WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 29 April 1998

THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

ATTENTION HYPERACTIVITY DISORDER

Petition

Hon Ray Halligan presented the following petition bearing the signatures of 341 persons -

> To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned humbly request the Legislative Council to:
>
> 1. In line with the World Health Organisation, National Health and Medical Research Council and Commonwealth Government policies, acknowledge the existence of Attention Hyperactivity Disorder (including ADD and Associated Learning Disabilities) as affecting an unknown but significant number of children, youth and adults in Western Australia.
>
> 2. Ascertain the services and facilities available to those disadvantaged in this way within the Ministries of Health, Education, Disabilities, Youth, Family and Children's Services, Justice and Employment and Training.
>
> 3. Encourage a program of public and professional education and awareness to allow the facilitation of early identification and appropriate remediation for sufferers of this neurobiological disorder.
>
> 4. Encourage the establishment of a professional advisory board to advise Government on the appropriate remediation and protocols within Government agencies.
>
> Your petitioners humbly pray that the Legislative Council will consider the matters we have raised and make recommendations to the Government and your petitioners as in duty bound will ever pray.

[See paper No 1561.]

OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996 FOR PRIMARY INDUSTRY

Review

HON M.J. CRIDDLE (Agricultural) [4.03 pm]: I move -

> That the Occupational Safety and Health Regulations 1996 for primary industry be reviewed with the intention of developing and implementing a code of practice.

When I gave notice of this motion back in August 1997, the regulations were causing a great deal of concern in agricultural Western Australia. They were being used by WorkSafe inspectors to enter workplaces, causing concern to primary producers. Therefore, we should develop in consultation with industry a code of practice for this industry to be put in place over the next couple of years. We could perhaps then remove the regulations and use the provisions of the code of practice as guidelines for the industry.

Subsequent to my giving notice of this motion, the Thorpe case arose and placed a great deal of pressure on country people and caused duress. Had the code of practice been in place at the time, and had the code been used not as a method of prosecution, but as guidelines, the problems could have been avoided. It may well be a defence against prosecution if people comply with a code of practice.

I developed a view when chairing the spray review I carried out for the Minister for Primary Industry - I will develop that aspect later - that emphasis should be placed on education rather than prosecution. If we carry out that education process, and people are qualified to use the machinery and other devices used in primary industry, we will be in a better position to develop a safer environment in which people work.

A series of pamphlets has been issued by WorkSafe and by the industry. I will run through those a little later when I talk about developing a code of practice. The information in those pamphlets could be the basis on which the code of practice is developed. With the guidelines, all employers will be in a far better position to understand how they should operate their businesses. However, we must be careful not to place so much emphasis on safe work practices that businesses cannot carry on.

There is a desire for those who work in the area to have an understanding of what is going on without overemphasising the issue. If businesses have to comply with too many WorkSafe practices, it will become uneconomic for them to operate. We must have a balance between safety, a sensible approach and a practical solution, and come up with a rational and workable set of guidelines. This is a very good time to debate this issue, because the emotion has gone out of the prosecution that was proposed in the Esperance area.

First I will refer to the Act and the regulations. Then I will discuss the code of practice and touch on the prosecution policy and the way in which a code of practice may be developed. WorkSafe has recently put out guidelines for the development of a code of practice. That is very timely. The objectives of the legislation are to promote and secure the safety and health of persons at work; to protect persons at work against hazards; to assist in securing safe and hygienic work environments; to reduce, eliminate and control the hazards to which persons are exposed at work; to foster cooperation and consultation and to provide for the participation of employers and employees and associations representing employers and employees in the formulation and implementation of safety and health standards to current levels of technical knowledge and development; to provide for the formulation of policies and the coordination of the administration of laws relating to occupational safety and health; and to promote education and community awareness on matters relating to occupational safety and health. Those objects are very fair and reasonable. Anyone who has worked in the area will understand that that is the way to go.

Section 61 of the Occupational Safety and Health Act requires that the Minister carry out a review of the operations of the legislation every fifth anniversary from its commencement and in the course of the review the Minister shall consider and have regard to -

(a) the attainment of the objects of this Act;

(b) the administration of the Acts and laws relating to occupational safety and health administered by the Minister;

(c) the effectiveness of the operations of the Commission, any advisory committees and the department;

(d) the need for the continuation of the Commission and any committees established under this Act;

(e) such other matters that appear to him to be relevant.

That review with those five terms of reference was concluded on 27 February. People have had the opportunity to put forward submissions. I have been told that quite a few submissions have called for a greater emphasis on education, rather than prosecution.

The role of WorkSafe is to promote and secure the safety and health of persons at work; to protect persons at work against hazards; to assist in securing safe and hygienic work environments; and to reduce, eliminate and control the hazards to which persons are exposed at work. All those things are very reasonable and form the basis of the Act. People will be complying with them now. As I said earlier, people in the workplace and out on the farm must have an environment that is workable and something the employers can afford to live with and workers can abide by. The review of the Act that has been completed is with the Minister and its recommendations will be developed as time goes by.

The regulations have brought quite a number of problems to people in the country. About 50 or 60 of the clauses in the regulations have been changed. The Minister has been very reasonable in the way in which he has dealt with issues relating to primary industry. He has dealt with the farming organisations whenever they have called for a change to the regulations. The publication of the brochures has done a lot to alleviate the existing problems.

If people have adopted the code of practice, it can be used as a valid defence. The guidelines are designed to cover people in the work force using machinery, rather than being a mechanism for prosecution. We must make sure that if people abide by the code of practice, it should be a mechanism to do away with prosecutions. Recently WorkSafe put forward a code of practice and basically it includes the provisions of section 57 of the Act which state -

(1) For the purpose of providing practical guidance to employers, self-employed persons, employees, and other persons on whom a duty is imposed under Part III of this Act, the Minister may upon the recommendation of the Commission, approve any code of practice.

(2) A code of practice may consist of any code, standard, rule, specification or provision relating to occupational safety or health that is prepared by the Commission or any other body and may incorporate by reference any other such document either as it is in force at the time the code of practice is approved or as it may from time to time thereafter be amended.

(3) The Minister may, upon the recommendation of the Commission, approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.

(4) The Minister shall cause to be published in the *Government Gazette* notice of every approval or revocation under this section and the approval or revocation comes into force on the day of such publication.

(5) The Minister shall cause a copy of each code of practice, and any document incorporated in it by reference, and any revision or revocation of a code of practice to be laid before each House of Parliament within 14 sitting days of such House.

(6) The Minister shall cause a copy of every code of practice, including any revision thereof and any document incorporated in it by reference, to be made available, without charge, for public inspection.

(7) A person is not liable to any civil or criminal proceedings by reason only that he has not complied with the provision of a code of practice.

(8) Where it is alleged in a proceeding under this Act that a person has contravened a provision of this Act or the regulations in relation to which a code of practice was in effect at the time of the alleged contravention -

(a) the code of practice is admissible in evidence in that proceeding; and

(b) demonstration that the person complied with the provision of the Act or regulations whether or not by observing that provision of the code of practice is a satisfactory defence.

That is what I was talking about earlier.

The guidelines that have been put in place to develop a code of practice under section 57 have been welcomed by the WorkSafe Commission. The commission is aware that industry groups have been producing occupational safety and health information for their members as a self-help measure. This document states that the guidelines are prepared to assist with the development of industry codes of practice. I know that many people who are developing these codes are trying to promote the best situation for the industry. I have seen some of the developments of codes, and they go a long way towards fixing the problem.

Hon Tom Helm: Can you identify the document to which you are referring, and table it later?

Hon M.J. CRIDDLE: Yes. It is "Guidelines for the Development of Industry Codes of Practice for Approval under the Occupational Safety and Health Act 1984" from the WorkSafe Commission of Western Australia. It is obvious that a background knowledge is necessary for the preparation and planning of a code of practice. The industry should put together a code of practice, in consultation with the workers.

The document states that in situations where the subject area is covered by an existing code of practice or by a standard that has been developed nationally or internationally, the first preference would be to adopt a code of practice or a standard rather than to introduce a new one. We have seen that with the spray review. As we develop that national code of practice we will include the way the Western Australian code is operated. The spray review certainly will be of great assistance to people in country areas. It will set out guidelines to address wind direction, the way machinery is set up, how workers should wear gloves and so on. All those matters should be included as directions to people who run spraying operations.

The document also states -

> Codes of practice should also be consistent with other relevant legislation. For example, an industry code of practice that referred to the disposal of hazardous waste should be consistent with the public health, transport, and environmental legislation as well as the relevant occupational safety and health legislation.
>
> In the planning stage, industry groups should consider ways to produce, distribute and promote their codes of practice.

Obviously the legislation states that the Act and the regulations should be made available to workers, if that is desired.

And further -

> This will remain the responsibility of the industry group.

We all know that. It continues -

> It is important that copies of every improved code of practice be available within a reasonable time and the distribution is not restricted to certain parts of an industry, such as membership of an organisation.

Clearly any worker who is working for someone, whether a member of a union or a man in the street, should have the code of practice, the Act or the regulations available to him.

Hon Tom Helm: Do you say it is necessary to make available the code of practice and the regulations?

Hon M.J. CRIDDLE: We do not have a code of practice yet -

Hon Tom Helm: If we did.

Hon M.J. CRIDDLE: Yes. The Act states that the Act and the regulations should be available. I say that if we did away with the regulations, the code and the Act should still be available. If we did not do away with the regulations, everything should be available.

Further on, the document continues -

> When drafting information for the industry code of practice, industry groups are encouraged to follow the hazard identification, risk assessment and risk reduction approach that is set out in the Regulations:
>
> 3 (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of a workplace or a person having control of or access to the workplace must, as far as practicable -
>
> (a) identify each hazard to which the person at the workplace is likely to be exposed;
>
> (b) assess the risk of injury or harm to the person resulting from each hazard, if any, identified under paragraph (a); and
>
> (c) consider the means by which the risk can be reduced.

That is to identify the hazard, assess the risk, and take some action to reduce it.

Hon Tom Helm: I have heard that before.

Hon M.J. CRIDDLE: The member certainly has.

The document states that a code of practice should be submitted to WorkSafe WA for consideration as part of the approval process, and outlines the information to be included in a covering letter. However, in the case of the primary industry code of practice, I would like the code to be placed in the workplace for a couple of years or for some considerable time so that some of the gremlins can be removed from the system. The problem is that about 50 regulations have been changed, but we could remove the bad points and then develop a reasonable and meaningful code of practice. I will run through some of the matters to be included later.

Hon Tom Helm: Should a committee do that?

Hon M.J. CRIDDLE: That could be the way to go. The industry has been looking for a code of practice for some time, but there has been no result. Several codes that I have seen are quite general, and a general code of practice might get us into some difficulty. It depends how general we go. One could be talking about how to drive a tractor, but a general attitude may not address the problem. I will address that issue a little later.

A code of practice needs to develop, implement and allow a widespread responsibility in the workplace. It should be more effective and more persuasive than prosecution. That has been achieved in various countries. I understand that New South Wales has quite stringent prosecution policies, and people are prosecuted regardless of how serious is the injury. In my view we need an education process. People could be prosecuted under the Act rather than under a code of practice or any guidelines. It appears that any prosecution under the guidelines will reduce the impact.

The code of practice must be a very practical document. It must be a document that can be understood by people in the farming arena. One of the worst features of any code of practice is its volume. I have one here that runs to about 300 pages and contains 200 sections. If we gave that to a man in the workplace he would not know one end of the regulations from the other. That has been a very big problem. I am sure people would have the same problem with the Act.

Hon Ljiljanna Ravlich: Why should it be any different for a blue collar worker? The same argument could be used if you gave the regulations to a grano worker, because he would not understand them either.

Hon M.J. CRIDDLE: I did not mean to discriminate against anyone. Anyone would have difficulty the first time he or she read the regulations, trying to work out how they could be applied. As the member knows, we have just reviewed an Act, and when we amend anything we must look through the entire Act in a correct sequence to understand the impact of any amendment. That is all part of reading Bills, regulations and the like.

There must be reasonable expectations of the code of practice and this gets back to the point I raised about funding any changes in the workplace. I have heard instances of inspectors entering a workplace and saying that a certain item needs to be fixed, and rather than say, "This is how you fix it", they simply say, "Come in and fix it". They say they will be back again if it is not fixed, and the employer will have to do it again. There needs to be a guideline that gives the employer or the person whose workplace it is some understanding that when he fixes the problem, the inspector will not have to come back and reinvent the wheel.

Hon Tom Helm: Is that usual in the industry?

Hon M.J. CRIDDLE: I said I had heard of it and that it should not apply. If a person who owns a workplace has that happen, that is not realistic. The problem should be fixed there and then or the person told what to do.

Hon Tom Helm: As you say, if you do not get it right the first time, you come back a second time. It is a waste of money, so the inspector usually consults with the people on the machinery.

Hon M.J. CRIDDLE: It is a waste of money on both sides. We ran into problems in the Esperance area with the culture of the inspectorial force. We need to have people on the inspectorial team who have a real understanding of the way to deal with people. In particular a bit of social understanding should be used. They need to have a knowledge of the industry, particularly its representatives and the environment in which people live. When interviewing a youngster who has had an accident, as happened in the south, there needs to be an advocate who can assist with the interview. When an accident has occurred there must be nothing worse than having to come along and ask questions under what are obviously very difficult circumstances. The inspectors should notify the owners of their proposed entry onto the property prior to their arrival. It would make it very convenient for the owners if they were aware that the inspectors were coming and were about to have a look at the situation, particularly if there has been an accident. The inspectors need some sort of certification of authority so that they can be involved in an inquiry. As I said earlier, they need to have a clear understanding of the problem and to be able to identify themselves when they arrive. They should be trained in counselling to ensure that a better approach is taken to dealing with people who may be grieving.

The prosecution policy, which has been changed as a result of the incident in the south, now has a far more community orientated provision. That was absolutely essential. Prosecution has an impact on the rights of the alleged offender. In the interests of the victim and the community in general, the intent of this prosecution policy is to ensure that the law is applied impartially in a fair and consistent manner. It aims to ensure that decisions in relation to prosecutions are based on the appropriate criteria which are public, open, fair and capable of being applied consistently across the broad range of circumstances with respect to the law I am talking about. The policy recognises a role of public interest in determining whether the prosecution or subsequent appeal will be initiated or continued. This needs to be applied in a fair and reasonable manner which reflects the community expectations.

A decision to enforce the policy to which the prosecution policy is appended extends to the circumstances to which consideration would be given for taking a prosecution instead of applying alternative enforcement actions. Once again that gets back to education and so forth which would have happened beforehand. The unfortunate part about a lot of this is that accidents happen regardless of what one does in many cases. People simply get absent minded at times and I have done it myself when using a machine which has a belt going round. A person might put his finger in to feel at something or the grease nipple and might catch his shirt and get pulled into the propeller shaft, which is the worst possible thing that can happen. Hon Tom Helm has obviously had his finger in a pulley or something of that sort. It happens so quickly.

Hon Peter Foss: The PTO shaft.

Hon M.J. CRIDDLE: Yes, power take off is quite right. That is probably the most dangerous part of machinery around when people lean over propeller shafts. Their clothing is also very important. There is nothing worse than a shirt hanging out of trousers or a shirt front open on a hot day and we lean over; we all do it. I think hay balers and things like that are probably the worst.

The prosecution policy in place now has that public interest section in it. That has done a lot to alleviate some of the problems we had with the previous policy.

One thing which may weigh in favour of a prosecution proceeding is the need to maintain the rule of law. It should be quite apparent to everybody that we need to maintain a public confidence in the basic institutions of law, including

Parliament and the courts. That gets back to common law and the fact that we have an Act and regulations to govern the way we act; the entitlement of a person to be awarded compensation if guilt is adjudged; the release from the obligation of a person to pay compensation, insurance or other similar payments in relation to the act of the defendant if he is found guilty of the offence; the need for punishment as a deterrent; and the circumstances in which the alleged offence is committed.

Factors which may weigh against prosecution include incidents that may be trivial or technical. A young person may be involved or a person with an affliction, and obviously that would be a reason not to continue with a prosecution. There may have been a long delay before the prosecution is laid. Sometimes the worst possible thing that can happen to a person is having to wait for a long time before a prosecution is commenced. A prosecution should be commenced in good time rather than having the possibility of a charge hanging over a person like a cloud and then not proceeding with it.

That is the basis of the prosecution policy. There is also a possibility of an appeal against a prosecution. That can be dealt with. There are other administrative matters to consider. The primary responsibility for investigating offences and laying charges resides with the department. Only a person authorised by the commissioner or a person to whom the commissioner has delegated this authority may carry out the prosecution. He can call on the Crown Solicitor to give him advice on that matter.

That is the basis of the prosecution policy which has been put in place by WorkSafe. In recent times it has been improved. That has probably affected the culture of the inspectors in an education manner rather than a prosecution manner. I find it difficult to accept that prosecution is the first thought that people have.

WorkSafe, in conjunction with industry, has published a document entitled *Safety on the Farm.* It is a document that has 24 issues within it. I will run through some issues that people on farms would well and truly understand. The first section is how to manage farm safety. That is all about regulating the hazards, spotting the dangers, developing a plan and consulting with one's workmates.

We have taken on a new workman. It takes days to get someone to understand how machinery works on a farm. We are into the middle of the week now and he is still in the early stages of understanding how to operate some of our machinery. It is all dangerous. It is no good saying there is no danger on a farm, because whether it is a tractor, a silo or a wide machine, nowadays they are all dangerous. Even though one is travelling at only 7 kmh to 10 kmh one can get into trouble quickly just by pulling a hydraulic ram and putting one's fingers in the wrong place. In my younger days I heard a story of a person who tried to adjust a hydraulic ram while the tractor was running. The ram started to creep forward and in the dark he put his finger in the hole where the hydraulic ram is joined to the machine, and before he knew where he was he had no finger. All that was required in that situation was a torch to see whether the join was in place.

People need to be made aware of those problems, and that gets down to spotting the hazard in the environment. As I said, one needs a light, and one must be aware of the rain and the sun. The workplace needs to be reasonably safe from that aspect.

I said earlier that the people working with machinery should have the Act and the regulations available to them. That has inspired me to call for a code of practice that is simple so people can read it and have some understanding of the dangers in the workplace. The Act and the regulations have little relevance to a person who drives a tractor, climbs a windmill or shears in a shearing shed. Clear and meaningful guidelines should be available to them. Booklets like "Kid Safe" and "Safe Use of Farm Tractors" make those rules much simpler to understand and more relevant to the occupations.

Hon Tom Helm: Will you table that?

Hon M.J. CRIDDLE: Yes, the "Safe Use of Farm Tractors" guide takes one through the safety features. It points out the basic features about climbing on and off a tractor. The guy I took on recently did not know one should get up on a tractor from the left-hand side. That is because the control knobs are on the right-hand side and if one crosses over the control knobs one can kick or knock something. Modern tractors are different from the older ones; previously if one had a flat battery one could lean across and short it. Those members involved in agriculture would know that if they knocked the gearstick, in a short space of time they would be under the wheel. One of our famous footballers got into trouble in that way.

Hon Tom Helm: So you get on a horse and a tractor from the left-hand side?

Hon M.J. CRIDDLE: Yes. They are simple rules, and that is how easy it is to get into trouble. This guide refers generally to safety precautions. For example, stay in the seat while driving a tractor. In a modern tractor a buzzer will go off if one gets off the seat and the tractor will shut down. However, some tractors will keep going and if the

driver gets off the seat he can slip under the wheel. I heard a story just the other night of a guy letting his tractor roll along in low gear so he could look at the machinery behind. Even experienced people do that in the dark.

Hon Peter Foss interjected.

Hon M.J. CRIDDLE: The Minister was talking about loading bags in the old days. We have all been through that and the result of that hazard is bad back. All tractors must have a rollover protection structure with at least a two post stand and a beam across the top. That is the minimum requirement so that if a tractor rolls over one has a chance of not going under it. The Minister referred recently to a power take off shaft, which is probably the most dangerous item on a machine nowadays. Once they are pushed on they can be left running and one can get off a tractor that is still running. One of the rules should be that a tractor is immobilised before one steps off. That is not always done. The other danger is that sometimes when one sits in the seat, one cannot see over the wheels, so it can block off any view. One must be aware that people are away from the tractor when the engine starts and it is about to move.

This guide also points out one's legal duty to make sure that the regulations are available to people. We talked about tractor maintenance including brakes, steering and exhaust systems and ensuring that motors are stopped before refuelling. All those things need to be taken into account. One should never remove or replace belts and pulleys while the machine is under power. That is a sure fire way to lose a few fingers. I can remember trying to put a belt on while a pulley was moving. A lot of fellows are walking around now without fingers and fingernails because of that.

We often hear people talk about safety in the field. The regulations refer to jacking up a tractor or machine on a cement block or in a stable situation. However, if one's header gets a flat tyre out in the paddock with a full bin of wheat one cannot do that. It is totally impossible. A code of practice must reflect the practical situations that occur in the working environment. There is no doubt it is very difficult. One does need a flat surface and should avoid working alone in that situation. Although we have two way radios now if one is underneath a machine they are no good. It would be advisable to have somebody present when one is jacking up or carrying out any maintenance on a machine. That is advisable, although not always practical. The other thing about jacking up the machine is to do it at the specified design point. It has been designed so that the balance of the machine is taken into account. In my view one needs something in addition to a jack - some boards underneath to ensure it is up, so it will not fall at any stage. The brakes should be on and preferably the machine should be in gear so it cannot move. This guide contains a section on removing wheels and so forth. These are practical situations that should be taken into consideration when people are shifting wheels. Wheels are heavy items and when one starts rolling them around one must be aware that they are not light and that they become very unwieldy and difficult to deal with.

Farm chemicals and their storage has become a big issue of late. I touched on the review of farm chemicals. We have now reached a situation where it is advisable for people who store chemicals to lock them away. Just as ammunition and rifles must be locked away, it is advisable to lock away chemicals and keep them out of reach of children and other people who do not have knowledge of dealing with chemicals. We should certainly look at minimal spray drift, preferably spraying in low winds. A problem can be prevented by using a mechanical suction device to transfer the pesticide into the spray tank. Use of it is essential. The vortex system can pull the spray chemical and water together to allow them to enter the tank as a mix rather than in the concentrated form, to make it much less dangerous. Also, farmers should use the correct filters to ensure that nozzles do not become blocked. People can get the chemical on their hands and make a real hash of the job - I have done it. Sometimes, as Hon Murray Nixon mimics, people put the nozzle up to the mouth to blow it clean.

Hon Derrick Tomlinson: Do not suck!

Hon M.J. CRIDDLE: Indeed. Farmers should make sure all equipment is clean when using chemicals, particularly the protective equipment. Clothing worn when spraying should be washed separate from other clothing. Nothing is worse than sticking that clothing in with the wife's dress or children's clothes.

A few other measures can be included in the code. I have often thought of placing mesh below the tops of silos so people cannot enter the silos. We know that children climb up silos, as occurred in the incident down south. The movement of the grain causes suction, and people can be pulled down quickly. It is a dangerous situation. When grain starts to move, suffocation happens quickly and it is difficult to get out of the silo: When one digs the grain back, it flows back in again. Silos and augers are dangerous. Some people have $30 000 worth of grain pass through the auger, yet they still put their hand in to scrape the last few gains. They are well advised to leave that grain to keep their fingers. However, all the instruction in the world sometimes leads to nothing in that regard.

Other issues arise such as welding and the handling of sheep and cattle. Also, the handling of farm produce can cause problems with backs and posture. Anyone who has lumped superphosphate is aware that it is arduous work, and we must ensure that people carry things in a correct manner.

Shearing is one of the worst jobs I know. Certainly, the back brace has been introduced to the shearing shed. It is often said that the WorkSafe conditions are difficult to manage in these sheds. Sometimes shearers do not want to wear boots. They fly in for the job and are pretty tough. It is not as easy as members might think to tell some of these fellows how to run their handpieces. They need to be educated about the dangers of working without boots, and how to handle equipment. The back brace is used widely, and the handling of sheep is similarly assisted by good yards using new equipment which removes the dangers.

A simple code of practice which encapsulates many things I have mentioned would be far better than a complicated set of regulations. A code would be far more applicable out in the field. The prosecuting authorities must understand that people are trying to make a dollar.

We need to take those matters into consideration when framing a code of practice. Industry groups are certainly looking at developing such a code, but it has been difficult for them to produce a consistent arrangement. As Hon Tom Helm said earlier, it may require the formation of an ongoing committee to develop a code of practice. I do not discount that suggestion at all. It may be a good approach. Government members are more than interested in developing a code of practice. Consideration of the code should be given a run for some time - perhaps a year or two - so some of the problems can be ironed out. We could produce a meaningful code to replace the regulations as they relate to the primary industry, as other industries may want to retain the regulations.

I am aware that transporters of cattle and sheep already have a code of practice, which is a very good idea. By and large, a code of practice will be of great value to the industry and people working within it. I commend the motion to the House and look forward to further contributions to the debate.

HON TOM HELM (Mining and Pastoral) [4.57 pm]: I second the motion. The Australian Labor Party supports a motion of this nature, but believes that some significant amendments are needed to make it a more practical tool to enhance safety in the pastoral industry.

I commence by congratulating Hon Murray Criddle for bringing this issue to the attention of the House. However, I draw to his attention his misconception, and that held by others, that we must make a choice between profit and safety. The international reports and those written in this country indicate a correlation between a safe and a profitable workplace. That fact does not change because we are considering farms and pastoral stations. The view that safety and profit are mutually exclusive is nonsense.

Any workplace, be it a farm or a mine, which is tidy and neat, and something to be proud of, will most likely be safe. We can follow the track set by Hon Murray Criddle and include within regulations educational aspects to enforce safety habits.

One of the reasons that the matter is before the House is the terrible tragedy which occurred in August last year.

Hon M.J. Criddle: I gave notice of it before the prosecution in that case.

Hon TOM HELM: Was it? I am sure it highlighted the matters that Hon Murray Criddle was talking about. Punishment is sometimes an inadequate way of addressing the issues that concern society. There is no way society could punish that farmer any more for what happened than the punishment imposed on him by the circumstances. Everyone feels that anything that can be done to make life safer and easier for the farmers, their employees and their families should be done. It must be understood that profits are not exclusive from safety. Safety has an important role to play and lessons have to be learnt. Sensible attitudes need to be adopted. Things that work within the ordinary work force can and should be applied to those people who work in the pastoral industry or the farming industry.

Motion lapsed, pursuant to standing orders.

[Questions without notice taken.]

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Report on Environmental Protection Amendment Bill 1997

Hon Christine Sharp presented the first report of the Standing Committee on Ecologically Sustainable Development with regard to the Environmental Protection Amendment Bill 1997, and on her motion it was resolved -

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

[See paper No 1562.]

INDUSTRY AND TECHNOLOGY DEVELOPMENT BILL

Report

Report of Committee adopted.

LIQUOR LICENSING AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Max Evans (Minister for Racing and Gaming) in charge of the Bill.

Clause 1: Short title -

Hon TOM STEPHENS: Last night during the second reading debate, I indicated to the House and the Minister that I intended to take the opportunity to discuss with the Minister's senior officer amendments that I believed would ensure that the objects of this legislation as outlined by the Government were achieved by this Bill, particularly with regard to three areas. I thank the Minister for making his officer available to explore that matter.

The first area of concern was whether clause 44 of the Bill was adequate to tackle the issues that flowed from the decision of Judge Greaves in the Woolworths case and whether it was necessary to insert the additional words that I identified to the Chamber last night. The Minister and his senior officer expressed their willingness to explore that possibility and to refer the matter to parliamentary counsel. That process has taken place. Today I received, courtesy of the officer, the response from the assistant parliamentary counsel, which said, in effect, that there are considerable risks in proceeding in the way that I propose, because the amendment will effectively tackle this issue in only one area, and by so doing it will attack the artistry of the Bill and may, therefore, have the opposite effect to what I want to achieve. It states also that the objectives that I was proposing are adequately provided for by the Bill before the Chamber. I was proposing to include in clause 42(2)(c) the words "whether at licensed premises or away from licensed premises".

The response from the assistant parliamentary counsel states -

> It appears to me that the amendment proposed to clause 44 at line 21 is unnecessary. The phrase "minimise harm or ill-health caused to people, or to any group of people, due to the use of liquor" is used in several places in the Bill and I can see no reason why the phrase would be construed as being limited to liquor used on licensed premises.
>
> The amendment proposed may well have the opposite result to that intended. It may lead to argument that the words in section 64 (inserted by clause 44) extend the phrase to outside licensed premises when used in that section, and since those words are not included where the same phrase is used in the long title and objects clause the phrase in those places must be limited to liquor used within the licensed premises. This would be a confusing result, and undesirable as the long title and object clause affect the interpretation of the whole Act.

The long title to the principal Act is to be amended by inserting after the words "sale of liquor" the words "to minimise harm or ill-health caused to people, or any group of people due to the use of liquor".

The Executive Director of the Office of Racing and Gaming responded to that advice as follows -

> As I advised last night, the present draft of clause 44(2)(c) is based on the belief that a "group of people" can be referred to as meaning the community generally and not just individuals at a licensed premises. Of more concern is Parliamentary Counsel's opinion that the proposed amendment may well have the opposite effect to that intended.
>
> In view of the Parliamentary Counsel's advice, I will be recommending to the Minister that the inclusion of the above words not be supported.

Although I fear that this Bill may not deliver the results the Government hopes to deliver, as indicated in the second reading speech, the Minister's response and the correspondence to which I have referred, in view of that advice I will not proceed with my amendment. I do not want in any way to contribute to producing the opposite effect to that which I intended. In those circumstances, I fall back from my intention to amend the Bill in that regard.

However, for the record, if in the process of the administration of this Act in future, my fears are realised with regard to any decisions of the licensing authority, I hope the Government will waste no time in rapidly returning to the Parliament to tackle the section. I hope it will go through the Act from start to finish and insert the appropriate

amendments to guarantee that the decision made by Judge Greaves in the Woolworths case in Derby will not in future limit the effectiveness of this legislation in protecting communities from adverse impacts on their health.

The second reference I made was to packaged alcohol. The concerns I expressed in the second reading debate were allayed during discussions with the executive director. However, in those discussions Hon Mark Nevill identified further issues that are worth tackling, and he will proceed with some amendments. I hope these will find favour with the Minister and the Government. These amendments are worthy of support and should be included in the legislation.

The third issue I raised was Aboriginal communities in remote locations, who are endeavouring to operate under their community by-laws. Again, I ask the Minister to indicate for the record the section of the Act which provides that communities can secure an appropriate licence enabling them to operate in a restricted fashion in accordance with the community's by-laws. That relates to restricted and controlled drinking environments and the like. That section of the Act should be identified, so that when communities want to operate in that way in future they will know the Minister has specifically identified the section of the Act that can be used for that purpose. The officer told me it was the section dealing with a special facility licence. I ask the Minister to confirm that. If that is the appropriate section, it is more than adequate to allay my concerns.

Another matter was raised in the second reading debate, when I referred to a letter received from Frank Chulung of the Aboriginal Legal Service of Western Australia. He said there was a need for harsher penalties within the Liquor Licensing Act, and that action should be taken against any licensee who supplies alcohol to a very intoxicated person or to a minor.

Again, for the purpose of the record, I ask the Minister to identify the section of the Act that enables liquor licensing arrangements to operate in this State to address the concerns of court officer Frank Chulung from the Aboriginal Legal Service in Kununurra. That will enable him to say that the Minister for Racing and Gaming, who administers the Act, believes that a specified section of the Act can be used by prosecuting authorities to protect communities from the flow of alcohol into those communities from licensees supplying alcohol to very intoxicated persons or minors.

For the record, I quote from a letter I have received from the Venerable Raymond Molyneux, Anglican Archdeacon of the Kimberley, based in Broome, who wrote -

> As with many areas of community life, there has to be a balance between the needs of the community as a whole, on one hand, and on the other, the welfare of that proportion who may be harmed by a decision. The question asked "Why should all suffer because of a few?" has two answers:
>
> 1. as a community, we have a responsibility for each other, in particular for those who suffer mental, physical or spiritual harm as a result of a community's decision, and
>
> 2. as a community, the problem of illegal and/or anti-social behaviour by some, has to be dealt with, both for the protection of its members as well as for the perpetrators. This is of course, a two way responsibility between the group as a whole, and the individual within the group.
>
> Therefore, I believe it's imperative that while we have our State law covering the sale and consumption of liquor, each community has the right to ask for the imposition of restrictions where it's considered appropriate for the well being of community members.
>
> I don't accept as appropriate, that it needs only one person to call for an enquiry into possible restrictions. The request should come from a widely representative group so that any decision can be seen to be community initiated, community owned and will be community managed.
>
> It seems to me also, that new liquor licences and extended trading licences are too easily obtained. It should also be borne in mind that what works or doesn't work in one community, doesn't necessarily mean that the same applies in another community. Each must be judged on its own merits and circumstances.

The letter is signed by Raymond Molyneux, Archdeacon from the Diocese of North West Australia in the Broome Anglican Parish. I said during the second reading debate that Raymond Molyneux and his wife Betty-Lou had been most active in my electorate in keeping me onto this issue of the Liquor Licensing Act, and endeavouring to make sure that everything is done to maximise the flexibility of the Act to respond to the needs of the local community.

Hon MAX EVANS: The first point raised by the member was his letter to my CEO seeking an amendment to clause 44(2), to add after the words "group of people", the words "whether at the licensed premises or away from the licensed premises". Parliamentary counsel did what was requested. He drafted an amendment to page 38, line 21 to insert the words. I refer to the letter the Leader of the Opposition has already quoted, to the effect that the amendment as proposed may well have the opposite result to that intended. It may lead to an argument that the words

in section 64, inserted by clause 44, extend the phrase to outside licensed premises when used in that section. Since those words are not included where the same phrase is used in the long title and the objects clause, the phrase in those places must be limited to liquor used within the licensed premises.

The long title on page 1, as amended, will read as follows:

> An Act to regulate the sale, supply and consumption of liquor, the use of premises on which liquor is sold, and the service and facilities provided in conjunction with or ancillary to the sale of liquor, to minimize harm or ill-health caused to people, or any group of people due to the use of liquor, to repeal the *Liquor Act 1970*, and for related matters.

These amendments were considered after dinner last night. Parliamentary counsel put into place his request and put in the warning signs. We want to introduce that. As I said in my speech, we are cognisant of the deep concern members have particularly about Aboriginal areas and the problems in those areas. I want to rectify them.

Section 64(3), particularly paragraph (ba) and subsection (4), on page 132 headed "Power of licensing authority to impose, vary or cancel conditions" covers the requirements of the Leader of the Opposition. With reference to his comments last night, much cooperation is occurring between police, Aborigines and other members of the community in introducing the desired measures. We hope that will be done.

Hon Tom Stephens: Are you about to tell me about the provision of the special facility licences?

Hon MAX EVANS: If the licence they want is not available a special facility licence can be given and certain conditions brought in. That might mean only two cans per person a night can be sold. It would not be quite as prescriptive as that which applies at the Tennant Creek Hotel. We previously had a few problems with the special facility licence.

The Leader of the Opposition asked about the harsher penalties and suggested that action should be taken against a licensee who supplies alcohol to a very intoxicated person or a minor. Section 115(3) of the Act has been amended by inserting subsection (3a) to make it easier to obtain a conviction for selling liquor to a drunken person. Although individual penalties for selling liquor to an intoxicated person or a juvenile have not been increased, the disciplinary penalties available to the Liquor Licensing Court have been significantly increased; that is, a monetary penalty from $5 000 to $30 000. Section 28 has been amended so that no appeal lies against a section of the court to suspend a licence for less than two weeks.

Members may recall that the licensee of, I think, the Bindoon Tavern was charged when a driver was oversupplied with liquor and subsequently had an accident and killed someone. I am not certain what was the penalty. That was even before the change in legislation. I hope Archbishop Molyneux is pleased with that. We are trying to do everything we can. If any other amendments are required we will take some action.

Hon Tom Stephens: Thank you very much, Minister.

Hon TOM HELM: We referred last night to the events unfolding in Newman with Woolworths (WA) Pty Ltd applying for a liquor licence at the shopping centre. I think the Minister mentioned there was an ability to object to a liquor licence where the atmosphere or the use of an area could be changed by the introduction of a liquor licence. In other words, people in Newman are objecting to the liquor licence on the grounds not only that sufficient outlets already exist, but also that the atmosphere of the shopping centre will be altered significantly.

I think I read in the paper about this Government's intention to take young people away from every alcohol related event, particularly in the north west. Almost all sporting events and some music events are associated with drinking. People in Newman are concerned that even a family shopping day can be associated with drinking. The granting of a licence to Woolworths in Newman will be one more threat to an already fragile social fabric.

Hon MAX EVANS: That is a very good comment. A similar problem occurred in Geraldton a few years ago where a Totalisator Agency Board was located on the south side of the town. The Aboriginal people made it impossible for people to move freely in and out of the shops and as a result all the shops were starved. The Aborigines were buying alcohol from the liquor shop down the road and staying outside the TAB shop. The TAB was moved to a PubTab in the Freemasons Hotel. It improved the atmosphere, which is the point the member made.

Section 33 at page 59 of the Act headed "Discretion vested in the licensing authority" contains the provisions we must emphasise. The member made a good contribution on this issue last night and somebody else spoke about Newman. The Act provides that an application may be refused even if the applicant meets all the requirements of the Act. It may also be granted, even if a valid ground of objection is made out. I have no powers over the director.

Clause put and passed.

Clauses 2 to 24 put and passed.

Clause 25: Section 38 amended -

Hon NORM KELLY: This clause gives the Liquor Licensing Authority broad powers in determining the granting of a licence. I refer to new subsection (2a)(a) and (b) and seek clarification on the last two lines where it provides that -

> but the licensing authority may disregard either or both such considerations if it sees fit.

A lawyer involved in the industry referred to the generality of the wording. I am surprised there is any need for those last two lines.

HON MAX EVANS: I am advised that this comes back to the problem we have had on several occasions whereby the judge of the liquor court makes a decision to go to the Supreme Court. This is one which was overruled by the Supreme Court because the judge believed the court - which is a specialist court - should have the power to do what should be done.

Hon Norm Kelly: It is like a double entrenchment of his power to ensure that he has that scope.

Hon MAX EVANS: He can do it; that is what it amounts to. There have been a couple of cases of that happening. The old Act stated that a defence against another liquor outlet was the economic effect on the opposition. That was taken out of the 1988 Act. The judge then made a ruling on this that was overruled by the Supreme Court, which is why he has not tried to fight it again.

Sitting suspended from 6.02 to 7.30 pm

Hon MAX EVANS: I will elaborate on my response to Hon Norm Kelly. Clause 25 inserts into existing section 38 proposed subsections (2a) and (2b). Proposed subsection (2a) provides that when determining the grant of a new category A licence for a hotel, tavern, liquor store, cabaret or special facility, the licensing authority may have regard to the subjective requirements of the public, whether these requirements are reasonable in the circumstances or objectively reasonable, or whether the new licence would be convenient to the public to obtain liquor and related services. Proposed new subsection (2b) provides that the licensing authority shall not grant a liquor store a licence unless satisfied that the requirements of the public cannot be provided by premises already existing in the area.

Clause put and passed.

Clauses 26 to 43 put and passed.

Clause 44: Section 64 amended -

Hon TOM HELM: On behalf of Hon Mark Nevill, I move -

> Page 38, line 23 - To insert after subclause (2)(c) the following paragraphs -
>
> (d) in paragraph (e)(ii) by inserting after "containers" the following -
>
> , or number or types of containers,
>
> (e) in paragraph (e)(iii) by deleting "the times at which" and substituting the following -
>
> the days on which, and the times at which,

The Labor Party is concerned about the decision of Judge Greaves in relation to the previous Act. To help him or other judges define the intention of this Bill, we are asking for the insertion of the words "or number or types of containers". Many people will be aware that there are many types of container in the liquor trade.

Hon Max Evans: The MUA has some problems with containers at the moment, too!

Hon TOM HELM: At the time of some changes to the way in which alcohol could be sold in Halls Creek, one of the liquor outlets said that the agreement allowed him to sell one flagon of wine per customer on a particular day. This retailer was videoed selling a 10 litre cask of wine. Of course, that was not the intention of the agreement. If this amendment is passed and if a case of this sort came before a judge, a definition could be applied. We are also asking for the substitution of the words "the days on which, and the times at which" for "the times at which". This is to allow the community to have a grog-free day, which people in some communities might find a useful exercise. The messages that have been received are not necessarily about prohibition, but about having a greater ability to regulate people's habits so that the harm caused by the excessive drinking of alcohol can be minimised. Members of a community may decide that it is in their interests to have days on which and times at which they wish to be grog-

free; for example, pension days. With this amendment, this ability will be quite clearly defined within the legislation and cannot be interpreted in a narrow way as has been the case in the past.

Hon MAX EVANS: The Government supports the amendment. I thank the three experts - Hon Tom Stephens, Hon Mark Nevill and Hon Tom Helm - for their comments and the work they have done in this area. Anything that can be done to tighten up the provisions for the director will be a good move.

Hon NORM KELLY: During my contribution to the second reading debate, I foreshadowed amendments which I would move if it were necessary. I appreciate the Government's support for the amendment. I understand that the Minister will do everything he can to ensure the Bill's speedy passage through the other place. As I said last night, I intend to do everything I can to facilitate that passage. I will present my foreshadowed amendments in this place in the form of a private member's Bill in the near future. I support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 45 to 51 put and passed.

Clause 52: Section 74 amended -

Hon MAX EVANS: I wish to elaborate on the answer I gave to Hon Tom Helm a little earlier relating to Newman and the shopping centre. I have received further advice. In the blue Bill, section 74 reads -

> (g) that if the application were granted -
>
> (i) undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school, would be likely to occur; or
>
> (ii) the amenity, quiet or good order of the locality in which the premises or proposed premises are, or are to be, situated would in some other manner be lessened;

I refer the member also to page 73 of the blue Bill where section 37(3) reads -

> An application shall not be granted where the licensing authority is satisfied that an undue degree of offence, annoyance, disturbance or inconvenience to -
>
> (a) persons who reside or work in the vicinity of the place or premises to which the application relates; or
>
> (b) persons in, or travelling to or from, an existing or proposed place of public worship, hospital or school,
>
> would be likely to occur.

I will clarify the situation for the member. I offer those grounds to the member to put together a case; and he may wish to talk to my CEO. We will do what we can to help.

I take this opportunity to commend the process of providing a blue Bill. Almost every Minister provides such a Bill for various amendments to legislation. The process began when legislating for the State Government Insurance Commission a couple of years ago, and it helps us to legislate quicker.

Clause put and passed.

Clauses 53 to 98 put and passed.

Schedule 1 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Racing and Gaming), and returned to the Assembly with an amendment.

PUBLIC SECTOR MANAGEMENT (REVIEW PROCEDURES) AMENDMENT REGULATIONS 7 AND 8 1997

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon Ljiljanna Ravlic was moved pro forma -

> That regulations 7 and 8 of the Public Sector Management (Review Procedures) Amendment Regulations 1997 published in the *Gazette* on 2 January 1998 and tabled in the Legislative Council on 10 March 1998 under the Public Sector Management Act 1995, be and are hereby disallowed.

HON LJILJANNA RAVLICH (East Metropolitan) [7.46 pm]: As spokesperson for public sector management it is my responsibility to keep an eye on the Government's policy initiatives in the public sector, and more specifically on what happens to public sector workers. These amendments are all about the further erosion of the conditions and rights of public servants. It has been put to me that the proposed amendments to the regulations can be interpreted in one of two ways. When I propose amendments to legislation or consider clauses in proposed legislation, I do so with the worst rather than the best possible scenario in mind. I consider how a clause may be interpreted by a court or anyone else. If I have a doubt about a clause or think that it could be misinterpreted, it is my responsibility and that of my colleagues to act.

The public sector has experienced major changes since 1993 due to government policies, and much of that change relates to privatisation and contracting out which have had a direct impact on the public sector and its work force. Fewer people are doing more work in the Public Service. Officers have been placed on contract, regardless of the Government's promise not to place them on contracts. The office of the Public Sector Standards Commissioner has been established, and he together with his officers have put in place a number of compliance requirements for the Public Service and the people who work within it. The proposed amendments to the regulations relate directly to that.

All Western Australians are hurting as a result of this Government's policies. The public sector is a prime example of that. We have seen a massive reduction in the number of officers in the Public Service. We have seen reductions in the quality and quantity of that service. The trend is to reduce the number, size and functions of government agencies, and the service to the community generally has been reduced in quality and quantity. I am very keen to ensure that the erosion of Public Service numbers goes no further.

A number of promises were made about the state Public Service when this Government came to office in 1993 and the Premier was reported in *The West Australian* of 9 January 1993 as saying that while the coalition would privatise some government services and contract others out, there would be no wholesale reduction in the public sector work force. That was a real furphy because we have seen between 12 000 and 15 000 public sector jobs lost. The Premier also said in a 1993 policy that true public servants would have nothing to fear and much to celebrate. The Premier was also quoted in *The West Australian* on 23 December 1992 as saying -

> Workers should have a choice of staying in an award or making an agreement with their employer.

Quite frankly things have really changed. I draw to the attention of the House what has happened in the state public sector because I think the amendments to the regulations are a further erosion of the conditions of state government employees. The first thing I highlight is the drop of employment levels in the state Public Service. They have gone from 97 298 full time equivalent employees at the change of Government in June 1993 down to 88 509 FTEs as at June 1997. It is a substantial drop; that is a drop of 8 789 FTE positions. That is in response to a Government that said that state public servants would have nothing to fear as a result of its policies.

Hon Simon O'Brien: Have those drops occurred in any particular areas or are they across the board?

Hon LJILJANNA RAVLICH: I think they are pretty much across the board. It is shedding staff; a lot of it is has occurred because the Government has privatised and contracted out services, and in doing so has had to shed staff to achieve that policy outcome. Most government agencies also have had a substantial drop in staff. In the year 1995-96 to 1996-97, the Auditor General's Office has had a drop in staff of 5 per cent while we have seen the Office of Premier and Cabinet increase its staff by 5 per cent.

An interesting trend in the Public Service is that permanent full time jobs seem to be a thing of the past. I refer to a document entitled *Public Sector Management Office Profile of the Western Australian State Government Workforce 30 June 1997.* Jobs are less secure and there has been a substantial drop in permanent jobs and a substantial increase in the number of non-permanent jobs. In 1993, 81 per cent of state Public Service jobs were permanent compared with 19 per cent that were non-permanent. By 1997, those figures were 72 per cent permanent and 28 non-permanent jobs. We can see a trend emerging and it does not look good for state public sector employees. Many of them are continuing to express concern about their future employment prospects. We have seen an increase in the number of non-full time jobs while full time jobs have decreased from 76 per cent in 1993 to 66 per cent in 1997. Full time

permanents have decreased from 70 per cent in 1993 to only 57 per cent in 1997. There have been major staffing cuts across the board. Some government agencies have had the axe put through them. At Westrail, for example, the percentage change to the reduction in average staffing levels has been 60 per cent. The Fremantle Port Authority has had a percentage change of minus 49 per cent from 1992-93 to 1996-97. The Ministry of Sport and Recreation has had a drop of 12 per cent during that same period.

This is obviously impacting in a range of ways on state public servants because we now see the emergence of high overtime payments. We see higher duty allowances and higher penalty payments for those people who are left in the state Public Service, which is a really problem in itself. When we do not have enough people in the state Public Service, people cannot or choose not to take their leave entitlements, which creates a problem because it adds to the leave liability of the State as projects need to be done on time to a cost, et cetera. In order to get those particular outcomes, we find that the Government is forced to pay higher duty allowances, penalty and overtime payments to get the work done.

I am concerned about this and I am not convinced that Western Australian taxpayers are convinced that this is the best way to go. When I look at the rate of payments for higher duty allowances, overtime and penalty payments, there is a strong argument which suggests to me that we might be better off increasing the number of people working in the public sector. In the office of the Public Sector Standards Commissioner, the total cost of higher duty allowances, overtime and penalty payments and other allowances is $10 658 per full time employee. That is really a substantial sum of money. Likewise, Westrail employees are being paid on average an additional $10 681 in higher duty allowances, overtime and penalty payments and the like. We need to ask why such big overtime payments are being made and why the Government is not employing more people in the state public sector, particularly young people. I will keep on about this because I think this is a very regressive state government policy. It is not in the interests of the Western Australian taxpayers or young people who are currently unemployed and looking for job opportunities. Once upon a time the public sector provided job opportunities at the entry level; however, they no longer exist. We also have insufficient public servants, and because of the insecurity of the state Public Service vis-a-vis job availability, we find that existing public servants are not clearing their leave, and they are not doing that for a couple of reasons. Senior public servants are saying that if they go on leave, there is nobody to do the work for them, so they hang around. We also find that the skills base does not exist to allow us to replace the more senior members in the state Public Service. The demographic composition of the state Public Service shows that a lot of public servants are in the 45-plus age bracket, which creates a real problem. Leave liability is close to the $1b mark and it has almost doubled since 1993. I do not think that reflects well on the State Government's ability to deal with some of the issues in the state Public Service.

The fundamental issue about the accrued leave liability is that people are not secure about their conditions of employment, and because they are not secure in their job many of them think that if they take leave, by the time they get back it is likely that the department will be restructured and they will not have a job to come back to. We find people hanging in there and accruing their leave. They are doing so because half of them believe that in due course they will be made redundant, so they might as well take their leave as a lump sum with their redundancy payment. All sorts of problems emerge as a result of the way in which the Government is administering the state public sector.

Public servants do not trust this Government. They have seen an erosion of their working conditions and rights.

Hon Bob Thomas: Who does?

Hon LJILJANNA RAVLICH: Nobody! However, 15 000 ex-public servants who are now floating around once upon a time had a job and they definitely do not trust the Government, and those who are in the Public Service - meagre as the number is - fear for their job security. One has only to read the announcements about the further shedding of staff at Westrail, for example, where a further 2 000 jobs are proposed to be chopped by the Government. The future for most public servants is grim. Public servants feel betrayed, because they have been betrayed. It is up to the Government to demonstrate that that is not the case. However, it knows as well as I that it has betrayed state public servants.

Prior to this Government coming to office members opposite were vocal about workers having a choice between staying on the award and making an agreement with the employer. However, state workers have lost their award option. In fact, an article in *The West Australian* dated 24 March 1998 reports -

Hon E.J. Charlton: Do not quote *The West Australian;* tell us what you think.

Hon LJILJANNA RAVLICH: I think the Government has done a lousy job in the state public sector. It has not delivered any of the dividends it promised to Western Australians.

Hon E.J. Charlton: We value what you say.

Hon LJILJANNA RAVLICH: I am saying that 15 000 people who once had a job in the state Public Service are now without a job.

Hon E.J. Charlton: They have real jobs.

Hon LJILJANNA RAVLICH: They do not have full time jobs; they might have part time jobs.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! Hon Ljiljanna Ravlich will address the Chair and other members will not address the House.

Hon LJILJANNA RAVLICH: The implication is that state public servants are not performing a real job. The Minister for Transport said, "They have real jobs" and that is on the record.

Hon E.J. Charlton: I said they have real jobs now.

Hon LJILJANNA RAVLICH: They do not trust this Government because it does not value them. That is the bottom line. If the Minister wants to hear what I say, that is it. They have been deceived and lied to by the Minister and they do not trust him; and why should they? The bottom line is that the Government offered a range of protections; it gave the workers some candy and the minute they came close it dismissed them. The article reads -

> New public sector employees will be employed on workplace agreements and not offered the option of an award, Labour Relations Minister Graham Kierath had confirmed. Unions are angry with the policy . . .

What gets me is that this was after the Government made a range of promises about public sector workers and Western Australian workers having choices. However, the minute this lot got into government the choice was taken away from public sector workers, good workers. I happen to have worked in the state public sector and I was no slouch then or now. I put that in for the record. The bottom line is that the perception of the Government, as was indicated by the Minister for Transport, is that public servants are not in real jobs. It is no wonder the Government dismisses public sector workers and feels it can take them out of their positions and do as it will with them. If the Government has such little regard and respect for its employees, of course it will do whatever it wants with them. This is an appalling admission by this Minister for Transport. It is no accident; that is how he feels. That is why the Government has lost the confidence of state government employees. Because state public servants do not trust this Government, and I do not trust this Government, I see these regulations as important - they may not be a huge thing in some people's minds - because they represent a further erosion of the power of public servants to get a fair go, to be heard, and to appeal against bad decisions. For that reason I am making a case on behalf of the workers in the state public sector.

Hon E.J. Charlton: They feel shortchanged.

Hon LJILJANNA RAVLICH: Employees in the Department of Transport would feel particularly shortchanged with Hon Eric Charlton as their Minister. The annual compliance report of the Commissioner for Public Sector Standards is about public sector standards. For the record I will outline the standards that have been established for recruitment, selection and appointment, transfer, transfer procedures, secondment, performance management, redeployment, termination and discipline. The only aspect in which the Government fares well is in the process of termination. That is probably because it has had so much practice in terminating people's employment that it has got it down to a fine art. The 1996-97 review findings involved a range of 28 public sector bodies employing a total of 42 000 people. It does not cover the whole public sector but it gives a reasonable indication. Page 6 of the "Annual Compliance Report 1996/97" states -

> The agencies reviewed . . . include a broad spectrum of public sector activity and reflect wide employment categories.
>
> . . . Performance Management was the Standard least frequently met by the 28 agencies.

This Government is all about performance and performance outcomes. It has set a range of standards and at the end of the day it was least frequently met by 28 of the agencies. In fact, the report looked at only 28 agencies, so it is not an impressive record. It states that in some instances either no performance management system existed or it applied to a limited number of staff. Recruitment, selection and appointment also produced numerous problems with compliance. The transfer, secondment, redeployment and discipline standards showed little compliance, and many of the agencies reviewed had cases in 1996-97 on which to assess complaints.

The report reveals that across the board, agencies are meeting only half the standards set, with performance management standards being the standard which is least met.

We find many breaches of these standards across the public sector. This amendment relates directly to public servants' perception that when a breach of the standard has occurred, they want to appeal or have that breach

investigated. We find that, of a total of 221 applications for review of the standards, 183 related to recruitment, selection and appointment; and breaches were established in 46 of those 183 cases.

A number of issues emerge from the report from the Commissioner for Public Sector Standards. First, the Government must lift its game in the establishment of standards. I suspect it has established the Public Sector Standards Commission and outlined the standards, but has not resourced the departments so they can work towards standards compliance. It is a problem. It is not hard to believe that resources are not diverted to ensure that standards are met when the Government spends such little time checking multi-million dollar contracts and such matters. A workable appeal mechanism is needed so that if public servants feel that standards are not met, they can appeal the decision.

I draw the attention of the House to the Western Australian Education Department which probably typifies the situation across the Public Service. Standards relating to the recruitment, selection, appointment and transfer are critical for teachers and public sector workers in education. If public servants feel they have not had equal opportunity in the recruitment, selection, appointment and transfer processes, or they feel cronyism is involved and people are transferred or appointed unfairly in preference to them, problems arise.

The Education Department alone had 62 applications lodged for review of the recruitment, selection and appointment standards in 1996-97, of which 18 breaches were established. With transfers, 28 applications were lodged for review, and five breaches were established. In a total of 95 cases, 27 breaches were established and 68 were not established. A correct process is fundamental to giving public sector workers a fair go and equal opportunity in standards of recruitment, selection, appointment, transfer and performance management. The amendment regulations work against that notion of a fair go.

New regulation 7 amends principal regulation 8 so that a person must now demonstrate the material effect of a breach of standards compliance. Under the original provision, a person could apply to have the case reviewed without necessarily proving that he or she was materially affected by the breach of the standard. New regulation 7 will make it more difficult for public servants to have their applications for review acclaimed as a breach of standards compliance.

Also, new regulations 8(3) and (4) shorten the time in which a public servant can lodge a breach from 15 days to seven days. Having been a public servant, I know that at times it is hard to find the time to put together a case for review. The amendment creates a rather unrealistic expectation that such preparation can be achieved in seven days.

I understand that the Government made the amendment because it wanted the Act to be consistent as reference is made to seven days in all other provisions. A problem arose with the original drafting of the legislation as it should have given public servants 15 days to lodge an application for appeal. The Australian Labor Party will not cop amendment regulations 7 and 8(3) and (4), which will shorten the period for appeal lodgment. Further amendment to regulation 8 will not allow any employer the discretion to allow a claim to be lodged after seven days. That provision causes the Labor Party some problems as the original provision allowed such discretion. The Labor Party will not allow any further erosion of rights of public servants in their entitlements to seek review for breaches of the public sector standards. The amendments before us tonight would see those rights restricted.

As opposition spokesperson on public sector management, I find these amendment regulations unacceptable. I sought advice on them, and I may have misinterpreted that advice; however, I thought that one could not make amendments to regulations in disallowance motions, and I did not seek to amend these regulations. I understand that Hon Helen Hodgson received different advice - which is fine - and she proposes to move a number of amendments to clarify the situation. The amendments will also address the concerns raised by the Australian Labor Party on those two key issues; namely, aggrieved people needing to demonstrate that they are materially affected by a breach, and the seven versus 15 days lodgment period.

I could have played politics on this issue, but I do not intend to do so -

Hon N.F. Moore: That is not like you.

Hon LJILJANNA RAVLICH: - as I am about seeking positive outcomes. The Minister should not talk to me; I found in *Hansard* that he called me a silly girl last night. I was almost flattered to be called a girl when I am in my 41st year; the Minister almost did me a service!

Several members interjected.

Hon LJILJANNA RAVLICH: I did not like the silly part - that was rather base.

Hon N.F. Moore: I withdraw the girl part.

Hon LJILJANNA RAVLICH: It is the best we can expect from this Minister.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order, members! Control yourselves.

Hon LJILJANNA RAVLICH: I expect him to hush up. I do not want to find any surprises in this speech when I read it tomorrow, thank you very much. The point is that I moved to disallow these regulations because I did not think they were in the best interests of public servants. I followed through in relation to that. I am pleased that Hon Helen Hodgson drafted a form of words that I find satisfactory, although she has either sought and received different advice or has interpreted the advice differently. The Labor Party will be supporting those amendments.

HON SIMON O'BRIEN (South Metropolitan) [8.20 pm]: From my year in this House I can say fairly that at least 50 per cent of disallowance motions which proceed to debate emanate from the Joint Standing Committee on Delegated Legislation, of which I am a member. This is not such a disallowance motion. It has been moved by Hon Ljiljanna Ravlich as a private member. I will comment on a couple of aspects relating to disallowances in general and this disallowance in particular, including the references that have been made to amendments we might anticipate from another member.

I draw a couple of things to the attention of members. The Public Sector Management (Review Procedures) Amendment Regulations 1997 were gazetted on 2 January 1998. I believe they contain some 16 clauses. This disallowance motion looks only at clauses 7 and 8 of those amendment regulations. In turn, these affect regulations 8 and 9 respectively of the principal regulations. This is a selective disallowance; it does not relate to all of the amendment regulations which were gazetted on 2 January. The first thing that members need to consider in addressing this selective disallowance is whether it is practicable to chop out the new regulations that Hon Ljiljanna Ravlich has identified, while leaving the rest. To give an example, the regulations which have not been subject to disallowance include an amendment to regulation 3 of the principal regulations to insert a definition of compliance requirement. There are several other provisions which relate to other existing regulations. One would hope that the selective disallowance of the key aspects of these two regulations would not create an absurdity in interpreting the regulations as a whole.

Hon Ljiljanna Ravlich: I do not think so.

Hon SIMON O'BRIEN: Let us hope not. There is a way, I think -

Hon J.A. Scott: They can always redraft them.

Hon Ljiljanna Ravlich: Yes, redraft them.

Hon SIMON O'BRIEN: It is better if the need to redraft due to ambiguity or absurdity in reading or lack of understanding in the plain English reading of the regulations does not arise from any action that the Parliament takes.

It has been suggested that members might anticipate some amendments. I am pleased to see Hon Helen Hodgson in the House because I know that she is interested in this matter. In looking specifically at some of the concerns that have been raised I do not have any strong feelings -

Hon Ljiljanna Ravlich: Then why are you speaking?

Hon SIMON O'BRIEN: I am trying to contribute a bit of understanding of some of the points Hon Ljiljanna Ravlich raised about the nature of disallowance as opposed to amendment and how we go through it.

Hon Ljiljanna Ravlich referred to the first of the regulations to be amended after an extensive preamble on her views of the nature of the state Public Service today. I think it is correct to say that Hon Ljiljanna Ravlich objects to inserting the words "or to be materially affected by" in regulation 7(3) amending regulation 8. We are then starting to use the term "breach of a compliance requirement of a public sector standard" instead of just "breach of a public sector standard". That new term "compliance requirement" is built in and I do not think it is in itself a problem, but I did think -

Hon Ljiljanna Ravlich: Would you think "materially affected" was a problem if you were a public servant?

Hon SIMON O'BRIEN: No. The reason is that the key words there are "or to be materially affected", so the initial provision that Hon Ljiljanna Ravlich wanted to see preserved would be. If we allow the semantic change of the new term "compliance requirement", it would read -

> . . . be a breach of the compliance requirement for a public sector standard.

That is still there but inserted in the middle is -

> . . . be, or to have been materially affected by, a breach . . .

From 2 January, if someone was affected by a breach they had the basis of a claim but now they would also have a claim if they felt they had been materially affected by something. If anything, I think it is a fairly semantic change but I certainly do not believe that it reduces an employee's protection or entitlements. It certainly does not to the extent that we ought to put a spoke in the wheels of the drafter and sponsor of these regulations by disallowing this part of the regulation.

Hon Ljiljanna Ravlich: If it does not make any difference, just support the amendment.

Hon SIMON O'BRIEN: It does make a difference because other matters are included and members do not want to be throwing the baby out with the bath water. The member expressed some problems with the new terms of regulation 8(3) and (4). Regulation 8(3) has reduced the time within which a claim may be lodged from 15 days to seven days. Hon Ljiljanna Ravlich said that that was a contraction of the time opportunity for a claimant to lodge a claim. That is true, although I do not know that it has been demonstrated that it is a material reduction in the claimant's capacity to lodge a claim, for a couple of reasons. I cannot ascertain whether seven or 15 days is the appropriate time. I do not see why someone interested in a decision, or who is affronted by a decision, or claims to be materially affected by some sort of breach of a compliance requirement, would not know about that from day one or certainly from day one through day seven just as he would know from day eight through day 15. If they were not aware of that for some legitimate reason, did not act because they were not aware of it or were prevented from acting, new subregulation (4) provides -

> An employing authority may accept a claim lodged after the expiry of the 7 days referred to in subregulation (3) if the authority considers that, in all the circumstances, it is just and reasonable to do so.

I do not believe that any or all of that -

Hon Ljiljanna Ravlich: Have you seen the amendment to regulation 8(3), which refers to an employing authority not being able to accept a claim?

Hon SIMON O'BRIEN: I think it is regulation 8(4). The member is referring to new regulation 9 under the amending regulation and the parts she wants to disallow, but they affect regulations 8 and 9 respectively. I am referring to the first regulation. I do not believe that a material disadvantage is created by these changes.

I refer to the new terms of regulation 9. I call it regulation 9 under the principal regulations because these new amended regulations will not come into force when we have concluded this debate: They came into force on 2 January this year, when the regulations were gazetted. Is the member moving the disallowance aware of any situations in the past three or four months where the regulations have disadvantaged anyone? One benefit we have from reviewing regulations some time after they have been gazetted is that they have been in operation for some time.

Hon J.A. Scott interjected.

Hon SIMON O'BRIEN: They were gazetted on 2 January 1998, so they have been in operation from then until now.

Regulation 9 as amended, as Hon Ljiljanna Ravlich has pointed out by interjection, has a subregulation (3) that refers to an employing authority not being able to accept a claim to which this regulation applies if it is lodged after the expiry of the seven days referred to in subregulation (1). However, this refers to something else.

The first regulation we are dealing with - that is, the existing and current regulation 8 as amended - refers to a review of a breach of public sector standards. However, regulation 9, for which there is a definite seven day cutoff - I am sure in extreme circumstances something else could happen - refers to claims by unsuccessful applicants for a vacancy in a department or organisation; that is, appeals against non-selection or non-promotion.

Hon Ljiljanna Ravlich: The bottom line is that surely it is a better opportunity for public sector workers to appeal within 15 days.

Hon SIMON O'BRIEN: Yes.

Hon Ljiljanna Ravlich: Then there is no argument.

Hon SIMON O'BRIEN: Yes there is. If we were to give them six months to appeal -

Hon Ljiljanna Ravlich: I am happy to support that.

Hon SIMON O'BRIEN: From the point of view of a disgruntled officer who is an unsuccessful candidate and a possible appellant, that would be great. However, it does not provide any certainty for the department or employing authority to get on with the new arrangements after people have been selected, nor does it provide any security for the successful applicant.

Hon Ljiljanna Ravlich: The appointment of senior public servants takes a lot longer. It took a year to secure the appointment of Neil Bartholomaeus.

Hon SIMON O'BRIEN: This is not something about which to get hot under the collar.

We are referring to situations where the appointment or promotion processes - consideration of criteria, advertising for suitable applicants, writing of reports, making of recommendations, reviewing of the committee's recommendation by the delegate and so on - have already happened. The final decision is then made and all concerned are interested in the result. If they find out they are unsuccessful and they believe that they have grounds for appeal, they have a period in which to lodge that appeal.

Hon Ljiljanna Ravlich: Seven days.

Hon SIMON O'BRIEN: Yes. I will be interested to hear from the Minister or any other members who have knowledge of the state civil service procedures whether a complete claim under this regulation must be lodged within the seven days or simply a notice of intention to appeal -

Hon Ljiljanna Ravlich: It is a claim.

Hon SIMON O'BRIEN: - with the supporting documentation being lodged later. Of course, once a claim is lodged it takes some time for due process to occur. The intention is to help speed up that process.

Hon Ljiljanna Ravlich: Of course it is, but it is to the detriment of state public servants.

Hon SIMON O'BRIEN: These regulations cannot be seen to be disadvantaging officers serving in our state civil service. A claim that that is the case would appear, at face value at least, to be spurious. I would be interested to know how the honourable member could possibly sustain such an allegation. That is not what we are talking about. This is not about wild claims: It is about putting together a procedure that will allow claims against suspected breaches of the compliance standards and enabling those matters to be concluded. That is one reason I do not think we should be taking out selected amended regulations while leaving in the rest.

I refer members to the amendment of part of a gazetted regulation. I must admit that I was a little uncertain about what Hon Ljiljanna Ravlich was telling us we might anticipate. Incidentally, if any clarifying remarks can be made by interjection I would be more than happy to receive them.

When subordinate legislation is laid before the Parliament it can be disallowed in its entirety or selectively disallowed, as is the case with this legislation. However, there is a limitation; that is, making an amendment, for example, changing the period of seven days to 15 days, 21 days or whatever else we may seek to do. The answer is to lodge a motion to amend, which would then be required to pass both Houses.

I may stand corrected on this procedural matter, but in order to pass through both Houses we need the current amended regulations intact. If we did not have the amended regulations 8 and 9 before us we could not amend them because we would amend the old regulations 8 and 9. I do not know how well they would fit in with amended regulations 3, 10, 11, 13, 14, 15, and all the rest of it. Therefore, I suggest that perhaps the best way to deal with this matter is to withdraw this disallowance motion after debate and then explore the possibility of amendment by subsequent action. In the meantime it might also help the House if we could research how these new regulations have been working since 2 January. I hope that I have not overexcited the House in addressing this riveting subject at such length, but I offer those observations in a constructive spirit!

HON J.A. SCOTT (South Metropolitan) [8.42 pm]: I have some concern about these regulations, particularly regulations 7 and 8, which are regulation 8 amended and regulation 9 amended. My concern is principally to do with the time frames. Hon Simon O'Brien did not seem to be concerned about their being shortened. He said that the regulations are not targeted at disadvantaging state public servants. I am pleased to hear that. I am sure that if we work to improve the regulations in order to help them, he will work with us.

Regulation 7 is regulation 8 amended. My concern is that in many cases where there is a breach of the Act, sometimes the effects can be so serious and upsetting that people need time to think about their position. I will give the example of the chief executive officer of the Ministry of Justice, Gary Byron. He was pressured to get rid of one of his people and ended up having to make the moral decision of resigning from his position.

Point of Order

Hon SIMON O'BRIEN: Hon Jim Scott is now touching directly on a matter before a standing committee of the House. I refer to committee deliberations. I seek your advice, Mr Deputy President, as to whether we should be canvassing it as an example. Perhaps we should look for other examples because that committee has not yet reported.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): I do not think that there is a direct consideration of a matter before a committee, so I rule that there is no point of order with regard to the example.

Debate Resumed

Hon J.A. SCOTT: I will not go into the whys and wherefores. It involved very serious consideration for that man to the point where he considered giving up his top level job on a point of principle. That sometimes takes more than a week to think about. I can think of examples in a number of other areas. A similar thing happened in the Health Department where the second in charge, Mr Paul Solomon, was given marching orders on the instructions of the Minister, which was a breach of the Public Sector Management Act. We ended up with a very big inquiry into that whole matter. At the end of the day the reason that matter was investigated was that a whistleblower gave me information and I asked questions in Parliament.

The Government may choose to see that such breaches are handled in that way and that its dirty linen - that case did involve the Hospital Laundry and Linen Service - is dragged across the public stage. Maybe the Government would prefer that, but it would be better for the Government if such matters were handled in a proper and regulated way which gave appropriate opportunity for people who are put in very serious positions to have the chance to make a claim of a breach. Quite often people do not lightly dash in and do such things off the tops of their heads. On some occasions, such as the two I have pointed out, they are taking on Ministers. A number of Ministers may be involved in each case. For any person in the Public Service, I would imagine that is quite a daunting task and not something that they would do without talking to a number of people in order to get advice and so on. They would need a minimum of 14 days - seven days is not enough. I can think of another whistleblower who complained about the Ministry of Justice and the showing of pornographic movies. That person is now at home considering her position and unable to work in that department because of the inaction of the Minister and others in this matter.

Hon Simon O'Brien: None of those examples is really what we are dealing with here today, which is regulations for grievance provisions or the provision of appeals about promotion. You have referred to sexual harassment and pressure on a CEO and that sort of thing.

Hon J.A. SCOTT: I am referring to a breach of compliance with the standards of the Public Sector Management Act. The Act provides that a Minister cannot interfere with any appointments, sackings or whatever.

Hon Simon O'Brien: These provisions will not relate to Gary Byron or Paul Solomon. They involve an internal grievance.

The PRESIDENT: Order!

Hon Simon O'Brien: I am trying to help, Mr President.

The PRESIDENT: I am trying to help too!

Hon J.A. SCOTT: The reality is that there are many serious examples where people will need longer to consider these matters. On many occasions it takes more than a week for people to seek maybe legal advice and find out precisely what are the requirements under the Acts and regulations by which they are guided and with which they have to comply. Not everybody has those matters stored away in their knowledge banks.

With regulation 8 we were talking about the breach of compliance with standards for an appointment. Hon Simon O'Brien said, and it sounded reasonable on one level, that if we have a longer period the new employee in the department will be upset because of his or her position in getting on with the job. That would occur only if there were some breach. If the person knows that there has been no breach and he or she has followed compliance standards to the letter, that person should have no concern whatsoever and be able to get on with the job. Only in cases where they are guilty will they have problems. What we are doing here is pressuring people to come forward before they have their facts straight. For a lot of people that will be a very important occasion.

I believe that seven days is not quite long enough. Although I agree that six months is beyond the bounds of reasonableness, people will need reasonable time to get advice and to think about whether it is worth going through all the hassle, because these regulations will create problems for people and it will not be a matter with which people can be easily at peace.

I look forward to the amendments that have been proposed by Hon Helen Hodgson, because I believe they will make a considerable and important difference to these regulations and provide a much fairer opportunity for public servants. I do not believe they will cause any real problems for the department. After all, it was 14 days previously, and they managed to live with that, and although 21 days would be a better proposition, that would start to be a bit tenuous.

Hon Simon O'Brien: How long is a piece of string?

Hon J.A. SCOTT: That is right. On some occasions, that will be enough, but on other occasions people will need time to get advice and to think about their position. I will wait to hear from Hon Helen Hodgson before I decide my full position.

Debate adjourned, on motion by Hon Muriel Patterson.

ACTS AMENDMENT (GAMING) BILL

Introduction and First Reading

Bill introduced, on motion by Hon Max Evans (Minister for Racing and Gaming), and read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Racing and Gaming) [8.56 pm]: I move -

That the Bill be now read a second time.

The Acts Amendment (Gaming) Bill 1998 is premised on the recommendations, outlined in my June 1996 report to Parliament, of the review of the Gaming Commission Act and the Casino Control Act. Members would be aware that section 115 of the Gaming Commission Act required the Minister to carry out a review of the operation and effectiveness of the Act, as soon as practicable after five years of its coming into operation. The terms of reference of the review of the Act also required an examination of the Casino Control Act because the commission is responsible under the Gaming Commission Act for the administration of the Casino Control Act. My report provided a comprehensive range of recommendations, all of which were incorporated in the report to Parliament.

The objects of the Gaming Commission Act are to administer the law with regard to gaming in Western Australia, including maintaining the integrity of gaming in the interests of the community and containing the social cost of permitted gaming. In accordance with the above objects, the Bill introduces some important changes to control and regulate gaming in Western Australia.

The Bill amends the Casino Control Act and the Gaming Commission Act to provide for the deposit, into a trust fund, of unclaimed winnings emanating from permits issued under the Gaming Commission Act - for example, bingo, lotteries, two-up and gaming - and unclaimed winnings from the casino pursuant to the Casino Control Act. Where winnings are not claimed within a 12 month period, the commission may direct the casino licensee or permit holder to take steps to locate the winner. If a further period of two months elapses without the winner being located, the liability to pay the winnings is extinguished.

The Bill provides for the payment of moneys from unclaimed winnings that have been deposited into the gaming community trust fund, to be administered by the gaming community trust. The intention of the trust is to advise and make recommendations to the Minister on the distribution of unclaimed winnings for the benefit of the community.

The Casino Control Act prohibits the chief casino officer or a government inspector from gambling at the casino, including for a period of 12 months after relinquishing the position. However, neither the Casino Control Act nor the Gaming Commission Act prohibits a member of the commission, or other persons appointed under section 9 of the Casino Control Act, from gaming at the casino. Due to the functions performed by commission members, gaming at the casino may be seen as a conflict of interest, and, consequently, commission policy has been that members do not gamble at the casino. To ensure there is no perceived conflict of interest, the Bill prohibits members of the commission and all persons appointed under section 9 of the Casino Control Act from gaming at the casino during the period of their appointment.

I turn now to amendments specific to the Casino Control Act. Neither the Casino Control Act nor the Gaming Commission Act provides for the protection of its officers for any act carried out in good faith. The Bill provides protection to a person who is an officer of the commission for anything that the person has done in good faith in the performance of a function under the Casino Control Act or the Gaming Commission Act.

The Casino Control Act presently details the process for the Minister to enter into an agreement for the construction and establishment of a casino complex. However, the opportunity has been taken to update provisions, in light of the experience of other States that have issued casino licences since the Burswood Resort Casino licence was issued in 1985. The commission will, before the Minister enters into a casino complex agreement with a public company, conduct investigations to inform itself of the suitability and financial status of the public company and each close associate of the company. The commission must also address the reputation, financial status and capacity of persons concerned in or associated with the conduct of the gaming operations of a licensed casino.

The Bill also empowers the Minister to require a "close associate" of a public company that is a casino licensee, or with which the Minister has entered into a casino complex agreement, to divest any interest in a public company if the close associate is found to be of an unsuitable character. In directing the disposal of any interest, the Minister is required to ensure procedural fairness and the orderly disposal of the interest.

The Act currently limits the playing of authorised casino games to within the casino licensed area as determined by the commission. The Bill provides the commission with the flexibility to alter the casino licensed area for the playing of one or more specified authorised games within the casino complex. For example, keno runners may be permitted to operate outside the licensed casino area, but within an area of the complex specified by the commission.

Under section 21B of the Casino Control Act the Minister may, with the prior approval of the Governor, suspend or revoke a casino gaming licence. However, there is no power for the Minister to take any other action in the event of an adverse finding which may not warrant suspension or revocation. Consequently, where the breach is not serious, no action is taken in preference to suspension, or, in extreme circumstances, revocation. The Bill provides for the Minister, with the prior approval of the Governor, to impose a fine not exceeding $100 000 as an alternative to suspension or revocation of the casino gaming licence.

The Bill amends schedule 2 of the Act to provide the commission with the power to make regulations in relation to disciplinary action against casino employee and key casino employee licence holders. The disciplinary action may range from a letter of censure, to the imposition of a fine of $1 000, to suspension or cancellation of the licence.

The Act currently makes it an offence for a person under the age of 18 to enter and remain in the casino. However, no offence is committed if the juvenile is found gaming in the casino, or if a minor wins while gaming in the casino, nor is the person obliged to return the winnings. The Bill creates an offence if a person under the age of 18 participates in gaming at the casino and allows for the forfeiture of any winnings by the juvenile. A penalty of $1 000 has been included for a person convicted of this offence. In addition, the Bill provides for the casino operator, an officer of the commission or a police officer to request a person who is suspected of being under the age of 18 to provide evidence of age. Where false proof of age is provided, the Bill creates this as an offence, and a penalty of $1 000 will apply. The Bill also creates an offence if a casino licensee, or any other person concerned in the organisation or management of casino operations, permits a person under the age of 18 to participate, as a player, in any game at the casino. A new penalty of $5 000 has been included if the casino licensee is convicted of this offence.

To reduce the need for costly prosecutions of minor offences through the courts, the Bill makes provision for the issue of infringement notices for prescribed minor offences.

There is currently no legislative requirement for junket operators, who bring high roller gamblers to the casino, to be approved by the commission. Using its powers under section 24 of the Act, the commission has issued a direction requiring all junket operators and their representatives to be approved by the commission. However, there is some doubt about the legality of using a direction to enforce a practice not envisaged by the legislation. The Bill provides the commission with the power to make regulations in respect of the approval of junket operators. This will make the licensing procedures more public and subject to the scrutiny of Parliament.

The Bill also provides the commission with the power to make regulations regarding internal controls and administrative and accounting procedures that apply to gaming operations at the licensed casino. As with junket operators, the internal controls and administrative and accounting procedures are currently regulated by the commission through the issue of directions, under section 24 of the Act.

The Act presently gives the casino licensee unfettered control over who may enter and remain in the casino and empowers the casino licensee, by notice in writing, to prohibit a person from entering and remaining on the licensed casino premises. However, the Act does not provide for any appeal. The commission has issued a direction under section 24 of the Act allowing persons who have been barred to have the barring reviewed by the commission. Rather than relying on the issuing of a direction, the Bill provides for a barring to be reviewed by the commission.

The Gaming Commission Act provides a mechanism for the commission to require a person to obtain a certificate for the purpose of selling, supplying or repairing prescribed gaming equipment. However, the Casino Control Act does not have such a provision, and the commission, for consistency, has issued a direction under section 24 of the Casino Control Act, directing the casino not to obtain any gaming equipment or instruments of gaming without the approval of the commission.

The Bill requires that the casino licensee shall not enter into a "controlled contract" for the supply of goods or services to the Burswood Resort Casino or any other matter that is prescribed as a controlled matter unless the commission has not objected to the contract. The commission is obligated to investigate the contract within 60 days of being notified and may extend the period of investigation depending on the complexity of the contract, but it must

complete the investigation within a period of six months. The Bill also provides for the termination of a controlled contract with no liability against the commission or the Crown.

I now turn to the Gaming Commission Act 1987. The Gaming Commission Act is structured on the basis that all gaming is conducted for the purpose of fundraising for charitable, sporting and community based groups. The Act also prohibits the conduct of gaming outside the casino for "private gain or commercial undertaking". However, in the original drafting of the Act some sections did not prohibit gaming for "private gain or commercial undertaking". The Bill rectifies this omission and also provides a clearer and fairer interpretation of the term "private gain".

The Bill changes the composition of the commission by increasing its membership from four to five. Four persons will be approved by the Minister to provide greater community input. The Chairman of the Lotteries Commission will no longer be an ex officio member of the commission.

The Act gives the commission, an authorised officer or a member of the Police Force, the power to question a person suspected of having information in respect of an investigation. However, the Act is deficient in that there is no power to demand satisfactory evidence to substantiate the answer. This deficiency inhibits the commission from pursuing inquiries when there is suspicion that an offence has been committed. To overcome this deficiency, the Bill amends the Act to provide power for the commission, authorised officers or members of the Police Force to require a person to supply satisfactory evidence to substantiate information, where it is believed, on reasonable grounds, the information given in response to a demand under the Act is false.

Currently, before any proceedings are initiated by the members of the Police Force under the Act, the prior approval of the commission is required. The police have argued that this provision hampers their ability to institute proceedings for offences under the Act. The Bill provides for members of the Police Force to institute proceedings for an offence under the Act without first seeking the permission of the commission. However, the Commissioner of Police will be required to notify the commission of all such proceedings they have instituted.

A definition for "two-up", which is not included in either the Gaming Commission Act or the Casino Control Act, is introduced. This definition has been included to assist the commission in enforcing the provisions of the Act relating to the playing of two-up. The Act currently permits the playing of two-up at race meetings on the day of the race meeting. However, this provision discriminates against trotting meets, where the last race concludes at approximately 10.00 pm. This allows the trotting club to conduct two-up for two hours only until midnight. The Bill authorises the commission to issue a permit for the conduct of two-up after race meetings to be played on the next day, provided the playing or betting at the game begins during the race day.

The Act prohibits the possession or use of electronic gaming machines, other than those authorised for use at the Burswood Resort Casino. Since the Act came into operation in May 1988 all, except the first prosecution, have failed, due to the finding by magistrates that the type of machines being used were not poker machines, fruit machines or roulette machines. Magistrates were also not persuaded that there was evidence of gaming, notwithstanding that the machines had meters and could accumulate credits. As a result of the number of illegal machines appearing in hotels and clubs, a proclamation was issued in 1997 to prohibit the possession or use of gaming machines other than those authorised for use at the casino, or for which a permit is issued by the commission.

Clause 58 of the Bill amends the Act to strengthen the prohibitions against the possession or use of gaming machines not located at the Burswood Resort Casino, or for which a permit has not been provided. The Bill also provides for the forfeiture of the machines where the person is convicted of possession of illegal gaming machines. However, members should note that the Bill does provide for electronic gaming machines to be brought into the State for the purpose of testing, examining, repairing, display and manufacture.

Currently, section 39(2)(e) of the Act provides that a machine shall not be taken to be used for gaming if the person playing it receives nothing except the opportunity to play the machine again without paying. The intention of this section was to permit certain machines, for example pinball machines, to be lawfully played in Western Australia, particularly in amusement parlours. Because suppliers are using this section of the Act to place machines similar to video draw poker machines in hotels and clubs, the Bill provides the commission with the power to prescribe the premises where pinball type amusement machines may be played.

Currently, the commission is not protected from action by the winner of a lottery claiming the prize from the commission where the organisation conducting the lottery does not deliver the prize. The Bill protects the commission from any claim to compensate a person who wins a prize in a lottery and who, for any reason, is not paid the prize.

Trade promotion lotteries are not regulated by the Act and may be conducted without the need to obtain a permit provided they are free to the eligible participants. The Bill amends the Act to provide for the regulation of trade promotion lotteries and will facilitate Western Australia adopting any national guidelines that may be established.

The Act currently provides for the sale of continuing lottery break open bingo tickets by hand or through vending machines. Hand held tickets are permitted to provide cash prizes, but the Act prohibits cash prizes for winning tickets dispensed from a vending machine. The Bill will permit cash prizes to be paid on winning tickets dispensed from vending machines.

Since the Gaming Commission Act and the Casino Control Act came into operation in 1988 and 1985 respectively, a number of minor amendments to the legislation have been identified. Many of these amendments are of a technical or administrative nature and are addressed by the Bill. For example -

reference to the now defunct Casino Control Committee has been deleted;

clause 48 of the Bill amends section 44(1) of the Gaming Commission Act to include "attempting" to cheat as an offence;

the penalty provisions in the Casino Control Act and the Gaming Commission Act, which have not been amended since 1985 and 1987 respectively, have been increased in line with the penalties in the proposed Liquor Licensing Amendment Bill 1998; and

reference to repealed Acts is deleted and reference to the new Acts is inserted.

The opportunity has also been taken to redraft a number of sections to clarify them and in some cases also to strengthen them.

Members will appreciate that the Government has employed a number of processes to ensure that the review of the Act was as comprehensive as possible. I am confident that the measures contained in the Bill have sufficient flexibility to ensure that gaming in Western Australia is regulated in the interests of the community. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 9.08 pm

QUESTIONS ON NOTICE

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

ISOLATED CHILDREN'S PARENTS' ASSOCIATION - INCENTIVES FOR TEACHERS

1318. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

(1) Has the Government received several motions from the State Conference of the Isolated Children's Parents' Association calling for the implementation of some real incentives for teachers to go to the country areas of Western Australia?

(2) What response has, or will be given to the Association in response to these motions?

Hon N.F. MOORE replied:

(1) Although the Minister is aware of media reports about the State Conference of the Isolated Children's Parents' Association (ICPA), he has yet to receive any official communication from ICPA on this matter.

In 1997 the Education Department established a working party comprising key interest groups to frame a discussion paper for reviewing country benefits for teachers and framing appropriate incentives to attract persons to take up and remain in country placement. Based on recommendations of the working party, the Government allocated resources to implement an incentive package which is attached to the Enterprise Bargaining Agreement between the Education Department and its employees. The recent acceptance of the new agreement means the new country incentives to be in place for country teachers from the beginning of 1999 can be finalised. Incentives being negotiated include leave conditions, better housing, and payment of subsidies and allowances.

(2) An official response will be prepared upon receipt of correspondence from ICPA.

GOVERNMENT VEHICLES LEASED OR OWNED

1494. Hon NORM KELLY to the Minister for Transport representing the Minister for Primary Industry:

For all agencies under the control of your Ministry, can the Minister for Primary Industry advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and

(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;

(b) LPG powered; or

(c) powered by other means?

Hon E.J. CHARLTON replied:

(1) 817.

(2) (a) 672.

(b) 145.

(3) (a)-(c) All are petrol or diesel.

GOVERNMENT VEHICLES LEASED OR OWNED

1505. Hon NORM KELLY to the Minister for Transport representing the Minister for Fisheries:

For all agencies under the control of your Ministry, can the Minister for Fisheries advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and

(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;

(b) LPG powered; or

(c) powered by other means?

Hon E.J. CHARLTON replied:

(1) 103.

(2) (a) 44.

(b) 59.

(3) (a)-(c) All are petrol or diesel.

QUESTIONS WITHOUT NOTICE

BUS PURCHASES

1466. Hon TOM STEPHENS to the Minister for Transport:

Why has the Minister locked Western Australia into purchasing buses from only one company for 12 years when technology is developing so rapidly?

Hon E.J. CHARLTON replied:

The contract is with Mercedes Benz. Part of the contract stipulates that the company must be in a position to deliver the equal of any technology available in the world at any given time. If it cannot meet that specification then the contract provides for the Government to buy any other sort of vehicle which has that technology. It is important for the Opposition and anyone else with an interest in this to fully -

Hon Tom Stephens: Why did the Government find it necessary to lock Western Australia in for 12 years?

Hon E.J. CHARLTON: I will tell Hon Tom Stephens why.

Hon N.F. Moore interjected.

The PRESIDENT: Order! Let us have one person asking and one person answering.

Hon E.J. CHARLTON: Hon Tom Stephens' interjection is a second question but I am very happy to answer it.

Hon Tom Stephens: It is the first one.

Hon E.J. CHARLTON: I have answered the first question. There is no limitation on the technology. If members opposite do not accept that, the Opposition will continue to mislead and to misrepresent the truth to the Western Australian people. Mercedes has the first right of refusal, so to speak, to deliver the vehicles at the price and under the system that it has nominated -

Hon Tom Stephens: For 12 years?

Hon E.J. CHARLTON: In competition with all other suppliers who were given the opportunity to tender. If that technology is not available from Mercedes, the tender documents provide that the Government can go to another supplier to obtain those vehicles.

This contract has been set at 12 years because in the past every Government has bought a number of vehicles at a given time and then subsequently has had to purchase more vehicles. As members know, this has meant that in this State we have different makes of buses. We have Mercedes buses and the last purchase was Renault buses. This has resulted in incompatibility with the different makes requiring a separate list of spares and another whole backup

system. By going to the one supplier and having just the one contract the State has committed itself to a total replacement of the whole fleet over the 12 years of the contract. At the end of that contract no bus will be older than 12 years whereas some of them are now more than 20 or 25 years old. That is a significant improvement on the situation faced by any past Government. The quality of the vehicles will be maintained at the best in the world with the latest technology to ensure that the people of Western Australia receive the best quality service.

The Government has not chosen the cheapest vehicle, as the Renault was. It has opted for the best vehicle at the most competitive price. I implore the Opposition to learn the facts about this contract. I am happy to make available somebody independent of my office to provide those facts to it.

TIPPING BY MINISTERS

1467. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) What is the Government's policy on the practice of Ministers tipping for services provided in restaurants and elsewhere?

(2) Is the policy contained in any document?

(3) If yes, will the Leader of the House table a copy of the document?

(4) Has the policy been amended or revised at any time since the Government's election in 1993?

(5) If yes, will the Leader of the House table a copy of those amendments and detail the dates on which they became operative?

Hon N.F. MOORE replied:

I thank the member for some notice of this question and ask that it be placed on notice.

LICENSED PREMISES INVESTMENTS

1468. Hon N.D. GRIFFITHS to the Minister for Tourism:

(1) Is the Minister aware of a need for certainty in the decisions of investors in planning for licensed premises such as bars, restaurants, clubs and nightclubs?

(2) Is the Minister aware of any such investment opportunities lost or postponed as a result of the current controversy with respect to smoking regulations?

(3) What advice with respect to this issue is the Minister able to give investors in licensed premises who wish to develop new premises or redevelop existing premises?

Hon N.F. MOORE replied:

I thank the member for his question - of which no notice was given, in case anybody thought otherwise.

Hon N.D. Griffiths: I never give notice.

Hon N.F. MOORE: That is all right. It is questions without notice, although the procedure has changed over the years.

(1) Yes.

(2) No.

(3) I would advise investors to read the Taylor report on passive smoking and then read the decision of Cabinet on the implementation of that report once it has been made. Hon Ian Taylor, a former member of the Labor Party, was engaged by this Government to inquire into the issue of passive smoking in public places in Western Australia. His report has been received by the Government. It has been accepted in principle and the Minister for Health is drafting an implementation program. Anybody wishing to invest money in the hospitality industry should read the Taylor report and be a little bit patient and wait for the implementation process which will be made available in due course. I am sure they will find Western Australia is a great place to invest in.

UNION "CLOSED SHOP" AT PORTS

1469. Hon MURIEL PATTERSON to the Minister for Transport:

Can the Minister tell me whether there is any prospect whatsoever of ending the union closed shop at our ports and

whether there is any prospect of the Maritime Union of Australia's domination over the stevedoring companies coming to an end in the interests of port users?

Hon E.J. CHARLTON replied:

I certainly hope so. I think that every fair minded Australian wants to see the lawlessness currently prevailing in Fremantle and around Australia come to a sudden end.

Hon Tom Stephens: I bet you support the bottom of the harbour scheme as well.

Hon E.J. CHARLTON: When people are being abused, victimised, threatened with violence -

Several members interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: Mr President, it seems that members opposite acknowledge that one group in our society is allowed to break the law every day while being cheered on by the Labor Party. It is about breaking the law and being cheered on and when -

Several members interjected.

Hon E.J. CHARLTON: This has nothing to do with Corrigan. This is about law and order.

Hon Ljiljanna Ravlich: Don't shift the blame.

The PRESIDENT: Order! Hon Ljiljanna Ravlich must wait her turn before she asks a question.

Hon E.J. CHARLTON: I am not talking about the waterfront. This is a law and order question. I hope this present situation will change and that two things happen. First, that the police take action against everyone who breaks the law at the waterfront in Fremantle on public property, be it a road, a verge or a median strip or anywhere else, the same as they do to anyone else in Western Australia who breaks the law. Second, that in response to our call for expressions of interest for a new port, one is developed. People sometimes ask why we should develop a new port when there is space at Fremantle. The answer is so that people such as the unions are not running the show as is currently happening down there. We are going out to tender, following the expressions of interest. The French based Egis Groupe is one of the preferred tenderers for the construction and operation of a new port, along with James Point Pty Ltd, a consortium of five companies controlled by the Perth based Western Stevedores. In addition, Singapore's giant industrial developer Jurong Town Corporation is among the bidders that wish to build, own and operate the proposed new port at Kwinana and Naval Base. I look forward to going to tender, with the successful tenderer coming in to build, own and operate a new port. On the work practices that -

Several members interjected.

The PRESIDENT: Order! I trust that none of the members interjecting wants to ask a question. I can assure members that I will overlook those who interject, and give the call to those who do not. I ask the Minister to wind up his answer.

Hon E.J. CHARLTON: Those consortiums that have been invited to tender will do so on an employee-employer contract arrangement that will be required to be put in place to have the authority to build, own and operate that port.

TRANSFORM WA

1470. Hon NORM KELLY to the Minister for Transport:

In the Transform WA brochure, entitled "Bringing the Pieces Together" it is stated that every dollar invested will return $7 to Western Australian business and the community.

(1) On what basis was the $1:$7 ratio calculated?

(2) Given that Transform WA is a $1.3b investment, can the Minister detail where the estimated $9.1m will be returned to business and the community?

(3) Can the Minister table these details?

Hon E.J. CHARLTON replied:

To answer the question generally, it has been stated publicly across this nation that $1b is lost to industry every year as a result of efficient operations that cannot be performed because of traffic hold-ups. In a perfect situation, this

work could be done for $1b less a year. As part of Transform WA, on the heavy haulage routes we are giving operators an opportunity to perform more efficiently. It will also enable the rest of the community to travel from place to place in the safest, most environmentally friendly way; that is, with the free flowing of traffic. To answer the question specifically -

(1) The cost benefit calculations were prepared by Main Roads Western Australia, using the standard techniques for calculating the microeconomic benefits accepted by AUSTROADS and other state road authorities for this type of calculation, plus some additional elements relating to the macro benefits in respect of the Western Australian economy as a whole.

(2) The returns include accident savings. It has been estimated that accidents in this State cost Western Australia $1b a year. The returns also include vehicle operation savings; road maintenance savings; travel time savings; and business efficiency savings including freight delivery and commerce, trade and tourism benefits.

(3) Officers of Main Roads Western Australia are available to brief any member on the methodology and outcomes.

URANIUM DEPOSITS

1471. Hon GIZ WATSON to the Minister for Mines:

In relation to question without notice No 1436 asked in April 1998 -

(1) Will the Minister table a list of the 30 identified projects and 60 related sites?

(2) Will the Minister also table a list of the tenement status and ownership of these sites?

Hon N.F. MOORE replied:

It will take longer than the time I have had to obtain this information. Therefore, I ask the member to place the question on notice.

WATER RATES INCREASE

1472. Hon KEN TRAVERS to the Minister representing the Minister for Water Resources:

(1) Can the Minister confirm that the percentage increase for the average cost of Water Corporation services to metropolitan residential consumers since 1993 now totals 25 per cent?

(2) If not, what has been the total percentage increase since 1993?

(3) If so, can the Minister confirm that this is approximately twice the inflation rate during this period?

(4) Why is the Government placing such a financial impost on families for an essential service?

Hon MAX EVANS replied:

I thank the member for some notice of this question and ask that it be placed on notice.

Hon Tom Stephens: That is a disgrace, Minister.

The PRESIDENT: Order! The Leader of the Opposition will come to order.

SPECIALIZED CONTAINER TRANSPORT'S RAIL FREIGHT TERMINAL

1473. Hon RAY HALLIGAN to the Minister for Transport:

I understand that the proposed rail freight terminal and distribution centre for the company Specialized Container Transport at Canning Vale will not be proceeding on environmental grounds. Can the Minister indicate whether the company or the Government has any alternative sites in mind?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. Specialized Container Transport is negotiating with Westrail for the purchase of a site at the Forrestfield marshalling yards.

WORKERS' COMPENSATION CLAIMS

1474. Hon HELEN HODGSON to the Attorney General representing the Minister for Labour Relations:

Notice of this question was given on 9 April.

(1) How many workers' compensation claims were settled by a redemption payment under the Workers' Compensation Rehabilitation Act from an insurer to an injured worker in each year from 1988 to 1993?

(2) In each year from 1988 to 1993 what was the average amount of redemption payments to injured workers under the Act?

Hon PETER FOSS replied:

Did the member say that notice was given on 9 April or 29 April?

Hon Helen Hodgson: I said 9 April.

Hon PETER FOSS: I think the ruling has already been made by you, Mr President, that if notice of a question is given on 9 April and is not shortly followed by being asked, it is treated as though it will not be proceeded with. I have notice of a question on 29 April and I do not have the answer. The Leader of the House has raised this problem earlier. Members may give notice of a question on 9 April. A huge amount of running around takes place. The answer is prepared and it comes into this Chamber. If the question is not asked, all this effort has been a waste of time. The notice of the question is not maintained in here and is not kept on the record. I do not have the answer to the question for which notice was given on 9 April.

Point of Order

Hon HELEN HODGSON: I was advised when I inquired that it was already on file, on record, and I did not resubmit it.

The PRESIDENT: Order! I will not enter into an argument on that. The Minister has advised that he does not have an answer today. I suggest the member should take the matter up with the Attorney General after question time.

Questions without Notice Resumed

DIESEL PRICES

1475. Hon J.A. SCOTT to the Minister for Transport:

In this House last night the Minister said that the difference in price between dirty diesel and low sulphur diesel was about 10 per cent.

(1) Was this price for Australian refined underground diesel?

(2) If so, is the Minister aware that Australian low sulphur diesel still has up to 2 000 parts per million sulphur, compared with less than 500 parts per million sulphur in European city diesel?

(3) Is the Minister aware that the company producing this diesel has said that none was available?

Hon E.J. CHARLTON replied:

(1)-(3) No. I am not aware of any of that.

OUTBACK HIGHWAY

1476. Hon GREG SMITH to the Minister for Transport:

What sort of understanding has been reached with the Northern Territory, Queensland and Federal Governments to ensure the proposed national north corner to south west road link - the Outback Highway - becomes a reality?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

The study report commissioned jointly by the Queensland, Northern Territory and Western Australian road authorities has identified this as an important link, with approximately 105 000 people living in the regions serviced by the road. The study also identified a staged strategy for upgrading the route, bearing in mind that some parts are already sealed. This involves a first stage to complete the Outback Highway between Laverton in Western Australia and Winton in Queensland via Alice Springs to a good quality, all-weather, gravel road at an estimated cost of $117m. The second stage for a sealed road is estimated to cost a further $171m in current prices and will proceed as demand rises and funds become available. The transport Ministers in Queensland and the Northern Territory fully support the project. I might add that I met with them last Friday and we are intending to meet on the highway in a couple of places in the very near future. I will keep the member, and anybody else who would like to be involved, informed about that.

Substantial sections in the Northern Territory are already above the minimum level. The Premier announced a $25m allocation for commencement of work on the Western Australian section as part of the Transform WA initiative, and Queensland has similar funds allocated for its section.

I have approached the Federal Minister for Transport, and the Premier has written to the Prime Minister supporting the project. The Australian Local Government Association at its National General Assembly of Local Governments in Canberra in 1996 and 1997 supported the concept of a third strategic link across Australia. The Outback Highway Council, consisting of all local governments along the route, has joined together with the state road authorities to support and coordinate this initiative.

CREDIT CARD INTEREST CHARGES

1477. Hon LJILJANNA RAVLICH to the Minister representing the Minister for Public Sector Management:

(1) Who is responsible for the payment of interest on credit cards?

(2) Is interest paid monthly, quarterly, six monthly or annually?

(3) What is the range of interest rates being charged on these credit cards?

(4) What were the total interest payments made in the last six months?

Hon MAX EVANS replied:

I thank the member for some notice of this question, and I ask that it be placed on notice.

WANNEROO TOWN PLANNING SCHEME AMENDMENT No 1

1478. Hon E.R.J. DERMER to the Attorney General representing the Minister for Planning:

(1) Will the Minister confirm that he has withheld consent to allow the Wanneroo Town Planning Scheme No 1 Amendment No 801 to go to advertising for public comment?

(2) If yes, for what reason has the Minister acted to deny the opportunity for public comment on this application?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Minister withheld consent for amendment No 801 to the City of Wanneroo Town Planning Scheme No 1 to be advertised for public inspection on 21 February 1998 for the following reasons -

(a) The land is within an area which is designated for landscape protection in the north-west corridor structure plan where the purpose is to protect and enhance the rural character and amenity, and the proposed rezoning would not be consistent with this designation.

(b) The proposed rezoning would not be consistent with the zoning of the land for rural purposes in the metropolitan region scheme.

(c) The land is located within a priority 2 groundwater source protection area, and the proposed rezoning for urban purposes could prejudice public water supplies.

(d) The land is in close proximity to the Telstra telecommunications facility and the proposed rezoning would interfere with telecommunication operations from the site, which would be contrary to the public interest and conflict with Statement of Planning Policy No 4 - State Industrial Buffer Policy.

(e) There is an adequate supply of land zoned urban and urban deferred in the metropolitan region scheme, and the land is not required for urban development or identified for urban purposes in the urban expansion policy.

TRAFFIC LIGHTS AT BRIXTON STREET, BECKINGHAM

1479. Hon JOHN HALDEN to the Minister for Transport:

(1) Is it the Government's intention to provide traffic lights at the corner of William Street and Brixton Street in Beckenham?

(2) If yes, when?

(3) Has the Commonwealth Government provided funds for the installation of lights at this intersection?

(4) If yes, why are the lights yet to be installed?

Hon E.J. CHARLTON replied:

(1)-(4) Work to extend Roe Highway from Welshpool Road to the Kenwick link road will commence next financial year and the extension will be open to traffic by mid-2001. As a result of the extension of Roe Highway, traffic volumes on the adjacent William Street will be significantly reduced. Main Roads is currently reviewing the need for long term traffic treatments, such as signals, in the light of the highway extension project and the reduced traffic volumes. The intersection of William and Brixton Streets is included in this review.

WESTERN STEVEDORES

Dampier - Performance Bond

1480. Hon MARK NEVILL to the Minister for Transport:

On behalf of Hon John Cowdell -

(1) Has Western Stevedores provided a performance bond to guarantee its provision of management services on the Dampier public wharf?

(2) If so, how has that bond been secured?

(3) Has any third party provided a guarantee or surety on the bond?

(4) What is the sum secured by the bond?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Under the operating agreement and lease signed with Western Stevedores it is required to provide a bond for its performance.

(2) The bond is to be in the form of an unconditional and irrevocable bank guarantee, or cash in lieu.

(3) Not known.

(4) The sum secured by the bond is commercially confidential information.

BUNBURY REGIONAL HOSPITAL EXPENDITURE

1481. Hon BOB THOMAS to the Minister representing the Minister for Health:

(1) What was the expenditure at Bunbury Regional Hospital in the 1996-97 financial year?

(2) What was the budget allocation for this hospital in 1997-98?

(3) What is the expenditure to date at this hospital for the current financial year?

(4) Is this expenditure within budget?

Hon MAX EVANS replied:

(1) The net expenditure for Bunbury Health Service in 1996-97 was $22.111m. This included non-recurrent expenditure for equipment and IT purchases amounting to approximately $0.3m. The health service is responsible for the provision of all health programs, and separate detail is not available for the regional hospital.

(2) The current budget allocation for this health service is $22.039m. There is potential for the health service to receive a further $0.344m for the exceptional cost and long stay acute patient episodes delivered for the quarter ended 31 March 1998. These funds are held in the exceptional episode insurance pool and are claimed by health services according to the exceptional caseload.

(3) Net expenditure to 31 March 1998 of this financial year is $16.39m.

(4) The Bunbury Health Service is forecasting to operate within the current budget allocation including the funds anticipated from the exceptional episode insurance pool.

EURO 2 BUSES' GREENHOUSE GAS EMISSIONS

1482. Hon TOM STEPHENS to the Minister for Transport:

Yesterday the Minister quoted figures for the greenhouse gas emissions for Euro 2 diesel buses. Is the Minister aware -

(a) that the figures are based on the Euro 2 buses using European diesel, which has a much lower sulphur content than Australian diesel; and

(b) that Mercedes has not done any tests using Australian diesel?

Hon E.J. CHARLTON replied:

The information provided yesterday was given to me by the fleet manager in the department. I will double check and obtain that detail for the member.

Hon Tom Stephens: Would you be alarmed if my claim is correct?

Hon E.J. CHARLTON: I am never alarmed by anything the Leader of the Opposition says. He is so irrational most of the time that it is difficult to take him seriously. In this case I do; and I will check it out. The important issue -

Hon Ljiljanna Ravlich: This is important. You should know!

The PRESIDENT: Order! Members should allow the Minister to answer the question. Six other members wish to ask questions. Some members have already asked their questions, and will not have another opportunity today.

Hon E.J. CHARLTON: People with a vested interest have promoted the idea throughout the community that any detrimental greenhouse effect is caused more by diesel power than by gas. That idea is simply incorrect. The question about which diesel should be used is valid, but it has never been stated by the Labor Party, the Greens (WA), or anyone else. It has always implied that if -

The PRESIDENT: Order! Minister, one of the problems here is that people end up using question time for debates from both sides. Your answer is meant to be generally related to the question asked. You should not introduced debatable matter. That can come later in a substantive motion. Please wind up your answer.

Hon E.J. CHARLTON: I have no problem with that, Mr President. However, I do not accept the implication in the question that the information about gas is incorrect. The Opposition must stop running for cover and telling the community that diesel is worse than gas for the environment. It is not right.

ASSOCIATIONS INCORPORATION ACT REVIEW

1483. Hon HELEN HODGSON to the Minister representing the Minister for Fair Trading:

(1) Has a discussion paper been produced as part of the review of the Associations Incorporation Act 1987 that commenced on 28 June 1996?

(2) If so, is the Minister in receipt of a copy of the public discussion paper?

(3) Has the Minister released the discussion paper for public comment?

(4) If not, why not?

(5) If not, when will the Minister release the report for public comment?

Hon MAX EVANS replied:

(1) Yes.

(2)-(3) No.

(4)-(5) The Ministry of Fair Trading reviewed the content of the discussion paper in the light of comments in the Public Accounts and Expenditure Review Committee Report No 36. The discussion paper will be released for public comment in the next week.

URANIUM DEPOSITS

1484. Hon GIZ WATSON to the Minister representing the Minister for Resources Development:

I refer to question without notice 1428 of 9 April 1998.

(1) Where is the prospective area referred to as the Paterson project?

(a) Who are the current owners of this potential development?

(b) What current tenement numbers cover this project?

(2) Does the Acclaim group of companies hold any of the identified reserves stated in response to question without notice 1428(1); and, if so, which ones?

(3) Has the Department of Resources Development had any discussions with any potential proponent of a uranium project with regard to potential shipping or port facilities for the export of uranium; and, if so, with which companies and at what ports?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I have been unable to obtain an answer and I ask that it be placed on notice.
