WESTERN AUSTRALIA

Parliamentary Debates

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LEGISLATIVE ASSEMBLY

Thursday, 12 November 1998

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

TRUST REMOVAL (MOUNT CLAREMONT LAND) BILL

Second Reading

MR SHAVE (Alfred Cove - Minister for Lands) [10.04 am]: I move -

That the Bill be now read a second time.

This Bill proposes to effect the removal of a trust from lot 87 held by the Crown in certificate of title volume 1809, folio 190. Lot 87 is bounded by Rochdale Road and Whitney Crescent, Mt Claremont. The declaration of trust was put in place in 1961 by the City of Perth when council released some 81 residential lots in this area. The land was subject to the City of Perth Endowment Lands Act and to ensure that lot 87 remained available to the public, the trust for recreation purposes for the use of the people for all time was deemed. With the restructure of the City of Perth, control of lands subject to the City of Perth Endowment Lands Act passed to the Town of Cambridge.

With the formal creation of the Bold Park reserve and other recreation lands in the immediate vicinity, the benefit of retaining lot 87 for public open space is considered minimal. The removal of the trust will free up this area for eventual release for residential purposes. Proceeds from the sale of lot 87, together with two other areas which have been returned to the Crown from the Town of Cambridge, will be used to offset costs incurred in the creation and ongoing management of the Bold Park reserve. Proceeds will be made available to the Kings Park Board, the board of management for the park. Sale proceeds in excess of $11.5m will be disbursed equally to the Town of Cambridge and the board. The Town of Cambridge supports the removal of the trust. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

COURT SECURITY AND CUSTODIAL SERVICES BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [10.07 am]: I move -

That the Bill be now read a second time.

This is the first of two related Bills I propose to read in the House today. The first is the Court Security and Custodial Services Bill and the second is the Court Security and Custodial Services (Consequential Provisions) Bill. I propose that the Bills be debated cognately.

The purpose of the Court Security and Custodial Services Bill is to provide a unified statutory framework for the substantial reorganisation of arrangements and powers of the operation and provision of services central to the support and functioning of the courts and related custody processes. These services include court security, court custody management, prisoner movement, and lockup management. This Bill combines responsibility for these services under the Ministry of Justice. It transfers, from the Western Australia Police Service to the Ministry of Justice, responsibility for the operation of court security services and prisoner custody and transport services. This milestone initiative will release up to 200 police officer full time equivalents, enabling the deployment of these resources to core policing duties. At the same time, the essential support functions provided for in this Bill are reallocated and delivered in a safe, more efficient, better integrated and more accountable way. Under this Bill, many existing court security and custodial practices based on common law and assumptions will be codified and clarified.

This Bill gives responsibility to the chief executive officer of the Ministry of Justice for the functions of lockup management, court security, court custody and the movement of persons in custody. This includes responsibility for adults and juveniles, accused persons, offenders, intoxicated detainees held under part VA of the Police Act, and those people apprehended pursuant to certain orders made under the Mental Health Act being held temporarily in a lockup. In carrying out functions, the chief executive officer may authorise people other than those specified in existing legislation - for example, the Prisons Act and the Young Offenders Act - to exercise unique powers in the provision of a service under this Bill. The chief executive officer will be empowered to enter into alternative service arrangements for service provision, including contracted agreements with private sector operators, for some or all of these services. The Bill provides a range of appropriate powers which will, for the first time, support arrangements for effective security and control within courts, court custody centres, lockups and in other related locations and circumstances.

This Bill introduces innovative and fundamental changes to the way in which law and order support services are organised.

The new statutory arrangements are designed to eliminate existing impediments to continuity of service delivery and accountability. The Bill represents the culmination of a significant effort by two major government portfolios to ensure the better management of resources to the benefit of all Western Australians. The Ministry of Justice and the Western Australia Police Service will be better focused on their prime responsibilities, and the best service providers will be retained to deliver the services I have outlined.

Background: Existing service delivery arrangements in respect of the functions covered by this Bill are ill-defined, fragmented and complex - involving multiple public and private sector agencies operating under different service mandates. This leads to duplication of effort, service overlap and increased exposure to potential service failure. Currently, the State's investment in policing services is not being used to its potential. In every part of our State, fully trained sworn officers are engaged daily in services not directly related to their core function. The role of the police should be focused on the maintenance of the peace, crime prevention and control, traffic control and emergency services management, and assisting members of the community in times of emergency and need.

Deficiencies with Current Arrangements: Within the Ministry of Justice, two separate divisions, offender management and court services, are also directly responsible for the provision of some of the identified functions. Similarly, both the Ministry of Justice and the Western Australia Police Service provide services for the transport of prisoners between courts and prisons. Sworn police officers provide in-court security in all courts of criminal jurisdiction, including the provision of dock-guards and public gallery guards. Within the court the powers of police are not clearly defined with respect to search and seizure. Police also manage the court custody centres at which prisoners are held pending their appearance in court. All lockups within the State are managed by police, either in conjunction with their routine police work or as part of a separately resourced and dedicated task. Police also provide for the transport of prisoners on remand and for those convicted persons in their custody, either to a lockup, prison or detention centre. This service often operates in parallel with services provided by prison officers.

In the main, many of the security and custodial functions carried out in Western Australia are done so using powers derived from statutes such as the Police Act, the Criminal Code, the Prisons Act, the Young Offenders Act, and others. The police also draw from the common law, which gives rise to many of their general powers. There is, however, no statute governing the operation and management of the cells at the court, police lockups and the transfer of prisoners between lockups and the court. In a number of key areas the law is deficient in providing powers and protections to those who work in vulnerable circumstances - in particular, the courts where judges, magistrates, court officers, and members of the public are exposed. There is, for instance, no statutory power to question people entering a court or to request them to produce identification. Prison officers can exercise a discretion to routinely search prisoners in their charge inside a prison or while absent from the prison under escort. A police officer, on the other hand, is not clearly empowered to search a prisoner in his charge unless there is reasonable suspicion that an offence has been committed or is about to be.

Proposed Remedies: The Bill seeks to remedy the vagaries of current practices and to expressly provide for these services in a coherent manner requiring high standards of accountability and practice. Anomalies such as those outlined have been dealt with in this Bill to ensure consistency in service provision, the preservation of performance standards and a common approach throughout - given that services may be delivered by private or public providers. This Bill arises out of the recommendations of the Police/Justice core functions project established by the Government in September 1996 to undertake an extensive review of the current services with the objective of identifying a viable alternative procurement option. This project was formed with a steering committee, comprising representatives of the Western Australia Police Service, the Ministry of Justice, the Treasury, and the Ministry of the Premier and Cabinet, and chaired by an independent chairman. The cost and operation of existing services were compared with other service options. The overall purpose of the review was to relieve the Western Australia Police Service and Ministry of Justice of non-core duties relevant to the delivery of the four services of court security, court custody management, police custody management, and prisoner movement. As part of this process, consideration was given to the approaches adopted in the United Kingdom, New South Wales, South Australia and Victoria.

The conclusions reached by the project team resulted in a decision by government to market test services by inviting private companies to register interest and to ultimately submit fully costed proposals. Negotiations have now commenced with a preferred respondent - selected following an exhaustive and independently monitored process of competitive tendering. Subject to a satisfactory negotiated outcome, it is proposed that government will enter into a five-year contract for the delivery of these services. As earlier indicated, this will result in the transfer and redeployment of the equivalent of 200 trained sworn police officers to front-line policing duties, and the equivalent of 47 trained prison officers and juvenile group workers to mainstream duties. The deployment of existing police officers, prison officers and group workers is more directly beneficial and less expensive than having to recruit and train inexperienced new staff. More particularly, the deployment of up to 200 trained police officers will support the Police Service strategic action statement priorities and targets, especially drugs, robberies, assaults and burglaries. In all of this, no employee of the Western Australia Police Service or the Ministry of Justice will lose his job.

In formulating its recommendations to government, and finalising the service specifications, the project team consulted with

some 50 stakeholder groups, both within and external to government. No group responded unfavourably to the proposals and many commented positively on the prospect of police officers returning to core duties. Strong support was forthcoming from Aboriginal groups for a dedicated and impartial approach to the management of lockups and the transport of prisoners and accused persons.

The scope of the contract service specification also requires the contractor to carry out structural upgrades to lockups at Fremantle, Armadale, Joondalup, Midland, South Hedland and Kalgoorlie. This work will substantially accelerate the Government's ongoing implementation of the cell upgrade program consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

Proposed Changes: The approach taken in Western Australia has culminated in the introduction to this House of a single statute combining all four related services under the administration of the chief executive officer of the Ministry of Justice. It will enable the determination of the most appropriate and cost-effective means of service delivery including the framework to enter into contracts for service. The Bill will enable the authorisation of appropriately trained people to deliver the services. It will provide the necessary powers and protections to enable the delivery of a quality service that meets the expectations of not only the direct service recipients, but also the wider community. The Bill also makes provision for rigorous compliance arrangements and performance standards to ensure the highest standards of accountability are achieved and maintained. The Ministry of Justice has developed a framework to establish a regulatory function to underpin these services. The regulatory role will be to advise the chief executive officer on the extent to which a service provided, directly or on a contractual basis, satisfies requirements for public accountability. It is proposed to be effected in a way which does not shroud arrangements for service delivery in commercial confidentiality provisions that in other places have prevented public access to operational information which should be freely available.

Under the model contemplated for the Ministry of Justice, the regulator function is independent of the function of service provision. However, under the terms of their service agreement, service providers will be bound to cooperate fully with the regulator by providing free and unfettered access to facilities, documents, staff and persons in custody. It is also a statutory requirement for a contract to include provision for any contractor to submit reports in relation to obligations under the contract. Reports will include information on operational matters such as escapes, deaths in custody and other emergencies.

The Bill, operating in conjunction with the Court Security and Custodial Services (Consequential Provisions) Bill, makes innovative provisions for a contractor or subcontractor and their employees to be subject to scrutiny by the Ombudsman, the Anti-Corruption Commission, and the Information Commissioner. The application of these public accountability arrangements to private sector service providers represents a no-nonsense approach to contract management.

I now make specific reference to the provisions of the Bill: Part 1 is preliminary and establishes the definitional framework. Part 2 of the Bill relates to the administration of court security and custodial services and defines the scope of the chief executive officer's responsibilities to provide services, which fall into two broad categories of court security and custodial services. This distinction defines the separation between the provision of services to the court where regard must be given to free and unfettered public access; and the operation of court custody centres and lockups, including the security and safety of people held in both. Provision is made for the chief executive officer's responsibility for the security, control, safety, care and welfare of persons in custody, and of intoxicated detainees as defined by their status under the law and by the circumstances in which they are placed under the chief executive officer's responsibility. Currently, after the police have completed their inquiries and evidentiary processes, persons may be held for court purposes. Once a person has appeared in a court, that person may, among other dispositions, be remanded in custody, or sentenced to a custodial term when the person becomes a prisoner under the definition of that term in the Prisons Act or a detainee under the definition of that term in the Young Offenders Act. From that point on, both become the responsibility of the chief executive officer under the Prisons Act and the Young Offenders Act.

The status of persons in custody may arise from arrest by police or other empowered officer, the order of a court, or under any other order issued under any state or commonwealth law. An example here is a deportation order issued by the Minister for Immigration. The status of intoxicated detainees arises from their detention under part VA of the Police Act which requires police to apprehend people who are "seriously affected apparently by alcohol", to use the Police Act definition. For this category of person, the Bill provides for their placement in a lockup according to arrangements and safeguards prescribed in the Police Act pending their release when sober.

Under existing arrangements, involuntary patients subject to a hospital order issued under the Mental Health Act 1996 and apprehended by police for removal to a hospital, may be held temporarily, pending arrangements for their transport. Because it is desirable to maintain the current arrangements for police to provide for the transport of involuntary patients, it is necessary for this Act to provide for their placement in the care of the chief executive officer pending their removal under the terms of the order.

The chief executive officer may enter into a contract with the private sector for the provision of court security and custodial services for and on behalf of the State. Arrangements may also be made with public sector providers or with the Commissioner of Police for all or part of the services. In the event that a contract is entered into, contract workers will be

required to do the work. If an arrangement is made with, or there is a delegation to, the Commissioner of Police, then police officers will do the work. If an arrangement is made with, or there is a delegation to, a member of the public sector, people defined in the Bill as "justice officers" will do the work. Because the Government will seek to enter into the most beneficial arrangements, there will be a combination of these approaches in some locations and there will certainly be a combination of these approaches in the remote areas of the State.

An essential element in the provision of any form of custodial service involving the management of potentially violent persons is the power to use reasonable force in defence of personal attack or to control obstructive persons. This is provided for in the Bill and is strengthened by amending the definition of public officer in section 1(1) of the Criminal Code, to include persons under this Bill who are empowered to undertake "high-level security work". This provides them with the same protection as public officers in the legitimate conduct of their work.

It is a cornerstone of any custodial function that no persons in custody are permitted to escape from custody. This forms one of the key performance indicators of a service provided under a contract and indeed, any contractor will suffer an immediate penalty for each escape of persons in custody in their charge. An accountability provision in this Bill analogous to section 14(b) of the Prisons Act 1981, makes any authorised person liable for the escape or unlawful absence of a person in his charge.

The Bill provides that the minister may give a specific direction to the chief executive officer in respect of any function performed under the Bill. However, in so doing the minister is required, where practicable, to consult with the chief judicial officer in each jurisdiction to ensure there is no conflict between the direction the minister might wish to issue and the operation of the court. For reasons of ministerial accountability the chief executive officer is required to inform the minister of serious events such as escapes, deaths of persons in custody and other serious irregularities. Provision is made for the separation of adults from juveniles and for the separation of persons by gender and by custodial status to safeguard and protect them from predatory and assaultive behaviours. These provisions reflect existing practice applicable under both the Young Offenders Act and the Prisons Act.

Bans may be imposed preventing people from visiting lockups and court custody centres if they are considered to pose a threat to the security of good order of the facility. The right of entry by judges and magistrates to inspect custodial facilities operated under the Bill is also provided as a means of allowing external independent scrutiny. The independence of the courts is reflected in requirements for the chief executive officer to consult with the chief judicial officer in each court jurisdiction on matters concerning arrangements for court security and court custodial services. This ensures that the needs of the courts are communicated and taken into account in the negotiation of arrangements and contracts.

The role of liaison between the chief judicial officer and the chief executive officer rests with the sheriff of Western Australia who, for the purposes of this Bill, is given a statutory function as the representative of the chief judicial officer of each jurisdiction. In this way there is a greater opportunity for consistent application of standards and conditions in the management of the functions relevant to the administration of a contract for service.

Part 3 of the Bill sets out provisions for contracts for service delivery including minimum matters required to be contained in a contract. The chief executive officer is required to determine minimum standards applicable to the provision of a service under a contract and the minister is to table those standards before each House of Parliament. Those standards also form the basis of contract reporting arrangements.

Provision is made for free and unfettered access by the minister, chief executive officer or nominee to premises, facilities, documents and equipment controlled by a contractor and to any person in custody in the charge of a contractor. This arrangement is designed to ensure compliance with the contract and any relevant legislation, and for ensuring the good management of a service provided under a contract. This provision is modelled on similar provisions adopted by New South Wales, in the NSW Prisons Act 1952, and by Victoria, in the Victorian Corrections Act 1986. It provides a statutory mechanism for the examination, audit, investigation and observation of services and makes provision for a penalty in the event that any person seeks to hinder access by a person authorised to have access.

The Bill provides for the chief executive officer to intervene or suspend a contractor's operations. It also sets out provision for the appointment of an administrator who, at the discretion of the chief executive officer, will have control over a contractor's operation in the case of suspension of, or intervention in, a contract. The accountability provisions contained in this Bill are further enhanced with a provision for the chief executive officer to set up an inquiry into any aspect of a contractor's operation, including "any matter, incident or occurrence" concerning services delivered.

The Bill requires the chief executive officer to make an annual report to Parliament on the operation of each contract and the extent of compliance, or otherwise, with standards of service attained in delivering a service under a contract. Contract workers will not be permitted to work in the provision of "high-level security work" unless the chief executive officer approves them to do so and issues a permit. High-level security work is front-line operational work by contract workers engaged in the direct provision of court security and custodial services, as distinct from ancillary tasks such as cleaning, secretarial or vehicle maintenance services. This enables the application of screening safeguards to ensure integrity and

accountability in the selection, recruitment and ongoing monitoring of the contractor's or subcontractor's work force engaged in these services. The chief executive officer retains the right to determine what may constitute high-level security work, including that which requires access to persons in custody and confidential documents. The chief executive officer is required to make a declaration to that effect for inclusion in the *Government Gazette*. The chief executive officer is to satisfy himself that persons employed by a contractor are fit and proper people and that they are fully trained to perform all aspects of the work for which they are employed. Prospective employees of a contractor need to satisfy the requirements of a police clearance including a criminal history check and check of their driving record. A consequential amendment to the provisions of the Spent Convictions Act will also enable access to information not normally available but which may identify a prospective contract worker as unsuitable for employment in the provision of services under this Bill. A permit once issued may be suspended or revoked by the chief executive officer under certain circumstances.

The chief executive officer is empowered to intervene in a contract under circumstances in which an opinion is formed there is an emergency in the service or the contractor has failed to effectively deliver a service in accordance with the contract. Termination or suspension of a contract may occur under circumstances in which the chief executive officer deems there are grounds for doing so and if it is determined that it is in the public interest to do so. Reasons for suspending or terminating a contract may include events such as the contractor becoming insolvent, where a material breach of the contract occurs, or where there is failure to rectify a breach of the contract. In any such case the chief executive officer may appoint an administrator whose task is to manage the services until such time as alternative arrangements are put in place to provide the services.

Part 4 contains provisions to ensure accountability in the management of persons in custody through safeguards to ensure the continuity of legal custody during transfer from one authority to another. Mechanisms are provided in this Bill to ensure the continuity of legal custody is maintained in all circumstances. Police and other law enforcement officers are empowered to transfer an arrested or remanded person into the charge of an authorised person for the purposes of their transport, court appearance or detention in a lockup or court custody centre in accordance with a request. Provision is also made for the transfer of intoxicated detainees held under the provisions of part VA of the Police Act for the purposes of their temporary detention. Likewise, provision is made for the transfer to accommodate the temporary charge of involuntary patients in a lockup held pending arrangements for their transfer to a mental health facility pursuant to an order made under the Mental Health Act.

Part 5 of the Bill makes provision for offences against the Act which may pose a threat to the integrity of the services, the safety and security of people involved and the community. Courts are open institutions where the right of public access must under all normal circumstances be preserved in the interests of justice. However, the nature of the business before the courts sometimes places those who work in them, or those who have business before them, vulnerable to external threat of attack and personal injury. Those persons responsible for the transport of persons in custody and for their security in public areas are also vulnerable. Therefore, specific provision is made in this Bill to impose a penalty for those convicted of the possession of firearms and other weapons at certain custodial places, including courts. An offence of this nature dealt with before a jury may bring a term of imprisonment of seven years. It is also an offence under this Bill to hinder or resist an authorised person in the conduct of his duties. This attracts a fine of $6 000 or 18 months imprisonment. It is also an offence under this Bill to introduce articles that are likely to cause a threat to the security, good order or management of a place for which the chief executive officer has responsibility. The applicable penalty for this offence is $6 000 or 18 months imprisonment.

Part 6 of the Bill provides a number of miscellaneous provisions. An indemnity exists to protect persons performing functions, exercising schedule powers and doing high-level security work in good faith. However, the contractor or subcontractor is not exempted from vicarious liability for any action of an employee. Contract workers are protected from actions for false imprisonment if they act on a request under part 4 and in good faith. Contractors are also protected from any vicarious liability they have for such a contract worker.

It is desirable that a provision exist to give appropriate protection for authorised persons who come into possession of prohibited drugs and other illegal substances, firearms and other related items, during searches of persons in custody. Authorised persons will be protected from prosecution for possession as they may otherwise become liable under the Misuse of Drugs Act or the Firearms Act, until those items are handed to police to be dealt with according to law. A confidentiality provision modelled on the provisions in the Young Offenders Act is designed to safeguard against the inappropriate use of information relating to the management of persons or services provided for in this Bill. It will be an offence to contravene this provision, which attracts a fine of $6 000 and imprisonment for two years.

It is essential to make adequate provision to safeguard the integrity of the judicial process by way of appropriate powers and protections. A balance must be achieved between the provision of powers for the adequate safeguarding of the judicial process and the rights of individuals under the law to have access to that process. Powers necessary to give effect to the services are set out in three schedules contained in the Bill. A person or class of persons employed to provide a service in relation to this Bill will be authorised to exercise a schedule power according to the type of service they are required to deliver. Powers relate to the exercise of measures to provide court security, custodial services or apprehension.

Authorised persons will be empowered to request identification of persons seeking to enter a court and to request them to declare their intended business. Persons creating a disturbance, behaving in a disorderly manner or failing to provide satisfactory reason for being on court premises may be prevented from entering, asked to leave or removed. People seeking entry to courts together with their personal effects may be searched by the use of electronic apparatus or by hand. Searches will be along lines similar to those carried out at airport barriers, and safeguards will exist with regard to privacy, decency and self-respect.

Power is also provided in the Bill for authorised persons to take fingerprints, photographs and personal details for the purposes of identification of persons in custody in accordance with section 50AA(2) of the Police Act. This is a time-consuming task currently undertaken by police whose time can be better utilised in more important roles. It is proposed that contract workers will provide this service in lockups operated by contractors. In the interests of safety and security, authorised persons will be empowered to conduct searches and to seize the property of persons in custody. Provisions are also made for the restraint of persons in circumstances when restraint is necessary to prevent escape and to prevent self-harm or injury to others. Appropriate safeguards exist to ensure the protection of personal dignity and rights, and further measures to ensure accountability will be provided for in regulations and the chief executive officer's rules. These powers are modelled on similar provisions contained in the Prisons Act that have worked effectively in preserving good order and security in prison management.

Measures for the preservation of the discipline of persons in custody are addressed through the use of the existing provisions of the Prisons Act in relation to adults, and the Young Offenders Act in respect to young people. Complaints concerning actions allegedly committed by persons affected by this Act may be referred to the appropriate prison superintendent or to the police. This approach ensures consistency with current procedures that protect the rights of persons in custody. Again, it is intended to establish an administrative process of monitoring by the chief executive officer for the purposes of contract management. Capacity will exist to preserve security of lockups and court custody centres by providing for the power to request identification from visitors to these facilities, to deal with disorderly behaviour by visitors and to search them as required for items which may pose a threat to security. Visitors may also be refused entry or be removed in circumstances in which their behaviour poses a threat to security or good order. Procedures governing visits and communications with persons in custody will be provided for in regulations.

An ultimate control measure which the Bill makes available to authorised persons engaged in the provision of court security and custodial services, is the power of apprehension and detention without warrant of persons under certain circumstances. This power will apply when a person has committed an offence under this Act or has escaped from custody. Such a measure is essential in circumstances when an immediate remedy is necessary to secure the custody of a person.

This Bill includes provisions to ensure the preservation of high standards of accountability and responsibility for the provision of services. Operating in conjunction with the Court Security and Custodial Services (Consequential Provisions) Bill, the arrangements extend safeguards to persons in custody regardless of their status before the law. As indicated earlier, access is given to the Ombudsman, the Information Commissioner and the Anti-Corruption Commission. Finally, I reiterate an earlier point which relates to the major objective set by Government in commissioning the review of the services resulting in this Bill; that is, the direct and tangible benefit in the form of an enhanced capacity of our Police Service to return sworn police officers to front-line duties in the services of our community.

Consequential to this Bill, it will be necessary to amend a number of other statutes including the Anti-Corruption Commission Act, the Bail Act, the Coroners Act, the Criminal Code Act Compilation Act, the Freedom of Information Act, the Justices Act, the Parliamentary Commissioner Act, the Police Act, the Prisons Act, the Spent Convictions Act, and the Young Offenders Act. These consequential amendments are contained in the Court Security and Custodial Services (Consequential Provisions) Bill, which I propose to address by way of second reading directly.

Given the need to progress both the Court Security and Custodial Services (Consequential Provisions) Bill and the Court Security and Custodial Services Bill together, I shall be seeking leave for these two Bills to be debated cognately. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [10.37 am]: I move -

That the Bill be now read a second time.

This Bill is the second of two related Bills in this package. I outlined in the second reading of the Court Security and Custodial Services Bill, the underlying policies the Government has adopted in proposing these new approaches to the organisation of arrangements and powers in respect of services provided under that Bill. The provisions outlined in the

Court Security and Custodial Services Bill necessitate a number of amendments to current statutes. Because there are a comparatively large number of amendments, all consequential amendments have been contained in a separate Bill, the Court Security and Custodial Services (Consequential Provisions) Bill. New arrangements and powers in respect of the operation and provision of services central to the support and functioning of the courts and related custody services are set out in the Court Security and Custodial Services Bill. The Bill empowers the chief executive officer to make alternative arrangements for the delivery of court security, court custody management, prisoner movement, and lockup management.

Functions established under the Court Security and Custodial Services Bill enable the chief executive officer to authorise people, other than those specified in existing legislation, to exercise unique powers in the provision of a service under that Bill. When those powers require those persons to exercise a function in providing a service relating to a requirement under another statute, it is necessary to amend those statutes to include those authorised persons, and to provide consistency of application in the delivery of services. For example, certain functions and responsibilities carried out by persons designated under the Bail Act, the Justices Act, the Police Act, the Prisons Act, and the Young Offenders Act, will be able to be provided, or met, by authorised persons as defined in the new Court Security and Custodial Services Bill. Once enacted, the new Bill will place the responsibility for the management of lockups under the chief executive officer of the Ministry of Justice. The term "lockup" as it is defined in each of the existing statutes is redefined to incorporate the meaning of a lockup as it applies in the new Bill.

The Anti-Corruption Commission Act, the Freedom of Information Act and the Parliamentary Commissioner Act, contain powers including those of investigation, inquiry, or review, and all have reporting requirements. The amendments proposed for these statutes establish any contractor as an entity for reporting and accountability purposes. It also identifies a relevant officeholder for the purposes of reporting, and makes contractors and subcontractors accountable for their actions.

The definition of "public officer" in section 1(1) of the Criminal Code is amended to include persons under the Court Security and Custodial Services Bill who are empowered to undertake "high-level security work". Under this amendment such persons are given the same protection as public officers who may be vulnerable to offences committed against them in the legitimate conduct of their work. This also makes them more accountable under those offence provisions that have particular application to the consequences of unlawful conduct by public officers. Relevant affected provisions of the Criminal Code are as follows: Section 82 relating to bribery; section 83 relating to corruption; section 85 relating to falsification of records; section 87 relating to personation; section 88 relating to bargaining for public office; section 171 relating to resisting; section 318 relating to serious assaults; and section 355 relating to defamation defence. These amendments also provide the definitional link for the jurisdiction of the Anti-Corruption Commission Act.

A prospective contract worker must submit to a check of his criminal record before the chief executive officer may consider issuing a permit to do "high-level security work". An amendment to the provisions of the Spent Convictions Act defines such an applicant as a person whose spent conviction record will be made available. For the purposes of the Coroners Act, the definition of a "person held in care" is amended to include a person for whom the chief executive officer is responsible under the Court Security and Custodial Services Bill.

In my second reading speech on the Court Security and Custodial Services Bill I expressed the view that this package is pivotal to the Government's aim to ensure high standards of accountability in the provision of newly defined services for the support and functioning of the courts and related custody processes. These Bills together are important to the implementation of new arrangements designed to eliminate existing impediments to flexibility, innovation and integration in these functions. Anything less than the standards that have been set by this review process will fall short of the targets set by this Government. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

HOSPITALS AND HEALTH SERVICES AMENDMENT BILL

Second Reading

MR DAY (Darling Range - Minister for Health) [10.43 am]: I move -

That the Bill be now read a second time.

I am pleased to introduce this Bill to amend the Hospitals and Health Services Act 1927 - namely, the hospitals Act. The major impetus for this Bill was the establishment of the Metropolitan Health Service Board on 16 July last year. The MHSB is a statutory corporation formed by the amalgamation of the former boards of the metropolitan teaching and non-teaching hospitals. The MHSB has management responsibility for the following public hospitals: Armadale-Kelmscott Memorial Hospital; Bentley Hospital; Fremantle Hospital; Graylands Hospital; Graylands Selby-Lemnos and Special Care Hospital; Kalamunda District Community Hospital; King Edward Memorial Hospital for Women; Osborne Park Hospital; Perth Dental Hospital; Princess Margaret Hospital for Children; Rockingham-Kwinana District Hospital; Rottnest Island Nursing Post; Royal Perth Hospital; Sir Charles Gairdner Hospital; Swan District Hospital; Woodside Maternity Hospital; and Wooroloo Hospital.

The MHSB is not a state trading concern and so is not charged with endeavouring to make a profit consistent with maximising its long-term value. However, in discharging its obligation under the new health care principles to provide public patient services free of charge, the MHSB is responsible for the administration of a significant budget, comprising commonwealth and state funds. For this current financial year, that budget is in the order of one-sixth of the State's recurrent consolidated fund expenditure. The MHSB comprises 11 ex-officio members and nine independent members. When the MHSB was established, it was decided to pay the independent members sitting fees. The independent members are remunerated at commercial rates. This compares with other public hospital boards, the members of which are not paid. The creation of a statutory corporation the board members of which are paid commercial fees and which has direct control of a significant proportion of the State's budget necessitates the application of a rigorous, but fair, accountability regime for the corporation and its members. This Bill delivers that regime.

In developing this Bill, close regard was given to corporatisation legislation in this State. The provisions of the Gas Corporation Act, the Electricity Corporation Act and the Water Corporation Act - corporatisation legislation - were examined. The Bill draws heavily on the accountability provisions contained in the corporatisation legislation. Those accountability provisions provide for the relevant corporation to develop and work to corporate planning documents. They comprise five-year rolling operational plans and annual statements of corporate intent. An operational plan is required to set out economic, financial and operational targets. A draft of the plan must be prepared for the minister's consideration and agreement three months before the commencement of each financial year. If agreement cannot be reached, the minister has the power to direct the hospital board, but only after appropriate consultation has taken place with the board. If a direction is given, the direction must be tabled in Parliament. The minister is not permitted to agree to a draft operational plan, or any variation to one, without the concurrence of the Treasurer.

The statement of corporate intent must be consistent with the board's operational plan. The statement of corporate intent is required to specify the board's objectives and address matters such as continuity of provision of hospital and health services, delivery of optimum services, key performance indicators and a profile of targeted activity in all patient services for the relevant financial year. The processes for approval of the statement of corporate intent are similar to those for the operational plan. The document is, in effect, an instrument by which government can evaluate the performance of the hospital board for each financial year.

The accountability provisions of the Bill are designed to foster a partnering relationship between the minister, the Treasurer and the relevant public hospital board, which will contribute to optimal delivery of public and private patient health services to the Western Australian community. The Bill also draws heavily on the directors' liability provisions contained in parts 3 and 4 of the Statutory Corporations (Liability of Directors) Act - namely, the statutory corporations Act. It is notable that these provisions were in turn drawn from the corporatisation legislation. The statutory corporations Act does not apply to public hospital boards. Part 2 of the statutory corporations Act applies only to corporations that are established by legislation. Hospital boards are established under or pursuant to the hospitals Act, not by it.

Parts 3 and 4 of the statutory corporations Act apply to corporations that are listed in the schedule to that Act. The corporations that are currently listed in that schedule are all government trading entities. Hospital boards are not state trading concerns or government trading entities, although having said this, they do have a limited capacity to provide services for a fee. Hospital boards are permitted to raise fees for the treatment and accommodation of private and compensable patients.

Additionally, section 18(2a) of the hospitals Act provides that notwithstanding the provisions of the State Trading Concerns Act, hospital boards may, with prior ministerial approval, provide services for a fee. These services must be of the kind that the board provides in performing its statutory functions. The Bill also includes provisions dealing with a board's capacity to exclude or indemnify a board member from liability and to insure a board member against liability for certain acts or omissions. These provisions differ from section 15 of the statutory corporations Act. The exclusion, indemnity and insurance provisions in the Bill are based on similar provisions in the Port Authorities Bill.

I have cited the major impetus for the Bill as the establishment of the Metropolitan Health Service Board, yet the Bill refers to the MHSB only in clause 15. This is because the MHSB is established not by an Act, but, as mentioned earlier, pursuant to an Act. The Bill entitles the minister to make an order declaring a particular public hospital board to be subject to the corporate planning document provisions of schedule 2, the directors' liability provisions of schedule 3 and various other provisions concerning the employment or engagement of key board personnel. It is proposed that the MHSB will be the first public hospital board to be subject to the new accountability regime. It is not anticipated that the accountability regime will be imposed on country hospital and health service boards which manage small budgets, and the members of which contribute their time free of charge. In the future, it may be appropriate to require significant regional public hospital and health service boards to comply with the accountability regime. It is anticipated that this would occur only if the members of these boards were remunerated at commercial rates.

The Bill delivers significant initiatives in addition to the accountability of boards and board members. The Bill also clarifies the role of the Commissioner of Health. Currently under the hospitals Act, the Commissioner of Health has only one function; that is, to license private hospitals and private psychiatric hostels. The Bill spells out that the commissioner's role

is to advise the minister on all aspects of policy relating to hospitals and health services and to assist the minister in the performance and exercise of the various functions, powers and duties that are vested in the minister under the hospitals Act.

The Bill also gives the Commissioner of Health a stake in the employment and removal of the chief employee and the chief executives of designated multi-hospital boards. A designated multi-hospital board must obtain the commissioner's approval to employ, engage or dismiss a chief employee and a hospital chief executive and to fix the terms and conditions of that person's service or engagement. The commissioner is also given the power to direct the hospital board as to the processes to be followed in the recruitment and selection of such persons. That does not exempt the board or the commissioner from complying with the Public Sector Management Act and the public sector standards. The powers given to the commissioner concerning key public hospital personnel underpin the concept of a partnering arrangement between relevant public hospital boards, key hospital executives and the Health Department. Those organisations and personnel must work together closely and cooperatively. It is important to forge strong allegiances between the key players in the government health industry. The Bill introduces mechanisms that I hope will achieve greater efficiencies in health service delivery in the metropolitan area and secure effective, cooperative relationships between key public hospital boards and their executives and the Health Department.

I also advise that, in addition to the provisions of the Bill and its impact on the functioning of the MHSB, the Government has considered what is currently the most appropriate size and structure of the MHSB, and has decided to reduce its size from 20 members to 11 through the removal of the ex officio health service chief executive officers and general managers. In addition, a chief executive officer for the MHSB as a whole will be appointed. It is intended that the new CEO and the current Chief Medical Officer, Dr Bryant Stokes, will be appointed as members of the board. It is important to mention that the Bill also amends certain provisions of the Queen Elizabeth II Medical Centre Act. The QEII Act currently provides that if there is a teaching hospital on the QEII reserve, as there is in the form of Sir Charles Gairdner Hospital, the Senate of the University of Western Australia may nominate not less than one-fifth of the members of the board of that teaching hospital. When the MHSB was established that provision was not observed, because a decision was made by the then Minister for Health that it was not appropriate for any member of the MHSB to represent any particular institution or interest group. It was decided that MHSB membership would comprise nine independent members and 11 ex officio members. As that provision of the QEII Act was not observed when the members of the MHSB were appointed, it is appropriate to validate the establishment of the MHSB.

The QEII Act also provides that the clinical appointments committee of the teaching hospital on the QEII reserve must be chaired by the chairperson of the board of Sir Charles Gairdner Hospital. Since the MHSB was established as the board of Sir Charles Gairdner Hospital the chair of the MHSB has not chaired the hospital's clinical appointments committee. Consequently, the Bill validates the appointment of all medical personnel at Sir Charles Gairdner Hospital since the MHSB was established. The Bill suspends the operation of those provisions of the QEII Act for the period that the board of Sir Charles Gairdner Hospital has the management and control of more than one hospital. In the event that Sir Charles Gairdner Hospital ever again has a dedicated board, the Senate of the University of Western Australia will be entitled to nominate not less than one-fifth of the members of that board.

I now refer to the particular provisions of the Bill. The key clauses can be summarised as follows: The hospitals Act currently provides for two types of public hospital boards - appointed boards and ministerial boards. In the absence of an appointed board, the minister is deemed to be the board of a public hospital. Clauses 4, 6 and 8 make it clear that references to boards throughout the hospitals Act include both types of boards, while references to boards constituted under section 15 of the Act refer only to appointed boards. Clause 5 introduces a new section 6 into the hospitals Act. Section 6 clarifies the role of the Commissioner of Health in the terms outlined earlier.

Clause 9 repeals section 18A of the hospitals Act. The current section 18A deals with the minister's capacity to access board information by ministerial direction. Clause 9 introduces a new section 18A that permits the minister to determine that an appointed board is subject to the corporate planning document provisions set out in schedule 2. As mentioned, the provisions of schedule 2 are based on the corporate planning document provisions of the corporatisation legislation. Clause 9 also introduces new sections 18B, 18C and 18D into the hospitals Act. Those sections deal with the minister's capacity to obtain information, the responsibility of appointed boards to keep the minister informed, and the need for consultation between appointed boards and the minister. Those provisions are also based on similar provisions in the corporatisation legislation. I will not speak at length about schedule 2 or clause 9, as the content of those provisions was the subject of extensive comment and discussion during the passage of the corporatisation legislation.

Clause 10 introduces a new section 18E into the hospitals Act. Section 18E entitles the minister to determine that a board that has the management and control of more than one hospital is subject to schedule 3. Schedule 3 deals with board member liability issues, and essentially reproduces part 3, divisions 2 and 3 and part 4 of the statutory corporations legislation. It obliges board members to act honestly and reasonably and not to make improper use of information or their position.

I will not speak at length on the provisions of schedule 3, as they were the subject of extensive comment and discussion during the passage of the statutory corporations legislation. Division 5 of schedule 3 is not drawn from the statutory

corporations legislation but is based on similar provisions contained in schedule 3 to the Port Authorities Bill. Division 5 prohibits a board from -

exempting a member from liability to the board incurred as a member;

indemnifying a board member, directly or indirectly, from certain liabilities incurred as a member;

indemnifying a board member, directly or indirectly, against legal costs incurred in defending criminal proceedings in which the person is found guilty and certain other proceedings; and

paying premiums for insuring a member of the board against a liability, other than for legal costs, arising out of wilful breaches of duty or improper use of information or position.

Clause 11 introduces a new section 19A into the hospitals Act. Section 19A(1) provides that the minister may determine that a multi-hospital board is subject to section 19A(2) to (6) inclusive. Section 19A(2) to (6) prohibits the board from employing or engaging a chief employee or a chief executive of a hospital, fixing that person's terms and conditions of service or engagement, or removing that person from office, without the approval of the Commissioner of Health. Clause 12 amends the current schedule to the hospitals Act by renaming it schedule 1 and providing that a board member is guilty of misbehaviour in certain specified circumstances. Clause 13 inserts schedule 2, dealing with corporate planning documents. Clause 14 inserts schedule 3, dealing with board members' duties and liabilities. Clause 15 amends the QEII Act, rather than the hospitals Act, by suspending the operation of the provisions to which I referred earlier, and validates the establishment of the MHSB and the appointment of all medical staff at Sir Charles Gairdner Hospital on and from 16 July 1997.

The Bill has been assessed under the national competition policy. It has been determined that no clause has an anti-competitive effect necessitating substantiation on a cost-benefit basis. The Bill is not a panacea for all the inadequacies of the hospitals Act. However, it is a significant and necessary initiative to underpin the establishment of the MHSB, to clarify the role of the Commissioner of Health and to improve the minister's power to obtain information in the possession of appointed boards and to oblige appointed boards to keep the minister informed of their financial and operational position. A comprehensive review of the hospitals Act is planned to occur shortly. The advent of the national competition policy, the introduction of the commonwealth aged care legislation, the expiry of the Medicare Agreement, the enactment of the new health care principles, the negotiation of the new Health Care Agreement and the development of the State's Metropolitan Health 2020 plan, among many other factors, necessitate that overall review. In the meantime, however, I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ROAD TRAFFIC AMENDMENT BILL

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [10.59 am]: I move -

That the Bill be now read a second time.

Safer WA is a multifaceted program being developed to restore safety and confidence in our community following the rise of crimes of violence and home invasion. The police, state government agencies, local governments and the community are all being asked to become involved as the Safer WA program unfolds. The first major initiative of the Safer WA program is the community security program announced by the Premier at the opening of Local Government Week. This involves a partnership agreement with the Western Australian Municipal Association and the provision of funding to assist local government to conduct an audit of crime at the community level and to develop local solutions for local problems. Crime is a shared problem and a shared responsibility. The extension of the vehicle immobiliser scheme is another major initiative in the Safer WA program and it is one which will ask vehicle owners to take a greater share of the responsibility.

I turn now to some of the specific provisions of the Bill. The Bill will provide for the making of regulations to require all passenger cars and motor wagons registered or transferred after the date on which the regulations come into operation to be fitted with an approved vehicle immobiliser. However, the regulations will exempt vintage, post-vintage and similar vehicles from the requirement to fit immobilisers. This is considered necessary due to the intrinsic design of these vehicles and the value they derive from being retained in their original condition. An approved immobiliser will be one which is either fitted or provided by the manufacturer of the vehicle, or meets agreed standards. The applicant for the issue or transfer of a vehicle licence will be required to sign a declaration on their application that the vehicle is fitted with an approved immobiliser which is operational. When a person fails to sign the declaration, the director general will be empowered to refuse the application. These amendments are intended to reduce the level of vehicle theft in Western Australia and form a key plank of the Safer WA initiative recently initiated by this Government. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

BAIL AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

MR PRINCE (Albany - Minister for Police) [11.02 am]: I move -

That the Bill be now read a third time.

MR RIEBELING (Burrup) [11.03 am]: Yesterday I went through some of the Opposition's concerns about this Bill. Although I appreciate the minister's advice about the reasons for the legislation and why people's rights have been removed, my view is that the Bill is a knee-jerk reaction to a tragedy that occurred. We are tackling the bail provisions, rather than the prison system. Greater emphasis should be placed on rehabilitation to ensure that people who are released from prisons do not re-offend, and the current recidivism rate is reduced. I am concerned at our readiness to take away people's rights to a fair hearing and to access justice. The Bill waters down people's rights to a fair hearing and to challenge adverse comments made against them. I know the propensity these days is for tougher and tougher sentences and to remove people's rights by locking them up for longer and longer periods. Although, that is not the case with this legislation, it will result in an increase in the prison population. However, we do not see a corresponding increase in resources to prisons to cater for the extra 150 or more people who will be incarcerated due to these changes to the Bail Act. I thank the minister for his comments last night, and I hope that he will take my fears on board.

MR PRINCE (Albany - Minister for Police) [11.04 am]: I am obliged to the member for Burrup. To some extent, I share some of his concerns. I do not proffer the Bill as a total solution, and these matters must be looked at vigilantly, as I am sure they will be by the magistrates who will now, more than ever before, be charged with the administration of the Bail Act in a court of justice. I have a good deal of confidence and faith in the magistracy and judiciary generally. I commend the Bill to the House.

Question put and passed.

Bill read a third time and returned to the Council with an amendment.

REVENUE LAWS AMENDMENT (ASSESSMENT) BILL (No 2)

Second Reading

Resumed from 29 October.

DR GALLOP (Victoria Park - Leader of the Opposition) [11.06 am]: The Opposition supports the Bill which seeks to make amendments to the Fuel Suppliers Licensing and Diesel Subsidies Act and the Stamp Act. The amendments are necessary, mainly due to oversights by the Government in both the drafting of the Fuel Suppliers Licensing and Diesel Subsidies Act and amendments to the Stamp Act. These amendments will affect the level of revenue raised or potentially raised by the Government.

Before I refer to specific amendments I take this opportunity to discuss the revenue raising and spending practices of the Government, and in particular the 1997-98 Budget results. As has become the usual practice of this Government it has taken quite a while for its financial results to be published. The Treasurer's annual statements for 1997-98 have yet to be tabled, while the June Niemeyer statement was sent to the Opposition only in late October. The June Niemeyer statement shows that the consolidated fund reported an unadjusted operating surplus of $993m in 1997-98. This figure contains large one-off transactions which must be excluded to enable any meaningful analysis to be undertaken. When the 1997-98 result is adjusted for the sale of the Dampier to Bunbury pipeline, large one-off capital repayments from government utilities, and balances remaining in departmental operating trust accounts, the Government recorded an adjusted deficit of $116m in 1997-98, which compares poorly with the budget surplus of $78m and reflects poorly on the financial management of the Government. Members will recall the opposition claim in November last year that the Government was heading for a budget deficit. At the time the Treasurer chose to dismiss the facts in front of him and instead once again took time to call the Labor Party financially illiterate.

The 1997-98 result vindicates the claim the Opposition made in November last year. The budget position is even more surprising given the strong revenue growth for the Government. Government revenue in Western Australia has grown strongly since 1992-93, and continues to grow strongly. The people of Western Australia know only too well that taxes and charges in this State are now at record levels. The 1998-99 state budget included a range of increases in taxes and charges. Public transport fares once again were increased. For example, since 1992-93, a four-zone concession fare has increased by 183 per cent. The budget also contained massive hikes in the cost of registering motor vehicles. Water and sewerage charges also increased, and the cost of both home and motor vehicle insurance jumped. Apart from these budget increases,

the Government has continued to increase a whole range of fees and charges throughout the year. Increases in Rottnest Island fees, and the proposed introduction of beach fees are just some examples of this Government's indiscriminate revenue-raising activities.

The revenue figures speak for themselves. Government recurrent revenue, excluding the sale of the pipeline, totalled $6 864m in 1997-98. This represents an increase of $296m from 1996-97. In 1996-97 recurrent revenue increased by $307m from the previous year. In other words, recurrent revenue collections by this Government have increased by more than $600m in the past two years. In 1997-98 revenue from a number of taxes grew strongly. These include: An additional $44m in payroll tax revenue; an additional $55m in financial institutions duty and debits tax collections - this is, of course, mainly as a result of the Government's decision to double the debits tax; an additional $20m in stamp duty on insurance policies, mortgages etc; an additional $32m in motor vehicle registration fees; and an additional $72m in stamp duty on conveyancing - excluding the impact of the sale of the pipeline. If that revenue is included, it represents an additional $176m. It can be seen that this Government does not have a revenue problem. However, it does have a problem with listening to the important needs within our community.

One of the prime examples of these misplaced priorities is this Government's funding approach to the public hospital system in Western Australia. Information provided by Treasury indicates that this Government initially allocated fewer funds in 1997-98 to the state hospital system than it did in the previous year. The figures show that although the State contributed $618m in 1996-97, the Government had allocated only $590.4m in 1997-98. It is no wonder that there was a massive blow-out in the Health budget in 1997-98. The Niemeyer statement shows that health expenditure was $90m more than budgeted in 1997-98. We could also talk about education. However, this Government does not learn from its mistakes. The Opposition is of the opinion that the 1998-99 budget funding is again insufficient to properly tackle the problems in our public hospital system. Time and again this Government has wasted opportunities to deliver services to Western Australian people in need. This Government promised a social dividend, but it is not delivering on that promise.

I now refer to the specific amendments. The Bill seeks to amend the Fuel Suppliers Licensing and Diesel Subsidies Act of 1997. The first amendment seeks to remove particular disclosure requirements imposed upon a diesel fuel distributor. The Act currently requires authorised distributors of off-road diesel to provide their supplier with records of their customer transactions. These records include, among other things, the names and addresses of the customers and the price and quantity of diesel supplied to these customers. These requirements were placed in the Act to ensure that a clear audit trail was established. The Opposition understands that the current disclosure requirements have caused industry concern, mainly because distributors are required to disclose commercially sensitive information that may be used to solicit their clients. The proposed amendment therefore seeks to remove the requirement to provide suppliers with the names and addresses of customers and the prices paid for the diesel. The Opposition has sought an assurance from the Government that the proposed amendment would not make way for possible abuse of the subsidy arrangements. The State Revenue Department has assured the Opposition that the amendment will not affect the audit trail and expose the subsidy arrangements to possible exploitation. The Opposition therefore supports the amendment on this basis.

The second amendment to the Fuel Suppliers Licensing and Diesel Subsidies Act proposes to extend the qualifying usage for off-road diesel certificate holders to also include the exclusive economic zone of Australia. Under the current Act, if marine diesel users consume diesel outside the Western Australian territorial limit, they are not entitled to receive a supply of diesel at the subsidised price. Examples of marine diesel usage that may be affected by this diesel use condition include shore-based fishing operations, offshore oil and gas supply operations and recreational boating activities. The Opposition understands that this proposed amendment would restore the situation that existed prior to the High Court decision which invalidated franchise fees, and the Opposition supports the amendment on that ground.

Part 3 of this Bill seeks to amend the Stamp Act. The first amendment seeks to ensure that stamp duty continues to apply to share buybacks. The Opposition understands that a recent Victorian Supreme Court decision found that a share buyback is not a transfer in a legal sense and, therefore, stamp duty would not apply because stamp duty is charged only on transfers. This proposed amendment would restore the position existing prior to the Victorian Supreme Court's decision and ensure that stamp duty continued to apply to share buybacks.

The last amendment seeks to restore stamp duty exemptions for certain crown land dealings which were inadvertently removed by the Acts Amendment (Land Administration) Act of 1997. It seeks to restore stamp duty exemptions, firstly, to contractual obligations entered into by the Department of Land Administration before the former stamp duty exemption was removed and the transactions were entered into by the respective parties in good faith and with the expectation that they would be free from stamp duty; secondly, to grants of mining tenements; and, thirdly, to crown land that was offered in exchange for private land that has been compulsorily taken, purchased or acquired by the Crown for public purposes. The Opposition sought further information on these amendments.

The Opposition has sought further detail on contractual obligations entered into by DOLA before the former stamp duty exemption was removed. Unfortunately, given the time restraints, the State Revenue Department could not provide the information but the Opposition has been assured that it will be forthcoming. The Opposition has also sought information

on the number of mining tenements that have been affected by the removal of the stamp duty exemption. First, I note that this amendment relates only to the grant of mining tenements. Transfers of mining tenements are subject to stamp duty and will remain so. The Opposition was advised that, although 670 mining tenements have been granted by the Department of Minerals and Energy since March 1998 - the date on which the removal of the exemption came into effect - no mining tenements have been affected by the removal of that exemption. The State Revenue Department explained that it had deferred enforcement of the stamping of these documents on the understanding that Parliament would be asked to restore the exemption retrospectively from 30 March 1998. In effect, the Government did not enforce the legislation because it was considered undesirable, and it is waiting for the legislation to be amended before it is enforced. That is hardly a desirable situation and it can be described only as bad practice. I certainly hope that it is not normal practice to selectively apply the laws of this State. That issue is being debated in relation to another Bill. That being said, the Opposition does not oppose the clearing up of the matter by amendment to the Act.

Before I conclude my comments on this Bill, I express my thanks to the officers of the State Revenue Department who have provided information to the Opposition in relation to this Bill in a very prompt and professional manner. The Opposition supports the Bill.

MR BARNETT (Cottesloe - Leader of the House) [11.17 am]: I do not need to comment to any extent. The Leader of the Opposition has appropriately summarised the major clauses of the Bill and has indicated his support, which I appreciate. I also appreciate his acknowledgment of the officers of the State Revenue Department who are responsible for this legislation. The Government appreciates the Opposition's support.

Question put and passed.

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

TITLES VALIDATION AMENDMENT BILL

Committee

Resumed from 11 November. The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Clause 7: Parts 2A, 2B and 2C inserted -

Progress was reported after the clause had been partly considered.

Mr RIPPER: I want to discuss an issue we have touched on briefly in the debate but have not explored. The titles that are being validated were issued when the State Government was in conflict with the Federal Government over the structure of the native title legislation. For a lengthy period during which these titles were being issued, a federal Labor Government was in power and the original Native Title Act was in force. This Government was not happy with the original Act, and it was alleged that it was resisting the processes involved and not cooperating in order to bolster its argument that the Act was unworkable. In other words, the Government was attempting to make the process unworkable to bolster its criticisms of the Act.

What policy directions were given to the Public Service about compliance with the Native Title Act, particularly after the High Court decision of March 1995, which ruled that the state Act was invalid and the commonwealth Act was valid? Were agencies in any sense instructed to ignore the Native Title Act? Where the agencies were already involved in the processes of the Act, were they instructed not to reach agreements with native title claimants? I would like the minister to assure the Committee that no agencies or officers were specifically precluded from developing agreements under the Act. I would also like the minister to advise the Committee whether agencies or officers were specifically precluded from acting in circumstances in which claims had been lodged with the Native Title Tribunal and whether agencies or officers were instructed in writing or orally not to reach agreements regarding matters relating to claims by native title claimants.

Mr PRINCE: After the High Court decision of March 1995, instructions were given to a number of government agencies - primarily the Department of Land Administration and the Department of Minerals and Energy - about compliance with the commonwealth Native Title Act. I have a booklet that was produced in July 1995 by DOLA under the title "Native title - Western Australia: Implications for crown land administration and management". I will make it available to the Deputy Leader of the Opposition.

Post March 1995, DOLA and DOME were required to assess any processes they were using for the issue of titles. They needed to decide, for example, whether a beekeeper's permit to go on to crown land was required to go through the native title process. Not everything has to go through that process. Those issues that should are subject to section 29 notices and all of rest of it. As I have said on a number of occasions since then, all exploration licences under the Mining Act and just about every other form of title under the Mining Act have been put through the native title process. Three have come out.

There has been no direction not to comply nor is there any intention to do other than comply with the commonwealth law,

which the High Court decided overrode the state law. The fact that a claim has been lodged does not of itself achieve a result - particularly following the decision of the Federal Court which read down one section of the Native Title Act because it conflicted with a later section. There was virtually no threshold test other than that the form was filled out. Originally the Native Title Act contained a threshold - not quite a prima facie test but not far from it - for the registration of a claim. It was a preregistration assessment of whether native title might be found. It was a sensible provision. Unfortunately, later in the legislation it was contradicted by another section. When the matter came up for judicial pronouncement in the Federal Court in South Australia, a judge found that one should read down the first section to the same level as the second section - the conflicting section. Therefore, the threshold test became a test only of whether the form had been filled out. The existence of a claim is not, of itself, any indication of whether native title exists.

In relation to other titles, particularly Land Act matters as opposed to mining matters, the officers had to decide whether there was a probability of native title being found. Irrespective of whether there is a claim, there must be an assessment of whether native title is likely to be found; for example, one can look at tenure. What is the existing or historic tenure? Has it been extinguished? A plethora of material has been issued by departments for all sorts of purposes. Another example is Bremer Bay. The underlying tenure had been a farming conditional purchase lease, which had been surrendered to the Crown. I will provide the Deputy Leader of the Opposition with more information about that issue later.

Mr RIPPER: The State Government has been complaining about the "unworkable and unwieldy" - to use its words - processes of the Native Title Act. One of the ways in which more expeditious conclusions to these matters could have been reached was for the State Government to negotiate in good faith and reach agreements with native title claimants. That would have allowed titles to be issued validly and developments to proceed. I repeat that a suggestion has been made that the State Government did not actively pursue the possibility of reaching agreement with native title claimants. What were the instructions to agencies about developing agreements under the NTA? Can the minister assure the House that neither agencies nor officers within agencies were not instructed that they should not reach agreements with claimants under the NTA?

Mr PRINCE: On the advice of my adviser I can give that assurance on the last question. I was trying to give the member for Belmont an example of Bremer Bay. Under historic tenure there was a conditional purchase lease. A conditional purchase lease is one in which the Crown grants a lease to the potential farmer which contains a number of conditions to clear, fence, pasture and then pay a sum of money.

Mr Ripper: As a farmer's son I am aware of these arrangements.

Mr PRINCE: Good. He then pays a sum of money to ultimately obtain freehold title. That would be surrendered, then brought back into the crown estate. Subsequently the creation of a freehold title for building homes is sought. That was proceeding when a native title question arose and the whole thing stopped. The Department of Lands and Administration said that historically if there was native title, it had been extinguished because tenure of conditional purchase lease is an exclusive possessory.

Mr Ripper: There is a right to convert to freehold.

Mr PRINCE: No. Notwithstanding that, the tenure is exclusive possession as against the world, save an inspector from what used to be the Department of Lands and Surveys, and a couple of other departments - who could come and check; therefore, one could not have native title coexisting. That was the understanding regarding leasehold. Then along came Wik.

Mr Brown: Everybody knew Wik was coming.

Mr PRINCE: That is in relation to pastoral leases; I am talking about conditional purchase lease which is capable of converting to freehold. It is a different exercise. Unsuccessful attempts were made to negotiate.

Mr Ripper: What was the reason for the failure of these negotiations?

Mr PRINCE: The people who said they had a claim over it would not collectively come to a decision. I know several of them and there is a great deal of conflict between them, particularly by one lady who says it is her country, not the other person's. The Albany foreshore redevelopment is all reclaimed land on which two native title claims exist. To get on with the process, the project developer, LandCorp, had to do a number of things and had to negotiate. The native title tribunal process was so lengthy and convoluted that even though people said they did not have a problem with it, it took two years.

Kalgoorlie has a distinct shortage of industrial land and it has a huge shortage of residential land because of fairly obvious matters. Twenty claims are sitting on top of Kalgoorlie and surrounds. Almost all of them conflict with each other. It is simply not sensible or possible to negotiate with a group of conflicting people. Members opposite talk about agreements as though they are the solution, but they are not. In some instances they may be and outside the native title process, thanks largely to the officer on my right, we have negotiated some good agreements with people in the East Kimberley and in the central desert such as the Spinifex and Balingarri agreements. I was delighted to see that happen. It was nothing to do with the native title process because it does not work in that regard, nor does it work for agreements.

As I said, I am advised there is unequivocally no direction for government agencies not to seek to agree. Where they sought to negotiate and agree, it took two years - exemplified by the Albany foreshore and Bremer Bay situations - and did not work because of the conflict between the people. The process cannot work in Kalgoorlie because of the conflict among the people. My officer informs me with regard to Kalgoorlie an offer has been on the table for more than two years, but it has not proceeded because it is not capable of solution by agreement.

Mr CARPENTER: I heard what the minister said and I appreciate the point he makes about the difficulties in getting agreement when claims are in conflict. However, I do not accept his portrayal of the Government's position. The information that has been passed to me over a considerable period is that the Government did nothing positive to try to facilitate agreements with native title claimants; in fact, contrary to what he said, it did exactly the opposite. I would be surprised if there were written instructions anywhere to people in government departments that they should not cooperate in trying to help claimants and other interested parties strike agreements.

However, history does not start at nine o'clock every morning. All we must do is look at the Government's track record in this field and make a judgment on who is more likely to be putting forward an accurate position here - the minister or people on the native title claimant side of the fence who say the Government has done nothing to facilitate agreements and often gone out of its way to frustrate them by objecting. The Miriuwung-Gajerrong case is an example of where objections were made in every instance to frustrate the process.

What proactive role has the Government taken to facilitate agreements in the native title claimant areas? How has the Government positively decided to tackle what was one of the biggest changes in land tenureship and laws affecting land tenureship in the State's history, other than to initially try to prove that native title had been extinguished at colonisation against all the advice everybody else put to it, and to try to legislate in 1993 to extinguish native title? Rather than being proactive in trying to resolve the issues that arose because of recognition of native title, the Government - the minister has played a key role in this - has done exactly the opposite to frustrate the process at every turn and to deny the very existence of native title.

I do not believe the minister when he says no effort was made by the Government to frustrate and hold up native title claims. I refer to the eastern goldfields, for example, about which we hear so much. If it were not for that area the issue would have less heat in it. We all appreciate it is a major problem there, where fracturing of the Aboriginal community has occurred over time with so many diverse interests in the land and so many overlapping claims. Why, from day one, did the Government not decide this had to be resolved with leadership and positive policy development by resourcing, for example, the land council to bring some of the parties together. It did not do that; it has always done the opposite. It has done nothing to bring groups out there together.

Mr PRINCE: The member for Willagee has no idea.

Mr Carpenter: If you had any interest whatsoever in how the native title process worked, those are the steps you would have taken.

Mr PRINCE: The member is completely wrong.

Mr Carpenter: The Government did not do it; I will leave it at that. Give us some examples of where the Government was proactive in a role to try to resolve the situation.

Mr PRINCE: That traditional land use Act did not uphold native title; it translated it into a statutory right that was exactly the same. Therefore, do not peddle that, it is not true. That is number one. Number two -

Mr Brown: It did not do exactly that.

Mr PRINCE: It did.

Mr Carpenter: That is an outright misrepresentation.

Mr PRINCE: It is not. The member for Willagee has peddled that before he got into Parliament, and since. With regard to the Miriuwung and Gajerrong Families, there have been I do not know how many meetings. The Minister for Resources Development goes there frequently and deals directly with the people to try to get them together to come to an agreement. There has been an offer on the table with them for more than two years. There has been I do not know how many taxpayers' dollars spent in the time of people, meetings and work done to try to get an agreement.

Mr Carpenter: I believe that you do not know.

Mr PRINCE: Huge amounts have been spent. The member for Willagee talked about the eastern goldfields. The officer sitting on my right has spent weeks and weeks out there talking to the people over and over again. He has a long history of knowledge of them. He knows what he is talking about. He is probably one of the experts in Australia in that area. He has tried over and over again for years explaining, facilitating and resourcing. Land councils were directly resourced by the Office of Indigenous Affairs out of the Department of Prime Minister and Cabinet under Mr Keating with millions of dollars

to pursue native title claims. Because I was Minister for Aboriginal Affairs at the time when we were dealing with the goldfields gas pipeline, I know that they had no resources and could not get them to deal with heritage matters. It was just so clueless it was not funny. There were literally millions of dollars for the native title process but not for the heritage process which was involved in the goldfields gas pipeline. Land councils have had more resources in some respects than some of the government agencies. There has been a huge effort by this Government and its officers to get agreements.

Mr Brown: What role have the land councils played?

Mr PRINCE: Some of them have been very positive, have played an important role and have tried their best. However, the land councils do not control people, nor should they. When there are groups of people in conflict, the land councils are doing their best to resolve the conflict; therein lies the problem. One of the fundamental things that one day we may debate sensibly is whether there should be a claims-based process, because claims of themselves tend to create antagonism between people and we wind up with people competing with people, which is not necessarily the right way of going about the resolution of the matter.

Mr Brown: A Minister for Aboriginal Affairs said to me that when you have suppressed the people for 200 years, it is hard to approach them readily.

Mr PRINCE: That is a very reasonable comment and I have no problem with that at all. However, a process that deals with native title to the satisfaction of all concerned that is claims-based - claims meaning one group having a go at another with different memberships and so on - is what has come out of the Native Title Act because it is a claims-based system. Consequently, it inevitably leads to antagonism. However, I reject entirely the accusation by the member for Willagee that the Government has not done anything; the Government has done something. I have given two examples of enormous effort being put into the process but as yet to no avail. However, outside the native title process, we have negotiated two very good agreements on the ground with people, and they are working.

Mr CARPENTER: I do not accept what the minister said. He is able to point to what the Commonwealth has done. However, apart from that, he has talked about discussions that the Government has had. That is why "in good faith" is an interesting concept.

Mr Prince: I will answer that one too. I am sorry I forgot about it.

Mr CARPENTER: Fine, the minister should answer that, because the Government can have discussions with all sorts of people in all sorts of time periods and consult, as the Government claims that it has done with all sorts of people for all sorts of reasons. However, if the Government is not negotiating in good faith with an eye to achieving an agreement in concordance with the rest of the people who have a stake, it is often counterproductive.

To clear up one point, I will read a quote to the minister. Can he tell me whether the quote is accurate in relation to the Government's legislation and the original position that the State took? It states -

> The primary submission of the State of Western Australia is that native title came to an end upon the establishment of the Colony of Western Australia by reason of the steps taken to establish the Colony. Alternatively, the State submits that native title in Western Australia was wholly and irrevocably extinguished by the W.A. Act.

Is that statement accurate or not?

Mr PRINCE: The statement is entirely correct because it was translated, as I said, into a statutory right that was identical to native title in all respects. The member for Willagee never ever wants to hear that second part. It became a statutory right under the statute of this Parliament. I know that because I was the minister. The officer on my right was the chief executive officer of the office and we know that that was what he did. As a matter of law, there was no difference between the traditional land use right and native title because the definition in the Act was that.

Mr Carpenter: Did you say about two minutes ago that I was wrong when I asserted that the Western Australian Government sought to extinguish native title in its native title legislation? Did you say that I had absolutely no idea of what I was talking about?

Mr PRINCE: Yes, and the member for Willagee does not.

Mr Carpenter: And that I was totally and utterly wrong?

Mr PRINCE: Yes, because the member for Willagee never gives the full picture.

Mr Carpenter: Do you know from what document I just quoted?

Mr PRINCE: Yes, it is the submission to the High Court of Australia.

Mr Carpenter: It is not the submission to the High Court.

Mr PRINCE: All right, fine.

Mr Carpenter: It is the High Court's decision on your legislation.

Mr PRINCE: Yes.

Mr Carpenter: Let us talk about that.

Mr PRINCE: No, not just yet. Let me just talk about good faith.

Mr Carpenter: Minister, your problem is that you are completely and utterly inconsistent in one thing; that is, you misled people about the position that the State Government is taking. You have tried to do it from day one and you are still doing it.

Mr PRINCE: If the member for Willagee goes on to read the rest of the judgment, he will find that the High Court says that there is nothing wrong with translating the native title right into a statutory right; it is perfectly legitimate to do that. However, under section 109, the commonwealth law, having established a code over this area, overrides state law.

Mr Carpenter: The commonwealth Native Title Act?

Mr PRINCE: As I said, commonwealth law, having become a code over the whole area, overrides state law, which is the Constitution.

Mr Carpenter: I understand that, but which element of the Commonwealth? Are you talking about the commonwealth Native Title Act or the commonwealth law?

Mr PRINCE: Yes.

Mr Carpenter: Tell us what the High Court said about your legislation and how it sat with the racial discrimination legislation.

Mr PRINCE: We are talking about titles validation and the member for Willagee is off on another point. He raised the question of good faith in relation to agreements, and maybe the member for Belmont did also. With regard to that, I make the point that in one matter, concerning Koara, the tribunal found that the Government was not negotiating in good faith; in every other instance it has found to the contrary. With one exception, there has been no lack of good faith at all by the Government in its dealings with the people under the Native Title Act.

Mr RIPPER: That is an interesting comment from the minister. I now quote Professor Richard Bartlett and Anne Sheehan in the *Aboriginal Law Bulletin*, Volume 3, No 78 of February 1996, as follows -

> The Government of Western Australia continues to pay no heed to good sense or practice elsewhere. It seeks to ignore the duty to negotiate in good faith, and treat those provisions of the *NTA* related to it as mere window-dressing on the procedure for the granting of mining tenements. In particular it has:
>
> > Taken the position that there is no point in participating in negotiations where it considers that native title has been extinguished.
> >
> > Failed to provide information as to its negotiating position, apparently because it does not intend to provide any benefits or compensation.
> >
> > Declared that it will not be party to any agreement between a grantee party and a native title party in which benefits are provided.
> >
> > And, most significantly, declared 'where the grantee and native title party do not reach agreement in the allocated period, the State will lodge an application for a determination' that the grant be made.

That is a fairly trenchant criticism of the State's negotiating position. Are those comments true?

Mr PRINCE: They are expressions of opinion with which I do not agree. Ms Sheehan was the senior lawyer for the Aboriginal Legal Service and ran a series of cases alleging a lack of good faith on behalf of the Government in its negotiations. She lost the lot.

Mr RIPPER: Is it not the case that the State Government has declared that it will not be party to any agreement between a grantee party and a native title party in which benefits are provided? Does the minister deny that assertion?

Mr PRINCE: Under the Native Title Act, of course, the Government must be a party. There is no ability to opt out.

Mr Ripper: So you deny the assertion.

Mr PRINCE: With greatest respect, the Deputy Leader of the Opposition has read two people's expressed opinion with which I do not agree.

Mr Ripper: I am asking the minister to respond to that assertion. Have they misrepresented the position when they said that the Government declared that it will not be party to an agreement between a grantee party and a native title party in which benefits are provided? Is the Minister saying that such a declaration was never made by the State Government?

Mr PRINCE: No doubt they are expressing an opinion. My adviser informs me that there has never been a declaration to that effect. Sixty agreements are registered to which the Government is a party. Ms Sheehan and Professor Bartlett are entitled to their opinion which I am sure agrees with their philosophies. However, it is not correct.

Mr RIPPER: What about the comment that the State Government has declared that where the grantee and the native title party do not reach agreement in the allocated period, the State will lodge an application for a determination that the grant be made? Has the Government not done that?

Mr PRINCE: We are complying with the Native Title Act.

Mr Ripper: If there is a possibility of reaching agreement after the allocated time has applied, you have said, "No; time has expired, and that's it."

Mr PRINCE: Undoubtedly, up to the point that the National Native Title Tribunal makes a determination, agreement can be reached.

Mr Brown: It can be reached, but that is not the question. What is your attitude?

Mr PRINCE: Sixty agreements have been registered, and one case found a lack of good faith. In all other cases, the finding was entirely to the contrary. Indeed, when people have run cases alleging a lack of good faith on the part of the Government, they have been found wanting. It was not found to be the case. We continue to negotiate to try to reach agreement. The Government must be party to agreements, and it continues to try to reach them.

Mr Ripper: Do you try to do so all the way through?

Mr PRINCE: Of course. We then run into cases like the eastern goldfields with 20 overlapping and largely conflicting claims. We have these problems in the Miriuwung-Gajerrong area. The Minister for Resources Development outlined the difficulties involved. One can reach agreement on some matters, and it does not seem likely with others - although one keeps trying. One can negotiate outside the Native Title Act, as we have done successfully.

Mr RIPPER: The article from which I quoted earlier contains an interesting sidenote -

> See also 'Study of Impact of the Commonwealth's *NTA* on the Western Australian Mining Industry', Consultancy Report to Chamber of Mines and Energy of WA by the Allen Group, 18 October 1995, in which a mining company says of the WA Government '. . . they keep saying don't negotiate'.

How does the minister's assurance to the Committee that the Government is prepared to negotiate and reach agreement, and that it has not given instructions to officer and agencies not to participate in agreements, reconcile with that statement by a Western Australian mining company?

Mr PRINCE: The Deputy Leader of the Opposition is asking what the Government, through the officers and agencies, has done. The instruction is clear: Get an agreement if possible. We have done that. Mining companies do the same. The way in which these companies behave is a matter for them as they are out in the field all the time. Grave concerns are expressed by a number of people about bidding wars; that is, money being paid repeatedly as more claims come in. It does not lead to a resolution as one group is regarded as receiving more money than another. Yet another group then says, "What about us?" It does not immediately lead to any form of progression, and is not really desirable for Aboriginal people either. The question of conflict among them arises in the bidding process. If that is the perception held by some in the mining industry, it is their perception; it is not what the Government has done.

Mr RIPPER: I now outline the way Richard Bartlett describes the Western Australian Government 's approach in the *Aboriginal Law Bulletin*, Volume 3, No 82, of July 1996 -

> It has sought merely to give notice under s29 of its intention to grant a mining tenement, wait four or six months as stipulated in s35, and then apply for one of the determinations under s38 of the *NTA* from the national native title tribunal ('the NNTT') that the grant may be made, overriding native title.

This man is an academic with a reputation in his professional field to protect. He gave a clear description of a state government approach which seems to rule out the type of negotiations and agreement of which the Minister says the Government is in favour and in which it participates. What is the minister's response to that description of the Western Australian Government's approach to the application for grants of mining tenements?

Mr PRINCE: Professor Bartlett is entitled to his opinion, but it is not based on what is happening. The land access unit in the Department of Minerals and Energy comprises 10 people who have worked on these matters all day, every day, for some

years now. I gave the member DOLA's booklet on the matter, as it also deals with these issues all day every day as well. Professor Bartlett has an impression and expresses an opinion on native title. I heard him speak some years ago when we were on the circuit debating native title. His views are not necessarily based on what is happening on the ground. He is not in a practical sense dealing with what is happening on the ground. He is a lecturer at a university. Section 29 of the Act requires that we must be active, get out and negotiate. We do so.

Mr Ripper: We are trying to determine whether you have sought to frustrate those provisions of the Act or have gone along with it.

Mr PRINCE: No. On one occasion the decision stated lack of good faith.

Mr Brown: Lack of good faith is a hard test to prove.

Mr PRINCE: It is lack of good faith - not bad faith. There is a huge difference and the member should know that. People are trying to comply with the Act. I have provided members with some examples from the goldfields and Miriuwung-Gajerrong. Attempts to obtain negotiated results are ongoing, some of which are obviously successful, otherwise we would not have 60 agreements. However, some of those have not been successful - yet.

Mr BROWN: I am interested in what the minister has to say about the Government's negotiating in good faith on these matters. Let us look at the history of native title since the High Court's Mabo decision. When that High Court decision was made, all sorts of claims were made by the Premier and the then leader of the lay Liberal Party.

Mr Prince: Are you referring to Dr Carmen Lawrence? She was the Premier.

Mr BROWN: Claims were made by the current Premier and the then lay leader of the Liberal Party about people losing their backyards and the decision's applying to freehold land, contrary to the High Court decision. The Chief Justice made it very clear in the summary of the High Court decision about freehold -

Mr Prince: That is wrong. It was not until the case came out of Darwin this year.

Mr BROWN: The minister should read the summary at the front of the decision, together with the comments of Chief Justice Mason. I have read the decision and gone through it with a great deal of care, and that was made clear in that decision. Despite that, comments were made by the Liberal Party at that stage about the implications of the decision. The Liberal Party said that it would ruin Australia and the mining industry and take away freehold land. A significant campaign against the commonwealth Native Title Act was then undertaken by the Liberal Party and the coalition. Essentially, the Government did not want that Act, campaigned vociferously against it, ran up the bogy of native title and ran a strong racist campaign. From day one, after being saddled with the Native Title Act, the Liberal Party said that it was unworkable and unmanageable, could not work and would never work. Then, of course, the federal change occurred. The Prime Minister attempted to introduce a range of changes, including removing the Racial Discrimination Act application from native title. All of this has occurred in a political context. Yet the minister now wants this Parliament to believe that, despite the political position of the Government and the constant statements made by the Premier to stir it up, the Government was trying to work with this and reach agreement. Members would be forgiven for thinking that there was a hint of cynicism in that. The last thing the Government wanted was to show that the process could work. How can a party come out with a political campaign to weaken the legislation if that legislation is delivering? It is very difficult to do that. The last thing the Government wants to do is come forward with agreements under the Native Title Act. It can come forward with agreements outside it - that is good. Then, for political purposes, the Government can say, "Do not go down this path, go down another path." It is beyond belief that the minister can come here with a straight face and say to us, "Trust us and believe us. We have genuinely and honestly put in our best endeavours to achieve these agreements." It is just not credible. There are differences of opinion between different Aboriginal groups and interests. However, I have spoken to a number of senior and highly credible Aboriginal people and people who represent Aborigines and they have very honourable intentions. They have said to me that that is not their perception at all. Maybe they are all wrong, but I do not think so.

Mr PRINCE: I have also spoken many times to senior Aboriginal people who see this not only as divisive, but also as something that they abhor and would not like to happen. They would like to see it progressed. They expressed to me their frustration at the inability of some people to want to work together with others. I have the highest regard for these people. They do a magnificent job for their people. I would like to see them given greater empowerment in that sense, but it is difficult. That is one of the reasons that the Commission of Elders was established - to give them a status which was recognised by the State. However, that is beside the point. The member for Bassendean's statements concerning freehold are not correct. When the Mabo No 2 decision came down in 1992, there were doubts about freehold titles that were issued post-Racial Discrimination Act. Indeed, claims were made and pursued over freehold land granted since 1975. It is only this year that a claim which was made in Darwin resulted in the court stating with absolute clarity, "That is it. Freehold title, whenever granted, extinguishes native title. Full stop. That is it forever." The argument has been run that even freehold only suppresses native title. We have heard smatterings during the debate about whether a particular title suppresses and because that form of tenure reverts to the Crown, it becomes vacant crown land, therefore native title reappears. The

member for Belmont and I have had a number of exchanges about that matter. Only since May this year has the law on freehold title been quite clear: Freehold title extinguishes native title forever.

Mr Brown: There has always been a debate about reversion.

Mr PRINCE: However, there was debate from Mabo No 2 about any freehold title granted post-Racial Discrimination Act. It was a very real debate and actions were deliberately run to prove that native title existed when freehold title had been issued since 1975. There was doubt.

Mr Brown: The Chief Justice said there was not.

Mr PRINCE: Many learned commentators - QCs and others - said so.

Mr Brown: The Chief Justice has finally been proved wrong.

Mr PRINCE: Ultimately he was and he should have been, otherwise it does not make a lot of sense.

Mr Brown: That is what he intended. He made it very clear. In the meantime, if someone has run up a case to say green means blue and the High Court is prepared to listen to it, it can run whatever it likes.

Mr PRINCE: In the meantime, there is obviously a degree of uncertainty. I am not disputing the historical part of the matter of good faith. I do not necessarily agree with the member's rhetoric, but that is beside the point. Since March 1995, the Native Title Act states "You will", and we have.

Mr Brown: No, you have not. We had the debate yesterday, and you did not do it.

Mr PRINCE: We have complied with the Act in those matters in which we must. We have negotiated in good faith.

Mr Brown: So it is an option, and on some days you will stand by the law and on some days you will not?

Mr PRINCE: No. Even the member for Bassendean would accept that some forms of title do not need to go through the native title process. We must go to the Native Title Act almost exclusively with mining, because almost all mining is on a pastoral lease, a former pastoral lease or vacant crown land. All mining titles have gone through the native title process, as well as some other forms of title issued by the Department of Land Administration. There has not been a want of good faith and there have been extraordinary efforts to reach agreement. We have 60 registered agreements and we will continue with that.

Mr RIPPER: Another issue relates to the type of titles that we are validating. My understanding is that the original issue which gave rise to the need for the Titles Validation Amendment Bill was the doubt over whether pastoral leases extinguished native title. Many people believed pastoral leases extinguished native title, but the Wik decision confounded that view. Pastoral leases have been issued in other States because it was believed that native title had been extinguished. Following the Wik decision there has been a need for titles validation legislation. I understand that is the argument that has been put forward to justify the legislation. However, I wonder whether we are being asked to validate a lot more than decisions over pastoral leases in which there is an arguable case that native title had been extinguished. Why do we need to include the scheduled interests of public works which are contained in proposed new clauses 12B and 12C as part of the titles that will extinguish native title? What are the implications of including these two categories as extinguishing native title for the way in which future acts may be considered under both the commonwealth and state regimes?

Mr PRINCE: Although the Wik case dealt with a pastoral lease the decision is applicable to leasehold such as conditional purchase leasehold. The schedule to the Native Title Act for Western Australia refers to a lease of town land, special occupation land - which is usually light industrial - a conditional purchase lease, a homestead farm, a homestead lease, a lease under the Agricultural Lands Purchase Act of 1896, and leases under sections 41 and 152 of the Land Act of 1898, which permit the lessee to use the land solely or primarily for an artificial lake, a bathing house, a billiard room etc. A lot of it is historic, and deals with leases granted by the Crown in some form or other. For example, a lease of special settlement land, a working man's block, and a lease under the Land Act 1933 which permits the ground to be used as an aerial landing ground, an aged persons' home, bulk grain terminal, a church, a foreshore amusement park, livestock and produce sales, a rifle range, surf lifesaving club, an abattoir, an automotive metal product fabrication and it goes on.

Mr Ripper: Please do not read out the schedule.

Mr PRINCE: Why not? I can waste time just as well as the member for Belmont and a lot more productively. Although Wik deals with a Queensland pastoral lease, it is applicable to all forms of crown-origin leasehold, or it could be. Therefore, we seek to validate the titles that have been issued on a long list of leaseholds that have been granted over many years. That is fair and reasonable.

Mr RIPPER: I do not argue with the validation of these titles; it is important for certainty and in the economic interests of the State. That is why I have indicated that the Labor Party will cooperate with the passage of the Bill through the

Parliament by Christmas. However, why is it necessary to validate these schedule interests in public works in a way which will permanently extinguish native title? As the minister indicated, some of these schedule interests are historic.

Mr Prince: I think the member for Belmont has not understood the interpretation. It is the act that occurred in the intervening period that is sought to be validated, not necessarily the underlying tenure.

Mr RIPPER: I understand that. We are validating the intermediate act, and I have agreed that the validation of intermediate acts should be supported. Some intermediate acts are on the schedule and some involve public works. In both cases, category A intermediate acts extinguish all native title on the land or waters concerned. Why is it necessary to validate these types of intermediate acts in a way which permanently extinguishes native title? I will explain why that question is worth asking. Some public works may not necessarily last. There are plenty of occasions in the State 's history in which a public toilet on crown land has been demolished after 10 years. There would be other cases in which the schedule interest lasts for a period and then it expires. We should not adopt the process of suppressing native title to the extent that there is inconsistency between native title rights and the conflicting title. Rather we should adopt the view that native title should be suppressed for the life of the public work and then revived. What is the public purpose in permanently extinguishing the native title? I am not arguing that we should validate the intermediate act. I am asking why we should have permanent extinguishment of the native title rights when they might conflict with these intermediate acts?

Mr PRINCE: In relation to category A, it is permanent; in relation to categories B, C and D, it is not.

Mr Ripper: I understand that. Do you support the inclusion of scheduled interests and public works in the category A definition?

Mr PRINCE: The best example I can give is probably Homeswest.

Mr Ripper: Perhaps they could be in the category B definition where the extinguishment is not wholesale.

Mr PRINCE: It is not the public work that is sought to be validated, but the subsequent act. For example, Homeswest might have an area that was formerly vacant crown land which then became a crown reserve. Freehold title would not necessarily be issued. Homeswest could develop public housing on that land and subsequently - this is where the intermediate period comes in - sell the houses, for which the Government would issue freehold title. That probably has not happened in the past, and certainly not with the older estates because Homeswest originally received land grants from the Crown and did not buy land for public housing. It received grants of land that was held in reserve and built houses on the land. The legislation does not seek to validate the public work of building the public housing; it seeks to validate the creation of the freehold title and the transfer to the purchaser.

Mr Ripper: I find that a strange reading, but I will consider it.

Mr PRINCE: My adviser's worthy opinion is to that effect. That is certainly the intention. There are probably other examples in relation to closed roads and so on, where land that was a rail or road reserve has been used and it has never had title other than as a reserve, which is a particular form of tenure. However, if neither the road nor rail continued to exist, that land could be offered to an adjoining land owner to buy. If that were an intermediate act, the creation of that title and the transfer to the adjoining owner would be validated, and not the road or rail reserve. I understand what the member is saying about public works, but he has dealt with the land that was the subject of a road reserve. On the disposal of closed roads alone, I have a document of eight pages which gives details of roads closed by local authorities, the effective date and so on. It is happening all the time and it is a normal part of the land management of roads and road reserves. When dealing with that sort of exercise, whether it is a road reserve, Homeswest land or whatever, it is not the public work, but the act in relation to that public land that occurred during the intermediate period that is sought to be validated.

Mr RIPPER: Proposed section 12C, under the heading "Effect of validation - category A intermediate period acts involving public works", states that the extinguishment is taken to have happened when the construction or establishment began.

Mr Prince: I was referring in my comments more to 12B.

Mr RIPPER: Most of the minister's comments seemed to be related to public works. Let us talk about building a public toilet on some crown land. If that were done in the intermediate period, it would be validated by this legislation and the native title would be extinguished. What happens if it lasts for only 10 years and then for some reason it is demolished?

Mr Prince: That recreation reserve is then developed for housing.

Mr RIPPER: If it is demolished and there is no longer any public work on that land, the native title has been permanently extinguished even though the public work may have been temporary. Likewise, with scheduled interests, the native title is permanently extinguished even though the scheduled interest may have been only temporary. It is gratuitous and unnecessary. There is a reason to validate titles and suppress native title when there is a conflict between the rights of one set of interests and the rights of native title interests. Arguably, suppressing native title and validating the other interest is a way to resolve that conflict. However, once the conflict is no longer present, there is no rival private interest and it appears to be vacant crown land, why is the native title on that land permanently extinguished?

Mr PRINCE: Because the High Court says so.

Mr Ripper: You say you are acting in accordance with the common law position.

Mr PRINCE: Yes. The High Court has said in relation to public works - whether it be a toilet block or a road - that the nature of that use of the land is an exclusive possession and nothing else can co-exist with it because of the nature of that use. Consequently, it follows that native title is extinguished. I am summarising the reasons of the High Court. The result is that even if the toilet block lasts for only 10 years or the road lasts for only five years and not 50 years, the native title is extinguished by the construction of that public work. Because it has been extinguished, it cannot be revived. It is not suppressed, it is extinguished.

Mr Ripper: You are arguing that in all the cases where we validate, there has been an exclusive possession act and we have not moved beyond the common law position, as determined by the High Court, in making these validations and authorising this extinguishment?

Mr PRINCE: That is right. The Mabo No 1 and No 2 decisions contain the concept of native title, however expressed - and it was not expressed in minute detail. We are dealing with the use of land in a continuing sense over a time and generations, and the concept of passing that right of use from one to another - whether between generations, groups or individuals. As soon as an act is done on the land which is mutually incompatible with that form of use, whatever that use may be -

Mr Ripper: Only if it is exclusive possession.

Mr PRINCE: That is the point I make. The nature of the public work is exclusive of a native title type use of the land. My adviser has reminded me that if, for example, the member for Belmont owned land and the State Government in its infinite wisdom compulsorily acquired it for the purpose of road widening -

Mr Ripper: On just terms.

Mr PRINCE: Of course. It could be for the purpose of road widening, which happens frequently in country areas and to some extent in suburban areas. A private freehold title is subsumed into a crown estate and may cease to exist as a freehold title. At some later date the road is realigned, and that piece of land is no longer part of the road. Does the original owner still have a right to it? The answer is no, because the private right to land was extinguished when it was taken into the crown estate in whatever form of tenure. There is no persisting right in relation to that piece of land. One may be able to negotiate to buy it back, but that is beside the point. That concept is the same for native title. We have this bundle of rights called "native title" that ceases to exist when some other use is placed on the land. As a matter of logic, it cannot then reappear.

Mr RIPPER: Taking the minister's example, if the Government were to take my land for a road, there would be a resumption process. It would take the land and then construct the public work. We are dealing with vacant crown land on which there may be native title. The Government goes ahead and builds the toilet block or constructs the road during the intermediate period. We are saying that that act is valid by virtue of this legislation and that native title has been extinguished. There has been no dealing with the potential native title claimants and no process by which the matter has been negotiated or arbitrated, although the claimants can later seek compensation.

Mr Prince: That is if native title is found.

Mr RIPPER: Perhaps those concerned can go to the High Court. If the Government embarked on some temporary public work that perhaps lasted three, five or 10 years on a corner of a piece of land, or if there were some scheduled interest that has been surrendered and there was no competing private interest or any public work, does the minister think it fair and reasonable that Aboriginal native title holders lose their native title rights?

Mr PRINCE: As I said, if native title is subsequently determined, of course compensation will flow. Within the compensation system there is the ability, where possible, to negotiate for land to comprise the compensation rather than anything else. That could happen. In the Deputy Leader's example of public works subsequently disappearing and native title being found to have existed, the form of compensation might be the return of the land. The Deputy Leader's line of reasoning is that native title exists everywhere and is never extinguished; every form of tenure sits on top of it and suppresses it. When that use disappears, it pops back up again.

Mr Ripper: I am not arguing that freehold suppresses native title. Freehold extinguishes native title and exclusive possession acts. We are talking about temporary or perhaps defunct uses of the land. What public policy or justice purposes are served by extinguishing native title interests in those cases?

Mr PRINCE: The definition of "public work" in the Native Title Act has a particular meaning. It is the question of certainty, and public work, given its nature, is an exclusive possessory act. It is not possible for there to be some form of coexistence suppression or otherwise of native title; therefore, it is extinguished.

Mr Ripper: Even if it is unjust?

Mr PRINCE: It is the reasoning of the High Court.

Mr Ripper: Where would I find that decision?

Mr PRINCE: In part in the Wik and Fejo cases. Section 253 of the Act defines "public work" as -

(a) any of the following that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities:

(i) a building, or other structure (including a memorial), that is a fixture; or

(ii) road, railway or bridge; or

(iia) . . . stock-route; or

(iii) a well, or bore, for obtaining water; or

(iv) any major earthworks; or

(b) a building that is constructed with the authority of the Crown, other than on a lease.

Mr Ripper: Do you think it is fair that a stock route is included?

Mr PRINCE: We have very few frequently used stock routes in this State compared to other States, particularly New South Wales and Queensland.

Mr Ripper: Is it a fair approach? It does not seem to be very fair.

Mr PRINCE: There are not very many stock routes used in Western Australia. One could debate that example, but the rest of them would not present much problem. That definition has been in the Act since its inception.

Mr Ripper: We are allowed to disagree with what Paul Keating did.

Mr PRINCE: With the greatest respect, the Labor Party put the provision there, and probably for good reason.

Mr Ripper: I do not agree with everything Paul Keating did.

Mr PRINCE: I am delighted to hear that. I suspect there was probably more concern about stock routes in the eastern States than in Western Australia. It is there, and it has always been there.

Dr GALLOP: I will ask the minister a couple of questions about the schedule of interests that are part and parcel of this whole issue of extinguishment - or "confirmation" of extinguishment. Will the minister indicate the process followed in arriving at the schedule?

Mr Prince: In the Native Title Act?

Dr GALLOP: Yes. Who was involved in the determination that some would go in and some would go out? Were they subject to the scrutiny of the Federal Parliament? Is the minister in a position to table the correspondence between the State and the Commonwealth on what is included and what is not included?

The minister said with great authority, and indeed with great certainty, in the second reading explanation of the Titles Validation Amendment Bill that all the Government is doing is confirming the past extinguishment of native title by certain valid or validated acts. The reason I corrected myself earlier is that we are not talking about extinguishment, but about the confirmation of extinguishment. Can we be certain that what is included in that part of this Bill extinguishes native title? Cases have ultimately gone before courts to determine whether native title exists. The famous Wik case was very much along those lines. However, I am not sure whether the minister is correct in his conclusion, which he reached in cooperation with the Commonwealth, that all these forms of lease and other interests extinguish native title under the common law of Australia.

In summary, will the Minister describe the process by which this schedule came into being? What review was included, in a parliamentary sense, at the commonwealth level? How can he say with such certainty and authority that we are dealing with past extinguishment under common law?

Mr PRINCE: Regarding the process, the state authorities - this was not exclusively the Department of Land Administration and Mines, but they were the main departments involved - examined the list of crown derived tenure and in a simple way considered whether each had exclusive possession; if so, it could be said that it extinguishes native title. They came up with a long list which was obviously examined by commonwealth officers and so forth. I think all the other States did much the same thing, bearing in mind that States vary. All sorts of things have popped up over the years, usually historical soldier settlement schemes, etc. The net effect was that the schedule was arrived at and it received parliamentary scrutiny in the Commonwealth.

Dr Gallop: Was the original list that was presented by Western Australia the final list that was agreed?

Mr PRINCE: No. We do not have the correspondence here. I have seen parts of it; it is 6 to 9 inches thick.

Dr Gallop: If the final list is not the same as the original list, obviously that raises the question about how we define exclusive possession. You said that in some cases it applied, but in the end you decided it did not. How can we be sure this includes only exclusive possession acts as defined under common law?

Mr PRINCE: We cannot totally. Overwhelmingly it is the consistent view, state, federal and so on. As I suppose it is possible that there may be some that are not as sure as others, compensation is provided for.

Dr Gallop: In a sense we are talking about extinguishment, aren't we?

Mr PRINCE: Yes. I am advised that the stock route is probably an interesting one to consider. However, I suggest that almost all of the others, some of which we have referred to, are probably not. The problem we are faced with - there are literally thousands of forms of tenure - is that the only other way of getting any certainty is to litigate individually; for example, take to the court a case on a homestead lease regarding a stock route and so on. Anyone interested only in money should qualify as a lawyer and hang up a shingle that says "Native Title". He would be in business for the next 40 years. That would not only take a long time, it would be monstrously expensive, but it would eventually give certainty. That is the only other way of getting certainty regarding these tenures.

After the experts producing and scrutinising lists, others looking at them, and their going backwards and forwards and commonwealth parliamentary scrutiny, we came up with a list almost all of which we are sure are of an exclusive possessory nature. If there is some doubt about some forms of tenure compensation will be provided. The other alternative was untenable from the point of view of Australia. We could not be hanging around for 10 or 20 years while a series of cases worked through the courts. I doubt we would have the wealth to do it.

Mr RIPPER: The minister's point is interesting and it is a reason that we need native title legislation which is fair. If we do not have that, indigenous interests may decide that they will exercise what they regard as their common law rights with the consequence to which the minister has drawn attention; that is, matters may take a long time to resolve. My concern is that it seems that the scheme of the legislation, both Commonwealth and State, is to permanently extinguish native title, even though we may reach a stage at which there are no competing perpetual interests underlying the title. There might be a transitory interest, a mining lease, or no transitory interest. It does not seem fair and just to have a situation in which the land looks like vacant crown land but on which there is no longer any public work or any scheduled interest on it - the whole thing has been a temporary process - but over which Aboriginal people have lost their native title, even if it is contained in commonwealth and state legislation. It is also an approach which has implications for the treatment of future acts. My understanding is that the new registration test for a native title claim would see any claim which covers an area in which native title has been extinguished being refused.

Mr Prince: There is a logic to that.

Mr RIPPER: If such a claim happens to be accepted, it might still be subjected to a strikeout action by another party with an interest in the land.

Mr Prince: That is fair enough.

Mr RIPPER: There might be a native title claim covering a large area, but within a small part of that area is one of the transitory scheduled interests or one of the temporary public works. As the native title claim includes that tiny area which, according to this legislation, is extinguished once it has passed native title, it is not a registerable claim; or if it is registered it is subject to the possibility of a strikeout action. The claimants, either when registration is refused or the strikeout action is successful, will have to redraft their claim and exclude those pockets of land on which native title has been extinguished and seek reregistration.

Mr Prince: Yes; if the claim is crafted by people who know what they are doing one hopes that sort of thing will not happen.

Mr RIPPER: I am concerned that in a situation in which a section 29 notice may be issued - people have, I think, a four-month period in which to lodge objections - they can lodge objections only if they have a registered native title claim. If they have a claim, because it mistakenly includes a pocket of land on which there has been extinguishment of native title, their claim would be subject to a strikeout action. They cannot get a new claim considered before the expiry of the four-month period in which they could lodge an objection. Just because their claim has been struck out and they are required to redraft their claim and seek new registration, that does not mean the four-month objection period stops for them. It continues and consequently they lose their right to object and their right to negotiate regarding the mining act. By the time they get their new claim registered the act has been undertaken and they have lost their rights. That is my concern about these clauses and the clauses relating to scheduled interest in Part 2B - Confirmation of past extinguishment of native title by certain valid or validated acts.

Mr PRINCE: One can strike out only that part that relates to the offending piece of tenure. That will not mean the whole process is lost; it takes five minutes. I have paperwork which the member for Belmont might care to look at over lunch. It is a brief summary of the tenures we were talking about, including examples of titles. That perpetual lease is one on which I did the conveyancing in 1988.

Progress reported.

[Continued on page 3408.]

EDWARD MILLEN HOME AND HILLVIEW SITE

Statement by Leader of the Opposition

DR GALLOP (Victoria Park - Leader of the Opposition) [12.51 pm]: I will talk about the Edward Millen Home and Hillview site in East Victoria Park. As members would be aware, it is a registered building in terms of its heritage and importance. Currently, the Western Australian Government is interested in selling that site to the Town of Victoria Park. The Government should adopt another option for the future of that site from both the heritage and community points of view. The site should stay in public ownership and pass over to a management structure involving the State Government, the National Trust, the Town of Victoria Park and others. That management structure would then be in a position to ensure that a coordinated approach is taken to the conservation and future development of that important site in East Victoria Park. A number of initiatives could follow with such a management structure in place: Funding could be sought to restore the buildings, and some job creation schemes might be the basis for that; and planning could commence for the future use of the site and buildings. As a conservation plan that was developed for this site stated, it would be possible within a single management structure to consider various leasehold arrangements for the use of that site in the future. I hope the Government will give this idea serious and sympathetic consideration so that the community interest in this site and its importance is properly recognised in future decision-making.

RALLY AUSTRALIA

Statement by Member for Murray-Wellington

MR BRADSHAW (Murray-Wellington - Parliamentary Secretary) [12.53 pm]: I bring the attention of the House to the events of Rally Australia which took place in the past week. I had the privilege to have Rally Australia come to my electorate in the south west. I was in Perth for a function on Saturday morning and left as soon as I could to return to Harvey to take part in the celebrations. Along the way I noticed that people were sitting on their chairs on the verges all along the road from Perth to Harvey taking an interest in the cars passing by. It created much interest for those people. Harvey and Collie formed committees and they had banners and bunting erected throughout the towns. They had school bands, various dance groups, and stalls manned by people from all walks of life - from the church, the local dance group or the youth of the town. The towns came alive and it was a great thing for the south west. Apart from that, a huge number of people followed the rally. Many people came to the south west as tourists, not to mention the enormous amount of media exposure of Western Australia because the media filmed the event and televised it to the rest of the world. Rally Australia was a huge success for Western Australia and it should certainly be supported in the future. I hope it continues to flourish in Western Australia.

KWINANA-ROCKINGHAM HOSPITAL, RETENTION

Statement by Member for Peel

MR MARLBOROUGH (Peel) [12.55 pm]: I call for the retention of a fully serviced hospital known as the Kwinana-Rockingham Hospital. That community hospital's reputation is second to none. With the Government's commitment to the privatisation of health and its diminishing role in providing health services to the community, that hospital is being gutted and many of the medical services that are urgently required for a community the size of Rockingham-Kwinana will be taken away. The demographics of the area indicate that more retirement villages are being built in Rockingham, while in the Warnbro-Port Kennedy part of my electorate, more than 30 houses are being built each week for young families. That is a sign that a well-serviced, properly run, fully utilised hospital is required for residents of that region.

Presently the service is being run down and the elderly are simply told that if they want their health requirements to be serviced, they must use a transport system that must be an embarrassment to any Government and go to Mandurah Hospital. The privatisation of buses in that area has meant that bus services have declined and are no longer adequate to transport people from Rockingham and Kwinana who require health services. Rockingham Hospital must be retained at its present level of services.

TIME ON OUR SIDE - A FIVE-YEAR PLAN FOR WESTERN AUSTRALIA'S MATURING POPULATION

Statement by Member for Bunbury

MR OSBORNE (Bunbury) [12.56 pm]: I take this opportunity to talk about the Time on Our Side plan which was launched by the Premier last Monday week and which was the subject of a brief ministerial statement by the Minister for Seniors on

Tuesday. As outlined by the minister, the Time on Our Side plan for Western Australia's maturing population has four objectives: To generate government policy and initiatives to meet the needs of an older population; to raise awareness of the ageing of our population; to encourage individuals to take a much more positive attitude to the fact that we are all growing older; and to involve the private sector more fully in government plans.

The plan has received widespread enthusiastic support, including, I am pleased to say, the support of the shadow minister, Hon Cheryl Davenport. However, I take this opportunity to thank and to congratulate the people who put the plan together. Most important, they are people from the Office of Seniors Interests and members of the Seniors Ministerial Advisory Committee, which I have the privilege of chairing. I particularly acknowledge the work of Ms Dianne Moran, the chief executive officer of the Office of Seniors Interests; Mr Peter McGlynn, who was the executive officer to the committee when the plan was being put together; and Ms Helen Joyce. Members of the senior ministerial advisory committee were Mrs Margie Bass, Dr Peter Brine, Mr Norm Harris, Mrs Bettine Heathcote, Mrs Joy Jeffes, Mr Neville Lane, Mr Shri Manohar, Mrs Betty Mazzarol, Mr Peter Norris, Mrs Marlene Robins, Mr Jack Tinetti, and Mr Leonard Vickridge.

ROCKINGHAM COMMUNITY POLICING OFFICE

Statement by Member for Rockingham

MR McGOWAN (Rockingham) [12.57 pm]: I use this opportunity to raise an important matter in relation to my electorate and to call for the shifting of the Rockingham community policing office from its current location back into the Rockingham City Shopping Centre. Until approximately two years ago, the Rockingham community policing office was located in the Rockingham City Shopping Centre, which is the community hub of Rockingham. At that time, the community policing office was moved to the Lotteries House development in Rockingham which, in effect, is not as well patronised as the Rockingham City Shopping Centre. That has had a major impact upon support for a community policing and Neighbourhood Watch. It has meant that far fewer volunteers are involved in important processes for enforcing law and order in the Rockingham community. It has also caused a reduction in the feeling of security and an increase in unlawful behaviour in the Rockingham City Shopping Centre. As a result, in probably the most heavily patronised shopping centre in the southern suburbs of Perth, patrons feel less secure. If the Rockingham community policing office were moved back into the Rockingham City Shopping Centre all those problems would be fixed.

SMITH, MR ANTHONY CHARLES EDWARD

Statement by Member for Hillarys

MR JOHNSON (Hillarys) [12.59 pm]: I wish to talk today about Anthony Charles Edward Smith. I was honoured to have spent time with Tony before his passing on Wednesday, 28 October 1998. Tony was born in London, England on 24 June 1933, the only child of Frances and Ernest Smith. He left school at 15 years of age and worked in various positions in the mechanical engineering field. He met Jean in 1949 and they married some two years later. Unfortunately, the couple were separated by war when Tony was called for national service and he spent time in Hong Kong and Austria. Tony and Jean subsequently had three children - Greta, Tony and Maxine.

Tony was a community-minded man. In England he became involved in youth football and was the driving force behind the establishment of a sports centre which has grown into a large complex catering for many young people. Tony and Jean followed their eldest daughter, Greta, to Australia in 1985. Tony then became involved in Lions. Tony's work with Lions was phenomenal. He established relationships with Whitford City and the *Wanneroo Times* which facilitated many successful projects such as Lions Week at Whitford City and the Lions Fair.

Tony first became known to me in about 1993. I had known Tony's daughter from my time on the Wanneroo City Council but did not meet him until some time after the 1993 election when he rang my office to ask if there was a reply to his justice of the peace application. His application was approved some time later and Tony offered to work in my office two mornings a week performing the duties of a JP. Tony enjoyed spending time with people and was a pleasure to have in the office. He always gave a full commitment to his responsibilities and never took on a project to which he could not give his full attention. Tony did not speak or complain about the pain he was in. A poem called the "Measure of a Man" asks that the measure of a man be not "how did he die" but "how did he live" and not "what did he gain" but "what did he give". Tony gave much and left everyone who knew him with their own special memories.

Sitting suspended from 1.01 to 2.00 pm

[Questions without notice taken.]

GLOBAL FINANCE GROUP

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received a letter from the member for Armadale seeking to debate as a matter of public interest the following motion -

That this House expresses concern that the Ministry of Fair Trading has failed to act promptly to investigate complaints by retirees who have lost their life savings through an investments broking company, The Global Finance Group, and as a result this company is still freely advertising to entice more elderly people into highly suspect investment schemes.

And further this House calls upon the Minister for Fair Trading to ensure that the investigation of Global Finance is accelerated and thereby reduce the risk of more elderly people falling victims to unscrupulous operators.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

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

MS MacTIERNAN (Armadale) [2.41 pm]: I move the motion.

I give some background for the members who may not be familiar with finance broking. Finance broking in this State is currently a regulated industry. One is required to be licensed to operate as a finance broker. The responsibility for supervising, licensing and disciplining finance brokers and ensuring that they abide by the Finance Brokers Control Act is given to none other than our good friend, the Ministry of Fair Trading, in conjunction with the Finance Brokers Supervisory Board. However, real concern exists as to the diligence and effectiveness with which complaints which are made by consumers, many of whom are elderly, are being dealt with by the Ministry of Fair Trading. This, of course, delays justice and the capacity to recover funds. However, more importantly, it means that the operators who appear to be behaving in a most unscrupulous and unlawful manner are able to go out and entice more elderly people into these schemes in which they are losing their life savings and their superannuation funds. The Ministry of Fair Trading, by failing to react in a prompt, diligent and effective manner to these complaints, is aiding and abetting these finance brokers in bringing more innocent people into their net.

A few finance broking companies could be raised here in this debate. However, in order to keep the matter somewhat more simple, we will confine our remarks to the discussion of one company; that is, the Global Finance Group Pty Ltd. The principal operators of that company appear to be a John Margaria, a Kim Wood, and a George Rudolf. For the last 18 months, this company has been advertising its wares in *The West Australian* and in a magazine targeted at elderly people called *Have-a-Go News*. In their advertisements, they describe themselves as private first mortgage specialists. Interestingly, as my colleague the member for Nollamara said, in shades of the 1980s, they are offering interest rates of 10.6 per cent to be paid monthly. They are offering investments that they claim are totally secured with first mortgages, which somehow or other, strangely, will be able to offer a 10.6 per cent annual return paid monthly. This is an attractive rate of return to many elderly people. They also mention in the advertisements that they are licensed finance brokers. That gives the punters some comfort. It certainly implies that this organisation has been assessed by a government agency and has been given a government imprimatur.

Something in the order of 60 people can be identified, who are currently suffering as a result of the investments they have made with Global Finance in the last 18 months. Various schemes are involved. One case involves the redevelopment of the Balga shopping centre. Approximately six elderly couples saw this advertisement in the *Have-a-Go News*. They contacted Global Finance and were persuaded to invest in the redevelopment of the old Balga shopping centre. This centre was owned by a Mr and Mrs Johnson. Global Finance told the punters that Mr and Mrs Johnson were highly recommended and that this was a secure investment. This occurred in mid-1997. By December 1997, a mere five months later, the monthly payments that they had been promised, which many of these elderly people were dependent upon for their income and livelihoods, had disappeared, and the securities that they had been given turned out to be basically valueless. This appears to be a pattern that has been repeated time and time again.

I will provide a run-down of some of the sums of money involved. The first people to whom I want to refer are a Mr Lens and a Ms Dorothy Burn. Mr Lens is 79. He invested his life savings of $150 000 in this scheme. He now has nothing. A Ronald John and a Margaret Baulch invested $50 000; Ken and Mary Foster invested $50 000; James and Ruth Mullner invested $25 000; Wilhelm and Hisea Lohmeyer invested $50 000; and Daniel Moscarda invested $30 000. That is in one of the schemes, one of the pool funds being operated by Global Finance. There are others. One lady invested her money in a kiosk, only to find that the kiosk does not exist. Another case involved an elderly Italian lady and her husband who have lost their money. According to Mrs Florrusse, her husband died earlier this year as a result of stress over this entire affair. They have two properties in Global, and those properties have failed to pay dividends. The widow is extremely distressed and totally at a loss as to how to deal with this matter. One of the proprietors of Global Finance wrote to her and suggested that perhaps the way to deal with this would be to use his lawyer, Hyland and Watts. He was seriously proposing that this elderly widow use his solicitor to get some independent advice.

Most of these people were unaware of the existence of the Ministry of Fair Trading or the fact that the ministry dealt with

these types of problems. They came across the Real Estate Consumer Association which put them in touch with the Ministry of Fair Trading. These complaints were made to the Ministry of Fair Trading in July, although we understand the Ministry of Fair Trading had been advised of this by other parties some time beforehand. The Balga shopping centre scheme was formally brought to the attention of the ministry in July. Some weeks later the case was assigned to Mr Willers. Unfortunately, Mr Willers has done very little in the intervening months. It has become evident from the questions that I have asked on notice that Mr Willers did not commence any examination of the files of the Global Finance Group or any discussions with the Global Finance Group until October, which was three months after the matter had been referred to him. To date, the examination does not appear. For three months, Mr Willers did not attempt to speak to the Global Finance Group or to access the files, let alone undertake the sorts of activities that could be described as a proper investigation, including the ordering of audits from each of the trust funds.

When Mr Lens and the other people whose names I have mentioned finally went to a solicitor, the solicitor sent a written complaint to the ministry about this failure to act. The ministry responded with the most extraordinary set of excuses as to why nothing had been done, basically blaming the complainants by saying that they had failed to provide any documentation etc, and that people had come to see the complainants but they refused to give them the papers, all of which was complete and utter nonsense.

Mrs Penny Searle is another person who has complaints against the same Global Finance Group; she is not involved in the Balga Shopping Centre development. She rang the ministry in April and finally made a formal complaint in June 1998. She runs a superannuation fund. She had made six different investments which had gone bad under the Global Finance Group. She sought legal advice, and was told there was clear prima facie evidence that at least four very substantial and serious breaches of the Finance Brokers Control Act had occurred. She contacted the ministry. A month later it sent a copy of her complaint - this was its investigation work - to the Global Finance Group and asked it to respond. The Global Finance Group responded. She was called in and presented with a letter written by the Global Finance Group. It was clear that the investigator had not even read the response by the Global Finance Group, let alone analysed it. The investigator then said to her, "It is up to you to take this to a solicitor and get your solicitor to respond to the Global Finance Group's response." She did that. She took the documentation away and at considerable expense had an 80 page report prepared detailing each of the scams that were involved in these six failed investments. She then took this to the Ministry of Fair Trading. The ministry popped it in an envelope and sent it to the Global Finance Group; and so it went on. The department is not prepared to handle any investigations. It adopts a completely hands-off approach. All it says to the complainant is, "You must do the work, and we will act as a post box, popping these things out. You give us a complaint, and we will send on your complaint. When the response comes back, we will send it to you, and you respond." The department's approach to its job is that it is simply a post box. Mrs Searle was not happy with this post box approach that was being taken by the ministry. She specifically asked, as she has an entitlement to do under the Act, that the matter be referred to the August meeting of the Finance Brokers Supervisory Board. It did not go there, nor did it go to the September meeting. She then rang the minister's office and sought an audience with the minister. However, like every other consumer who has a problem, she was not able to secure that. Nevertheless, she had a meeting with one of the minister's advisers and the registrar of the Finance Brokers Supervisory Board. They promised her that things would be done and they would get moving on it. At that point I asked some questions about how long Mr Willers, the investigator, had been on the job. We were astounded to find that as of 27 October - bearing in mind that Mrs Searle had made her complaint in June - the investigation had formally started on 6 July. Mr Willers had not yet commenced discussions with Global Finance Group about the complaints by Mrs Searle, nor had he taken any steps to look at the files that were being held by the Global Finance Group. One must ask how these people can call themselves investigators. How can they claim to be investigating a complaint such as this without examining the files or interviewing the accused? What makes this more interesting is that some of the documentation that we have from the chief executive of the ministry defending Mr Willers indicates that this is the only matter that Mr Willers is dealing with. Yet, each and everyone of these people who have made these complaints are highly dissatisfied - quite rightly - with the way the ministry is handling this investigation. It is clear it is not taking the task seriously and responding only when prodded into action, either through pressure from Parliament, or by way of action taken through the complainant's solicitors. When I sent Mrs Searle the answer to this question, she was absolutely outraged, particularly given the minister's staff had assured her the problem would be dealt with. Yet a month later, no steps had been taken to investigate the files. Mrs Searle rang the ministry and asked what was going on. She said that she had just received the answer to the question asked in Parliament indicating that the investigator had done nothing in this regard. The ministry apologised but said that she had not signed a proper statement yet. No mention had been made in her numerous contacts with the department prior to this that a particular formal statement had to be signed. Last week she was able to sign one of those statements to get the process moving.

Mr Speaker, it is an extraordinary story. It appears that only a person who is able to enlist a solicitor and get a member of Parliament to ask questions, can get the department to take any action whatsoever on serious breaches of the finance broker's activity. We must ask ourselves why, when major breaches of legislation have occurred as set out in closely argued legal advice, so little is being done? Why has the ministry not referred these matters to the board? It has kept complaints within the ministry the same as we see happening with the real estate complaints. They have been kept within the ministry and supposedly under investigation, but virtually nothing happens. What does happen is done so badly or done so slowly that

it ceases to be of any importance. It is appalling that this outfit, Global Finance, is still operating. The initial advertisements in *The West Australian* show interest rates on offer of 10.6 per cent. I have here the October-November edition of *Have a Go News*, and again we see at the masthead the advertisement by Global Finance. This time the company has become more modest: It has reduced its interest rate from 10.6 per cent to 10 per cent. It invites retirees, private super funds and investors to join its schemes. Many members would recall the Western Women saga and the way in which the members of the Government jumped up and down because Robin Greenburg happened to run some interviews out of the Women's Information and Referral Exchange centre. That absolutely pales into insignificance compared with what is happening in this matter. This is a government-sponsored newspaper. It is sponsored by the Ministry of Sport and Recreation and the Seniors Recreation Council of WA and is put out for elderly people. It is releasing this newspaper in which an outfit, that has been under investigation - no matter how slow and pathetic it might be - for almost six months by the Ministry of Fair Trading, nevertheless has been given imprimatur to advertise, selling its wares to some of the most vulnerable people in our community. It is an absolute outrage! The minister's failure -

Mr Bloffwitch: Has it been convicted?

Ms MacTIERNAN: It has not been convicted.

Mr Bloffwitch: Opposition members have said that until you are guilty, you should not be judged. That is what they were saying yesterday.

Ms MacTIERNAN: One of the reasons these people probably have not been convicted is that the Ministry of Fair Trading, as is its wont, is swinging the lead so that these matters are not being resolved. It is refusing to take these matters to the Finance Brokers Supervisory Board. It is allowing the sin to compound. Nevertheless, it is one thing to put a person in jail; it is another to allow an agency, about which the Government should have grave suspicions, to advertise in a government-sponsored magazine. If the Labor Government has been found culpable because one of its agencies rented a room to Robin Greenburg, the Government will be 100 times more culpable for allowing an organisation, which has been under investigation by the Ministry of Fair Trading for six months, to advertise to elderly people offering these preposterous schemes in this magazine.

The minister will tell us shortly about all the hard work that has been done by the Ministry of Fair Trading in this regard. No-one will believe the minister, especially not those people who have complained. Every one of these people is outraged by not only the attitude of the investigating officer, but also the unacceptable delays in dealing with this matter. There is a broader question.

Mr Bloffwitch: Who have actually lost their money?

Ms MacTIERNAN: The 12 people whose names I read out. None of those people has received any of their interest payments since December 1997. These people are self-funded retirees and depend on income from their investments to support themselves. They have invested their money with this company and are not receiving any proceeds from these investments. For the past 10 months, they have been living in vastly reduced circumstances. I point out to the member for Geraldton that the evidence indicates they will lose a substantial -

Mr Bloffwitch: It was going to pay them monthly.

Ms MacTIERNAN: Yes, it advertises monthly payments. Self-funded retirees require monthly payments. They have lost their income for the past 10 months. There is every indication that, at best, they will receive back a very small proportion of their funds because these supposed blue chip properties are, in most instances, derelict properties and have been grossly overvalued. In fact the moneys that have been lent against them far exceed the values of the properties. In some instances, the properties do not even exist. It appears that many are not secured by a first mortgage. The first mortgage status was a complete misrepresentation. In fact, the first mortgage was usually held by another finance company. These people have been comprehensively shafted. Not only have they not received this essential income for the past 10 months, but also it appears that their capital investment has been badly eroded. There is a bigger picture. This is the normal saga of the incompetence of certain sectors of the ministry - I will not say this applies to the entire ministry; some areas of it work quite well, but the real estate and finance brokers do not - which refuses to take people to task. More importantly, we know that the Government has made a decision to deregulate the finance brokers industry. The last thing the Government wants before it deregulates is a scandal which indicates that there is a real problem in the finance industry and we need to tighten up the regulation and licensing provisions rather than deregulate. That is the last thing the Government and the ministry want because it will compromise their plans which are heavily supported by the banks and many major players in this State who want deregulation of the finance brokers' industry. We cannot have these scandals emerging because it will not suit the Government's deregulation agenda. The minister will not be able to keep the lid on these matters.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [3.06 pm]: Firstly, if these people are in difficulty, as the member for Armadale has implied, and I have been advised that many people have not received their payments, the Government is sympathetic to those who lose money in investments of this nature. It is particularly concerning if it is a senior or a person

of 78 years of age. The problem in the business area is that businesses have a right to offer a service and make promises. People make judgments on whether or not they will accept that advice. If it is a person who is 78 years of age, which is the case with one of these people, it can be particularly traumatic. I have received a letter addressed to the Premier from one of the people concerned, about the circumstances in which he has found himself. Under no circumstances does the Government support or like to see a situation in which people lose money. Members will know that the higher the interest rate a business offers, the higher the risk. If people take advantage of an interest rate of 10.5 per cent when the going market rate on fixed mortgages for houses is 5 or 6 per cent -

Ms MacTiernan: Was that your argument for Western Women?

Mr SHAVE: I wish to put my argument in a fair and balanced manner. We all know what Mrs Greenburg did when she preyed on those people with Western Women. If the member for Armadale wants a full-on debate about Robin Greenburg, she should raise another matter of public importance and we will research the details about Robin Greenburg and see how she is going.

Ms MacTiernan: You are going down the same path.

Mr SHAVE: We will see about that. In this case, people were offered an attractive interest rate - the figures were provided by the member for Armadale - and when people are offered an interest rate of 10.8 per cent, they must be wary of what is being offered when everyone else is offering between 5 and 8 per cent. Elderly people should not be preyed on or given information or inflated valuations, although I have not sighted all of the valuations, so I do not know the circumstances. The member for Armadale has made many comments about the ministry's processes. The ministry disagrees with her summary of events, as she has not correctly outlined the processes.

Ms MacTiernan: How could it do that?

Mr SHAVE: Officers are sitting in the Speaker's Gallery advising me. As is usual with the member for Armadale, she has come in with a story - as she did yesterday when she said that the Real Estate Institute of Western Australia was funding the case and paying for everything - but when I ask my advisers about that she backpedals and says, "Oh, that is what people were saying at the meeting." Members must understand that when we are dealing with the member for Armadale much of what she says comes from fairyland, so we must find the facts. The Finance Brokers Supervisory Board is responsible for licensing and supervising finance brokers. Although the member for Armadale has tried to turn this attack on the ministry and its staff, the board is responsible for supervising the brokers. The ministry provides administrative support to the board. If the board is not happy with the level of investigation or the support the ministry is providing, and it is not able to do its job because the ministry is negligent, I expect the board would advise me of that situation.

Ms MacTiernan: The problem is that the matters do not get referred to the board.

Mr SHAVE: That is the member's view. I will elaborate on that in a minute. High priority has been given to a full investigation of Global Finance Group Pty Ltd with 80 per cent of one investigator's time being occupied with this company since August 1998.

Ms MacTiernan: That is right, which makes it even more extraordinary.

Mr SHAVE: I have a problem relating to the claim by the member for Armadale that the ministry is treating this matter lightly when the Ministry of Fair Trading has directed one officer to go flat out to put a case together and to resolve the issue. That officer has been working nearly full time since August to try to resolve the issue.

Ms MacTiernan: Six months into the investigation he had not spoken to the complainant or examined the file of Global Finance. No-one knows what he is doing.

Mr SHAVE: That is not true. The member for Armadale may not understand what the investigator is doing, but she has not asked for a briefing from my department.

Ms MacTiernan: Why doesn't the minister meet with some of these victims? The minister gets Mr Mitchell to do his dirty work. If the minister ever turns up to a meeting he says he is going to attend he can listen to these people. The minister will then realise it is not my complaint, but the consumers' complaint. The minister has a responsibility to them.

The SPEAKER: Order! The member for Armadale has been allowed a lot of interjections.

Mr SHAVE: The ministry and I have received only two complaints about Global Finance. One was from PenLas Pty Ltd - otherwise known as Penny Searle - and the other from Mr Rick Lens and others. Mr Lens is the 78 year-old gentleman who wrote to me. I am further advised that the Real Estate Consumer Association claimed to have identified five delinquent pooled investment schemes arranged by Global Finance, but the ministry has not received formal written complaints from any of the investors involved in these schemes. I would think that if the ministry has given that to me, it is the correct advice. It may not be, but that is the advice I was given.

Ms MacTiernan: It is not proper or full advice. Your department has interviewed a number of other people and is dealing with their complaints. If we can arrange an interview, will the minister see those people?

Mr SHAVE: The problem I have is that the Finance Brokers Supervisory Board must undertake these investigations. It uses the ministry staff to undertake the investigations. It is appropriate that I leave those people to do their job. We will have a problem if I interfere, just as we had a problem with a similar issue involving the Real Estate and Business Agents Supervisory Board and a relative of another member of Parliament. People were saying that I should be involved and others that I should not.

Ms MacTiernan: The minister did get involved in the most disgraceful and scurrilous way, and he will brought to book for that.

Mr SHAVE: No, I did not.

Ms MacTiernan: The minister went to the press gallery and leaked the questions.

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

Mr SHAVE: I may have been to the press gallery on one or two occasions, but not on this issue. The only reason I spoke to the Press on that issue is that they came to see me. They were hearing all sorts of allegations from members in this place.

Ms MacTiernan: The minister leaked those questions and the answers to them.

Mr SHAVE: No, I did not. I tried to stay away from them, but members opposite kept at me.

Ms MacTiernan: The minister was heard on the telephone. One day I will bring in our tape.

Mr SHAVE: Cut it out!

Ms MacTiernan: How do we get accountability if the minister will not take any responsibility?

Mr SHAVE: I am not in charge of the Finance Brokers Supervisory Board.

Mr Kobelke: You are the minister; the buck stops with you.

Mr SHAVE: The chairman is in charge. That is where the member for Nollamara is wrong, and where Labor people get things mixed up. They try to get inside these organisations. They are set up to do a job, but the Labor Party wants to dictate to them.

Mr Kobelke: If they are not doing their job, the minister is responsible.

Mr SHAVE: My responsibility comes in if those people do not do their job.

Mr Kobelke: That is what is occurring.

Mr SHAVE: I do not concede that they are not doing their job. If it is proved to me that they are not doing their job, my responsibility is to change the composition of the board, and not do what members opposite do.

Ms MacTiernan: Will the minister receive a delegation from these people so he can assure himself that the board and the ministry are doing their job?

Mr SHAVE: Yes. The problem I have with delegations of this nature is that sometimes when people leave the meeting they get the facts mixed up. I am not talking about the people who raise the issue, but people like the member for Armadale who get their facts mixed up all the time.

Mr Carpenter: They get false facts.

Ms MacTiernan: As opposed to true lies!

Mr SHAVE: When we consider the employment statistics, I thought the members would congratulate the Minister for Employment and Training for his efforts, and the terrific job he is doing.

One of the complainants was PenLas Pty Ltd. I will provide the sequence of events. The complaint from PenLas was made on 6 July.

Ms MacTiernan: No, it was in June.

Mr SHAVE: Once again the member for Armadale tells me one thing, and the advice from the ministry is different. When I walk out of here and say that the member's information is that the complaint was made in June, while the ministry says July, I suspect the ministry will show me a letter of complaint that is dated 6 July or received on 6 July. Notwithstanding that, the member for Armadale will tell me that these people have given me detailed notes that are untrue so, in the eyes of the

member for Armadale, the public servants are deliberately trying to mislead me, as the minister. If the member for Armadale is silly enough to believe that, she can continue living in fairyland. I do not believe they would do that.

The PenLas complaint was received on 6 July and a detailed response was received from Global on 17 July and passed to PenLas on 22 July. The member for Armadale may be right on the first point because my notes indicate that inquiries with Global Finance about a complaint by PenLas began on 6 July, so it is possible that a complaint was made before then and Global was contacted. If that is the case, I accept that. A detailed response was received from Global on 17 July and passed to PenLas on 22 July 1998.

Ms MacTiernan: They acted as a postbox.

Mr SHAVE: PenLas then made a comprehensive submission directly to the Finance Brokers Supervisory Board, which was tabled on 12 August. That is the appropriate place to which to make a submission. Although the member for Armadale said that the ministry acted as a postbox, I suggest it did as much as possible to assist those people in putting together that submission. At that time legal advice from the ministry was sought regarding grounds for further investigation of what had been put forward. As directed by the board, a preliminary assessment of the matters raised by PenLas was prepared and submitted to the board on 14 October 1998 for further direction. The board endorsed the report, which stated that there were grounds for further investigation into the conduct of Global.

Global Finance has been requested to reply in writing to certain written responses received from PenLas. Ms Searle and Mr Hellens were interviewed on 30 October 1998 and supplied copies of documents, and written statements have been prepared for signature by both parties. The parties are to attend the office of the Ministry of Fair Trading on Tuesday, 17 November 1998 to adopt their statements relating to the complaints regarding Global Finance. Anyone with an understanding of a process, in which lawyers are involved and in which interviews and investigations must be carried out, will agree that proper process has been followed. Officers at the Ministry of Fair Trading have tried to assist in this investigation.

The second complaint received was from Mr Rick Lens and others. The investigator commenced investigations into complaints by Mr Rick Lens against Global Finance on 29 July, when he contacted Mr Lens to arrange a suitable time to meet with him. Since that date, all investors involved with Mr Lens have been interviewed and have provided statements. Global Finance has been interviewed and it has provided statements. The borrower, Mr Johnson, has been interviewed in relation to the matter. The investigator examined the files of Global Finance regarding the complaint by Mr Lens and others on 14 October 1998. A process has taken place, and the ministry is endeavouring to assist the people wherever possible. The problem is that the ministry investigates and provides assistance, the board must make an assessment and, at the end of the day, if the people involved have been deliberately using inflated valuations, as could have occurred - I am not prepared to say that it has happened in this circumstance - and if independent valuations and assessment prove that someone has been deliberately misled, I suggest that prosecutions will take place. That is not my decision. I am not judge and jury. It is up to the board or the police.

Ms MacTiernan: More people are being sucked in every week. You are saying it is all very sad and you are letting these people advertise in a government-sponsored magazine and suck more people in. It is unbelievable.

Mr SHAVE: Many finance companies around Perth, which are very reputable and have acted as agents, have loaned money to people against properties which later, for various circumstances, had to be sold. Approximately 30 finance companies around town in certain circumstances have arranged finances where the loans have not stood up and people have lost money. I am sympathetic to that problem, and the problems of these elderly people. There is a difference between an owner or a finance broker acting as a broker and deliberately misleading people. That will not solve the problem for these people. The ministry will go through this process in a thorough manner. If the company has acted improperly and not in accordance with the charter of the board, we will advise the board of that view.

Ms MacTiernan: It will be like Sure Sale and it will take two or three years.

Mr SHAVE: I cannot pre-judge what these people have done. It must go through the process, just as the Sure Sale case must go before the board.

Ms MacTiernan: Perhaps you should put out a few consumer warnings.

Mr SHAVE: The member said that yesterday in relation to the brochure about the deregulation of real estate fees. I produced three different brochures and explained that the ministry had a budget of $150 000 for its campaign to make people aware of the circumstances. The ministry does the same in every area in which it operates, although the budget may not be the same. The Government is there to help people and consumers.

Ms MacTiernan: Why have you not issued a public statement warning people?

Mr SHAVE: Does the member want me to issue a public statement to the effect that Global Finance is guilty because it arranged a mortgage which has gone bad and, therefore, it is culpable and has done the wrong thing?

Ms MacTiernan: You could advise elderly people to be aware of those sorts of schemes and say that a number have gone wrong.

Mr SHAVE: The Minister for Family and Children's Services and Seniors will have some words to say on that issue. We should not take this issue lightly.

Mr Kobelke: The problem is that you are taking it lightly.

Mr SHAVE: That is a reflection of the member's cynicism. I assure members that the Government is very sympathetic to the situation in which these people find themselves, and it will do whatever it can to assist them.

MRS PARKER (Ballajura - Minister for Seniors) [3.29 pm]: The Minister for Fair Trading has provided the details regarding his agency's response to this case, and I will address my comments in general to the Government's position, the priority it gives to seniors, and some of the initiatives that have taken place and are being planned. The protection of seniors' interests - that includes their financial interests - is a key priority for me, as the Minister for Seniors, and for the Minister for Fair Trading and the Government. Last week was Seniors Week in this State. It was a significant week in which the Government was able to raise the issues relating to the ageing of our population, the increasing proportion of seniors in the community and the value of the contribution they make to the community. During that week the Government released its policy document "Time on Our Side", which details a five-year policy framework that will lead this State forward in acknowledging the role and contribution of seniors and the way we should shift our thinking in planning for seniors, not only at government level but also in the community and the private sector.

It is important to note that the document contains a list of contributing agencies. The Ministry of Fair Trading was one of the 32 agencies that participated. I thank the minister for his contribution and the work his agency undertook with officers from the Office of Seniors Interests in developing the plan and putting forward initiatives.

It is important to note that some projects were already in place and being planned before the launch of that document. A joint project is underway between the Office of Seniors Interests and the Ministry of Fair Trading to develop a consumer information service for older people. That important service is expected to commence early in the new year.

Ms MacTiernan: Was it jointly sponsored by REIWA?

Mrs PARKER: The project is being conducted by the Office of Seniors Interests and the Ministry of Fair Trading. It is unacceptable for members of the Opposition to trivialise issues affecting seniors.

Ms MacTiernan: You cannot keep putting out brochures and expect us to take you seriously.

Mrs PARKER: Before the member for Armadale criticises the document too strongly she should know that the opposition spokesperson for seniors made a public statement on the day after the release saying that the Opposition supports the five-year plan and acknowledges that it will make a contribution.

Ms MacTiernan: It is not a substitute for having a Ministry of Fair Trading that is prepared to act on behalf of consumers.

The DEPUTY SPEAKER: We have heard the member for Armadale too often.

Ms MacTiernan: The minister was directing her comments to me.

The DEPUTY SPEAKER: I do not need any further comment.

Mrs PARKER: It is critical that the Government have a policy framework out of which will come programs and initiatives to respond to and achieve the stated goals. I have already said that the Office of Seniors Interests and the Ministry of Fair Trading are developing a consumer information service for seniors. That is expected to commence early in the new year. The office already provides a seniors' information service offering a referral point to a range of organisations. In the case of financial advice, it directs people to the National Information Centre on Retirement Investments, which is a not-for-profit organisation with the goal of improving the quality of advice offered to retirees. Another initiative is a project researching financial abuse of seniors. That will be delivered through the Office of the Public Advocate. The five-year plan also refers to an information kit that will be published entitled "Seniors' power", which will increase seniors' awareness of consumer protection issues. Work must be done in responding to the needs of seniors and recognising their contribution. This plan sets out the policy framework and the government-wide commitment. The plan has attracted strong endorsement and support from the seniors sector.

Before closing I would like to say something about *Have a Go* newspaper raised by the member for Armadale. The *Have a Go* newspaper and the people who run it do an absolutely wonderful job. It is an independent newspaper sponsored by the Government though the Seniors Recreation Council. It has a commitment to positive ageing, to discussing issues relevant to seniors, and it aims to raise their profile. It encourages seniors to have a full involvement in the community. It does a good job and I strongly support everyone involved.

Ms MacTiernan: We understand that. Will you now take it upon yourself to inform seniors of the difficulty to which they might be exposing themselves?

Mrs PARKER: It is an independent newspaper. While the Ministry of Fair Trading investigation is taking place people lodging those complaints may well wish to advise the newspaper.

Ms MacTiernan: Surely the ministry should do that. Should it not protect consumers?

Mrs PARKER: The Minister of Fair Trading has underlined the extent of the investigation into that matter. We must change the way we recognise and value the role of seniors in our community. We must recognise that they have a great role to play.

Mr Carpenter: That is rhetorical claptrap!

The DEPUTY SPEAKER: Order!

Mrs PARKER: It is not rhetorical claptrap; it is a significant and serious issue.

Mr Carpenter interjected.

The DEPUTY SPEAKER: Order! I formally call the member for Willagee to order for the first time. The member should not keep yelling at the member on her feet.

Mr Carpenter: Why not?

Mrs PARKER: It is time seniors were given priority. I will table a copy of the "Time on Our Side" document. If I had it, I would also table the media statement from the Council on the Ageing, the peak organisation in this State, containing its strong endorsement. This Government takes the issues of seniors very seriously indeed.

MR KOBELKE (Nollamara) [3.38 pm]: I will address my remarks to the Minister for Fair Trading. I will not comment on the Minister for Seniors' contribution because she failed to address any of the substantive issues in the motion before the House, which shows how little regard she has for the welfare of seniors in this State.

Clearly all investors need to be wary when offered high interest rates. People in their senior years who need to rely on their savings for their income must be particularly cautious. When we see interest rates nearly twice those offered by reputable institutions in our community we should be doubly cautious. When many self-funded retirees are feeling the pinch because of very low interest rates there is a clear temptation to invest with companies that are offering 10 per cent interest or more, particularly when their advertising indicates that they are licensed finance brokers.

Those companies are subject to the laws of this State - the laws that the Minister for Fair Trading is sworn to uphold and enforce. He fails totally in that regard. We know that this minister and this Government do not believe in consumer protection; they changed the name of the responsible authority - they now call it the Ministry of Fair Trading. They do not want to protect consumers from being taken down by unscrupulous and fraudulent operators. Members opposite are the mates of these people who are robbing our elderly citizens while this minister and his Government fail to uphold the law.

Licensed finance brokers must comply with the laws of this State. Those laws provide a range of steps that should be taken if the minister is to ensure that the law is upheld. I acknowledge that proper procedure must be followed, but this minister is not interested in following proper procedure. He wants to use it as an excuse for his inaction. His responses in this House time after time give him grounds for claiming incompetence as an excuse for inaction. If it is not incompetence, it is dereliction of duty which makes him a friend of the people who are involved in defrauding many elderly people. The minister cannot simply say it is not his business. He must be aware that there are many victims of the Global Finance Group Pty Ltd who cannot get to see him. His excuse for not wishing to do something about their complaints is that somehow the member for Armadale might misrepresent the discussion taking place between the minister and the victims. I have not heard an excuse as lame as that for a long time.

The minister has clearly indicated that he does not wish to take up the complaints from a large number of citizens who are the victims of the Global Finance Group. He is not interested. He uses the lame excuse that his talking with them might somehow be misrepresented. The minister must act in this case. At the end of the day, the law will be upheld in an effective way that protects the citizens of this State or he will be responsible for the events that lead to these people losing their money. He cannot slide out from under the situation. This has been drawn to his attention on several occasions.

Mr Shave interjected.

Mr KOBELKE: The member is the minister responsible for upholding the laws which cover finance brokers and the Ministry of Fair Trading, which must play an important role in ensuring that the matter is prosecuted. Time after time he can use excuses for not having effective procedures in place. However, at the end of the day, all the excuses in the world will not save this minister. He is responsible for fairly and properly upholding the laws of this State. The excuses are

irrelevant. He is refusing to fulfill his ministerial duty, which means he is acting as the mate of the rip-off merchants and shysters who are taking money from elderly members of our community in a way that contravenes the law.

There is sufficient prima facie evidence to indicate that the Global Finance Group is not complying with the law. This minister does not want to face up to his responsibility. He wishes to wash his hands of the whole matter. That is not acceptable. As minister responsible in this area he must act promptly. In a situation such as this, to delay is to assist the people who are perpetrating this scandal on the elderly people of Western Australia.

Question put and a division taken with the following result -

Ayes (19)

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

Noes (27)

Mr Ainsworth	Mr Day	Mr Marshall	Mr Shave
Mr Baker	Mrs Edwardes	Mr Masters	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr Minson	Mr Tubby
Mr Barron-Sullivan	Mrs Holmes	Mr Nicholls	Dr Turnbull
Mr Board	Mr Johnson	Mr Omodei	Mr Wiese
Mr Bradshaw	Mr Kierath	Mrs Parker	Mr Osborne *(Teller)*
Mr Cowan	Mr MacLean	Mr Prince	

Question thus negatived.

POLICE AMENDMENT BILL

Council's Amendment

Amendment made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

The amendment made by the Council was as follows -

Clause 5, page 4, after line 12 - To insert the following subclause -

(2) When a police officer or constable proposes to carry out a search under this section, the officer or constable must explain to the person to be searched that failure to comply with the demand is an offence against this Act.

Mr PRINCE: The Bill was passed by this House and transmitted to the other place, where regrettably it was sought to be amended to neuter its effect. The member for Midland managed to persuade those in the other place not to neuter the operative provisions of the Bill which enable a police officer to arrest someone in possession of graffiti implements and, effectively, requires them to explain themselves. However, the quid pro quo was that the police officer must warn the person concerned that he has the power of search before actually searching them. That amendment is unnecessary because it is part of standard police practice and appears in other legislation. In that sense it is a duplication. However, it is not a duplication that derogates from the essential nature of this Bill. Consequently, I am more than happy to accept it for the purposes of passing the Bill.

Mrs ROBERTS: I am pleased to see that this provision in the Bill has been passed. One of the concerns that I expressed in this Chamber was that juveniles in particular needed to be made aware that failure to comply with a police request would see them in further breach of the law. It is all very well to say that that is standard police procedure. As many of us have seen, in some circumstances these procedures are not followed. It is an important requirement of our police officers at least to explain that to juveniles, so that they understand their position and are made aware of the law as it relates to them. I thank the minister for his cooperation in this matter and thank my colleagues in the upper House for the role that they have played.

Question put and passed; the Council's amendment agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Council.

ACTS AMENDMENT (VIDEO AND AUDIO LINKS) BILL

Second Reading

Resumed from 27 October.

MR McGINTY (Fremantle) [3.54 pm]: This Bill contains a number of provisions which are commonsense and accordingly attract the support of the Opposition. For a short time the capacity to conduct a number of legal proceedings in the courts via video connections has existed, whether they be bail applications or other procedural matters. This Bill seeks to extend that capacity so that most, if not all, court proceedings other than sentencing can be conducted by either video or audio links. It is considered inappropriate to allow sentencing to be conducted over the telephone; consequently no provision is made for that. However, as I indicated, this is a commonsense measure and it will have the full support of the Opposition as an extension of something which was established recently.

The only issue that presents itself - and I would appreciate some comment from the minister on this matter - is how this Bill will enable normal court procedures and court rules to apply when evidence is being taken by a video or audio connection from outside the geographical limits of the State. For instance, if a witness is giving evidence in Melbourne in a trial in the Western Australian Supreme Court, there would be no power to punish that person for contempt and there would be limited power to control the behaviour of that person. Although it is a good idea to be able to hear from people in remote parts of the State or to take evidence or enable a prisoner in Casuarina prison to witness the proceedings involving himself - there are obvious advantages relating to security, cost and the like - we must ensure that every issue is covered in the ways in which we extend technology into the courts. Although it is desirable to avoid the cost and inconvenience of perhaps flying a witness from Melbourne or elsewhere, who might give only five or 10 minutes' evidence, we must ensure that all of the usual court procedures will apply to that person, otherwise we will end up with an extremely fragmented system.

Proposed section 130 in clause 9 refers to contempt of court in evidence being given in this State. There seems to be a shortcoming where that evidence is given outside the geographical limits of the State. I ask the minister whether, when taking evidence by video connection or in any other way conducting a trial or legal proceedings using video all of the normal procedures of a court- as it cannot when it falls outside the court's jurisdiction in this State - it raises the possibility of introducing a fragmented system where different rules will apply depending on the geographical location of the witness giving evidence by video link. That is a highly undesirable situation. There is a great need for the application of consistent rules and practices.

That is the only issue I wish to raise about this legislation because, apart from that, the extension in the manner proposed has the wholehearted support of the Opposition.

MR PRINCE (Albany - Minister for Police) [3.58 pm]: I thank the member for Fremantle for raising that issue. I have taken advice from the adviser, who confirmed my understanding that this is part of a model scheme that is intended to apply in all States of Australia. The result will be that similar legislation will be enacted in the other States. That will then enable the laws of contempt to apply in Victoria, for example, in relation to taking evidence by video and audio link from that State in a trial being conducted in this State. The result, therefore, is that we will wind up with an effective reciprocal enforcement of that type of provision concerning the conduct of a trial or any court proceeding.

Mr McGinty interjected.

Mr PRINCE: Yes. The corollary will apply here in relation to the other States. I understand those matters are proceeding now in other Parliaments.

Dealing with overseas, this legislation will allow the prescription by regulation of a particular jurisdiction as being one to which this scheme will extend. That obviously must be a jurisdiction in which the judgment of this State is that its procedures would be similar to, and of a similar standard to, our procedures, and therefore capable of being dealt with in that way. That is the intention of the scheme that is put forward under this legislation. I trust that answers the member's question.

Mr McGinty: I hope it works out that way.

Mr PRINCE: It is certainly intended to. So far as the Standing Committee of Attorneys General is concerned, it certainly will within Australia. I thank the member for his support of the legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

TITLES VALIDATION AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Clause 7: Parts 2A, 2B and 2C inserted -

Progress was reported after the clause had been partly considered.

Mr PRINCE: In the course of debate before lunch, either the Leader of the Opposition or Deputy Leader asked about correspondence between the State and the Commonwealth concerning the schedule of tenure. During the break my adviser produced the correspondence. I cannot table it. However, I will make it available to the Deputy Leader.

Mr Ripper: Perhaps the minister could table it when we go out of committee.

Mr PRINCE: Yes.

Mr RIPPER: Before we stopped the debate for members' statements I put to the minister the proposition of the extinguishment of various small pockets of land due to defunct scheduled interests or defunct public works producing difficulties for claimants responding to section 29 notices because of the potential created for strike-out applications, which would mean that they would cease to be registered claimants. By the time they redrafted their claims and became registered claimants again, the time for lodging objections would have expired. I think the minister was saying by interjection that that would not happen. Perhaps the minister could put an explanation on the record.

Mr PRINCE: My clear understanding, with which my adviser agrees, is that we are dealing with a claim that comes in.

Mr Ripper: My understanding is that if a section 29 notice is issued, one can lodge an objection only if one is a registered claimant. One is not yet a registered claimant; therefore, one lodges the claim -

Mr PRINCE: The claim is received. For the purposes of the example, I will say that the claim is for an area larger than that part over which native title has been extinguished, which will more than likely be the case. With most concepts of native title, that will almost certainly be the case. The ability then to seek to strike out will be able to be dealt with very quickly - almost summarily - in the sense that from the claim is excised this portion, which will usually be quite small in terms of land size, and the claim continues.

Mr Ripper: Therefore, the minister is saying that the rest of the claim is not made invalid by this.

Mr PRINCE: No, it is not. If one had a claim that was either contiguous with, or smaller than, the area over which title had been extinguished, clearly it would be totally struck out.

Mr Ripper: I am thinking of the case in which one is claiming hundreds or thousands of hectares, and there is a half-hectare piece of land over which native title has been extinguished.

Mr PRINCE: In which case the claim is modified by the excision of that portion. If the claimant refuses to accept that to be the case, there might be an argument before the court that the whole of the claim might be rejected because the claimant is being, in that sense, unreasonable, and the claim itself in that form cannot proceed. However, it is a matter, surely, of: Here is the tenure history, which is the evidence; there is the law; that is that. My adviser has made an interesting observation, of which the Deputy Leader should be aware. I do not know how many written claims the member has seen. They tend to be all-encompassing. Many claims that I have seen refer to a large area, which is what we have been talking about, but excluding any land within the claimed area that is freehold. Nothing prevents that type of claim description continuing to be used. It is an appropriate description: This is the area which is sought to be claimed, but if there is within this area any of the scheduled tenure, then excluding the scheduled tenure would be an easy way of describing it accurately and overcoming the problem the member is raising.

Mr RIPPER: The matter that concerns me is that although what the minister has said sounds, on the face of it, sensible and plausible, it is contrary to the descriptions of what would happen which were given to me in discussions with advisers, including lawyers. I cannot take it any further. The minister is acting on the advice. However, it is a matter that we may need to pursue when the Bill goes to the other place. I advise the minister that lawyers read *Hansard* after each of our debates. Opposition members receive plenty of advice that the minister made a mistake here and there. I assure the minister that his colleague in the other place will need to deal with the further elucidations of the argument that will arise from that advice. I will certainly go back to our people and put to them the minister's proposition that the claim can be amended on the spot, more or less, and that it is not struck out. I am concerned because the advice has been given strongly. I hope that the minister is confident about what he is saying.

Mr PRINCE: I am confident in the sense that it seems to me to be clearly wrong that we would deal with it in any other way.

If a claimant is intransigent and refuses to amend the claim, that is a different case. However, if a claimant says, "I claim this area save the tenure in the schedule", where can be the problem in that? If the person is not adept and does not do that and the matter is raised, surely the logical thing to do is to amend the claim by excluding the schedule of tenure. That is it. Pleadings in civil courts are amended at all times, and the court usually facilitates that.

Mr Ripper: Would the claim exclude all scheduled tenures?

Mr PRINCE: Yes.

Mr Ripper: One difficulty is that they will not be discoverable by a title search.

Mr PRINCE: That is the whole point. The land title system at the Land Titles Office is excellent in relation to that which is there, but there is an enormous amount of crown-origin tenure which is not registered under the Transfer of Land Act and which is not available for public search at the Land Titles Office, using its a very rapid search process. Therein lies a significant problem. The sensible way of doing it is to say, "We claim this area save the schedule of tenure", and thereby overcome the difficulty. Obviously, it would be necessary at some stage through the adjudication of that claim for someone to do the work and find out exactly what there is by way of a scheduled tenure over the area.

Dr Gallop: What if they did not know when the claim went in and they found out half way through?

Mr PRINCE: They may not know, as the Deputy Leader has said in relation to some scheduled tenure, because there is no simple way of searching the public record.

Dr Gallop: What happens if that arises?

Mr PRINCE: In that case that is evidence that comes up during the progress of the claim through the court process before it goes to trial - in other words, the narrowing of the issue that is being debated. That is simply information that is made available and then we know where we are. There is no other way around it.

I now refer to claims over the south west, or the blanket claim over the metropolitan area for that matter. There are at least two claims along the south coast where I live that go an enormous distance out to sea. If we say, "Here is the claim less the scheduled tenure", we take out all the road reserves, all the freehold titles, all the drainage easements, all the farming land, and so on, and we wind up with a pocket here and a pocket there and so on as the land that is able to have the claim made over it. A large area of the pastoral region will be claimed. I suspect that small bits will be excised, but in the south west a large area will be claimed that will have most of it - perhaps even all of it - excised. It will vary from place to place.

On the confirmatory aspects, I come back to the point that I made earlier: Either it is done this way or we litigate every form of tenure, which will mean that tenure holders, whoever they are - they might be big business or small business, and many will be private individuals - will have to front up with the cost of litigation. If not, the taxpayer - state, commonwealth or a mixture of both - will fund it. That is not the sensible way of going about it because of the time, expense and uncertainty for far too long. We would wind up making decisions about exclusivity of possession as against the world, and we should be able to do that by an examination of the form of tenure now, which is what has happened in the construction of the schedule. That is the best and most sensible way of dealing with those matters.

Mr RIPPER: The main reason we are dealing with this legislation is the claimed doubt over the effect of pastoral leasehold land on native title.

Mr Prince: No, it was actually leasehold. The Wik case was about a pastoral lease in Queensland, but it was leasehold that was being dealt with, not pastoral leasehold.

Mr RIPPER: The minister argues that there was doubt over all leasehold land.

Mr Prince: Yes.

Mr RIPPER: That is why we are dealing with this legislation. It would be correct to say that we are validating titles issued during the intermediate period over all non-exclusive tenures, not just pastoral leases.

Mr Prince: That is correct, yes.

Mr RIPPER: That is a correct description of what we are doing.

Mr Prince: Yes, particularly in the Land Act matters as opposed to the Mining Act matters; there are innumerable examples.

Mr RIPPER: So the Bill goes beyond clearing up matters relating to doubt about the effect of pastoral leasehold on native title.

Mr Prince: It deals with leasehold per se - title derived from leasehold.

Mr RIPPER: Are there other non-exclusive tenures over which intermediate period acts could be validated by the Bill?

Mr Prince: Licence comes to mind. My adviser tells me that certain categories of freehold also might not extinguish.

Dr GALLOP: I want to go back a step and ask what has happened about the 211 titles. As members know, there is now clear evidence that 211 titles were issued without section 29 notices. Opposition members say that that is unlawful; the Government says that it is not. We will continue to argue the point and the Government will find that the issue becomes more important as the days go by. The Government says that it is okay for two reasons: First, whatever were the fine points of the issue, those projects were very important to the State, and in any case indemnities were given by the companies concerned, so the state interest has been protected and there is no problem; and, secondly, in any case, there were claims in only some of those, and a claim does not mean native title, it just means a claim that there might be native title. The Government has put forward the view that there is no realistic chance that native title would result because there would either be no native title in those areas - it claims to have done research to show that there would not be - or that the types of land tenure would have precluded it. So there was no problem in doing what the Government did and it drew the analogy of not issuing section 29 notices on freehold. Let us deal with each point. Who is right and who is wrong on whether it was unlawful? We will not debate that subject, but we will do so in future.

Mr Barnett: It will be resolved only if there is a court action. We can debate it forever.

Dr GALLOP: Let us go to the second point: The projects are very important and in any case indemnities were given. We will debate whether favourable treatment was given to some that was not given to others. The minister has confirmed that other companies were not given the chance to do it because they did not know about it or whatever. Let us consider the third point: The Government says that it was all okay because they were only claims and there was no realistic chance that native title would result from them. Let us assume that the Government might be wrong on that question. I think that it will acknowledge that it might be wrong, because a risk was taken and it might be wrong in respect of it. What will the minister do to ensure that the wrong that was done by failing to issue section 29 notices will be corrected? If we find that as a result of the processes set in place native title is proved to exist, but the native title holders were not given the chance to negotiate under the Native Title Act that existed at the time, because they had no chance to play a part in the process by which their land was used, they have obviously lost out. Two consequences could flow from that: The first is the need for compensation for the way their interest has been affected. The other consequence that may flow from this - again this is a legal issue - is that they may be able to go much further than that. They may argue that as they lost the right to negotiate because of the actions of the Government, their position was severely affected and the compensation that could be given to them as a result of their inability to pursue their right to negotiate should be higher because of the compounding effect of the Government's actions. What will the Government now do to make sure that its claim that there was no realistic chance of native title in these areas is true and will not lead to a situation where it will compound the problem from the State's point of view? Will the Government set up some sort of machinery to allow native title claimants, or native title holders - if that is the result of the court process - to negotiate and ensure their interests are protected at some point in future?

Mr BARNETT: The Opposition referred to 211 titles. I remind members opposite that 195 of those relate to the Broken Hill Proprietary Co Ltd's hot briquetted iron site. There was a large area of land and a large number of titles - like a quilt pattern. These are important projects. Certainly the direct reduced iron process plant, which fell within my portfolio, was critically important, because after 30 years iron ore processing would finally take place in the State. Perhaps equally importantly that plant was located within the Boodarie industrial site. The State had already started the process of acquiring Boodarie as an item of public infrastructure as part of strategic industrial development in Western Australia. The indemnity exists to ensure that the companies cannot take action against the Government if native title is subsequently established. A great deal of work was done by the companies and also by the Department of Resources Development and the native title unit within the Ministry of the Premier and Cabinet to assess whether a native title claim was likely to succeed. The view is that it would not, particularly over this site. This was a value judgment, I readily acknowledge that, but not one hastily taken. I remember that process went on over several months. It was a judgment but not one made in haste. If the picture that the Leader of the Opposition paints comes to pass and the Aboriginal community pursues a native title claim, and if they succeed and establish native title, under the existing structure they can seek compensation.

Dr Gallop: What is the level of compensation?

Mr BARNETT: As laid down under the native title process.

Dr Gallop: What about the issue I raised that they did not have the chance to negotiate because of the way the Government proceeded on this issue?

Mr BARNETT: The Leader of the Opposition may argue that. Governments make decisions all the time about resuming land and freehold. All sorts of things happen with property. The HBI plant is a big structure and it makes a big impact. Other decisions relate to the buried pipelines. Even if native title is established the extent to which a buried pipeline detracts from native title would be minimal and if compensation were found to be appropriate it would be minimal if not zero.

Dr Gallop: The new federal Native Title Act was passed in 1993. However, the Government had removed the ability of these people to negotiate under the earlier Act. What if the court finds that they do have native title and their right to

negotiate in respect of those seven projects was taken away from them; would that not be an issue that will come into the compensation process?

Mr BARNETT: They may feel aggrieved, but we do not believe that a native title claim would succeed. If it does succeed we do not believe the compensation would be great. This is not unique, other than we are talking about a group of citizens who have a particular right to pursue native title. All sorts of people in the community, through planning decisions of Main Roads WA and the like, experience impacts on their land values. A transport reserve goes through the middle of my lounge room. I might feel aggrieved if at some stage Main Roads decides it wants half my lounge for another road lane.

Dr Gallop: If someone does not have the ability to exercise what is their right under the law at the time, because of an exercise the Government took, their interests have been severely jeopardised.

Mr BARNETT: The Leader of the Opposition has a point. However, after great care and diligence a value judgment was made. It is appropriate to allow projects to take place in areas, after a careful study. We do not believe a native title claim would succeed and if it did the compensation would not be great.

Dr GALLOP: Will the minister explain how the indemnity will work in the event that the situation emerges and native title is proved over that area? How extensive are the indemnities, would the private companies pay the compensation totally or would there be any comeback on the State of Western Australia?

Mr BARNETT: I am not a lawyer and I cannot explain all the details. However, the indemnity is for action taken against the Government for issuing a title to the company. It is not compensation or indemnity against native title as such.

Dr Gallop: Who would pay the compensation?

Mr BARNETT: Either the Government or the company. With something like the HBI plant, the company would pay the compensation if it became liable.

Dr Gallop: Is it appropriate to set up some sort of process for these seven projects to ensure people's rights are protected?

Mr BARNETT: The process is available under the amended federal legislation for those Aboriginal communities.

Dr Gallop: It is not the same as it was before.

Mr BARNETT: No. However, they have the ability to pursue a native title claim if they so choose, and that will go through a judicial process. If they succeed they may take the matter further. Let us not create a problem before we get there. They would have to decide to pursue a native title claim, and they would have to succeed.

Dr Gallop: Wouldn't it be an act of goodwill on the part of the Government to make sure that what it is claiming tonight is rock solid and there will be no native title, or to ensure that those who have claims can feel they are part of the process? After all, the Government has excluded them so far.

Mr BARNETT: That would duplicate the native title process. There is no point in going backwards. A new federal law is in place, and they can pursue their native title claim under that law. Good luck to them. They can do that at law and the law will judge them.

Dr Gallop: How would the minister feel if he was not able to pursue his rights under law because of the Government's actions and then the law changed and the Government said, "I am sorry you have to pursue your right under the law as it has become rather than the law as it was?"

Mr BARNETT: The Leader of the Opposition should not assume there were not extensive discussions with Aboriginal people about the development of those projects, or there are not benefits going to Aboriginal people. That might not be what they theoretically would have achieved if they established native title. However, it would be wrong if the public gained the impression that the Government came in and did this without discussion or involvement with Aboriginal people, because they were involved in extensive discussions with BHP over the DRI plant and the development of the Boodarie estate.

Mr CARPENTER: I am glad the minister said that. Can the minister explain why projects other than the direct reduced iron process plant fall into a category which has frequently been described as special case categories that need special attention? I can understand the categorisation of the BHP project as a special case project in which Governments might take special steps to ensure that it goes ahead. I have yet to hear why any of these other projects would fit into any special category over and above any other project that is continuing in the State. The minister has said that there were extensive discussions with Aboriginal people about the BHP project. My impression is that there were not many discussions, if any, about the other projects. What discussions took place on the other projects?

Mr BARNETT: I do not know the detail of all those projects. The one which related to my portfolio was the DRI plant and some pipeline laterals of the Goldfields Gas Transmission Joint Venture pipeline. To the best of my knowledge, discussions also took place on those projects. The mining companies of today - not only BHP, but also other relatively sophisticated

mining operations - do not simply do things without holding discussions with local Aboriginal people, particularly in the current environment. There are no differences between Aboriginal people in Western Australia and those in any other part of Australia. Although the BHP plant is large, the more critical issue of a particular project is a small part of what might arguably be a native title claim area. The more important aspect to which the companies pay a great deal of attention and about which discussions take place in detail with Aboriginal people relates to the heritage of individual sites. A great deal of care was taken in the development of the Boodarie site to ensure that no sites were compromised. That is the key issue. The plant has been built and the pipeline has been laid, but the GGT pipeline does not come straight down; it weaves around sites. Aboriginal people played a direct role in the route taken by that pipeline. Several major changes to the route were made to accommodate individual heritage sites or areas of significance, whether to male or female Aboriginal people. I would hate the public to form the view that these discussions have been insensitive or that Aboriginal people have been excluded from what has taken place on these projects. That is simply not the case. Many Aboriginal people are working on the projects and I am very pleased that they are taking place.

Mr CARPENTER: I understand and accept what the minister has said, especially in relation to the BHP project. The developers of these projects were basically told that these projects would not be referred to the National Native Title Tribunal and that the State would eventually validate the titles and compensation would be paid. Those special circumstances apply and that is why these are special leases. The minister did not provide much detail about the discussions which took place about potential native title as opposed to other matters. I have no reason to doubt that what the minister has said about the BHP project is correct. I have not heard anyone say that extensive discussions took place with the proprietors or promoters of the other projects, Aboriginal people and the State about potential native title claims.

Mr Barnett: The prime discussion would be about heritage; that is always in the background. However, in terms of physically doing anything on the ground, the heritage issue is the key to ensuring that the plant is not built over a site of special significance. At that stage we had not had a successful native title claim in Australia. It was a bit up in the clouds for everyone.

Mr CARPENTER: I quoted from *Hansard* of 29 October in which the minister handling the Bill told Parliament that the Government undertook extensive research to ensure that no native title would be affected. I have not heard any evidence of that whatsoever, apart from what the minister has said that BHP has done.

Mr BARNETT: The research that was undertaken essentially involved companies, but it also involved government personnel. The view that a native title claim, if it were pursued, was unlikely to succeed was formed and that view was subsequently endorsed at a political level by the Government. In the development of those projects, the prime focus was, firstly, to form that view. It was done in good faith; it was almost a due diligence process. We would have been irresponsible if we had granted a title if we had a view that native title would succeed. In that situation, the member would have a point. However, the main focus was on the individual sites and heritage, particularly on pipelines, which extend for great distances, to ensure that no site was compromised during construction. Once the project is completed and the pipeline is buried, a gas pipeline has zero effect on native title, whether a claim succeeds or not, as long as it does not compromise an area of special significance. A DRI plant is physically a large structure.

Mr Carpenter: I agree with you about the importance of the perception held on what the Government did to determine whether there was a potential for native title and I accept that it negotiated in good faith. However, I have not seen anything to convince me that the Government did a "due diligence" test to satisfy itself and potential interested parties that native title would not be affected.

Mr BARNETT: I can assure the member that both the company and the government officers had extensive discussions with Aboriginal people about the DRI plant.

Mr Carpenter: I accept the minister's assurances, but I am concerned about the other six projects.

Mr BARNETT: I have been advised that the same process occurred on those projects, even though I was not involved in those discussions. I have been involved in some of those discussions. We concede that the member has a point.

Mr Carpenter: It must be made clear.

Mr BARNETT: There is a point to be made and no-one denies that because we are not dealing with a black and white situation. Looking at the evidence, an appropriate value judgment was made by the Government after a very careful investigation of the circumstances.

Mr RIPPER: I move -

Page 7, after line 3 - To insert the following -

12GA. Requirement to notify: mining rights

(1) If -

(a) an act that is attributable to the State consists of -

(i) the creation of a right to mine;

(ii) the variation of such a right to extend the area to which it relates; or

(iii) the extension of the period for which such a right has effect, other than under an option or right of extension or renewal created by the lease, contract or other thing whose grant or making created the right to mine;

(b) the act took place at any time during the period from the beginning of 1 January 1994 until the end of 23 December 1996; and

(c) at any time before the act was done, either -

(i) a grant of a freehold estate or a lease was made covering any of the land or waters affected by the act; or

(ii) a public work was constructed or established on any of the land or waters affected by the act;

the State must, within 6 months of the commencement of this Act -

(d) give notice containing the details set out in subsection (2) to any registered native title body corporate, any registered native title claimant and any representative Aboriginal body, in relation to any of the land or waters affected by the act; and

(e) notify the public in the prescribed way of the details set out in subsection (2).

(2) The details referred to in subsection (1) are -

(a) the date on which the act was done;

(b) the kind of mining involved;

(c) sufficient information to enable the area affected by the act to be identified; and

(d) information about the way in which further details about the act may be obtained.

This legislation validates approximately 10 000 titles of which approximately 5 000 are mining titles. We are validating them wholesale by an Act of Parliament and when we validate them we extinguish or partially extinguish native title. In other cases in which we deal with people's property rights in that way we deal with them on a case-by-case basis. We notify the people of the Government's intention that their land is required for public purposes. There are negotiations, procedures for compulsory acquisition on a case-by-case basis, procedures for compensation, appeal rights and so on. Something quite different is being done in this case. An Act of Parliament will be passed that will affect 5 434 mining titles wholesale. Under the provisions of the Native Title Act the State must, within six months of the commencement of this Act, notify specified details relating to certain acts to the public and to native title bodies and claimants in relation to the affected land or waters. The details relate to mining rights granted between 1 January 1994 and 23 December 1996 in respect of land and waters that are or were the subject of a freehold or leasehold grant or public work. Within six months of the passage of this Bill the State Government must notify native title claimants and representative Aboriginal bodies of the validation of these mining rights and the consequent extinguishment or partial extinguishment of native title. The intention of the amendment I have moved is to place into this legislation the same requirement that the Government is under an obligation to implement as a result of the commonwealth Native Title Act. This Parliament should clearly indicate to the Government that it understands the seriousness of its actions with regard to people's property rights and that it accepts the obligation to notify people that their rights have been affected in this way. If it involved other people's property rights, much more would be done. Notification is the least this Parliament can insist upon when it is validating wholesale more than 5 000 mining titles and affecting the rights of Aboriginal property owners.

Mr PRINCE: The Bill before the committee contains at page 3 under proposed section 12A a footnote to the effect that there is an obligation under commonwealth law, section 22H of the Native Title Act, for notification to be given. That is the law and therefore it must be done. The proposed amendment does no more than paraphrase that. It effectively endeavours to replicate, repeat and copy. That is not a good idea because it can result in inconsistency, conflict and litigation. It is not a good idea when the amendment does not have the same drafting style and interpretation as the Native Title Act. If the amendment replicated exactly the provision in the Native Title Act, that would overcome most problems, but what is the point of replicating commonwealth law which applies across this whole area with state law? If they are inconsistent, they give rise to the potential for litigation and the commonwealth law overrides the state law. If the provisions are consistent, the state law is repeating the commonwealth law and there does not seem to be any point to that. The Commonwealth has already determined how the State must give notice, and the State is bound by that determination.

The amendment should not be supported. I understand what the member is saying. He is right in saying that notification must take place, in accordance with section 22H of the Native Title Act, and the Commonwealth has specified how it is to be done. It is a footnote in the Bill which will become part of the validation Act, so it is a reminder to those people who do not know their way around the Native Title Act. I find that incomprehensible, because anyone dealing with this legislation must have a working knowledge of the Native Title Act as well. They must know it exists. With respect, the member's motive is right but the amendment should not be supported because it has the potential to lead to inconsistency, disagreement and litigation.

Mr RIPPER: I have moved this amendment to convey the message that this Parliament, and not just the Federal Parliament, understands that people's property rights are being affected on a wholesale basis.

Mr Prince: Possibly.

Mr RIPPER: Native title exists in Western Australia so it is true to say that people's property rights are being affected. I want to send the message that this Parliament understands that people's property rights are being affected and that it is a serious matter. Many more protections would be involved were we dealing with other property rights. This committee is dealing with the wholesale validation of titles and the wholesale extinguishment of native title. I argued in the second reading debate that the Government could have proceeded in other ways. It could have gazetted each of these titles, waited to see whether any objections were raised and then validated. Instead, the Government will validate the titles wholesale and wait to see whether anyone objects. If they do object, they can seek compensation. However, the procedures under which they can seek compensation are vaguely expressed, and the Government's advisers have not been sure about which compensation procedures will apply. First, they said compensation would be payable under the Land Administration Act and then they reversed that advice and said it would be payable by application to the Federal Court under the procedures of the Native Title Act. If the Government's advisers are uncertain about how people can claim compensation, we can be sure that people in the community will not have a good understanding of how to claim compensation. The procedures are likely to be complex, time consuming and expensive. Native title holders are potentially getting a poor deal from these arrangements. The minimum this Parliament can do is place a requirement in the state legislation that potential native title holders must be notified of what the Parliament has done, so that they become aware that their interests have potentially been affected and are at least given the knowledge that they should consider what action to take.

Mr PRINCE: If this Bill is passed, the footnote will have that effect anyway. The Native Title Act is clear and explicit. The law is clear that people must be notified. The proposed amendment in paragraph (e) states that the State must notify the public in the prescribed way. In the Native Title Act the procedure is not prescribed but notification will be in the way determined by the commonwealth minister. In one piece of legislation it will be the way determined and in another it is the prescribed way. Which shall it be?

Mr Ripper: When the State makes regulations, presumably it will follow the determination of the commonwealth minister.

Mr PRINCE: There is no regulation-making power in these provisions.

Mr Ripper: Then the word "prescribed" will refer to the commonwealth determination.

Mr PRINCE: No, because it is a determination and not a prescription. "Prescribed" means a regulation. In that one example there is inconsistency between the drafted amendment and the commonwealth law.

Mr Ripper: Will there not be any issue of an administrative order or something like that?

Mr PRINCE: The Commonwealth has done that.

Mr Ripper: Are you saying that this proposed amendment cannot be put into operation?

Mr PRINCE: In the way the member has drafted it, no. If the member were to change it so that it is correct, it would be a replica of the commonwealth section. What is the point of including this when it is already in the law and people must comply? We would be making another law that is of no effect, because the commonwealth law would override it. It would not do anything.

Mr Ripper: Except express the view of the State Parliament as to how the Government should act.

Mr PRINCE: The Opposition has expressed its view. The commonwealth law provides that we shall notify within a period of six months and the commonwealth minister has determined how that will be done.

Mr Ripper: Can you explain how you will notify people, when and what will happen?

Mr PRINCE: I thought I had a copy of the commonwealth minister's determination with me, but I do not. It is a little like the section 29 advertisement requirements; that is, it must be in the newspaper, the *Gazette* and on the Internet, and particulars must be made available in a place that is accessible. It is done in a particular form, very much like the section 29 process.

Mr Ripper: Which departments will be responsible for that?

Mr PRINCE: In relation to mines, the Department of Minerals and Energy.

Mr Ripper: When will that process begin?

Mr PRINCE: Now.

Mr Ripper: As soon as the legislation is passed the process will commence.

Mr PRINCE: It must because the commonwealth law is in place.

Mr Ripper: The commonwealth law provides that it must be done within six months.

Mr PRINCE: The sooner we do it the better. We have the list of titles, which we provided to the Leader of the Opposition. Administratively it is ready to go.

Mr Ripper: If the Bill is passed by the Parliament by Christmas, when can representative Aboriginal bodies expect to receive this information?

Mr PRINCE: I hope a few weeks into the new year given that it takes time to process thousands of bits of paper. The process will be commenced quickly because it should be. There is no point in hanging around.

Amendment put and a division taken with the following result -

Ayes (17)

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

Noes (29)

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

Pairs

Mr Grill	Mr Court
Mr Marlborough	Mr House

Amendment thus negatived.

Mr RIPPER: I move -

Page 7, after line 3 - To insert the following -

12GB. Requirement to notify: other rights

(1) If an act that is attributable to the State and to which -

(a) section 12A, B, C, D or E applies; and

(b) section 12GB does not apply,

the State must, within 6 months of the commencement of this Act -

(c) give notice containing the details set out in subsection (2) to any registered native title body corporate, any registered native title claimant and any representative Aboriginal body, in relation to any of the land or waters affected by the act; and

(d) notify the public in the prescribed way of the details set out in subsection (2).

(2) The details referred to in subsection (1) are -

(a) the date on which the act was done;

(b) sufficient information to enable the area affected by the act to be identified; and

(c) information about the way in which further details about the act may be obtained.

The arguments for this amendment are much the same as those presented for the earlier amendment with one important difference. Whereas the commonwealth Native Title Act requires the State Government to notify people of the validation of mining rights - a requirement the Opposition was seeking to duplicate in the state legislation - the commonwealth legislation contains no such requirement for the other rights being validated under this legislation. The Opposition believes that the arguments for notification are no less significant in respect of rights other than mining rights.

As the minister has said, about 10 000 titles other than mining rights will be validated by this legislation. If we were validating titles and extinguishing the property rights of any other class of property holders, we would be doing it on a case-by-case basis with significant procedural safeguards, appeal rights and protections. We are not doing that with these 10 000 titles and the Aboriginal property rights affected. We are passing a law which, when it is enacted, will automatically validate those titles and affect the extinguishments associated with the validations. The least we can do is notify people that their property rights may have been affected. I am surprised that the Native Title Act has a requirement to notify mining rights but no such requirement of other rights. The Opposition seeks to insert a similar requirement for those rights which the Government failed to accept for mining rights but which it concedes is included in the commonwealth Native Title Act.

Mr PRINCE: The number of future acts, not mining acts, nationally - all the States and Territories - runs into tens of thousands a week. It is for a straight-out practical reason that we cannot accept the amendment; it would be impossible to implement.

Mr Ripper: You are talking about figures of roughly in the same order, just over 5 000 mining titles and just over 10 000 other rights. If you can notify 5 000 mining rights I am sure you can notify 10 000 other rights.

Mr PRINCE: The 10 000 are only land rights. There are many other future acts which take the figure up into the multiple tens of thousands.

Mr Ripper: When we asked you how many titles this Bill was validating we were told about 9 000 or 10 000. Now you tell us there are more than 5 000 mining interests and more than 10 000 other interests. Can you explain the discrepancy between three versions of the numbers you have given us to date?

Mr PRINCE: The distinction between "future act" and "title" has been lost. As I said, there are 5 434 mining titles and just under 11 000 land administration acts.

Mr Ripper: Those are different from the figures you gave us in your written answer at the beginning of the debate.

Mr PRINCE: No; I am reading from the piece of paper that was given to members opposite.

Mr Ripper: At one stage you said there were about 10 000 titles all up.

Mr PRINCE: No, you said "all up". The figures are 10 944 other rights and 5 434 mining titles. The Opposition's amendment is crafted in relation to not only titles but also every act of government.

Mr Ripper: That is being validated by this Bill.

Mr PRINCE: The permit issued to the beekeeper is not a title; it is a future act. Therein lies the problem. There are 10 000 or thereabouts Land Act titles. There are tens of thousands of future acts. We have no way of identifying them.

Mr Ripper: Are we talking about intermediate period acts?

Mr PRINCE: Yes, and the beekeeper permit is a classic example.

Mr Carpenter: Is this not the Titles Validation Act?

Mr PRINCE: Yes, but the amendment covers not only titles but also future acts. A future act is not just a title. For example, recreational fishing permits are future acts of which there are 30 000.

Mr Ripper: Under what section of this Bill are recreational fishing permits covered?

Mr PRINCE: Subclause (1) of the member's amendment refers to giving notice of land or waters affected within six months of commencement of this Act. It refers to all forms of acts, not just titles. The vast number of grants made in the period are

valid because of past extinguishment or the absence of native title rights at the time of the grant. It is not possible to work out which grants might be invalid. No determinations have been made of native title. It is not possible to ascertain whether a grant has any impact on native title rights. There is no practical way in which the State can give such a notice. That is why the Commonwealth limited the obligation to give notice to mining acts. At least it is possible to identify the grants made under the Bill because these are all a form of title.

What we have done is consistent with the Native Title Act. The legislation in Queensland and New South Wales requires identification, and the Victorian Parliament passed this legislation today in three hours.

Mr RIPPER: I would not take the operations of the Victorian Parliament as being a model of democracy. I do not believe the Victorian Government has been caught with the same resources development projects and the issue of land titles without reference to the commonwealth Native Title Act concerns that are affecting the debate here.

Mr Prince: The Victorian Government issued not seven but many indemnified titles throughout this period.

Mr RIPPER: So they broke the law as well; we might refer that to our Victorian opposition colleagues.

Mr Prince: What a good idea! That is the lot who were not voted for.

Mr RIPPER: For the first time in this debate the minister has said that tens of thousands of intermediate acts are validated by the legislation. The question of recreational fishing licences has been raised. Will the minister point to the part of this Bill that deals with the validation of recreational fishing licences? He should show us the basis of what is, on the face of it, a somewhat implausible assertion.

Mr PRINCE: I refer the member to proposed section 12A at page 3 of the Bill where it reads -

> Every intermediate period act attributable to the State is valid and is taken always to have been valid.

It does not refer to "title" but to "act". I thought members opposite had grasped this. Clearly they have not been well enough briefed. In referring to not just titles but many other things, recreational fishing permits were an act; they were issued during that time, although they are annual permits so in that sense there is not much of a problem. However, many other things have been done.

Mr Carpenter: I might be wrong but it appears to me that we have opened a whole new dimension rather more vast than what we were dealing with in general terms.

Mr PRINCE: Does the member have a problem with the Department of Conservation and Land Management issuing permits to people who collect firewood and wildflowers?

Mr Carpenter: No.

Mr PRINCE: Those are the things we are talking about. If he does not have a problem with that, where is the difficulty? I understand why members opposite want to amend the Bill. I am trying to point out the consequences of the amendment. However, we have drafted an amendment to replace the Opposition's amendment which limits the subject to Land Act matters rather than the totality of acts.

Mr Ripper: You said there were 10 000 -

Mr PRINCE: No, it is in the information before the member. There are 10 944 intermediate period transactions under land administration legislation.

Mr Ripper: Those would be the ones notified under the minister's amendment.

Mr PRINCE: Yes, that is correct. We would not have to go through the impossible process of trying to find all the wildflower or firewood picking permits and so on, which we must under the Opposition's amendment.

Mr Carpenter: Does your proposed amendment include notification that our amendment would include?

Mr PRINCE: Yes.

Mr Carpenter: You are narrowing down the area.

Mr PRINCE: Yes, but to native title body corporate, native title claimant, and representative Aboriginal-Torres Strait Islander body; otherwise it is much the same.

Mr RIPPER: It appears that the minister is proposing an advance on what is in the Bill. It is very difficult for an Opposition to deal with an amendment such as this 20 minutes before the guillotine is due to come down. My amendment has been on the Notice Paper for some time now. It would have been preferable if the minister had placed his amendment on the Notice Paper so that the amendment could have been examined by the Opposition's advisers and, if necessary, we could have sought

some legal advice on the matter. I must now make a decision based on a piece of paper which has just been handed to me. I do not think that is the best way to deal with legislation.

Mr Prince: I have not moved it.

Mr RIPPER: I now have the entirety of the Government's amendment. I repeat my complaint. I suppose I have both a positive and a negative thing to say. I am glad the Government has considered ways of notifying at least some more people of some additional acts beyond what it intended to notify before the Opposition moved its amendment. However, I am unhappy that the Opposition was not given notice of the Government's response to our proposed amendment which has been on the Notice Paper for some time. With regard to the Deputy Premier's assertions that we should have managed our time better, we have been bemused by the combination of the Government's argument that this Bill is urgent, and the way in which it has brought on every other Bill that it wanted to deal with before this one, and let this one be potentially subject to the guillotine. I would like a minute or two to read the Government's amendment. Perhaps the minister will cooperate by explaining the amendment while I read it.

Mr PRINCE: I think it is best for the Opposition to withdraw its amendment, and then I will move my amendment. It would read, "Requirement to notify: tenures and reserves under the Land Act." That is the essence of the difference between what I will move and what the Opposition is moving. The Opposition's amendment states -

(1) If an act that is attributable to the State and to which -

(a) section 12A, B, C, D or E applies; . . .

The effect of the amendment is that every intermediate period act attributed to the State is invalid and taken always to be invalid. That includes every act the State did during that period, and extends to such voluminous acts of the State as recreational fishing licences, permits to collect wood from CALM land, the taking of wildflowers and a plethora of other acts that the State does on a daily basis. My amendment is more limited and deals only with tenures and reserves under the Land Act. It applies to grants of fee simple, grants of a lease, licence or an easement, and the creation, vesting or amendment of a reserve under the Land Act that occurred during the appropriate period. The people to whom it should be notified is the same. It is perhaps slightly better set out distinctively as to whom the notification must go.

Mr RIPPER: The Government's amendment targets the notification of the acts which the Opposition was attempting to target in its amendment. We were certainly not seeking to have representative native title bodies advised of the individual recreational fishing licences distributed in this State over a two year period. However, the Opposition reserves the right to look at this amendment with our advisers between the time that this Bill passes this Chamber and goes to the other place. When it reaches the other place, we may seek to make further changes if that is the advice given to us. On the other hand, the Opposition appreciates it may be important to get it through now.

[Amendment, by leave, withdrawn.]

Mr PRINCE: I move -

12H. Requirement to notify: tenures and reserves under the *Land Act 1933*

(1) This section applies to an intermediate period act attributable to the State -

(a) consisting of -

(i) the grant of a fee simple;

(ii) the grant of a lease, licence or easement; or

(iii) the creation, vesting or amendment of a reserve,

under the *Land Act 1933*; and

(b) that took place at any time during the period from the beginning of 1 January 1994 until the end of 23 December 1996.

(2) The State must, before the end of 6 months after the commencement of the *Titles Validation Amendment Act 1998*, give notice containing the details set out in subsection (3) in respect of each act to which this section applies to any -

(a) registered native title body corporate;

(b) registered native title claimant; and

(c) representative Aboriginal/Torres Strait Islander body,

in relation to any of the land or waters affected by the act.

(3) The details are -

(a) the date on which the act was done;

(b) sufficient information to enable the area affected by the act to be identified; and

(c) information about the way in which further details about the act may be obtained.

I am not having a go at anybody, and I do not know who drafted the Opposition's amendment, but it contains an obvious mistake. They should have realised that by wording 12A in such a way, every act of government is picked up. If they have not worked it out, with the greatest respect, they got it a bit wrong.

Dr Gallop: If we had not put this issue on the agenda, we would not have had this amendment from you.

Mr PRINCE: I do not know.

Dr Gallop: You have been telling us that this legislation should go through unamended. We already have one amendment as a result of a bit of thinking on the part of the Opposition and we have not yet discussed the other Bill. Let us hope that when we get to the other Bill you will respect the fact that the Opposition has done much thinking about your other Bill. We think it needs many amendments to make it acceptable.

Mr PRINCE: It is acceptable for the Government to say that the Opposition's amendment should not be accepted because of the problem that it raised. The Opposition's amendment shows, with respect, a lack of understanding. Instead of saying, "No, that is it", it should seek to assist.

Amendment put and passed.

Mr RIPPER: In the brief time remaining I will deal with some matters regarding past extinguishment. Proposed part 2B claims to be confirmation of an extinguishment which has already occurred. However, it is not entirely true as there is a compensation provision included within this proposed part. The fact that there is a compensation clause -

Mr Prince: I told you about this yesterday.

Mr RIPPER: Yes. The fact that there is a compensation provision in the legislation indicates a concession on the Government's part that some extinguishment may take place as a result of this legislation rather than the extinguishment simply resulting from an act which occurred in the past. If this provision of the Bill were omitted, would it affect in any way the workability of the native title legislation or the certainty which people need for their economic interests? I do not pose the question aggressively. Why does the Government think we need proposed part 2B(2), "confirmation of past extinguishment . . . "? I am also concerned that the acts which are said by this legislation to have extinguished native title include temporary interests which may now be defunct, even long defunct, and may include defunct public works. This is similar to the argument regarding validation and extinguishment. It is not entirely fair, if one has what appears to be vacant crown land, to find that the native title was extinguished because 50 years ago someone had a licence to run goats on the land and never took up the licence.

Mr Prince: There is nothing like that in the schedule.

Mr RIPPER: Specific examples may not be in the schedule, but it contains others which have a similar status. It is not fair that some no-longer-apparent interest can cause the extinction of native title. Will the minister concede that this part of the Bill extinguishes native title, and not just provide confirmation? Will he also provide a rationale for the inclusion of the provisions, and deal with the potential injustice of allowing temporary interests long defunct to extinguish native title?

Mr PRINCE: I confess to the Deputy Leader of the Opposition that I thought we had covered this area.

Mr Ripper: We debated a similar issue with regard to validation.

Mr PRINCE: Frankly, I thought we had debated it. The schedule is a schedule of tenures which, by nature, are exclusive possession. Consequently, native title is extinguished.

Mr Ripper: Why have the compensation provision?

Mr PRINCE: In case, at some future date, some court of jurisdiction finds to the contrary; surely it is equitable to have a compensation regime.

Mr Ripper: Do you concede that the Bill itself in this proposed part will extinguish, not only confirm past extinguishment?

Mr PRINCE: I reiterate that we are confirming past extinguishment.

Dr Gallop: I asked whether you were absolutely certain that there is a common law extinguishment in these cases, and you said we could not be absolutely certain because not all these forms of lease had been the subject of court decisions.

Mr PRINCE: Here is the fundamental problem: Either run all the tenures through the courts to obtain a decision for each to achieve the best certainty - subject to any court changing its mind in the future, as courts do - or do it the way the Bill proposes; that is, to confirm that these exclusive tenures are extinguished. However, if a court at some future date decides in a case that it did not quite extinguish that title, compensation is allowed for. Courts have produced changes in philosophy over the years. It is a legal fiction we are all taught as law students that common law always was and always shall be. We all know that common law evolves. Usually over 100 years or so it turns 180 degrees. That has been the case with native title. I am informed that section 23B(10) of the Native Title Act indicates that regulations may provide that an act is not a previous exclusive possession act. Therefore, it is possible under the Native Title Act, at some future time, by regulation, to say that an act of the past which was thought to be a previous exclusive possession is not of that nature.

Mr Ripper: Could a change in those regulations create uncertainty?

Mr PRINCE: Effectively. What we are endeavouring to achieve here follows from the Native Title Act. The difficulty is that one deals with tens of thousands of different forms of tenure that the Federal Government is sure are exclusive possession at this time, as is done through the process outlined in the Bill. Otherwise, one deals with them individually and allows for the possibility that in the future a court of some jurisdiction may say that an example was not an exclusive possession.

Mr Ripper: In what circumstances will they be dealt with individually?

Mr PRINCE: It will be as a particular claim covering a certain piece of tenure progresses through the court process as it is tried, the facts are determined, the law applied, appeals are lodged et cetera.

Mr Ripper: Therefore, you have substituted by this legislation the judgment of state officials and the confirmation of Parliament for what you think a court will say.

Mr PRINCE: It is what we think a court would say today, but also allows for a process by which, if a court comes up with a decision in the future, or even if a change is made by regulation, a compensatory regime is in place.

Mr RIPPER: It is a shame that the Bill will be guillotined in a couple of minutes. It was always the Opposition's intention to cooperate with the passage of the Bill this week. If the Government had allowed the Bill to be debated at earlier stages today and yesterday, we would not face the possibility of the Bill being guillotined before concluding our deliberations. Nevertheless, we have covered the great bulk of the issues the Labor Party intended to cover in debate. We want to pursue only a small number of outstanding issues in the lower House. Nevertheless, we will examine carefully the minister's answers in *Hansard* and further pursue matters when the Bill reaches the upper House. The Government has said it wants the Bill to go through by Christmas. We have said we want a short, sharp committee inquiry in the upper House. I hope the Government will cooperate in the establishment of that committee in the upper House. However, we rather fear that the Government will demand of us that we cooperate in having the Bill passed by Christmas, but will not cooperate in the sort of scrutiny that we believe the Bill requires. The Opposition has made a very reasonable request for a short, sharp referral of the Bill to a select committee in the upper House. If the Government has nothing to fear and nothing to hide about this Bill, and if it is confident that its actions will stand up and it can explain itself to the community, it will cooperate with Labor in the upper House to refer this Bill to a select committee. However, we hear from the upper House that the Government is not cooperating, and that is matter of great regret.

The CHAIRMAN (Mr Bloffwitch): The time has arrived for the completion of all remaining stages of this business. Under the sessional order, every question necessary to complete the business must be put without further debate or amendment. The question now is that clause 7, as amended, be agreed to.

Question put and passed.

The CHAIRMAN: The question now is that clause 8 and the title of the Bill be agreed to, and that I do now leave the Chair and report the Bill, with amendments.

Question put and passed.

Report

The SPEAKER: As the time has arrived for the completion of all remaining stages of this business, I am required under the sessional order to put every question necessary to complete the business without further debate or amendment. The question is that the report be adopted.

Question put and passed.

Report adopted.

Third Reading

Bill read a third time and transmitted to the Council.

ADJOURNMENT OF THE HOUSE

MR BARNETT (Cottesloe - Leader of the House) [5.31 pm]: I move-

That the House do now adjourn.

I remind members that there is a motion on the Notice Paper next week suggesting that we have half-hour luncheon and half-hour dinner breaks; and I will endeavour to ensure that we do not have very late night sittings.

Question put and passed.

House adjourned at 5.32 pm

QUESTIONS ON NOTICE

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

NATIONAL COMPETITION POLICY

Reviews of Legislation

343. Dr GALLOP to the Premier:

Further to question on notice 3765 of 1998 -

(a) what has been the total cost of undertaking the National Competition Policy (NCP) review of legislation up to and including 7 May 1998;

(b) when will the proposed Repeal and Amendment (National Competition Policy) Bill, dealing with minor amendments, be introduced into Parliament;

(c) have any of the NCP reviews completed up to and including 7 May 1998 made a recommendation to amend or repeal legislation that is of a more substantial nature;

(d) if so -

(i) which reviews made such a recommendation;
(ii) will legislation be introduced to give effect to these more substantial recommendations, and if so, when; and
(iii) if not, why not;

(e) will the Premier table all the NCP reviews of legislation to date that have made recommendations that the relevant legislation be either amended or repealed;

(f) if not, why not;

(g) will the Premier table on an on-going basis all future NCP reviews of legislation that make recommendations that the relevant legislation be either amended or repealed; and

(h) if not, why not?

Mr COURT replied:

(a) There have been no special allocations for NCP review of legislation, agencies have funded this as part of their normal operations.

(b) This Bill will be introduced into Parliament as required. Ministers can also introduce such amendments separately if this is more appropriate.

(c) Yes, some involve removal of regulations which burden business and which have been found to be not in the public interest.

(d) (i) Such Acts include the Bread Act, Dried Fruits Act, Fertilisers Act, Government Railways Act, Motor Vehicle Dealers Act, Valuation of Land Act, Administration Act, Suitors Fund Act, Energy Corporation (Powers) Act, Sandalwood Act, Chicken Meat Industry Act and Valuation of Land Act.

(ii) Many of the reviews have recommended legislative amendment or, in some cases, repeal of legislation. Legislation will be introduced as the legislative timetable permits. However, all reviews and legislative amendments have to be completed by the end of the year 2000.

(iii) Not applicable.

(e)-(h) There will be adequate opportunity for Parliament to consider these matters when the legislative amendments have been developed from the review reports.

NATIONAL COMPETITION POLICY

Reviews of Legislation

344. Dr GALLOP to the Premier:

Further to question on notice 3765 of 1998 -

(a) as at 7 May 1998, how many reviews of legislation pursuant to the National Competition Policy (NCP) had not yet commenced;

(b) during the remainder of 1998 -

(i) will any reviews of legislation commence;
(ii) if so, for how many pieces of legislation;
(iii) for which pieces of legislation; and
(iv) what is the estimated cost of this process;

(c) during 1999 -

(i) will any reviews of legislation commence;
(ii) if so, for how many pieces of legislation;
(iii) for which pieces of legislation; and
(iv) what is the estimated cost of this process;

(d) during 2000 -

(i) will any reviews of legislation commence;
(ii) if so, for how many pieces of legislation;
(iii) for which pieces of legislation; and
(iv) what is the estimated cost of this process;

(e) during 2001 -

(i) will any reviews of legislation commence;
(ii) if so, for how many pieces of legislation;
(iii) for which pieces of legislation;
(iv) what is the estimated cost of this process; and

(f) when is it anticipated that the NCP review of legislation process will be finalised?

Mr COURT replied:

(a) 189.

(b) (i) Yes.
(ii) It is estimated that 65 will commence.
(iii) Those which have commenced or are predicted to commence are:
Legal Aid Commission Act 1976 and Regulations
Statutory Corporations (Liability of Directors) Act 1996
Regional Development Commissions Act 1993
Wildlife Conservation Act 1950
Credit (Administration) Act 1984 and Regulations
Employment Agents Act 1976 and Regulations
Valuation of Land Act 1987
Mining Act 1978
Secret Harbour Management Trust Act 1984
Artificial Breeding of Stock Act 1965 and Regulations
Bulk Handling Act 1967 and Regulations
Dairy Industry Act 1973 and Regulations
Marketing of Eggs Act 1945 and Regulations
Marketing of Potatoes Act 1946 and Regulations
Seeds Act 1981 and Regulations
Soil and Land Conservation Act 1945
Motor Vehicle (Third Party Insurance) Act 1943 and Regulations
Strata Title General Regulations 1996
Professional Standards Act 1997
Security Agents Act 1976 and Regulations
Stipendiary Magistrates Act 1957
Swan River Trust Act 1988 and Regulations
Waterways Conservation Act 1976 and Regulations
Auction Sales Act 1973 and Regulations
Home Building Contracts Amendments Act 1996 and Regulations
Land Valuers Licensing Act 1978 Regulations
Health Services (Conciliation and Review) Act 1995
Path Centre Notice and Directions 1995
Strata Title General (Amendment) Regulations 1997
Strata Title General Amendment Regulations 1996
Strata Titles Amendment Act 1995
Strata Titles Amendment Act 1996
Coal Industry Superannuation Act 1989 and Regulations
Petroleum Pipelines Act 1969 and Regulations
Port Kennedy Development Agreement Act 1992

Firearms Act 1973 and Regulations
Pawn Brokers and Second Hand Dealers Act 1994 and Regulations
Agriculture Protection Board Act 1950 and Regulations
Betting Control Act 1954 and Regulations
Casino (Burswood Island) Agreement Act 1985
Casino Control Act 1984
Gaming Commission Act 1987 and Regulations
Liquor Licensing Act 1988 and Regulations
Racing Restrictions Act 1917
Totalisator Agency Board Betting Act 1960 and Rules and Regulations
WA Greyhound Racing Association Act 1981
Carnarvon Irrigation District Bylaws
Country Areas Water Supply Act 1947
Country Areas Water Supply Bylaws 1957
Country Towns Sewerage Act 1948
Country Towns Sewerage Bylaws
Harvey, Waroona Collie River Irrigation Districts Bylaws 1975
Land Drainage (Rating Grades) Regulations 1986
Metropolitan Water Authority (Miscellaneous) Bylaws 1982
Metropolitan Water Supply, Sewerage and Drainage Bylaws 1981
Ord Irrigation District Bylaws
Preston Valley Irrigation District Bylaws
Rights in Water and Irrigation (Construction and Alteration of Wells) Regulations 1963
Rights in Water and Irrigation Act 1914
Rights in Water and Irrigation Regulations 1941
Water (Dixvale Area and Yanmah Area) Licensing Regulations 1974
Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995
Water Corporation Act 1995
Water Services Coordination Act 1995
Gold Corporation Act 1987 and Regulations

(iv) Costs will be met from agencies' normal budget allocations.

(c) (i) Yes.

(ii) It is estimated that 95 reviews of legislation will commence.

(iii) Those which are expected to commence are:
Mental Health Act 1996
Mental Health (Consequential Provisions) Act 1996
Morley Shopping Centres Agreement Act 1992
Western Australian Product Symbols Act
Retail Trading Hours Act 1987 and Regulations
Travel Agents Act 1985 and Regulations
Health (Drugs and Allied Substances) Regulations 1961
Hospitals (Licensing and Conduct of Private Hospitals) Regulations 1987
Hospitals and Health Services Amendment Act 1996
Aerial Spraying Control Act 1966 and Regulations
Agriculture and Veterinary Chemicals (Western Australia) Act 1995 and Regulations
Beekeepers Act 1963 and Regulations
Carnarvon Banana Industry (Compensation Trust Fund) Regulations 1962
Exotic Diseases of Animals Act 1993
Grain Marketing Act 1975 and Regulations (LR)
Marketing of Meat Act 1946 and Regulations
Perth Market Act 1926 and Regulations
Stock (Identification and Movement) Act 1970 and Regulations
Wild Cattle Nuisance Act 1871 (The)
Veterinary Preparations and Animal Feeding Stuffs Act 1976
Wheat Marketing Act 1989
Lights (Navigation Protection) Act 1930
Port Hedland Port Authority Act 1970 and Regulations
Ports (Model Pilotage) Regulations 1994
Ports Functions Act 1993
Shipping and Pilotage Act 1967 and Regulations
Taxi Act 1994 and Regulations, and Amendment Regulations 1997
Transport Coordination Act 1966 and Regulations
WA Marine (Hire and Drive Vessels) Regulations 1983
WA Marine Act 1982
Country Areas Water Supply (Clearing Licence) Regulations 1941
Land Drainage Act 1925
Land Drainage Bylaws 1986
Land Drainage Regulations 1978
Water Agencies (Charges) By-laws 1987
Water Agencies (Entry Warrants) Regulations 1985
Water Agencies (Infringements) Regulations 1994
Hospitals (Service Charges) Regulations 1984
Hospitals and Health Services Act 1927
Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997
Bunbury Port Authority Act 1909 and Regulations

Albany Woollen Mills Agreement Act 1976
Perth Theatre Trust Act 1979
Building and Construction Industry Training Fund and Levy Collection Act 1990 and Regulations
Street Collections Regulation Act 1940 and Regulations
Anatomy Act 1930 and Regulations
Animal Resources Authority Act 1981
Chiropractors Act 1964 and Regulations
Country Slaughterhouse Regulations 1969
Cremation Act 1929 and Regulations
Dental Act 1939 and Regulations
Dental Amendment Act 1996
Dental Prosthetics Act and Regulations
Health (Adoption of Food Standards Code) Regulations 1992
Health Laboratory Services (Fees) Regulations
Human Tissue and Transplant Act 1982
Infectious Diseases (Inspection of Persons) Regulations
Meat Transport Regulations 1969
Medical Act 1894 and Rules
Medical Amendment Act 1996
Nurses Act 1992
Occupational Therapists Registration Act 1980 and Regulations
Offensive Trades (Fees) Regulations 1976
Optical Dispensers Act 1966 and Regulations
Optometrists Act 1940 and Regulations
Pharmacy Act 1964 and Regulations
Physiotherapists Act 1950 and Regulations
Piggeries Regulations 1952
Podiatrists Registration Act 1984 and Regulations
Poisons Act 1964 and Regulations
Poisons Amendment Act 1996
Poultry Processing Establishments Regulations 1973
Psychologists Registration Act 1976 and Regulations
Queen Elizabeth 11 Medical Centre (Delegated Site) By Laws 1986
Radiation Safety Act 1975 and Regulations
Tobacco Control Act 1990 and Regulations
Treatment of Sewerage and Disposal of Effluent and Liquid Waste Regulations
University Medical School Teaching Hospitals Act 1955
Camballin Farms (AIL Holdings Pty Ltd) Agreement Act
Esperance Lands Agreement Act 1960
Irrigation (Dunham Rivers) Agreement Act 1968
Northern Developments (Ord River) Agreement Act 1960
Northern Developments Pty Ltd Agreement Act 1957
Northern Developments Pty Ltd Agreement Act 1969
Petroleum (Submerged Lands) Act 1982 and Regulations
Inquiry Agents Licensing Act 1954 and Regulations
Albany Port Authority Act 1926 and Regulations
City of Perth Parking Facilities Act 1956 and Regulations
Dampier Port Authority Act 1985 and Regulations
Esperance Port Authority Act 1968 and Regulations
Fremantle Port Authority Act 1902 Act and Regulations
Jetties Act 1926 and Regulations
Marine and Harbours Act 1981 and Regulations
Metropolitan (Perth) Passenger Transport Trust Act 1957 and Regulations
Securities and Related Activities Control Act 1996

(iv) Costs will be met from agencies' normal budget allocations.

(d) (i) Yes.

(ii) It is estimated that 29 reviews of legislation will commence.

(iii) Those which are expected to commence are:
Small Business Development Corporation Act 1983
Builders Registration Act 1939 and Regulations
Credit Act 1984 and Regulations
Debt Collectors Licensing Act 1964 and Regulations
Real Estate and Business Agents Act 1978 and Regulations
Government Employees Superannuation Act 1987
Fish Resources Management Act 1994
Fisheries Adjustment Schemes Act 1987 and Regulations
Fishing Industry Promotion Training and Management Levy Act 1994
Pearling Act 1990 and Regulations
Health (Asbestos) Regulations 1992
Health (Cloth Materials) Regulations 1973
Health (Construction Work) Regulations 1973
Health (Food Hygiene) Regulations 1993
Health (Game Meat) Regulations 1992
Health (Liquid Waste) Regulations 1993
Health (Meat Inspection and Branding) Regulations 1950

Health (Pesticides) Regulations 1956
Health (Pet Meat) Regulations 1990
Health (Public Buildings) Regulations 1992
Health (School Dental Therapists) Regulations 1974
Health Act (Swimming Pools) Regulations 1964
Health Act 1911
Health Amendment Act 1996
Human Reproductive Technology Act 1991 and Regulations
Human Reproductive Technology Amendment Act 1996
Art Gallery Act 1959
State Employment and Skills Development Authority Act 1990 and Regulations
Rural Adjustment and Finance Corporation Act 1993

(iv) Costs will be met from agencies' normal budget allocations.

(e) (i) No reviews of existing legislation will commence.
(ii)-(iv) Not applicable.

(f) All reviews of existing legislation must be completed and implemented by 31 December 2000.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

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

(1) How much did each department and agency under the Deputy Premier's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Deputy Premier's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Deputy Premier's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Deputy Premier's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Deputy Premier's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr COWAN replied:

The State Government's Master Media Agency, Media Decisions, is responsible for purchasing all advertising for Government Departments and has provided the following expenditure figures for the categories requested by the Member. These costs are the placement costs for the purchase of advertising space or time only. Total costs are detailed separately below.

Department of Commerce and Trade

(1)	(a)	96/97		$216,128
	(b)	97/98		$601,954
(2)	(a)	96/97	Television	$21,107
	(b)	96/97	Radio	$3,353
	(c)	96/97	Newspapers	$178,361
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$124,324
	(c)	97/98	Newspapers	$347,940

Gascoyne Development Commission

(1)	(a)	96/97		$3,366
	(b)	97/98		$3,688
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$3,366
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$3,688

Goldfields Esperance Development Commission

(1)	(a)	96/97		$9,025
	(b)	97/98		$4,391
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$9,025
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$4,391

Great Southern Development Commission

(1)	(a)	96/97		$0
	(b)	97/98		$1,233
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$0
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$1,233

Kimberley Development Commission

(1)	(a)	96/97		$4,382
	(b)	97/98		$4,180
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$4,382
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$4,180

Midwest Development Commission

(1)	(a)	96/97		$1,907
	(b)	97/98		$7,555
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$1,907
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$7,555

Peel Development Commission

(1)	(a)	96/97		$2,918
	(b)	97/98		$5,846
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$2,918
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$5,846

Pilbara Development Commission

(1)	(a)	96/97		$3,981
	(b)	97/98		$18,500
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$3,981
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$18,500

Small Business Development Corporation

(1)	(a)	96/97		$49,436
	(b)	97/98		$62,574
(2)	(a)	96/97	Television	$20,000
	(b)	96/97	Radio	$7,256
	(c)	96/97	Newspapers	$22,180
(3)	(a)	97/98	Television	$21,542
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$41,032

South West Development Commission

(1)	(a)	96/97		$6,932
	(b)	97/98		$9,589
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$6,594
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$9,326

Wheatbelt Development Commission

(1)	(a)	96/97		$1,944
	(b)	97/98		$2,267
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$1,944
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$2,267

The total advertising expenditure, including production costs, leaflets, displays etc are as follows:

Department of Commerce and Trade

(1) The Department of Commerce and Trade's expenditure on advertising was:

(a) $324,623 in 1996/97
(b) $811,036 in 1997/98

(2)-(3) (a)-(c) The Department of Commerce and Trade does not record information to this level.

Small Business Development Corporation

(1)	(a)	$243 509
	(b)	$246 098
(2)	(a)	$20 000
	(b)	$44 292
	(c)	$171 124
(3)	(a)	$20 000
	(b)	$29 500
	(c)	$186 393

Perth International Centre for the Application of Solar Energy

(1) (a) $3 262.50
(b) $3 446.02

(2) (a)-(b) Nil.
(c) $3 262.50

(3) (a)-(b) Nil.
(c) $3 446.02

Gascoyne Development Commission

(1) (a) $7 580
(b) $4 762

(2) (a)-(b) Nil.
(c) $7 580

(3) (a)-(b) Nil.
(c) $4 762

Goldfields Esperance Development Commission

(1) (a) $20 153.87
(b) $8 215.86

(2) (a)-(b) Nil.
(c) $20 153.87

(3) (a)-(b) Nil.
(c) $8 215.86

Great Southern Development Commission

(1) (a) $745
(b) $3 564

(2) (a)-(b) Nil.
(c) $745

(3) (a)-(b) Nil.
(c) $3 564

Kimberley Development Commission

(1) (a) $6 870
(b) $6 598

(2) (a)-(b) Nil.
(c) $5 055

(3) (a)-(b) Nil.
(c) $2 967

The balance of the Kimberley Development Commission's advertising expenditure includes magazines, local planners/calendars and regional directories.

Mid West Development Commission

(1) (a) $11 684
(b) $30 036

(2) (a)-(b) Nil.
(c) Newspaper - $8 468

The balance of this amount was expended on items outside these areas, such as signage and advertising magazines.

(3) (a)-(b) Nil.
(c) Newspaper - $16,364

The balance of this amount was expended in items such as signage and advertising in magazines.

Peel Development Commission

(1) (a) $10 566
(b) $11 794

(2) (a)-(b) Nil.
(c) $10 566

(3) (a) Nil.
(b) $900
(c) $10 894

Pilbara Development Commission

(1) (a) $5 452.11
(b) $20 000.23

(2) (a)-(b) Nil.
(c) $5 452.11

(3) (a) Nil.
(b) $180.00
(c) $19 820.23

South West Development Commission

(1) (a) $13 475
(b) $14 689

(2) (a)-(b) Nil.
(c) $13 475

(3) (a)-(b) Nil.
(c) $14 689

Wheatbelt Development Commission

(1) (a) $4 002.86
(b) $3 214.72

(2) (a)-(b) Nil.
(c) $4 002.86

(3) (a)-(b) Nil.
(c) $3 214.72

All Agencies

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

534. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr BARNETT replied:

The agencies under the portfolio's of Department of Resources Development; Energy; Education have expended the following on the placement of government advertising. To provide finite costings of production and other associated costs would require the direction of significant resources and I am not prepared to allocate the resources required to provide this information. If however, the member has a specific request regarding further costs associated with a particular agencies advertising I would be prepared to consider the member's request.

AlintaGas

(1)-(5) AlintaGas has advised that this information is commercially confidential.

Canning & Tuart Colleges for joint advertising of enrolment sessions

(1)	(a)	96/97		$6 610
	(b)	97/98		$6 059
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$6 610
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$6 059

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Canning College

(1)	(a)	96/97		$126 417
	(b)	97/98		$148 216
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$12 190
	(c)	96/97	Newspapers	$114 227
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$26 169
	(c)	97/98	Newspapers	$121 764

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Country High Schools' Hostel Authority

(1)	(a)	96/97		$21 551
	(b)	97/98		$16 404
(2)	(a)	96/97	Television	$3 224
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$18 327
(3)	(a)	97/98	Television	$12 005
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$4 399

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Curriculum Council of Western Australia

The Curriculum Council was not officially established until August 1997

(1)	(a)	96/97		$561	(This expenditure was incurred by the interim Department of Curriculum Council)
	(b)	97/98		$26 336	
(2)	(a)	96/97	Television	$0	
	(b)	96/97	Radio	$0	
	(c)	96/97	Newspapers	$561	
(3)	(a)	97/98	Television	$0	
	(b)	97/98	Radio	$0	
	(c)	97/98	Newspapers	$26 336	

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Department of Education Services

(1)	(a)	96/97		$7 983
	(b)	97/98		$10 567
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$7 983
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$10 567

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Department of Resources Development

(1)	(a)	96/97		$87 701
	(b)	97/98		$70 952
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$86 416
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$60 713

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Education Department of Western Australia

(1)	(a)	96/97		$150 903
	(b)	97/98		$186 306
(2)	(a)	96/97	Television	$9 303
	(b)	96/97	Radio	$3 835
	(c)	96/97	Newspapers	$137 765
(3)	(a)	97/98	Television	$16 383
	(b)	97/98	Radio	$4 896
	(c)	97/98	Newspapers	$165 027

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Office of Energy

(1)	(a)	96/97		$104 276
	(b)	97/98		$152 967
(2)	(a)	96/97	Television	$46 703
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$57 310
(3)	(a)	97/98	Television	$56 260
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$96 706

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Secondary Education Authority (SEA)

The SEA was subsumed into the Curriculum Council in August 1997.

(1)	(a)	96/97		$6 345
	(b)	97/98		$97
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$6 345
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$97

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Tuart College

(1)	(a)	96/97		$124 808
	(b)	97/98		$113 320
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$27 477
	(c)	96/97	Newspapers	$97 331
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$12 519
	(c)	97/98	Newspapers	$100 607

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

Western Power

(1)	(a)	96/97		$549 272
	(b)	97/98		$1 304 094
(2)	(a)	96/97	Television	$307 921
	(b)	96/97	Radio	$6 186
	(c)	96/97	Newspapers	$193 900
(3)	(a)	97/98	Television	$687 316
	(b)	97/98	Radio	$22 550
	(c)	97/98	Newspapers	$554 176

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

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

(1) How much did each department and agency under the Attorney General's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Attorney General's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Attorney General's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Attorney General's control plan to spend on advertising in the 1998 -99 financial year?

(5) How much does each department and agency under the Attorney General's control plan to spend on:

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr PRINCE replied:

The Attorney General has provided the following reply:

The agencies within the Attorney General portfolio have expended the following on the placement of government advertising. To provide detailed costings of production and other costs would require the direction of significant resources to provide this information. I am not prepared to allocate the resources required to provide this information. If, however, the member has a specific request regarding further costs associated with advertising I would be prepared to consider the member's request.

Crown Solicitors Office

(1)	(a)	96/97		$1,276
	(b)	97/98		$0
(2)	(a)	96/97	Television	$ 0
	(b)	96/97	Radio	$ 0
	(c)	96/97	Newspapers	$1,276
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$0

Director of Public Prosecutions

(1)	(a)	96/97		$537
	(b)	97/98		$1,760
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$537
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$1,760

Equal Opportunity Commission

(1)	(a)	96/97		$3,813
	(b)	97/98		$2,481
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$3,813
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$2,481

Law Reform Commission

(1)	(a)	96/97		$0
	(b)	97/98		$669
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$0

(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$669

Legal Aid WA

(1)	(a)	96/97		$4,895
	(b)	97/98		$21,832
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$4,895
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$21,832

Ministry of Justice

(1)	(a)	96/97		$425,111
	(b)	97/98		$469,838
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$6,333
	(c)	96/97	Newspapers	$398,271
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$53,801
	(c)	97/98	Newspapers	$416,037

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

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

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

The agencies within the Arts portfolio have expended the following on the placement of government advertising. To provide detailed costings of production and other costs would require the direction of significant resources to provide this information. I am not prepared to allocate the resources required to provide this information. If, however, the member has a specific request regarding further costs associated with advertising I would be prepared to consider the member's request.

Art Gallery of Western Australia

(1)	(a)	96/97		$119,194
	(b)	97/98		$119,000
(2)	(a)	96/97	Television	$ 0
	(b)	96/97	Radio	$ 0
	(c)	96/97	Newspapers	$119,194
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$119,000

ArtsWA

(1)	(a)	96/97		$9,311
	(b)	97/98		$18,182
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$9,311
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$18,182

Library and Information Service of Western Australia

(1)	(a)	96/97		$17,762
	(b)	97/98		$20,550
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$17,622
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$20,550

Ministry for Culture & the Arts Business Unit

(1)	(a)	96/97		$0
	(b)	97/98		$6,938
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$0
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$6,938

Western Australian Museum

(1)	(a)	96/97		$79,272
	(b)	97/98		$25,877
(2)	(a)	96/97	Television	$36,078
	(b)	96/97	Radio	$4,985
	(c)	96/97	Newspapers	$38,208
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$25,877

Perth Theatre Trust

(1)	(a)	96/97		$236,027
	(b)	97/98		$81,668

(2)	(a)	96/97	Television	$64,386
	(b)	96/97	Radio	$31,799
	(c)	96/97	Newspapers	$128,982
(3)	(a)	97/98	Television	$6,649
	(b)	97/98	Radio	$13,394
	(c)	97/98	Newspapers	$53,360

ScreenWest

(1)	(a)	96/97		$3,054
	(b)	97/98		$779
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$3,054
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$779

The Library Board of Western Australia

(1)	(a)	96/97		$53,146
	(b)	97/98		$48,228
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$20,259
	(c)	96/97	Newspapers	$32,887
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$13,251
	(c)	97/98	Newspapers	$34,977

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

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

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(5) I refer the member to my answer to Question on Notice 540.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

548. Mr BROWN to the Minister for Planning; Employment and Training; Heritage:

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr KIERATH replied:

Planning:

Ministry for Planning

(1)	(a)	Ministry for Planning		$49 635
		Western Australian Planning Commission		$194 498
	(b)	Ministry for Planning		$95 551
		Western Australian Planning Commission		$126 543
(2)	(a)	Ministry for Planning		Nil
		Western Australian Planning Commission		$40 000
	(b)	Ministry for Planning		Nil
		Western Australian Planning Commission		$23 707
	(c)	Ministry for Planning		$49 635
		Western Australian Planning Commission		$130 791
(3)	(a)	Ministry for Planning		Nil
		Western Australian Planning Commission		$56 000
	(b)	Ministry for Planning		Nil
		Western Australian Planning Commission		$44 000
	(c)	Ministry for Planning		$95 551
		Western Australian Planning Commission		$26 543
(4)		Ministry for Planning		$8 000
		Western Australian Planning Commission		$86 640
(5)	(a)	Ministry for Planning		Nil
		Western Australian Planning Commission		Nil
	(b)	Ministry for Planning		Nil
		Western Australian Planning Commission		Nil
	(c)	Ministry for Planning		$8 000
		Western Australian Planning Commission		$86 640

Minister for Planning (Appeals Office)
(1)-(5) Nil

East Perth Redevelopment Authority
(1) (a) $208 000
(b) $438 000

(2) (a)-(b) Nil
(c) $135 143

(3) (a)-(b) Nil
(c) $325 118

(4) $480 000

(5) (a)-(b) Nil
(c) $350 000

Subiaco Redevelopment Authority
(1) (a) $19 393
(b) $269 751

(2) (a)-(b) Nil
(c) $19 393

(3) (a)-(b) Nil
(c) $269 751

(4) Estimate $240 000

(5) (a)-(b) Nil
(c) Estimate $240 000

Employment and Training
Western Australian Department of Training
(1) (a) $557 478
(b) $482 758

(2) (a) $206 807
(b) $20 438
(c) $330 232

(3) (a) $137 742
(b) $135 365
(c) $209 651

(4) $480 000

(5) (a) $200 000
(b) $150 000
(c) $130 000

Central Metropolitan College of TAFE
(1) (a) $252 057
(b) $382 047

(2) (a) $43 957
(b) $20 453
(c) $119 243

(3) (a) $25 730
(b) Nil
(c) $270 467

(4) $290 000

(5) (a) $52 000
(b) Nil
(c) $238 000

West Coast College of TAFE
(1) (a) $143 916
(b) $155 164

(2) (a)-(b) Nil
(c) $143 169

(3) (a) Nil
(b) $18 900
(c) $155 164

(4) $156 000

(5) (a)-(b) Nil
(c) $156 000

South East Metropolitan College of TAFE
(1) (a) $139 177
(b) $309 118

(2) (a)-(b) Nil
(c) $138 961

(3) (a)-(b) Nil
(c) $307 646

(4) $299 000

(5) (a)-(b) Nil
(c) $297 500

South Metropolitan College of TAFE
(1) (a) $232 222
(b) $210 996

(2) (a) Nil
(b) $10 920
(c) $221 302

(3) (a)-(b) Nil
(c) $210 966

(4) $221 514

(5) (a)-(b) Nil
(c) $221 514

Midland College of TAFE
(1) (a) $90 430
(b) $59 732

(2) (a)-(b) Nil
(c) $90 430

(3) (a)-(b) Nil
(c) $59 732

(4) $80 000

(5) (a)-(b) Nil
(c) $80 000

Central West Regional College of TAFE
(1) (a) $92 529
(b) $156 871

(2) (a) $4 380
(b) $1 741
(c) $86 408

(3) (a) Nil
(b) $2 878
(c) $153 992

(4) $140 000

(5) (a) Nil
(b) $3 000
(c) $137 000

Great Southern Regional College of TAFE
(1) (a) $62 047
(b) $118 362

(2) (a) $2 980
(b) $1 754
(c) $50 312

(3) (a) $24 225
(b) $4 253
(c) $89 884

(4) $117 000

(5) (a) $25 000
(b) $5 000
(c) $87 000

Hedland College
(1) (a) $56 620
(b) $60 900

(2) (a) Nil
(b) $3 602
(c) $53 018

(3) (a) Nil
(b) $5 415
(c) $55 485

(4) $80 000

(5) (a) Nil
(b) $8 000
(c) $72 000

Karratha College
(1) (a) $50 977
(b) $85 877

(2) (a) $7 960
(b) $1 104
(c) $49 913

(3) (a) $7 513
(b) $2 150
(c) $76 214

(4) $89 200

(5) (a) $8 021
(b) $2 610
(c) $78 569

Kimberley College
(1) (a) $18 402
(b) $38 686

(2) (a)-(b) Nil
(c) $18 402

(3) (a)-(b) Nil
(c) $38 686

(4) $43 000

(5) (a)-(b) Nil
(c) $43 000

CY O'Connor College
(1) (a) $46 351
(b) $49 506

(2) (a) Nil
(b) $6 953
(c) $39 398

(3) (a) Nil
(b) $4 364
(c) $45 142

(4) $57 250

(5) (a) Nil
(b) $5 000
(c) $52 250

South West Regional College of TAFE
(1) (a) $99 093
(b) $129 528

(2) (a) $13 739
(b) $3 123
(c) $68 491

(3) (a) $20 976
(b) $12 250
(c) $96 302

(4) $136 000

(5) (a) $25 000
(b) $12 000
(c) $99 000

Heritage

Heritage Council of Western Australia
(1) (a) $34 334
(b) $32 719

(2) (a)-(b) Nil
(c) Newspaper: $ 30 058
Other: $ 4 276

(3) (a)-(b) Nil
(c) Newspaper: $29 479
Other: $ 3 240

(4) $ 32 750

(5) (a)-(b) Nil
(c) Newspaper and other $ 32 750

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

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

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr OMODEI replied:

The agencies under my control have expended the following on the placement of government advertising. To provide detailed costings of production and other costs would require the direction of significant resources to provide this information. I am not prepared to allocate the resources required to provide this information. If however, the member has a specific request regarding further costs associated with advertising, I would be prepared to consider the member's request.

DISABILITY SERVICES COMMISSION

(1)	(a)	96/97		$60,642
	(b)	97/98		$90,653
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$60,642
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$90,653

KEEP AUSTRALIA BEAUTIFUL COUNCIL

(1)	(a)	96/97		$0
	(b)	97/98		$102,826
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$0
(3)	(a)	97/98	Television	$53,007
	(b)	97/98	Radio	$8,713
	(c)	97/98	Newspapers	$35,729

DEPARTMENT OF LOCAL GOVERNMENT

(1)	(a)	96/97		$8,830
	(b)	97/98		$68,655
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$8,830
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$68,655

METROPOLITAN CEMETERIES BOARD

(1)	(a)	96/97		$2,123
	(b)	97/98		$1,512
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$2,123
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$1,512

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet the needs and will be controlled to ensure that it is met from existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

551. Mr BROWN to the Minister for Family and Children's Services; Seniors; Women's Interests:

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mrs PARKER replied:

The Department/Agencies have expended the following on the placement of government advertising. To provide detailed costings of production and other costs would require the direction of significant resources to provide this information. I am not prepared to allocate the resources required to provide this information. If, however, the member has a specific request regarding further costs associated with advertising I would be prepared to consider the member's request.

FAMILY AND CHILDREN'S SERVICES

(1)	(a)	96/97		$513,039
	(b)	97/98		$574,940
(2)	(a)	96/97	Television	$173,542
	(b)	96/97	Radio	$94,207
	(c)	96/97	Newspapers	$224,289
(3)	(a)	97/98	Television	$252,026
	(b)	97/98	Radio	$1,802
	(c)	97/98	Newspapers	$321,130

OFFICE OF SENIORS INTERESTS

(1)	(a)	96/97		$63,924
	(b)	97/98		$23,588
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$950
	(c)	96/97	Newspapers	$62,974
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$23,588

WA DRUG ABUSE STRATEGY OFFICE

(1)	(a)	96/97		$154,587
	(b)	97/98		$447,449
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$113,289
(3)	(a)	97/98	Television	$164,800
	(b)	97/98	Radio	$140,356
	(c)	97/98	Newspapers	$140,719

WOMEN'S POLICY DEVELOPMENT OFFICE

(1)	(a)	96/97		$29,166
	(b)	97/98		$24,699
(2)	(a)	96/97	Television	$22,569
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$6,597
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$24,699

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

VICTORIA QUAY DEVELOPMENT

782. Mr BROWN to the Premier:

(1) Who are the current members of the Premier's task force on the Victoria Quay development, and what are their current professions and places of employment?

(2) Has the task force membership changed since inception?

(3) If the answer to (2) is yes -

(a) who were the former members of the task force; and

(b) why are those members no longer part of the task force?

(4) What were the dates of appointment for all current and former members of the task force?

(5) What professional or other grounds was each individual former and current member of the task force appointed?

(6) Which, if any, current or former members of the task force were consulted regarding the project prior to appointment, and what was the nature of the consultations?

(7) When were these consultations undertaken?

(8) Are any of the current or former members of the Victoria Quay task force current contractors or paid consultants to the Government, and if so, in what capacity ?

(9) Are any of the current or former members of the Victoria Quay task force former contractors or paid consultants to the Government, and if so, in what capacity?

(10) What budget, if any, is allocated to the day to day operation of the Victoria Quay task force?

(11) What remuneration, if any, is paid to or available to members of the Victoria Quay task force?

Mr COURT replied:

(1) The Fremantle Waterfront project has a two-tier management structure, comprising a Steering Committee and a Project Management Group.

The Steering Committee comprises:
Premier
Minister for Transport
Minister for the Arts
Minister for Planning and Heritage
Mayor of Fremantle
Chief Executive Officer, Fremantle Port Authority
Director General, Ministry for Culture and the Arts
A/Commissioner of Railways
Chief Executive, Government Property Office

The Project Management Group comprises:
Members
Chief Executive, Government Property Office
Chief Executive Officer, Fremantle Port Authority
Under Treasurer
Executive Director, WA Museum

Other Attendees
Principal Projects & Overseas Coordinator, Office of the Premier
(Ex-Officio member)
Manager Strategic and Commercial Development, Fremantle Port Authority
Development Director, Mr R W Shields (project consultant)
Project Manager, Mr G Greenacre (Gutteridge Haskins & Davey Pty Ltd)
Manager Project Management, Government Property Office (Executive Officer)

(2) Yes. The Minister for Planning and Heritage accepted an invitation to join the Steering Committee in January 1998. The Executive Director of the WA Museum joined the Project Management Group in September 1998.

(3) None of the original members has left the Steering Committee.

(4) The original members were appointed to the Steering Committee in November 1997. The Minister for Planning and Heritage was appointed in January 1998. The Project Management Group was formed in November 1997. The Executive Director of the WA Museum joined the Project Management Group in September 1998.

(5) The membership comprises Ministers of the Crown, the Mayor of Fremantle, together with Chief Executive Officers and senior public servants representing key stakeholders.

(6)-(7) Consultation commenced in 1995 with the formation of the Australia II Steering Committee whose primary task was to identify a preferred site for a proposed new Maritime Museum in Fremantle.

(8)-(9) No.

(10) No specific budget is allocated to the operation of the management structure described in (1).

(11) None.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS WITH EMPLOYER ORGANISATIONS

1111. Mr KOBELKE to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) Have any departments or agencies within the Premier's portfolios, let or made contracts, grants, or secondments, since 1 July 1997 to the Western Australian Chamber of Commerce and Industry, or any other employer organisations or bodies controlled by an employer or industry organisation?

(2) If yes, what are the details of each case including -

(a) the department or agency involved;

(b) the recipient of the contract, grant or secondment;

(c) a description of the purpose for the contract, grant or secondment; and

(d) the value or cost of the contract, grant or secondment?

Mr COURT replied:

I am advised that :

(1)-(2) The Ministry of the Premier and Cabinet entered into a contract with the Chamber of Commerce and Industry of Western Australia (Inc.) to provide staff training at a cost of $3 000.

QUESTIONS WITHOUT NOTICE

PASSIVE SMOKING - LEAK OF DRAFT LEGISLATION

377. Dr GALLOP to the Minister for Health:

I refer to the Premier's claim in this House on 9 September: "I do not care where it comes from within government, it is improper for information to be leaked."

(1) What action does the minister intend to take to determine the source of the leak from his party room of his draft passive smoking legislation to the WA Hotels Association?

(2) Does the minister intend to take no action thereby confirming to all that in the eyes of his Government, one rule applies for public servants who leak information and another rule applies for Liberals who leak information to those with narrow commercial interests?

Mr DAY replied:

(1)-(2) The situation is that legislation is being drafted at the moment to give effect to the cabinet decision of earlier this year to introduce regulations under the Health Act which will impose substantial restrictions on smoking in enclosed public places. These restrictions do not currently apply. This will be significant legislation in the interests of the health of people in Western Australia. As part of the process, discussions have been ongoing in the party room. I have been involved in discussions with members of the coalition. I do not have any conclusive proof of who provided the Australian Hotels Association with a copy of the proposed draft regulations. I am not a police force, but I obviously have my suspicions and will raise them in the party room next week.

PASSIVE SMOKING - LEAK OF DRAFT LEGISLATION

378. Dr GALLOP to the Minister for Health:

Does the minister at least intend to ask the member for Joondalup whether they were his fingerprints on the draft legislation leaked to the WA Hotels Association?

Mr DAY replied:

If the Leader of the Opposition has a question to direct to the member for Joondalup in this Chamber, I suggest that he direct it to the member.

The SPEAKER: Order! If the Leader of the Opposition has such a question, he will not get the opportunity to ask it - he is not entitled to do so.

FIREARMS - SECURE STORAGE

379. Mr JOHNSON to the Minister for Police:

Following the reported theft of firearms last night from a suburban residence, will the minister outline the responsibilities of firearm owners to secure their weapons?

Mr PRINCE replied:

I thank the member for his question. The theft of those firearms overnight provides an appropriate opportunity to remind registered gun owners that the new law regarding cabinets and safe storage came into effect on 1 July. It is appropriate to remind people who have not yet purchased a cabinet or container or made appropriate arrangements for the secure storage of their firearms, that they must do so - in fact, they should have done so by 1 July. Storage cabinets retail from about $350, although more expensive ones are available. It is estimated that this State has approximately 100 000 licensed gun owners. It is a requirement that they store their firearms, ammunition and so forth safely and in accordance with the regulations. The regulations stipulate the type of container construction, the doors, the hinging mechanism, locks, locking points and anchoring. I can make the details available to interested members. I remind gun owners that a maximum penalty under the Firearms Act for not having an approved cabinet or secured firearms is $1 000, which has been law since 1 July.

CURTIN HOUSE - LISTENING DEVICES

380. Mrs ROBERTS to the Minister for Police:

(1) Can the minister give an assurance that all listening devices installed at Curtin House were legally placed there?

(2) Has the Commissioner of Police, as occupier of Curtin House, given consent to the placement of all listening devices located at Curtin House?

(3) If no to (2), who consented to the placement of listening devices at Curtin House?

(4) What procedure does the WA Police Service follow before placing a listening device within WA Police Service premises?

Mr PRINCE replied:

(1)-(4) As I said yesterday - I am about to repeat myself - listening devices can be a very useful tool in investigations of alleged criminal conduct, corruption or any other such behaviour. Some agencies within the State and Commonwealth have the authority to place listening devices pursuant to the law. I have consulted with the Commissioner of Police a number of times over this issue in the last day or so. I pass on this assurance: Since Commissioner Falconer became commissioner, the Police Service of this State has not installed a listening device anywhere other than in accordance with the law. That is the procedure followed.

Regarding whether there are listening devices in any place at any time, it is not appropriate to say anything other than the following: I will neither confirm nor deny now or ever whether listening devices have been installed in any place at any time. To do so would negate their usefulness at any time. The Opposition has a problem supporting police. I do not have that problem, and nor do my colleagues on this side of the House. The member for Midland has no idea how to support police in their pursuit of criminals, or how to support other agencies in their investigations of allegations of corrupt conduct. It is time members opposite supported those endeavours.

EMPLOYMENT FIGURES

381. Mr MARSHALL to the Minister for Employment and Training:

Can the minister inform the House what the latest employment figures mean for Western Australia?

Mr KIERATH replied:

I thank the member for his question. I am pleased to inform the House that the Australian Bureau of Statistics figures released today show that the number of Western Australians in jobs reached a record level in October. It is the highest number ever achieved in the history of this State.

Ms MacTiernan: Who has the highest?

Mr KIERATH: I will come to that. Last year, 27 300 jobs were created in Western Australia, which boosted the number of people in productive work to 893 100. That is the highest level ever achieved in this State. This indicates that the Western Australian economy is still generating meaningful jobs. It is an enviable record. We have the second highest rate in the nation for job creation. The member for Armadale asked who had the highest figure. We have been just pipped this month by New South Wales. I went back through the records and found that this is the first time in two years that this State has been pipped in that ranking; that is since November 1996. In the latest figures, New South Wales was lower in its unemployment rate than Western Australia's by 0.1 per cent. I give credit to New South Wales' achievement in today's figures. Unlike the Labor Party, I say that it is great news for the wider Australian community that more than one State has good unemployment figures. In this State, unemployment fell from 7.2 per cent to 7 per cent - it is just about knocking on that magical 6 per cent figure. Nationally, unemployment fell from 8.1 per cent to 7.7 per cent. Unlike the Opposition, we applaud any drop in unemployment, from wherever it comes. We congratulate people for achieving those figures, whether it is in a coalition State or a Labor Government State. I will be the first to agree that the employment growth in this State in October was modest, but it is important to remember that these are not just statistics but that people are behind these figures. The 400 people who found jobs last month are 400 people who have gone from the unemployment queue into productive work. We find that quite incredible. We are a bit concerned that youth unemployment has gone up slightly this month, but it is important to look at the national figure. Western Australia is the only State in the country that has figures for youth unemployment of less than 20 per cent. The national average was much higher than that at 24.9 per cent. That again shows that this State has consistently done between 5 and 10 per cent better than any other State, and that is a credit to all who have been involved. These are good figures not only for Western Australia but also for the nation. It shows that this Government is committed to getting the figures down even lower. We acknowledge that every person who has found a job is another Western Australian who has improved his standard of living and social wellbeing.

Mr Kobelke: That is not true.

Mr KIERATH: That is interesting.

The SPEAKER: Order! Perhaps the minister can bring his answer to a close.

Mr KIERATH: I will, Mr Speaker. I want to place on record -

The SPEAKER: Order! The minister will take his seat. Next question.

REYNOLDS, MR ALBERT - TREATMENT AT FREMANTLE HOSPITAL

382. Mr McGINTY to the Minister for Health:

I refer the minister to the unfortunate death of Mr Albert Reynolds at Fremantle Hospital this week and ask -

(1) Why was Mr Reynolds left on a trolley for five hours before being taken to a cubicle to be examined by a doctor?

(2) Why was this 85-year-old man with a serious condition left on a trolley in the emergency department for 20 hours before being transferred to a ward, where he died a few hours later?

(3) Why was Mr Reynolds left on a trolley in the emergency department for 28 hours when he attended the hospital with pneumonia six weeks ago?

(4) Will the minister confirm that in May, Mr Reynolds was also left on a trolley for 10 hours?

(5) Does the minister condone this sort of treatment of any patient, let alone a person of Mr Reynolds' age; and what will he do to make sure it never happens again?

Mr DAY replied:

I thank the member for Fremantle for notice of the question. It is a fairly lengthy question, and my answer will, therefore, contain quite a bit of information.

(1) I am advised that Mr Reynolds was referred to Fremantle Hospital with confusion, which had been present for three days. He was taken into the emergency department at the hospital by ambulance at 8.40 pm on Sunday, 8 November 1998. He was placed on an emergency department bed within the main body of the emergency department. He was then triaged in the emergency department as a category 4 case; in other words, he was assessed as non-urgent. Nursing observations commenced immediately and continued throughout his stay. He was seen by a doctor at midnight, which was consistent with his urgency rating. Mr Reynolds' diagnosis of confusion necessitated a number of investigations, and that took time to arrange and complete pending a decision to transfer the patient to a ward.

(2) Mr Reynolds was not left on a transport trolley in the emergency department. He was placed on an emergency department purpose-designed bed for 10 hours and 50 minutes, under constant medical and nursing care, before being transferred to the emergency department observation ward.

(3) When Mr Reynolds attended Fremantle Hospital in September of this year, he actually spent six hours in the emergency department before being moved to the observation ward of the emergency department, and was transferred to another inpatient ward the following day.

(4) Mr Reynolds attended the accident and emergency department in May and was transferred to an inpatient bed six hours later.

(5) In my view, Mr Reynolds obtained optimum medical treatment for his condition given that he was an elderly, frail gentleman with complex, interrelated problems.

It is important that the member for Fremantle understand that the trolleys to which he referred cost Fremantle Hospital about $4 500 each, which is more than double the cost of a normal hospital bed. Those trolleys are specially designed to care for patients who need emergency department care. The fact that a patient is allocated to one of those trolleys or emergency department beds is in no way an indication that that patient is not being cared for. Quite the contrary; it is an indication that Fremantle Hospital is taking very good care of those patients in their particular condition. It is completely incorrect for the member for Fremantle to imply that because patients are put on trolleys such as that, no beds are available for them. As I said, the trolleys are specially designed, purpose-built devices which were purchased in 1997 to provide the best care for patients attending Fremantle Hospital. The staff who are working in the emergency department of Fremantle Hospital are highly trained specialists, currently providing optimum care and utilising state-of-the-art emergency equipment.

I visited Fremantle Hospital's emergency department about six weeks ago. That department has been substantially upgraded and expanded. It was opened on 17 July 1997. The expansion was undertaken at a cost of approximately $8m, so a substantial amount of funding was put into providing a major and well appreciated facility in that hospital. I have full confidence in the staff of Fremantle Hospital and their commitment to the patients who come into that hospital emergency department, in whatever condition they may be in, and I would have no hesitation in attending that hospital as a patient or recommending that a member of my family attend. It is a great pity that the member for Fremantle does not express the same degree of support for the very hard working members of the medical and nursing profession, and other staff, at Fremantle Hospital.

HIP AND KNEE JOINT REPLACEMENTS AND CATARACT OPERATIONS - WAITING LISTS

383. Mr BARRON-SULLIVAN to the Minister for Health:

Does the minister have any information about the number of country residents who will benefit from the Government's decision to reduce waiting lists for hip and knee joint replacements and eye cataract operations?

Mr DAY replied:

I think members would be well aware of the additional allocation of $125m by the Government to increase the amount of elective surgery undertaken in this State and the commitment that was given by the Premier in August this year, as part of that announcement, that anyone who was on the waiting list at that time for either a hip or knee replacement, or for a cataract removal, would be treated within 12 months. At that time, the number of country patients on the waiting list was 65 for a hip replacement, 84 for a knee replacement, and 114 for a cataract removal. Substantial progress is being made for both metropolitan and country patients. With regard to country areas, the central wait list bureau has an ongoing process of identifying where procedures can be performed in the country; and, where possible, of transferring patients from a metropolitan hospital waiting list to a hospital within their own region so that they can be treated at that hospital. A very good example of that is the Esperance region, where 51 patients requiring cataract removal have been taken off the Fremantle Hospital waiting list and will have their operations performed at Esperance Hospital. The same process has been undertaken for children who are on the waiting list at Fremantle Hospital and who can be operated on at Kalgoorlie Hospital.

Dr Gallop: It is a good idea. You pinched it off me!

Mr DAY: The Leader of the Opposition came up with the same idea that the Government had. It is a commonsense move, and it is very representative of the philosophical view of this Government that services should be provided, wherever possible, closer to where people live. That is why we are building major new hospitals, such as the one at Armadale-Kelmscott, and such as the one which recently commenced operations in the Mandurah area. The Peel Health Campus in Mandurah will soon be commencing joint replacements. That is a major advance for residents of the Peel region, because rather than having to go to Fremantle Hospital or Sir Charles Gairdner Hospital, they will be able to have their operations performed much closer to home. Some very good developments are underway and some very good progress is being made in increasing the amount of elective surgery being performed both generally and on a more local basis. An example of the progress being made is at Sir Charles Gairdner Hospital where as at 7 August, 84 patients were waiting for hip and knee replacements. Of those, 47 patients are no longer on the waiting list, either because they no longer require the treatment or because the surgery for hip replacements has been completed, and 50 patients have been removed from the waiting list for knee replacements. Some very good progress is being made, as I have said.

MS JANET BAILEY - DENTAL TREATMENT

384. Mrs ROBERTS to the Deputy Premier and Co-Chairman of the Cabinet Subcommittee on Law and Order:

My constituent, Janet Bailey, received extensive facial injuries when hoons threw a brick through her windscreen as she and her friends left a Bassendean church service on Sunday night.

(1) Is the Deputy Premier aware that upon her release from Royal Perth Hospital she was referred to the Perth Dental Hospital where she was refused treatment because she was not in receipt of a full social security benefit?

(2) Is the Deputy Premier further aware that officers of the victims of crime information unit advised that they knew of victims of crime who had waited up to a year to get their teeth fixed under the criminal injuries compensation system?

(3) Is he prepared to give a commitment to Ms Bailey and other victims of violent crimes that the Government will pay their dental bills promptly in these kinds of circumstances?

Mr COWAN replied:

(1)-(3) I think the member is drawing a long bow in assuming that as Co-chairman of the Cabinet Subcommittee on Law and Order I deal with those issues. In all seriousness, I was not aware of those issues that have been raised; however, as Co-chairman of the Cabinet Subcommittee on Law and Order, I will take up those issues with the relevant ministers and make sure that the member and, more particularly, the person named in this question get a response.

CRIME STOPPERS PROGRAM - ASSESSMENT

385. Mr BAKER to the Minister for Police:

I refer to the criticisms from members opposite concerning the various crime reduction initiatives, and the law and order legislative program currently being pursued by the Western Australian Government. Notwithstanding this lack of

cooperation from the Opposition, can the minister please report as to whether the Government's Crime Stoppers program has been assessed by an independent body and, if so, the findings of that assessment?

Mr PRINCE replied:

I thank the member for some notice of this question. I am delighted to be able to say a little about Crime Stoppers. The International Conference of Crime Stoppers was held in Wyoming in September this year. Crime Stoppers Western Australia received various international awards. Members opposite should listen to this because Western Australia is one State out of an enormous number involved in this program. Crime Stoppers was awarded first place in the category of number of cases cleared; first place in the category of number of arrests made; first place in the category of most improved for 1997 compared with 1996; and second place in the category of dollar value recovery. The statistics show that in 1997, 1 518 cases were cleared; 557 arrests were made; the value of stolen goods recovered was $799 093; and the value of drugs recovered was just over $4m. In addition, there were two media awards, one announced in "InterSector", the official magazine of the Western Australian public sector, and the other for a special feature by *The West Australian* which was awarded first place. That related to seven stories on a similar theme that *The West Australian* ran in January and the beginning of February 1997, all to do with missing persons. *The West Australian* was also awarded first place for featuring a crime-of-the-week segment. Channel Nine was awarded second place for a program which is used all the time by Crime Stoppers Western Australia in getting its message across.

Mr Brown: My constituents will be very comforted to hear that when they are getting abused and hassled all the time.

Mr PRINCE: Finally, the website that was created earlier this year was awarded first place in the category of website of the year.

Mr Brown interjected.

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

Mr PRINCE: A total of 480 delegates from 12 countries attended the conference, representing 163 Crime Stoppers programs. Over 1 000 programs are affiliated with Crime Stoppers International. Bearing in mind that Crime Stoppers started in the United States in the mid-1970s, Crime Stoppers Western Australia, which has not been running for very long, won a significant number of first place awards. The other organisations that have taken up this line - that is, *The West Australian* newspaper, Channel Nine and others - also won major awards. That speaks volumes for the quality of the expertise that is available in Crime Stoppers Western Australia and the other organisations that have been involved in this program in the past two years. It says wonders for this program, and it shows exactly what can be done when the community is involved in the issue of stopping crime. It is something which this Government strongly supports and about which the Opposition has no idea.

TEACHERS - COUNTRY INCENTIVES PACKAGE

386. Mr RIPPER to the Minister for Education:

(1) Is the minister aware that a straw vote of country members of the teachers' union has rejected the country incentives package by a ratio of 4:1?

(2) Is the minister also aware that this information was conveyed to the Education Department yesterday, along with a request from the union to look at alternative ways of providing extra benefits to country members?

(3) Given these facts, does the minister still claim, as he did yesterday, that country teachers overwhelmingly support the package?

Mr BARNETT replied:

I thank the member for some notice of this question.

(1)-(3) I am not aware of the so-called straw poll of members of the teachers' union. I still claim that that package has overwhelming support.

Dr Gallop interjected.

Mr BARNETT: I am sorry, but it does.

Mr Ripper: These teachers voted 4:1 against it.

Mr BARNETT: When we announced that we would employ 80 extra teachers to reduce class sizes, the teachers' union said that that was not enough. When we announced an extra payment of $10 000 after tax, for country teachers, the teachers' union said that it did not agree. I am sorry, but we run this Education Department and education system for children in schools and the teachers are employees of the Education Department, and they are delighted. A teacher has yet to write to me to say, "Don't pay me more for working in a country school."

MISUSE OF DRUGS ACT - REVIEW

387. Mr BAKER to the Minister for Police:

Can the minister advise whether any proposals are currently being considered for a review of the Misuse of Drugs Act, with a view to having it remodelled on lines similar to chapter 6 of the model Criminal Code?

Mr PRINCE replied:

I thank the member for some notice of this question. There are no proposals under consideration at the moment for remodelling the Misuse of Drugs Act along the lines of chapter 6 of the model Criminal Code. It is a matter that could be taken up at a later date.

JERVOISE BAY DEVELOPMENT - EPA'S ADVICE

388. Dr EDWARDS to the Minister for the Environment:

I refer to the report of the Environmental Protection Authority on the Jervoise Bay industrial infrastructure and harbour development and the statement by the EPA chairman, Bernard Bowen, that he would provide further advice on the project to the minister.

(1) Has the minister received that further advice?

(2) What does the EPA chairman now say about the project and its environmental impacts?

(3) Will the minister ensure that the full text of this further advice is made public?

Mrs EDWARDES replied:

(1)-(3) I have not received further advice.

GOVERNMENT CONTRACTS - ONLINE SERVICES

389. Mr TRENORDEN to the Minister for Works:

This question -

Ms MacTiernan: You are as slow as the *Prospector*.

Mr TRENORDEN: That is pretty quick. That goes to Kalgoorlie; the *AvonLink* goes to Northam.

A contractor in my electorate recently contacted me and asked what the Department of Contract and Management Services has done to allow regional building contractors to access building plans online from Perth and he was advised that further online services are being planned. Can the minister advise what other services will be available online in the future?

Mr BOARD replied:

I thank the member for some notice of this question. Just recently another selling-to-Government forum was conducted in Northam during which online services were discussed. It is important for members of this House to know the services that are already available for businesses in their electorates. There has been a rapid development in this phase of government over the past six to 12 months. The Department of Contract and Management Services started the process by putting all contract information online; that is, the standards of contracts, and contract tender information which has developed from there.

All tenders are now on the Internet and available throughout Australia. Although we still advertise all our tenders through the newspaper, about 70 per cent of the information is now drawn down by the Internet. That has resulted in our being able to formulate shell documents to make it more cost effective for business to be able to conduct business with the Government. We have also been able to convert the majority of our Department of Contract and Management Services' offices to shopfront offices to enable businesses, particularly small and medium businesses in regional areas, to speedily access tender information. That means that anybody, whether a one-man operation or a company, can walk into a CAMS office and receive all the information on a contract, whether it be painting, electrical, reticulation or any other type of contract.

Ms MacTiernan: Small operators are not getting the jobs, are they?

Mr BOARD: They certainly are. I am glad the member for Armadale raised the question. I have figures recently to hand which show that 87 per cent of all contracts let in regional areas go to regionally based companies.

Ms MacTiernan interjected.

The SPEAKER: Order, member for Armadale.

Mr BOARD: Our regional buying compact is giving regional companies a leg up in that regard. The ability to securely access plans and drawings has been a great boon to business, particularly in regional areas. It is already producing cost-effective services to the Government. CAMS and the State Supply Commission see electronic commerce as the future way not only of developing business for the Government but also of stimulating business for all small and medium businesses in Western Australia.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL, DOCUMENTATION

390. Ms MacTIERNAN to the Minister for Health:

Will the minister now make public the full request for proposal document provided by the Health Department to the tenderers for the management of the Armadale Health Service, or is he proposing to adopt the same outrageous position of his predecessor by denying public access to this document until "such time as a contract has been signed with the preferred proponent"; or, in other words, until it is too late to do anything to reverse the decision to privatise?

Mr DAY replied:

I am glad the member for Armadale has asked me a question about the Armadale-Kelmscott Memorial Hospital. She gave me notice of a question about three or four weeks ago and has not asked it. I am delighted to have the opportunity of providing a bit of information in respect of the question in which she postulated that only 28 per cent of the funding would be allocated to that hospital and therefore there would be only 40 public beds, which is absolute nonsense. The sort of material she put out during the federal election campaign was clearly in that category.

Ms MacTiernan: We want the document. If you give us the document, we can know what percentage you are about to fund.

Mr DAY: It is my intention to make that document public in the near future.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL, DOCUMENTATION

391. Ms MacTIERNAN to the Minister for Health:

(1) When is the minister proposing to make this document available?

(2) Is he proposing to make it available before he selects his preferred proponent?

The SPEAKER: If I were to strictly adhere to the rules on supplementary questions, I would rule that question out of order, but as the member is so keen on it, I will allow it.

Mr DAY replied:

(1)-(2) I expect that the document will be made available to the public and be tabled in this Chamber this month.

GOVERNMENT PLANNING INITIATIVES

392. Mr MASTERS to the Minister for Planning:

The Leader of the Opposition has criticised the Government for focusing solely on the Perth central business district. Following on from a recent question without notice on the subject, will the minister please inform the House of any further initiatives which show this claim to be patently false?

Mr KIERATH replied:

Mr Speaker -

Mrs Roberts: This is yesterday's question.

Mr KIERATH: No, it is an advancement on yesterday's question. The Opposition has tried to propagate what I believe is a totally false impression that the Government's interest extends no further than the CBD. I say to the Leader of the Opposition that it is a nice try but it was always doomed by the total lack of evidence or, more importantly, the weight of evidence that is against his point of view. As Minister for Planning I have a deep abiding interest in the environment. I am pleased that the Western Australian Planning Commission is demonstrating the Government's commitment to the environment with a scoping paper called "Coastal Planning and Environment". The main area of environmental concern among people in the State is coastal erosion. There are already many examples of beach and dune rehabilitation which are a direct result of the excellent coast west, coast care program, which is a joint initiative between the State and Commonwealth Governments. As with the livable neighbourhoods program, if the Opposition had been paying attention to the announcements that have been made, it would be aware of this paper and acknowledge it; instead the Leader of the Opposition consistently goes on radio and ignores those initiatives. If the Leader of the Opposition is to go down that line and tell false facts, he must be careful.

Mr Brown: False facts!

Mr KIERATH: The Leader of the Opposition goes on radio and pretends his statements are the facts when they are false. I gave the example yesterday and another today of how wrong that is. The Leader of the Opposition may well be preoccupied with the CBD but the Government is not. The Premier cares about Perth - we acknowledge that. We want to see Perth mature and develop into a beautiful place to visit, to work in and to live in. That goes for the rest of the State. The Opposition did absolutely nothing when it was in government. There was no development, refurbishment, maintenance or commitment. We are the only Government of this State that has been committed to raising the overall standard of life. We have the runs on the board and the Opposition does not. It did not have them when in government and it certainly does not in opposition.

DEREGULATION OF REAL ESTATE FEES, BROCHURE

393. Ms MacTIERNAN to the Minister for Fair Trading:

I refer to the glossy brochure on deregulation of real estate fees featuring the name and logo of the Ministry of Fair Trading and the name of the Real Estate and Business Agents Supervisory Board which the minister claimed yesterday had been produced by the Real Estate Institute of Western Australia.

(1) Did each of the Ministry of Fair Trading and the Real Estate Agents Supervisory Board give approval to REIWA to use its logo and/or name on the cover of the brochure?

(2) Does the minister acknowledge that the Government must accept responsibility for the contents of this brochure if that approval was given?

(3) If approval was not given, what action does the minister intend to take against REIWA?

Mr SHAVE replied:

I thank the member for Armadale for some notice of the question. The issue of logos is contentious and obviously of some concern to the member. I made some inquiries and my advice is -

(1) Yes.

(2) The ministry and board staff checked the text of the REIWA brochure to ensure that the information it provided properly reflected the effect of the legislative amendment and was not misleading. The ministry and the board accept responsibility for their advice.

(3) I was pleased to go into the issue of logos. I have a letter with a letterhead with a lovely photograph of the member for Armadale on it. It is a very fine photo which was well taken. I notice on the letterhead that as well as the member for Armadale there are the letters ALP. I do not know what they represent or stand for. I do not think half the Opposition knows. However, I wonder if it is appropriate and within the guidelines to use political advertising on the top of letterheads.

Ms MacTiernan interjected.

The SPEAKER: Order, member for Armadale! I think the point has been made and the member should look at it.

QUESTION WITHOUT NOTICE 176

394. Mr KOBELKE to the Minister for Housing:

I draw attention to Standing Order No 110 and the fact that my question, along with the questions of many other members, have now been on the Notice Paper for three months. My question was No 176 to the Minister for Housing. I ask the minister when I might receive a reply now that it has been on the Notice Paper for three months?

Dr HAMES replied:

Without having the time to specifically look at the question that was asked, I recall signing a response to the member's question within the last couple of days. I will double-check to make sure that was the question.