to address the Jewish problem. He used the word "reform" exactly the way this Minister does. For Goebbels, to reform the Jewish problem meant to liquidate and murder people more quickly. When this Minister uses the word "reform" with regard to industrial relations, he means to tie up the system in such a knot that it will not work, and to attack ordinary working people. In that sense, the Minister for Labour Relations uses words in a similar way to how they were used by Goebbels under the Nazi regime.

Mr Minson: That is a silly comment.

Mr KOBELKE: It fits very well. If the member observed the Minister's behaviour, he would see that there are many parallels.

Mr Osborne: If you really understood what Nazi Germany was like you would know that that is a completely ridiculous comparison.

Mr KOBELKE: I said I was not comparing him with Goebbels in that respect; but in the way he uses language, there are many similarities.

One of the reasons that I support secret ballots is that there can be occasions when there is a very difficult situation in a workplace and the members wish collectively to take some form of industrial action, whether it be a strike or a lesser form of action. In some cases the level of intimidation from the employer is such that people will not raise their hand at a public meeting because the employer might find out and they are fearful of the consequences. In cases such as that, a secret ballot will allow many more people to vote for industrial action because they will not feel intimidated by the employer. That is just one reason I give in support of secret ballots being available in certain circumstances; however, we are not dealing with that here.

Proposed new section 97D states -

> If a strike is contemplated, or believed to be contemplated, by members of an organization of employees, or by any section or class of its members, application may be made to the Commission for a pre-strike ballot to find out whether a majority of those members endorse, or do not endorse, participation in a strike.

We can see how all-encompassing and bureaucratic this provision is. Action can be initiated if it is thought strike action is being contemplated, or is merely believed to be contemplated. This whole bureaucratic process will start. A whole range of people can start to initiate action with respect to a secret ballot. To do that a list of employers of the persons contemplating, or believed to be contemplating, the strike must be prepared and accompany the application. It must also be accompanied by such other particulars as prescribed. We will probably see this Minister - we know no bounds to the absurd level to which he will go - put in the regulations that the people who are making application must include the name of their mother-in-law! This Minister seems not to know the bounds of being sensible. He has this incredible bureaucratic system where, through regulation, a whole lot of other requirements can be made. I would not hazard a guess about where the Minister might take that.

Dr Gallop: Does he remind you a little of Basil Fawlty?

Mr KOBELKE: He does not quite have the walk.

A strike is defined as any action by two or more employees, or by an organisation of employees, that involves a stoppage of, or ban or limitation on, the performance of work required under an employee's contract of employment. Because these provisions apply to only union members, I will close my remarks with this scenario: Let us say two non-union members in a workplace have a dispute with their immediate superior, either because of a work safety issue or because they have a huge conflict with that supervisor. They go off to a senior boss and say, "We will not work under that so-and-so; we will not continue working in that environment." That is okay under this legislation because they are not union members. The supervisor or manager next in the chain would see the immediate supervisor and try to sort it out.

That would not happen if they were union members. Under this legislation, if those two people who cannot get on with their supervisor go to someone higher up and say that they cannot work in the situation and stand on their dig and ask that the matter be sorted out, they can be charged with being involved in a strike merely because they were union members. If they were not union members, the matter would be handled in the workplace. If two union members take action such as that, they will be caught up in this legislation with a whole range of draconian penalties because they have gone on strike. Where is the fairness in that? Is that a system that will work?

Mr Kierath: Have you read the bit about using dispute settling procedures for that?

Mr KOBELKE: The Minister thinks he knows it. I do not think anybody else believes it. The people in the work force certainly do not. He has done all of this fancy drafting, trying to put together this arrangement that he feels will work. He thinks it will stop the effectiveness of the unions, but it will only lower the standard of employment in this State, and the people will not accept that. As the Leader of the Opposition said: Some may be cowered, but many will simply be led into a higher level of disputation than would exist without this legislation. This legislation is a travesty. The people of Western Australia do not deserve to have it inflicted on them.

Debate adjourned, on motion by Mr Brown.

RESTRAINING ORDERS BILL

Introduction and First Reading

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

ADJOURNMENT OF THE HOUSE - SPECIAL

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

That the House at its rising adjourn until Tuesday, 8 April at 2.00 pm.

House adjourned at 4.55 pm

QUESTIONS ON NOTICE

COLLIE POWER STATION - EMPLOYEES

Retraining

139. Mr BROWN to the Minister for Employment and Training:

(1) Did the Minister for Employment and Training issue a media statement on 22 December 1996?

(2) If so, did the media statement say that more than 300 workers on the first phase of the new Collie Power Station will be retrained at a cost of $400 000 to ensure that they keep their jobs during the next building stage?

(3) Is the $400 000 a state government contribution?

(4) How much has the State Government contributed?

(5) Exactly what will the state government contribution be used for?

Mrs EDWARDES replied:

(1)-(2) Yes.

(3)-(4) The state government contribution is $198 000.

(5) Lecturing staff and other administrative costs incurred by South West Regional College of TAFE in delivering the training.

SHIPPING - SHIPBUILDING

Subsidies - Impact

212. Mr BROWN to the Minister for Commerce and Trade:

(1) What action has the Government taken to protect the more than 500 workers in Western Australia's shipbuilding industry reported to lose their jobs if the Federal Government does not soften its stand on industry subsidies?

(2) What steps has the Minister taken to have this "bloody nonsense", to quote the Minister, of a federal policy changed?

(3) What is the Government's estimate of the financial impact of the subsidy on the shipbuilding industry?

(4) What returns does the shipbuilding industry bring to Western Australia?

Mr COWAN replied:

(1) This State Government continues to assist the shipbuilding industry with the provision of infrastructure, such as the extension of the breakwater at Jervoise Bay, at a cost of $7.5m. Further, under the Investment incentives program, financial support has been provided to Austal Ships to expand its operations and enable it to build large ferries over 80 metres. Similar support is available to other major shipbuilders and several have expressed interest. Ongoing market assistance is also available to the shipbuilding industry, such as the organisation of a recent trade mission to India for the Integrated Water Transport Group.

(2) The State Government continues to lobby the Federal Government to amend its stance and the Premier has written to the Prime Minister, most recently on 18 March, protesting strongly against the withdrawal of the bounty. (A copy of the letter is provided for the member's information). [See paper No 315.]

(3) The financial impact of the abolition of the bounty is impossible to calculate accurately. Other normal business factors, such as exchange rates and capacity to meet delivery dates, also interact to impact on earnings to the State. However, there will be a negative impact, given the 9 per cent plus support available to shipbuilders in the OECD countries.

(4) The shipbuilding industry brings substantial returns to Western Australia. The current value of production figures for the industry are not available from the Australian Bureau of Statistics. However, a report on the light-weight shipbuilding sector, dated July 1996, which was produced by the Western Australian Shipbuilding Association, quotes the industry output for 1995-96 at $196m. Total economic value of this

sector, using a UWA economic model, has been estimated at $468m. The ABS export figure for WA shipbuilding for 1995-96 is $164m. It should be noted that the above figures cover the whole shipbuilding industry and include some areas which will not be affected by the abolition of the bounty.

COLLEGES OF TAFE - STUDENTS

Deferred Payment Schemes

294. Mr GRILL to the Minister for Employment and Training:

(1) Is the Higher Education Contribution Scheme available for TAFE courses?

(2) If not, why not?

(3) Are there any other deferred payments schemes which students can take advantage of while doing TAFE courses?

(4) Is the Government contemplating any scheme of assistance to TAFE students to help them with fees?

Mrs EDWARDES replied:

(1) No.

(2) The Higher Education Contribution Scheme falls under the jurisdiction of the Commonwealth Government, unlike TAFE, which is administered and predominantly funded by the States.

(3) Yes. Regulations to the Vocational Education and Training Act provide for colleges to enable students to make payments by instalment.

(4) It is considered that present arrangements, which include concessions, payments by instalment, and waivers in cases of severe financial hardship, adequately provide for student access to TAFE.

POLLUTION - CONTAMINATED MATERIAL

Disposal

305. Dr EDWARDS to the Minister for the Environment:

What work has been done to establish a long term disposal site for contaminated material in Western Australia?

Mrs EDWARDES replied:

The Government is concerned about the absence of infrastructure (a Class IV landfill) for the disposal of contaminated soils, and other low hazard wastes, in various areas of Western Australia. The 1995 Report of the Legislative Assembly Select Committee on Recycling and Waste Management recommended that such a facility be established near Perth, and the Government in its 1996 response to the report agreed with that proposal. The Government has established a Secure Landfill Committee (chaired by the Department of Environmental Protection, and including LandCorp, Planning, Resources Development, DOLA, Water Corporation and Water and Rivers Commission) to progress the matter. To date actions taken have included -

a waste quantity study has been done for Perth, and provided to potential private sector and local government proponents in 1996. Several of these organisations are actively pursuing sites suitable for Class IV facilities, and one, the Eastern Metropolitan Regional Council, has a proposal being assessed at present under the Environmental Protection Act.

the DEP has developed, and published, waste acceptance criteria for a Class IV landfill in a regulatory document, with EPA endorsement.

I have just authorised a site selection and design criteria study for facilities of this nature near Perth. I have offered several of my parliamentary colleagues, including the member for Maylands, briefings on this matter.

the committee is also pursuing studies in the Pilbara, in parts of the South West and soon in an industrial estate in the Goldfields, with a view to developing suitable Class IV facilities in those areas.

The Government is committed to pursuing these issues vigorously, as it was a specific commitment for the Perth area in the 1996 coalition environment policy. Should the member wish to have a comprehensive briefing on this matter I will be pleased to arrange it.

POLLUTION - CONTAMINATION

Omex Site - Report

314. Dr EDWARDS to the Minister for the Environment:

(1) What was the final cost of the report on contamination at the Omex site by Golder Associates?

(2) What arrangements were entered into between the Department of Environmental Protection and Golder Associates regarding the sale of the report?

Mrs EDWARDES replied:

(1) The final invoice for this work has yet to be presented. Golder Associates have been paid $175 863 to this point; the total outlaid so far is $222 104.50.

(2) Copies of the report are available for purchase from Golder Associates. No arrangement as such has been entered into; the DEP has no involvement in the sale of the document, although Golder Associates is keeping a list of purchasers and has agreed to make that list available to the DEP on request.

ENVIRONMENTAL PROTECTION AUTHORITY - APPEALS

Bulletins 825-840

319. Dr EDWARDS to the Minister for the Environment:

How many appeals were received by the Appeals Convenor in response to the Environmental Protection Authority's recommendations contained in bulletins 825 to 840 inclusive?

Mrs EDWARDES replied:

There were 28 appeals received in response to the Environmental Protection Authority's recommendations contained in bulletins 825 to 840 inclusive.

PAWNBROKERS AND SECOND-HAND DEALERS ACT - FINANCIAL IMPACT

Study

341. Mr BROWN to the Minister for Small Business:

(1) Has the Government undertaken a financial impact study on the impact of the Pawnbrokers and Second-hand Dealers Act 1994 on small business?

(2) If not, will the Government undertake such a study?

(3) If not, why not?

Mr COWAN replied:

(1) A study relating specifically to the financial impact of the Pawnbrokers and Second-hand Dealers Act 1994 on small business has not been undertaken. However, as part of the current review of the Act being undertaken by the property crime division of the Police Force, licensed dealers have been asked for their comments on the effect that the legislation has had on their business since the Act came into operation. It is expected that a report resulting from the review will be forwarded to the Minister for Police in April 1997.

(2)-(3) The Government will await the results of the review before deciding whether a financial impact study needs to be undertaken.

OCCUPATIONAL HEALTH AND SAFETY - PLAY EQUIPMENT

Inspection Procedures

347. Mr KOBELKE to the Minister for Labour Relations:

(1) Given the recent death of an 11 year old girl near Mudgee, and the injuries to two girls in Mandurah through the failure of fairground ride equipment, has the Minister removed the current system for the inspection and worthiness certification of playground equipment?

(2) Will the Minister immediately undertake a full review of the machinery inspection procedures which apply to amusement park equipment in order to ensure that a higher level of certainty can be given as to the safety of all such equipment?

Mr KIERATH replied:

(1) No. The current system for inspection and certification of amusement devices was introduced in 1994. The system is essentially the same as for other high hazard plant used in workplaces. The recently introduced Occupational Safety and Health Regulations 1996 have maintained the system which is based on the National Standard for Plant issued by the National Occupational Health and Safety Commission in 1994 and adopted by all States and Territories.

(2) The Government is examining, in conjunction with relevant professional bodies, recognition of the specific qualifications of persons competent to inspect amusement devices and other plant.

COMMITTEES AND BOARDS - SMALL BUSINESS

Membership

358. Dr CONSTABLE to the Minister for Small Business:

(1) With reference to the Minister's answer to question on notice No 27 of 1997, who are the current members and chairperson of the Small Business Development Corporation Board?

(2) When was each member appointed and for what period of time?

(3) How much remuneration is each member paid?

Mr COWAN replied:

(1)

Chairperson	-	Mr John Garland
Members	-	Mr Gregory Johnson
	-	Mr Peter Treleaven
	-	Mrs Felicity Peterson
	-	Mr Steve Abbott
Member (Ex officio)	-	Mr George Etrelezis

(2)

	Initial Appointment	Date of Reappointment	For a term of
Mr John Garland	19/07/94		3 years
Mr Gregory Johnson	27/04/92	31/03/96	1 year
Mr Peter Treleaven	19/07/94		3 years
Mrs Felicity Peterson	18/09/94	31/03/96	1 year
Mr Steve Abbott	06/06/95		3 years

(3) The Chairman is paid $10 000 per annum. Each other member is paid $5 000 per annum except for the managing director who sits as an ex-officio member.

COMMITTEES AND BOARDS - DISABILITY SERVICES

Membership

361. Dr CONSTABLE to the Minister for Disability Services:

(1) With reference to your answer to question on notice No 36 of 1997, who are the current members and chairpersons of the following -

(a) the Advisory Council for Disability Services; and
(b) the Board of the Disability Services Commission?

(2) When was each member appointed and for what period of time?

(3) How much remuneration is each member paid?

Mr OMODEI replied:

(1) (a)
Dr Louisa Alessandri (Chairperson)
Jenny AuYoung
Dr Jane Barratt
Mary Cliff
Ellen French
Maureen Jewell
Richard Joske
Dr Warren Louden
Joan McKenna-Kerr
Jim O'Brien

Jean Rickards
Ellen Taylor
Ron Widdison
Keith Wilson

(b) Barry MacKinnon (Chairperson)
Dr Louisa Alessandri
Tracey Cross
Prof Ian Eggleton
Debbie Karasinski
Kevin Karlson
Christine Kerr
Majorie Harper
Leonie Walker

(2) Advisory Council for Disability Services:

Member	Appointment Date	Term
Dr Louisa Alessandri	1 December 1996	1 Year
Jenny AuYoung	1 December 1996	2 Years
Dr Jane Barratt	1 December 1996	2 Years
Mary Cliff	1 December 1996	2 Years
Ellen French	1 December 1996	2 Years
Maureen Jewell	1 December 1996	2 Years
Richard Joske	9 February 1996	1 Year 10 Months
Dr Warren Louden	1 December 1996	2 Years
Joan McKenna-Kerr	1 September 1996	1 Year 3 Months
Jim O'Brien	1 December 1996	2 Years
Jean Rickards	1 December 1996	2 Years
Ellen Taylor	20 May 1996	1 Year 6 Months
Ron Widdison	20 May 1996	1 Year 6 Months
Keith Wilson	9 February 1996	1 Year 10 Months

Board of the Disability Services Commission:

Barry MacKinnon	23 December 1994	3 Years
Dr Louisa Alessandri	17 October 1996	1 Year
Tracey Cross	29 July 1996	3 Years
Prof Ian Eggleton	8 January 1996	2 Years
Debbie Karasinski	23 December 1996	2 Years
Kevin Karlson	27 February 1997	2 Years
Christine Kerr	27 February 1997	2 Years
Majorie Harper	29 July 1996	3 Years
Leonie Walker	8 January 1996	2 Years

(3) Advisory Council for Disability Services:

Member	Remuneration (per annum)
Dr Louisa Alessandri	$12 200
Jenny AuYoung	$ 2 500
Dr Jane Barratt	no fees paid
Mary Cliff	$ 2 500
Ellen French	no fees paid
Maureen Jewell	$ 2 500
Richard Joske	$ 2 500
Dr Warren Louden	$ 2 500
Joan McKenna-Kerr	$ 2 500
Jim O'Brien	$ 2 500
Jean Rickards	$ 2 500
Ellen Taylor	$ 2 500
Ron Widdison	$ 2 500
Keith Wilson	$ 2 500

Board of the Disability Services Commission:

Member	Remuneration(per annum)
Barry MacKinnon (Chairperson)	$65 050
Dr Louisa Alessandri	no additional fees paid ($12 200 is total amount paid for both Advisory Council and Board roles)
Tracey Cross	$ 4 800
Prof Ian Eggleton	no fees paid
Debbie Karasinski	$ 4 800
Kevin Karlson	$ 4 800
Christine Kerr	$ 4 800

Majorie Harper	$ 4 800
Leonie Walker	$ 4 800

HOSPITALS - INTERPRETERS

Funding

371. Ms WARNOCK to the Minister for Health:

Further to question on notice No 129 of 1997, how much of the funds allocated for directly contracted interpreters at Princess Margaret Hospital and King Edward Memorial Hospital are provided by -

(a) the Commonwealth Government;
(b) the State Government;
(c) recovery from users of the service?

Mr PRINCE replied:

All funds used for directly contracted interpreters at Princess Margaret Hospital and King Edward Memorial Hospital are provided by the State Government.

GOVERNMENT CONTRACTS - CANCELLATION

396. Mr BROWN to the Minister for Services:

(1) Do government contracts provide that a contract may be cancelled by the Government where an employee of the contractor is paid less than their legal entitlements?

(2) If not, why not?

Mr BOARD replied:

(1) The State Supply Commission *General Conditions of Contract for Services* state that -

"the contract shall be governed by the laws of the State of Western Australia and the parties submit to the exclusive jurisdiction of the courts of that State. The contractor shall comply with the requirements of all acts of the Parliament of the Commonwealth and with the requirements of the provisions of all acts of the Parliament of the State of Western Australia and with the requirements of all ordinances, rules, regulations, by-laws, orders, codes of practice and proclamations made or issued under any such act and with the lawful requirements of the public and other authorities in any way affecting or applicable to the services or the performance of the contract". Failure to comply with these requirements would result in a breach of the contract which could ultimately result in a contract cancellation.

(2) Not applicable.

WORKPLACE LIAISON SERVICE - FUNCTIONS

409. Mr BROWN to the Minister for Labour Relations:

(1) Did the Minister issue a media statement, on 9 February 1997, in which he advised the State Government had set up a workplace liaison service?

(2) How many workplace liaison officers have been or will be appointed?

(3) Was the Department of Productivity and Labour Relations carrying out this function prior to the creation of the service?

(4) Is the workplace liaison service part of the Department of Productivity and Labour Relations?

(5) Are the workplace liaison officers new positions?

(6) Were the positions advertised?

(7) If not, why not?

(8) How much are workplace liaison officers paid?

(9) How does this service differ from the service provided by the Department of Productivity and Labour Relations?

(10) Did the Commissioner of Workplace Agreements and/or his officers provide this advice to businesses?

(11) To what extent does the new service differ from the advice provided by the staff and/or the Commissioner of Workplace Agreements?

(12) Will the Commissioner of Workplace Agreements and/or his staff continue to provide advice to business on workplace agreements now this new service is in operation?

(13) What is the relationship between the workplace liaison service and the Commissioner of Workplace Agreements?

(14) Are workplace liaison officers in any way under the control or direction of the Commissioner of Workplace Agreements?

(15) If so, in what way?

(16) Is the creation of this new service an admission that there was an inherent conflict of interest between the Commissioner for Workplace Agreements and/or his staff assessing workplace agreements for registration as well as promoting the use of such agreements?

Mr KIERATH replied:

(1) Yes.

(2) Five positions created; three currently filled.

(3) Some of the functions.

(4)-(6) Yes.

(7) Not applicable.

(8) Level 5 Public Service position, with a salary range of $42 291 to $48 578.

(9) The workplace liaison service provides a workplace-based information service to business, especially small business, on employment rights, obligations and choices.

(10) No. The Commissioner of Workplace Agreements only provides information to assist in the understanding of the system of workplace agreements to facilitate their registration.

(11) The workplace liaison service provides a broader range of information on employment rights, obligations and choices.

(12) Yes.

(13) There is no formal relationship. Workplace liaison officers and staff of the Commissioner of Workplace Agreements liaise to assist in providing information to the community.

(14) No.

(15) Not applicable.

(16) No.

GOVERNMENT PROPERTY - SALE

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

(1) How many state government assets of the value of $200 000 or more have been sold by each of the departments or agencies under the Minister's control in each of the last four financial years?

(2) What is the total value of the assets sold?

(3) What have the moneys realised from the asset sales been used for?

Mr OMODEI replied:

With respect to Local Government:

(1)-(3) Not applicable.

With respect to Disability Services:

(1) One asset in 1996-97.

(2) $460 000.

(3) To finance the capital investment plan of the Disability Services Commission, which aims to reduce the existing DSC debt.

OFFICE OF MULTICULTURAL INTERESTS

Review and Restructuring

445. Ms WARNOCK to the Minister for Multicultural and Ethnic Affairs:

(1) What plans does the Minister have for the Office of Multicultural Interests?

(2) When will the review and restructuring be completed?

(3) Will there be any community input?

(4) If yes to (3), how will that take place?

Mr BOARD replied:

(1)-(4) The Office of Multicultural Interests is reviewing its current work structure internally to organise a revised structure for seven FTEs. It does not require community input.

QUESTIONS WITHOUT NOTICE

HEALTH - BUDGET

Deficit - Action

121. Mr McGINTY to the Minister for Health:

(1) Will the Minister confirm that both the 1996-97 and the 1997-98 Health budgets contain significantly less than the funds needed to maintain current activity?

(2) Will the Minister confirm that the Health budget is currently in deficit to the tune of $56m?

(3) What action has the Minister taken to address this deficiency?

Mr PRINCE replied:

I thank the member for some notice of this question.

(1) Members will find out on 10 April the amount for the 1997-98 Health budget.

(2) The 1996-97 budget was increased by $80m to alleviate pressures in the system. The Health budget for the current financial year is based on that total amount for the preceding year and projected demand in growth.

(3) As I freely concede, the projected demand is being met and managed with difficulty in many places. Some are having more difficulty than others where there is particularly high growth. We have been at pains to ensure that we manage across the system so that hospitals are able to move demand from one place to another as part of the strategy released last year to deal with waiting times.

It has been fairly heavily publicised for some months that increasing demand, largely as a result of people dropping out of public health cover, makes it very difficult to deal with waiting times. The Commonwealth has declined to be involved in increasing the amount of financial assistance that should come under the Medicare Agreement. For the benefit of members I will lay on the Table a copy of clause 16 of the Medicare Agreement which provides, in part -

> The Commonwealth agrees that the amount of financial assistance payable . . . will be reviewed whenever the percentage of the national population who, at 30 June 1993, are covered by a supplementary hospital table falls by at least 2 percentage points . . .

> Any review of the amount of financial assistance payable . . . following a decline in national supplementary insurance will, amongst other things, take into account . . .
>
> additional expected demand on public hospitals (in the absence of any other evidence, it will be assumed that adverse selection is occurring and it is healthy people who are dropping insurance; further it will be assumed that people dropping insurance will have 50% of the average State hospital utilisation rate).

In summary, it was written into the Medicare Agreement that if a 2 per cent drop occurred, the state hospital system would bear the costs and the Commonwealth would pick up the cost. The Commonwealth has not done that, under the preceding Federal Government nor under the present Government.

The figure of $56m has not been put to me.

Mr McGinty: That surprises me.

Mr PRINCE: Pursuant to the member's question the other day I asked for the information. I do not have it. I said that as soon as I had it, I would give it to the member.

Mr McGinty: This is on the total deficiency.

Mr PRINCE: I appreciate what the member is saying; it is the total deficiency. I have no information about a total amount of deficiency. As soon as I have it, I will pass it on to the member, if there is a deficiency. There may be deficiencies from place to place. I am aware of strains in certain places; however, I do not have with me across the board figures, which the member asked for the other day.

The Health Department, in conjunction with all the health services and the boards of the health services and hospitals, is doing everything it can to manage the demand that comes through the door of the public hospitals under the terms of the Medicare Agreement because we must take everybody who comes in. We are doing it with 28 per cent of the state Budget. That is not enough in the sense that the Commonwealth has failed to meet its obligations caused by the drop out in insurance under the Medicare Agreement. In my view it is morally obliged to do so. It has not done so.

[See paper No 316.]

HEALTH - BUDGET

Cuts - Extent

122. Mr McGINTY to the Minister for Health:

(1) Will the Minister confirm that he has undertaken a raft of measures in recent days to curtail severely health projects by reducing the 1996-97 budget allocation for most areas in the Health portfolio?

(2) What are those measures he has undertaken and what is the extent of the budget cuts he has imposed on the Health Department?

Mr PRINCE replied:

(1)-(2) I have not imposed any budgets cuts on the Health portfolio.

POLICE

Geraldton and Kalgoorlie - Comparison

123. Mr BLOFFWITCH to the Minister for Police:

Records show that the crime rate is similar for Kalgoorlie-Boulder and Geraldton-Greenough. Why does Kalgoorlie-Boulder, with a population of 30 013 have 13 more police officers than Geraldton-Greenough, which has a population of 32 816?

Mr DAY replied:

I thank the member for some notice of this question. The member may have information other than that which I have. If so, I would be interested in it. Having examined the 1995-96 crime statistics reports for the comparison between the Kalgoorlie district and the Geraldton district I notice that a higher number of offences are reported in the Kalgoorlie district. Specifically in the area of offences against property, 5 463 were reported in the Kalgoorlie district and 5 393 in the Geraldton district in that period. Those figures are similar. However, there is a dramatic difference in the category of offences against the person. In 1995-96, 710 cases were reported in the Kalgoorlie

district and 479 were reported in the Geraldton district. There was a significant difference in the figures for serious assault; 111 such assaults were reported in Geraldton and 243 were reported in Kalgoorlie - well over double the number reported in Geraldton. Evidence indicates that there is a greater crime problem in the Kalgoorlie district.

Although it is important to indicate that detailed staffing is a matter for the Commissioner of Police, the crime rate is only one of the factors taken into account in determining staffing numbers. Other issues are taken into account, such as population, demography, industry, logistical requirements and distances from major centres. If we compare the size of the Geraldton district to the Kalgoorlie district, we find that the Geraldton police district covers 113 000 km², and Kalgoorlie police district covers about 866 000 km².

Geraldton has received an additional 12 police officers over the past four years, and I take on board the request of the member for Geraldton for an additional increase in officer numbers in Geraldton. I am also aware that the member would like to see greater use of mounted police in Geraldton, and I will also pass on those views to the Commissioner of Police for his consideration.

HEALTH - BUDGET

Cuts - Impact

124. Mr McGINTY to the Minister for Health:

I refer to the 1996-97 budget allocation for the public health division of the Health Department.

(1) Will the Minister confirm that to meet the $56m deficiency in the Health budget, for the past four months of the current financial year he has reduced the public health budget by $4.1m, the equivalent of a full year cut of 30 per cent in this vital area of preventive medicine? The Minister should not tell me that the Commissioner of Health has not told him as I have it in writing from the commissioner.

(2) Will the Minister confirm how the following public health projects will be adversely affected by the cuts to the current year's public health budget: Bacteria in food; drug misuse; mosquito borne virus; mammography program and women's cancer prevention; air and water purity; nutrition; and immunisation?

Mr PRINCE replied:

(1)-(2) I am not aware of any cuts being made to public health of that nature.

Mr McGinty: What sort of a Minister are you? It is $56m of cuts in the Health budget and you're saying that you do not know about it!

Mr PRINCE: I am not aware of the cuts in public health.

Mr McGinty: Here is the document!

Mr PRINCE: I thank the member for bringing it to my attention. I will take it up with the Commissioner of Health immediately to see whether the member is correct - for a change.

SCHOOLS - SECONDARY

Kinross - Construction

125. Mr BAKER to the Minister for Education:

Does the coalition Government propose to construct a secondary school in Kinross prior to the year 2000, and if so -

(1) What is the estimated date of construction?

(2) What is the proposed location of the school?

(3) What does the Minister estimate to be the number of school enrolments at the opening of the proposed school?

(4) How will the school zones be rearranged to incorporate the proposed new school?

Mr BARNETT replied:

I thank the member for his question.

(1)-(4) On the current plans, the Education Department has a site reserved for a possible future secondary education facility in Kinross. No immediate date is set for its construction, but I am conscious of the rapid growth in population in the area and in the student numbers in the feeder schools. That matter will remain under

review. I will be interested in the comments the member may wish to add regarding his perceptions of the situation. Undoubtedly, we will continue to add secondary education facilities in the northern suburbs. As I have said in response to other questions, it is worthwhile looking at variations to that proposal and the development of senior colleges in the area through which richer and better vocational and academic choices could be provided for students.

GLOBAL DANCE FOUNDATION - INITIAL ASSESSMENT

Recommendation

126. Mr BROWN to the Premier:

(1) Is it true that the Tourism Commission carried out an initial assessment or report on the proposal by Mr Peter Reynolds and/or the Global Dance Foundation to conduct a World Dance Congress?

(2) Is it true that the initial assessment and or report recommended against any funds being provided to the project?

(3) Is it true that when the matter first went before the Tourism Commission - I emphasis that point - the commission recommended against funds being allocated to the project?

Mr COURT replied:

(1)-(3) I cannot give a specific answer to these three questions. If the member had given notice of them, I would have been able to answer them. The Leader of the Opposition has asked for all of the information relating to the documents and the timing. At the end of the day, all the decisions were made on the advice of the Western Australian Tourism Commission.

ROADS - SAFETY

Easter Holiday Period

127. Mr OSBORNE to the Premier:

Members are aware that Easter is a busy time on the roads. Will the Premier inform the House of efforts being taken by state government agencies to avert the needless loss of life on the roads over the holiday period?

Mr COURT replied:

I thank the member for some notice of this question. Easter in Australia can be a time of terrible carnage on the roads. It is a horrific thought, but by Monday night there could well be in this State three people dead and many seriously injured from road accidents. The Government would love a situation where there were no road deaths or serious injuries this Easter. The Government, with the cooperation of Main Roads Western Australia, the Police Department, the Royal Automobile Club of WA (Inc) and the Office of Road Safety, will implement a number of coordinated plans to cut down that road toll. The police will focus on a number of areas, including speeding, drink-driving, the wearing of seat belts and unroadworthy vehicles. They will have all the equipment available to them, including the booze buses and radar speed detection. The RAC will run a "Be Seen Be Safe" campaign, which encourages people who drive their vehicles during the day to keep the lights on low beam. Together with the Police Department's program "Operation Survive" and the RAC's program, the Government will, this weekend, distribute white armbands to all the players in the Westar Rules competition and the spectators will be offered white ribbons to highlight the need for a community focus on more responsibility for road safety in the community. During the four day Easter period people will be travelling long distances and most fatalities occur on country roads. I urge members please to set an example and act responsibly so we can have a road death free Easter.

GLOBAL DANCE FOUNDATION

Public Accounts and Expenditure Review Committee Investigation

128. Dr GALLOP to the Chairman of the Public Accounts and Expenditure Review Committee:

I refer to the revelations in recent days that the Court Government paid $215 000 to an unincorporated body; paid a further $215 000 a month later; and that lawyers are now fighting over the contractual obligations of Global Dance Foundation Incorporated to produce a dance congress this year. As Chairman of the Public Accounts and Expenditure Review Committee, is the member concerned about this fiasco and will his committee investigate the matter?

The SPEAKER: Order! I have a difficulty with the question. It is seeking an opinion and this House does not allow questions which do that. There are rules under which the Public Accounts and Expenditure Review Committee operates. I will give the call to the Chairman of the Public Accounts and Expenditure Review Committee because he is familiar with the rules and perhaps he can provide an answer.

Mr TRENORDEN replied:

It is a reasonable question to ask the Chairman of the Public Accounts and Expenditure Review Committee. The committee is aware of this issue because it has been debated in this House. The committee is also aware that the Auditor General has taken note of what has occurred outside this House. I hope members are aware that the Public Accounts and Expenditure Review Committee and the Auditor General signed a historic agreement last year for closer cooperation. Early in May the Auditor General and the committee will meet to discuss a large number of issues and this issue might just be on the agenda.

PLANNING - APPEALS

Labor Minister's Record

129. Mr BRADSHAW to the Minister for Planning:

Some notice of this question has been given. There has been further criticism today from members of the Opposition and others concerning the previous Minister for Planning Richard Lewis' overruling recommendations made by members of the Town Planning Appeals Committee during a so-called caretaker period of government. Has this, or any similar practice, ever occurred in the past?

Mr McGinty: Why don't you just table them?

Mr KIERATH replied:

I thank the member for some notice of this question. In reply to the interjection from the member for Fremantle: They were all tabled yesterday.

Mr McGinty: All of them?

Mr KIERATH: Yes.

Mr Kobelke: They were edited.

Mr KIERATH: Some parties have private details and they do not want the member to know.

Several members interjected.

Mr KIERATH: None of the Labor Ministers ever tabled those letters. That illustrates the difference in standards between this side of the House -

Several members interjected.

The SPEAKER: Order! Perhaps the Minister could direct his comments to the Chair.

Mr KIERATH: I was trying to, but there was another conversation going on.

I will explain to members of the Opposition how the appeals system works. When someone lodges an appeal to the Minister, a professional person - usually someone with extensive experience in the local government and planning areas - is assigned the case. That person undertakes an investigation, interviews the parties and finds out all the facts and then makes a recommendation - and it is only a recommendation. The case then goes to the Town Planning Appeals Committee, which usually comprises three senior officers, the Minister and a ministerial adviser. Obviously, the committee looks at the recommendation made by the officer, it is discussed and a conclusion is reached. Under the legislation, the Minister has always had the final say. If the Minister did not have some say, it would be a rubber stamp process. This is where accountability comes in: The Minister accepts responsibility, and consequently the Government accepts responsibility, for the decisions. About 800 appeals were lodged last year and the Opposition is trying to feign outrage over four of those decisions. That is comical.

I will bring to the attention of the House the difference in the standards of this Government and those of the ALP when it was in office. When the Labor Party knew it had lost the election, the then Minister for Planning, Hon David Smith, dealt with eight appeals between 9 December 1992 and 13 January 1993. Instead of taking the normal three to four months, they were dealt with in three to seven weeks. Not one of those eight appeals was investigated and reported upon by an officer.

Mr Kobelke interjected.

Mr KIERATH: He sat as judge, jury and executioner. How do members opposite feel about that? Will they condemn the actions of a Minister who sought no independent investigation?

Dr Edwards interjected.

Mr KIERATH: Does the member criticise that?

Dr Edwards: Absolutely!

Mr KIERATH: That is a first: The opposition spokesperson for planning is developing her own standards. The Government has asked members opposite to tell it what was wrong with the four decisions about which they are so upset. They cannot say; they are trying to find out. In fact, the Minister did everything by the book: He requested and received the reports, conferred with the Town Planning Appeals Committee and finally ticked them off, as one would expect a retiring Minister to do when handing over his portfolio to an incoming Minister. There is nothing wrong with the decisions that he made.

I remind the House of the difference in the standards of the two parties when in government. When the Labor Government was in office, there were eight appeals and no reports - they were political decisions! On the other hand, this Government's Minister went through the proper process by producing an independent report and convening a full meeting of the Town Planning Appeals Committee.

HEALTH - EMCARE AUSTRALIA

Financial Checks

130. Dr GALLOP to the Minister for Health:

I refer to the Auditor General's criticism of the Health Department over its failure to check the financial background of Adamwood Hospital administration.

(1) Will the Minister confirm that the Health Department had three contracts with Emcare Australia in the six months to June 1996?

(2) Will the Minister confirm that Emcare Australia is owned by Howard Emery, owner of the failed Adamwood Hospital Administration Services?

(3) Did the Health Department check the financial background of Emcare before awarding the three contracts?

(4) In the period since June 1996, has the Government given Emcare any other contracts; if so, what were the contracts for and what were the costs of the contracts?

Mr PRINCE replied:

I thank the member for some notice of this question, which I think came from the member for Fremantle.

(1) Yes, consultancy contracts existed as follows -

Bunbury Health Service - review and training - Forrest Lodge;
Wellington Health Service - review permanent care unit;
Lower Great Southern Health Service - restructure of nursing home; and
the values of the respective contracts were $12 000, $7 000 and $6 000.

(2) Howard Emery was a senior partner in Emcare.

(3) No. The contracts were awarded by the health services, not the Health Department; however, it is not normal practice for the financial background of consulting companies to be checked in small consulting contracts.

(4) No.

RAIL FREIGHT FACILITY - CANNING VALE

Community Objections

131. Mrs HOLMES to the Minister for the Environment:

My community in Canning Vale has been in constant contact with me over Specialised Container Transport. Will the Minister indicate the status of the proposal by SCT to locate a rail freight facility at Canning Vale?

Mrs EDWARDES replied:

I thank the member for some notice of this question.

The Environmental Protection Authority set the level of assessment at informal for Specialised Container Transport. It was advertised in *The West Australian* on Saturday, 8 March. The statutory two week appeal period against that level of assessment set by the EPA closed on Friday, 21 March. I understand a number of appeals have been received. I am awaiting a report from the appeals convener before considering the proposal further. The member and the Leader of the Opposition have met with residents, and the views put to them by the residents have been passed to the appeals convener.

HOSPITALS - BUNBURY REGIONAL

Funding Shortfall

132. Mr McGINTY to the Minister for Health:

Will the Bunbury Regional Hospital suffer the same starvation of funds in the 1997-98 state Budget as it has this financial year, which has in the past week led to -

(a) a surgeon at the hospital refusing to treat speedway star Tony Giancola, who subsequently had a near death experience, because a surgeon said that he was too tired;

(b) the director of regional services at the hospital, Graeme Fisher, regretting the incident but saying it was caused because the hospital is funded as a district hospital rather than a regional hospital and that Bunbury should have four orthopaedic surgeons and not one;

(c) the mayor, Dr Ern Manea, claiming the hospital is in dire straits because of lack of funding; and

(d) the Bunbury City Council condemning the Minister's plans to build only six operating theatres at the new health campus, saying at least 10 are needed?

Mr PRINCE replied:

I thank the member for some notice of this question.

There is certainly a problem with funding at the base level of district as opposed to regional hospitals. It has been around for a long time and is one of the reasons that a new hospital is being built. The hospital has a much greater physical capacity to deal with the demand of the fastest growing population in a regional area, I understand in Australia, certainly in Western Australia. I remind members that the hospital will be opened in September or October 1998. We as a Government committed ourselves in our first term to doing that. The hospital is at present under construction. The previous Government promised it and we are delivering it. As to the amount of funding that goes into the hospital, it is not a matter of starvation of funds but of extraordinary demand. As I said in answer to an earlier question, within the health system as a whole the department, hospitals and health services are managing with the resources they have. As I have said, Bunbury has received extra money to deal in part with salary and wage increases and in part with waiting list strategies. I will inquire into the case referred to by the member because that disturbs me greatly. I was in Bunbury a few Saturdays ago, amongst other things, to lay the foundation stone for the new hospital and one of the surgeons expressed an opinion on the number of theatres that should be in the new hospital. I have taken that on board and am having it looked into. We would not want to build a facility that was too small at the time it was opened, as the former Labor Government did in Mandurah in 1988.

HOSPITALS - BUNBURY REGIONAL

Staffing Levels

133. Mr McGINTY to the Minister for Health:

While the Minister is looking into those matters at the Bunbury Regional Hospital, will he also look into the statement attributed to his director of medical services at the Bunbury Regional Hospital, who said that staff at Bunbury hospital are overworked and that patients are being sent to Perth because of concern about their safety, and take the necessary steps to provide adequate staff?

Mr PRINCE replied:

I know Ms Donaldson. I am not aware of comments of that nature made by her in recent times. I have had a number of discussions with her about matters relating to the Bunbury Regional Hospital and I have inspected the hospital on

several occasions. There are insufficient facilities in the existing building, which was built in the early 1960s. That is why a new hospital is being built. I understand that the place is adequately staffed and that the people are paid according to the enterprise agreements and so forth that have been negotiated. The health services received additional funding to assist with that.

I will follow up that matter. It is not the intention of this Government for people to by-pass secondary treatment facilities and come to Perth or for people within the metropolitan area to by-pass the secondary hospitals and go into the tertiary hospitals. It is far better for treatment to be given to them as close as possible to where they live. I will investigate the matters raised.

ROADS - MITCHELL FREEWAY

Extension

134. Mr BAKER to the Minister representing the Minister for Transport:

Some notice of the question has been given. Regarding the promised extension of the Mitchell Freeway from Ocean Reef Road to Hodges Drive, Joondalup, will the Minister advise -

(1) Whether the construction of the extension has commenced and the estimated date of completion?

(2) What the total cost of the said extension is expected to be?

(3) Whether the extension includes the proposed dualing of Hodges Drive, west to Marmion Avenue?

(4) What will be the tangible benefits of this extension of the freeway, to both the residents in the Joondalup electorate and the business proprietors carrying on business in the Joondalup electorate?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1) Planning and design has commenced and construction work is expected to be finished by 2000.

(2) $25m.

(3) Yes.

(4) The extension of the Mitchell Freeway will benefit residents and business proprietors in the Joondalup electorate by improved safety through the removal of arterial traffic from lower standard roads; reduced travel times for people travelling to and from the Joondalup regional centre; providing direct access to the Joondalup regional centre and better connections to other strategic regional centres and strategic industrial centres to the south, which is a vital factor for businesses and if employment strategies are to be successful; and lessen noise and visual impacts on the roads that this traffic currently uses - Ocean Reef Road, Joondalup Drive and Marmion Avenue.

HEALTH - MANDURAH AND PEEL REGION

Services - Contractual Negotiations

135. Dr GALLOP to the Minister for Health:

Have contractual negotiations for the provision of new health services in the Mandurah and Peel region been completed? If not, why not?

Mr PRINCE replied:

I thank the Leader of the Opposition for the question. They have been a long time coming. The latest information I have is they are all but complete.

Dr Gallop: All but! That is what you told us last year.

Mr Brown: The bucket is half full!

Mrs Roberts: It is a little like being half pregnant, really, isn't it?

Mr PRINCE: I would not know. I understand the documents are in their final form, or very nearly, and are expected to be signed in the next week or two.

HEALTH - MANDURAH AND PEEL REGION

Services - Contractual Negotiations

136. Dr GALLOP to the Minister for Health:

What are the final matters for negotiation before the contracts are finalised?

Mr PRINCE replied:

All the substantive matters were agreed to a little while ago. It has been a matter of lawyers discussing the final form of the words to go in the contract. I understand that has been virtually completed. I cannot tell the Leader of the Opposition what they have been debating about the wording of the documents. It is not a matter in which I should have any direct involvement; it is a matter that should be handled by the professionals dealing with the matter.

HEALTH - MANDURAH AND PEEL REGION

Services - Contractual Negotiations

137. Dr GALLOP to the Minister for Health:

Is the Minister aware that in Parliament yesterday he said that the Mandurah hospital was under construction?

Mr PRINCE replied:

Yes, the building of it is. There are the financing, the construction and the operation phases. The financing is in place. The construction involved a separate contract with Leighton Contractors Pty Ltd and it is under construction. The operating part is the third part of the triumvirate contract and is all but completed.
