WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE ASSEMBLY

Thursday, 22 August 1996

Legislative Assembly

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

PETITION

Albany Highway-Canning Highway, Link Road Construction

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.03 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned petitioners support the provision of a link road between Albany Highway and Canning Highway in that it will have long-term social and environmental benefits for the Victoria Park area and call on the State Government to provide a definite timetable and commit funds for the construction of the road as soon as possible.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 36 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 108.]

PETITION

Evacuation Centre, Onslow

MR BRADSHAW (Wellington - Parliamentary Secretary) [10.04 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned residents of Western Australia call upon the Government to fund the building of an Evacuation Centre in Onslow, to be used to accommodate evacuees in the event of any disaster. At present there is no suitable building being above the 8 metre tidal surge mark, which can provide the necessary safety and services.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 199 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 109.]

PETITION

Steel-Jaw Leg Hold Traps, Abolition

DR EDWARDS (Maylands) [10.05 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned demand the abolition of the sale and use of steel-jaw leg hold traps. This trap is completely indiscriminate and is taking a devastating toll, trapping both target and non-target animals (including protected and native species). The trap could easily be replaced by humane and non-lethal management practices.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 80 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 110.]

PETITION

Crosslands Shopping Centre, Bunbury

MR D.L. SMITH (Mitchell) [10.06 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned petitioners call upon the Parliament to request that the Minister for Planning to review his decision to withhold consent for the advertising of the rezoning of Crosslands Shopping Centre, Bunbury.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 045 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 111.]

PETITION

Health Services, Exmouth

MR LEAHY (Northern Rivers) [10.07 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned, are concerned at the decline in health services in Exmouth over the past few years, and particularly the closure of the operating theatre, funding cuts to the Patients Assisted Travel Scheme, the removal of obstetric services from Exmouth District Hospital and the threatened closure of the Royal Flying Doctor Base at Carnarvon
>
> We call upon the State Government to ensure that all the health services which have been available to residents of Exmouth for many years are either retained or, where necessary reinstated.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 606 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 112.]

PETITION

Bus Terminus, Cromwell Street and Northumberland Avenue, Alexander Heights, Disapproval

MRS PARKER (Helena - Parliamentary Secretary) [10.08 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned Citizens of Western Australia who live in Alexander Heights voice our disapproval at the continuation of the Bus Terminus located at Cromwell Street and Northumberland Avenue, Alexander Heights.
>
> We object for these reasons that Transperth was meant to use this location as a temporary location only.
>
> We request that the Minister for Transport report to the Parliament as to the reasons why this bus terminus is still in operation and ask that the Minister review this matter with some urgency.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 53 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 113.]

PETITION

Royal Flying Doctor Service, Carnarvon

MR LEAHY (Northern Rivers) [10.09 am]: I present the following petition -

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.

We the undersigned, call on the Parliament and the State Government to intervene to ensure that the Royal Flying Doctor Service base remains in Carnarvon fully staffed and equipped.

If the Royal Flying Doctor Service of Western Australia wish to provide a 24 hour service in the region then such a service can be adequately provided by sharing resources between the Meekatharra and Carnarvon bases.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 643 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 114.]

JOINT STANDING COMMITTEE ON THE COMMISSION ON GOVERNMENT

Ninth and Tenth Reports Presentation

Mr Johnson presented the ninth and tenth reports of the Joint Standing Commission on the Commission on Government and, on his motion, it was resolved that the report be printed.

[See papers Nos 440 and 441.]

STATEMENT - TREASURER

Budget (State) Consolidated Revenue Fund, "Summary of Consolidated Fund Transactions 1995-96 "Tabling; Commonwealth Budget, Impact on 1996-97 Budget

MR COURT (Nedlands - Treasurer) [10.10 am]: The purpose of this statement is to inform the House of the end of year result of actual transactions against the consolidated fund in 1995-96, to table a document which sets out details of the actual revenue and expenditure transactions of the consolidated fund for the 1995-96 financial year, and to comment upon the impact of the commonwealth Budget on this State's 1996-97 Budget. Members will recall that because of the enactment of the 1996-97 Budget before 30 June 1996, the comparable 1995-96 transactions reflected in the budget papers were estimated actual results. The document that I now table, "Summary of consolidated fund transactions 1995-96" sets out both the estimated outturn and the actual outturn for consolidated fund transactions in 1995-96.

Turning now to the budget result, the 1995-96 financial year finished with a surplus of $1.2m on consolidated fund transactions, an improvement of $1.2m on the 1995-96 Budget which was projected to be in balance. This is the second consecutive budget surplus achieved by this Government. It fulfills the Government's commitment to bring the consolidated fund into balance in its first term in office. During 1995-96, capital receipts relating to the sale of BankWest totalling $800m were paid into the consolidated fund and fully applied to reduce net debt. An additional $300m in sale proceeds was also applied to reduce non-consolidated fund debt. In addition, continued strong economic conditions resulted in taxation receipts being up $139m on budget. These additional revenues, an accelerated debt repayment of $75m received from the Water Authority and reduced interest costs resulting from the BankWest sale were important in enabling the Government to provide supplementary funds in the Health Department and hospitals system - up $95m on budget - and in eliminating the WA Inc $50 impost on third party insurance. The latter was achieved by making a payment to the third party insurance vehicle fund of $74.8m in June 1996 and the $50 impost was withdrawn from 1 August 1996. Once again, the Government has demonstrated its commitment to reduce net debt while at the same time improving service delivery.

The 1996-97 Budget and out-year estimates build on this achievement and provide a framework to ensure that the taxpayer gains more value for the dollar. In relation to the commonwealth Budget, the States will make a contribution to the Commonwealth's deficit reduction task of $169m in 1996-97 through financial assistance grants and around $300m through specific purpose payments, of which this State's share is around $60m and $30m respectively. Treasury Department advice confirms that the impact on the state Budget in 1996-97 of the measures announced by the Commonwealth will be approximately $90m. The Government and the public of Western Australia have known about these reductions since the Premiers' Conference in June, two months ago. A responsible Government will cut its cloth according to its financial circumstances, which is what this Government has done. For the last two months we have been working to absorb the impact of these reductions through greater efficiencies and reprioritising departmental operations.

The impact of these measures on the state Budget can be absorbed without the need for any additional revenue measures. Ministers have already identified savings measures amounting to about $40m and further work is being undertaken. No state funded programs will be reduced as a consequence of the commonwealth Budget. In regard

to specific purpose payments, Ministers are currently examining the impact of these reductions and the areas affected.

Mr Kobelke: The Premier's time has expired, Mr Speaker.

Mr COURT: I have about 30 second to go. In a number of areas, however, further negotiations will need to be undertaken with the Commonwealth. This is particularly the case with the cost shifting which will occur under the revised Medicare Agreement arrangement and with road funding. According to the Leader of the Opposition, the impact of the commonwealth Budget on this State's 1996-97 Budget will be at least $159m. In true Labor accounting fashion, they got it wrong. They have double counted and misunderstood the numbers as outlined in the tabled document.

Points of Order

Mr RIPPER: The Treasurer is making a statement which will exceed the time limit allowed for brief ministerial statements. The Treasurer should have used the alternative standing order which provides for a major ministerial statement. After all, this is about the state Budget and the impact of significant federal cuts on the budget figures which he presented to this House only three or four months ago. If he had used that standing order which I suggest he should have used, it would have given the Opposition a chance to respond. It is not good enough for the Treasurer to gabble out an eight minute statement in three minutes or to do it in a way which does not provide the Opposition with a chance to respond.

Mr KOBELKE: I would like to add to the comments made by the member for Belmont. Mr Speaker, you would have noticed there was quiet from this side while the Treasurer was speaking but there was not quiet from the Treasurer's side. I was listening with great intent believing this to be an important statement. I had great difficulty understanding what the Treasurer was saying because he was rabbiting on at such a rate to fit his statement into three minutes. If the three minutes statements are to work - I believe there is a role for them - guidance should be given about how they are used. When a statement of considerable importance to this State is made, it is difficult for the Treasurer or any Minister to squeeze that into three minutes so that we on this side can hear what is being said. In this case it was extremely difficult to hear what was being said. Mr Speaker, I suggest that you give the Treasurer and Ministers some guidance about how to use the time for three minute statements and suggest to them that, when a matter is important and it will be necessary to go over the three minutes, allowance be sought from this side of the House - the Treasurer has already used four minutes and is still not finished - or the more appropriate standing order be used, as has been suggested by the Opposition leader of business.

The SPEAKER: Order! I think there is merit in the points raised. Members who have been here for some time know that brief ministerial statements were introduced in the time of my immediate predecessor. They will remember that never on any occasion did he ever stop a Minister completing brief ministerial statements. Nevertheless, Ministers have a responsibility to adhere to the time limit of three minutes or to stick close to it. This gives me an opportunity to remind Ministers of the need to do that. I believe the Treasurer has almost finished so I will allow him to finish.

Ministerial Statement Resumed

Mr COURT: As requested by the Leader of the Opposition, I table the Treasury analysis which shows the impact on the 1996-97 Budget at $90m. In addition, for the information of members, I provide details of the errors in the Opposition's calculation of the impact of the commonwealth Budget.

[See paper No 439.]

STATE ENTERPRISES (COMMONWEALTH TAX EQUIVALENTS) BILL

Second Reading

MR COURT (Nedlands - Treasurer) [10.17 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to introduce an income tax equivalent regime and a wholesale sales tax equivalent regime for Western Australia's more significant government trading enterprises. The introduction of the tax equivalent regimes fulfils the State's commitments arising from an agreement reached between the Commonwealth, State and Territory Governments at the 25 March 1994 Premiers' Conference.

Under that agreement the Commonwealth passed legislation in 1995 formalising state and territory government trading enterprises' exemption from its income and sales taxes, with effect from 1 July 1994. In return, the States and Territories undertook to apply tax equivalent regimes, based on the relevant commonwealth tax laws, to their government trading enterprises by March 1997.

The agreement was reached at a time when the Commonwealth was seeking to subject state and territory government trading enterprises to its own tax laws. By agreeing to subject its government trading enterprises to the tax equivalent regimes, Western Australia will retain control of the tax revenues that will be generated by these enterprises. These

revenues will be able to be applied directly to the benefit of all Western Australians, rather than be lost to Canberra.

The introduction of the tax equivalent regimes is also an essential aspect of the national competition policy to which Western Australia is a signatory. The regimes will apply taxation arrangements to state government trading enterprises which are similar to those experienced by firms operating in the private sector. This is a major step towards ensuring that government trading enterprises compete on an equal footing with privately owned companies. Fair competition between government trading enterprises and their private competitors will help to achieve the most productive use of resources in the Western Australian economy and bolster the State's capacity for economic growth.

Western Power, AlintaGas and the Water Corporation are already subject to the tax equivalent regimes as such provisions were included in their enabling legislation. This Bill will provide the framework for the tax equivalent regimes to be introduced for other government trading enterprises and will also provide for the orderly transition for those agencies currently paying a levy under the Public Authorities (Contributions) Act, which will be repealed by this Bill. The majority of government trading enterprises will enter the tax equivalent regimes from 1 July 1996. I commend the Bill to the House.

Debate adjourned, on motion by Mr Ripper.

WESTPAC BANKING CORPORATION (CHALLENGE BANK) BILL

Second Reading

MR COURT (Nedlands - Treasurer) [10.20 am]: I move -

That the Bill be now read a second time.

This Bill has been introduced at the request of the Westpac Banking Corporation. Westpac acquired Challenge Bank as a wholly owned subsidiary on the condition that the Challenge Bank would surrender its banking licence "in due course". Upon Challenge surrendering its banking licence it will be necessary for the individual assets and liabilities of Challenge to be transferred to Westpac.

The objective of the Bill before this House is to facilitate the transfer of the banking business of Challenge to Westpac. Without legislation of this kind, the transfer of the banking business would be time consuming and expensive, with separate documentation being required for the transfer of each individual asset. This would involve the preparation of new security documents for the borrowings of more than 83 000 loan accounts held by Challenge and transfer authorities to move some 330 000 existing deposit accounts to Westpac. Recent precedents for legislation of this nature are the State Bank of South Australia (Transfer of Undertaking) Act 1994 and the Australia and New Zealand Banking Group Limited (Town & Country) Act 1995. A condition in each case, and in a number of earlier similar cases, was that the banks pay amounts in lieu of the state government taxes and charges which would have been applied if normal commercial transfers of assets and liabilities had been required.

This legislation is consistent with the Government's objective of facilitating business efficiency within Western Australia, while not prejudicing the integrity of the State's revenue base. I commend the Bill to the House.

Debate adjourned, on motion by Mr Ripper.

FINANCIAL LEGISLATION AMENDMENT BILL 1995

Order Discharged

On motion by Mr Cowan (Deputy Premier), resolved -

That Order of the Day No 3 be discharged from the Notice Paper.

FINANCIAL LEGISLATION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr Court (Treasurer), and read a first time.

Second Reading

MR COURT (Nedlands - Treasurer) [10.23 am]: I move -

That the Bill be now read a second time.

The Financial Legislation Amendment Bill 1996 contains an extensive raft of amendments to the Financial Administration and Audit Act and the financial provisions of other affected Statutes. By way of background, this Bill incorporates the earlier Financial Legislation Amendment Bill 1995 that was just withdrawn. It was originally intended to introduce further amendments during Committee; however, as the amendments are quite extensive, it was considered they would be less confusing if introduced in a new consolidated Bill.

I do not propose to restate the amendments contained in the 1995 Bill as members will be aware of the range of issues which were addressed in some detail in the second reading speech. Briefly, the more significant of these amendments included: The requirement for departments to prepare financial statements on an accrual basis; the transfer of a net appropriation upon the transfer of a function; amendments to the operation of the revenue equalisation account; and strengthening of the focus of internal control.

As part of our commitment to ongoing public sector financial management reform this Bill implements two further significant financial management reforms which were recently announced by the Under Treasurer to chief executive officers. The Bill will extend to departments and "sub-departments" the banking arrangements currently enjoyed by statutory authorities through operating trust accounts as though they are bank accounts within Treasury. Operating trust accounts will provide to departments an improved facility for the carryover of funds from one financial year to the next which will provide them with increased flexibility in their resource management, promote more efficient utilisation of resources and complement forward borrowing arrangements.

It is intended that departments will operate directly against their operating accounts. Consequently the consolidated fund will provide a source of funding with funds being released to the agencies according to their cash flow profiles agreed with Treasury. Improved cash flow practices resulting from these initiatives should help eliminate the traditional "end of year" spend up and improve the return on investment of the public bank account.Parliament authorises departments' operations through the appropriation process. Accordingly, the purposes to which the operating accounts can be applied are limited to the purposes specified in the estimates and to "new items" approved by the Governor under the Treasurer's advance arrangements.

The second of the initiatives relates to net appropriations. To optimise the efficiencies provided by departmental trust accounts and as a further incentive for departments to adopt the net appropriation arrangements it is desirable to widen the eligible revenues and to streamline some of the administration process. The Crown Solicitor has advised that due to the difficulty in distinguishing between fee for service and regulatory fees, fees for service set by regulation are currently not eligible for net appropriation. This has proved to be a significant disincentive to departments' using the net appropriation arrangements to their fullest extent. Following consultation with the Crown Solicitor the eligible net appropriation revenues are being extended to apply to all revenues other than taxes, fines, royalties and any other revenues that may be prescribed by regulation. For example, this Government recognises that revenues of the nature of commonwealth general purpose grants and GTE tax equivalent payments collected by central agencies should not be available to those agencies and should be applied for the overall benefit of the Budget. It is my intention that regulations specifically excluding such revenue will be promulgated shortly after this legislation is passed.

To further streamline the existing net appropriation arrangements the requirement for a formal annual agreement to be established, as to the use of net appropriation arrangements, between the Treasurer and the chief executive officer is to be removed. In its place the Treasurer will from time to time determine the revenues which would be available to a department under a net appropriation, subject to the previously mentioned exclusions, and will continue to have the capacity to impose any conditions deemed necessary in respect of the expenditure of those revenues. In the light of experience since the Government's introduction of net appropriation arrangements in the 1994-95 Budget, the existing requirement for an annual agreement and determination each year has now served its useful purpose. The Bill therefore provides for future determinations to have effect for such period of time as is specified in the determination.

Currently a net appropriation can operate only when the net appropriation agreement is entered into prior to the Budget being introduced. With the bringing forward of the tabling of the Budget the flexibility is being provided to enable the Treasurer to agree to net appropriations for new revenue sources identified by a department during the course of the year. In keeping with the spirit of the 1993 undertaking to provide Parliament with details of the net appropriations the Treasurer will be required to table a copy of the net appropriation determination within 60 days of agreeing to such a net appropriation arrangement where it occurs after the Budget.

Recognising that it can be difficult to discern immediately the effect of a large amendment Bill, and because several clauses address more than one amendment, an explanatory memorandum has been prepared. I commend the memorandum to members as a helpful guide to the intent of the amendments to the Act, and as a ready clause by clause explanation of the Bill's provisions. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

CRIMINAL LAW AMENDMENT BILL

Committee

Resumed from 20 August.

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

Progress was reported after clause 30 had been agreed to.

Clause 31: Principal Act -

Mr PRINCE: This part of the Bill deals with amendments to the District Court of Western Australia Act. I advise the Committee that as a result of debate in this place, concerns expressed by some speakers, in both the second reading and Committee debate, and some reservations I have, I have discussed with the Attorney General the appropriateness of amending section 68 of the Criminal Code. Members may recall that section 68 provides for an offence of going armed in public so as to cause terror to any person, which is a misdemeanour liable to a penalty of imprisonment for two years. The amending clause in this Bill is clause 7, which would enable offences against section 68 to be dealt with summarily. I remind the Committee that this Bill was drafted last year and was based on the Murray report on the Criminal Code of 1983. It is not appropriate to proceed with that amendment in light of the events at Port Arthur and the change in public perception with respect to firearms particularly. As the Minister representing the Attorney General, I was not in a position to act on my own volition the other evening to withdraw that clause. However, I have spoken to the Attorney General and he has indicated it would be most appropriate for clause 7 of the Bill to be withdrawn. I have spoken with the Clerk this morning, who is engaged in intensive research to work out how it can be done. I gather that the procedure will be to seek recommittal at a later stage. It means that the Bill must be returned to the other place from whence it came before it is finally dealt with.

Clause put and passed.

Clause 32: Section 42 amended and consequential repeal -

Mrs HENDERSON: I thank the Minister for taking up the issue relating to clause 7. A number of other issues were raised at length during the debate in Committee and I had hoped for some response from the Attorney General.

Mr Prince: Not yet.

Mrs HENDERSON: The Opposition strongly supports the withdrawal of clause 7 from the Bill and thanks the Government for agreeing to that. As indicated previously, the Opposition found it difficult to understand why it was recommended but if it was contained in the Murray report, so be it. It is unfortunate that some other minor amendments, particularly in relation to the stalking laws, which could have been corrected today with agreement from both sides, have not been dealt with.

Mr Prince: I will bring those matters to the attention of the Attorney General. I have not been able to do so yet, and was able to raise only one matter with him. All the matters raised in debate will be brought to his attention and I will seek his advice.

Mrs HENDERSON: In the second reading speech I expressed concern about the public perception of the amendments to the jurisdiction of the District Court, and also the general issue of the explosion of offences in this area and the apparently superficial response of seeking to move a substantial number of these offences so that they can be heard in the District Court rather than the Supreme Court. I am conscious that the wording to be repealed from the second schedule applies only to those offences which carry terms of imprisonment of 20 or more years. Therefore, it does not apply to the whole of chapter XXXI, because many of the offences are already within the jurisdiction of the District Court. It is not the intention of the Opposition to seek in any way to express any lack of confidence in the ability of the District Court to deal with these matters. I have no doubt that court is as competent as the Supreme Court in dealing with these matters. The Opposition's concern is that many matters dealt with in this legislation reflect concerns about the level of offending in these areas, which is giving rise to a very mechanical response. The Opposition believes there should be a much more comprehensive response to the explosion of serious and not so serious sexual offences, which has given rise to the need to transfer the jurisdiction for more of these offences to the District Court.

I hope the Minister will take the time to pass to the Attorney General the Opposition's concern that there should be a much more detailed and thoughtful approach to the whole issue. The Opposition has raised this matter in relation to the treatment programs available in prisons. Comprehensive debates have taken place in this Parliament about the situation at the Bunbury Regional Prison. A number of families have contacted me because prisoners have been unable to access a sex offender treatment program until the end of their term of imprisonment. In many cases their term of imprisonment has extended beyond the time at which they would have been able to apply for release on parole. This matter should be getting higher priority than the transfer of these matters from the Supreme Court to the District Court. I hope the Minister will at some time respond to the Opposition's concern about the explosion of offences in this area.

Mr D.L. SMITH: As the member for Thornlie indicated, the principal effect of these amendments to the District Court of Western Australia Act is to remove some barriers currently created to the District Court hearing a variety of criminal matters set out in schedule 2 of the Act. That includes offences under section 186(1)(b) of the Criminal Code, which relates to the occupier or owner allowing certain persons to be on premises for unlawful carnal knowledge.

They also include offences under section 398, which is about attempted extortion in circumstances which make the offender liable for imprisonment for 20 years. They deal with the whole of chapter 31 of the Criminal Code, which

is about offences which make the offender liable for imprisonment for in excess of 20 years. We do need to review the jurisdiction of the courts in this way, but I am not satisfied that an ample explanation has been given to the Parliament about why it is thought appropriate that offences which carry penalties of imprisonment for 20 years should now be dealt with by the District Court. Clearly, those offences are at the serious end. We have a structure in the court system from the Supreme Court down which reflects the seriousness of the matters which are being dealt with, and although, like the member for Thornlie, I have no lack of confidence in the District Court Bench, there are times when, because of the serious nature of the offence and the victims involved, and the length of sentence that the prisoner may serve, we need to reflect that seriousness by having those matters dealt with by the superior court - that is, the Supreme Court.

When we are making changes of this kind, we need to identify what is the Government's estimate of the impact of these changes on the workload of the Supreme and District Courts. I acknowledge that in this Bill we are also making a lot of matters liable to be dealt with summarily, but no estimate is given to us of how many days' work the Supreme Court will save as a result of these changes; how the workload of the District Court will increase as a result of what has been devolved to it; and by how much the work of the District Court will decrease as a result of some matters being dealt with summarily. The best method of dealing with the delay in the Supreme and District Courts is to appoint more Supreme and District Court judges. I am concerned that when we simply toss the pieces up in the air and rearrange the workload, we are not in the end saving that much time and we are only haphazardly reallocating the workload between the courts. I am concerned that as a result of these changes, the net workload of the District Court will increase, and the workload of the Magistrate's Court will certainly increase.
I would like to be confident that if the major reason for these changes is to reallocate the workload, we have a clear understanding that if we are not appointing extra judges to the District Court and extra magistrates to the Magistrate's Court, we will not increase the delay. The main concern of everyone in the system at the moment is the delay. It is quite unacceptable with regard to Western Australia's history in dealing with criminal matters that matters should hang around for four years before they get to trial.

Mr PRINCE: I share the member for Mitchell's concern about delay. However, very few cases are delayed for four years, and they are mostly exceptional cases which deal with perhaps high profile people. In the majority of cases - I speculate 98 per cent - the time that is spent waiting before there is a trial or a disposal of the matter by a plea of guilty is relatively short. My understanding of the figures, although I have not seen them for some time, is that this State is much more expeditious than are most other States, certainly New South Wales.

I have undertaken to bring to the attention of the Attorney the matters raised by the member for Thornlie. I have not yet been able to do that in detail because there are so many, but I have been able to deal with the amendment to section 68 of the Criminal Code.

I gather that there is no difficulty with the amendment to sections 186 and 398 of the code and that, in essence, members opposite are raising concerns about perception in dealing with offences under chapter 31 of the Criminal Code, which is the sexual offences chapter. The District Court has a jurisdiction to deal with offences for which people may be imprisoned for 20 years under the Misuse of Drugs Act, and there may be other legislation that does not come to mind immediately, and it has had that jurisdiction for nearly 15 years. There cannot, therefore, be any lack of confidence in the ability of the court to deal with matters which in the view of the public can command a sentence of that length. Therefore, to that extent there is an artificial distinction in the code as a result of the amendments that were made in 1992, where sentences of 20 years, or more, require that the matter be dealt with by the Supreme Court, and sentences of less than 20 years require that the matter be dealt with by the District Court. That is an artificial distinction that perhaps should not be there; that is certainly the view of the Chief Justice of the Supreme Court and the Chief Judge of the District Court, and this amendment is brought before the Chamber with their concurrence.

Section 320 of the code creates the offence of sexual penetration of a child under the age of 13 and provides for imprisonment for 20 years. Section 321 deals with sexual offences committed against a child over the age of 13 and under the age of 16. There is a somewhat artificial distinction in the context of what we are talking about. Section 321(7) states that a person who is guilty of a crime of sexual penetration of a child over the age of 13 and under the age of 16 is liable to imprisonment for 14 years, but where the child is under the care of the offender, the term of imprisonment shall be 20 years. In circumstances of aggravation, the penalty is higher and the jurisdiction is different, yet the substance of the accusation and charge is the same, the mode of trial is the same, and every other aspect of the issue that is before the court is the same, but the punishment is different; therefore, the matter is dealt with in a different court. The same applies to one of the other sections in chapter 31. Consequently, the distinction should be removed with respect to jurisdiction so that both courts have a concurrent, not an exclusive, jurisdiction; that is, either court may deal with the matters.

Mr D.L. SMITH: The principal differences in the nature of the offences which bring the penalty up to 20 years are the age of the victim and whether the sexual penetration is aggravated by one or more of the circumstances which are listed in the code.

I am concerned about this amendment in light of the seriousness that the community attaches to sexual penetration accompanied by aggravation. The community wants everybody to be aware that it regards those offences as horrific, and very much at the upper end of criminal behaviour and that it should bring the fullest retribution the community can impose. That is why the penalty is 20 years. It is also the reason these matters have been traditionally dealt with by the Supreme Court to reflect the fact that the community regards these crimes as horrific. It regards them as the most serious of all crimes other than murder.

In that context it seems that by passing it to the District Court, with due respect to the District Court judges, there is some acknowledgement that somehow the community no longer regards these offences with the horror it previously did. That is not the case. The community is even more concerned about these crimes because too often when offences of sexual penetration occur they are accompanied by circumstances of aggravation. It is clear that despite the stabilising of a number of offences in some areas, offences against the person, including offences of this kind, are on the increase.

It is true that the processes of both courts are the same and therefore we can deal with them in the District Court as effectively as in the Supreme Court. By and large jury trials are jury trials presided over by a judge and the procedures adopted in both courts are identical. The reason we distinguish between cases dealt with by the District and the Supreme Courts is the seriousness of the matter. It is not just a matter of saying it is a superior court, that the judges have been selected on the basis of their superior knowledge of law, and in most cases are older and more experienced; it is because we as a community want to say to offenders that if they commit such a crime they are committing the most horrific crime the community can imagine and therefore we want it dealt with by the superior court in the land.

The Minister will know that not only are those crimes dealt with in the Supreme Court because the community regards them with horror, but also the community expects that the penalty of 20 years will be applied in some cases. In that regard the offender is dealt with in greater awe than occurs in the District Court. As the penalty may be as high as 20 years, the offender should be given every opportunity to be dealt with by the most superior court. The community needs to know that the most superior court in the land is dealing with the most serious offences. I cannot bring myself to agree with this amendment particularly without a much more detailed response to the question I have asked a number of times; that is, what does research tell us? How many days sitting will this save the Supreme Court? In what extra days sitting will these cases involve the District Court? What will be the net impact on the District and Supreme Courts? If these more serious offences are giving rise to concern about the work load of the Supreme Court, is the solution to appoint another Supreme Court judge?

Mr RIEBELING: I reinforce what the member for Mitchell said. It is plain to everyone in this community that the types of offences which are most objectionable to the people of this State are sexual offences against children. Worldwide trends show that reaction is very strong in communities where offences against children are picked up by the authorities. In Belgium a paedophile ring was recently smashed. Apparently 100 000 people are expected at the funeral of the two children. That is an example of the outrage the community feels when such young, innocent lives are destroyed by people purely as a result of sexual gratification. These people must be made aware of the horror in which the community views those offences. To take it out of the Supreme Court and give it to the District Court, as the Minister has stated -

Mr Prince: I have not. I have many times said explicitly it is a concurrent jurisdiction. It will not take it out of the Supreme Court.

Mr RIEBELING: Providing the ability to have those types of offences dealt with in the District Court will send the wrong message to the general public about the feeling in this place toward the seriousness of those offences. It is true, as the Minister says, that the trial procedure is exactly the same.

Mr Prince: And the issue is the same.

Mr RIEBELING: Yes. However, this State has a tiered judicial system where the Supreme Court hears the most serious offences. I can think of no more serious offence where a victim is still alive, than this offence. Even some of the horrific assaults on adults that take place do not have the same long term ramifications as they do on a young, vulnerable child who has more years to live. I ask the Minister to seriously reconsider this. As the member for Mitchell said, I do not think we have been made fully aware of the benefits such as the amount of time the Supreme Court will save. If this sort of crime is not to remain solely in the province of the Supreme Court for time constraint reasons, perhaps we should seriously consider appointing another Supreme Court justice and ensuring that adequate resources are provided to the court system so that these offences are not moved into the lower jurisdiction purely for convenience. I feel very strongly about this amendment. I believe I speak for the vast majority of Western Australians when I say it should remain solely the province of the Supreme Court. I cannot imagine an offence more horrendous than this type of offence.

Mr PRINCE: I agree entirely without reservation with the observations made about the horror of a child sexual abuse case. I suspect I have represented more cases than anyone else in this Chamber and probably more than anyone else in this Parliament. Some of the stories that I could tell, but choose not to, would make members' hair curl.

I have no problem in accepting that the public, quite rightly, feels complete revulsion for child sexual abuse cases, particularly the most horrific ones. We are not talking about a degrading of the seriousness with which offences of that nature are viewed, because the punishment remains the same. There is no change. It is pointing out that there is an inconsistency of approach in respect of the two jurisdictions. It is creating a concurrent jurisdiction - not removing one from one place to another. It is saying we have a District Court which can send people to gaol for 20 years for other offences, such as the misuse of drugs. My adviser draws attention to the amendment to section 393 of the Criminal Code, to do with robbery. That is, any person who commits the crime of robbery is liable to imprisonment for 14 years. If the offender is or pretends to be armed with any dangerous weapon or instrument, he is liable to imprisonment for life. If the offender is in company with one or more other person or persons, or if at or immediately before or immediately after the time of the robbery, he wounds any other person or uses violence to any person, he is liable to imprisonment for 20 years. The Parliament changed the jurisdiction for that to be concurrent District/Supreme Court some four years ago. There is an offence which Parliament, as the representative of the people, has said should command 20 years as a maximum term of imprisonment.

This amendment is to say we have offences which, quite rightly, the public regards extremely seriously which warrant a maximum term of imprisonment for 20 years, yet cannot be dealt with by the District Court - although many others which command that term can be - and the logic is to have a concurrent jurisdiction. The courts agree.

With respect to the perception about the Supreme Court versus the District Court, this is a distinction understood by me as a lawyer, and the member for Mitchell as a lawyer, and the member for Ashburton as a former clerk of courts, but I do not think it is that well understood by other people. A judge is a judge, particularly as opposed to a magistrate, in the sense of a jury situation - robes, gowns and all that imposing ceremonial which has a good deal to do with perception with regard to status -

Mr D.L. Smith interjected.

Mr PRINCE: I am simply saying that I do not know that people who are not involved or who have not had experience would appreciate the difference between the two. We have here an ability by a concurrent jurisdiction to be able to deal with cases. The member said that justice delayed is justice denied, or words to that effect. Other judges will be appointed, the courts are increasing in size as the population grows and there is more to do. Both members asked for evidence. I cannot give it today. A briefing was held for members opposite some time ago. None of those questions was asked then. Had they been asked, perhaps the information could have been supplied. Today I cannot do it because I do not have it.

Mr D.L. Smith: Country members find it difficult to attend briefings.

Mr PRINCE: I appreciate that, but this Bill has been on the Notice Paper for a long time. The member knows as well as I that questions requiring that amount of detailed answer, I am not able to answer.

Mr Riebeling interjected.

Mr PRINCE: It will probably cause somewhere in the vicinity of 130 cases to be able to be dealt with concurrently which presently are dealt with in the Supreme Court. Whether they will still be dealt with by that court or by the District Court will be determined -

Mr D.L. Smith: Is that 130 trials or 130 pleas of guilty?

Mr PRINCE: It is 130 cases, whether tried or pleas.

Mr D.L. Smith interjected.

Mr PRINCE: I know that. It is about that number in round terms. That is the situation with the concurrent jurisdiction. I think the member, with respect, is making more of it than there is. If he wanted that information, he could have asked for it earlier.

Mr D.L. SMITH: I take up the question of whether we should have asked these questions earlier. The Minister, as a former country backbencher, knows that briefings are not arranged at the convenience of country members. If they were, we would find it almost impossible to hold them, because if it is convenient for one country member, it may not be convenient to all. Because briefings are normally held out of session it becomes impossible. When Ministers come to Parliament they should be fully briefed. If a question is capable of being asked and answered at a briefing, the Minister should be similarly capable of being asked the same question and giving the same answers that were given at the briefing. If he comes here and admits he is not prepared for those sorts of questions when this legislation is primarily about saving court time, it is ridiculous. These questions of delay go to the essence of the Bill. If the Minister is to be briefed on anything, it should be on these matters. I take umbrage at any implied criticism that we are at fault for having the temerity to turn up and ask the Minister questions when he does not have the answers. He is handling the Bill and he should have been properly briefed and have any answers to any questions members choose to ask, because that is what this place is for. It is not a question of briefings outside Parliament during non-sitting

weeks generally. The Minister should come to this place properly armed to handle a Bill and to answer any questions we choose to ask as parliamentarians in this place.

I turn to the question of community perception. The Minister is wrong if he thinks the perception in the community of sexual penetration offences accompanied by circumstances of aggravation is the same as, for instance, robbery -

Mr Prince: I did not imply that. If that is the implication from my words, I regret the words I used, because it was not the implication I sought.

Mr D.L. SMITH: The Minister said that the penalty for robbery when accompanied by the carriage of a weapon had been changed from 14 to 20 years and therefore could be dealt with in the District Court. Robbery, especially when accompanied by violence or the waving of a weapon, is an horrific experience, especially for bank tellers and those most often in the front line. I know what my answer would be if I were asked whether I would prefer to be a teller at a robbery where someone was carrying a shotgun or a woman being raped in circumstances of aggravation. The community regards the latter offence with horror and, therefore, those offences should be dealt with by the most superior court in the land which deals with criminal trials.

Mr Prince: The community has determined through its criminal law that the maximum penalty of 20 years should apply in those two instances.

Mr D.L. SMITH: But the Minister and I know that they are maximum penalties. It is very difficult. There is an argument that perhaps robbery should be dealt with by the Supreme Court because it is the most serious kind of stealing and it is accompanied -

Mr Prince: The point I made is that it used to be, and we changed it four years ago so that it can be dealt with by the District Court.

Mr D.L. SMITH: I have some reservations about whether we should have done that. I am trying to convey the point that even if we did that in relation to robbery, sexual penetration accompanied by violence or sexual penetration of children - as distinct from paedophilia-type and incest offences - is so horrific, and the community thinks of it in that way, we should ensure the message is conveyed to offenders. The Minister can say what he likes about what we know about the courts. I am not an experienced barrister in the criminal jurisdiction. However, I am comfortable in Magistrate's Courts; in District Courts the hair on the back of my neck starts to crawl, and by the time I get to the Supreme Court I am sweating; in the full Supreme Court I would be sweating profusely. That is because they are different courts. The aura of the courts is different. People should know that sexual penetration accompanied by circumstances of aggravation is an offence which should face that aura. That is the worst kind of crime, apart from murder and it should be dealt with in the same court that deals with murder. I urge the Government to reconsider. In any event, I would like the Minister to advise us, given that there will be common jurisdiction, who will make the decision about which court it will end up in and what will be the process.

Mr RIEBELING: I understand that four years ago certain jurisdictional changes were made to certain offences. The result of public opinion will be that the most serious offences dealt with by the highest jurisdiction will inevitably be almost solely crimes of violence. Increasingly society is saying that crimes associated with violence of this nature are those that we must stamp out and show our complete rejection of. Even the offence of robbery, or offences against property, that the Minister mentioned was changed some fours years ago is interesting because it indicates there is a weapon, but no violence.

Mr Prince: You are wrong. The penalty for robbery is 14 years' imprisonment. In the circumstance of aggravation, if the offender is in company with one or more others at the time or after the time he wounds or uses personal violence, he gets 20 years. The personal violence or wounding is part and parcel of it.

Mr RIEBELING: I predict that in 10 years those types of offences that involve violence will be back solely before the Supreme Court. The complete rejection of any form of violence by society will get stronger.

Mr Prince: In which case it would surely be more logical to see an increase in the term of imprisonment from 20 years to a greater period.

Mr RIEBELING: If the structure in the court system is retained, there will be a demand from the public that that court determine those most violent crimes. These types of offences are one just under murder. Parliament, the highest law making body in the land, is giving the public the perception that in some way these offences can be dealt with by a lower jurisdiction. Whether that occurs is up to the process that is in place. However, I am positive that the general public thinks that these types of offences should always be dealt with by the higher court. Over the next 10 years all offences that involve violence of this horrendous nature will end up in the Supreme Court. That is where they should be. I urge the Minister to speak to the Attorney General to see whether a change of heart can be achieved. This amendment is a mistake and within a short time the Government will realise it is a mistake and enact legislation to change it back.

Mr PRINCE: The member would be aware that I have said that I shall seek at the third reading stage for a recommittal in order to withdraw the amendment to section 68 of the Criminal Code. That means that the matter will go back to the other place. I will bring to the attention of the Attorney General the member's remarks. The Bill presented before this Chamber as passed by the other place provides for concurrent jurisdiction in these few areas. In saying that, I am not in any way trying to reduce the seriousness or the public perception thereof, or anything of that nature. I have strong personal views on that matter, having worked in that jurisdiction and probably having represented more people charged for these sorts of offences than most others have.

Mr Riebeling: Shouldn't we reflect the public views on this matter?

Mr PRINCE: I am merely trying to point out that it is a concurrent jurisdiction. As to which case will be dealt with in which court, I understand that is likely to be decided by the Chief Justice, probably in consultation with the Chief Judge of the District Court. Whether practice directions will be issued in due course I cannot say. In other matters where concurrent jurisdiction exists I understand it is a matter of organisation between the Chief Justice and the Chief Judge.

Mr Riebeling: On the basis of the overflow downwards?

Mr PRINCE: That is on the basis of getting the cases before the court for the benefit of the public first, because the public has the overwhelming right to see that justice is done and that when a person is found guilty he is punished. Second, it is for the benefit of the victims so they do not have such an extensively long wait before appearing in court. The remarks of the member for Mitchell about the imposing nature of appearing in courts applies not only to counsel, but also to the witnesses. Although I suspect that as counsel appears in any place more frequently, the terror tends to diminish, it does not for the witnesses, particularly the victims who it is hoped will appear there only once. Whether it is the District Court or the Supreme Court, the terror is the same in the sense that the trial process and its effect on witnesses is not likely to diminish; however, the sooner that is out of the way, the better. One must also bear in mind the right of the accused to be dealt with as expeditiously as possible. In other words, all of those factors combine to say that within reason the matter should be dealt with as quickly as it can be. If the changes we make cause that to occur, that is good law, because it is a concurrent jurisdiction.

Mr RIEBELING: Has the Attorney General given an indication of what are the current waiting periods and what it is hoped they will be within, say, six months of the amendments being passed?

Mr PRINCE: My adviser tells me that at present, particularly in his area in the department, staff are looking at all the statistics on workload and delays. It is the preliminary view of the Attorney General that when that is in a presentable form, it should be tabled in Parliament.

Mr Riebeling: What is the target?

Mr PRINCE: The statistics are in the process of being analysed in order to answer the question. It is the view of the Attorney General that when they are in that form, they should be tabled in Parliament. I cannot answer the member at the moment because I do not have the current information; it is being collated, analysed and produced by the department.

Mr D.L. SMITH: I am curious that the Minister says that the matters will be worked out between the Chief Justice and the Chief Judge of the District Court. That implies to me that a document will be promulgated, whether it is a practice direction or some sort of policy directive. What sorts of things might it say and to whom will it go? Will it go to the Director of Public Prosecutions or the Magistrate's Courts? My experience is that in regional areas, for instance, if one were to go to trial for an offence for which there was concurrent jurisdiction in the District and Supreme Courts, one would more than likely be committed to the first of those to occur. If the list is full for the first court, the offender will be committed in the next court. It almost becomes a pot luck system. What sorts of things might this directive contain that would distinguish between two charges of sexual penetration, both accompanied by circumstances of aggravation? What sorts of cases does the Minister envisage will go to the District Court and what sorts of cases will go to the Supreme Court? What additional circumstances of aggravation might there be to provide the sort of distinction that will enable a listing clerk, the DPP or a magistrate to distinguish between the cases? It is absolutely unlikely. It will be allocated on the basis of where there is available space, whether it is in the District Court or the Supreme Court.

Mr PRINCE: Far be it from me to trespass on the discretion of the Chief Justice or Chief Judge as to what the criteria should be. However, if one looks at country sessions held three or four times a year - or in the case of Bunbury, five times a year - there is a visiting District Court. It may well be that in most cases a person is committed from the Magistrate's Court to the next session of the District Court. However, the matter of where the indictment is presented is in the hands of the DPP. Of course, the DPP can present it in either court where there is a current jurisdiction. Needless to say, the Supreme Court has jurisdiction over everything, and in that sense the District Court has a more limited jurisdiction. That does happen in country areas; the Supreme Court deals with matters that would otherwise be dealt with in the District Court simply because it happens to be there next, or by some other arrangement.

Some cases in the District Court - and I have in mind some that run for a long time - clearly cause manpower problems. There can therefore be reasons for expedition to have matters heard in the Supreme Court when perhaps in the ordinary course of events they would not be. I suggest that both of the presiding officers of those two courts would consider those matters, but they would also consider the seriousness of the allegations being made if it is a trial or the seriousness of the facts if it is a plea.

Mr D.L. Smith: What would be the results of the deliberations? Would some guidance be given to the DPP?

Mr PRINCE: I think it unlikely. It is not matter of guidance; it is a matter being able to handle what is occurring in the two courts on a month by month basis. Where there are allegations at the extremely serious end of the scale, I would expect the Chief Justice to say that the matter should be dealt with in the Supreme Court rather than in the District Court.

Mr D.L. Smith: To whom and when would he say that?

Mr PRINCE: The decision about where an indictment will be presented involves the Chief Justice and the Chief Judge in consultation with the DPP. That is done very much on a case by case basis and as the workload varies according to what is going on in respect of courts. Seriousness - in the sense of the seriousness of the allegation of fact in terms of aggravation - will be the overriding criterion, and otherwise manpower considerations may well be the determining factors. That would relate more to the city sessions, and in the country it would depend to a certain extent on which court would be there next.

Mr D.L. Smith: What sort of circumstances of aggravation would be contemplated? I am keen to know how the two judges will communicate to the DPP their general wishes in this regard.

Mr PRINCE: They sit down around a table and plan what is happening in the next two, three, four, five or six months. That is what they do now; they have done it for years.

Mr RIEBELING: I presume that, as the Minister said, these amendments will clear up certain backlogs and ensure that trials proceed at a quicker pace for the benefit of the public and, primarily, the victims. Changing the jurisdiction so that the District Court can deal with more cases than it currently does presumably means that at present the Minister considers that there is excess capacity in the District Court that can take up some of the overburden from the Supreme Court. That would have to be the case for this to make any sense. My understanding of the District Court is that that is not the case; that both the District Court and the Supreme Court in their criminal jurisdictions have heavy workloads. Simply moving it from one to another - reshuffling the chairs on the deck of the *Titanic* -

Mr Prince: This cannot be considered in isolation; we have made other amendments to other offences, enabling them to be dealt with summarily in some cases.

Mr RIEBELING: That is the next point. We then go down the ladder and move some of the District Court workload to the Court of Petty Sessions. Whether that balance has been achieved, only time will tell.

Mr Prince: What is presented here is something that all the courts, the DPP and so forth have looked at and said, "Yes, this should work."

Mr RIEBELING: Did they all look at it and say, "Yes, this is a great idea", or did they look at it after the Minister made the decision and accept that they would have to work with it? I am sure the Court of Petty Sessions did not say that it had a lot of excess capacity and that it wanted more work.

Mr Prince: I have known some magistrates who would say that and I have also known some who would not.

Mr RIEBELING: I know many who would not and a few who might. The system always is that the lowest court must adjust to the new system, because the higher two courts tend to be the source of the overburden. I wonder when we will see an increase in the number of judicial officers to deal with our criminal system, or will we be stuck with the same number? There is a point where we must bite the bullet and say that we need more Supreme Court justices, District Court justices and magistrates. When will we see a response that costs a little more rather than a solution that is cost neutral?

Mr PRINCE: The Supreme Court Amendment Bill that passed in the autumn session was the necessary prerequisite to increasing the number of judges. We can now have the additional judge that we could not have until then. I do not want to steal the Attorney's thunder. The member should ask him.

Mr Riebeling: Do it.

Mr PRINCE: No.

Mr Riebeling: You cannot answer.

Mr PRINCE: I perhaps diplomatically choose not to. In respect of the Magistrate's Court, there is a clear filtering down. As I said, as the population grows there is a requirement for the courts to grow in terms of the number of appointments at whatever level they may be.

Mr Riebeling: What about additional support staff?

Mr PRINCE: Is the member putting in a bid for more Court of Petty Sessions clerks?

Mr Riebeling: Certainly.

Mr PRINCE: My experience has been that magistrates and judges cannot operate without a certain number of support staff, who do an excellent job.

Clause put and passed.

Clause 33 put and passed.

Clause 34: Section 4 amended -

Mrs HENDERSON: This is the preliminary change to the matter we discussed in the second reading debate about the removal of the right of appeal against a decision at the committal stage. I assume an amendment of the interpretation section to remove any reference to committal for trial from the definition of "decision" means that committal does not become a matter that can be appealed against.

Mr Prince: That is right.

Mrs HENDERSON: Although, no doubt, we will have the substantial debate about this aspect during consideration of clause 39, I express some concern about some of the responses given in the debate we had two days ago. At that stage members on this side raised the matter that this effectively is taking away a right a person has to appeal against a decision that has been made at the committal stage that there is sufficient evidence for the matter to go forward. It seems to me that is quite a major change. When we debated this matter two days ago, the Minister indicated it was his understanding that there had been very few appeals. I ask the Minister what is the point of removing the right of appeal if it is not a problem. It if it is not clogging up the system, and if there are few appeals anyway, why are we are looking at removing that right of appeal? I ask the Minister to explain the reason for this change.

I refer to some of the Minister's comments that were made on Tuesday, 20 August. The drift of his argument seemed to be that an order on appeal does not stop the Director of Public Prosecutions from issuing an ex officio indictment. Consequently, there is little point in the appeal. That kind of comment misses the whole point of what this is all about. Whether the DPP makes a decision subsequently to issue or not issue an indictment is a matter that is totally beyond the control of the person who is seeking to take the appeal. I am sure not many people who are on very serious charges and seeking every possible avenue to assert their rights would find any comfort in the fact that that right has been removed on the basis that even if the appeal were won, the DPP could still go ahead. People expect that should they win the appeal, the DPP would take note of that and it would be an influence on whether the DPP issued an ex officio indictment. I was quite surprised to hear the Minister then say that scarce judicial resources are wasted in hearing and determining appeals, the outcome of which might be overridden by the DPP. That is an extraordinary statement when we are taking away the rights of citizens in that committal process.

Many people here have a great deal more experience than I do in court procedures. My understanding is that the committal process is often the first major opportunity the defence has of becoming aware of all of the prosecution's evidence. In many cases the defence may well seek to go to committal, as much as anything else, to get a chance to look at all of the evidence and evaluate it. Having seen it, if it becomes more convinced that it has a strong case not to have the matter go to trial and decides to seek an appeal, it is a fundamental right to do so. It is quite extraordinary to argue that it can be taken away because at the end of the day the DPP has the final say and will decide one way or the other. When we are talking about taking away a right, there must be a much better reason than those that have been given. We cannot talk about scarce judicial resources being wasted on one hand while on the other say that there have hardly been any appeals. It does not make sense.

Mr PRINCE: As the member for Thornlie has said, this is a consequential amendment to clause 39 which seeks to remove the right of appeal from section 184 of the Justices Act. If the member has problems with the argument that I put, she will have problems with the High Court of Australia, which recently stated that the power of the Director of Public Prosecutions to present an ex officio indictment renders ineffective any order made on appeal and that, consequently, scarce judicial resources are wasted to hear and determine appeals, the outcome of which may be effectively overridden by the Director of Public Prosecutions. That is the view of the High Court.

Mrs Henderson: It may well be; but it is not the point of view of this Parliament.

Mr PRINCE: Committal had to be put into the definition of decision because there was some doubt about whether it is a judicial proceeding. The generally accepted view is that this requires a judicial and, in part, administrative process; in other words, it is a creature all of its own in that sense. Often it does not involve an examination of the

prosecution's case because it does not have to bring on its case at a preliminary hearing at a committal stage. The prosecution has to bring only enough to satisfy a magistrate that a properly directed jury could reasonably convict. That is all. It is a particular definition of a prima facie case.

Preliminary hearings are often used to test the waters, to look at witnesses and to test them and their veracity, to a certain extent. It is often useful for that purpose. The question really before us is whether any useful purpose is served to the administration of justice in an appeal then lain from a decision of the magistrate to commit for trial, or otherwise, to a superior court. That can be done only by leave under the Justices Act, unless people proceed by way of prerogative writ, which avenue is still open. Only the right of appeal by leave is sought to be negated. I cannot spell out the reasons any better than I already have, and I suggest we will have the substantive debate about this matter when we come to clause 39.

Mr D.L. SMITH: Can the Minister assure me that the changes being made about the deletion in the definition do not in any way forecast some further erosion of the committal and hand-up brief process? Is any further change to the current processes contemplated? I also seem to recall the onus cast on the magistrate in these matters is to determine whether there is sufficient evidence. In that sense I wondered whether, because a decision - a final determination - is being made that there is sufficient evidence, the Minister has gone far enough in what we are doing here. The final determination provisions still seem to me to leave open a committal-type process. Even though the word "committal" is being deleted from both parts, it is still a determination, and in my view a final determination.

Mr PRINCE: To answer the member's question, I am racking my brain for the memory of the debate sometime ago about the nature of committal proceedings. The answer is that it is not a final determination. The magistrate is required to determine whether there is sufficient evidence that is admissible upon which a properly directed jury could reasonably convict.

Mr D.L. Smith interjected.

Mr PRINCE: It is not a final determination. The whole process starts again with the issue of the indictment because the charge stops. The charge itself, as a document that creates the process in the court, cannot transmit to the higher court. The charge stops in the sense that the process stops and a new process starts with the indictment. In that sense the debate is somewhat illogical.

Mr D.L. Smith interjected.

Mr PRINCE: As to the assurances the member sought, my adviser tells me that so far as he is aware there is no suggestion of any intent to change the system of committal/preliminary hearing/hand-up brief. From where I stand and the background experience I have, I can tell the member there will be no change. My experience tells me that the process has significant value in dealing with the rights of an accused person. Balancing arguments may be brought but I suspect that they would be arguments of administrative convenience rather than anything else. Although I am always willing to entertain a debate, as long as I am involved I would be very resistant to any change of any substance to remove the committal process.

Mr D.L. Smith interjected.

Mr PRINCE: In most other States the right of appeal does not exist.

Mrs HENDERSON: I do not wish to delay the debate on this clause because it is a preliminary clause. I am reassured by the Minister's comments about his being strongly opposed to any moves to erode the committal process. I refer to comments during the second reading debate by the member for Ashburton. He said that in his colloquial experience magistrates or others boasted that they committed everything. That leads to the question about the process of committal or a preliminary hearing. If the Minister is a strong defender of the process and thinks it is important, particularly for the accused, then it must be of grave concern to him that some judicial persons automatically commit as a matter of course. The appeal process is the only bulwark against that kind of behaviour. If we are removing the ability to appeal, the argument that we are the only State with that capacity is no argument at all, particularly if it is the case, as the Minister says, that there have been very few appeals.

Mr Prince: May I point out the experience of the member for Eyre, who was committed for trial and the Director of Public Prosecutions chose not to proceed? What the member is saying is not correct.

Mr Grill: You have to understand that I had to go to appeal first.

Mr Prince: I appreciate that you did, but the DPP decided not to proceed. The right of appeal is not the bulwark.

Mrs HENDERSON: I understand that. What the DPP does is totally beyond the control of the individual, who would obviously seek to maintain the right to pursue his case as strongly as possible, even if the DPP can later reverse the outcome; that is not the point. The accused person has no influence over what the DPP does but the loss of the capacity to appeal, as the member for Eyre's interjection seems to suggest, could well have an influence on the DPP -

Mr Prince: The example of the member for Eyre and others shows that they have the ability to be able to present argument to the DPP, which may well be part of the decision making process of the DPP when determining whether to issue an indictment.

Mrs HENDERSON: That may well be but that removes the right at one stage, which is a far more open right.

Mr Prince: It is the right to seek leave to appeal.

Mrs HENDERSON: Obviously if people get leave they have the right to appeal, and if they do not, they do not have a chance of getting to appeal. Once the right to seek leave is deleted, there will be no right to appeal. The right to go to the DPP and personally argue why he or she should intervene is far less strong than the right to pursue the process in a judicial and public way through well established and well understood processes. Even though in the Minister's comments he quoted the High Court and indicated that in his view it is quasi judicial, the accused person is not worried whether it is quasi judicial, judicial or whatever. The processes look pretty judicial to an observer.

Mr Prince: I understand that and the member understands that.

Mrs HENDERSON: In terms of people's rights it is irrelevant whether the process is quasi judicial or judicial. The fact is that this clause is removing a fundamental right. No strong arguments have been made for it. The comment that the High Court or the DPP could override the process is a matter of fact and not a reason why the ability to appeal should be removed.

Mr Prince: Not even when they say that power renders ineffective any order made on appeal?

Mrs HENDERSON: It is effective only if the DPP intervenes and, for example, pursues the indictment where a person has won an appeal. That may well not happen. I do not know whether the Minister has any information as to how often that happens. I would be amazed if a person won an appeal and the DPP pursued the indictment anyway. We will come later to more detailed argument on this. I have not heard any convincing argument for it so far.

Clause put and passed.

Clause 35: Section 56A amended -

Mrs HENDERSON: We are dealing here with summonses that are able to be served by prepaid registered post. The Minister indicated in the second reading debate that a large number of Acts contain provisions for these sorts of procedures and that they are not unusual. That was one of the responses he gave to concerns expressed on this side of the Chamber. Will the Minister outline which additional categories of offences currently requiring personal service of a summons will be covered by this clause?

Mr PRINCE: Road traffic offences and possibly some local government offences.

Progress

Progress reported.

[Continued on page .]

STANDING ORDERS SUSPENSION

Motion of No Confidence - Minister assisting the Minister for Justice

MR BROWN (Morley) [11.50 am]: I move, without notice -

> That so much of the standing orders be suspended as is necessary to enable consideration forthwith of a motion of no confidence in the Minister assisting the Minister for Justice.

I understand that an agreement has been reached behind the Chair to support this suspension.

MR COWAN (Merredin - Deputy Premier) [11.51 am]: The Government, as indicated by the member for Morley, is prepared to accept this motion. As you will be aware, Mr Acting Speaker (Mr Ainsworth), it is the practice that when a motion to suspend standing orders is before the House, debate for a period of about half an hour ensues. This can become heated - robust some might call it - and it is something we seek to avoid. However, we have reached a mutual understanding behind the Chair on this motion and, as a consequence, the Government is prepared to allow this debate to proceed.

The mechanism of suspending standing orders is required to provide an opportunity for the House to decide whether a matter of this nature should be debated by the House. Once the motion is before the Parliament, the Minister against whom these allegations are made can publicly defend his position.

It is with some regret that I must make these comments. We have an agreement that debate will last for only one hour because we have accepted the practice recommended to us by the Parliament that 90-second statements by a number

of members should be held at this time. I do not want to interfere with that procedure. Nevertheless, the Government accepts this suspension, and it will vigorously defend its Minister

Question put and passed with an absolute majority.

MOTION - NO CONFIDENCE

Minister assisting the Minister for Justice, for misleading Parliament over privatisation of prisons

MR BROWN (Morley) [11.54 am]: I move-

> That this House has no confidence in the Minister assisting the Minister for Justice in that he misled the Parliament in relation to the privatisation of Western Australian prisons.

Since the election of the Court Government in 1993, the Premier has been at pains to point out inside and outside this House that his Government is one of accountability and openness. On each occasion the Premier has been asked about matters of accountability and openness he has said that his Government has nothing to hide and is open and accountable on every occasion.

Being open and accountable in the Westminster system means being open and accountable in this Parliament, the place where Ministers and the Executive are questioned. If Ministers and the Executive are not open and accountable to this place, they are not accountable to the public of Western Australia.

In moving this motion today, we will see whether the rhetoric of the Premier is matched by the reality of his actions. Today we are dealing with a matter in which the Minister assisting the Minister for Justice blatantly misled this House. Unquestionably, that is the case.

Mr Trenorden: I think there is a question.

Mr BROWN: I will demonstrate in the course of my remarks why absolutely no disagreement - none - can arise about the fact that the Minister misled this House. Once I do that during the next few minutes, if the Minister assisting the Minister for Justice does not do the honourable thing and resign, having regard to the fact that he deliberately misled this House, then claims by the Premier that his Government is open and accountable are in tatters. The Premier's claims that his Government is open and able to be questioned and scrutinised simply will not be believed.

The issue of openness and accountability has been the subject of consideration by two royal commissions, and I will not go into the detail of comments by those royal commissions. However, they essentially said that a person occupying a privileged ministerial position in this House has an obligation in this House faithfully and truthfully to answer questions. If one fails to answer faithfully, truthfully, honestly and with completeness, one misleads the House. If that is done for party political purposes, one is not misleading inadvertently; one is misleading deliberately as a calculated decision to mislead. It is not simply that the Minister was not aware of the relevant facts at the time, but that he or she made a calculated, deliberate and concise decision not to provide the House with the information legitimately sought. One can mislead by direct comments or by omission.

I will now demonstrate how this Minister has misled in both of those ways. The question asked of the Minister on the Tuesday was -

> Has the Government given any consideration to privatising one or more Western Australian prisons, building a private prison, or contracting out the management, or part of the management, of any Western Australian prison?

There is no ambiguity in that question, and one cannot say that it is complex. It is two lines long. It did not ask whether the Government had made any decision or arrived at a particular view, but whether the Government had given any consideration at all in recent times to these matters.

We have found out from media statements that this matter came before the Cabinet on Monday of this week.

Mr Minson: No, it didn't.

Mr Shave: Wrong!

Mr BROWN: That is all right. Will the Minister tell us if it has ever come before Cabinet?

Mr Minson: I will get up in a minute.

Mr BROWN: The Minister will not tell us when it came before Cabinet. We are used to that. However, the media suggests it has come before Cabinet. Whether it came before Cabinet we do not know, but no doubt the Minister will tell us. He will also tell us whether he was at the Cabinet meeting. We do know - unless this is also not true - that consideration has been given to letting a contract for a private prison and for prison operations or part thereof to be carried out by the private sector. When a contract is let or is advertised for that purpose, it has normally been

considered. How can the Minister say that a decision has not been made yet, but consideration has been given to it? Apparently, it has been decided to invest funds to get a report to further consider the matter. However, if it has not been considered, how was the decision made to call for a report on this issue? Therefore, the Government, the Cabinet, or the Minister considered that some time prior to the question being asked. We do not know when, but we do know it was considered prior to that.

When we ask a question in the Parliament, the Minister has an obligation to report faithfully and not omit information or give clever answers. Did he do that? No, he did not. He knows that is the case. He knew a decision had been made. Yet when the question was asked of him in this place seeking a very straightforward answer, what did he do? He skirted around it. He tried to get away from it. However, he then used other words. He did not just avoid it, although just avoiding it would have been bad enough, because that would be misleading by omission. He sought to suggest that the Government will not go down that path. He said in his answer, "No consideration will be given to privatising Western Australian prisons." He did not say, "No consideration will be given to privatising any existing prison." He said, "No consideration will be given to privatising Western Australian prisons" per se. That is what he told the House on Tuesday, notwithstanding the fact that prior to that, the Minister had a clear understanding of what consultancies would be let by the Government. Sometimes in the heat of question time people say things in this place that on reflection they wish they had said a little better. They may not have expressed themselves well or their answers may have gone on too long and, following a close reading of the words, one could argue that they had misled the House on a technicality. Is that the argument here? Is that the defence the Minister will adopt? Will he say that his answer was long and that we can interpret it according to what it contains.

There are two ways of soliciting information in this place. The first is through questions without notice. Ministers may be caught a bit off-guard by not quite focusing on the subject. The second way to get information is through questions on notice. Questions on notice are given considered answers. These are not questions that a Minister has to answer off the cuff. These are not questions on which they are caught a bit flatfooted. These are questions that they can pore over and test with the bureaucracy. The Minister can provide clear and concise answers to the Parliament through this facility. What happened with this issue? The Minister gave one of those answers; he provided an answer to a question on notice. The Minister had this question for almost two months and he came back into this House with his considered answer and that considered answer was not truthful. He misled this House. It was not a particularly difficult question. The question, which was submitted on 26 June, asked -

(1) Since July 1995, has the Government, Minister or Ministry of Justice given any consideration to -

(a) establishing private prisons;

(b) allocating work now performed by government employees in prisons to the private sector?

That question was answered last Tuesday. The Minister's answer to the first of those questions was an unequivocal no.

The answer to the second part of the question was also no. Both answers were wrong. On this issue, the Opposition has not convicted the Minister; he has convicted himself. He said his answers were wrong. There is no excuse for that. It is not a matter of the Minister being caught flat footed; it is not a matter of the Minister being befuddled on the day; and it is not a matter of the Opposition trying to misinterpret the words - the Minister had the question for two months and in that time he knew about the discussions which were taking place. He knew that the Government had discussed the issue of consultancies for private prisons and contracting out the services provided to the prisons. The Opposition does not need to prove that he knew about it because he is already on the record as saying he knew about it. However, he gave this answer to a considered question in this place and it is not the first time this has happened. We have had on other occasions one answer from the Attorney General and a different answer from the Minister assisting the Minister for Justice. When I applied under the Freedom of Information Act for a copy of the documents, the answer I received from the Ministry of Justice was that the documents had been lost. When I asked the Minister the whereabouts of the documents, he said they had not been lost. The Minister is someone who is either careless with the truth, or he is totally incompetent. If the truth cannot be extracted from Ministers in this place, what chance does the general public have in accepting they are open and accountable?

The Minister had two months to consider the answer to this question. However, he came into this place with an answer which was wrong. It was not just slightly off balance or cleverly worded, it was blatantly wrong. Did the Minister do that because he had a lapse in memory or did not know that somebody else was handling the matter? No, the Minister said he was aware of those decisions which had been made by the Government.

This motion is a test for the Government and the Premier. If the Government uses its numbers to support the Minister it can no longer make the claim that it is open and accountable. Today, the standards of this Government are on the line. When members opposite vote on this motion they should fully understand what it is about, because they will be judged by their actions. If they want the Government's standards to be relegated to the gutter they should support their parliamentary colleague. However, if they want to support the Premier's view on openness and accountability,

they will have to desert their colleague because he simply has not played the game. He has not come up with the goods. Members opposite must make their own decision, but if they fail this test they should never again come into this place and talk about openness and accountability.

MR McGINTY (Fremantle - Leader of the Opposition) [12.15 pm]: On Tuesday this week the Minister assisting the Minister for Justice answered two questions in this Parliament on this subject. The question on notice asked by the member for Morley was simple; it asked whether the Government, the Minister or the Ministry of Justice had given any consideration to establishing private prisons. The answer was an unqualified no - the Government had not given any consideration to establishing private prisons. That is a clear-cut lie. One need only read the front page of this morning's *The West Australian* to appreciate that.

Withdrawal of Remark

Mr COWAN: We have had this debate a number of times and it has always been understood that while there might be some blurred edges to the lines drawn, the use of the word "lie", when it has a direct reference to a person in this Parliament, is equivalent to calling that person a liar. It is unparliamentary and I ask that it be withdrawn.

The ACTING SPEAKER (Mr Ainsworth): Order! I accept the point made by the Deputy Premier. He is correct. We have had oblique references to diversions from the truth and to how people have said certain things in the past. In this instance, it was a direct reference to a member in this House. I am sure the Leader of the Opposition is not stuck for words and he will find another way to say what he wants without breaching the standing orders. I ask him to bear that in mind.

Mr McGINTY: I withdraw that remark.

Debate Resumed

Mr McGINTY: In answer to a considered question the Minister said that the Government had not given consideration to establishing private prisons. It was blatantly not the truth.

The front page of this morning's *The West Australian* said that this matter was considered by Cabinet last Monday. However, the Minister denied that there had been any consideration of the matter, even though he had debated it in Cabinet on Monday.

Mr Minson: No, I did not.

Mr McGINTY: In other words, *The West Australian* is completely incorrect. More importantly, the consideration by Cabinet was that officers from the Minister's department, including the head of the department, had been holding meetings to discuss this very concept with providers of private prisons elsewhere in the world, with a view to their putting a proposition to the Government to provide a private prison in Western Australia. Whether the Minister was referring to the discussion that took place in Cabinet or the discussions by his department, the answer he gave was demonstrably false.

Another question asked on notice was whether the Government, Minister or Ministry of Justice had given any consideration to allocating to the private sector work now performed by government employees in prisons. In other words, the Minister was asked whether consideration had been given to contracting out the services conducted by those people. Again, the answer was a clear-cut no. On the same day in this Parliament the Minister said that the answer to that question was yes. He cannot have it both ways. The Minister told a deliberate untruth when he said in questions on notice that the issue had not been considered. He said in this House on Tuesday in answer to a question from the member for Morley that the Government is looking at transport and the possibility of involving the private health sector in providing medical services. The Minister was already looking at transport and medical services being contracted out when he said he had not even considered it. Again, it is an absolute untruth. Question time, accountability and the operations of this Parliament rely absolutely on the honesty and integrity of Ministers. When a Minister breaks that commitment to integrity - the trust members place in Ministers to give the right answer - there is only one answer: the Minister should resign.

The honourable thing for the Minister to do if he has not told the truth in this Parliament - he did it twice on Tuesday - is to resign as a Minister. It is not the first time this Minister has been on the ropes for not telling the truth. It is a clear cut case of someone telling an untruth in this place. He should go. There is no option to keep this Minister on the front bench. It is as much about the standards we expect from the Premier as it is about untruths, deceit and dishonesty from the Minister. There is no doubt in my mind that any proper reading of the strict, literal wording of the answers, as well as the spirit in which they were given on Tuesday, indicates the Minister has misled the House and he did so deliberately because he was replying to a question on notice. There is internal conflict between the two answers, and the Minister did not tell the truth.

Nothing is more important to the proper functioning of this Parliament than when Ministers do not tell the truth. It undermines the whole confidence of this place because if they can get away with not telling the truth and with fabricating things, they can get away with anything and the whole purpose of the Parliament is destroyed. Where is

the Premier, the man who is supposed to be upholding ministerial standards? Will he sack the Minister for not telling the truth in this place? That is what he should do. We expect him to contribute to this debate and to tell us of the standards of honesty and integrity we can expect from his Ministers. If the Premier does not sack the Minister, his own integrity will be on the line and the people of Western Australia will think not only that the Minister has betrayed their confidence, but also that the Premier has let them down by not upholding the standards they can reasonably expect to apply.

The whole ethos and tradition of this Parliament should be one of promoting honesty and accountability in ministerial answering of questions. It should not be about tribal loyalty and protecting someone who has done the wrong thing by the Parliament and the people, and has betrayed the faith placed in him and his ministerial colleagues. A smart alec answer is not good enough. I heard the Minister's weak defence on an ABC radio program this morning. He said he was not talking about future prisons. He thought that was a cute, smart alec way to get out of it.

Mr Minson: I was not on the radio this morning. I have not given any interviews.

Mr McGINTY: That was the defence the Minister gave to the ABC. The Minister did not tell the truth. He is now trying to squirm out of it, the little weasel.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order! Up to the last few seconds the debate has been reasonably orderly, given the serious nature of the motion before the House. I ask members on both sides to bear that in mind and to continue to behave in the way they have for the past 30 minutes.

Mr McGINTY: On ABC radio this morning the Minister was quoted as saying that the answer in Parliament did not refer to future prisons, it referred only to existing prisons. He has been caught out not telling the truth, again. The Minister forgot he had answered a question on notice in which he said he had not given any consideration to building private prisons in the future in this State. He was tripped up by his own deceit and dishonesty and if the Premier does not sack him, all members opposite can walk away today with their heads hung in shame because the Minister is a disgrace to this Parliament. He is not an honest man, he is a moral disgrace to this Parliament and he should go.

MR MINSON (Greenough - Minister assisting the Minister for Justice) [12.24 pm]: I am delighted to have the opportunity to put the record straight, and I begin by putting one part straight which demonstrated how the Leader of the Opposition is able to squirm on his feet. The Leader of the Opposition said he heard me on ABC radio this morning. I have not given any such radio interviews, either last night or this morning. The Leader of the Opposition then said that I had been quoted. What did he mean?

Several members interjected.

The ACTING SPEAKER: Order!

Mr MINSON: I will preface all my remarks by saying that if ever I am found to have intentionally misled the House, the Premier will not need to sack me because I will resign.

Several members interjected.

The ACTING SPEAKER: Order! I have been very impressed with the behaviour of this House up to the last few moments.

Mr Kierath interjected.

The ACTING SPEAKER: Order! Both the member for Morley and the Leader of the Opposition made serious accusations and challenges to answers given by the Minister. To their credit, members on both sides of the House listened to the member on his feet in almost total silence, apart from some cross-Chamber interjections from the back benches which were almost inaudible. If we are to deal with this most serious motion in the way it should be, we must give the Minister a chance to respond. I ask members on both sides - the fault is on both sides - to respect that and to at least allow the Minister to be heard.

Mr MINSON: I will remain on my feet for as long as it takes to make my point, so it would be better if people kept quiet while I am speaking. I preface my remarks, once again, by saying if ever I am found to have intentionally misled the House -

Dr Gallop interjected.

The ACTING SPEAKER: Order!

Dr Gallop interjected.

The ACTING SPEAKER: Order! The member for Victoria Park will come to order.

Dr Gallop interjected.

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

Mr MINSON: I will start again. If ever I am found to have intentionally misled the House, the Premier will not need to sack me because I will resign. If ever I unintentionally mislead the House, I will apologise. I answered question without notice 388 very carefully.

Mrs Henderson: So as to mislead.

Mr MINSON: No, I did not mislead. I said that with respect to future prisons, the Government has not made any decision about building a private prison. The member for Morley asked whether I would give any consideration to it, to which I replied that I would be making an announcement at the end of this week or early next week about what the Government will do with respect to handling what is becoming a difficult situation in the prisons.

The late Bob Pike once said to me, when I complained about Parliament being a bit frustrating at times because nobody listens, that it is called "parliament" because it is a place of speaking and not a place of listening. He said if people were supposed to listen, it would have been called a different name. That is the problem. It seems that members opposite are not particularly good at reading either. In my answer I clearly stated exactly what the situation was. I was asked whether the Government had given any consideration to privatising one or more Western Australian prisons. My answer was a clear, unequivocal no that it had not. I then continued to say that some sections of the prison service, such as the transport of prisoners between prisons and courts, had been considered for privatisation. The member for Morley - I do not blame him for this - has come into this place with a copy of the question on notice which was lodged on 26 June. I do not recall the question but it has my signature on it so obviously I approved it. I assure members that if the member for Morley had asked his question without notice on 26 June and for some time afterwards, the answer would have been no because this is a very recent thing from the Ministry of Justice.

Mr D.L. Smith: When was it tabled?

Mr MINSON: I do not know. I will check that.

Mrs Hallahan: What is wrong with you?

Mr MINSON: I sign copies of questions all the time, as do other Ministers, and I do not know when that question was lodged or when I signed it. If I am wrong, I will apologise in this place. As far as I know, that answer was true when I answered it. Whether I answered in June, July or August, I have not got the foggiest idea.

Mr Brown: You answered it two days ago.

Mr MINSON: It was lodged two days ago. I do not know when the answer to that question was lodged with parliamentary services. I am a little puzzled that a former secretary of the Prison Officers Union would accuse the Government of trying to do something that would upset the agreement it has with the prison officers. We have been trying to save the public prisons system. The prison officers have been doing a terrific job. When Mr Brown was secretary of the Prison Officers Union the situation was at the point where we would have had no alternative other than to privatise prisons if we could not persuade prison officers to cooperate. That is outlined in the agreement. When Mr Brown was secretary of that union 107 000 hours a year were lost through sick leave. That figure has been cut by almost half. The agreement with prison officers stated that provided the implemented changes achieved the savings to enable Western Australian prisons to be competitive with those in the private sector the Attorney General and the Government undertook not to privatise a Western Australian prison or contract out the standard duties of prison officers before 31 December 1997. I reiterated on Tuesday that if there was any danger at all of the Government upsetting the integrity of that agreement it would not go ahead with such a move.

Mrs Henderson: That was not the question.

Mr MINSON: It was; and it was the intent behind it.

The Government has not initiated anything. A short time ago I was approached by the acting chief executive officer and the new acting director general to look at a range of options.

Mr D.L. Smith: What is "a short time"?

Mr MINSON: It was about three weeks ago. They said that we had to look at an increase in the number of prison beds available. They asked me to agree to take to Cabinet a proposal that we engage a consultant to report on the existing projections of prison requirements - in other words, to check out, firstly, the validity of projections and, secondly, the most efficient alternatives to provide additional prison beds. I do not know what the consultant will come up with.

Mr Brown: Will the Minister table the document to which he has referred?

Mr MINSON: Yes. It is a media statement.

[See paper No 442.]

Mr MINSON: Neither the Cabinet nor the coalition has considered in any way privatising any Western Australian prison. It is not on the agenda.

Mrs Henderson: Building a new private prison is the same thing.

Mr MINSON: Of course, it is not. I do not know what the consultant will say.

Mrs Henderson: They were asked to look at building a private prison; that is misleading.

Mr MINSON: He has not been asked to do that at all.

Mr D.L. Smith: Will you table the briefing notes from the CEO and the record of that meeting?

Mr MINSON: Yes; if there are any. I do not have a problem with that. I will see what is there. The request was that a consultant look at it. I do not know what that consultant will say. He may say we need X number of beds; that they should be publicly built and privately run or privately built, leased by the Government and publicly run. I do not know what he will say.

Mrs Henderson: You did not preclude those options?

Mr MINSON: Of course I did not, and why the hell should I?

Dr Gallop: In other words, you are considering privatisation.

Mr MINSON: No, I am not. We are not considering anything. The ministry has asked me to engage a consultant for advice. When it advises, we will consider. I have no problem with that at all. This is unbelievable.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order! Member for Victoria Park.

Mr MINSON: I can assure members opposite that no proposal has come forward in the Cabinet room to build a private prison. There has been no consideration to privatise prisons.

Several members interjected.

Mr MINSON: I am sorry if members opposite do not like the answer; that is just the way it is.

Mr Brown interjected.

The ACTING SPEAKER: Order! I have been prepared to take some interjections when the Minister has stopped, listened and responded to those interjections, which has been the practice of this House even though it is not strictly within the standing orders; however, multiple interjections from the front bench of the Opposition certainly will not be accepted.

Mr MINSON: The Ministry of Justice has been approached by a number of private operators, as my office was approached for interviews, and as, I suggest, was the previous Minister. They see Australia and Western Australia as pretty fertile ground. I will make this clear: I was told by the previous director general when I became the Minister that certain programs were in place, including the sentencing legislation and various other things that would result in a levelling out, or a drop in the number of prisoners and therefore the need for prison beds. I asked when we would need a new prison, and if my memory serves me correctly the answer was in about 10 years. I said then that I had no intention of canvassing any options about a new prison; it was off the agenda. However, the Ministry of Justice can talk to whom it likes. In fact, it has an obligation to keep abreast of developments around the world. The ministry would need to know roughly about prices, because they need to have a benchmark. That is what the agreement with the prison officers said.

About three weeks ago, from memory, the acting director general advised me that prison numbers were increasing quite alarmingly and the ministry would like me to seek permission from Cabinet to engage a consultant. The rest of the issue has been aired. Cabinet gave approval - not last Monday but the Monday before - to engage a consultant to review our projections to ensure they were accurate and then to advise how they would best be delivered. I do not have any philosophical point of view about that, nor any idea at all what a consultant will say. I know that the results on the other side of Australia have clearly come down in favour of private prisons. However, I am also told that Western Australia looks after maximum and medium security prisoners for about $121 a day. That compares favourably with the private prison system. If that is the case I have no idea what the consultant will say. However, when the consultant reports the Government will consider that report. I do not apologise for that. That is simply good management.

I will not speak much more but I will check when I signed the answer to the question asked by the member on 26 June and when it came through the system.

Mrs Hallahan interjected.

Mr MINSON: I do not have any problem with that at all. Why the hell should I? If I have unintentionally misled this place, I will come in here and apologise. I can assure members that I have no intention of misleading them. Why would I bother?

It is true that on Tuesday I could have said that Cabinet had done so and so. However, the Minister for Justice and I wanted to put out a joint statement -

Dr Gallop: Who is the Minister for Justice?

Mr MINSON: The Attorney General. He will be delivering a second reading speech today on an important Bill that may have ramifications for prison numbers in this State. It was important for me to honour that commitment to the Attorney General. That is why I told the House that I would make an announcement at the end of this week on what the Government would do about a difficult situation in the prisons. That is not misleading the House.

Mrs Henderson interjected.

Mr Minson: The member for Thornlie may not like the answer but that is the answer she got; it was not misleading.

Mrs Roberts interjected.

The ACTING SPEAKER (Mr Ainsworth): Order, member for Glendalough.

Mr MINSON: As every Speaker in this House has said, members can ask what question they like, but they may not like the answer. The fact is, I did not mislead the House. I even pointed out what I was going to do. I told members opposite that I would make a statement about this matter at the end of the week. I reject this motion; it is absolute nonsense. If people do not like the answer to questions, that does not mean that the answers are not true; it simply means they did not get the answer they wanted. There is no apology to make and I will certainly not resign.

MR COURT (Nedlands - Premier) [12.42 pm]: If the Opposition wants to retain any credibility in this debate, I suggest it withdraw the motion. Members opposite are making fools of themselves over this matter. We should put the facts together. This is a vote of no confidence; it is a serious motion. Members opposite have been made to look silly as a result of the facts. I have full confidence in the Minister assisting in this area.

An enterprise agreement was entered into and in that the Government said it would not move to privatise those prison operations. It gave a commitment until the end of 1997. If we are thrown out of government, another Government may want to renegotiate that agreement. The Minister has made it clear to the Prison Officers Union that this Government will stick by that agreement. I am sorry to disappoint members opposite. If people want to talk to the Government and ask it to consider privatising prison operations, I do not see any sin in that. As I said, the Government will not privatise any of those operations. Why the Opposition has itself in a lather over a front page story in *The West Australian* is beyond me.

I find interesting the Opposition's paranoia about privatisation. Just recently a Labor Government was selling off banks and all sorts of things. Privatisation seems to be okay if it is done by the Labor Party.

Mr McGinty: It is about honesty.

Mr COURT: This is about honesty. We have a commitment that we will not privatise facilities before the end of 1997 and we will stick to it. Surely that is honesty? If the best the Leader of the Opposition can do is move a no confidence motion on this issue because a Minister said that we are not considering privatising the prisons -

Mr Brown: It is my motion; get it right.

Mr COURT: It is the member for Morley's motion. We have told the Prison Officers Union that we will stick by that agreement; it will not happen. Who knows what will happen after the end of 1997? Who knows who will be in government or who will be the Minister? Quite rightly, the Minister is getting advice on how we should handle growth in the prison population. Are members opposite saying that as a Government we cannot privatise or listen to someone's advice on how we will handle growing prison numbers? I cannot believe members opposite would even waste their time bringing this motion into the Parliament. Why do they not start looking to the future just as we must in all areas of government? If the Opposition wants to waste its time on this nonsense, it is wrong and it will stay in opposition for a long time.

MRS HENDERSON (Thornlie) [12.46 pm]: The debate today is not about privatisation, it is about honesty.

Mr Court: You could have fooled me. Withdraw the motion then.

Mrs HENDERSON: This debate is not about privatisation. The debate is about reporting honestly and openly to this Parliament. That did not happen on Tuesday. The taxpayers of this State spent millions of dollars on a royal commission into accountability. That royal commission said that question time in this Parliament is one of the only mechanisms by which the public can hold the Executive accountable. The royal commission spoke at length about evasive, contrived answers and referred to the art form of designing answers to skirt around the truth and give an

impression. That is exactly what this Minister said today he did. He said, "I answered the question last Tuesday very very carefully". He did not want to tell this Parliament that he had been giving consideration to a consultant's report canvassing issues of privatisation because did he not want to pre-empt a press release. He was prepared to mislead this Chamber because he did not want to pre-empt a media release.

Mrs Hallahan interjected.

The ACTING SPEAKER: Order, member for Armadale!

Mrs HENDERSON: I remind members of this House that the question was -

> Has the Government given any consideration to privatising one or more Western Australian prisons, building a private prison or contracting out the management or part of the management?

The answer was -

> No consideration will be given to privatising Western Australian prisons. However, the Government will be examining whether a section of the prison service could be done by external contractors.

What impression is that intended to give? The only thing the Government is looking at is transport. That was a deliberately misleading answer. The Premier and everybody on that side of the House knows that. The Minister has more or less admitted it here today. He said, "I carefully crafted the answer to the question." Of course he knew what the member for Morley wanted to know, but he was not going to tell the Parliament. He even said to the media, "I did not attend the meetings; that way I could talk to the union and pretend I did not know what was going on." Who is he kidding? If he acts like an ostrich and puts his head in the sand, he can pretend the rest of the Government is responsible and that he has nothing to do with the matter. For a Minister of this State that is unacceptable behaviour and this Minister should resign.

MR BOARD (Jandakot) [12.50 pm]: This motion is all about trying to create conflict between the Ministry of Justice and those who work in the prison system, and we have seen it previously from the same players. Late last year, there was a lot of concern in the community about a proposal to use a building at Canning Vale Prison as a minimum security prison, and a public meeting was called. The Minister assisting the Minister for Justice made a commitment at that public meeting to form a committee that would be chaired by a member of Parliament who was representing the community - that was me - and would look at all the issues involved in the use of that building.

The same players who raised this issue today spread rumours throughout the community that the Minister would not listen to the community and would walk away from the issue, and that that building would be used as a minimum security prison regardless of the recommendations of the committee. They were trying do drive a wedge between the Minister, the Ministry of Justice and the people who work in the prison system. Why were they trying to do that? I wonder, given the background of the member for Morley, whether he would be interested in driving that wedge.

This motion is not about the honesty of the Minister assisting the Minister for Justice. He has not misled this Parliament. He has told members exactly what is the situation. Members opposite are trying to create conflict. There is no need for conflict about this issue. I support the Minister assisting the Minister for Justice, who has been totally honest throughout this process.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mrs Henderson	Mrs Roberts
Mr Cunningham	Mr Kobelke	Mr D.L. Smith
Dr Edwards	Mr Leahy	Dr Watson
Dr Gallop	Mr McGinty	Ms Warnock *(Teller)*
Mr Graham		

Noes (28)

Mr Blaikie	Mr Johnson	Mr Prince
Mr Board	Mr Kierath	Mr Shave
Mr Bradshaw	Mr Lewis	Mr W. Smith
Dr Constable	Mr Marshall	Mr Strickland
Mr Court	Mr McNee	Mr Trenorden
Mr Cowan	Mr Minson	Mr Tubby
Mr Day	Mr Osborne	Dr Turnbull
Mrs Edwardes	Mrs Parker	Mrs van de Klashorst
Dr Hames	Mr Pendal	Mr Bloffwitch *(Teller)*
Mr House		

Pairs

Mr Marlborough	Mr Wiese
Mr Thomas	Mr C.J. Barnett
Mr M. Barnett	Mr Nicholls
Mr Bridge	Mr Omodei

Question thus negatived.

STATEMENT - MEMBER FOR GERALDTON

Referendum on Corporal and Capital Punishment

MR BLOFFWITCH (Geraldton) [12.56 pm]: My 90 second statement is on whether the State and the people of Western Australia are entitled to a referendum on corporal and capital punishment. I believe they are. Surveys I have done by newsletter have shown 75 to 85 per cent in favour. At law and order meetings I am constantly asked when the Government will reintroduce capital punishment and corporal punishment. I believe when a community is divided, the only fair way to decide is by referendum, to put it to the people. That is the course I will pursue.

Mr Graham: Stop pontificating and introduce a private member's Bill.

The ACTING SPEAKER (Mr Ainsworth): Order!

Mr BLOFFWITCH: Can I finish my 90 second statement without the member for Pilbara interrupting? I will pursue this matter via the Government's party room and via the Parliament at the request of many members of my community who believe that the lessening of corporal punishment in schools may have had a detrimental effect on behaviour in the classroom. I am reminded of tears at one Christmas session from a teacher because of the lack of discipline.

STATEMENT - MEMBER FOR NORTHERN RIVERS

Electricity Charges, Hindrance to Regional Development and Remote Areas

MR LEAHY (Northern Rivers) [12.58 pm]: Yesterday I heard the Premier say in this House that the biggest hindrance to development in Western Australia's regional areas was the Mabo issue. I place squarely on the record that the biggest hindrance to development in regional and remote WA is the State Government's decision to abandon the uniform tariff for electricity rates across this State.

Towns in this State that are already the most disadvantaged, such as Gascoyne Junction and Meekatharra, can be charged a fee for electricity up to seven times that which is charged in the metropolitan area and in large regional areas in the south west. For a Government that says that it is promoting regional development in this State, it is a farce. The State Government should go back to the basics and start to promote development in Western Australia. Since 1978 anyone wishing to connect to electricity in Western Australia's remote areas has had to pay the full cost, which is sometimes $60 000 to $100 000. That asset passes to the people of WA, yet the same people must pay a 5 per cent return on their own assets to this Government. If this Government does not put back in place that subsidy for remote Western Australians, the developments in remote Western Australia will dry up and more people will come to the metropolitan area, as has occurred in the past. The Government must wake up to itself and realise what it is doing.

STATEMENT - MEMBER FOR BUNBURY

Bunbury Hospital Campus, Bunbury Chamber of Commerce and South West Development Commission Briefing

MR OSBORNE (Bunbury) [1.00 pm]: To paraphrase Samuel Johnson, the finest sight that can greet a Western Australian's eyes is the high road that leads to Bunbury. Last night I travelled down that road to attend a briefing by the Bunbury Chamber of Commerce and the South West Development Commission. The objective of the briefing was to give a detailed insight into the Bunbury Hospital campus. I think we had 97 registrations from Bunbury contractors and subcontractors. It was very heart-warming to see that before the proceedings began about 15 or 20

extra chairs were brought into the room. Therefore, well over 100 contractors and subcontractors from Bunbury and its surrounds attended the briefing arranged by the project managers, architects and the Department of Contracting and Management Services to explain in detail what the project was about and how people could get involved for the benefit of their businesses.

The program of works, the tender dates and the works completed to date and those that will be available shortly were explained. The architect went through what the hospital campus will look like, the location of major services and the public and private wings of the hospital. The Department of Contracting and Management Services officers talked about government requirements for apprentices and tenders, and so on. It was a very positive evening which was very well received by all.

STATEMENT - MEMBER FOR KALGOORLIE

Western Australian School of Mines

MS ANWYL (Kalgoorlie) [1.02 pm]: Another Court Liberal Government broken promise is made clear by the Minister for Education's failure to guarantee the future of the Western Australian School of Mines. The "Coalition Policy of the Goldfields" dated January 1993 promised that "the School of Mines will be provided with the resources to establish itself as a centre of excellence in mining education. We will promote it as a school of international significance." The Minister should know better, given his Resources portfolio. The key is increasing student numbers to supply industry demand. He has consistently failed to guarantee the WASM will have a central role as the cornerstone of a national centre of mining excellence. This State has yet to put in an appropriate bid for that. Kalgoorlie-Boulder is the logical place to have such a role, given that it is the centre of the gold and nickel mining industry in this country. Other new schools can simply complement the Western Australian School of Mines.

I call on the Minister to keep to his policy of non-duplication, and to proceed to ensure the expansion of the WA School of Mines. The Federal Government has slashed a number of funding areas which are the key to regional development, and I hope this Government will not do the same.

Sitting suspended from 1.03 to 2.00 pm

[Questions without notice taken.]

PERSONAL EXPLANATION - LEADER OF THE OPPOSITION

Superannuation Scheme for Politicians, Misrepresentation

MR McGINTY (Fremantle - Leader of the Opposition) [2.36 pm] - by leave: On ABC radio on Tuesday of this week the member for Avon falsely represented my point of view in a matter which was before this House. I seek the opportunity now to correct that misrepresentation. The comments of the member for Avon in that radio interview on the "Kennedy Program" at 9.20 am on Tuesday related to the existing superannuation entitlements of politicians. During that interview he made comments to the effect that his endeavours to change the superannuation scheme to bring it into line with that which was applicable to workers generally in the community were being frustrated by me, in particular. The question posed by the interviewer was -

> Well it sounds like the scheme should be opened up . . . to scrutiny.

The member for Avon replied -

> Well one little thing keeps on getting in the road, Peter, all the time, and that's something called politics. And, in fact, Max Evans, who currently chairs the board, has been trying for some time to get the scheme through the Parliament now, but, unfortunately, particularly Jim McGinty keeps on playing games with them.

Peter Kennedy responded -

> ... oh, it's the Labor Party's fault?

The member for Avon then replied -

> Well . . . at the moment it is, Peter . . . The problem is that politicians can't resist playing politics with serious matters, and the superannuation scheme desperately needs to be changed, and we've got a formula together to change it to much more in line with the general community.

The interviewer, Peter Kennedy, then responded -

> . . . you're saying that in essence the politicians' superannuation scheme should be on the same basis as the superannuation scheme for any other ordinary worker.

The member for Avon replied -

> Of course.

The final comment by Peter Kennedy in wrapping up the interview was -

> Max Trenorden there, the state MP for the seat of Avon, a National Party member, trying to change the state's superannuation scheme, believes the superannuation scheme for politicians should be exactly the same as the superannuation schemes for you and me.

As this matter has been the subject of some discussion between the major parties, but to the best of my knowledge never in an open forum, I believe it is now time to set the record straight, because what was said about me in that interview was demonstrably false. The Premier had given notice in this Parliament of legislation dealing with the superannuation scheme, and then withdrew it because there was not an agreement between the parties. I conveyed the view of the Opposition that we would oppose that legislation in quite strong terms. That legislation sought to do three things. First of all it sought to provide for salary sacrificing which would have increased the benefit to members of Parliament.

Mr Trenorden: It does not.

Mr McGINTY: Yes, it did.

Mr Court: Your members want us to put that legislation through. They are coming to me saying, "Why aren't you putting that legislation through?"

Mr McGINTY: No they are not, because we have voted in the Caucus to reject the Government's proposition because it is designed to line the pockets of members of Parliament.

Several members interjected.

The SPEAKER: Order! This place has various levels of order; occasionally we have perfect silence and sometimes we have the opposite. However, it is a long practice in this place that during personal explanations interjections are virtually nil. I would like to keep to that as the Leader of the Opposition makes his explanation. I am sure he is aware of the constraints of time.

Mr McGINTY: The legislation sought to do three things: First, to provide for salary sacrificing to increase the money in the pockets of members of Parliament by means of exploiting the lower taxation rate for superannuation. That will become less favourable after the increase in the taxation applicable to superannuation announced in yesterday's Budget. Secondly, it would increase the benefits for dependents of members of Parliament and, thirdly, it would increase the lump sum for long term retirees. That can hardly be said on any description to constitute bringing the parliamentary superannuation scheme back to the community standard. Not one member of this Parliament will have his benefits reduced.

Points of Order

Mr COWAN: The Leader of the Opposition is aware that a personal explanation is is not a debate about the opinions that are expressed by other people; it is a personal explanation which an individual is granted the right to undertake in this Parliament. A personal explanation can be terminated should anyone object. I need to remind the House, particularly the Leader of the Opposition, that unless he gets to his personal explanation it may be that there will be an objection from this side of the House.

Mr GRAHAM: The standing orders allow people to make an explanation of a personal nature by the indulgence of the House. That was granted without dissent. The footnotes of the standing orders make it quite clear that the person who is making the personal explanation is to correct any wrong impression that has been created of that person personally. The essence of the point of order raised is that the Leader of the Opposition is going into a political debate on matters relating to superannuation. Clearly he is not doing that. He outlined the impression created by the member for Avon by quoting directly from the interview. He has read from the proposed Act on parliamentary superannuation that corrects in part the impression given by the member for Avon. As I understood his speech, he was in the process of making some comments to correct completely the wrong impression that the public has of his personal position and the position that has been attributed to him publicly. There is no point of order in my view and the Leader of the Opposition should be allowed to get on and finish his speech.

The SPEAKER: Order! The question of what can be said in a personal explanation is a difficult one and, quintessentially, it is for personal matters. I have no doubt that most of the speech of the Leader of the Opposition was of a personal nature. It is correct that he had recently moved on to talk about elements in the Bill referred to. I presume that he will speak on that briefly, and perhaps his speech will shortly come to a conclusion. As such, I allow him to continue.

Committee Resumed

Mr McGINTY: Thank you, Mr Speaker. The proposed legislation will not reduce in any relevant respect any entitlement of any member of this Parliament; in many substantial respects, it will increase those entitlements. Therefore, for the member to allege that I have sought to play politics or interfere with something which will bring the superannuation of parliamentarians into line with that of general members of the community is a gross

misrepresentation of my view. I said that the Labor Party would not support that legislation, particularly because - the member for Avon gave me this information directly - some of the older and longer term members who planned to retire at the next election would have their superannuation lump sum payout increased by a six figure amount in addition to what is provided by the current scheme. The legislation does not seek to bring politicians' superannuation into line with ordinary community standards. I resent enormously that gross misrepresentation.

MATTER OF PUBLIC INTEREST

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

> Pursuant to Standing Order 82A I propose that the following matter of public interest be submitted to the House for discussion today.
>
> That this House requires the Premier to:
>
> (1) Present the actual State Budget figures which will now apply for expenditure on each program and revenue from each source; and
>
> (2) Explain what combination of cuts and tax increases the Government will impose on Western Australians as a result of the federal Budget.

The matter appears to be in order. 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 in total to the Independent members, should they seek the call.

MR McGINTY (Fremantle - Leader of the Opposition) [2.43 pm]: I move the motion.

I hope this motion will gain the support of both sides of the House. It is worded in very restrained language and is about the basic proposition that this House should be informed of matters affecting the Government, in particular the underlying budgetary position and any changes that may affect the Budget which we have voted to approve; and that any changes to that budgetary position, particularly to the allocations that are made to the various programs contained in the Budget, be brought to the attention of this House and explained fully by the Premier.

This morning the Premier tabled the final budgetary figures for Western Australia for the past financial year. However, he did not table the alterations to the Budget for the current financial year. We all know, and the Premier has conceded, that the budget figures which were presented to this House at the beginning of May are no longer correct. We know that because the Premier has said that, on his estimation, $60m has been taken out of anticipated revenue in the form of financial assistance grants from the Commonwealth; that is, $60m less than was provided for three months ago. We know also that an amount marginally under $30m in specific purpose payments, which was included in the budget figures, will now not be received.

To that extent at least, the Premier should have presented to the House a financial statement to show where that $90m shortfall will appear in the Budget. That shortfall can be met in only a limited number of ways: Cutting out the appropriation of that amount of money; cutting services; or increasing taxes and charges. Those are the only options open to the Premier. The Premier has, in a fairly light way, and in a way that requires greater commitment on his part, given us a generalised statement that he has identified $40m-worth of savings. I want to know what those savings are and in what departments those savings will be made, because otherwise we will have voted for a Budget which we know is not correct. We know already from the Premier's statements to this House that the Budget is out of date.

The Labor Party believes that as a result of the federal Budget which was handed down on Tuesday, the extent to which the state Budget is thrown out of kilter is significantly greater than the $90m which the Premier has admitted is the minimum figure. We must have a clear statement from Treasury about the full impact of the Budget in the housing sector, where we can expect further cuts, which will impact on the State's overall financial position, and about its impact in many other areas, many of which the Premier identified this morning as being matters about which the State does not currently have information. We need to know what programs may not go ahead. That is the minimum that the Premier should do. It is not good enough for the Premier to say blithely, “Trust me; I have found $40m-worth of savings.” It is good if he has, but he should tell us where they are. He should tell us how the $60m shortfall in the state Budget, which is the minimum amount the Premier has identified, will be met - whether services will not be provided, or whether increased taxes and charges will be levied.

"Accountability" has become a somewhat hackneyed word in this place, and there is no clearer example of that than the Premier's refusal, when dealing with the most important document to come before this Parliament every year - the state Budget - to tell us what are the correct figures as at today's date. That is the wrong way for the Premier to go. There was much debate during the recent federal election campaign about the need for the party in government

to be honest about the true budgetary position. That prompted the federal Treasurer, Mr Costello, when he delivered the federal Budget on Tuesday night, to include in his budget speech a charter of budget honesty. That is exactly what we are talking about here. When there has been a change in the budgetary position from that which was delivered originally to the Parliament, that charter of honesty would require Treasury officials to present to both sides of politics in the Parliament and to the broader community the current financial position. It is of enormous public concern to know how the federal Budget will impact upon the state Budget and what will happen to the great array of services which may have, in whole or in part, been provided by funds from the Commonwealth, whether it be roads, dental care, health care or education. It is a denial of the function and responsibility of this Parliament to refuse to tell us what are the new Budget figures. It is also the height of hypocrisy for the federal Liberal Government to now say it wants a charter of budget honesty while its state counterpart is refusing to give us information which will tell us the situation with the state Budget. We said when the state Budget was handed down that it would last for only three months, and how right we were. It did not take even three months before $90m was taken out of the state Budget by the federal colleagues of the current state Government. More money has now been taken out.

We need Treasury to provide figures to this Parliament so that we can absorb and understand what is happening and be able to correctly categorise the federal Budget. We know why the Premier has refused to bring forward the figures. He wants the federal Budget to be cast in the best possible light. If he were to reveal the full and real impact of the federal Budget on the state Budget, people would change their minds; they would see services and programs disappearing - those services that meet the needs of Western Australians in so many different walks of life. The Premier wants to hold back the figures until after the public has a general impression about the federal Budget. It is our duty to apply the pressure to ensure the figures are presented to Parliament. I will be very disappointed if government members vote to deny the Parliament the opportunity to have before it the facts from the Treasury about the Bill we passed a few months ago - namely, the state Budget. I call on members on both sides of this House to support the motion.

Mr RIPPER: I second the motion.

MR COURT (Nedlands - Premier) [2.51 pm]: I thank the member for seconding the motion. As I explained to the Leader of the Opposition I must move into his electorate to open the boat show!

Mr McGinty: It will be to my advantage having you go to the boat show!

Mr COURT: We consider that a marginal seat, so I thought I should spend some time there.

Mr Brown: You don't even have a candidate. If that is a marginal seat, what are you doing about the safe ones?

Mr COURT: We might do better without a candidate.

When members opposite were in government their practice was to hide from the people of Western Australia what was happening with a number of commercial dealings in which they had become involved. It took some time before we began seeing proper exposure and accountability relating to the massive losses made by that Government. Members opposite used many different tricks to deceive the people of Western Australia in those matters. Yesterday we saw another example where members opposite produced figures in support of their argument that the federal Budget would affect this State to the tune of $159m. In those figures, members opposite had conveniently double counted some areas. They were able to move one figure from $90m to $159m.

In my statement to Parliament this morning I explained how members opposite had double counted in these matters. We have just witnessed another example of deceit in the comments made about superannuation. According to current proposals being considered, members under 55 years of age would receive a lesser entitlement.

Mr McGinty: There is no reduction clause, Premier!

Mr COURT: Hang on! That proposal would correct the anomaly introduced by Brian Burke when he changed the system. Therefore, the under fifty-fives would receive less. The interesting point is that we were approached by Labor members of Parliament to include a no disadvantage clause so that members retiring at the next election would not be disadvantaged. If a person retired after the election, he or she would be disadvantaged. When members opposite approached me about that situation, they were very hot and sweaty about the disadvantage clause being included. When we explain changes to the system we must get it right. The proposal was designed to be revenue neutral; it meant that members under 55 would receive a lesser entitlement. That situation would cover most members of this Parliament.

Mr McGinty interjected.

Mr COURT: When the Leader of the Opposition uses a personal explanation for political advantage he should get his facts straight.

Several members interjected.

The SPEAKER: Order!

Mr COURT: A paper relating to specific purpose payments was tabled this morning. We are working on a 10 per cent share of the cuts. The changes relate to health, including the dental program; social security and welfare; housing and community amenities; agriculture, forestry and fisheries; mining, manufacturing and construction; and transport and communications. Those items are factored into the $30m about which we were advised some time ago.

Mr McGinty: Is the figure in the second paragraph correct? It is $277m.

Dr Gallop: I think a decimal point is missing.

Mr COURT: That applies to all States; and we have 10 per cent of that.

Mr McGinty: The State's share is 10 per cent of $277m.

Mr COURT: The Leader of the Opposition is correct. It is 10 per cent of $277m. We were told that the figure would be around $30m. We are waiting for the final figures. I mentioned before the Budget came down that we would not know until budget day how the State would be specifically affected.

Dr Gallop: That is appalling. The budget papers this year are the worst ever.

Mr COURT: My point is that we have been asked to cop a $90m cut. From a Budget of around $7b, it is about 1.4 per cent. We have known about that since the Premiers' Conference in June. Before the financial year started we set out to identify savings. During every financial year we experience ups and downs.

In the second paragraph of this motion the Opposition has asked the Government, in effect, to have a rolling Budget. The scene is changing all the time. We have a starting position and an end of year result, which we have provided today. We must have flexibility; we must cut our cloth accordingly. If we have a revenue drop or an expenditure increase, and we want a balanced Budget at the end of the day, we undertake a whole process of financial management.

Dr Gallop: That was the argument before the last federal election!

Mr COURT: We have delivered. At the end of the year, we have the results. We have a balanced Budget and the surpluses that everyone wanted. Everything has gone according to plan, and members opposite do not like it.

Instead of moving such a motion, the Leader of the Opposition should congratulate us for moving so quickly to accommodate the requirements in this year's Budget. Throughout the course of the financial year the situation will change. Revenue will have increased in some areas, but if we have a bad harvest or if transport revenues go down, those factors will need to be taken into account.

Mr McGinty: The federal Budget must be accounted for!

Mr COURT: I have just explained that $90m accounts for that. We could produce a revised set of aggregates every week of the financial year but what would it achieve?

Dr Gallop: We have just had a major federal Budget -

Mr COURT: We release monthly figures and people can have an understanding of where the State's finances are going, but we cannot compare those figures with the previous year. The important aspect is that we have a starting point and finishing point, and we must deliver the goods. That is exactly what we do.

We have asked all Ministers to identify where they can achieve savings. We have moved in a number of areas, one being the changes in the operations of the vehicle fleet which resulted in a saving of around $7m a year. We have been contracting out some computer services which has resulted in savings between $2m and $3m. Homeswest estate management has achieved considerable savings also. On the so-called costly junket to Japan, we have been successful in fundraising by tapping new markets. That success will save us millions of dollars a year in interest by moving into those markets.

As members will know, the infill sewerage program was to cost about $1.3b.

Dr Gallop: Is Homeswest in the CRF budget?

Mr COURT: I am talking about savings that we can achieve inside government. The sewerage program was to cost $1.3b but then it came in at $800m. However, we have savings on the $800m of about 20 per cent coming through, and we will continue to drive those savings. One can budget a figure but if one can come in with a lesser figure, that is to the State's advantage. They do not all work; I admit that. However, by and large, we have been able, in an innovative way, to make some huge savings in a number of different areas.

Members opposite talk about what effect this will have on taxes and charges. We have set our taxes and charges for the year and there is no need for us to change them as a result of the federal Budget.

Dr Gallop: We'll see.

Mr COURT: The Deputy Leader says, "We'll see." I would like him to tell me where.

Dr Gallop: I will tell you where. You have four black holes in the Budget and I will explain each one.

Mr COURT: The Deputy Leader has told us every year that we have black holes in the Budget. He told us that we had a black hole in health.

Several members interjected.

The SPEAKER: Order!

Mr COURT: However, we were able to put $90m into that budget without borrowing any more money. That is good financial management. Whenever members opposite ran out of money, if they had a decline in revenue, they borrowed more.

Members opposite keep using scare tactics about the black holes and problems. In the course of a year we have heaps of problems inside the Budget - in the areas of health, education, police and the environment. We are elected to manage those problems and to ensure that we have a balanced budget at the end of the year. As members saw in the report tabled in Parliament, not only did we have a balanced budget but we again had a huge reduction in debt in this State, and we hope we can continue on that path.

The changes in relation to the specific purposes payments have been identified. As part of day-to-day responsibilities, we have savings occurring across Government.

Several members interjected.

Mr COURT: The Opposition's credibility is terrible. Members opposite cannot even get a personal explanation right in this Parliament. Their credibility in relation to financial management is absolutely zilch. Does the Opposition really expect that a Government, on a weekly basis, should be doing an update of expenditure -

Mr McGinty interjected.

Mr COURT: I have just explained what the effect will be; it has been spelt out. Members opposite cannot accept that as a responsible Government we can handle that 1.4 per cent. It is not easy, but at least we do it. The Opposition was never prepared to do it, to tackle savings or to take on the hard expenditure issues.

The other thing we have done that will be interesting at election time is to publish the forward estimates. If we are going to commit more and more in certain areas, it must be reflected in the forward estimates; we have to determine how we will pay for it. Therefore, we must have responsibility in relation to the budget presentations. The Opposition never did any of these things; there was no credibility in the way in which members opposite were handling the Budget. The only thing that happened during the Administration of the previous Government was that debt kept going up and up at a time when there was record revenue coming into the system.

Mr Kobelke: We know that the specific purpose payments were not included in the federal Budget, and you obviously regret that. How many confidential documents came to you from the Federal Government giving any clear indication of the detail of the cuts in specific purpose payments?

Mr COURT: There is nothing confidential about it because it was discussed publicly at the Premiers' Conference in June. We were told we would cop roughly a 3 per cent cut in the specific purpose payments, and the States agreed to give back their share of the general grants of $60m.

Mr Kobelke: So you have confirmation that the actual Budget did not vary in any way from those undertakings?

Mr COURT: That is what I am saying. I have the amounts in aggregate - the $277m that we have identified. However, as far as the breakup for the States is concerned, we have simply used a 10 per cent figure. When the final figures are given to us there can be some variation on that.

Mr Kobelke: Has it confirmed that the Budget is exact in every detail as you agreed at the Premiers' Conference?

Mr COURT: Yes, it has. In aggregate terms the SPP has been cut slightly less than was anticipated.

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [3.06 pm]: The Premier has not defended his budget strategy. Indeed, in the statement he made in the Parliament this morning, he did not satisfactorily answer the questions that the Opposition has posed about this Budget.

I cannot believe that the only advice the Premier is getting from his Treasury about the implications of the Federal Budget on the Western Australian 1996-97 Budget is the information that he tabled in Parliament today. I believe there are four black holes in the State's 1996-97 Budget. First, in relation to black hole number one, we all know that $90m was taken away from the State as a result of the heads of government meeting in June. The Premier in Parliament this week said that he had found $40m in savings to meet that problem. Today he started to list some of those savings, but was it not interesting that when he got past the first $10m he did not specify any figures? Included

in that $10m was $3m for Homeswest, which in fact is off-Budget - it is not part of the consolidated revenue. He claimed earlier this week to have $40m in savings, but he did not specify them today. In any case, the difference between $90m and $40m is $50m. There is the first black hole in his Budget - $50m unexplained by the Premier. From where will it come?

The second problem is that, in terms of the specific grants made by the Commonwealth Government to the States each year, the Premier has identified $28m worth of cuts in this commonwealth budget. Other payments are made each year by the Commonwealth that I believe would impact directly on the state Budget. Until we are shown that they do not impact we believe we are in a position to say that that is money that is not accounted for as yet. I refer to the land care programs, the regional development programs, the government schools program, vocational education, and the Better Cities program -

Mr Cowan: I can give you the word about regional developments: The Federal Government contributed very little to Western Australia.

Dr GALLOP: The words "very little" are interesting. In other words, it contributed something. How much?

Mr Cowan: It contributed $1.3m for the Bibbulmun track and $400 000 to put another layer of bureaucracy into the regional development area that no-one wanted.

Dr GALLOP: The Deputy Premier has acknowledged that my argument is correct. He has just identified $2m that went directly into the state coffers through one of those programs. There is no doubt that some of that money would impact directly on the state Budget. Precisely how much it is very difficult to know.

Mr Cowan: None of it impacted on the state Budget.

Dr GALLOP: What about land care, government schools, vocational education and the Better Cities program?

Mr Cowan: We budgeted very little for the Better Cities program. I do not think that that will have an impact at all.

Dr GALLOP: Is there no government money involved in the East Perth project?

Mr Cowan: Most of that money has been expended.

Dr GALLOP: We want all those items specified and it very clearly indicated whether they will be impacted upon by the cuts announced in the federal Budget. Black hole number one is the $50m not accounted for; in fact, it is very likely to be more than $50m, when we get to hear what are the cuts. Black hole number two is the impact of other specific purpose cuts on the state Budget. Until we are shown there is no impact, we will remain sceptical. The third area where the federal Budget impacts upon the state Budget is the reduction in some of the commonwealth programs. An example is the government program to establish fees for nursing homes, which will definitely be a disincentive in the decisions of many elderly people who are contemplating going into nursing homes. I can validly say that some of those people will probably drift into our public hospital system. I can also safely say that some of the 500 young Western Australians who will no longer have university places will probably be knocking on the door of TAFE, which will have a direct impact on the costs of running the TAFE system through the state Budget. It is hard to say what those impacts will be; nevertheless, the black hole does impact.

The fourth area is probably the most important. I cannot believe the Treasury would not be in a position to judge its impact. When we look at all the commonwealth programs conducted in Western Australia and look at their reduction through the commonwealth Budget and the removal of all that money out of Western Australia, even if the money is not spent by the State Government but by the Commonwealth Government, we see there must be an impact on the revenue of Western Australia. Many of the regional development schemes presumably involve the employment of people, which would have led to payroll tax. Many of the injections into the state economy through commonwealth programs would have added to the revenue of this State.
That leads to the point I made yesterday: The deflationary effect of this Budget will flow through to the state Budget, because revenue to the State will be reduced by the withdrawal of about $100m worth of commonwealth programs in Western Australia. No-one can take $100m out of the State's economy and imagine that it will have no impact on state government revenue - of course it will. That economic analysis obviously needs to be done.

To summarise, the Premier has not given a proper statement to this House on the impact of the $90m cut; he has talked about only $40m but he has not specified anywhere near it. He has not talked about the effect of a whole range of specific purpose programs which on the surface would appear to have an implication for the 1996 state Budget. I listed five programs: Land care, regional development, government schools, vocational education and Better Cities. The Premier has not shown how the reduction of some government programs will directly impact on the state Budget as a result of the extra pressures that will be placed on state government programs. I mentioned nursing home fees and university cuts, which I believe will impact on the demands on the state Budget. Finally, I looked at the overall impact of the federal Budget on the economy, particularly on the economy of Western Australia. If we take $100m out of Western Australia, that must have an impact on state revenues. The Premier is trying to hide the real figures because we are moving towards an election. He showed very clearly in his speech that before the state election he does not want to be honest and open with the people of Western Australia about the budget situation. The Opposition

will continue to pursue this matter until it gets an honest and open account from the Premier about the implications of the federal Budget.

MRS HENDERSON (Thornlie) [3.16 pm]: I want to comment on some federal programs which have been cut, which will directly impact on the demand for state services to make up the difference in the area of justice. The Federal Government has made clear that it will slash $33.15m from the legal aid program. That means that Western Australia will lose $3m out of a total budget of $23m, contributed to by both State and Federal Governments. That is a very substantial cut. Everyone knows that at the moment it is extremely difficult to obtain legal aid and that many worthy applications are refused. Many people who believe they should be able to receive advice, assistance and representation do not get it because they are not categorised as top priority for the scarce available dollars. This cut will make it even more difficult for those people who need legal aid to get it in order to assert their basic rights or be defended before the courts. At the moment the Commonwealth contributes 60 per cent of legal aid funding and the State 40 per cent. There is no question that the State will need to make up this cut by the Federal Government if the current level of service, which most people would accept is not adequate, is to be maintained. Everyone here is familiar with the work of the community legal centres, which do extraordinarily valuable work in the community by taking up the cases of individuals. Their funds have also been slashed by the Federal Government. The burden of assisting those community legal centres will fall to the State Government.

Additionally, massive increases have been made in federal court charges, which will impact on people going through divorce proceedings and particularly on small business people who take proceedings against suppliers and others, for example, for misrepresentation or bankruptcy proceedings. Let us take the example of a small business taking action against someone for misrepresenting a product to it. At the moment the fee would be $1 108, which is a substantial amount for small business. However, under these proposed increases it will pay $12 390 for those same proceedings. That is a real blow to small businesses which might have to engage in those sorts of proceedings. It is not unusual for small business people to believe they were misled about a business they purchased and to take such proceedings.

Family Court fees have been increased massively under these proposals. Western Australia is the only State that has a state Family Court. The State Government has a direct responsibility and interest in what goes on in the Family Court. The fees to lodge an application and see it right through for the dissolution of marriage will increase from $368 on average to $2 080. For a separating couple who are sorting out their property and custody rights and access to their children, it is a time of great financial difficulty and enormous emotional pressure. For those people to be slugged for a threefold increase in the fees charged to them is totally unconscionable. The State Government must come forward and give some assistance to those people. I understand that the Federal Government is to start charging for voluntary marriage counselling at the Family Court. If that is the case, it is a disgrace, because the whole purpose of that counselling is to assist people to reconcile and possibly save marriages. To charge people $40 an hour to attend that sort of counselling will do nothing to assist people who might be able to save their marriages.

MR KOBELKE (Nollamara) [3.19 pm]: In the few minutes available to me I want to comment on the effect on education of the cuts contained in the federal Budget. This motion calls on the Government to address this issue in a proper way and not simply push it aside and say that it is too hard. Where are the detailed figures to show what is the impact on the state Budget and the level of activity here in Western Australia?

Members will be aware of the major cut which has been made to university funding. I will not go through the specific areas in which funds have been cut, because I do not have the time. I acknowledge that the cuts will not impact directly on the state Budget, but they will have an indirect impact. Education is a major export industry that brings something like $2b annually into Australia, and Western Australia does very well out of that large amount of money. However, the cuts in federal funding will affect a range of state revenues. Payroll tax is one example and it is an avenue through which the universities provide revenue for this State. If the number of students is cut by 500 in Western Australia, the universities will put off staff and it will impact upon the state Budget through a reduction in the payroll tax collected. That is only one example of how the federal Budget will indirectly impinge on the state Budget.

Many of the funding cuts in programs which are funded by the Federal Government may not impact directly on the state Budget, but they will do so indirectly. One direct impact that will come to light at the end of the year is a reduction of $128m in direct funding to government schools. I acknowledge it will have very little impact on the current Budget, but it will impact on the 1997-98 Budget. A number of programs will be affected. Funding for workplace coordinators in schools to increase working opportunities for students will be cut by $7.5m across the country. Similarly, there will be a cessation of school incidental allowances for secondary students and the student homeless allowance rate for Austudy and Abstudy will be cut by $2.8m. Small cuts will be made to a range of programs which are not funded by the state Budget, but they play an integral part in the functioning of our schools. If this funding is cut, either the schools will operate with a hole in their programs or the Government will have to rearrange its resources to address the issue.

Like any prudent financial management, this Government must undertake a proper analysis to ascertain what programs will be affected by the cuts. Will the Government be able to deal with the situation by simply rearranging

its priorities, which is what the Premier suggested? If that is the case, what programs will miss out? The public sector has been pruned back so far that there is no longer any fat left and if the Government is to rearrange its priorities, what programs will fall off? Further, if the commonwealth programs which are to be withdrawn are so fundamental to the operation of the state education system, what extra money will be required? This Government is either totally incompetent and cannot undertake that analysis, or it is not willing to bring the results of it into the light of day. That is totally unacceptable. The Government can talk for as long as it wants about being a competent financial manager, but when it comes to the detail it cannot produce the goods. This Government does not show that it has any credentials when it comes to proper financial management in the delivery of services. All it is interested in is the bottom line.

MR COWAN (Merredin - Deputy Premier) [3.23 pm]: I listened with interest to the comments of the Leader of the Opposition and the Deputy Leader of the Opposition on this motion. It is interesting that even after hearing the Premier's comments, it appears the Leader of the Opposition and his deputy want to double dip on this matter. They seem to have ignored the Premier's advice.

Dr Gallop: I have not ignored it at all. None of the programs I mentioned was in the Premier's statement.

Mr COWAN: I will refer to the principles behind the Premier's statement and the principles behind the Deputy Leader of the Opposition's comments. The Deputy Leader of the Opposition said there were at least four issues which should be given a greater degree of public scrutiny and on which the Opposition needed more advice. He talked about the $90m that this State was required to forgo to make its contribution to the Federal Government's budgetary problems. The Premier made it very clear to all, except the Leader of the Opposition, the Deputy Leader of the Opposition and their cohorts, that there are two parts to the $90m - $60m and $30m. He said that the State would be impacted upon to the tune of $60m and that specific purpose payments would come later. For some reason, every time the Deputy Leader of the Opposition adds the figures and talks about a deficiency, we find that he has added the two columns together.

The Premier said quite succinctly that out of the $60m the State has already identified $40m which it can save. The Deputy Leader of the Opposition is unsatisfied to the extent that he has not received every line item which amounts to $40m. It was made clear that out of the $60m which the State had to find, $40m had already been found and the Government would not know the amount of specific purpose payments until they were published in the federal Budget.

Dr Gallop: They were not published in the federal Budget, and that is the problem.

Mr COWAN: The Deputy Leader of the Opposition keeps referring to the $50m which is missing. It is not missing.

Dr Gallop: Where will it come from?

Mr COWAN: The State does not have to find any of the specific purpose payments. It has made it clear, and I have some difficulties in associating with common shared arrangements. The Deputy Leader of the Opposition might recall that one of his colleagues attended the official launch of AusIndustry. It was supposed to be a bipartisan approach by the Federal Government and the State Government to providing assistance to industry, particularly small business. All the bells and whistles were attached to it and the Government thought it was a good idea. Incidentally, it still does. The Government was very disappointed to learn that $17m was to be cut from that program and that the State's share of that amount is not yet known. Some programs have been cut, but there are also new programs which have been initiated by the Federal Government for which the State can submit a bid. I am confident, given the competence of the Department of Commerce and Trade and its enterprise division, that it will successfully bid for some of those programs.

It is impossible to meet the demands of members opposite. While I can advise that it is likely that the Government will lose somewhere between $800 000 and $1m on the AusIndustry program, The department will b e given the opportunity to bid for new programs which will compensate for some of that. It is an impossibility to talk about statistical data to the extent the Deputy Leader of the Opposition is demanding.

Dr Gallop: You talk in aggregates, and an aggregate is a cut.

Mr COWAN: We have been talking in aggregates. I said that an aggregate $60m is likely to be cut from the programs the State has factored into the Budget and $30m will be cut from specific purpose payments. The Government has found $40m and it is seeking to identify the full extent of the specific purpose payments which have been cut and to determine whether it can bid for some of the other programs which have been put in place as compensation for the cut in the specific purpose payments.

Dr Gallop: It cannot compensate. If it can, the Federal Government's budget strategy is wrong.

Mr COWAN: The Deputy Leader of the Opposition took up four specific cases where he identified there would be a significant impact on the State. I advise him that in relation to two or three of them, there will be a negligible impact on the State for the simple reason that the Better Cities program was withdrawn long before this Budget was

brought down. This Government has been trying to get Better Cities money for Subiaco Oval. The Deputy Leader of the Opposition will recall that out of the $12m that was promised by the Federal Government through the Better Cities program for the redevelopment of Subiaco, $8m was hived off to develop Subiaco Oval. I do not know whether the Subiaco Redevelopment Authority or the local businesses think that was a wonderful idea.

It leaves me reasonably comfortable, because Subiaco Oval is worthy of hosting one of the best sides in the AFL competition.

Dr Gallop: What did you think of the Minister for Sport and Recreation's idea to build a $150m stadium at Burswood and close Subiaco Oval down after we had spent all that money on it? Do you think that was a good idea?

Mr COWAN: It is not within the authority of any state government Minister to close down Subiaco Oval.

Dr Gallop: It is on the record; that is what the Minister said.

Mr COWAN: I never heard the Minister say that. The member for Victoria Park will have to produce the record before I comment.

Dr Gallop interjected.

The DEPUTY SPEAKER: Order!

Mr COWAN: I feel strongly about land care programs. I have always resented the direction that was taken by the previous Federal Government to focus attention on land care programs within the Murray-Darling basin. As much as it is needed, no-one has ever looked at outcomes with respect to the money that has been spent on the Murray-Darling or on the land care program as it exists at the moment. Yet we hear time and time again people saying that a significant proportion of the money set aside for land care does not make its way to land care itself; it has too many layers of bureaucracy to filter through before it gets to the objective. There has been a reduction in land care grants; however, members will also note that a new fund has been established from which people will be able to get money for projects which are akin to land care. Let us hope that we can get a higher proportion of that money onto the ground where it belongs rather than into the development of a bureaucracy.

While talking about the development of a bureaucracy, allow me to talk about regional development. We had a $150m fund to be spent over four years on regional development. I have always held the view that infrastructure in regional Western Australia is sadly lacking, and we should be able to bid for some of that. We have some very competent people in the regions and some very competent commissions have been established to support them, yet all we could get from that four year regional development program was $1.3m for the Bibbulmun track and some other funding to add a layer of bureaucracy to the regional development system already in place. I have no difficulty with that program being cut. I said to the Parliamentary Secretary responsible for regional development that it would be a very good idea if that money was quarantined and each of the States was allowed to identify and prioritise projects within the State and then submit them to the regional development Parliamentary Secretary to identify priorities for the nation as a whole. We could then utilise those funds for regional development infrastructure purposes. Unfortunately, that was one of the victims of the black hole. I am disappointed that we do not have access to a fund of that nature; however, I am not in the least disappointed that regional development, as it was perceived by the previous Government, has gone by the board, because it was a waste of time.

This motion is a nonsense. We know we are going to face some difficult times as a result of the way in which the federal Budget has been framed. We have already accommodated much of the pain in working our way through saving $60m in the way the Commonwealth funds the States. We will find the rest. I am confident of that. That is not something I would have been able to say when I was sitting on the opposite side of the House and watching the former Government manage the Treasury.

MRS van de KLASHORST (Swan Hills) [3.34 pm]: I cannot understand how the Opposition could bring a motion like this forward - talk about the pot calling the kettle black! Members opposite mismanaged the finances of this State for so long it was unbelievable. Now members opposite are saying that we cannot manage finances. In three years we have turned the Budget around; we have paid many of the bills that the former Government left for us; and we have cut interest rates so that we can start spending money on schools and hospitals and things like that. Now members opposite are telling this Government that it is not managing money. That is the weakest argument the Opposition could put to our Government, which has a very good financial record.

We went to the polls last election on more jobs and better management. I read an article recently which looked at employment figures as at 20 July. Western Australia has the best employment figures in this country. There are now 844 400 people employed in this State, more than ever before. The unemployment rate fell again. It is continually falling. The labour market review in July states that the rate of 7.6 per cent beats the rest of Australia by one percentage point. Youth unemployment, which is still a problem, has gone down and down to 23.7 per cent. That means we are again below the national trend. According to forecasts of labour market influences, Western Australia's gross state product will grow 5.7 per cent in the next financial year, and the anticipated growth for 1997-98 is 6.8

per cent. Western Australia has considerable mining and business investment. This is really good news, and it is permeating society.

The Government also promised better management. We balanced the Budget. Money that was once paid out on interest is being spent on debt reduction and other social needs. The net deficit is estimated to fall to 13 per cent this year from a peak of 19 per cent in 1992 when members opposite were in government. How can members put forward such rubbish as this motion? The strength of this Government is in its good financial management. If members opposite do not think the Premier and the Government can find a way out of this through good management techniques, they do not know anything about this Government. The State is very strong financially. The Premier foresaw there would be some problems with the Budget and has factored in many of the issues that members opposite suddenly find are a problem. The reason members opposite were not good financial managers is that they lived for today and not for the future. They did not plan ahead. The Premier and his financial managers have planned ahead. They have factored in problems - just as a good manager running a household does.

I deplore this motion and advise members opposite and the population of Western Australia that the State is in good hands; much better than it was in the hands of members opposite. The Opposition can relax. Schools and roads are being upgraded and breast cancer clinics are being established. The women of Midland are much better off since we have been in government. The Government is responsible for establishing women's health care places, and sobering-up shelters. The whole place is on the move. I object to this motion. Why have members opposite moved a motion like this? If members opposite could present to this Parliament facts and figures to show how they would do it better, they could bring forward a motion like this. However, they have no credibility or strength. They have done nothing to show they have the brain power to get this State back on the move. People in the community know that. They know the Government has kept its promise of more jobs and better management. I oppose the motion as strongly as I possibly can.

MR BROWN (Morley) [3.40 pm]: I have heard some gibberish in my time but that takes the cake! Three months ago during the federal election campaign, Liberal Party members were screaming about the levels of unemployment and saying, "Look at what the Keating Government has done about unemployment; it has not brought it down enough"; yet they are now saying "We are tackling unemployment; it is coming down". They then tell the people, "It is only the State Government that makes a difference to unemployment; the Federal Government does not have a role in formulating economic policy." If people believe that, they still believe in the tooth fairy! Members opposite are unbelievable. They sit there and do not have a clue. They think it is the State Government that controls the economy, the inflation rate and interest rates. I will get members opposite some basic first year economic textbooks - I will get ones with pictures so they will be able to understand them! If members opposite want to go on with that rubbish and think they can outsmart us on the intellectual front, then go for it! Come into my electorate and tell the people all about it, with that great intellectual prowess, because they are waiting to hear it!

I will turn now to some other issues, but I wanted to get that doubletalk over and done with. The Deputy Premier said that the State has identified $40m-worth of savings. Where are they? This is only the Parliament; excuse us for asking - we feel a bit embarrassed about asking the Government this question - but we understand from the royal commission that that is our job and that it is the job of the Government to supply the answer. We understand that the Government may not want to provide the details, but it is not a difficult question, and presumably the Government can provide that information to the Opposition.

Let us look at some other matters which will impact on Western Australia and Western Australians. If members opposite think these matters will not impact upon the State Government, they have got another think coming. The Federal Government has decided to reform child care by withdrawing operational subsidies from community-based child care centres. It is estimated that will increase fees by around $25 per week. That will mean that some people who pay child care fees and are in part time or casual employment will have to question whether they should continue to make that contribution to the work force. The child care rebate will be reduced. I have met a number of child care providers in this State who have very marginal businesses. This will knock them for six, and will impact upon the State. There will be a reduction in labour market programs. The INDEX - industrial exposure - program in Midland, in the electorate of the member for Swan Hills, is a labour market program for 14 year olds who refuse to go to school, and 70 to 75 per cent of the people who go through that program go back to school or into employment. Even Blind Freddy could see that will have an effect on the people of Midland.

Dr Gallop: Watch out!

Mr BROWN: Visually impaired Freddy! The unemployment situation will have a major impact on Western Australia.

MR BOARD (Jandakot) [3.44 pm]: The opinion of the Opposition will not sway the people of Western Australia about who are the financial managers of this State, and it may be that not even our opinion will sway them, but there are other arbitrators in the world whose opinion has credibility. In 1983 when the Opposition came into government, this State had a triple A credit rating. We lost that rating during that Administration. This Government is very close to getting back that rating, and I would like the House to contemplate that fact.

Question put and a division taken with the following result -

Ayes (17)

Mr Brown	Mr Grill	Mr Ripper
Mr Catania	Mrs Hallahan	Mrs Roberts
Mr Cunningham	Mrs Henderson	Mr D.L. Smith
Dr Edwards	Mr Kobelke	Dr Watson
Dr Gallop	Mr McGinty	Ms Warnock *(Teller)*
Mr Graham	Mr Riebeling	

Noes (26)

Mr Ainsworth	Mr Kierath	Mr Shave
Mr Blaikie	Mr Lewis	Mr W. Smith
Mr Board	Mr McNee	Mr Trenorden
Mr Bradshaw	Mr Minson	Mr Tubby
Dr Constable	Mr Omodei	Dr Turnbull
Mr Cowan	Mr Osborne	Mrs van de Klashorst
Mr Day	Mrs Parker	Mr Wiese
Mrs Edwardes	Mr Pendal	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Prince	

Pairs

Mr Marlborough	Mr C.J. Barnett
Mr Leahy	Mr Nicholls
Mr Thomas	Mr Court
Mr M. Barnett	Mr House
Mr Bridge	Mr Johnson
Ms Anwyl	Mr Marshall

Question thus negatived.

BILLS (2) - RECEIPT AND FIRST READING

1. Criminal Code Amendment Bill
2. Statutory Corporations (Liability of Directors) Bill

Bills received from the Council; and, on motions by Mr Prince (Minister for Health), read a first time.

CRIMINAL LAW AMENDMENT BILL

Committee

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

Clause 35: Section 56A amended -

Progress was reported after the clause had been partly considered.

Mrs HENDERSON: Can the Minister give some examples of offences for which summonses will be served by registered post, and which previously had to be served personally? The Minister indicated earlier that most offences fell under the Road Traffic Act.

Mr PRINCE: I have been advised that the service of summonses by registered post is only for simple offences and not for anything indictable. The amendments will provide that summonses under commonwealth law for breaches of commonwealth laws and regulations will be served by post. An example is that the Australian Securities Commission will be able to utilise the provision for the thousands of summonses sent out under Corporations Law.

Mrs Henderson: Does that include all drug laws?

Mr PRINCE: Yes, any commonwealth Act, for a simple offence. The major law in this State for possession and use of illicit drugs is the Misuse of Drugs Act.

Mrs Henderson: I was talking about the importation of drugs.

Mr PRINCE: None is a simple offence. They are all indictable. There is no question that there is any simple offence of importation. All importation is indictable, hence it would not apply. It can apply to commonwealth law, and an example is the Australian Securities Commission. It also extends the ability to use the process for state law. One Act that comes to mind is the Motor Vehicle Dealers Act. There may be some others that would be more of an administrative nature, somewhat like the Motor Vehicle Dealers Act.

Mr D.L. SMITH: I have a slight problem with the Minister's reply, because as I understand it the current provision is that summonses under the Traffic Act and some prescribed legislation can be dealt with by the summons process. The amendment appears to enable all simple offences, and offences which are not indictable, to be dealt with by summons.

Mr Prince: All simple offences.

Mr D.L. SMITH: All offences that are not to be dealt with on indictment, and some of those carry severe penalties. Although I personally have no great problem with that - I do not have much of a problem with the other amendments on return dates, and so on - I am concerned that, if we are to have more serious offences than those currently dealt with under summonses, we should be looking at what happens when the defendant does not appear in response to the summons. My understanding is that if a defendant does not appear on traffic matters it could proceed on affidavit evidence, but the court will now be able to proceed summarily by hearing prosecution witnesses, and make a conviction on the more serious matters. My concern is that the only course open to a person convicted through non-appearance is to apply to set aside the decision and the penalties imposed under section 137 or thereabouts -

Mr Prince: I think it is section 166B.

Mr D.L. SMITH: Can the Minister tell me how 166B answers my problem?

Mr Prince: It deals with rectification of orders.

Mr D.L. SMITH: That has to do with rectification of orders made by justices in certain circumstances. I am concerned with the situations where, first, the defendant does not appear in response to a summons and the court proceeds to hear it in the defendant's absence and, second, the process by which that decision can be set aside by an application to the same court explaining why the person was not there. I do not mind the time limitation for traffic fine matters being 21 days. However, if, for instance, a defendant suddenly found he was being hit with a fine of several thousand dollars for taking unlawfully sized marron or facing a prison sentence for some other reason, there should be a longer period allow all simple offences to be prosecuted by summons, but perhaps the power of the court to deal with those matters in the absence of the defendant should be limited to the same definition that used to apply to summonses.

This is probably not the appropriate time to do this, and I have not come prepared with any amendments. Although I have no problem at all with the notion that a whole range of simple offences should be dealt with by summons, I would like to see a distinction in how those matters are dealt with when the defendant does not appear in response to the summons. The Minister may say that the court will exercise its discretion about whether it proceeds to hear the matter or to adjourn it and issue a warrant for the defendant to come along. However, we cannot always guarantee what the courts will do. We should be looking more closely at what happens when people do not turn up in response to summonses with which they have been served.

Mr PRINCE: I understand the point being made by the member. In passing, I observe quite serious penalties are available under the Road Traffic Act for a number of different offences. It is not a trivial exercise. In the sense that this can apply only to simple offences, it can apply to some that have fairly far-reaching consequences. I bring to the attention of the member the provisions of section 14(1) of the sentencing Act, that states a court is not to sentence an offender unless that person is present in the court. A summons is issued by post. If it is returned unserved before the hearing date, it may be reissued. We come to that issue under the next clause of this Bill. Any clerk can reissue it. The court cannot sentence the offender unless that person is present in the court. Section 14(2) says that despite subsection (1) a court may in an offender's absence under part 6 impose no sentence or impose a fine. There is no question that an individual might be sentenced to imprisonment in that person's absence. That would be contrary to all principles with respect to taking a citizen's liberty.

Mr D.L. Smith interjected.

Mr PRINCE: Yes. Under section 14(5) of the sentencing Act for the purposes of subsections (1) to (4) a court may compel an offender to appear personally to be sentenced by issuing a summons and, if it is not obeyed, issuing a warrant for arrest.

I suggest the intent of the legislation is very clear in those words in the sentencing legislation passed last year. A court should not impose a substantial penalty unless the person is present. It cannot impose anything other than a fine in the absence of a person. For the purposes of the administration of justice, it can compel someone to appear. It is not so much a discretionary matter I suppose, although the court has the discretion to issue a bench warrant where a summons has evidently been disobeyed, but that is on proof of service of the summons in the first place. If the summons is not served, it can be reissued before a bench warrant is issued.

Mr D.L. SMITH: That answer might satisfy me about the imposition of prison sentences, but it does not quite satisfy me about fines. Applications to set aside when one does not appear are currently limited to having to be done within 21 days. In some country jurisdictions I often find that limit is inadequate. If more serious financial penalties are to be imposed on people, the time for applying to set aside some of those decisions by the process prescribed by this

legislation should be increased. I ask the Minister to look at whether the 21 day limit can apply to the current categories of offences that are dealt with in that matter, but in any other offences dealt with under these provisions, the time might be extended to 35 days.

Mr Prince: I will put that to the Attorney General.

Clause put and passed.

Clauses 36 to 38 put and passed.

Clause 39: Section 184 amended -

Mr GRILL: I move -

> Page 19, line 14 - To insert after "Part" the words "in the absence of exceptional circumstances".

The amended clause would read -

> (3) A decision by justices to commit a defendant for trial may not be the subject of an appeal under this Part in the absence of exceptional circumstances.

That amendment is expressed in the negative. It means that where a defendant can show exceptional circumstances, an appeal could proceed. It can be expressed negatively, as is the case in the amendment, or positively, as I have just paraphrased it.

Until a few minutes ago I had hoped the amendment, which is a compromise, might be accepted by the Government; however, I have been told informally across the Chamber that that is not the case. If that is true, I am quite disappointed. On Tuesday I outlined a whole range of reasons the right to appeal against a decision of a magistrate in a committal proceeding should be retained. I thought those arguments were reasonably compelling, especially given my own experience in that regard. Apparently, those arguments have not been accepted. Let us just distill the arguments for removing the right of appeal. They come down to these: Firstly, the Government argues, and has argued on successive occasions, that the right to appeal should be removed because such appeals clog up the courts and delay the administration of justice.

Secondly, they argue that where the Director of Public Prosecutions has such a wide ranging discretion as to whether he or she should indict in the place of a magistrate's contrary ruling, the right of appeal becomes fairly academic. Both of those arguments are totally incorrect.

On several occasion, one of them today, Ministers have been asked to give some empirical evidence to support their assertion that the appeals clog up the courts and delay justice, yet on every occasion - the Minister handling the Bill today will have another occasion to respond in a few minutes - that requests are put to them for evidence, they have been ignored. If the Minister looks back through debate, he will see that to be the case. In a speech I made on Tuesday I referred to correspondence to two Attorneys General on this subject, both past and present, and on both occasions they refused to give an answer on this point. The Minister now has an opportunity to respond and produce that evidence, which I look forward to seeing.

Mr PRINCE: I am not in a position to produce the evidence. The member may not have been in the Chamber earlier today when a question on this matter was asked. I was advised that the statistics regarding court use, downtime and delay are in the process of being compiled into a form which the Attorney intends to table in the other Chamber in the future. I draw to the member's attention the case of Parker v Taylor, in which the Chief Justice, Mr David Malcolm, suggested that the right of appeal should be abolished as it is a waste of time. No doubt, he is better able to judge that matter than the member or I.

The others reasons for abolishing the right of appeal include: Committal proceedings do not determine the matter because the Director of Public Prosecutions may present an indictment, notwithstanding the result of committal. The High Court has stated that the power of the Director of Public Prosecutions to present an ex-officio indictment renders ineffective any order made on appeal. Consequently, scarce judicial resources are wasted to hear and determine appeals, the outcome of which are effectively overridden by the DPP. The right to appeal against committal undermines the expeditious conduct of criminal proceedings and results in undesirable fragmentation of the criminal process. These points are all made in the second reading speech.

The committal and appeal therefore must be considered in the context in which they occur. It is not the same as a determination by a lower court and an appeal to a higher court, or an overrule and change to a decision of a lower court, which then stands. A committal is most peculiar. It is described as quasi-judicial or quasi-administrative. It is not a determinant process. It is a filter to decide whether there is a prima facie case, and the prima facie test is defined in a certain way.

Since the advent of a totally independent Director of Public Prosecutions, as opposed to the previous procedure, the importance of a committal to trial has to some extent been diminished. It is not diminished as a filter or a process to test a prosecution case, but as a determinant to decide whether a matter should go on to the higher court. It has

that character because our law contains offences which proceed by complaint and charge in Petty Sessions. That process ends the committal, and a new form of charge is commenced in the court by indictment.

Mr Grill: That has always been the case.

Mr PRINCE: I know. But as we have that change of process from charge to indictment, the committal has little relevance at all regarding whether a matter proceeds. It is very important as a filter. As I said in answer to a question from the member for Mitchell, I would resist any move to abolish the committal or preliminary proceeding in its present form as it is a useful test and filter process. However, the determinant process of whether a charge proceeds to trial is negated by the ability of the Director of Public Prosecutions to ignore the result of the committal, and ignore the result of an appeal from the committal decision. If we had a process which commenced with a charge in Petty Sessions, and that charge went to the superior court, perhaps being amended along the way by leave and with notice, the committal would assume greater importance as it would then be a determinant point in a process of a matter going to trial in a higher court. However, that is not the case. We first have a complaint and charge, which finishes, and then the indictment. I understand that in the minds of some people, the committal has a greater meaning, and the perception is that the appeal has a greater value.

Mr Grill: In practical terms, it has.

Mr PRINCE: In practical terms, it has a great deal of tactical use. Also it narrows down issues, so when one appears before the jury one does not take excessive time over uncontentious matters.

Mr Grill: In most cases in which the magistrate has not found a case, the Director of Public Prosecutions does not proceed.

Mr PRINCE: I will continue if the member wishes to say more.

[The member's time expired.]

Mr GRILL: In exploring the assertion that an appeal is a waste of precious judicial time, I refer to my experience in such matters. If my matter had gone to trial, I imagine it would have taken two or three weeks, depending on how it was handled. A number of witnesses would have been called and so on. Against that, because we went to the appeal process - that is, obtained leave to appeal, which is a fairly big step to take - we took less than a half-day in court.

Mr Prince: To get leave through interlocutory proceedings?

Mr GRILL: Yes. If in due course the process of appeal had taken its full course, I imagine we would have spent up to a further half-day, but maybe a lot less, in court. The necessary points could have been argued succinctly and the presentation could have been brief, and one could have been in and out of the court in an hour or two.

Mr Prince: The Director of Public Prosecutions could have indicted you anyway, or not, as he chose.

Mr GRILL: I will cover that in a moment. The decision by the judge of the Supreme Court that there were exceptional circumstances in that case, and the giving of leave was a very persuasive factor in the Director of Public Prosecution's expediting his reconsideration of my matter.

Mr Prince: Did the Director of Public Prosecutions tell you that?

Mr GRILL: He did not tell me that; I am making an assumption. Notwithstanding the merits of the matter - I have a strong view about the merits of the matter, of course - the fact that leave was granted in itself was persuasive.

In the absence of any evidence coming forward from the Government or from Ministers, or from the bureaucrats if it comes to that -

Mr Prince: How about the Chief Justice?

Mr GRILL: The Chief Justice ventured an opinion.

Mr Prince: How about the High Court?

Mr GRILL: Once again, it ventured an opinion.

Mr Prince: In a case.

Mr GRILL: Yes, but that does not make it right in all cases. In the absence of any evidence coming from any of those sources, it may be that the assertion being made by the Government is not only not supported by the evidence, but also it might be totally wrong and the reverse might be the case; that is, by allowing an appeal in exceptional circumstances, the course of justice is expedited. I have presented to this House a compromise amendment that I thought would have found some favour with the Government, because it really reflects in many ways the proposition put by the present Attorney General in correspondence that he wrote to Mr Brian Tennant a few months ago. I

underline at this stage that there is no evidence that matters will be expedited by getting rid of this right of appeal and it may be that retaining the right to appeal will expedite the administration of that justice.

Mr PRINCE: The placing of the words to be included by the amendment after the word "part" is not very good drafting. It could mean that the decision by justices to commit for trial may not be the subject of an appeal in the absence of exceptional circumstances; in other words, appeals can be lodged only in exceptional circumstances, or only in exceptional circumstances can there not be an appeal. This amendment could have been better drafted. That is one reason for not proceeding with the amendment; we should not make legislation on the run.

I was given notice of this amendment by the Clerk during the matter of public importance earlier. Unfortunately, I could not find the member. I have consulted the Attorney General, albeit briefly, because the Bill was coming on for further debate.

Mr Grill: I think it could have been drafted better. I think the Clerk would have liked to draft it differently. However, I think the Minister understands the thrust of the amendment.

Mr PRINCE: Yes, I do. Chief Justice David Malcolm said in Parker v Taylor on 29 October 1993 that the Supreme Court would not entertain an appeal of this nature unless there were exceptional circumstances. If the member's amendment in a better drafted form were to go through this Parliament, there would be interlocutory proceedings for leave. If leave were then refused, presumably someone would seek to appeal against the refusal of leave. The High Court has said that it is a pointless waste of judicial time. Chief Justice Malcolm went on to say in Parker and Taylor-

Mr Grill: Don't you understand that no-one will bring these actions unless he or she has a very good case?

Mr PRINCE: I understand that. However, the member brought to the attention of the prosecuting officers of the Police Force and people from the DPP's office certain matters which were not canvassed in the committal and which undoubtedly, in the member's view, played a substantial role in the decision of the DPP in his review of whether to proceed. In other words, whether the member's appeal would be successful, it was extraneous matter that had not been in the court that played a significant role. That is a very important point that arises out of the member's tale. In regard to the committal, it happens that people are committed or not committed and the DPP goes ahead anyway. I recall a case that I handled involving a man on a murder charge. It was thrown out at committal because there was no evidence of intent. The DPP issued an ex officio indictment, went to trial and lost the lot. The DPP is not infallible. However, neither is the committal process infallible. The committal process, with an independent DPP, is a filter. That is important and I defend it on that basis. However, the appeal from it is not a matter of any great importance. I accept that the member has a different view. Chief Justice Malcolm said in Parker v Taylor -

> My preference would be to exclude any right of appeal and leave the parties to the remedy of a declaration which would be available in exceptional circumstances, including those I have mentioned and other cases where the prosecution and the defence agree that the case involves a question of law which, if resolved in proceedings for a declaration, may avoid the time and expense of a trial.

The right to proceed by way of prerogative writ for declaration remains. The ability to be able to go to the High Court -

Mr Grill interjected.

Mr PRINCE: Rarely. The ability also to go to the Supreme Court and say that there is no offence known to law remains.

Mr Grill: Once again it is a prerogative declaration. It is a very cumbersome and expensive process.

Mr PRINCE: It is. However, there is a misunderstanding here - perhaps more of a perception than anything else - of what is a committal. It is not a determinant process in criminal procedure.

Mr Grill: There is no misunderstanding on my part.

Mr PRINCE: Perhaps not between the member and me, but in the perception of the world there may be. On the basis of the advice given to us by the Chief Justice, the High Court and others, we bring forward this amendment and we will resist the member's amendment.

Mr D.L. SMITH: I oppose the abolition of the appeal. Any existing rights of appeal in the criminal law system should not be changed. In criminal law we are dealing with people's rights and liberties and they should be guaranteed by the legal system. To the extent that any current protection is provided in a right of appeal, it is wrong for the Government or the judiciary to remove that from the system. I have enormous admiration and respect for our Chief Justice. However, in terms of criminal law, I do not think it is good enough for anyone to say, “If you think something has gone wrong in the system, you can go by prerogative writ”. With the greatest of respect to the legal profession, most of them do not handle prerogative writs very well because they do not know much about them. They are the field of exceptional people who are very skilled in administrative law-type proceedings. We should not be restricting the path for an appeal in a criminal matter to that prerogative writ system for no other reason than that the

onuses are different, the procedures are different and more expensive, and they can take longer to bring to finalisation. I do not know why the Chief Justice made the comments he did. To some extent I understand the argument about a right of appeal. Even if the appeal is upheld and the matter is dismissed, the Attorney General can issue an ex officio indictment. The approach to these things is critically important. Again, I have the utmost respect for most of the magistracy. However, some magistrates seem to take the attitude to committals that they need only the merest whiff of evidence and then the Supreme Court, the District Court or a jury can deal with whether there should be a conviction.

A fetter on its being too small a whiff of evidence is the right of appeal. Magistrates, like anyone else, do not always like to be appealed against because it says something about their competence in making the decision. The merest fact of a right of appeal acts as a fetter on the magistrate.

Mr Prince: You have contradicted yourself because you are saying it should act as a fetter on that capriciousness but it does not.

Mr D.L. SMITH: It does not prevent that capriciousness even under the present system, but if the fetter of the appeal is removed, more capricious decisions will be made.

Mr Grill: Some magistrates will be quite contemptuous of the process and that is the problem.

Mr D.L. SMITH: I would not go as far as the member for Eyre, but because of the work load on the magistrates and the like, and committals can take an enormous amount of time, their view is that in some cases they should not encourage real committal proceedings as distinct from hand-up briefs. In some cases they proceed on the basis of the merest whiff of evidence. The right of appeal acts as a fetter to the way they approach the issue, and that is an essential ingredient of fairness in the system and protection of the individual's rights in the process.

These forms of appeal are used very rarely and if the appeal were successful, it would obviously be a fetter on a capricious DPP. I have the utmost respect for the DPP, who does not act capriciously, but if he has had a successful appeal from the decision of a magistrate as to whether there was sufficient evidence to commit, he will not issue an ex officio indictment unless he looks very seriously at the law, the facts of the case and the penalties involved. We should preserve this right of appeal because it operates as a fetter on the system.

Mr GRILL: I think the Minister will agree that one of the strengths and beauties of our legal and political system is the range of checks and balances in place. The problem with many of the legal and parliamentary systems around the world is the lack of checks and balances. Therefore, we must be careful when removing one of those checks and balances. I see this right of appeal as one of the checks and balances and, as the member for Mitchell has indicated, if we remove it, we shall simply allow the magistracy to deal with matters of committal without an essential check and balance. There is evidence to suggest that at least one or two magistrates would be tempted to treat this whole process with contempt. I know they are strong words, which the member for Mitchell did not want to endorse, but there is evidence to support that statement.

I ask the Minister to think again about this amendment. I believe the amendment largely reflects the position of the Attorney General and I cannot understand why he sets his face against a particular amendment. I quote once again from a letter sent by Hon Peter Foss to Brian Tennant dated 13 March -

> The Criminal Law Amendment Bill 1995 will completely abolish the right of appeal against a committal decision. A separate remedy of declaration will remain available to defendants in exceptional circumstances where -
>
> > the jurisdiction of a magistrate to proceed to committal can be questioned;
> >
> > it is contended that the information or complaint discloses no offence known to law; or
> >
> > there are otherwise exceptional circumstances which would justify the intervention of the Courts at that stage.

He is contemplating the fact that a defendant, by means of a prerogative writ, could obtain a declaration which would be equivalent to an appeal. The member for Mitchell has pointed out that not many lawyers are expert in this field, and it is a clumsy process. On only rare occasions are declarations either sought or granted.

In putting forward this amendment the Opposition is reflecting the final view of the law that the Attorney General would like to see brought about. However, it is reflected in a much clearer way and in a way in which the legal system can deal with these questions more expeditiously and cleanly, and with less expense and less judicial fuss. I do not have the quote in front of me from Parker v Taylor, to which the Minister has referred, but I think the amendment I have proposed reflects the position to which the Chief Justice was adverting in that decision, where he indicated such appeal should be brought only in exceptional cases. My understanding of the statement read seems to confirm that. I urge the Minister to have further discussion with the Attorney General about this amendment because the Opposition is most serious on this matter and is not speaking simply to take up time. The Opposition feels it is an essential check and balance which should be seen in that light.

Mr PRINCE: I accept that the matter is treated seriously because I am aware that debate took place on this matter in the other place, although it was perhaps not as long and comprehensive. The Chief Justice stated -

> All of these considerations point to a conclusion that the *Justices Act* should be amended to exclude right of appeal from a decision to commit for trial, or at least limit such appeals to circumstances where the jurisdiction of the magistrate to proceed to committal can be questioned or where it is contended that the information or complaint discloses no offence known to the law or where there are otherwise exceptional circumstances which would justify the intervention of the court at that stage. My preference would be to exclude any right of appeal and leave the parties to the remedy of a declaration which would be available in exceptional circumstances, including those I have mentioned and other cases where the prosecution and the defence agree that the case involves a question of law which, if resolved in proceedings for a declaration, may avoid the time and expense of a trial.

He is saying a right of appeal, even by way of leave to appeal which is currently provided under the Justices Act, should be removed. What should remain - the words used by the Chief Justice are almost identical to those used by the Attorney General to Mr Tennant - is a declaration where there are grounds for declaration, particularly where no offence is known to the law and under exceptional circumstances only. That is the result of the substantive amendment before the Committee to remove that right of appeal by way of leave. I cannot take the matter further. We have reached a stalemate and the matter has been adequately debated. I shall move in the third reading for a recommittal to move an amendment already approved, so this legislation must be returned to the Council and may be subject to further debate. In the meantime the substance of this debate will be conveyed to the Attorney General.

Mr D.L. SMITH: I always appreciate it when any member of the judiciary, at whatever level, points out his views on policy matters concerning appeals and process and the state of the law. However, we must be careful, even when they come from such a distinguished person as our Chief Justice, not to adopt the position that his view is necessarily right in policy terms. Policy and legislative role will continue to belong to the Government and the Parliament. Although we encourage and invite expert opinion and advice from people such as the Chief Justice, we will not always accept it. I and the Minister know that the Chief Justice is probably one of the supreme experts on administrative law. He probably thinks that declaratory applications are within the scope and skill of every person who appears within the criminal jurisdiction.

Mr Prince: I think you underrate his intellect.

Mr D.L. SMITH: I certainly do not underrate his intellect.

Mr Prince: It is unfair to assume that he would think that everyone has the same competence.

Mr D.L. SMITH: He has one of the most superior intellects I have ever come across. We have been very fortunate with our Chief Justices in the period I have been in practice. Nonetheless, quite frankly there is an expectation by the Chief Justice that the competence of the general profession should be extremely high. I believe that concerning administrative law he misunderstands how competent is the profession, especially the profession dealing with matters in the criminal jurisdiction area. That is no disrespect to the people in the criminal jurisdiction. That is their speciality. Some practitioners are experts and almost equal to the Chief Justice in their knowledge of the administrative law area. However, it is not true of everybody in that area.

More importantly, this is not only a right of appeal in relation to a criminal matter that should be preserved, but also a peculiarly one-sided situation where the magistrate decides there is insufficient evidence for a person to go to trial. The Director of Public Prosecutions does not have to appeal. He examines the decision and issues an ex officio indictment. Why would he bother seeking a declaratory judgment from the Supreme Court? He can issue his ex officio indictment and if there is acquittal, he can appeal against that and get his answer by that process. There is a simple administrative procedure whereby he can overcome the decision.

Mr Prince: If there was a question of law, I suggest it would be appropriate for him to do so. It would then be in the public interest to have a declaration made.

Mr D.L. SMITH: He can get the answer on the law by going to trial.

Mr Prince: No; he would not, because he would put the person on trial probably for their liberty, when the point in issue is a question of law.

Mr D.L. SMITH: The Minister is answering his own argument.

Mr Prince: I am not; I am answering yours.

Mr D.L. SMITH: These matters are often about the freedom and reputation of individuals. In a situation that is peculiarly one sided, where the DPP has access to ex officio indictments, it is critically important that we preserve this right of appeal to add balance to that situation. The extent to which this right of appeal will be used will depend on the superior courts. If the superior courts send a strong message that they will consider upholding these appeals in the most exceptional circumstances, the profession will wise up; its members will not appeal unnecessarily. They

will appeal only where they think they have a chance of success. In some cases allowance must be made for those people who will appeal regardless of whether they will have success. However, they can be dealt with by approach of the judiciary rather than by abolishing the rights of appeal we now have.

Mr GRILL: At the beginning of my remarks this afternoon I said that there appeared to be two grounds on which the Government decided to remove this appeal. The first was on the basis that it clogged up the courts, was a waste of judicial time and was a fetter on the judicial process. It is clear that evidence has not come forward from the Government to support that position and it will not come forward for some time, if in fact there is evidence.

The second ground seems to be that the DPP has an unfettered discretion and that allowing appeal in the face of that discretion once again is probably a waste of judicial time. The Minister has supported that proposition by talking about an underlying fact that committal proceedings are in a hybrid of administrative procedure and criminal legal procedure. However, if he takes the argument that in any event, even after a successful appeal, the DPP can still proceed to indict an offender, he is really mounting an argument, if we take it to its logical conclusion, that there probably should not be any committal proceedings at all.

Mr Prince: No.

Mr GRILL: Taken to its logical conclusion, that appears to be the argument.

Mr Prince: No; I expressly said that was not the case. The committal procedure is better called the preliminary hearing and it has many uses other than the decision of whether a person should be committed to trial. I would defend it for the other uses.

Mr GRILL: Nonetheless, its primary purpose is to ascertain whether there is a prima facie case.

Mr Prince: That's right.

Mr GRILL: It is that issue that would be appealed and over which ultimately the DPP would exercise his discretion. If the logic being put forward by the Government is taken to its final conclusion, for that purpose we would do away with the committal or preliminary proceedings altogether. I, and I suspect the Minister, will argue that a committal proceeding is a filter, a check and balance. I will also argue that the appeal proceedings are a very important check and balance. Without that ability for appeal there is no check and balance for the magistrate when he comes to deal with committal. We are dealing here with issues of liberty and serious questions of criminal law. I believe the proposition the Opposition is putting forward today with this amendment is very close to the position adopted by the Attorney General and advocated by the Chief Justice. At the end of the day the only difference between the propositions being put forward by the Opposition, the Government and the Chief Justice is the method by which an appeal would be allowed in exceptional circumstances. We are arguing for a simpler, more direct and less expensive model. We think on that basis alone our amendment deserves further consideration.

Amendment put and negatived.

Clause put and passed.

Clauses 40 and 41 put and passed.

Clause 42: Section 119 amended -

Mr PRINCE: I move -

Page 21, line 26 - To delete "cannot" and substitute "may only".

Page 21, line 29 - To delete "or" and substitute "and".

Page 22, line 2 - To insert after "has" the word "not".

Page 22, line 4 - To delete "or" and substitute "and".

Page 22, line 5 - To insert after "has" the word "not".

These amendments are to avoid ambiguity that could arise when reading through the clauses, and also to bring the language into line with the sentencing Act.

Amendments put and passed.

Mr BROWN: Section 119 of the Young Offenders Act provides for an order to be made by the court for a particular kind of detention. The order that may be made by the court in this respect concerns the Laverton work camp. The creation of a work camp in Western Australia was discussed at length when it was first promulgated by the Government and it was discussed at some length when the Young Offenders Act came before the Parliament in 1994. However, the Parliament did not deal in any substantive way with section 119 because an agreement was reached behind the Chair between the Government and the Opposition to expedite the remaining clauses of that legislation and to refer it to the Standing Committee on Legislation in the other place. Members will not find a great deal about

the matter in the *Hansard* record of the debate of the Committee at that time. However, the procedural agreement entered into between the Government and the Opposition about the manner in which the Bill was to be handled is reported on page 4443 of *Hansard* of 15 September 1994.

It is important in considering this amendment to the Young Offenders Act to examine what it seeks to do. To do that, we must go to section 119 of the Young Offenders Act and examine the circumstances under which a young offender - that is, an offender under 18 years of age - may be sentenced to the work camp. Section 119 provides that a direction authorising an offender to be sent to the work camp cannot be made unless the offender has reached 16 years of age when the sentence is imposed. If the offender has previously been convicted of an offence prescribed for the purposes of that section, the offender is equally ineligible to be sentenced or serve his time at the camp. Equally, the section provides that if an offender has previously served all or any other sentence of imprisonment or detention, that offender is not eligible to be placed in the work camp. It was quite an explicit provision of the Act that young offenders who may receive an order under section 119 would be people who had been convicted of certain offences, but not offences that were prescribed, and that they would be people who had not previously served any period of imprisonment or detention. This amendment seeks to substantially change what was then included in the Young Offenders Act.

Mr PRINCE: I am obliged to the member for Morley for that exposition on what is before the Chamber. The intent and effect of the amendment before the Chamber is to put into effect the recommendations of the President of the Children's Court, who indicated that occasions had arisen when the president dealt with offenders who could have benefited from the camp but who were unable to obtain that benefit because they were excluded from being sent there by the strict legislative provisions. The effect of the amendments before the Chamber is to remove the words "prescribed offence" so that section 119(1) will read that in sentencing the offender to a term of detention of not less than nine months, it may be directed that the offender be detained at a detention centre. By repealing section 119(2) and re-enacting it in a slightly different form the result is that directions can be made if the offender is 16 years of age and consents to going to the Kurli Murri work camp. That will give a greater discretion to the Children's Court in its sentencing options at the consent of the person who is being sentenced and is in line with the recommendations of the president.

Mr BROWN: I thank the Minister for that explanation. The Bill seeks to go against the original thrust of the intent of this section of the Young Offenders Act.

I refer the Minister to *Hansard*, page 2764 of 1994, which contains a second reading response by the then Attorney General as follows -

> We wish to build upon those principles to ensure that first time offenders who have committed a serious offence and who are considered for imprisonment are given the support they need to take advantage of this initiative. It is one part of the measures designed to keep young people out of prison.
>
> This is a real sentencing alternative for young adults 18 to 21 years of age who would be considered for imprisonment for a first offence; it is not designed for those who committed a second, third or fourth offence.

Again, on page 2765 of the 1994 *Hansard*, the then Attorney General stated -

> I will again tell the story of an 18 year old who, for the first time, committed a series of break and enter offences and was imprisoned for three years, subject to parole, and was therefore sentenced to 12 months in the Canning Vale Prison. That sort of person would benefit greatly from an alternative, much shorter, sentence to a work camp followed by intensive supervision rather than being contaminated by the hardened criminals in Canning Vale.

The purpose of the provision when included in the Young Offenders Bill in 1994 was to ensure that those young people who had been convicted of an offence and sentenced to a term of imprisonment or detention would be sent to the work camp only if it were their first term of imprisonment; that is, the intent was to keep those offenders away from what the Attorney General called at that time "hardened criminals". As the Attorney General then said, that was designed to ensure that such offenders coming into prison for the first time were not "contaminated by hardened criminals".

We have not had an explanation of why the logic of the section, then included and supported by the then Attorney General, no longer applies. Why is that particular view of the need to separate offenders going into prison for the first time from other offenders who had previously served a period of imprisonment or detention no longer appropriate? I accept that this section gives the Supreme Court, the District Court or a judge of the Children's Court a certain discretion - it is not absolute. However, whether or not the discretion is exercised by a member of the court, it seems to fly in the face of what was the original intent. That being the case, I would be keen to know what information, assessments or reports the Government has to show that the original logic that was used in drafting the Bill is somehow flawed and should be replaced.

Mr D.L. SMITH: My understanding of the rhetoric used when this matter was going through the House the first time was simply what the member for Morley has said: The people who would go to this work camp would be those who agreed to go; they would not be guilty of serious offences and they would not be repeat offenders. The assurances given to the people of Laverton and the other locations considered for this centre were based on that premise. They would not suddenly find a hoard of serious and repeat offenders turning up in the district and being accommodated at the work camp.

Of course, this has a number of implications, not just from the point of view of the security and safety of the district where the work camp is located. It changes substantially the tenor of the work camp in a way that requires different personnel, different programs and different security levels, and some of the basic notions of the work camp suddenly disappear. The Supreme Court, the District Court and the President of the Children's Court will not know who else is at the work camp when the sentenced is imposed. If a young offender is there for the first time, who knows who else will be in the camp when he gets there?

We well know that the peer groups formed in juvenile institutions are one of the major obstacles to rehabilitation of those juveniles. They go in and if they form peer groups with serious repeat offenders, the next thing we know, when they are released, those serious repeat offenders are turning up at their home and taking them joyriding, ram raiding service stations and they are being chased along highways at enormous speeds. The avoidance of those sorts of peer groups was given as one of the reasons we should have these work camps. We would be putting together a group of individuals who would benefit from a different experience and who would not be, in effect, forming offender peer groups that could lead them to be involved in more serious offences when they leave prison than those they committed previously. The camp was given as another rehabilitation option that would be attractive, and some juveniles would consent to it because that is the approach they would see.

The other problem with a remote location like Laverton where one starts to accommodate serious and repeat offenders, however young, is that it is not a location where a TRG-type team could be held in reserve if there were a major security or violence problem. The only people who would be able to go to this work camp quickly would be the police from Laverton, and they are already under-resourced, undermanned and over stretched. We should not be making this sort of change and creating all those new problems without, first, undertaking a substantial re-examination of the infrastructure, the capital and the staffing. Secondly, we should be obtaining a clear exposition by someone who knows a lot about juvenile institutions that this will not lead to a situation that will be dangerous to the individuals who are sentenced, the custodians of those individuals or to the Laverton community if there is a mass breakout. We must ensure that we are not developing peer groups that will be much worse when they get out than they were when they went in. It is one thing to say that the judiciary will take that into account when it decides who is going there, but the truth is that many of these things are not done adequately or appropriately.

Mr PRINCE: Both members have repeated what was said when the legislation was first brought in. I will reiterate what was said in the second reading speech. The President of the Children's Court indicated that on occasions she could have dealt with offenders who could have benefited from the camp but were excluded by the present legislative provisions. Superior court judges have also been included as a result of this amendment. The President of the Children's Court, Judge Mary Anne Yates, in writing to the Attorney last year gave a number of examples.

A 17 year old was found guilty of a serious case but was young and relatively immature and had not been to prison before. However, because it was a schedule 2 offence, he was ineligible for the camp. A young offender of just 16 years of age had no father figure in his life and appeared to lack discipline. The judge wrote that she would have considered the camp, had it not been that on a prior occasion a magistrate had sentenced him to six weeks' detention for another matter. The circumstances and nature of the offence of another young offender were such that it was a schedule 2 offence and he could not therefore go to the camp. The judge wrote that it would have been suitable for him. In other words, she gave three illustrations. There are many other examples.

She went on to write that because of the unique and specialised sentencing of young offenders undertaken by the President of the Children's Court "it is my recommendation that section 119 of the Young Offenders Act be amended to allow the President the discretion to send any young offender over the age of 16 years to Camp Kurli Murri. As a judge of the District Court I would not wish to alter the existing restrictions." She also wrote that in that court, as a sentencing judge she dealt with young adults who fell within the criteria and could have benefitted from the camp as an alternative to adult imprisonment. That judge, who was formerly a fairly senior crown prosecutor of some years' standing, who sat as President of the Children's Court and also sat in the District Court, is making careful, considered recommendations for changes to the legislation as a result of her experience as a judge in the Children's Court and also the District Court. She had before her examples of cases where offenders could have benefited from being sent to the camp, particularly from a rehabilitative point of view, bearing in mind who they are, their backgrounds and so forth. However, she is prevented from doing so by the nature of the legislation we have at the moment. We seek here to amend the legislation to give the President of the Children's Court the discretion that she says after sober and careful contemplation and experience should exist.

Mr BROWN: I thank the Minister for that explanation and I respect the views of the judge. However, one of the things that did not appear to be in the material that the Minister read was the concern raised by the Attorney General

when this Bill was first introduced; that is, that a deliberate government policy was to keep to one side people who were going to prison for the first time. The view of the Attorney General at that time was that it was appropriate, given the fact that people going into prison or a detention centre for the first time could be contaminated by other harder core offenders.

Mr Prince: The judge said that notwithstanding that, where a serious case requires detention, notwithstanding that it is a first offence, the person, being a child, young and immature, could benefit from the work camp, otherwise he will go to prison. He would be much better off in the work camp from the point of view of his rehabilitation. That is one of the examples she gave.

Mr BROWN: I can understand if the legislation sought to give a greater discretion to the judiciary to sentence the offenders to the work camp when they had committed certain proscribed offences and a member of the judiciary thought it was appropriate for them to go to the work camp. I understand why the judiciary wants that discretion. Although that clashes with the legislation, it does not clash with the logic of the former Attorney General of separating those who have been in before from those who are going in for the first time. I have not heard anything from the Minister about the report provided to him by the judge which indicates that matters of contamination, as referred to by the former Attorney General, have been taken into account. Either they have and they have been dismissed, in which case the views of the former Attorney General -

Mr Prince: I have not made myself clear. The judge said that she will have to send an immature young person to a place of detention where there will be contamination. Because of the nature of the young offender's immaturity, notwithstanding the seriousness of the offence, he would be better off at Camp Kurli Murri. She cannot make that determination because of the nature of the offence.

Mr BROWN: I understand that entirely. There are two categories of change, the first of which is to give the judge greater discretion to send offenders to the camp who would otherwise not be eligible because of the nature of the offence they have committed. I understand the judge saying, "In this case even though it is a prescribed offence, I think that logically and in all the circumstances of the case this young person would be better off being placed in the camp." However, a second criterion has been changed by this Bill; that is, that a discretion will be given to the court to enable it to send an offender to the work camp when that offender has previously served a period of detention.

Mr Prince: Yes.

Mr BROWN: If that were the case, would we not then get contamination? The rationale originally was that people at the work camp would not have been in the system, as it were.

Mr Prince: It refers back to Children's Court magistrates' powers to be able to send people to some form of detention for a very short period for relatively minor offences. When they do that it automatically makes offenders ineligible for the work camp.

Mr D.L. SMITH: It seemed to me that most of the cases that Judge Yates was talking about involved first offences of a serious nature.

Mr Prince: No. One of them was a serious offence when there had been prior minor offences for which some days of detention had been served. Because of the prior minor offences, which were for traffic matters, the person therefore was ineligible, notwithstanding that he would probably have been ineligible as a result of the more serious offence in any event. However, the Children's Court magistrate sent the person to prison for a week or something like that. That makes the person ineligible for the work camp for a second offence, notwithstanding the judge's view that the person should have gone to the camp.

Mr D.L. SMITH: The Minister is changing the legislation so that, first, there could be a serious first offence, and, secondly, because no limitation exists, the offender could have been imprisoned several times for quite serious matters. My understanding of the criteria for the selection of people to go to the work camp was that it was not to be a soft option; if there were a serious offence for which institutional care was appropriate, that would be it. That person was not to be contaminated by coming into contact with serious and repeat offenders, as he would do in an ordinary type of institution.

Mr Prince: We are not talking about serious and repeat offenders but someone who may have served seven days or something of that nature for a relatively trivial offence.

Mr D.L. SMITH: Under these provisions, there is nothing to prevent a serious repeat offender from being sent to the work camp.

Mr Prince: The court understands that.

Mr D.L. SMITH: The court understands the person it is dealing with, but it does not understand the people who have gone to the camp under somebody else's direction. The third reason the Minister is changing the legislation is that, because of the nature of the security, staffing and isolation, he did not want dangerous young offenders placed together in an isolated situation next to a small community. Even if we were to set aside all three reasons and accept

that the judges and magistrates who have been writing to the Minister, the Attorney General and the Minister for Family and Children's Services are right, surely, before we move down that track, we must re-examine the issue, because the criteria will be different in terms of the people who are sent there and the nature of this institution. We must re-examine, firstly, whether the security needs upgrading; secondly, whether there should be staffing changes; thirdly, whether we should look at the level of resources; and, fourthly, whether the question of staff flying in and flying out and not being resident nearby the camp should be reviewed.

I said earlier today on another issue that I welcome any advice, especially from judges or the President of the Children's Court, on any policy matter especially in relation to issues which affect young offenders. When we accept advice on changing a sentencing option we owe an obligation to the community to make sure that we are not changing the legislation simply to allow the judge or the president to do what he or she thinks is appropriate. We must make certain that an assessment is made of whether what the judge is seeking in relation to the particular camp is either appropriate or possible. Where is the security report? Where is the staffing report? Where is the report on the peer group issue? Should we be limiting it in a manner that still has regard for the principles which were espoused by the former Attorney General when she introduced this legislation? The Minister appears to be saying that because the judges have passed on this recommendation, it should be accepted without members considering the operations of the work camp to determine what else should be done. That is not the right approach to take. If we are to accept the advice, an assessment of the centre must be undertaken to make sure we are not creating a monster for the community.

Mr BROWN: This is an important issue and it is unfortunate we do not have more time to debate it. Last time this issue was before the Parliament the legislation was caught by the guillotine.

My concern with this Bill is that the Government commissioned the report about the work camp from former Judge Kingsley Newman. I am not sure whether that report deals with other matters concerning the juvenile justice system. I understand the report has been submitted to the Minister and is currently under consideration. I am not privy to the recommendations in the report, but it appears that the Parliament is changing the legislation before the report of former Judge Kingsley Newman is made public.

If we consider the people who have been sent to the camp, we will find that not one juvenile offender has been among them. Very few offenders between the ages of 18 and 21 have been sent to the camp. The running of the camp has been costly. I refer members to question on notice 528 of 1995, which outlines the costs of running the camp. To date, 35 offenders have been sent to the camp, of whom 21 completed a four month period. In March this year there were six offenders at the camp and the figure increased to eight and is now back to six. The Opposition has asked a range of questions about the operation of the camp. Suffice to say, the history of the camp is not wonderful.

I said in the second reading debate that it is unfortunate this Bill is before the Chamber. It really is more about saving face than introducing possible changes to the juvenile justice system. If that is the case, it is an unfortunate day for Western Australia. Members should be concerned about the juvenile justice system from the point of view of not only the young people who are unfortunate to get caught up in it, but also the protection of the broader public.

[Time allowed for completion of all stages of the Criminal Law Amendment Bill extended until 5.45 pm, on motion by Mr Cowan (Deputy Premier).]

Clause, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

Recommittal

On motion by Mr Prince (Minister for Health), resolved -

That the Bill be recommitted for the further consideration of clause 7.

Committee

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

Clause 7: Section 68 amended -

Clause put and negatived.

Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Prince (Minister for Health), and returned to the Council with amendments.

TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Mr Cowan (Deputy Premier), and transmitted to the Council.

House adjourned at 5.33 pm

QUESTIONS ON NOTICE

CONTRACTING OUT - GOVERNMENT SERVICES

1398. Dr GALLOP to the Minister for Planning; Heritage:

(1) Since 1993, what services have been contracted out by individual agencies within the Minister's portfolio and what is the total cost of those contracts for each year?
(2) What are the names of the companies that have received contracts in the 1995-1996 financial year?
(3) What is the value of each contract in excess of $50,000?
(4) In relation to (3) above, what is the demonstrated saving of each service contracted out?
(5) In relation to (3) above, does the contractor have access to, or use of, any government services or facilities in the performance of the contract?
(6) If so, what are they?

Mr LEWIS replied:

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

ANIMAL WELFARE BILL - PASSAGE THROUGH PARLIAMENT

1584. Mr PENDAL to the Minister for Local Government:

(1) When is it proposed to introduce into Parliament the new animal welfare Bill?
(2) Is it intended to proceed with the Bill immediately on introduction?
(3) When does the Minister expect it will pass all stages?

Mr OMODEI replied:

(1)-(3) Approval to draft the animal welfare Bill has been given by Cabinet but departmental resources have been required to finalise the Local Government Act 1995 and its implementation. Drafting instructions are being prepared for parliamentary counsel but it is unlikely that the Bill will pass this year.

URBAN BUSHLAND - CLASSIFICATION

1608. Dr CONSTABLE to the Minister for Planning:

(1) Has the Urban Bushland Advisory Group made any recommendations that bushland in -

(a) Floreat;
(b) City Beach;
(c) Wembley Downs;
(d) Churchlands;
(e) Woodlands;
(f) Wembley;
(g) Doubleview; and
(h) Scarborough,

be classified as of regional significance?

(2) If yes, what bushland?

(3) What organisation or individual has the ultimate power to determine whether urban bushland is of local significance?

Mr LEWIS replied:

(1) No, the Urban Bushland Advisory Group has not recommended that bushland in the suburbs listed be classified for regional significance. These areas contain vegetation complexes which are adequately represented in protected areas.

(2) Not applicable.

(3) The State Government decision-making authorities will determine only what is regionally significant. The Western Australian Municipal Association has stated that it does believe that it is appropriate for the State Government to dictate what is locally significant. To this end, while state agencies can provide advice regarding the significance of urban bushland, the local government agencies must make the final decision.

ANIMAL WELFARE BILL - PASSAGE THROUGH PARLIAMENT

1652. Dr WATSON to the Minister for Local Government:

(1) When is the animal welfare Bill to be introduced?

(2) What are the reasons for the delay in its introduction?

Mr OMODEI replied:

(1)-(2) Approval to draft the animal welfare Bill has been given by Cabinet but departmental resources have been required to finalise the Local Government Act 1995 and its implementation. Drafting instructions are being prepared for parliamentary counsel but it is unlikely that the Bill will pass this year.

QUESTIONS WITHOUT NOTICE

TERTIARY EDUCATION - UNIVERSITIES; TAFE, FUNDING

393. Mr KOBELKE to the Premier:

In releasing the state coalition's tertiary education policy in 1993 the Premier said the coalition would promote increased tertiary participation. He said -

> . . . Providing additional student places at tertiary institutions if the Commonwealth does not provide sufficient funding to meet existing or future requirements for our State's development.

Given the fact that $84.9m is being slashed from university funding this financial year and that universities say that 500 places will be lost in this State alone, will the Premier honour his word?

Mr COURT replied:

The member will be aware that funding for universities is the responsibility of the Federal Government. The State provides a large part of the funding for the technical and further education programs, which it is doing under the Australian National Training Authority. In its commitment to TAFE, the State has shown it is prepared to improve considerably that operation and the number of places available. I repeat that the funding for universities is a Federal Government responsibility.

Dr Gallop: Will you expand the places to meet the needs that will come to TAFE as a result of fewer university places?

Mr COURT: The Government is always expanding the number of TAFE places and also changing the type of training that is being provided because of the changing skills requirements in the State.

TERTIARY EDUCATION - UNIVERSITIES, FUNDING

394. Mr KOBELKE to the Premier:

The Premier has refused to answer my question. I ask him again about the specific promise he gave at the last election that if the Liberal Party were elected, the State would fund additional tertiary university places, if needed. Will the Premier fulfil that promise or will this be yet another broken promise?

Mr COURT replied:

The member said "if needed". They are needed in the technical and further education area, and the Government has been providing them. The member is saying that it is anticipated there will be a change of 500 in the number of places. The Minister for Education will follow that matter closely and we will see just what is the change in numbers.

TRAFFIC LIGHTS - FARRALL-MORRISON ROADS, MIDVALE, INSTALLATION

395. Mrs van de KLASHORST to the Minister representing the Minister for Transport:

The Midvale business community and local road users are very concerned about the dangerous crossing at the corner of Farrall and Morrison Roads, Midvale. At this corner is a major interaction with both commercial and domestic vehicles, so the residents are requesting traffic lights. Will the Minister advise if, and when, traffic lights will be installed?

Mr LEWIS replied:

I thank the member for some notice of this question.

I have been advised by my colleague the Minister for Transport that these traffic signals will be installed in late December 1996.

ROAD FUNDING - *FIX AUSTRALIA-FIX THE ROADS* CAMPAIGN; FUEL TAX

396. **Mrs ROBERTS to the Premier and Treasurer:**

Given the Howard Government's decision to slash road funding by $620m, I ask -

(1) Will the Premier now the taxpayer funded TV and newspaper Fix Australia - Fix the Roads crusade was a colossal waste of money?

(2) Will he admit that the federal Liberal Government is not only slashing the State's road funds, but also is ripping an extra $10m from Western Australian motorists after its fuel excise hike on 1 August?

Several members interjected.

The SPEAKER: Members on both sides will come to order.

Mr COURT replied:

(1) The member should be straight when she asks a question about the fuel tax, because she knows that it is indexed and that it goes up all the time. That was the whole point -

Several members interjected.

The SPEAKER: Order!

Mr COURT: - we were making in our campaign.

Mrs Roberts interjected.

Mr COURT: I agree with the member. I am saying that the Federal Government is taking an ever increasing share of fuel taxes and that is why more money should be coming back to the road system. Members opposite will not get any argument whatsoever from me about that.

As a State Government we put all of the money we are raising in fuel taxes back into the roads. Members opposite did not; they were putting it into other areas such as public transport. We took it out of there and returned it to the road system. I agree entirely when it comes to the -

Mr Graham interjected.

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

Mr COURT: - tax being collected on fuel by the Federal Government. It should be putting more and more of that back into the State. As far as the Federal Government's responsibility to the national highways program is concerned, it is being shortsighted in not increasing the funding for that important infrastructure.

(2) No.

ROAD FUNDING - NATIONAL HIGHWAYS PROGRAM

397. Mrs ROBERTS to the Premier and Treasurer:

Yesterday the Premier said that the State's road funding is not affected; that the Federal Government's national highway funding is affected. Where does he think the national highways are?

Mr COURT replied:

I will explain it again in simple terms.

Several members interjected.

The SPEAKER: Order! I am amazed that there is so much dissension when apparently we are in agreement.

Mr COURT: The national highways program is the responsibility of the Federal Government and is funded by the Federal Government. The state road programs relate to all the other roads, apart from those covered by the national highways program and those covered by local government. As a State Government we have committed - in addition to the other moneys we are putting into roads, which includes those moneys that the previous Government was not spending - an additional $1b over 10 years, which is coming from the 4¢ a litre levy, and all of that is going into the roads.

BOLD REGIONAL PARK - MT CLAREMONT ENDOWMENT LAND, SALE

398. Dr CONSTABLE to the Minister for Local Government:

My question relates to the article in this week's *Post* newspaper regarding the dispute between the Government and the Town of Cambridge about the endowment land in Mt Claremont sold to the Government for $1 by the commissioners of the town in 1995 to be developed to provide finance for Bold Regional Park.

(1) Is the Government considering introducing legislation to require the Cambridge Council to hand over the land in question?

(2) Were the negotiations between the Government and the commissioners properly documented, and are any records relating to the negotiations and the sale missing?

Mr OMODEI replied:

I thank the member for some notice of this question.

(1)-(2) I met with the Mayor and the Chief Executive Officer of the Town of Cambridge on 8 August. I indicated to them that Bold Regional Park was one of a number of issues that I want to settle. Because this issue is part of the wash up of the restructure of the City of Perth and because the new town offices will be open very shortly, I am keen to resolve those issues.

Yesterday I wrote to the council prior to my discussions with the member and outlined a package that I want to use in settling those issues. I hope the council will seriously consider the very generous package that I propose. In relation to Bold Regional Park, as the member quite rightly said, the commissioners when acting as the Town of Cambridge entered into agreements which the current council refuses to honour. In respect of Mt Claremont lands, the State Government has offered to share the proceeds of sale of the blocks known as F and G which will provide an endowment fund for the city and also for the running of Bold Regional Park. Therefore, the cash that will be made available to the council can be used for whatever purpose it chooses.

Mr Kobelke: It is a shonky deal for the Premier and his mates.

The SPEAKER: Order!

Mr OMODEI: This agreement is like a number of decisions that were taken by the commissioners of the city relating to office accommodation, depot sites and a whole range of other matters. On this one occasion the Town of Cambridge has chosen to disagree with the proposition agreed to by the commissioners. If the council chooses to disagree with the package I put forward, which also includes possible funds out of the restructure fund for a new library, the State Government will have two options, one to legislate, and the other to take legal action to force the council to honour the agreement made by the commissioners.

Mr Court: He calls it a shonky deal!

Several members interjected.

The SPEAKER: Order!

CONTAINERS - DEPOSIT SCHEME

399. Mr DAY to the Minister representing the Minister for the Environment:

I refer to the drink container deposit system which exists in South Australia in order to reduce the amount of litter in the State and ask -

(1) Does the Government have any plans to introduce a similar scheme in Western Australia?

(2) If not, for what reason?

Mr MINSON replied:

I have been able to obtain some notes from the Minister.

(1) No.

(2) The State is not considering such a deposit system. The Minister has given a number of points to which I will refer so that I get it right. A study of the container deposit legislation in South Australia indicates, first, that it is too focused and less effective than anti-litter laws and programs because primarily it deals with only beverage containers. Secondly, it is too expensive because, according to the Commonwealth Business Review Unit, it would cost about $500m across Australia to solve a $50m problem. Thirdly, it creates problems for kerbside recycling services and does nothing to tackle other forms of litter, much of which needs to be recycled. I refer the member to the Minister's answer to question No 875 in the Legislative Council where he expanded on that matter.

NURSING HOMES - NEW FEES

400. Dr WATSON to the Minister for Seniors:

(1) Is the Minister urgently approaching the federal Minister for aged services to demand that the iniquitous upfront fees for entry into a nursing home of $26 000 up to $88 000 be abandoned?

(2) Is the Minister aware that this new fee will force some aged couples to sell their only asset - their home - when only one partner needs to enter a nursing home?

(3) Is the Minister aware that nursing home residents who are not full pensioners will also be charged fees of up to $12 000 a year.

Mrs EDWARDES replied:

(1)-(3)

As the Minister for Seniors I have a lot of consultation with the Minister for Health, who administers those funds relating to the commonwealth department. As such, the Minister for Health will -

Dr Gallop: That is not the question.

Mrs EDWARDES: Listen. I am meeting Judy Moylan in the next couple of weeks. I will be liaising with the Minister for Health who will be taking on the issue with not only Judy Moylan, but more particularly Dr Michael Wooldridge.

NURSING HOMES - NEW FEES

401. Dr WATSON to the Minister for Seniors:

That is not a satisfactory answer. My supplementary question is whether the Minister intends to wash her hands of those issues, or will the State Government consider compensating aged Western Australians to ensure that they all have access to nursing homes regardless of their income and asset base.

Mrs EDWARDES replied:

I have indicated that I will be meeting with Judy Moylan in the next couple of weeks. Those matters clearly fall within the administration of my colleague, and I will be liaising, as the Minister for Seniors, with the Minister for Health on policy.

ABORIGINAL LANDS TRUST - REVIEW

402. Dr HAMES to the Minister for Aboriginal Affairs:

Some notice of this question has been given. It is good timing by the students to be in the Public Gallery as this question involves two ex-Guildford Grammar students from this side in a row!

The article in *The West Australian* today on the Aboriginal Lands Trust review implied that the Government had accepted the finding of the review without public consultation. Can the Minister confirm whether this is true?

Mr PRINCE replied:

I think the report in *The West Australian* today is a little unfortunate as it is not a true representation of the situation regarding the report on the Aboriginal Lands Trust, notwithstanding that I spoke to the reporter at some length yesterday afternoon. There could be an unfortunate inference - the subject of the member's question - from that report.

The review of the Aboriginal Lands Trust was undertaken in response to a number of recommendations in the Premier's social justice task force report of April 1994. The review team was headed by former senator Neville Bonner, and included a number of people from mining, pastoral and Aboriginal backgrounds, as well as people involved in the administration of the trust. The report as such was presented to Government and Cabinet determined that it should be released for public comment, and that a report should be made after a period of public consultation.

I tabled the report in this House on Tuesday, the date on which some 3 500 copies of the report were distributed through the Aboriginal Affairs Department to Aboriginal and non-Aboriginal organisations which had shown an interest in the matter, to regional offices of the Aboriginal Affairs Department and to the Chamber of Mines and Energy of Western Australia. The intention is that anyone who is interested in the matter should read the report and comment, preferably in writing, by 4 October, or thereafter. There may be an extension on that date. It depends on a number of responses and what comes in. It is intended that a period of public consultation and response on the

report be held, after which responses will be dealt with. The report in the newspaper implies that the report in its totality has been accepted by Government, but that is not the case.

Mr Graham: It still does not give a lot of time for Aboriginal people to respond.

Mr PRINCE: I accept that point; that is why I commented that if it is suggested that the time available - before 4 October - is inadequate, I am more than happy to look at extending it. It appears to be adequate, but it may not be. It is not a sharp cut-off date as far as I am concerned. Some cut-off date must apply to public consultation, and a reasonable period seemed to be until 4 October.

AUSTRALIA II - RELOCATION TO FREMANTLE

403. Mr McGINTY to the Premier:

I refer to the deletion from the federal Budget of an allocation of $208 000 in the Communications and the Arts section for assisting with the relocation of *Australia II* to Fremantle and also to the expectation that *Australia II* will be relocated to its rightful place by the end of next year.

(1) Is the Premier aware that a spokesperson for the federal Department for Communication and the Arts indicated today that it is highly unlikely that the yacht will be coming home to Fremantle in the next 12 months?

(2) Given that a steering committee already has recommended a site at Fremantle to the Premier, what action is he taking to ensure the yacht is returned home?

(3) Is the return of the yacht to Fremantle in jeopardy?

Mr COURT replied:

I thank the member for some notice of this question.

(1) I am not aware that a person from the federal Department for Communications and the Arts indicated today that it is highly unlikely that the yacht will come to Fremantle in the next 12 months. To the contrary, the Government and its agencies have been actively pursuing the return of the yacht to Western Australia and I refer to correspondence received from the federal Minister for Communications and the Arts on 10 July this year. Senator Alston said that he had considered all the issues surrounding the possible return of *Australia II* and had decided, in view of its special significance to the people of Western Australia, that the yacht should be displayed in Fremantle. He also said that it would be appropriate for the transfer to coincide with the maritime year celebrations in 1997. The Minister for the Arts has advised me of the timetable the Government is pursuing. The Department for the Arts is contacting the federal Department for Communications and the Arts to seek clarification on that issue.

(2)-(3) The Minister for the Arts has also advised that the Government is committed to providing a public home for *Australia II* at Fremantle. Funding has been allocated this financial year to the museum to enable detailed planning to continue and to finalise negotiations relating to the ownership and transfer of the yacht. Planning for the appropriate site for the yacht is being finalised and this will enable site preparation and construction to commence at an appropriate time. *Australia II* is an important icon for Western Australia and the Government is certainly determined that it will be displayed in this State for Western Australians to enjoy.

I have been closely following where and how this yacht will be displayed at Fremantle. The Leader of the Opposition will be aware that the Government has been asking local people to make suggestions on the most suitable location. We have an obstacle in the Fremantle Port Authority in respect of what the Government believes is the best location. The Government wants to work through those matters very quickly. It sees the Western Australian Maritime Museum as becoming one of the State's major tourist attractions. A facility will be designed to house not only *Australia II*, but also all the material relevant to this State's modern yachting history. Members know that already the Government owns *Parry Endeavour* and *Perie Banou*, which are the two most significant yachts in modern history for long distance voyages. Hopefully, if young David Dicks arrives home on schedule, this State will make a clean sweep of all the long distance feats. They are quite outstanding. The Government must make sure that not only is there an America's Cup feature, but also a full coverage of modern day yachting history. Planning is also in place for the display of a submarine which has been offered to the Government. The Government is quietly trying to ascertain whether there is available an American submarine which was based in Fremantle during the Second World War. Fremantle was a major submarine base during that war. Preliminary approaches have also been made to Indonesia about the submarines that country used in the Indian Ocean. It is apparent that there is as much interest in the older Dutch shipwrecks as there is in some of the more modern maritime exhibits. The Government will put together a museum complex which will feature the Dutch shipwrecks; the construction

of the *Duyfken* will be an integral part of that project and I am sure there will be a huge interest in it. In addition there will be the modern yacht history, which will incorporate *Australia II*.

Mr McGinty: Will you chase up the lack of federal funding?

Mr COURT: I am coming to that. It is anticipated that there will not be any difficulty with the transportation of *Australia II*. A number of people are prepared to assist the Government in transporting it from the National Maritime Museum. I visited that museum last Friday to see whether the yacht was still there, and it is. It is out of place at that museum and is not very well displayed. It will be properly displayed in its home in a facility which will become one of the State's great tourist attractions.

WORKPLACE AGREEMENTS - WORKER EXPLOITATION, AUSTRALIAN COUNCIL OF TRADE UNIONS

404. Mr TRENORDEN to the Minister for Labour Relations:

It has been reported that the President of the Australian Council of Trade Unions has been asking any worker who is dissatisfied with workplace agreements to contact her. This information will then be used to attack the coalition's industrial relations policy. Does the Minister support the ACTU's action?

Mr KIERATH replied:

If Jenny George from the ACTU is genuine and honestly wants better working conditions and protection for workers, of course I will support her. I am sure that if she or the Trades and Labour Council finds any example of a worker who has been unfairly denied rights or conditions under a workplace agreement, they will contact the Department of Productivity and Labour Relations and the Industrial Inspectorate so that appropriate action can be taken, in the same way most of us would report offences against criminal law to the police. If she is honest, I am sure she will inform the coalition of all examples of worker exploitation that she finds. I had a brief look through some of the recent history of worker exploitation and found that a union organiser with the Australian Meat Industry Employees Union was sacked after he refused to distribute ALP campaign material. He was sacked for refusing to play along with his political masters. A sacked Construction, Forestry, Mining and Energy Union organiser has lodged an unfair dismissal appeal for being dismissed from his union. Democracy is alive and well in the union movement, because three union members in Queensland who decided to stand for election to the union were sacked by those in power! I only hope that she reports all the examples of worker exploitation to the appropriate authorities for action to be taken. I confess that I have doubts that she will do that. I think she will selectively target examples of alleged exploitation. I hope that ultimately her conscience gets the better of her and she does what she should be doing for the working men and women in this country, which is more than I can say for the nasty and nitpicking Opposition.

EXMOUTH MARINA - CIVICON PTY LTD

405. Mr LEAHY to the Minister representing the Minister for Transport:

I have given the Minister some notice of the question. As construction of the $10m Exmouth marina has ground to a halt because of difficulties experienced with private contractor Civicon Pty Ltd, I ask-

(1) Is it true that Civicon has not only been unable to pay some of its employees but also owes a substantial amount of money to local businesses in Exmouth?

(2) Are any of the principals of Civicon former employees of the Department of Transport?

(3) Did this influence the department in awarding the contract or, if not, on what basis was it awarded?

(4) What checks were made on this company's liquidity or capacity to carry out its contract at Exmouth?

Mr LEWIS replied:

I have had no notice of that question. It would be appropriate to put it on notice.
TMENU

EMPLOYMENT - POSITIVE INDICATORS

406. Mr MARSHALL to the Minister for Labour Relations:

Given the continuous criticism from the Opposition about the effects that industrial reform would have on the State, is the Minister aware of the positive employment indicators?

Mr KIERATH replied:

In March this year, the Treasury Department released information on the situation with a number of employment indicators in this State. I am pleased to say that it shows that the average level of employment in March was extremely stable and came on top of a February figure which was a record of nearly 835 000 people in work in this State. We hear the Australian Labor Party and the unions decrying the increase in part time employment in Western

Australia. However, full time employment has increased from 616 400 to 621 400, underpinning the very positive growth in total employment.

I have heard some members of the Opposition claim that excessive overtime is costing jobs. In the March quarter overtime increased by only 1 per cent compared with a decrease of 8.89 per cent in the previous quarter. Again, they were pleasing figures. In this quarter 5 per cent more firms in this State expect to increase rather than decrease employment in the June quarter. That was the best result in the whole of Australia bar none. The unemployment rate in Western Australia still remains one of the lowest in the nation. The long term unemployment rate, which is the most important figure, fell to 23.3 per cent in the September quarter, to 21.6 per cent in the December quarter, and to 19.1 per cent in the March quarter. At the same time the national rate at the end of March was 28.4 per cent. The long term unemployment rate nationally is nearly 10 per cent higher than it is in this State. I have not heard one word of encouragement or congratulations from this Opposition. The Opposition claims to represent the working men and women of this State. I can understand the Labor Party not being keen to congratulate the Government, because it did not achieve that. However, if it were genuinely interested in the welfare of ordinary men and women in the State it should at least offer words of encouragement and congratulations for such outstanding figures.