WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE COUNCIL

Wednesday, 1 July 1998

Legislative Council

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

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT - LAND CONTAMINATION INQUIRY

Motion

Resumed from 25 June on the following motion -

That the House direct the Standing Committee on Ecologically Sustainable Development to inquire into and report upon -

(1) The extent to which land, including groundwater -

(a) in the metropolitan area, and

(b) in the non-metropolitan area, is contaminated by hazardous substances which pose or are likely to pose an immediate or long term hazard to human health and/or the environment.

(2) The number and location of all sites in Western Australia that are identified as contaminated by hazardous substances.

(3) The extent to which -

(a) underground storage tanks, and

(b) other activities, are a source of contamination of land, and the adequacy or otherwise of the manner by which these sources are monitored.

(4) The extent to which there are management strategies currently in place for contaminated sites, and how they could be made more effective.

(5) The financial, health, environmental and legal implications for future redevelopment of land that has been identified as contaminated.

(6) The adequacy or otherwise of existing legislation to properly monitor and manage contaminated sites.

(7) The extent to which "dumping fees" for solid and liquid waste contribute to -

(a) land contamination; and

(b) unlawful safety practices across industry sectors, particularly the building and construction industry.

(8) The policy of the Water Corporation on providing in-fill deep sewerage in existing industrial estates and the degree to which that policy militates against desirable environmental outcomes.

(9) The effectiveness of the Government's response to the recommendations of the 1994 Legislative Assembly's Select Committee on Metropolitan Development and Groundwater Supplies.

(10) Any other matters relating to contaminated sites as the committee deems necessary.

HON RAY HALLIGAN (North Metropolitan) [4.05 pm]: When I spoke last Thursday on this motion, I mentioned the report of the Select Committee on Metropolitan Development and Groundwater Supplies that was completed in 1994. I urged members of the House to read that report because the committee had done some very good work in this area and definitely should be commended.

I noted that, following the committee's concerns about sewerage, the Government decided to undertake infill sewerage work on a major scale. In 1996 the Government announced the official opening of an $18.7m state of the art waste water treatment plant extension in Perth's northern suburbs, which will increase the secondary treatment capacity of the Beenyup waste water treatment plant in Ocean Reef by 50 per cent. The Government stated that this plant could process 112.5 million litres of waste water a day enabling it to cope with a population of 550 000. An enormous amount of information is available on this major undertaking on infill sewerage, and this Government should be commended for that undertaking. However, because of the amount of information that is available, and

knowing the little time available to me, I have decided that there is no purpose in bringing members opposite, in particular, to a climax that I would be unable to fulfil, so I conclude my remarks.

HON KEN TRAVERS (North Metropolitan) [4.08 pm]: I also place on record my support for the work of the Select Committee on Metropolitan Development and Groundwater Supplies. It produced an excellent report, which I have read on a number of occasions. A range of government agencies such as the Water and Rivers Commission are also doing good work in this area. I refer members to the ground water atlas that in part identifies contaminated sites in Western Australia. I congratulate Hon Ray Halligan on his speech. Unfortunately, he missed the point of this motion - that is, locating and identifying contaminated sites. The Select Committee on Metropolitan Development and Groundwater Supplies deals with only one element of this motion - that is, protecting ground water supplies for human consumption from contamination. That committee mainly dealt with how the Jandakot and Gnangara mounds could be protected from further contamination and to address the existing contamination.

It is an instructive report. It highlights the importance of protecting ground water and how dependent we are on it. About 60 per cent of Perth's water supply comes through ground water, 40 per cent of which is provided through the Water Corporation and the remaining 20 per cent through garden bores. Local government authorities also use ground water. Once ground water is contaminated, the ability to clean it up is extremely difficult and that comes at a high cost. First, we must ensure we protect ground water, and the select committee went some way towards looking at the areas from which water is extracted for human consumption. Secondly, we must try to identify the extent of contamination of underground water supplies. In my view this motion seeks to do that.

Paragraph (2) of the motions relates to the committee reporting on the number and location of all sites in Western Australia that are identified as contaminated by hazardous substances. Members will be aware there are numerous such sites, although there is not one document in which all those sites can be found. Mr President, as a member for the North Metropolitan Region, I am sure you are aware of the problems with underground water in the Dianella region.

The PRESIDENT: Order! Before the member goes any further down this path, I advise him that members cannot bring the President into debate. I understand what the member is getting at. He may refer to other members from the North Metropolitan Region.

Hon KEN TRAVERS: Recently, the vegetation on the golf course at Mt Lawley has died as a result of underground pollution. Then there is the plume emanating from the Tamala Park tip. We do not know the extent of the pollution as a result of the tip not being lined. There is an urgent need to identify these contaminated sites.

The third point in the motion goes to some of the specifics of the contamination, including locating underground storage tanks, and they are of great concern to me. A large number of underground storage tanks are at service stations and are used to hold petrol and other materials. The motion is very timely. Earlier this year I read an article about dirt on clean fuel on pages 24 and 25 of the *New Scientist* of 22 November 1997. It referred to a chemical additive to petrol to make it less polluting, which is wreaking havoc on ground water supplies in the United States. The substance added to petrol is known as methyl tertiary-butyl ether, or MTBE for short. The article states -

> However, the most commonly used oxygenate, methyl tertiary-butyl ether . . . has leaked into groundwater supplies from underground petrol storage tanks at tens of thousands of sites across the US and contaminated drinking water in California.

It states further -

> Some scientists claim the chemical causes cancer in animals, and the US Environmental Protection Agency . . . has classified it as a potential carcinogen. Several pressure groups are calling for MTBE to be banned, citing anecdotal evidence of breathing difficulties, headaches and dizziness due to high concentrations of the chemical in the air at petrol pumps.
>
> Drinking it or breathing it in are not the only ways people can ingest MTBE.

That is of major concern. After I read the article, I immediately placed on notice question 1471 to the Minister for Transport, which states -

> Does petrol sold in Western Australian contain methyl tertiary-butyl ether ("MTBE")?

The answer states -

> Methyl tertiary-butyl ether (MTBE) is an octane booster that is often found in imported fuel.

It went on to say that it was not added at the BP refinery, which is good news. Nonetheless, the petrol in the tanks in Western Australia contain MTBE. I have only just become aware of that chemical and I imagine members of this

House will be vitally concerned about it. We must, firstly, identify just how many of the service stations are leaking petrol - in its own right that is a problem - and, secondly, whether MTBE is included in the petrol. If that is the case, I wonder what other nasty chemicals are also included. I hope under this term of reference, the committee will look at those issues.

I want to refer briefly to the sixth paragraph in the motion; that is, for the committee to consider the adequacy or otherwise of existing legislation to monitor and manage contaminated sites. On a number of occasions I have raised my concern about the contamination of the Northbridge tunnel site and the soils there. Following my initial questions, I have come across other information suggesting there has been a major problem at the site, with much of the equipment used to dig the trenches in the sand corroding as a result of the high acidity level in the water. There is also a problem with the chemicals used in the digging process not working correctly, again due to the acidity level.

I raised my concern in the adjournment debate in this House on 30 April and asked the Minister for Transport to investigate the problem. Previously, I had asked questions and was told that no contaminated material was being stored on the site. At the invitation of the Minister, I visited the site. The staff pointed out to me contaminated material. I raised in this place my concern that we had been given misleading information. To this day I am still to receive an answer, and I am still of the view that the officers from Main Roads Western Australia, who pointed out the contaminated material that has been on the site since I asked my question, were correct and we have been misled.

That raises the question of whether this Parliament, in the current circumstances, can manage and monitor the level and extent of contamination, particularly at the Northbridge site. It will be of grave concern to all Western Australians to know that we are being misled about contamination. I hope the committee can look into that.

Paragraph (8) of the motion refers to the policy of the Water Corporation to provide infill deep sewerage in existing industrial estates and the degree to which that policy militates against desirable environmental outcomes. I support the infill sewerage program; however, it is mainly targeted at residential consumers, rather than at some of the industrial estate. A lot of money has been spent on the Swan-Canning Rivers clean-up to try to reduce the amount of pollution from some of the industrial estates. We must investigate whether we should advance the infill sewerage program into areas where there is industry and no underground sewerage.

The ninth paragraph of the motion refers to the Legislative Assembly Select committee on Metropolitan Development and Groundwater Supplies. In that context, I refer to the level of pollution that exists within the Gnangara and the Jandakot mounds. Members will remember, I hope, a debate in this place not that long ago concerning the metropolitan region scheme amendment to zone the Jandakot water protection area. During that debate I, Hon Jim Scott and Hon Norm Kelly raised concerns by local residents about a range of sites over the Jandakot mound near where contaminated drinking water had been taken. At the time I raised a concern about the ongoing delay facing residents in getting proper answers to the issues raised. When I last spoke to those residents about a week or two ago, they still had not received a proper response to their concerns. I refer to a letter from the Water and Rivers Commission to one of the residents, Mr Mike Fantasia. It reads in the second paragraph -

> As has been previously discussed with commission staff, we plan to present all investigation data to local residents in a consolidated report around the end of May.

The residents are still waiting for that report. This involves an area near a bore containing polycyclic aromatic hydrocarbons, particularly benzo-a-pyrene, a very cacogenic and dangerous substance. Residents still wait for answers to their concerns which they have been promised over a long time. On 18 May they were told to expect a response by the end of May, and they still await a response in July.

This situation highlights the extent of contamination within Western Australia, and the desperate need for a full, open and public inquiry to identify the extent and nature of the contamination. The Standing Committee on Ecologically Sustainable Development is the appropriate vehicle within this Chamber to ensure that the investigation occurs. Once and for all, it can identify the extent of contamination and address how we go about cleaning it up.

Debate adjourned, on motion by Hon Muriel Patterson.

MOTIONS FOR DISALLOWANCE

Discharge from Notice Paper

HON N.D. GRIFFITHS (East Metropolitan) [4.23 pm]: I move -

> That Motions for Disallowance Nos 2-11 inclusive be discharged from the Notice Paper.

The motions for disallowance in question relate to the Jetties Amendment Regulations 1998; the Motor Vehicles Drivers Instructors Amendment Regulations 1998; the Road Traffic (Drivers' Licences) Amendment Regulations

1998; the Road Traffic (Fees for Vehicles Licences) Regulations 1998; the Road Traffic (Licensing) Amendment Regulations 1998; the Road Traffic (Licensing) Amendment Regulations (No 2) 1998; the Road Traffic (Vehicle Standards) Amendment Regulations 1998; the Navigable Waters Amendment Regulations (No 2) 1998; the Port and Harbours Amendment Regulations 1998; and the WA Marine Amendment Regulations 1998.

I now indicate why notice for each of these motions for disallowance was given last Thursday, 25 June. Each regulation was tabled on 12 May. Under the provisions of the Interpretation Act, if a protective notice of motion for disallowance were to be given, it had to be given by 25 June. Therefore, the protective notices of motion for disallowance were given on the last day possible. It was not given prior to that time because the practice of the Joint Standing Committee on Delegated Legislation is to give the Executive every opportunity to put matters right.

The committee receives an explanatory memorandum regarding each item of delegated legislation from the relevant agency. That is clearly outlined in the Circular to Ministers No 9 of 1996. With each regulation in question, the relevant department, the Department of Transport, failed to provide an explanatory memorandum to the committee until very late in the piece. In fact, the committee physically received the explanatory memoranda shortly before 9.00 am on 25 June. The committee usually meets about 8.30 am on Thursdays. Therefore, the committee was in no position to give appropriate consideration to the regulations without the benefit of the explanatory memorandum. Members should bear in mind that the committee has other business on its agenda. As a result, the committee resolved that I, as deputy chairman, should give notice of motion for disallowance.

Hon Derrick Tomlinson: To which ones do you speak?

Hon N.D. GRIFFITHS: I refer to motions for disallowance Nos 2-11 inclusive.

Point of Order

Hon DERRICK TOMLINSON: I understood that the member had sought leave to withdraw.

The PRESIDENT: No. The member is moving to discharge the motions for very good reason; namely, if leave were not granted for these -

Hon DERRICK TOMLINSON: I am aware of that.

The PRESIDENT: All right. It is a motion.

Debate Resumed

Hon E.J. Charlton: We are on a roll.

Hon Derrick Tomlinson: This is payback time.

Hon N.D. GRIFFITHS: I hope for Hon Derrick Tomlinson's sake that it is not payback time, as he has a few things coming to him.

The committee examined the memoranda and reached certain views. Each of these regulations emanates from the Department of Transport. This is not the first time the committee has had cause to complain about the department's treatment of the committee; I refer to its failing to deliver its explanatory memoranda in reasonable time.

Also, the majority of the explanatory memoranda did not comply with the circular to Ministers as they were not formally signed off by the Minister - they were not even initialled in many cases. I am having a go at those responsible for their administration here.

Hon N.F. Moore: It is not the appropriate time. You are moving to discharge.

Hon N.D. GRIFFITHS: Hon Norman Moore may not want to know how a committee of this Parliament carries out a serious job. Members of the committee spent a lot of time considering these matters. If the Executive is not interested, so be it; however, members of this place should be interested in why unprecedented steps were taken to place these notices of motion for disallowance on the Notice Paper, and why I now seek to discharge them.

Hon Derrick Tomlinson: Let's have a debate on each one!

Hon N.D. GRIFFITHS: I know one member opposite is not particularly interested in this matter.

Hon Derrick Tomlinson: I am keen to support the committee.

Hon N.D. GRIFFITHS: I am keen to get through this motion at a reasonable pace.

Another matter I raise, when compared with the other complaints, is not major; however, the document outlining the form of the regulations provided to the committee by the department was not even a true form of the regulations as

in many cases it was designated a draft of the regulations. That necessitated the advisory research officer of the committee checking and ensuring that every matter was provided properly. Those members who take their committee work seriously - I trust that includes every member who sits on a committee - would know that committees regrettably are not as well resourced as members would wish them to be. I am sure you concur, Mr President. However, that is a fact of life. We live in a world of constrained resources, particularly relating to the operations of Parliament. This committee has a heavy workload. Notwithstanding the capable staff provided to it, the resources of the committee are few.

The committee met at 9.00 am this Tuesday before the House met at 11.00 am. I know many members have meetings before the House meets; however, the formal working day for members of this committee started earlier than that of many other members on that day. So be it; that is not cause for complaint.

The Standing Committee on Delegated Legislation considered the regulations to which I have referred and formed the view that the regulations, with the exception of two, were unexceptional and in order and that it was appropriate that the disallowance procedures not proceed. The committee is also of the view that disallowance procedures in relation to Road Traffic (Licensing) Amendment Regulations 1998 and the Road Traffic (Licensing) Amendment Regulation (No 2) 1998 not proceed.

However, the committee asked me to bring to the attention of the House the committee's view that it has great concern about what has taken place with these regulations.

At page 1226 of Budget Paper No 2, the estimated 1997-98 actual revenue earned from taxes and licences by the Department of Transport from motor vehicle licences is $128.855m. The budget estimate for 1998-99 is $202.3m. That is the estimated increase in revenue that these regulations will earn. As a matter of substance, it is a large amount of taxation to be raised by regulation. It is the committee's view, and one I have been asked to express, that this taxation through the use of regulation is inappropriate. Putting to one side notions of appropriateness, the committee is very concerned that it infringes the Constitution of the State.

Hon Derrick Tomlinson interjected.

Hon N.D. GRIFFITHS: Hon Derrick Tomlinson may continue to interject. As Deputy Chairman of the Delegated Legislation Committee, I am putting forward the committee's views. Last year the House disallowed a regulation which emanated from the Department of Transport. In the committee's view, and that of the House by its vote not accepting the regulation, that regulation was being used to tax. Subsequently, the Interpretation Act was amended to widen the scope for raising revenue through the use of regulation.

There is an appropriate nexus with respect to the wording of two Acts of Parliament on which it can be argued that the taxation being levied as a result of these regulations is permitted. It has parliamentary authority. Notwithstanding that nexus, the committee is very concerned that the Executive, through regulation, is raising massive amounts of taxation without recourse to Parliament in the first instance.

The committee asks the House to bear in mind the precedent. It invites the House to reflect on this issue and to note that the Delegated Legislation Committee's intention is to give the matter further consideration and to report more fully when it is in a position to so do.

Question put and passed.

MISCELLANEOUS MINING LICENCES - PAYMENT OF COMPENSATION UNDER NATIVE TITLE

Statement by Minister for Mines

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [4.34 pm]: During the Committee stage of the Mining Amendment Bill yesterday, the matter of native title negotiations and compensation payments regarding miscellaneous licences renewed or transferred was raised briefly. I stated in essence that the party requesting a renewal of the term of a miscellaneous licence was liable to pay compensation to a native titleholder. Although this will be the case under legislative amendments now being prepared by the Government, it is not the case under current legislation.

The purpose of this statement is to clarify the situation as it exists and will later exist under proposed further amendments to the Mining Act. The party requesting the renewal of a miscellaneous licence, in conjunction with the State, is responsible for negotiating in good faith with any native title claimant. It is widely known that tenement holders at this negotiation stage pay sums of money to native title claimants. This practice is not supported by the State.

The payment of compensation, however, arises only in respect of native titleholders - not claimants - and under current legislation, the State is liable for that compensation. The commonwealth Native Title Act provides that the State may legislate to pass that liability on to the party requesting the act.

Provisions are presently in hand for amendments to the Mining Act to pass on liability for native title compensation to the holders of mining tenements and it is the Government's intention to introduce this amending legislation in the spring session of Parliament.

The minerals industry has expressed concern that holding the initial grantee - the party requesting the act - permanently liable to pay compensation, does not take into account later transfers of the title. The state legislation, however, must be consistent with the commonwealth Native Title Act, otherwise the transfer of the State's liability for compensation will have no effect.

The Commonwealth Government has acknowledged this fault in the Native Title Act and has moved to acknowledge commercial reality and rectify the matter by including amendments in the latest Wik amendment Bill. When this amendment Bill is passed, the state legislation will be similarly amended.

[Resolved, that the House continue to sit beyond 10.00 pm.]

METROPOLITAN REGION SCHEME AMENDMENT No 985/33 - EASTERN DISTRICTS OMNIBUS (No 3)

Disallowance

HON N.D. GRIFFITHS (East Metropolitan) [4.36 pm]: I move -

> That the Metropolitan Region Scheme Amendment No 985/33 - Eastern Districts Omnibus (No 3), published in the *Government Gazette* on 19 May 1998 and tabled in the Legislative Council on 20 May 1998 be and is hereby disallowed.

The terms of the Metropolitan Region Town Planning Scheme Act do not permit part of a scheme to be disallowed. That is unfortunate because this motion is directed to part of the scheme, not the whole of the scheme. It is my hope that sooner, rather than later, the Act will be amended to enable parts of a scheme to be disallowed. In the light of the law, in order to deal with something that is a matter of great concern, we seek to have the whole of the amendment disallowed.

That part to which the motion refers is proposal No 13, which is referred to as a proposal to transfer the public purpose reserve on the corner of Morley Drive east and Bottlebrush Drive, Kiara to the urban zone. That is how it is referred to in the report on submissions. The amendment does not propose that it be transferred to an urban zone, but that it be designated "urban deferred".

That designation does not meet the concerns of many constituents in the East Metropolitan Region and, in particular, many people who live nearby and who have very strong concerns about the proposal. The area is between Altone Road and Bottlebrush Drive in Kiara and to the north of Morley Drive. Slightly to the south east of the area is the Good Shepherd Catholic Primary School. The report on submissions mentions that 65 submissions opposing the original proposal of its being urban and only one supporting it were received. The report then states -

> The major basis for objection was that the remnant vegetation on the site is of sufficient standard and value to the local community for it to be protected by MRS Parks and Recreation reservation. Many submissions anticipated an Urban zoning would lead to complete loss of vegetation on the site, inappropriately high residential densities and a generally unattractive development.

The local community is very concerned with proposal No 13. There are occasions when we as a Parliament should take on board the concerns which have been voiced to the Parliament directly by citizens when they have been able to so do. They put their case very strongly. It is an area of great significance to them. Members who drive down Morley Drive regularly would see the vegetation. At a particular time of year with the Christmas trees blooming, it is a marvellous sight. Frankly, it makes me feel good when I drive along there, perhaps not keeping my eyes on the road as intently as I should. Notwithstanding the views of some to the contrary, it is not appropriate that we discard those strongly felt views of local residents. If we as legislators do not wake up and take note collectively more than we are told we have in the relatively recent past, I suggest that others will take our places. My colleague Hon Kim Chance is very keen to address this motion in greater detail so I therefore conclude my remarks.

HON KIM CHANCE (Agricultural) [4.43 pm]: The motion should be agreed to. The Opposition's reason for moving disallowance of this amendment relates entirely to proposal 13 in the amendment. Before going to that specific issue, I want to comment very briefly on major and minor amendments. In a sense I want to give the Government a pat on the back. I believe that when Hon Richard Lewis was Minister for Planning, the Government

announced its intention to dispense with the process of introducing minor amendments. The effect of that is that a minor amendment to the metropolitan region scheme does not have to appear before this House as a regulation, which may expose it to disallowance, whereas major amendments do. The Government, having made the decision to bring forward only amendments to the scheme as major amendments, has made the whole process much more accountable.

Hon Peter Foss: There is public consultation too, which has had a big effect.

Hon KIM CHANCE: Yes indeed. That is the pat on the back I want to give the Government and specifically the former Minister for Planning. The difficulty then arises with the treatment of amendments which appear in an omnibus format. I understand that there is no convention with omnibus amendments appearing under the MRS process for there to be included in those amendments any controversial content. We are more familiar with the omnibus process with legislation. It is a process both sides of the House support because the omnibus process can allow us to address redundant and minor changes to legislation in a quick and convenient manner. Our convention with omnibus legislation is that it must include no controversial matter because that tends to hinder its passage, which helps no-one.

Hon Peter Foss: I use it in criminal law. The advantage there is that one can selectively disagree with various parts. Our problem here is that we can only accept or reject; we cannot selectively disallow.

Hon KIM CHANCE: Yes, that is the problem we find here. I will establish that there is no doubt that proposal 13 is controversial. Nobody can say that cannot be. It has been the subject of three different petitions in both Houses of this Parliament, one of those petitions in this place delivered by Hon Derrick Tomlinson.

Hon Derrick Tomlinson: No, that is incorrect. I presented the petition to the Clerk. The Clerk ruled it out of order because there were other means for redressing the grievance. That petition therefore has never been presented.

Hon KIM CHANCE: I thank Hon Derrick Tomlinson. I do apologise to the House for misleading it. I relied on information supplied by a colleague.

Hon Derrick Tomlinson: You should never rely on that.

Hon KIM CHANCE: More directly I relied on the *Hansard* record of the other place to come to that conclusion. Perhaps I should not have done that either.

Hon Peter Foss: That is even worse. Wash your mouth out with soap!

Hon KIM CHANCE: Certainly petitions have been prepared relating to this issue. I believe that two petitions have been presented in the other place. It has been an issue and it remains an issue from my advice from people who live in the area. As recently as this morning I spoke to one of them who lives quite close to the specified area. I have had advice from the local member, Clive Brown MLA. I have read media articles and submissions, in particular those submissions which are contained in a document entitled "Eastern Districts Omnibus (No. 3), Volume 3, Transcript of Public Hearings, 5th and 12th February 1998". A proper and exhaustive process has been conducted into this amendment. It seems a great shame that including this amendment in the omnibus of a large number of other amendments means that those other amendments are now put at risk because of the strength of feeling concerning proposal 13, which local people still feel should be resisted.

Hon Peter Foss: You are not suggesting that it is not open to the commission and the Minister to proceed if they think that what is being done is correct?

Hon KIM CHANCE: Could you just put that again?

Hon Peter Foss: You are not suggesting that it is not open to both the commission and the Minister to proceed if they think that what is being done is correct?

Hon KIM CHANCE: That is what I thought the Attorney General said; however, I do not understand what he said.

Hon Peter Foss: What alternative do the commission and the Minister have if they believe the decision is the right one?

Hon KIM CHANCE: My belief is that the alternative would be to recognise the controversial nature of the proposal and submit it separately from those other amendments.

Hon Peter Foss: The proper course then is the process -

The PRESIDENT: Order! We cannot have conversation across the Chamber. One member has the floor and I know others want to speak.

Hon KIM CHANCE: I will proceed because there are a couple of things I need to say now for the benefit of those members who have not taken a direct interest in the issue, and also for the sake of a person reading the record at a later time.

Proposal 13 relates to an area of bushland of approximately 4.9 hectares, referred to as the Kiara Technical and Further Education site. The proposal is to alter its current designation of public purposes reservation to that of urban zone.

Hon Peter Foss: Urban deferred.

Hon KIM CHANCE: Urban deferred, is it?

Hon N.D. Griffiths: It is interesting that you should say that, not that it makes a big difference. That is why we are opposed to it. We do not want it to be zoned urban.

The PRESIDENT: Order members! I do not want conversations between members because we are trying to record what is being said.

Hon KIM CHANCE: I am moving rapidly into the subject, Mr President. It is not the first time that this alteration of designation has been proposed. In March 1996, it was proposed in the North Western Corridor Omnibus Amendment (No 2). It is the inclusion in that amendment which caused concern to the alert, not only because it appeared to be included in the wrong document in terms of the wrong part of regional Perth, but also because of the substantive reasons; that is, the retention of urban bushland which was to be overcome by that change.

Hon Peter Foss: The Minister properly thought that it should be entitled "north east" so that people could have their attention drawn to it.

Hon KIM CHANCE: Absolutely, and it later was. In August 1996, the commission published a report on the submissions entitled "Metropolitan Region Scheme Amendment No 977/33: North West Corridor Omnibus (No 2): Volume 1 - Report on Submissions, August 1996". At the bottom of page 5 it reads -

> The bushland is considered to be of more local than regional environmental significance. However, in the light of the submissions from the local community, it was concluded that the rezoning should not proceed at this stage, pending consultation between the Council, Department of Training and the Education Department as to future needs and the suitability of the site for educational, community and local open space/bushland purposes.

Obviously a lot more was said than that. However, that sums up the critical content of that publication. In August 1997, the present amendment before us was advertised. The commission at that time acknowledged that the bushland was deemed by the environmental protection agency to be of local significance.

Hon Peter Foss: They were of local significance only.

Hon KIM CHANCE: To be strictly accurate, yes. However, from memory of local significance and no more, something of that nature. Submissions were again made to the hearing committee by two organisations, the Kiara Progress Association and Bayswater Greenwork. I refer to the second of those. This is the stage at which I want to put the point of view of the local community, because in this forum they should be able to have their say. This document is entitled "Oral Hearing Kiara TAFE Site, Thursday February 12, 1998 at 11.45: Minister for Planning". On page 2 of that document under the title "Community Wishes", it reads -

> The Kiara Progress Association and Bayswater Greenwork have once again provided compelling evidence that the local community does not want the Kiara TAFE Site to be cleared and developed for housing.
>
> In the last public comment period [for Eastern Corridor Omnibus (1995) - 977/33] the Ministry for Planning received over 600 submissions, largely due to the efforts of the Kiara Progress Association. These submissions overwhelmingly called for no rezoning to urban and for the Lot to be used for educational and/or conservation and passive recreational purposes. In conjunction with this an even larger number of petitions were presented to Mr Clive Brown, MLA and Mr Derrick Tomlinson, MLC.
>
> Our group has been working closely with the KPA. In the past weeks a leaflet (including what happened to the TAFE option and why the bushland is important) was distributed in the local area by both groups and followed up by doorknocking with a petition. The petition, one each to both houses of State Parliament, states:

It goes on then with the wording of the petition.

I go to another document entitled "Metropolitan Regional Scheme Amendment No 985/33 - Eastern Districts

Omnibus (No 3)", which is the proposal now before us. The document is a transcript of public hearings on 5 and 12 February 1998. On page 36, Mr Hamilton, representing the Kiara Progress Association, opened his comments by making a submission which reads -

> I essentially want to re-present that submission to some extent. The local residents oppose the rezoning proposition. More than 90 per cent want a managed bushland park.

Hon Derrick Tomlinson: Originally they wanted the TAFE site.

Hon KIM CHANCE: They would still probably rather have the TAFE site.

Hon Derrick Tomlinson: I think that is really what it is about.

Hon KIM CHANCE: To continue -

> In 1996, it was demonstrated by petitions and surveys -

Those are the petitions and surveys to which I have just referred -

> - that over 90 per cent of local residents did not want the site to be rezoned to urban. The focus then was opposition to rezoning without a strong definition of an alternative. We said that the land should be used for either a TAFE or a bush park, but we didn't focus on one or the other. In a sense, the community was divided, but not in terms of gangs of people making war on each other; it was just a difference of opinion among the community.

In reading only those two brief excerpts of representative statements of community opinion, I hope I have not omitted items of fundamental importance. I am sure that probably I have. However, I have given a sample indication of what community opinion is in the area.

Over a period of years now there has been significant, documented and well articulated opposition to the urban development of a particular piece of urban bushland. At one point, the WA Planning Commission recognised the local significance of the value of that urban bushland and said that while it was included in the submission it would not proceed with it until it could convince the local community as represented by, for example, the Shire of Swan, that it should go ahead. In other words, it would pause for a while and have a word with the local community. It is probable that the WA Planning Commission has been able to convince the Shire of Swan, but it has failed -

[Questions without notice taken.]

Hon E.J. Charlton: I seek leave to make a brief ministerial statement about the closure of MetroBus operations to the private sector on Sunday.

The PRESIDENT: Order! We are on orders of the day right now. It is not a break in the proceeding. We are about to move into the continuation of debate on another matter.

Leave denied.

Hon KIM CHANCE: As much as I would have liked to hear the ministerial statement from the Minister for Transport, we will have to wait a short while.

Hon N.F. Moore: Hon Kim Chance could make it quicker if he put his mind to it.

Hon KIM CHANCE: Indeed, I will be quick. When we broke from this order of the day for question time I had begun my very brief summary. With the indulgence of the House, I think it is necessary to go back a sentence or two. Community opposition has been expressed to the urban deferred rezoning of a block of land which is currently urban bushland. As I said, the opposition is well documented and articulated. It has been through the process of amendment under the metropolitan region scheme for some time. The commission has had adequate time to learn of the degree of opposition in detail. Petitions have been presented to the Parliament of Western Australia on this matter. The oral submissions contained in volumes 1 and 2A of the Eastern Districts Omnibus (No. 3) report on submissions make it clear that there is a strong leaning in the local area to the retention of the bushland. At one stage in the process, the WA Planning Commission said that it would defer consideration until such time as it had conferred with the community. It was at that point of my remarks that question time began.

That consultation with the community appears to have convinced the Shire of Swan that, in one form or another, this change should proceed; that is, the proposal 13 in the eastern districts omnibus amendment. I am not entirely sure what transpired between the WA Planning Commission and the Shire of Swan which led to that view being taken by the local government authority. I am certain that, notwithstanding the current position of the Shire of Swan, that view is not shared by the local residents, at least to the extent that can be established from the report of submissions and

from personal inquiry. It is simply not shared. In other words, the WA Planning Commission may have convinced the Shire of Swan, the responsible local government authority, but it has done nothing to convince the local residents of the need for this rezoning. My entire case rests on that point.

HON GIZ WATSON (North Metropolitan) [5.41 pm]: I will try not to make this more lengthy than necessary and of course some points have already been raised by Hon Kim Chance. The problem that the Greens have with the amendment is exactly the same in that most of the 19 amendments are welcomed. I note that there has been a response to the submissions on a number of other amendments and some modification which is welcomed, particularly on issues relating to the Noongar community's concerns. The amendment that is still problematic is proposal 13. This highlights that the WA Planning Commission and the Government have failed to recognise the community's demands and requests that local bushland values be recognised and protected under legislation. Indeed, the opposition to this area not being rezoned urban deferred is that it does not have regional significance. We, as Greens, stated very clearly in our policy that we must have another category of bushland which recognises local community values and accepts that that is a very important -

Hon Peter Foss: Should that not be done by the local authority?

Hon GIZ WATSON: I am not sure what would be the best mechanism. We have not progressed in recognising -

Hon Peter Foss: We have. The problem is that it is up to local authorities to realise the local significance.

Hon GIZ WATSON: I do not believe the WA Planning Commission has taken any notice of, as Hon Kim Chance said, repeated and persistent requests that this area remain as bushland.

Hon Peter Foss: We can, under a local government scheme.

Hon GIZ WATSON: I would rather that that action be taken and recognised by the WA Planning Commission as a legitimate -

Hon Peter Foss: What we are dealing with is the regional scheme. The regional scheme deals with regional matters. It does not deal with local matters. That should be dealt with locally.

The PRESIDENT: Order!

Hon GIZ WATSON: We could have that discussion at a later date. In the introduction of the "Metropolitan Region Scheme Amendment No. 985/33, Volume 1 Report on Submissions" it states -

> The omnibus amendments are intended to incorporate smaller scale changes to zones and reservation, proposals for the use and development of land or generally to further plan the Metropolitan Region.

There is an intent that they are not controversial. If we could have an agreement whereby the non-controversial components in these amendments were treated separately, we would not be faced with disallowing the whole omnibus amendment. I have an important obligation to ensure that community views are heard. It has been indicated that this particular piece of bush has had consistent and growing support for its reservation as a bushland area. I will mention some of the values that have been identified.

In the judgment that this bushland is not of regional significance, there has been contention about what exactly are the values of this piece of bush. It is about 15 hectares of bushland and is a relatively good shape for a piece of remnant bush. It has a fairly large area and does not have a very big boundary. Long skinny blocks are problematic and it is hard to prevent weed invasion and ensure any integrity at all. This piece of bushland is a very good shape to preserve its potential. The first submission which discusses the value of this bushland is in volume 2B of the submissions to the regional scheme amendment. It is a submission from the Urban Bushland Council which makes the point that it "is a medium sized area of bushland of around 15 hectares". It continues -

> Unfortunately, there are few secure bushland areas remaining in the immediate vicinity and none that are greater than a hectare.

In any substantial areas of bush - I would say anything over a hectare - it is very important to retain all those remnant areas of bushland in the Perth region because there are so few left. This submission makes the point that although there are other areas nearby, none is greater than a hectare and many are already semi-cleared. Again, the Urban Bushland Council makes the point that I have just made. It states -

> . . . the State Government has not been able to put in place a mechanism where locally significant bush is protected.

The history of this proposal is discussed further on in the omnibus. This covers, to some extent, the matters which Hon Kim Chance mentioned. It states -

> . . . in June 1996 when the initial proposal under MRS Amendment 977/33 generated over 600 submissions, . . .

I believe there were 601 submissions. To continue -

> . . . mostly form letters, and even more signatures to petitions to the Legislative Assembly and Legislative Council. The form submissions stated: "*That I/we OPPOSE the rezoning of Lot 843 to URBAN and that the Lot retain its current zoning and the land be used for educational and/or conservation and passive recreational purposes*".
>
> The Kiara Progress Association formed because of the proposed zoning to urban, and has been actively supporting over the past 18 months for the area to be retained as managed bushland if not required for TAFE requirements.

The Urban Bushland Council identified the values of that area. I will mention what the Department of Environmental Protection said about the bushland because there has been some contention as to how degraded or otherwise this area is. The Department of Environmental Protection also made a submission, which is in volume 2A of the report on submissions. It states on page 2 of the submissions from the Department of Environmental Protection that -

> Kiara Bushland is an area which is being considered by the System 6 update programme for inclusion in the current review of urban bushland in the Perth metropolitan area. The area supports a large area of bushland which ranges in condition from excellent to very degraded, with the majority of the site being very good to good.

I repeat -

> The majority of the site being very good to good. A total of 114 native species have been recorded on the site.

It further states -

> If properly managed the site could be rehabilitated and would provide a valuable resource to the local community.
>
> The Department of Environmental Protection recommends that the rezoning of this area be postponed until after a recommendation on the significance of the bush is made through a joint report incorporating the work of the Urban Bushland Advisory Group, System 6 update and the Department of Conservation and Land Management's Threatened Communities Project.

To my knowledge that report has not transpired, and so the DEP strongly advises that the area be considered within System 6.

An acknowledgment is made within this MRS commentary to the submissions that it will preserve a certain proportion of the bush and it will consider preserving significant large trees. I would like to clarify for members, in case they do not have an understanding of bushland conservation, that although the reservation of large trees fulfils an aesthetic function, they are certainly worthy of preservation for other reasons. They in no way represent a conservation of bushland area, because if the understorey is cleared out, none of the animals and understorey plant species will remain. These trees will last only as long as their life span.

Hon Peter Foss: Sickly trees have a role to play in an ecosystem; and even unattractive trees have a role to play.

Hon Ken Travers: And we hug them all.

Hon GIZ WATSON: If there is a transition to more of a parkland system, in which understorey is reduced and grass and large trees often remain, then no new trees will grow. It is only a matter of time before even the mature trees die and there are no remnants of the vegetation that was formerly there. In places such as Perry Lakes there are still significant trees, but as they die out, that will be the end of any remnant bush in that area. Not only has the area been identified by a large number of community groups and individuals who wish to see it retained, but also Swan Valley Noongar community members have commented that it is a significant area for them in terms of passing on knowledge of the bush to their children and for cultural purposes.

It is not the Greens' choice to reject the entire omnibus amendment because the other 18 proposals are acceptable and indeed some of them are very welcome. However, it is important that members in this House take a strong stand to send the message to the Government and WA Planning Commission that we will not allow significant areas of remnant bush to be rezoned. If we must take a strong line and request the removal of the contentious proposals before the omnibus amendment is passed, so be it.

Hon Peter Foss: Do you know the effect of this?

Hon GIZ WATSON: Yes, I am well aware of that.

Hon Peter Foss: On this land.

Hon GIZ WATSON: There is very little choice.

Hon Peter Foss: Do you think what you are doing will stop it being cleared?

Hon GIZ WATSON: It is certainly the intention. The Greens (WA) support the disallowance.

HON NORM KELLY (East Metropolitan) [5.54 pm]: The legislation which enables this House to consider a disallowance motion is the Metropolitan Region Town Planning Scheme Act 1959. Section 33(1) of that Act allows for amendments to the original scheme. It is not a statutory requirement that public submissions be sought for any such amendments, and the Minister's consent is required for public submissions to be sought. Section 33(4) of the Act allows for disallowances and states -

> Either House may, by resolution of which resolution notice has been given at any time within 12 sitting days of such House after a copy of the amendment has been laid before it, pass a resolution disallowing the amendment.

The intention of the Act in section 33 is to allow amendments to the MRS to be disallowed by Parliament. Further, section 33A allows for amendments not considered to be a substantial alteration to the scheme, and for those minor amendments to bypass section 33 provisions. The Western Australian Planning Commission determines whether an amendment is a substantial alteration to the scheme.

Hon Peter Foss interjected.

Hon NORM KELLY: It must be decided by the Planning Commission in the first stage. If such an amendment is deemed to be a minor amendment, it must still go through a number of processes. A notice must be placed in the *Government Gazette* to notify affected adjoining landowners and to seek public submissions on that amendment. Appeal processes apply all the way through. Even if it is a minor amendment which bypasses parliamentary scrutiny, quite good consultation and objection procedures are in place to allow for these minor amendments to be argued.

Hon Peter Foss: No public hearing.

Hon NORM KELLY: I think there is even allowance for public hearings. I am not sure on that point, but there is a process in which it goes to an appeals committee. I need to check the Act, but I think there might be a discretionary power.

Hon Peter Foss: It does not read very well.

Hon NORM KELLY: They are the two ways in which amendments to the MRS can be dealt with by this Act. I applaud this Government and the first Court Government in 1993 for their decision to ensure that all amendments to the MRS are brought before the Parliament for its scrutiny. Minor amendments, which previously would have gone through under section 33A and bypassed parliamentary scrutiny, are now brought before Parliament, as in this case, for parliamentary scrutiny. It is wrong to say, on the one hand, that there should be parliamentary scrutiny and powers of disallowance, and yet, on the other hand, it is an all or nothing approach. Although the Government's intentions have been honourable - the Australian Democrats will continue to support the process of dealing with amendments in such a way - we must be well aware that the Government is allowing for an anomaly whereby the intent of the legislation cannot be met by this Parliament. This is not a new situation.

Omnibus amendments have been made to the MRS over the past few years. This matter was most recently raised in this place on 8 April this year, when two disallowance motions were debated with regard to MRS amendments. The first of those related to changes to road reserves, which included the Claremont Crescent reserve in Swanbourne. This was part of an omnibus roads amendment which included six of seven changes to roads in various parts of the metropolitan area. That disallowance motion was ruled out of order on the basis that Hon Jim Scott's intent at that stage was to move a partial disallowance of that omnibus amendment.

Sitting suspended from 6.00 to 7.30 pm

Hon NORM KELLY: Prior to the dinner suspension I referred to recent debates in this place on MRS amendments, in particular, two debates on 8 April. One debate related to an omnibus amendment for a number of road reserve changes in which it was the intention of Hon Jim Scott to move for a partial disallowance because of concerns about a road reserve through Claremont Crescent in Swanbourne. Due to the way that the Act is formulated, a partial disallowance is not allowed. Immediately after that point was raised, the House moved on to a second MRS

amendment which related to changing the zoning for lots in the Henderson industrial estate in Cockburn from parks and recreation to industrial to allow Austal Ships Pty Ltd to expand its operations. I used that opportunity to speak about the use of disallowance motions. I refer to comments that I made on that occasion, because they are just as pertinent and relevant to this debate. On that occasion I said -

> . . . we are not governed by section 42(8) of the Interpretation Act, but by section 33 of the Metropolitan Region Town Planning Scheme Act. . . . It is appreciated that such amendments be brought to Parliament in their current state, but it is a limitation of the Metropolitan Region Town Planning Scheme Act that we are not able to make partial disallowances of omnibus amendments . . . it would be beneficial to have the ability to make a partial disallowance in much the same way that partial disallowances are made under the Interpretation Act. That would necessitate an amendment to the Metropolitan Region Town Planning Scheme Act and I suggest to the Government that it seriously consider putting forward such amendments to facilitate future disallowance debates.

I went on to say -

> A possible drawback of not allowing partial disallowance is that simple amendments . . . could perhaps be regarded as a minor amendment as a way of bypassing proper parliamentary scrutiny. I can understand that if a total omnibus amendment were disallowed because of one small aspect, -

Proposal 13, which we are considering tonight, is not one small aspect. To continue -

> - it would be an incentive for the department to make future amendments minor to bypass that scrutiny.

I concluded by saying -

> I make those few comments to show that the Democrats do fully support the Government in the way it is bringing forward amendments. I know the Planning Minister and previous Planning Ministers have directed that these amendments be put before the Parliament. We fully support that; but I can see the potential, given the make-up of this Council, that the Government may want to bypass that scrutiny at some stage.

I made those comments on 8 April and they are just as relevant in tonight's debate. I would like the Attorney General, who is carrying debate on this disallowance for the Government, to reassure the Council that it is the Government's intention that what may previously have been regarded as minor amendments under section 33(a) will continue to be put before the Parliament by way of amendments either as omnibus amendments or in their own right.

I wrote to the current Minister for Planning on this matter to seek his views about whether the Government would be willing to amend the Act to allow for partial disallowances to accommodate the change in the Government's policy, which would allow for better accountability in these planning decisions. The response from the Minister was quite short. In a part of his letter to me on 26 May, he states -

> I note your comments on this matter and will pass them to Hon Richard Lewis for consideration as part of the current consolidation of the planning legislation.

I sought the current Minister's thoughts, but he passed the matter to the previous Minister in his current role as the chairman of a committee currently reviewing planning legislation.

Hon Kim Chance: Really?

Hon NORM KELLY: Yes. I am sure members are reassured when they see that sort of instant action on this matter.

Hon Peter Foss: You will get a response one way or another.

Hon NORM KELLY: We are looking at a long time before we will see anything from the Government to amend this legislation to accommodate changes to allow for partial disallowances. I sought an assurance from the Minister that the Government was willing to take on these concerns and to act speedily to allow partial disallowances to be available to the Parliament. There is a concern that a disallowance of an omnibus amendment, such as the one before us which contains a good number of substantial and positive changes to the metropolitan region scheme, could be bypassed in the future. I seek from the Minister some comments in this regard.

The metropolitan region scheme amendment 985/33 contains a number of substantial changes to the scheme which are worthy of support. Notably I refer to proposal No 6 to transfer lots 497, 498 and 499 Sultana Road, Forrestfield from the rural zone to the parks and recreation reservation. This is because of the high conservation value of that area; in fact, it has been designated by the Department of Conservation and Land Management as a threatened community and by the Environmental Protection Authority as an interim protected area. The vegetation is regarded as being of regional significance and, as such, it is currently under private ownership and warrants a change to public ownership and public reservation and protection.

Some members will be quite familiar with the next amendment, proposal No 18, which relates to the Pyrton site. It seeks to transfer the current public purposes hospital reservation, which has been used by the Disability Services Commission to carry out its operations at the site, and to zone it as urban land. There has been a lot of dispute about that. The report contains a recommendation to the Western Australian Planning Commission that the proposal be rejected, and we fully support it. There is a current debate about the future use of that site as a women's prison by the Ministry of Justice.

Hon Kim Chance: There are significant Aboriginal interests at the site, too.

Hon NORM KELLY: That is right. It is on Bennett Brook and is an acknowledged long term Aboriginal site of significance, as is the Kiara site and a number of others which have been involved in this amendment. To the credit of the Planning Commission, it held on-site hearings with Aboriginal people in these areas to listen to their concerns. It realised that rather than conduct meetings in Albert Facey House in central Perth, it was necessary to go on-site to listen to, and better understand, the concerns of the Noongar community. Concerns are better expressed on-site. The proposal in the final recommendation is to exclude the Pyrton site from the amendment, and the Australian Democrats fully support that view.

Finally, I refer to proposal No 19 in the amendment to transfer lot 112 of Copley Road, which is adjacent to the southern boundary of the Avon Valley National Park, from a rural zone to parks and reservations. It is a positive improvement to take land out of rural holding and into parks and reservations to expand the quality of not only the area changed, but also to limit the possible impacts on the edge of the Avon Valley National Park.

I have outlined some of the changes included in the omnibus amendment which we must fully consider. We must realise that disallowance of the omnibus amendments would affect those changes as well as the minor changes. As Hon Kim Chance pointed out, the purposes of omnibus amendments are to ensure we can have what would otherwise be considered minor, non-contentious amendments to be tabled in Parliament to undergo parliamentary scrutiny. It is not the intention to have more contentious changes to the metropolitan region scheme caught up as one part of an omnibus amendment. This amendment has 19 changes, and it is wrong that such a significant change be contained within this measure.

The disallowance motion was moved because of proposal No 13 of the amendment to rezone the Kiara site from the current zoning of public purpose to urban. We must consider the history of this site. It was designated urban in 1983, and that zoning was changed to public purposes in 1989 to allow for a possible technical school or TAFE college to be built. It has been evaluated that the expectation no longer exists that the land will be required for that purpose. Therefore, a better utilisation of the land, according to the Planning Commission, would be to change its zoning to urban.

This land was the subject of another omnibus amendment a couple of years ago; namely, the north west corridor omnibus amendment No 2. During the public consultation phase of that amendment, 604 submissions were lodged, of which 601 opposed the change in zoning and only three were in support. That amendment was removed from the omnibus amendment. One reason given at the time was the possibility of inadequate advertising as it was included in the north west corridor amendment rather than an eastern district omnibus amendment. Therefore, concern was expressed that those people who should be informed of such a change had not been informed. It was considered that people would have seen a north west amendment and felt it was outside their area of interest and not worthy of their scrutiny.

Hon Peter Foss interjected.

Hon NORM KELLY: Yes, but even though it may not have reached all the people one would expect to be concerned about it, more than 300 objections were made to the planned rezoning, which is a good indication of the local feeling against the change.

The omnibus amendment of 1996 indicated that rezoning should not proceed until more consultation had taken place, first with the Shire of Swan to consider its views on the rezoning and appropriate uses for the site and second with the Department of Employment, Education, Training and Youth Affairs to consider its need for the site for educational purposes. As I said, it was determined that the need to use the site for those reasons was not anticipated.

Hon Peter Foss: The original objection was against it being cleared for TAFE.

Hon NORM KELLY: Also I understand that in 1996 one petition was lodged in this House and a couple of petitions were lodged in the other place in opposition to a change in the existing zoning bearing a total of more than 800 signatures.

The Planning Commission has included that amendment in this omnibus. This has also resulted in a considerable number of submissions. Although the Planning Commission's report on submissions indicates that 65 submissions

opposed the amendment and one supported it, two submissions support it. In any event, it shows a large degree of opposition to this change in zoning.

It is interesting that one of the submissions supporting the change is from the Shire of Swan and the other is from a firm connected with the development of the property for residential purposes. There are two main reasons for the opposing submissions. The report notes that the major basis for objection was that the remnant vegetation on the site is of sufficient standard and value to the local community for it to be protected by MRS parks and recreation reservation.

However, 65 of the 69 petitions opposing the change are concerned about the significance of the site to the local Noongar community. In a sense this report is somewhat misleading by indicating that the main opposition was based on the bushland values of the area, even though those submissions are significant and worthy of consideration in their own right.

Many submissions also anticipated that an urban zoning would lead to a complete loss of vegetation on the site, inappropriate high residential densities and generally unattractive development. Those concerns are more correctly addressed at a local level because they are local planning issues. That is not to deny the fact that a significant part of the local community is concerned about the future of this bushland area, although whether it is regionally or locally significant is debatable.

I am sure people in the area would explain clearly what they believe to be its significance. Not a great many areas around there have been reserved as remnant bushland vegetation. We should be considering the views of the residents of not only the Shire of Swan but also the Town of Bassendean and the City of Bayswater. The loss of this area would seriously impact on their amenity of having bushland areas nearby.

I will go through some of the submissions to highlight the concerns of local people. In particular, submission 1 is from B.A. and B.C. Cross of Lockridge. They have put in quite a substantial submission on some of their concerns. They say that it is the last remaining area of vegetation indigenous to the immediate area, consisting of marri, Christmas trees and blackboys and is a habitat for native birds and small wildlife. The Bassendean Preservation Group's submission says that the rezoning is incompatible with the retention of large areas of bush. The group says that there is little bush for local residents in the area. Another submission by Alan Tingay and Associates refers to the natural vegetation on the site. It states that a total of 112 species were recorded on the site. Only 15 of them were introduced breeds. There were seven native orchid species. Although there are no rare or endangered species on the site, there is a proliferation of Christmas trees and the like. Of the 17 species of birds which have been recorded on the site, only three have been introduced.

The Department of Environmental Protection's response to the 1996 amendment states that the area supports a large area of bushland which ranges in condition from excellent to very degraded with the majority of the site being very good to good. A total of 114 native species have been recorded on the site. It refers to the degradation which has been recorded on the site, which has been used to dump rubbish and for four-wheel driving. It states that if properly managed, the site could be rehabilitated and provide a valuable resource to the community. This is the valuable resource that the local community is so concerned about.

I appreciate that Hon Giz Watson and other members have gone into some detail about the submissions, so I will not repeat too much of them. We must be very careful about how we vote on the amendment. It will impact not only on the Kiara TAFE site but also on the 18 other amendments in this omnibus amendment. The most significant are the area adjoining the Avon Valley National Park and the three lots in Forrestfield, which are high quality areas for conservation. A disallowance of this omnibus amendment will not destroy the possible reservation of those lots for future conservation. We must be very careful to ensure that in our proper role as a House of Review for the scrutiny of such changes that we do our job. As a result of the Government presenting these 19 amendments in one form, we must consider each one of the amendments contained therein and whether it is worthy of disallowance. That is what is being done. I believe that the Kiara TAFE site is worthy of disallowance.

It is not, by any stretch of the imagination, the end of the story on protecting that area. However, it is of significant value to the local community that we should not support this rezoning, which, although originally proposed urban, is recommended urban deferred with the intention that such development should go ahead. Even though disallowing this amendment relating to the Kiara TAFE site will have the obvious impact of disallowing the 18 other amendments, that should not be the problem of this Parliament but the problem of the Government that has put forward such a contentious amendment to the MRS among these other contentious amendments. One must ask why the Government did this. The cynical would say that it was obviously because it thought a disallowance motion would not be supported on an omnibus amendment and this contentious amendment to the MRS would be passed.

It is important to consider each proposal on its merits. We must be fully aware of the amount of time and work that

has gone into getting this MRS amendment to this stage. For me and my party, it is very difficult to decide which way to vote because we realise the damage that can be done either way. However, we have not put ourselves in this position; it is the Government through the Minister for Planning who has forced this upon this Parliament. As much as I do not want to see 18 worthy amendments to the MRS being disallowed, I will not support one amendment which I believe should be disallowed for the sake of those 18 other amendments.

Hon Peter Foss: You should listen to the argument later.

Hon NORM KELLY: I will listen to the arguments to see whether the Attorney General can be convincing, and we will vote accordingly at the end.

It is perfectly clear that it is through the Government's actions that we are in this predicament. Without any indication from the Government or the Minister of a willingness to change legislation to allow for partial disallowance of such omnibus amendments, there is no hope in the foreseeable future that we can do that. One argument is that if partial disallowances were to be allowed to an omnibus amendment, it would promote a keenness among people to move a disallowance of one particular submission. What is wrong with that? What we are doing is simply that now. However, because of the Government's inaction, we are forced to disallow 18 other worthy amendments.

It is important that we regard the seriousness of what we have here before us. It is equally important that the Government listen to what is being said and act accordingly; because if it does not act accordingly, I can trot out the same speech from 8 April that I trotted out tonight that obviously, from the Minister's response, has not been listened to; and I can trot it out again and again.

Hon Peter Foss: It may have been listened to but not necessarily agreed to.

Hon NORM KELLY: If the Government continues to try to sneak through contentious amendments -

Hon Peter Foss: Sneak! It has been an ongoing process.

Hon E.J. Charlton: It has been right around the community for comment. What a stupid statement!

Hon NORM KELLY: If the Government were serious about the Kiara TAFE site, it would be aware that it has already seen, through the omnibus No 2 north western corridor amendment of 1996, that it is a contentious change to the MRS.

Hon Peter Foss: That is not the end of it.

Hon NORM KELLY: If it does not consider 600 submissions to be contentious, I do not know what warrants the description "contentious". To have gone through that process and then put the very same amendment into another omnibus amendment and expect it to sail through without any problem at all shows that the Government is very much misled as to the purpose of these omnibus amendments.

Hon N.D. Griffiths: The Government misleads itself.

Hon NORM KELLY: They are meant to be contentious.

Hon Peter Foss: We have never said that.

Hon NORM KELLY: If the Government believes that it should include contentious amendments, it must expect that disallowance motions will be moved. It will be guilty of ensuring that many worthy amendments are lost in this process. As I said, I am willing to listen to the Attorney's arguments, but as yet I have not heard any indication that the Government is willing to change the system or to assure members that we will be provided with a better way of dealing with MRS amendments.

HON PETER FOSS (East Metropolitan - Attorney General) [8.01 pm]: This is an interesting debate because while the Labor Party was in office one of the things that I most complained about was the use of section 33A of the Metropolitan Region Town Planning Scheme Act. Section 33A allows for minor amendments to be passed in a different process from that which applies for major amendments. In fact, under the Labor Government there were either none or very few major amendments - nearly everything went through as a minor amendment. There was some concern about the way in which this process was used. It was not used as a true planning process; it was planning in reverse.

Under the old scheme, because no major amendments had been passed, pressure was applied for the development of land. Developers would find a suitable spot that they thought would be good for development, but because there was no appropriate zoning they would start the rezoning process. Development was not following a plan: It was preceding a plan.

Hon N.D. Griffiths: You have a distorted view of history and you know it. I think you should address your comments to this matter.

Hon PETER FOSS: I do not think that I do. It is important that we address what is planning. It is not colours on a map; it is thinking forward about how things should be done.

The developers then worked through the process to have the changes made. They would first see the local council and if it supported the development they would then go to the Metropolitan Regional Planning Authority to get the regional change. A minor amendment would be made to achieve that change and it would move down from the top again.

Interestingly, the amendments that went through this process were highly contentious; very few could be described as minor amendments. All of the amendments in this motion could be described as minor amendments; that is, they could have been legitimately dealt with under section 33A.

In addition to omnibus amendments, we have full corridor amendments. We have had major amendments to the planning of the metropolitan region. Some will necessarily be contentious because when one makes broad bush amendments in the planning scheme some people will be advantaged or disadvantaged and some will approve or disapprove. However, one must establish some guidelines covering the development of the city.

Omnibus plans are the Government's reaction as a matter of policy to the excessive use of section 33A for minor amendments. Omnibus amendments are not for non-contentious amendments but for minor amendments.

Hon Giz Watson: How do you define "minor"?

Hon PETER FOSS: It is unfortunately not defined in the Act. To have any understanding of how this works, one needs to consider four pieces of legislation: The Western Australian Planning Commission Act; the Metropolitan Region Town Planning Scheme Act; the Town Planning and Development Act; and the metropolitan region scheme itself, each of which has statutory effect.

Section 33A of the Metropolitan Region Town Planning Scheme Act reads -

> . . . if a proposed amendment does not, in the opinion of the Commission, constitute a substantial alteration to the Scheme, that amendment is not required to be submitted and approved in accordance with the procedure prescribed in section 33 . . .

It uses the word "substantial". Proposal 17 indicates a little road widening. Most proposals are only small pieces of land in the middle of something else. These are not substantial amendments.

Hon Norm Kelly: What about the other amendments that are not little bits of land?

Hon PETER FOSS: They are. Even the Kiara one is.

Hon Kim Chance: One is 125 hectares.

Hon PETER FOSS: I must confess that one probably would not be subject to section 33A. However, I do not think it is substantial.

I am trying not to be contentious, because I believe that all members who spoke have very fairly stated the position and the matters in contention. I do not criticise or disagree with the statements querying the issues and some of the considerations.

Hon Ken Travers: It is not only the size of the area but also the nature of the change.

Hon PETER FOSS: Yes. The word "substantial" is ambiguous, but deliberately so, because if one tried to define it too exactly it would probably defeat the idea.

The Government said that it would not use section 33A. We will use section 33, and we will bundle them up in an omnibus amendment. We wanted to make sure that the public hearing process was available because it is one process that allows everyone to have a say. It does not mean that everyone will agree. However, if people raise issues, we can say that we have not resolved that matter; we believe the issues are legitimate and need to be considered, the policy of the Government has been to withdraw the amendment. We have withdrawn a number, not because the decision may or may not be right but because at this stage we are satisfied that some issues should be considered seriously before putting it to Parliament.

I have been pleased to hear members opposite congratulate the Government. That is a very fair way of doing it. We have shown that we do listen.

Hon Kim Chance: It is an excellent process.

Hon PETER FOSS: It is a good process. I can recall when we used to spend almost all our time fighting section 33A amendments. The amount of time we used to take was amazing. I do not know how the former department of town planning ever did anything because officers spent most of their time at public meetings fighting about section 33A amendments. We have made a world of difference to those operations. The Ministry for Planning is now forward-planning. I defend the process; I think it is a good one. However, it is not intended to have planning by non-contention. The idea of planning is to listen to everyone, to take into account all matters and make a proper decision. Ultimately a decision must be made, and when made it may meet with almost everyone's approval. However, a group of people may still not agree. At that stage, I do not believe we should not proceed with the amendment, if we believe that we have properly considered all the issues, and it is a proper planning decision. As a Government we are obliged to make the proper planning decision.

The first point to decide is whether it is a proper planning decision. I ask members to think about that point. I do not accept the proposition that we should delete every contentious amendment, because if people were opposed to it, they would continue to raise the contention, and planning occasionally must have some people not agree with it. We will then have non-omnibus amendments, major amendments which, almost of necessity, will need some sort of contention because planning will always affect someone's rights - whether by taking them away or providing something new. By rezoning, some people will earn a lot of money, and we will not hear a lot about that. However, other people may not like rezoning. Some people will have their land rezoned for major parks and recreation, and will object. We cannot guarantee a planning process that will be agreed to by everybody. To say that we cannot bring to this House a section 33 amendment which is not agreed to by everybody, or about which there is a substantial amount of disagreement, is missing the point. We often need to pass things in this place about which there is a substantial amount of disagreement, but we know that we have gone through the process and the decision is right.

Hon Norm Kelly: What is the purpose of bringing it to the Parliament?

Hon PETER FOSS: That is the next point I want to raise.

Hon Ken Travers: Could you not bring in the contentious ones individually?

Hon PETER FOSS: The question that we need to ask is: What is the role of the Parliament? I would like to suggest some answers. When we first came into government and made the decision to use section 33 and not section 33A, I suggested to Hon Richard Lewis that a committee of the Parliament be established to examine how we should handle section 33 amendments. That is an important point. I still make that suggestion. I suggest that we ask the Standing Committee on Delegated Legislation to examine the role of the Parliament. Parliament should not be the planner. Parliament should not take over the role of the WA Planning Commission and try to plan Perth. Parliament should have a say in the matter, but it should not be the planner. I do not think I will have a big argument about that. What is our role? I suggest that our role is to ask: Was the decision made according to a proper planning process? The first question that can then be asked is: Was there full public consultation?

Hon Norm Kelly: And was it listened to?

Hon PETER FOSS: Exactly. The second question is: Was it listened to? Listening to the argument does not necessarily mean that we must accept the argument. The third question is: Was it a decision that could legitimately be made in the circumstances; and were the grounds stated for making the decision on the face of it legitimate grounds for making the decision? That is my view. Others may have different views. That is one of the reasons that the Delegated Legislation Committee, or some other committee of the Parliament, should look at the matter.

Hon N.D. Griffiths: Is this payback time? Are you trying to give the Delegated Legislation Committee more work?

Hon PETER FOSS: No.

The PRESIDENT: Order! One of the difficulties we have with a motion such as this is that some cross-Chamber comment is often helpful to the Minister and the mover of the motion, and other interested parties. However, if members want to develop arguments and talk about particular issues, it will be necessary to go into Committee on it; and that option is available to members if they believe that will be helpful. I only raise that because I do not want to keep asking people not to speak.

Hon PETER FOSS: I originally suggested a joint committee of the two Houses. I was sitting next to Hon Simon O'Brien, and I pointed out to him that I had originally suggested this when we first came to government, but it had not been taken up by Hon Richard Lewis. I asked Hon Simon O'Brien what he thought was the appropriate committee, and he suggested the Delegated Legislation Committee. That suggestion having been made, it did appear to me appropriate, because that committee has the benefit of being a committee of both Houses. That committee also has the benefit of a long experience of the proper principles to apply in the case of disallowance. Therefore, it would

probably arrive at a sensible solution far more quickly than would any other committee of the Parliament. As soon as he said that, I thought, "That is right. We are dealing with a piece of delegated legislation, the principles to be applied have been exhaustively examined by the committee over a period of years, and it probably better than anybody else could tackle it successfully."

In dealing with this amendment we need to see the effect of disallowance and the effect of allowing it to go by. The first two questions could be answered yes. There was proper consultation and it was listened to. The commission has said that this land may very well have conservation values, but they are of local significance - that is, they should be protected by a local scheme. Again, members need to go back to how the planning scheme works in this State. The regional scheme sets up the broad brush of how things are to occur. If members look at the metropolitan region scheme itself they will see that, unlike the local schemes, it does not have a use table. It is a short document and it talks about development of land in zones. Members will see that it lists urban, urban deferred, central city area, industrial, special industrial, rural and private recreation zones. It does not actually say what people can or cannot use the land for; it characterises the land. The actual use of the land is specified by a local government scheme. Part III states -

> Where any provision of a Town Planning Scheme of a local authority that has been duly made subsequent to this Scheme having the force of law, and which has been approved by the Minister and published in the *Government Gazette,* is at variance with any provision of this Part, the provision of the Town Planning scheme of the local authority shall prevail.

It is plainly saying that the broad brush is set with the regional scheme and then there is a mechanism whereby the town planning authorities, the local government, bring their local schemes into accord and actually writes the fine detail in its own scheme. It is well within the competence of a local authority in an urban zone to provide for local conservation.

This is something I have been urging. It is one of the benefits I saw could come out of combining the Environmental Protection Authority assessment process with the planning process. We passed legislation through this House to do that. It partly came out of a desire of mine, when Minister for the Environment, to provide some sort of rationalisation between what was known as System 6 and the metropolitan region scheme. System 6 is more than 20 years old. It has never had any statutory recognition. I suggested we look at System 6 - there was also a revision of System 6 itself - and where there is land of conservation value of regional significance we should put it in the metropolitan region scheme. The advantage was that it set the legal rights. It meant we preserved it legally, not just by some artificial method, and we gave a right of compensation to the owners. It is possible as part of the new system, when the EPA examines a regional scheme, for it to recommend conditions which require the local authority to look at local conservation values as part of their compliance with the regional scheme. That is how it should happen. It is certainly within the competence of the EPA to do it. This is something that will come in over a period as more schemes which are subject to the new procedure come through.

I would like to see all the regionally significant land reserved and conditions placed on the scheme so that the local authority schemes must pay the appropriate recognition to areas of local conservation, and therefore the conservation will be at the appropriate level in each case.

Hon Ken Travers: Where would the Perth bush plan come into that?

Hon PETER FOSS: The Perth bush plan can fit into both areas. Regional issues should go into the regional scheme and local issues into the local scheme. In the same way as System 6 was a total system to look at all of the conservation values of places, this is an inventory. The difference between regional and local schemes needs to be recognised to marry it with the planning.

Hon Giz Watson: Meanwhile, the bush has still been cleared.

Hon PETER FOSS: I want to deal with this because what members are doing today does little to advance it. In fact, it is taking members further away from protection of this bush and I will explain why. I told members what happens when land is zoned. I have not told members what happens when land is reserved; and remember, this is reserved land. When there is reserved land the authority of a case called Subiaco City Council v University of Western Australian is this: Land which is reserved is taken out of the capacity of the local government authority to do anything with it as far as planning is concerned. Let us consider a local government planning scheme and the University of Western Australia. If as a metropolitan reservation it is shown as a university, members will also find on the local government scheme a colouring for it to be a university. However, it has no legal effect. Land which is reserved can be dealt with under the metropolitan region scheme only in terms of its town planning. Land which is reserved is taken out of the capacity of local government authorities to do anything with. They fill in the colour and the designation, but have no option and can do nothing; they cannot further subdivide or subqualify it.

This land is reserved. If members disallow this amendment, what can happen to that land? First, it could be cleared - it could be cleared tomorrow; it could have been cleared yesterday. Many people who originally opposed this amendment actually wanted it used for a TAFE. There is nothing to stop it being cleared for a TAFE tomorrow. The process of going towards some form of local reservation is deferred until such time as the land is put in the hands of the local government to do something about it. At the moment, the local government can do nothing and is legally powerless to do anything with that land. It is reserved for a TAFE and it will be used for a TAFE. The clearing of that land cannot be stopped. It has been indicated that the land is not of regional significance and that will not stop it being cleared if that is what the Government intends to do.

Division 2 of part II of the Metropolitan Region Town Planning Scheme Act deals with "reserved land owned by or vested in a public authority". To find out what a "public authority" is one must look at the Town Planning and Development Act. Members can see why we are busy trying to put the various bits of planning legislation together, because we spend the whole time shifting from one to the other. The Town Planning and Development Act states -

> "**public authority**" means a Minister of the Crown acting in his official capacity, a State Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any Act, administers or carries on for the benefit of the State, a social service or public utility;

Division 2 of part II of the Metropolitan Region Town Planning Scheme Act states -

> **16.** (1) Reserved land owned by or vested in a public authority may, except as provided in subclause (2) of this clause be used without the written approval of the Authority referred to in Clause 13 if the land is used:-
>
> (a) for the purpose for which it is reserved under this scheme;
>
> (b) for any purpose for which it was lawfully used before the coming into force of this Scheme; or
>
> (c) for any purpose for which the land may be lawfully used by the public authority.
>
> (2) Reserved land owned by or vested in a public authority may be used for any other purpose approved by the Authority with or without conditions.

The capacity to use reserved land is broad if the Government wants to use it. If members disallow this amendment no restriction will be placed on that land at all; none whatsoever. The Government cannot be stopped from at least clearing and building on it for the purpose of a TAFE or any of the other purposes within that part of the reservation. I am not saying that that is what the Government intends to do.

Hon N.D. Griffiths: In fact, it has said the opposite. It is not going to build a TAFE. Therefore, let us take the Government at its word.

Hon PETER FOSS: We certainly will not build a TAFE there. I would like to see the capacity for it to move to the next stage, which is the local government authority's capacity to look at it to see whether there should be some local reservation. That cannot happen now because they have no authority to pass any town planning scheme affecting that land. It would be bad planning and the Government would not reserve it for parks and recreation. That is not on for the very good planning reasons already given, and it is only of local significance. The Government will not put in the metropolitan region scheme a reservation to that effect. What will disallowing it do? It will not reserve it for parks and recreation; it will not be zoned under the local scheme as local conservation; and it will have no effect on that land.

Hon Norm Kelly: It will assist it in being a residential area.

Hon PETER FOSS: No, if it is disallowed, its current situation will stay; it will be no closer to -

Hon Norm Kelly interjected.

Hon PETER FOSS: Not necessarily. It gives the local authority some capacity to act. Members opposite will not prevent it from being cleared. A women's prison can be built on it.

Hon Norm Kelly: Exactly.

Hon N.D. Griffiths: Is that what you are planning to do?

Hon PETER FOSS: No, of course we do not want to build a women's prison on it. I just want members to understand that they are not preserving it. They are taking away a number of amendments which are of significant

conservation value. I ask members opposite to think about their role. Is their role to be the planner or to be merely available to people who do not agree with a proper planning decision? It is a proper planning decision for it not to be zoned for parks and recreation. I hope I have established -

Hon Ken Travers: Planning still makes subjective value judgments. Within the planning process, there is still a subjective element, so while you say it is not of significance, that does not necessarily mean that everyone agrees with it.

Hon PETER FOSS: I do not think anybody has suggested it is other than of local significance.

Hon Norm Kelly: It has been argued. It is one of these borderline cases.

Hon PETER FOSS: It is clear that the disallowance will not result in its being included in a regional reservation. Members opposite will not persuade the EPA to interfere and prevent clearing. That is the reality of the matter. It will not get over the line to be zoned for regional parks and recreation, and it will not get over the line for EPA intervention.

It might get the local council to do something about it as an area of local significance, and I think this is where the efforts should be placed. Frankly, a big difficulty in this State is not the State Government's failure to recognise the need to conserve, but that local governments do not recognise the role they should play. The message has still not got through to many local governments that they have a role to play. I may be wrong in saying that was the case with the Shire of Swan, because I see that it has now supported the change. I do not know whether it supported the amendment because it saw it as good urban development, or as an opportunity to preserve local bushland.

Hon N.D. Griffiths: Its support is not without reservation; it is very qualified.

Hon PETER FOSS: I do not want to malign the Shire of Swan, by saying it is not aware of local conservation values, because I do not know what the situation is.

Hon N.D. Griffiths: They are aware of local conservation values. They support the proposal in principle, but they have qualifications with respect to it. Some of these qualifications are in accord with what the local people are concerned about.

Hon PETER FOSS: The shire has the capacity to give effect to that in its amendment following the change to the scheme, that is the important area. If it believes the land has local significance and should be preserved, it has the capacity to do that under its town planning scheme. Certainly there would be no objection from the State Government. I remember, from when I was Minister for the Environment, that the Government has been trying to impress upon local government that it has an important role. Decisions on environmental matters must be made at every single level. However, they must be made from the right perspective and at the correct level. For example, the State Government should not paint all the little subdivisional squares in a town planning scheme - it does not matter whether it is a matter of conservation or industrial, light commercial, or residential zoning - and that detail should be put in by local council. It is important that local government recognises and take the responsibility for that.

We should be trying to make the process work better. What we are doing now is hazarding the concept of regional planning. One of the reasons for regional planning was to get away from the nimby mentality. We have regional planning because, often, a decision must be made for a whole region. We know that the people directly affected will say no. Where will a rubbish dump be put? Nobody wants a rubbish dump and whoever is going to get it is not going to want it. That does not mean that we do not provide the necessary facilities. There will always be contention, and sometimes in this Parliament we must bite the bullet. We can accept that a community is against something, and we understand why it does not want it, but proper planning requires us to do something about it. Proper planning requires us to distinguish between areas of regional significance which we must preserve and areas of local significance which is the responsibility of local government. It would be wrong for the Government to take responsibility for conservation, or for any other area of planning, from local government. If we keep taking the responsibility away from local government by knocking things out of the planning scheme simply because people do not like them, what will we do with major amendments that are required that will necessarily disaffect some people? We would prefer that our decisions were accepted by everybody. However, they are not. It would be bad planning for us to zone this as parks and recreation when it is not an area of regional significance. I do not think Hon Norm Kelly will persuade anybody to make that change. All he will do is stop the change to urban. By doing that he will stop the capacity for local government to accept its responsibility and to conserve the area, if that is what is appropriate. It is properly its decision and responsibility. We must put local government to the test; the local people must put it to the test. Unless we start pinning down local government and making it take responsibility in this area it will escape it every time.

Hon Ken Travers: At the same time the Government is discussing legislation that takes away that authority in other areas.

Hon PETER FOSS: I am glad Hon Ken Travers raised that. One of the problems we have had with local government is that this system works by producing the regional scheme and then the local government comes in and makes a town planning scheme which conforms to the overall broad brush. Local governments are meant to review their town planning schemes every five years or after an amendment. Some councils have not reviewed their schemes for 20 years. The process has been abused by local governments. I have raised this issue before. They use it as blackmail.

Hon Mark Nevill: You went through that about two weeks ago.

Hon N.D. Griffiths: Not only did I hear the Attorney General, but also I read his speech in *Hansard*.

Hon PETER FOSS: The need for this is due to an abuse by local government of its power and through noncompliance of the law. I hope that most councils never put themselves in a position of not conforming to the law and having to have a scheme brought down.

We should look at three issues: The first is whether there was a proper public process. The answer is yes. The second is whether the Government listened in the public consultation process. The answer is yes. The third is whether it was a proper planning decision. That is the issue I want members to consider.

Hon Norm Kelly: That is where it falls apart, because a proper planning decision would have proceeded with this as an individual case.

Hon PETER FOSS: I disagree with Hon Norm Kelly. I do not think we are obliged to separate matters because they are contentious. The question is not whether it is contentious, it is whether it is proper. The matter would be at issue if it included an improper decision. I do not think anyone has said that it is an improper decision. It is only said that some people do not like it. That is a little different from saying that it is an improper planning decision.

Hon Norm Kelly: It is improper, and most people do not like it.

Hon Ljiljanna Ravlich: Lots of people do not like it.

Hon PETER FOSS: Unfortunately, planning involves that sort of decision.

Hon Ljiljanna Ravlich: You said that you would give us the arguments and we could make up our own minds.

The PRESIDENT: Order! The Minister is trying to conclude his remarks.

Hon PETER FOSS: I think I have been able to establish that it was a proper planning decision. It has been decided that it should not be zoned as regional parks and recreation, and I think that is an appropriate decision. Those opposite want it to remain a reserve. Why should it remain a reserve for TAFE purposes, if we know perfectly well it will not be used for those purposes? Unless a specific alternative is made, the appropriate decision is to merge it into the background regional zoning; that is, urban. The proper planning decision is to zone it urban. It will not be zoned as parks and recreation regional because it is not a proper decision and the Government will not do that.

Why do those opposite want to keep it as reservation? I think it is for an improper purpose. It is in the hope that it should not get into the hands of the developers or the Shire of Swan to pass a town planning scheme covering it and, therefore, those opposite will somehow or other achieve their objective by a wrong process. Is it proper to use a reservation as a means of preventing the proper use of land? I do not think it is. Members cannot honestly say that the land is properly zoned as a reserve for TAFE. I do not think anybody has suggested in the argument that that is the case.

Hon John Halden: This is a government filibuster. Is anyone nodding off over there?

Hon PETER FOSS: I do not think it can properly be said that the land should be zoned for regional parks and recreation. I do not believe that option is available. The proper reservation, according to planning principles, is to merge it into the background; that is, to make it urban. I do not accept the argument that we should not put up this amendment with the others, and any negative consequences will be our fault. That is similar to the terrorist's argument: If my demands are not met, I will shoot these 18 hostages and it will not be my fault. I do not accept that. Our responsibility is to bring forward a set of planning processes, and we have done so. If those opposite want to feel they have supported a proper planning process, they should deny this motion and allow the rest to go through. If they do not do that, they will be acting from an improper motive; that is, to allow it to be set aside purely because there is opposition to it. That is not a sufficient reason.

Hon Norm Kelly: Are you saying that there are not areas in which the Act can be improved because we cannot have partial disallowances?

Hon PETER FOSS: It should not be selective disallowance. That is for another Minister to make a decision on. I do not believe there should be selective disallowance. It is a planning process. It should not be for selective allowing and disallowing. That is an invitation for people to become planners, and I do not think that is appropriate.

Hon Norm Kelly: You might as well say that we should not have any of these.

Hon PETER FOSS: If we had not publicly consulted and listened, all the amendments could be disregarded. We have had an example of Hon Richard Lewis pulling this from the process when it went through the western region, so it could get appropriate exposure in the eastern region. That was observing a proper process. If it came up in the western region, we could say that was unfair because it was not exposed to the right people. We cannot say that now, because it has been brought into the eastern region consideration. It is a proper planning process and should be allowed to go forward. Those opposite should not become substitute planners, nor is it for this House to decide how it will plan.

Hon Norm Kelly: If the Planning Commission goes through all the proper planning processes, would you say it is okay for the Governor to override that, and the Governor become the planner?

Hon PETER FOSS: The Governor acts only with the Minister's advice.

Hon Norm Kelly: It's okay for Cabinet to tell the Planning Commission, but not the Government.

Hon PETER FOSS: The ultimate planner is the Government. That is the role of the Government.

The PRESIDENT: Order! I mentioned earlier that if members want to have cross-Chamber chatter, there is a need to go into Committee.

Hon PETER FOSS: The point is that the Government is the ultimate planner, and it must ultimately take responsibility for the planning of Western Australia. That is appropriate, as the Government should make those decisions. It uses mechanisms such as the Planning Commission in making those decisions and generally takes its advice. In this case, we have taken that advice. It is right that the Government should have ultimate responsibility for deciding whether a planning proposal should go ahead. I have no problem with that.

On the other hand, Parliament's role was never to do the planning. Its role is to say what should appropriately be taken out. However, three tests must be met in making that decision: Was there proper public consultation; was it listened to; and was a proper planning decision made? If the answer to each of those three questions is yes, it does not matter how many people do not support the amendment, Parliament should support it.

HON J.A. SCOTT (South Metropolitan) [8.40 pm]: I feel obliged to speak to Hon Peter Foss' point of view. First, I deal with whether Parliament should be the place to effect these planning decisions. Hon Peter Foss called it interfering with the planning process, as members of Parliament are not supposed to be planners. The problem with that argument is the disallowance motion procedure. We are supposed to have a role under the rules of Parliament, otherwise, one would not have the device.

Hon Peter Foss: I said what the device was. I did not say you did not have a role.

Hon J.A. SCOTT: Hon Peter Foss said we should not act as planners. Members can do two things: We can let an amendment pass or we can disallow it, but we cannot amend it. We cannot say that we do like this little bit -

Hon Peter Foss: You must use the proper method.

The PRESIDENT: Order! I have made the point a dozen times that Hon Jim Scott will address the Chair. I want to hear what is going on, as do other people who are required to record what is said.

Hon J.A. SCOTT: Parliament has a role to play in this process. A device is available to do that. We can let the amendment pass or disallow it; those are our only options in this place. We are not about to change the whole planning process. We consider simple amendments. The one in question obviously has great local significance, as indicated by the number of submissions made addressing it.

The proper planning process the Minister is talking about should balance regional and local requirements. It should not override local needs because of the common good. It is interesting that the Minister represents a party which is totally opposed to communism, yet he wants to apply a paternalistic view; that is, he wants to impose the common good over the local community. The approach is very communistic in this instance.

Significant local concern is clearly expressed about this land. Most people I have heard speak in this debate have not been concerned about knocking out all the changes made in the normal planning processes. They want the planners to take out a certain amendment and consider it again. They can then resubmit this metropolitan region scheme omnibus eastern district amendment with the contentious part removed, and review that section.

Another aspect of the Minister's argument I found debatable was when he said that local government can make a decision on this area; namely, if it wishes, it can keep it as local bushland. I can give the Minister numerous examples of local governments wanting to do exactly that. The problem is that they do not have the money to do it. In many

cases they are asked to hand over large amounts of money, which they do not have, to purchase the land. In addition, local governments often prefer to have more urbanised areas so that income is generated for the shire. As a result, pressure is placed on them to develop bushland. Two things stop local government from preserving bushland in this way which the Government is not addressing, but which it should address. By the time the Government establishes its green plan, which we were promised a long time ago, no green will be left.

It is interesting that the planning scheme does not give a designation to these small, important local areas of bushland. If we were serious about protecting them they would have their own designation. I put it to the Attorney General that if the State Government were to be forthcoming with funding for local government to purchase this land to retain it as bushland, the Attorney General's argument might be more readily taken on board.

Until the realities of the situation are dealt with, rather than the theories the Attorney General so cleverly articulated, these areas will not be afforded proper protection.

Finally, by interjection, Hon Norm Kelly referred to proper planning processes. I remind members of the extensive planning and consultation process undertaken in relation to Peel-Harvey. The local community of Mandurah held a referendum and voted overwhelmingly not to develop the area. The Minister, in his wisdom, chose to override local opinion and said the area would be zoned urban. That is a good example of how the planning processes the Minister described are unsafe from ministerial interference.

The system is flawed because it does not provide for a designation of small but important areas of bush that are not regionally significant. The issue of "regionally significant" is a bit of a cop-out in many instances. The small areas of bushland around the city are important to the movement of birds and animals from one area to another. Without an ability to travel through those green areas, or even larger areas, the regional bushland areas will suffer loss of diversity.

As members will be aware, animals do not stay in one place; many move with the seasons, so they need those small bushland areas to travel through and spend time in. Although they might not be "regionally significant" to the planners, they are significant to fauna. In some cases they are significant to flora in order to maintain not only unique species but also a variety of species so that the genetic stock does not diminish.

In that sense these areas are important to flora. They are very important to fauna, particularly for the movement of birds through the metropolitan area. We are seeing these small areas of land disappear because of the absence of any proper planning process to protect them. When the Minister can come up with a proper designation for important local areas of bushland -

Hon Peter Foss: He can.

The PRESIDENT: Order! The member is trying to conclude.

Hon J.A. SCOTT: When local decisions on these matters which have broad community support cannot be overridden at the whim of the Minister, who may be living in a far distant, nicely treed area of the city, we will see proper planning take place. I want some feedback from the Minister on whether the State Government will be prepared to fund local government to enable it to purchase these lands for urban bushland. Until it can do so, it is meaningless to say that it can keep such land as bushland. I will be interested to hear some comments from the government benches on these matters.

HON N.D. GRIFFITHS (East Metropolitan) [8.52 pm]: I thank those members who have sincerely and eloquently expressed support for this motion. I welcome in particular the contributions made by my colleagues Hon Kim Chance, Hon Giz Watson and Hon Norm Kelly and, a few moments ago, Hon Jim Scott, who has a great concern for the needs of local people, particularly their appreciation of flora and fauna.

Two matters were raised by the Attorney General which require comment at this stage in response: First, his acknowledgment that the movement back from urban to urban deferred will in reality make no difference to what will happen to this land, and, second, his comment on the proper role of members of Parliament in this process. We are members of a House of Parliament.

The Act gives us a role under section 33. We have the power to disallow after considering the matters brought before us. The matters have been before us for several weeks. Members interested in these matters have had the opportunity of reading the material and discussing the concerns raised with interested members of the public. Having done that, it is perfectly proper for members of Parliament, who are representatives of the people, to take note of the very strong, clear and cogent objections expressed by local people on proposal 13. For that reason, among others raised by me and my colleagues, the disallowance motion should succeed.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Norm Kelly	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*
Hon John Halden			

Noes (12)

Hon E.J. Charlton	Hon Ray Halligan	Hon M.D. Nixon	Hon Muriel Patterson *(Teller)*
Hon M.J. Criddle	Hon Murray Montgomery	Hon Simon O'Brien	
Hon B.K. Donaldson	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss		Hon Greg Smith	

Pairs

Hon J.A. Cowdell	Hon W.N. Stretch
Hon Bob Thomas	Hon Barry House
Hon Tom Stephens	Hon Derrick Tomlinson
Hon Mark Nevill	Hon Max Evans

Question thus passed.

RULES OF TROTTING - NOTICE OF AMENDMENT

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon N.D. Griffiths was moved pro forma -

> That the Rules of Trotting - Notice of Amendment, published in the *Gazette* on 5 May 1998 and tabled in the Legislative Council on 19 May 1998 under the Western Australian Trotting Association Act 1946, be and are hereby disallowed.

Amendment to Motion

HON N.D. GRIFFITHS (East Metropolitan) [8.58 pm]: I seek leave of the House to amend the motion for disallowance by adding after the word "That" the words "part 2 and part 6 of". I will explain briefly the reasons for the amendment. The rules of trotting, the subject of the motion for disallowance, relate to four areas. Three areas remain of concern to the Joint Standing Committee on Delegated Legislation but a fourth area is not of concern to the committee; namely, an amendment in relation to the administration and detection of drugs.

The PRESIDENT: Order! Members, there are too many conversations. Leave will be sought in a moment and I do not know how members are going to vote if they do not know what is being said.

Hon N.D. GRIFFITHS: If leave is granted, it will enable the House to retain in the motion which I propose to move those matters which are of concern to the committee. The area which will be excised, if leave is granted, relates to an amendment dealing with the administration and detection of drugs. The committee has examined that aspect and found that it is within power. It has no concerns with that and is of the view that it should be removed from the motion of disallowance. In those circumstances, I trust that members will grant me leave.

Leave granted.

Motion for Disallowance, as Amended

Hon N.D. GRIFFITHS: The best way to deal with this is to refer to the rules. The first issue relates to rule 4 dealing with persons and bodies bound by the rulings of trotting. Rule 4(1) states -

> These Rules shall apply to all races and race meetings defined by these Rules and shall also apply to and be binding on: . . .
>
> (l) any person who in the opinion of the Controlling Body or any Steward may have knowledge of any matter which is relevant to an inquiry by the Controlling Body or any Steward.

The Joint Standing Committee on Delegated Legislation is concerned that this applies to - if one can use the word - "strangers". In that sense, the Western Australian Trotting Association, which does not possess the legislative powers of the Parliament, purports of its own motion effectively to declare that its jurisdiction shall extend to whomever it

may think fit to declare to be subject to that jurisdiction. As a concept that is inappropriate but, when it is aligned with the balance of the changes proposed, members may appreciate its significance more.

The next area of concern relates to proposed rule 38 - the change being to do with the question of legal representation at an inquiry. The rule states -

> (f) At any inquiry convened under this Rule, a person is not entitled to be represented by another person, whether or not legally qualified, unless approval is given by the Controlling Body or the Chairman of Stewards or any Steward who considers that it is necessary or appropriate that representation should be permitted.

This enables legal representation not to occur and the committee believes that that is inappropriate in such a blanket form. There will be circumstances in which legal representation is not appropriate, but others in which it is very appropriate indeed, bearing in mind that we are dealing with people's livelihoods and those concerned may not be sophisticated.

Another aspect of the offending regulations deals with a person potentially being required the incriminate himself.

I note in that context that relatively recently the Minister for Racing and Gaming presented a report on the review of the Racing Penalties (Appeals) Act 1990. The report contains a discussion about qualified legal counsel being present in certain circumstances and it deals with those situations in which it is considered not necessarily appropriate to have legal counsel. That report is consistent with what the Delegated Legislation Committee has presented.

We are dealing here with civil liberties and that issue is part and parcel of the committee's terms of reference. The offending rule then goes on to state -

> (1) At an inquiry convened under Rule 38 by the Controlling Body or the Chairman of Stewards or any Steward, no person shall -
>
> (a) when required to do so -
>
> (i) refuse or fail without good reason to attend; or
>
> (ii) refuse to give evidence or produce any document required; or
>
> (b) give false or misleading evidence.
>
> (2) A person is not excused from giving evidence or producing a document on the ground that the giving of the evidence or the production of the document might incriminate or tend to incriminate the person or render the person liable to a penalty.

That goes wider than the scope of the Royal Commissions Act; no protection is given to someone who is required to incriminate himself or herself. The protection normally afforded, in these circumstances, certainly under the Royal Commissions Act, is that if a person is required to answer a question and thus incriminate himself, that incrimination cannot be used in evidence against that person.

In my view, these matters should be looked at together: The wide scope of bringing in strangers, the lack of legal representation and how it is phrased, and the power to remove what I suggest is a fairly significant right of our community, in most circumstances - a right which is removed only by the express wording of Statute and, then in only rare circumstances where there is a degree of protection, namely the right to not self-incriminate. In those circumstances, in accord with the instructions of the Delegated Legislation Committee to me, I ask the House to disallow the regulations.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.06 pm]: It is extraordinary that we are here telling the Trotting Association what its rules should contain. When one watches the performance of some members these days one gets the impression that they are the Government anyway, and we will make decisions in this House regardless of the consequences.

Hon N.D. Griffiths: We are not here just to rubber stamp.

Hon N.F. MOORE: The Government and the Minister have spoken to the Trotting Association and it is prepared to accept the concerns expressed by the Delegated Legislation Committee about the two parts that are sought to be disallowed. The Trotting Association will discuss the matter with the Delegated Legislation Committee to see what needs to be done to put the rules into some sort of order which is acceptable to the committee. I guess that in due course we will find that the Delegated Legislation Committee will be running the trotting industry in Western Australia along with everything else it wants to run - or so it seems!

Hon N.D. Griffiths: There are some very competent members on the committee.

Hon N.F. MOORE: But they are not the Government and they are not the Trotting Association - but now it appears that they are the planners as well. We have some rather unusual circumstances in this State as people who have a bit of power for the first time in their lives are beginning to exercise it.

We do not oppose this motion. The Trotting Association will meet with the committee to try to satisfy those concerns.

Question put and passed.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Referral to the Standing Committee on Legislation

Resumed from 30 June, on the following motion -

That the message be referred for consideration to the Standing Committee on Legislation.

HON N.D. GRIFFITHS (East Metropolitan) [9.08 pm]: In speaking to this motion to refer the message to the Legislation Committee I am not removing myself from being opposed to the substance of the message. I will mention briefly what I find objectionable about the substance of the message, and in that context I am supporting the proposition that it be referred to the Legislation Committee. The point I find objectionable about the substance of the message is that it diminishes the rights of employees. Whenever the Government thinks there is a problem somewhere the first line of attack is to diminish the lives of employees and to get its greedy hands into the pockets of employees to fix up whatever it perceives as an existing problem.

Hon E.J. Charlton: Did you agree with the estimate of $2m to look after the interests of those people in the second gateway when it came in?

Hon N.D. GRIFFITHS: I will confine my remarks to the issue of referral to the Legislation Committee. When the matter is debated in substance, I will deal with those substantive issues of finance that seem to be so much on the mind of the Minister for Transport, who recently brought in measures to tax Western Australians an extra $78.8m this financial year.

We are concerned to ensure that in seeking to move this message to the Legislation Committee for its consideration, we do not lose the many worthwhile measures in the Bill that we have supported. This Bill has been around, in one way or another, for some time, and the last thing we want to do as a constructive Opposition is have worthwhile measures lost.

Hon N.F. Moore: A destructive Opposition!

Hon N.D. GRIFFITHS: I wish this destructive Leader of the House would be quiet for a change. He will have the opportunity to speak in a moment, if he wishes.

We do not want to have the Bill in total lost by way of a failed conference of managers, if it should come to that. I do not know why the Government is so concerned about this matter going to the Legislation Committee.

Hon E.J. Charlton: We are not.

Hon N.D. GRIFFITHS: I look forward, then, to the Government's support for this measure; and if it would indicate its support by interjection, we could have a very short debate indeed.

Hon E.J. Charlton: We will tell you what you need to do when you get it there.

Hon N.D. GRIFFITHS: That is typical of the Minister for Transport - Beam Me Up Eric; or is it Beam Me Down Eric?

As far as I am concerned, committee work is committee work, although some people do not seem to like the idea of committees presenting reports and suggesting the House take them on board. Be that as it may, the Legislation Committee comprises five members of Parliament: Three from the Liberal Party, one from the Greens (WA), and one from the Australian Labor Party. With regard to party makeup, I do not know why the Government should have any difficulty at all with the proposal. We need to ask ourselves: What is the Government trying to hide? Does it really want to give everybody riding instructions to the nth degree?

What we are doing with this motion is asking the Parliament to consult directly with those people who will be affected. The Executive says it has consulted, although I doubt that it has consulted effectively and properly. At the end of the day, the Parliament must make a decision. The Executive has brought legislation before the Parliament,

but the Parliament has the right to form a considered view. An effective way of doing that, certainly in this House, is through the mechanism of the Legislation Committee. That mechanism will allow considered reflection. It may also take some of the heat out of the issue and give the Government a chance to calm down. It is a better process than what the Government has proposed.

I will not allude to debate in the other place, but we do know that we sent a message to the Legislative Assembly on this Bill. That message left this House on 1 April 1998; perhaps we should not let matters leave us on 1 April. However, the message to the Legislative Assembly is dated 2 April 1998. I think the message that is before us is dated 25 June 1998. We commenced to deal with it yesterday. The substance of the message, particularly amendment No 3, is novel. I say that as part of the process of contrasting that with what we are proposing to do. Our proposal involves consultation, reflection and mature consideration.

However, to put in context the process the Government has embarked upon for whatever reason, it is the latest stunt of the Minister for Labour Relations who seems to do everything towards the end of the financial year. Invariably, thankfully for the people of Western Australia, he comes unstuck for the most part; certainly he comes unstuck with his colleagues. I do not want to mention smoking regulations, which have a lot of popular support but not within the Cabinet, because to do so would be irrelevant to this debate.

Hon E.J. Charlton: Did Hon Nick Griffiths support him on that?

Hon N.D. GRIFFITHS: I note that in the Minister's second reading speech on this Bill he made reference to the Minister for Labour Relations having -

> . . . recently introduced the 1997 amendment Bill which replaces and consolidates the major changes contained in the 1996 amendment Bill. That Bill was introduced, but not debated, in the 1996 spring session of Parliament.

He omitted that say that it was introduced in October 1996 and, more pointedly, he omitted to point out that a Bill in substantive terms was introduced in 1995, lapsed on prorogation and was then reintroduced in 1996.

This is the third time around. Towards the end of the process on a message from the Legislative Council to the other place we have a substantive change tacked on. We are acting very reasonably and properly in saying "Stop! Send it off to the Legislation Committee," comprising three members of the Liberal Party, one member of the Greens and, as it happens, one member of the Australian Labor Party. It is an appropriate committee of the House to do this work. Send it off to the Legislation Committee so the committee can consult, mature reflection can take place and the heat can be taken out of the matter; and then perhaps we can get some worthwhile legislation before the House.

HON LJILJANNA RAVLICH (East Metropolitan) [9.17 pm]: I take great interest in matters concerning the welfare of workers in this State. I personally object to the amendments which will take away right of access to that which is fair compensation. I briefly want to outline the purpose of the 1982 Workers' Compensation and Rehabilitation Act and, in doing so, signal my intent to support the motion. The purpose of the Act was -

(a) to make provision for the compensation of -

  (i) workers who suffer a disability; and

  (ii) certain dependants of those workers where the death of the worker results from such a disability;

(b) to promote the rehabilitation of those workers with a view to restoring them to the fullest capacity for gainful employment of which they are capable;

(c) to promote safety measures in and in respect of employment aimed at preventing or minimizing occurrences of disabilities; and

The fourth is the most significant of the objects of this Act. It quite clearly states -

(d) to make provision for the hearing and determination by the dispute resolution bodies of disputes between parties involved in workers' compensation matters in a manner that is fair, just, economical, informal and quick.

In my view, the message we have before us from the other place, particularly in relation to the amendments moved to clause 32, is anything but fair and just. Despite the long, drawn out history of this piece of legislation, suddenly the Government expects us to make a snap decision on the issues discussed in the other place.

The history of the Workers' Compensation and Rehabilitation Bill is long. The Minister for Labour Relations introduced the first version of this in 1995 and it remained on the Notice Paper for most of that year. Again in 1996,

the Bill sat on the Notice Paper for most of that year. We have before us again in 1998 an amendment to the 1993 changes which were to make the State's workers' compensation system quicker, cheaper and less formal. Now we have an amendment to clause 32 which does nothing but reduce the rights of workers to fair compensation. On a number of occasions I have signalled my concern about the whole issue of worker safety and matters of compensation. One thing that has never added up is the fact that the Government continually crows about reductions in the number of industrial accidents and diseases and the great achievements and inroads it is making in that area, although workers' compensation claims are increasing. It does not add up and I would be pleased if someone could explain to me how we can have such great achievements in reductions of occupational injuries, accidents and diseases, while at the same time we have quite a substantial increase in the number of claims made. Some time ago I put a question on notice and received a response about the numbers of claims over the period 1992-93 to 1996-97. In 1992-93 we had 57 264 claims, in 1993-94 we had 56 021 claims, in 1995-96 it had increased to 59 476 claims and then the following year it was up to 63 243 claims. These are the figures, although the Government claims that since 1993 it has had about a 20 per cent reduction in the number of occupational injuries and diseases. Something is quite clearly not adding up.

I want to recap on the Council's recommendation, which was to delete clause 13, which was rejected by the other place and sent back to us in a message. Under the proposed amendment to section 61(1), the weekly payments would be discontinued based on a total or partial capacity for work, instead of the injured person being wholly or partially recovered. This section would make it easier to terminate payments for injured workers and that is why we objected in the first place. We also argued strongly that a medical practitioner may be qualified and capable of deciding whether a worker is wholly or partially recovered, but is not in the best position to decide whether a worker has a total or partial capacity to work. The reason for that argument is that medical practitioners, although they may be excellent in the field of medicine, are not necessarily au fait and do not have an understanding of what happens in an individual worker's place of work. That is quite a different matter and in our view the amendments would disadvantage injured workers who were at risk of being sent back to the workforce before they were fully recovered. We have not shifted our position on that. Having read the debate in the other place, I note that the Minister said that this change was only a fairly minor change. My response to that is, if it is so minor I am sure he will not be offended by the fact that we will not agree to the message. Therefore, the Minister will understand why we want this issue to be referred to a committee for a comprehensive investigation.

The second recommendation related to clause 22, which amends sections 84R, 84ZH and 84ZR. That clause provides the opportunity for matters to be referred to a medical assessment panel. An argument raised the last time this issue was debated in this place was that the workload of conciliation officers was such that they would be very tempted to refer cases to the medical assessment panel under clause 22 relating to medical issues. If permitted by section 145A to do so, a conciliation officer may refer a question as to the nature or the extent of a disability, whether a disability is permanent or temporary, or a worker's capacity for work, for determination by a medical assessment panel. This clause extends the role of medical assessment panels.

Members of the Labor Party are opposed to that amendment because we are concerned that medical panels are generally made up of only medical practitioners and representatives from the insurance industry. They do not have a comprehensive understanding of the nature of workplaces, and they may not necessarily work or operate in the best interests of the injured worker. Noting the workload of both conciliation officers and review officers - in the former case, their workload has increased by approximately 300 per cent since 1993 - they would be greatly tempted to handball cases to the medical assessment panels.

Decisions of the medical assessment panels are not appealable. They are binding and in some cases could reduce the insured worker's right to justice. The Opposition believes that the role of medical panels is to deal with medical aspects, and not the nature of work. I would like to know if medical panels will be made up of people who have the skills and qualifications to make an assessment relating to a worker's capacity to work in the workplace. I suspect that the response to that question is no. I suspect that medical practitioners on these panels will be purely and simply preoccupied with matters of medicine, and nothing beyond that. Therefore, the Labor Party cannot support amendment No 2.

Medical assessment panels can be a bit dangerous. The first thing that strikes anyone who has had any dealings with workers' compensation claims and worker injury, when dealing with insurance doctors and insurance companies, and even insurance lawyers, is the great likelihood that they have fairly strong arrangements and agreements between themselves. They do not necessarily work in the interests of the people. I will provide members -

Hon B.K. Donaldson: That is absolutely ridiculous!

Hon LJILJANNA RAVLICH: I will give the member a case in point. My late father nearly fell off Parry's construction site -

Point of Order

Hon E.J. CHARLTON: I am sorry to do this. The member is really talking about the substantive content of the message, rather than the motion to send it to the Legislation Committee.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Yes, the member should direct her comments to the need for referral.

Debate Resumed

Hon LJILJANNA RAVLICH: There is an absolute need for referral. I will take -

Hon E.J. Charlton: I am not arguing with that.

Hon LJILJANNA RAVLICH: Specifically, clause 32, which has been deleted in the other place and an amendment made to it, is of major concern to this side of the House.

Hon E.J. Charlton: If you want it to go to a committee, tell us about that.

Hon LJILJANNA RAVLICH: I want the Bill to go to a committee. The Minister for Labour Relations stated that clause 32, introduced into the other place on the last day of the autumn sitting, was a matter of urgency because insurance companies were at risk

Hon E.J. Charlton: No.

Hon LJILJANNA RAVLICH: I am glad the Minister said no.

The DEPUTY PRESIDENT: Order! Hon Ljiljanna Ravlich will address her comments to the Chair.

Hon LJILJANNA RAVLICH: Mr Deputy President, one of the strong arguments made by the Minister in debate in the other place was that insurance companies were at risk, and it was imperative that this second gateway be closed, so that insurance companies would not have to pay out to the extent that they had paid out. The Minister for Transport shakes his head. The Government rammed it through the other place because it has the numbers.

Hon B.K. Donaldson: The people gave it the numbers.

Hon LJILJANNA RAVLICH: On Tuesday there was a package on my desk. Hon Bruce Donaldson shakes his head. It was a letter from the Minister for Labour Relations. I do not know if other members received similar packages.

Hon Kim Chance: Was it in a WorkCover folder?

Hon LJILJANNA RAVLICH: Yes. I was keen to receive this package because I hoped it would throw some light on the situation. Three points in the covering letter attracted my interest. The first point refers to evidence that common law claims through the second gateway are the primary reason for a substantial escalation in costs in the system. The second point is a claim that if immediate action is not taken workers' compensation premiums will increase significantly in future years and the entire system could collapse. Members can imagine how alarmed I was. The third point is that removal of the common law access through the second gateway is the Government's preferred option to control the current escalating costs. I accept that it is the most expedient option for the Government. However, that totally contradicts the objects, particularly object No 4, of the principal Act.

I read through this information and, keeping in mind the debate in the other place, I became alarmed at the second point that the system could collapse. I want to ascertain how much of this argument is true. How much of the problem relates to the second gateway, or are other factors involved? If this Bill is referred to the Legislation Committee I would consider that to be one of the key areas it would consider.

A briefing note in this package went to great lengths to outline the problem with the second gateway. It claims that since 1993 injury rates have been reduced by 21 per cent. Where is the evidence of that? The other day I asked the Minister for Transport whether the companies working on the Northbridge tunnel were giving workers points towards flights and other bonuses so they would not report accidents on site. Surely the Minister should be fairly concerned if that sort of scam is going on. His response was that it had nothing to do with him; it is between the employer and the workers. I want to know where WorkSafe is; how many accidents are not being reported -

Hon E.J. Charlton: Take it up with WorkSafe, not me. I'm getting the Graham Farmer freeway built.

Hon LJILJANNA RAVLICH: Quite clearly, WorkSafe is not doing the job, and the Minister does not seem to be doing it either. I want some evidence of the facts, apart from some graph that has been drawn up by a bureaucrat, relating to that 21 per cent -

Hon E.J. Charlton: You love all the bureaucrats.

Hon LJILJANNA RAVLICH: Why do we not have a reduction in the number of workers' compensation claims?

Hon Peter Foss: We have.

Hon LJILJANNA RAVLICH: I will be interested to see that. If those opposite support a motion to refer this matter to a committee, we will be able to get all the facts on the table and work out what is going on.

Hon Kim Chance: Why is there a problem?

Hon E.J. Charlton: Sit down and we will have a vote on it.

The DEPUTY PRESIDENT: Order! I remind members that we are listening to Hon Ljiljanna Ravlich. Other members others will have their opportunity shortly.

Hon LJILJANNA RAVLICH: Another point made in the information package was that actuarial advice indicates that the costs in the workers' compensation system are escalating by $82m a year. I am interested to see the figures, how they are derived and whether it is just purely and simply a result of the second gateway or whether other factors, such as management and marketing strategies by insurance companies, have assisted in their ending up with this sort of difficulty.

Hon E.J. Charlton: You are saying that some people did not use common law to go through court.

Hon LJILJANNA RAVLICH: The Minister can object all he likes, but I can tell that I am getting close to the facts when I see by the way he reacts that I am getting under his skin.

Hon E.J. Charlton: You get under too many other skins.

The DEPUTY PRESIDENT: Order! The Minister will come to order. I ask the member to address her remarks to the Chair.

Hon LJILJANNA RAVLICH: The Minister said that there is not a problem with finance companies and there is no threat of their collapsing.

Hon E.J. Charlton: You wanted to know where the escalation came from.

Hon LJILJANNA RAVLICH: The next point in the briefing information states -

> Less than prompt action on this cost blowout will result in seriously negative impacts on the current and further business environment in Western Australia.

If that is the case, it is of the Government's own making. It has had this legislation lying around for a long time. This little amendment to this little clause is brought in on the last day of Parliament with the intent to ram it through, and we are not supposed to take any notice of it. The briefing comments continue by asking what will happen if the second gate is closed. They state -

> Injured workers who have been accessing the "second gateway" will still be able to receive no-fault compensation for permanent disability under the provisions of the Act if the second gate is closed.

They do not say that it will be a lot harder, if not impossible, for many injured workers. They go on to say -

> Even if the "second gateway" is removed, seriously disabled workers will still have access to common law through the "first gateway".

This is not good enough. We must accept that some injuries and damages are secondary. It gets better!

Hon E.J. Charlton: It will get better when you sit down.

Hon LJILJANNA RAVLICH: It might get better for the Minister when I sit down, but I am not paid to sit down; I am paid to stand in here and to speak.

Hon E.J. Charlton: You are not paid to come in here and waste time either.

Hon LJILJANNA RAVLICH: I am not paid to make it comfortable for those opposite - and I do not intend to.

Hon E.J. Charlton: Let's have a vote.

Hon LJILJANNA RAVLICH: I am glad the Minister supports the idea that this matter should go to the Legislation Committee.

Hon Peter Foss: I love the sound of your voice; you carry on.

Hon Simon O'Brien: I disagree with the Attorney General; it will be better when you shut up.

Hon LJILJANNA RAVLICH: If the government members needed a push to hang themselves, they need only read this bit of information in the briefing notes which states -

> In proposing to remove the 'second gateway', the Government seeks to restore this balance for the benefit of injured workers and employers alike.

I have never heard such a fallacious argument. How will this benefit workers? What a load of rot!

Hon Kim Chance: What about the choice in the workplace agreements?

Hon LJILJANNA RAVLICH: Government members said, "Trust us."

The DEPUTY PRESIDENT: Order! I thank Hon Kim Chance for his comments about a completely different Act.

Hon LJILJANNA RAVLICH: Those opposite must think we came down in the last shower. They must be joking! The committee can look into this area which I think needs thorough investigation: How will injured workers be better off by closing the second gateway?

In response to the Minister's earlier comment that there is no problem for the insurance companies, here we go, the last dot point reads -

> If the blowout is not addressed immediately, the workers' compensation system in Western Australia could collapse.

This is in the Minister's package. The committee can look at this matter. Why was this issue not addressed earlier? If this is such a problem which is causing major cost blowouts, why did the Government leave it to the last minute to introduce this measure into the other place? It has had the entire session to do so. I hope good reason will be presented; I cannot wait to hear it.

Hon N.D. Griffiths: It has been a long session, too.

Hon LJILJANNA RAVLICH: Indeed.

Hon Peter Foss: Too long.

Hon LJILJANNA RAVLICH: It is not a unanimous view that this is the only option. The Law Society has a different perspective.

Hon E.J. Charlton: It would like us to go to court every day.

Several members interjected.

Hon LJILJANNA RAVLICH: The Minister is not helping anyone; the Minister is in dreamland.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! Hon Ljiljanna Ravlich cannot be heard over the commotion.

Hon LJILJANNA RAVLICH: If this goes to a committee, some of these issues can be considered. That is why the Labor Party is moving that the message be referred to the Legislation Committee.

The Minister's briefing notes refer to attachments from the Law Society and other bodies, but the attachments are not provided. Therefore, members must make the best of what they have.

Hon E.J. Charlton: You have always done that.

Hon LJILJANNA RAVLICH: The briefing notes state -

> On 6 April 1998 the Law Society . . . wrote to the Minister outlining the Society's views regarding the financial health of the workers' compensation system, attachment 2.

It is not there. It further reads -

> The Society stated the crisis within the system is not driven by common law but by the inability of insurers to finalise claims once commenced.

Is that not interesting? Here we have another variable, perspective and reason for the crisis. I am not saying that this is the reason for the problem, but it is another consideration. The Government has said that all the problems of the

cost blowout - the crisis - rests in one place. Everybody, including the Minister in the other place, has said that there is a crisis, but the Minister for Transport says we have no crisis. It is written all over the place. The only reason for the crisis is the second gate provision.

Hon Simon O'Brien interjected.

Hon LJILJANNA RAVLICH: Hon Simon O'Brien should go back to sleep where he has been for the last year.

Hon Simon O'Brien: It is hard to sleep with you rabbiting on.

Hon LJILJANNA RAVLICH: The Law Society indicates that the problem relates to the inability of insurers to finalise claims. The Minister totally rejected the society's suggestion that the system is not threatened by common law. We need more information upon which to make a determination on the message from the other place.

Hon B.K. Donaldson: You would not understand it if you were told, even with pictures.

The DEPUTY PRESIDENT: Order! The Chairman of the Legislation Committee will come to order.

Hon LJILJANNA RAVLICH: The Australian Labor Party does not trust, and has no faith in, the Minister's words, because workers of this State have been sadly disappointed, abused -

Hon B.K. Donaldson: Oh, come on!

Hon LJILJANNA RAVLICH: What has the Government promised workers and delivered? They are worse off. People cannot get safety in their workplaces, and cannot get a WorkSafe inspector on site until a fatality occurs! Hon Bruce Donaldson would not have a clue; he never goes out to industry. He has no idea!

Hon B.K. Donaldson: I know how to employ people. You have never employed anyone in your life!

The DEPUTY PRESIDENT: Order! The member will address the Chair and not incite other members.

Hon LJILJANNA RAVLICH: I am happy to address the Chair. I do not know the extent of this crisis, but we must investigate it. Is this amendment the best way to deal with it? Is there another option or series of options? I have no idea. The general perception is that the financial position of insurance companies is fragile. The Insurance Council of Australia wrote what appears to be a standard letter dated 5 May 1998 that has probably been distributed to all and sundry.

The fifth paragraph states that the Insurance Council of Australia believes it is essential that financial stability be urgently restored to the Western Australian system which in recent years has been seen as the pre-eminent, competitively underwritten scheme in Australia. It even acknowledges that there is an urgent need to restore stability. I am very keen to find out the extent of this instability and what can be done about it.

The Minister's own briefing notes read -

> According to the WorkCover actuary the current system is "out of control" and unsustainable.

How out of control is it? To continue -

> If common law benefits are not amended the cost to employers will have a significant impact on employment and competitiveness of WA commerce.

The information that the Minister left on my desk suggests -

> To avoid the total collapse of the WA Workers' Compensation system it must be returned to a stable and equitable environment as a matter of urgency.

I want to know, as I am sure do many others, how close is the workers' compensation system to total collapse. If it is, why has the Minister not acted? If I were a Minister -

Hon Kim Chance: You would be a very good one.

Hon LJILJANNA RAVLICH: I thank Hon Kim Chance. A crisis is not created overnight; it could not have happened on Wednesday followed by the Minister's introducing an amendment on Thursday. What has this Minister done? He is irresponsible. If there is a crisis in the community and the most creative thing the Minister can do about it is cut off access for injured workers to the second gate, that is an appalling response from a Minister who has done no more than sat on his hands for all this time. He should be disgusted with himself as am I.

I do not know the extent of this alleged crisis, but one of the motives for suggesting this amendment be referred to the Legislation Committee is so that it can investigate the situation and determine what is the best way to deal with it.

According to the briefing notes the Minister provided, the average increase in premiums across the board of about 13.6 per cent, is not 13.6 per cent across all industries. In fact there will be some winners and some losers. In some industries, premiums have decreased compared to last year. In other industries, I suspect high risk industries, premiums will have increased compared to last year.

Hon E.J. Charlton: Who will get the decreases and where are they?

Hon LJILJANNA RAVLICH: They are in nickel mining, computer maintenance, banks and lotteries. This information came in the package from the Minister. It states -

> Claims blow-out forces up insurance costs.
>
> The continuing trend towards user-pays in workers' compensation will bring pain or pleasure for employers for 1998/99, depending on the industry they are in.

It also states -

> However, the overall increase of 13.6% is an unpleasant surprise in view of the 30% reduction achieved in the years since 1983.

If there has been a reduction of 30 per cent since 1983, why is the Government complaining; where is the crisis; what is the problem? These are other matters that the committee can investigate.

Hon Kim Chance: It is just an excuse to beat up the workers again.

Several members interjected.

Hon LJILJANNA RAVLICH: Members opposite know it is true.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon E.J. Charlton: The old live sheep loader, eh? He has woken up and changed sides.

Several members interjected.

Hon LJILJANNA RAVLICH: Stay calm!

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The Minister for Transport will come to order. Hon Kim Chance will no doubt shortly have a chance to deliver his speech. Now that we have all calmed down, Hon Ljiljanna Ravlich may continue.

Hon LJILJANNA RAVLICH: If the insurance industry which pays out workers' compensation premiums has had a reduction of 30 per cent since 1983 and, as I understand it, the increase from last year to this year is 13.6 per cent, I do not understand why that 13.6 per cent increase suddenly creates a financial crisis. I am interested in the committee looking at that. The Minister's newsletter states that the 13.6 per cent increase continues to be directly attributable to the escalating costs in the area of weekly benefits, common law, medical treatment, and vocational rehabilitation. Quite clearly from that list it is not all related to the second gate. The Minister's newsletter defeats his own purpose. The increase is attributed to a number of factors and not just the second gate.

Hon Kim Chance: Perhaps they did not mean to send out that information.

Hon LJILJANNA RAVLICH: It has the Minister's signature on it and a date stamp. That is how authentic it is. I am happy to table it.

Hon E.J. Charlton: It is from a fair and open Government.

Hon Kim Chance: Fair and open but not real bright!

Hon LJILJANNA RAVLICH: Referring to the 13.6 per cent increase, it states -

> The increase is made up of a 4% increase in view of the very significant cost escalation at a current level of 15% per annum over and above wage inflation, together with a 9.2% uncertainty margin in view of the volatility in the current claims cost environment.

Out of that 13.6 per cent, I want to know what is the 9.2 per cent volatility margin. The committee should also investigate fairly thoroughly the question of the volatility margin. All is not as it appears. The problem is of the Government's making. The problem has arisen in response to the fact that the Government has not acted with any

haste whatsoever. I would go so far as to say that the Minister has been downright tardy in introducing such an amendment on the last day of sitting in the other place, given the significance and likely impact on the workers of this State if it were passed. It is totally unacceptable.

I firmly believe that insurance companies are in a competitive market. They must manage their businesses as everybody else must in a competitive market. I do not know what marketing strategies these companies had in place; however, it appears that the Government's proposed solution is no more than a quick fix to get itself and its Minister, and possibly also insurance companies, out of a pickle.

The workers in Western Australia do not trust this Government. I do not trust this Government. I have heard the Government say on many occasions - Hon Kim Chance is right - in relation to workplace agreements that employees will have choice. The Government has let us down on many occasions since that time. I do not think its word is its honour. There is ample evidence that this Government is about eroding the rights of workers, and workers have every reason not to trust this Government. We will not allow the common law rights of workers to be eroded any further.

The issue of the financial difficulties of these companies must be addressed in another way. I note with interest that the State Government Insurance Office is still paying a fairly good dividend to its shareholders. I do not deny that it has a right to do so, however, by the same token, there must be a balance somewhere in the system, and I hope the committee can look at that balance. The whole area of workers' compensation needs a thorough investigation. My experience is that workers are done down constantly and insurance companies, doctors and lawyers can often work for expedient outcomes at the expense of the interests of the injured worker.

Therefore, in view of the total unacceptability of the message before us this evening, I strongly urge the House to refer this matter for further investigation to the Legislation Committee because I believe that this is the most appropriate strategy in this case.

HON MARK NEVILL (Mining and Pastoral) [9.58 pm]: I strongly support sending this Bill to the Legislation Committee. I would urge that committee to deal with the matter expeditiously and send a report back to this House as soon as possible, because I see a real problem looming in the workers' compensation area.

Until about two days ago, I was completely oblivious of the situation as I understand it now. To a large degree, I blame the insurance companies for not keeping members of Parliament informed of the extent of the problem. I blame also the Minister for Labour Relations for not taking action earlier than he has currently taken to date; to have this matter dealt with at such a late time in the session is an absolute disgrace.

There is the double difficulty of having a Minister whose major preoccupation in life seems to be inflaming people in the union movement and anyone who does a manual job. He has no bank of goodwill left to give when he is in trouble. He is certainly and absolutely in trouble now. I am not so concerned about the current situation; however, I can see a real problem looming on the horizon. All of us know why this second gateway was created. It was put in place for exceptions; and there is no doubt that it has gone way beyond that. The number of applications being made - and they have been quoted in previous speeches - has increased fivefold in the first two years from 148 in 1994 to 837 in 1996. Last year there were 1 230 and this year we could be looking at 2 000. Approved insurers paid out $312m in claim payments last year for claims made over the past six or seven years. We are now seeing claims that are two, three or four years old. The problem is not occurring now: It will occur next year, the following year and the year after that.

The number of claims being lodged is frightening. To get an idea of the number, this afternoon I rang a number of mining companies and contractors and asked how their insurance premiums have changed. One company's premiums will double and another said its premiums will go from $362 000 to $673 000 - almost double; another's premiums will go from $742 000 to $2.2m; another's will go from $288 000 to $608 000; a contractor's premiums will go from $625 000 to $1.27m; another's will go from $676 000 to $1.77m - a tripling; and another's will go from $1.8m to $4.8m.

Hon Simon O'Brien interjected.

Hon MARK NEVILL: Let me finish. That suggests to me that there is a problem this year and that it will be worse in the next two or three years unless we take some action.

Hon Tom Helm: Why can they not be safer?

Hon MARK NEVILL: One of the ironies of this is that the lost time injury rate in the mining industry is declining steeply. But what is happening to the premiums?

Hon Ljiljanna Ravlich: They are going up.

Hon MARK NEVILL: Yes. That is the purpose of this Bill.

Hon Tom Helm: They are being robbed.

Hon MARK NEVILL: Who?

Hon Tom Helm: The mining companies. There are fewer claims and the premiums are going up. I want to know why the premiums are going up if they are safer.

Hon MARK NEVILL: Listen to my speech and you might understand something.

Hon Tom Helm interjected.

The DEPUTY PRESIDENT: Thank you, Hon Tom Helm.

Hon MARK NEVILL: I am trying to suggest that there is a problem. Does the member not believe there is a problem?

Hon Tom Helm: Yes.

Hon MARK NEVILL: I believe there is a problem and I am telling the House why.

Hon Tom Helm: Tell us what it is.

Hon MARK NEVILL: If the member were to listen he might learn something.

Hon Simon O'Brien: You are the lone voice of reason on the other side of the Chamber.

Hon MARK NEVILL: I do not give the Government any credit for this. It has a Minister who has alienated everyone and it sticks in my craw to do anything that might save his bacon. However, unless some action is taken now the whole workers' compensation system could collapse. Given the figures I have quoted and the amount of money paid out in 1996-97, in the next three for four years workers' compensation premiums could increase by 30 per cent a year. Does the member dispute that?

Hon Tom Helm: Not if you say it is so.

Hon MARK NEVILL: What happens when we experience 30 per cent or 40 per cent increases in premiums over three or four years? We get a government department with a one line budget allocation. If a company is required to pay another $500 000 in workers' compensation, what happens? Fewer jobs are available. It is the same with the mining industry: If a company must pay an extra $3m for workers' compensation, there will probably be fewer jobs.

Hon Tom Helm: How will they justify the rise?

Hon MARK NEVILL: That is for the committee to decide. However, we must look seriously at the problem of common law claims. The number of claims is far greater than we anticipated with the earlier legislation. If there are 2 000 applications this year it will be a big worry for the Chamber of Commerce and Industry, the Trades and Labor Council, the Government and the Opposition, because in three or four years we will not have a workable workers' compensation system, and pressure will be applied to abolish all common law claims. Therefore, it will be better to fix up the situation now rather than wait for problems to become insoluable.

I do not blame lawyers for getting involved in this area of workers' compensation. Injured people need legal advice to combat the way the system is structured, with people representing the insurers and the employers who probably have more knowledge than the average lawyer in this area of the law. It is a very one sided area. I do not begrudge injured people the ability to seek extra money, but ultimately we must have a system that works, and that will not be easy.

Most of the debate that I have read seems to skirt around the real issue and the difficult question. That problem needs to be looked at and addressed quickly, because the consequences will be felt two or three years down the track. It is appalling that the matter has been left for so long and this situation has been allowed to develop. The Minister for Labour Relations has not done his job; he has not kept the House abreast of the problems. I do not know how we will bring legislation before Parliament prior to Christmas to remedy the situation - if that is possible. I do not know whether there should be some threshold for brain surgeons or piano virtuosos who earn $150 000 a year, and those who have a low level of injury but a high loss of earnings. I do not know whether we can apply some threshold, or whether we could find another answer; but ideally we should put in place a solution now, not in six months.

The Legislation Committee has a big job ahead of it. I am not impressed by the fact that the committee comprises three government members, only one Labor member and one Greens (WA) member. That composition does not fill me with confidence that we will achieve a consensus and end up with a workable system in two or three years. The

community needs a workers' compensation system that works well. Generally we have had that over the years, despite the foolish tinkering by some ideologues with this legislation, at times.

I hope there is some meeting of minds on the issue. It is never easy to reduce people's entitlements or expectations. I do not think anyone ever gets enough compensation for injuries suffered at work. The main solution is to achieve a safer workplace. We have been getting a safer workplace over the past 10 to 15 years, particularly in the area of lost time injuries, and one would expect that the money paid out on workers' compensation would at least not grow as exponentially as it is now, and people would receive adequate compensation for their injuries, and adequate and reasonable weekly payments.

Hon Peter Foss: We did increase the statutory benefits.

Hon MARK NEVILL: I am aware of the previous Bill. I want to disabuse people of the suggestion that there is no problem. There is a real problem. The system may fall apart in three or four years because we are facing a premium increase of 30 per cent or 40 per cent over the next three or four years. That is not good for unemployed people, it is not good for the work force, and it is probably not of benefit to injured people. The people who are going through the second gateway are people with low percentages of disability under the classification.

I hope this matter is referred to the Legislation Committee and that the Legislation Committee will take its job seriously and look at the longer term ramifications of this matter, because if the premiums have increased this year for the low level of claims that we had two or three years ago, and if we will have probably 2 000 claims this year, the system is in danger of collapsing. A crisis exists, and I hope the Legislation Committee will report a solution to the House. The committee will need to find a balance between all the competing interests in this area and come up with a solution that is fair, even though it may not satisfy everyone entirely. I would like to be on that committee.

Hon Peter Foss: I hope you go along. It will be worthwhile.

Hon MARK NEVILL: Unfortunately, that committee has a majority of government members. I hope that other members will take the opportunity of sitting in on that committee's inquiries. I know members have other obligations -

The PRESIDENT: Order! This is a referral motion to the Legislation Committee. It is not a second reading speech, or anything like that.

Hon MARK NEVILL: Yes, Mr President, and for those cogent reasons I suggest that it should be referred to the committee and that it report back expeditiously.

HON HELEN HODGSON (North Metropolitan) [10.12 pm]: I also believe that this message should be referred to the Legislation Committee. This matter has probably generated more correspondence to my office - with one notable exception, from which I think we all suffered - than any other issue in the time since I was elected. Every time there has been a story about the second gateway in the Press, my office has been inundated with telephone calls and messages. In the past week, since the rumours about this move started - I did hear rumours of this last Wednesday night, the night before it was introduced into the other place - I have had briefings from the insurance industry, insurance brokers, WorkCover, the Minister, the union movement, injured workers' representatives, and the Law Society of Western Australia. I cannot count the number of faxes and letters that I have received. Therefore, to say that I am ignorant of the issue is probably not quite correct at this stage of the game. However, it has shown me that there is a massive interest in the issue, and there is a massive fear on the part of workers that their rights will be eroded. A very intransigent, dry economic argument has been put by insurance companies and other people that we need to look only at the financial equation. It is important to try to find a balance between the two. I agree that there is a problem in the system; the statistics show that. However, it is important that we do not lose sight of people's rights in the process. I apologise to those people with whom I was unable to make an appointment. It was a case of having only so many hours in the day and lot of legislation to get through this week. I hope that in the consultations that I have undertaken, I did at least get a point of view from all the vested interests.

This message contains three parts. The first two parts are less controversial than the third. They deal with medical assessment panels, and with how to define whether a person has wholly or partially recovered or has a total or partial capacity for work.

I have considered the Assembly's message as to why it has disagreed with our amendments, and its reasons for substituting amendment No 3. Although it has not changed my mind I see some need to take account of its reasoning. I support referring the Assembly's message to the Legislation Committee, because it will be able to look at both sides of the argument. On the one hand, some people experienced in the workers' compensation area say that the Bill will limit rights. On the other hand, the Assembly's message states that it will advantage workers. We need to find some way to get to the bottom of those opposing points of view. That is more efficiently done in committee, because

committee members can draw together the relevant people, hear evidence and bring back their report on what they believe the issues to be. Although I have not changed my mind as a result of what was contained in the Assembly's message, particularly the first part, there is scope for the committee to obtain information to help it determine whether the Council should insist on its amendments or accept the reasons given by the Assembly that we do not insist on them.

The committee can serve a useful function in relation to amendment No 2 of the Assembly's message. A number of issues have been brought to my attention in which it seems the medical assessment panels may not be operating efficiently. We need to review the operations of those panels in the context of the amendment that was brought before this House that we disallowed, and is now before us in the message. In particular, a question was asked in the other place about instances of problems with medical panels. The answer given was that the Minister was aware of only one instance. I can put the Minister in touch with a number of people who have problems with the medical assessment panels. In particular, I have received correspondence from a person who has currently requested a writ of certiorari to quash a decision of a medical assessment panel, because it seems that the panel may have been acting in accordance with the amendment even though that had not been passed. I have not had written confirmation of this, but I understand that a writ of certiorari has been granted. I have also been provided with written decisions of other cases in which a panel's decisions have been quashed because it has acted beyond its jurisdiction and it has been asked to reconsider the issues. I do not think it is fair to say that the panel is beyond reproach. If the committee had the opportunity to look at the second part of this message it could consider some of the issues surrounding the medical assessment panels to determine whether the Bill as originally proposed was appropriate or whether we should insist on our message to the Assembly not to accept that part of the Bill. It is important that the committee has the opportunity to consider the second part of the Assembly's message as well.

The most controversial issue is the third amendment, and the matter of closing the second gateway, as it has become known. I raised my concerns in a point of order yesterday about the process that has been adopted. However, I accept that it has been ruled in order. Although it may be technically in order, we must deal with the matter on its merits. The committee is the appropriate place to examine some of the arguments that have been presented. An actuarial analysis of access to common law dated March 1998 was put out by the Workers' Compensation and Rehabilitation Commission of Western Australia; it was prepared by Coopers and Lybrand Actuarial and Superannuation Services Pty Ltd. I have had the opportunity to read this. I do not know how many members have read it or how many members would understand the detail in this document. The Legislation Committee is in a far better position to examine it than is this place, where we would have to consider it on the run, so to speak.

I have a firm opinion when it comes to reports on actuarial issues, such as those contained in this analysis, that the validity of the information is often dependent on the veracity of the assumptions that underlie the report and the briefings that are given. Based on that, I want to see some of the analysis in the report tested so it is not just accepted on face value. For those reasons, the committee is the appropriate place in which to deal with the issue. In that report and other documentation, reference is made to other options that have been assessed. I am not sure every option has been thoroughly assessed. I have recently seen a submission by the Trades and Labor Council of Western Australia in which another option is put forward, which certainly has not been assessed.

We must make the decisions affecting the rights of injured workers, having looked at all the available options, all the alternatives. I have some problems with the use of the second gateway. The information presented indicates the vast bulk of claims go through the second gateway and that is why there is a blow-out in claims, thus causing pressure on premiums and small business. I am not convinced that closing the second gateway will deal with the number of claims being assessed. My reasons for saying that are twofold: First, the information in the actuarial analysis, on which this move is supposedly based, indicates the vast majority of claims are actually less than the statutory threshold of $106 000.

Hon Peter Foss: They go through the second gateway.

Hon HELEN HODGSON: They go through the second gateway, because, firstly, it is the only way under the current law to get a lump sum payout and it is in the interests of all people to clean up outstanding claims by paying out these claims and getting them off the books. We are encouraging people to go for smaller amounts in settling claims because they do not have the option to go for a redemption. That matter was in the original Bill and was accepted by this place; however, it is not subject to the message under consideration. The effect is that if those redemptions were allowed, that would alter the picture for second gateway claims.

Secondly, as the Attorney General said, it is easier to go through the second gateway because it is easier to prove the pecuniary loss than to prove the 30 per cent threshold for physical injury.

Hon Peter Foss: You don't have to get it proved. You have to prove the likelihood of it.

Hon HELEN HODGSON: I have seen letters from lawyers which have said that of the hundreds of cases they have dealt with, in only one or two have they recommended the claimants go through the first gateway, because the second gateway is easier. Some of those cases would inevitably show they have more than a 30 per cent disability. At the moment the information says that only about 2 or 3 per cent of the claims - I have the statistic with me, but it is not at hand at the moment - are going through the first gateway; the rest are second gateway claims. How do we know what the proportion will be afterwards? There is no analysis of that.

Closing the second gateway access to common law will result in a shifting of the claim picture. It will not necessarily result in closing the access or relieving the pressure on premiums. That must be explored, teased out. We must get a better picture of what is happening in that respect. The committee is the appropriate place in which to tease out some of these issues.

Hon Peter Foss: You must accept the fact of retrospectivity if the committee were to come up with some solution.

Hon HELEN HODGSON: Retrospective laws are inappropriate, particularly in the case of injury where we must determine what is retrospective. Do we make it retrospective to the date of the injury or the date the claim is lodged?

The PRESIDENT: Order! I say again: This is a referral motion. This cross-Chamber chatter is the type of debate which no doubt can occur in the committee, if the message reaches that point.

Hon HELEN HODGSON: I have heard about a significant number of claims lodged in the court system on Thursday and Friday of last week. That indicates the fear in the community about the possibility of a retrospective closure of the gateway. Many claims will probably be spurious and lodged simply to protect the rights of the workers who, with an eye on the closure of the loopholes, are not yet ready to prove negligence or the extent of their injuries. Therefore, they have lodged claims to protect their rights.

Hon Peter Foss: They do not have to be proved; that is the problem.

Hon HELEN HODGSON: The committee should also explore, as was ably illustrated by Hon Mark Nevill in relation to the mining industry, claims about the extent of increased premiums. I understand the premium increases hit on 1 July, today, and were established on the basis of the existing claims level. If this matter is so urgent that it must be dealt with before we rise, how will it relieve employers? Their premiums are set for the year based on claims for last year or the year previous, the reserves and the calculations done. Why not spend six or eight weeks looking at the issue to consider the insurance system and workers' rights to find the right balance? Six to eight weeks will not cause any problems which have not already occurred as of today.

Everybody has heard about increased premiums; I accept that it has already happened and it represents a problem. Also, I accept that in a couple of years premiums will increase again to cope with increased claims. That does not mean that we cannot spend a couple of months producing a fair analysis of the matter. This year's premiums have already been set; they are in place. The committee should consider why insurance companies were able to discount premiums over the past two years by as much as 30 per cent below the rate set by the commission. Insurers are in financial difficulty because the reserves were inadequate to keep up with claim levels. They then ask us to take away workers' rights.

The committee should examine a number of issues closely. I do not deny a problem exists. Everybody involved in the workers' compensation system accepts the difficulties. However, is the answer to take away workers' rights? The committee should examine that question.

HON PETER FOSS (East Metropolitan - Attorney General) [10.28 pm]: I hope that I may assist the debate by indicating that to a large extent I agree with many of the remarks made. I must disagree slightly with Hon Ljiljanna Ravlich.

Hon Ljiljanna Ravlich: How unusual.

Hon PETER FOSS: Many of the points made are excellent reasons to refer this message to the Legislation Committee. I would have no hesitation in indicating the Government's acceptance of that proposition if it were not for one small point. It may be that the small point that I raise is capable of being addressed by the committee's recommendation.

I will not repeat what I said yesterday in Committee on this legislation. We have established that a problem exists, and that the second gateway has not addressed that small possibility of the concert pianist or neurosurgeon who may have less than a 30 per cent disability, but suffers a major loss. It is interesting that the second gateway is so broad that it is the easiest one of the provisions to drive through. I agree with Hon Ljiljanna Ravlich and Hon Helen Hodgson that if we were to close the second gateway, a large number of those who pass through the second gateway will then pass through the first gateway - as they should. The intent of the law is that people who have more than

30 per cent disability have access to common law. It is interesting that people use the second gateway because it is easier than the first. The interpretation by the courts is the problem. For a start they do not require the person to show there is negligence; all one must do is get leave. That is different from getting a result. Once leave is granted the whole process grinds on.

Whatever members might say about lawyers, seeking compensation is a costly business and the intent was, in the area of employers' liability, that as the major method - I am sure both sides will agree - a no fault system should provide proper and ready recompense. It is in no-one's interests to be involved in protracted legal proceedings. As I conceded yesterday, it is a mistake to be miserly with workers' compensation payments because it encourages people to resort to common law. A good system adequately recompenses workers quickly on a no fault basis. The Government recognised that when it increased the weekly payments and the second schedule payments. That was a sensible idea. However, it was an attempt to be fair on the common law side.

The PRESIDENT: Order! I have said to other speakers that the motion before the House is that message No 139 be referred to the Standing Committee on Legislation. It is not a debate on the message proper, but whether it should be referred.

Hon PETER FOSS: I am developing an argument to explain a point about why it should not go to the Legislation Committee, or if it does a particular issue must be considered.

The PRESIDENT: The Attorney General should focus his comments now on whether it should or should not be referred.

Hon PETER FOSS: I will, but I must explain to people the problem with the second gateway. It will not wait six to eight weeks.

Hon Ljiljanna Ravlich: It has waited a whole year, so six weeks will not hurt.

The PRESIDENT: Order! We do not need any interjections; they disrupt people.

Hon PETER FOSS: The problem with the second gateway is that it derives from section 93D(4) of the Workers' Compensation and Rehabilitation Act which reads -

> Proceedings in which damages are sought are not to be commenced without the leave of the District Court.

Subsection (5) requires that leave is to be given if three alternatives are met.

Transitional provisions in clause 32(3), which would become 32(5), provide that the amendments made by subsections (1), (2), (3) and (4) will have no operational relation to cause of action arising wholly before the day on which this section commences.

My concern is that we have already heard the rate at which leave is being granted. It is clear that once that leave is granted we open up the prospect of a common law action. It is also clear that large numbers of the claims that have been dealt with to date have been under that final amount. They have been settled for between, say, $50 000 and $100 000, not the $150 000 threshold. Strictly speaking they should not have got through. However, the leave is granted, not on the basis of what they will get, but on the possibility they will get more than that amount and the possibility they will be negligent. Once common law damages become a possibility the incentive to settle is significant because the cost of common law is so great. Many of the insurers have found themselves in a cleft stick: Do they fight a case for the next six years and incur $100 000 in costs - the problem is also there for the worker - or pay an amount now and move on?

Hon Tom Helm: Does the worker accept that payment?

Hon PETER FOSS: Exactly; it is on both sides. I prefer a system that adequately compensates workers without the need to prove fault. Many payments are under that amount and are being settled because the leave is being granted. I read to the House yesterday the number of applications for leave that had been lodged. The figures I gave were for Thursday, 47; Friday, 23; and Monday, 48. I now have the figure for Tuesday at 124. The problem is that once this or any House starts to debate a change - I am not criticising lawyers - it is almost incumbent on lawyers in order to avoid an action for negligence to lodge applications as fast as they can.

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: That is the difference between a decision made today and one made in eight weeks from now. There is no simple solution. The only way is if one can say absolutely to people that the legislation will have effect from a particular day and it does not matter what they do now. The point made quite validly by Hon Mark Nevill

was, "Yes, but a lot of damage has already been done." We will not be able to stop that; it has already happened. The system will have an awfully big creak before it gets over this, no matter what solution we come up with. Hon Giz Watson, Hon Ljiljanna Ravlich and Hon Mark Nevill have made some valid points, all of which I accept. My principal concern is what happens in the next eight weeks. It is a matter of considerable concern to me because once we start on the process of dealing with a problem, something happens out there in the wide world with the bringing forth of applications for leave.

Hon Ljiljanna Ravlich: Why did you not think of this a year or six months ago? You are an intelligent man.

Hon PETER FOSS: I was making some suggestions. When this Bill came to the House when it was going through the other way, I did indicate that the second gateway was a problem and that some legislation would be required. I do not think that at that stage we had been given to understand by the insurance industry quite how big the problem was.

Several members interjected.

The PRESIDENT: Order! Members can discuss that in the committee, if and when the Bill ever gets there. Now is not the time.

Hon PETER FOSS: I have tried not to disagree with the criticism because there is not a great deal to be gained by trying to justify why the insurance industry has not made it clear before now or why the Government has not moved before now.

Hon Ken Travers: I am sure you do not want to discuss that.

Hon PETER FOSS: I am amazed I can stay upright, I am leaning so far backwards in my attempt to be conciliatory.

Hon Ken Travers: You are trying to cover up for the Minister for Labour Relations.

The PRESIDENT: Order, Hon Ken Travers!

Hon PETER FOSS: If it helps, I will speak to the ceiling.

Hon Tom Helm: You have no choice, comrade.

Hon Ljiljanna Ravlich: You are on the back foot.

The PRESIDENT: Order! Hon Tom Helm and Hon Ljiljanna Ravlich will come to order. I will say this once more: This is a motion to refer message No 139 to the Legislation Committee. The Minister has given a very clear understanding of why it should or should not be referred with the issues he has raised.

Hon PETER FOSS: I have only been responding to interjections. I have been trying to say to members that I do not see why they are raising them if I am not trying to justify it.

The PRESIDENT: Order! Please address the Chair.

Hon PETER FOSS: I thank you for your protection, Mr President. I did not want to try to justify it. I have tried to avoid doing that in order to make this as non-contentious as possible and to deal with the issue.

I table what is known as a red line version of the amendments so far as they relate to the second gateway. It would assist members if I did so because some of the things I have talked about will be clearer if they have them. If the Bill goes to a committee, they will find the red line version will make the position clearer.

[See paper No 1786.]

Hon PETER FOSS: I also table one other document in response to Hon Ljiljanna Ravlich which relates to lost time injuries. I have a chart which indicates a drop in lost time injuries. I feel that on that particular point there is a clear problem which is aggravated by the second gateway. I table the chart which deals with the frequency rate of LTIs by gender and workers' compensation.

[See paper No 1787.]

Although I accept the validity of each of the arguments raised by members as to why it would be appropriate for it to go to the committee, what will happen in the next six to eight weeks? I will be opposing the motion. However, my suggestion is that the committee should give serious consideration to a further amendment to the legislation to take effect as from - I suggest - today. This will avoid the problem in the next eight weeks - if we have a problem in that time - of all lawyers in town having to churn out applications on their word processors for every single workers' compensation case that they have on their books. At least we have the capacity not to add next year's problems to the current problems.

I oppose the motion. I do not need any more arguments; I accept the argument as to its validity. However, I suggest that members address the point I have raised as to what will happen in the next six to eight weeks just as I accept the other points made as to why the Legislation Committee could give a useful perspective on what to do with this legislation.

HON KIM CHANCE (Agricultural) [10.41 pm]: I will speak briefly to acknowledge the statements made by the Attorney General and my colleagues. I support the motion to refer message 139. Until late this evening I was not in favour of that proposition. I would have preferred that we simply rejected the message. Fortunately, wiser counsel among my colleagues convinced me otherwise.

The committee should consider a number of issues and I will summarise those briefly. If this is a summary of what my colleagues have said, it is a reasonably accurate one. What we are facing here is a crisis created by the Government shutting the first gateway. That is what happened. We had a good workers' compensation system until 1993. The Government then shut the first gateway. There is no doubt about that. If members want evidence of that I will quote from a letter by Mr Singh of the Australian Plaintiff Lawyers Association. It reads -

> The present (1993) law, reduced workers' compensation rights by placing one of 2 thresholds against workers, the first known as the "*disability threshold*" requires a worker to prove 30% disability (as defined in the Act and not medical disability as we would normally understand it) . . .

I read a little further in that letter -

> 1. it is a blatant falsehood that the disability threshold will adequately deal with workers' compensation rights.

Hon Peter Foss: Common law rights.

Hon KIM CHANCE: Yes. The letter continues -

> As defined in the Workers Compensation and Rehabilitation Amendment Act 1993 if a doctor certifies 30% disability it is in fact only 18% under the Act! Thus, a worker certified 30% disabled still cannot make a claim;
>
> 2. in short, for a worker to reach 30% under the Act, the worker has to be medically certified to be at least 50% disabled! That effectively means that an injured worker's body is half useless before he can make a claim;

If that is not shutting the first gateway, I do not know what is. Demonstration that that has already occurred is found in another letter signed by Mark McAuliffe of McAuliffe and Associates dated 23 February 1998. It reads -

> We confirm that since the 1993 amendments this office has been involved in hundreds of workers' compensation claims where leave to issue proceedings has been sought. We have only encountered one claim out of those hundreds of claims where plaintiffs have sought to avail themselves of the 30% threshold. All other claims have been by virtue of the second gateway. Without a detailed analysis of relevant data it is not possible to determine at this stage what percentage of claims currently passing through the second gateway would have successfully negotiated the primary gateway, had the plaintiffs chosen to take that route.

Hon Tom Helm: To whom is that letter addressed?

Hon KIM CHANCE: It is addressed to Mr V. Evans, Managing Director of the Insurance Commission of Western Australia.

This is the situation as I see it: We have effectively closed the first gateway by the application of the 30:18 rule and we have then naturally had a takeover of the second gateway. That has not happened because of greed on the part of lawyers, workers or anyone else, but because they were forced out by the closing of the first gateway. That has created a financial crisis. But is it the only thing that has created a financial crisis? It has occurred, at least in part, as a result of discounting in the industry. That happened from 1994 to 1997.

The PRESIDENT: I think the member has laid the foundation and now it is time to talk about why the Bill should or should not be referred. At the very least he might mention the committee now and again.

Hon KIM CHANCE: These are matters I hope the committee will undertake to discuss. Issues can be raised other than those that have been presented.

We have a problem within the industry; that is not denied. However, I wonder from where it has come. As recently as 25 May 1998 the Minister for Industrial Relations pointed to some of the issues that I hope the committee will

consider. An article entitled "Workers' compensation: Claims blow-out forces up insurance costs" - it seems to be an extract from a publication of the Industrial Foundation for Accident Prevention, but it bears the Minister's initials - suggests that the reason for the blowout is not entirely the revision to common law. It deals with the point made by Hon Mark Nevill when he referred to individual companies having experienced sharp rises in premiums. I have a list of the premium increases and decreases before me. A number of industries are experiencing significant decreases, but, as Hon Ljiljanna Ravlich indicated, the premiums for some in the nickel or mining industry have decreased by 51.9 per cent. That seems strange. Hon Mark Nevill was quoting big increases in the mining industry, but at the top of the list of decreases is nickel or mining companies.

It is not simply common law that is causing the problems. The article states -

> The chairman of the committee -

That is, the Premium Rates Committee -

> - Des Pearson, said: "The increase continues to be directly attributable to the escalating costs in the area of -

He then lists four things in this order -

> . . . weekly benefits, common law, medical treatment and vocational rehabilitation.

Not only was common law not the only issue mentioned as an escalating factor in the difficulties faced by the insurance industry, it was not even the first mentioned. That issue should be considered very carefully by the committee. The other issue is perhaps a little more subtle, but it is also very important.

The article also refers to something I have not heard about previously; that is, the ending of cross subsidy in the workers' compensation industry. I did not even know that industries were cross subsidised, but one paragraph of the article states -

> These changes will reduce the amount of cross-subsidy of unsafe industries by safe ones.

The beginning of the article states -

> The continuing trend towards user-pays in workers' compensation will bring pain or pleasure for employers for 1998/99, depending on which industry they are in.

The article might as well have said "depending on the level of safety that they manage within their industry", because some mining industries have had very substantial reductions - that is, over 50 per cent reductions.

I mention these things because they have not been mentioned so far in debate, and it is very important for the Delegated Legislation Committee to be aware of those factors. I wonder if we are not being sold a pup; I wonder if we are not being sold a proposition that in 1998 we are facing a problem and must deal with it. However, we should consider whether the problem follows this time chart: In 1993 we introduced efficient legislation. We shut the first gateway. The natural consequence was to open the second gateway. The second gateway and the other changes which accompanied it, including the end of cross subsidisation, have created problems for individual industries. Certainly from the example given by Hon Mark Nevill, some mining companies have been affected. We have created a financial crisis in the industry initiated by deficient legislation. Who will be asked to pay for it? We happily accepted the reductions in premiums along the line; we created a crisis, but the workers will pay for it.

The PRESIDENT: Order! The committee will look at that. We are talking about a referral.

Hon KIM CHANCE: I hope it does. Mr President, you will be pleased to know that I have completed my contribution. However, it is extremely important that the committee take a lateral look at the issue, because it is not the way it has been sold to us. Clearly, injured workers will be expected to pay for this financial crisis that has been created by deficient legislation and possibly by deficient management.

HON J.A. SCOTT (South Metropolitan) [10.52 pm]: Being further down the list of speakers it is sometimes like walking on to deliver a speech from *Hamlet* only to find someone else has delivered the soliloquy.

I wish to explain why I think this message should be sent to the Delegated Legislation Committee. Firstly, we are attempting to find a balance between the workers' compensation system and a fundamental human right, which is access to common law. That aspect is covered in the United Nations Declaration of Human Rights. That is a fundamental aspect. Secondly, as Hon Mark Nevill pointed out, we are dealing with a very serious situation in trying to balance those two factors, and to retain people's rights. The graphs appear to indicate that industry is heading for serious trouble.

The problem is that a lot of contradictory information is floating around. Members have referred to the rise in premiums, and I now refer members to the Bill that came before us late last year, from which the message arose. The second reading speech reads -

> Members will appreciate that the legislative reforms to workers' compensation introduced by this Government in 1993 have resulted in a fairer and more cost efficient system. For example, since the introduction of these amendments there has been a significant average reduction of 35.5 per cent in recommended premium rates.

We are now being told that we have a real problem. What is the truth? Late last year, the Minister was telling us how successful it was. I understand also that over a period of two years, in addition to that premium reduction of 35.5 per cent, people have been given discounts of up to 40 per cent. That is a total of 75.5 per cent. We hope the committee will look at that matter and ask people to provide it with information so that we can find out what is the truth in this matter and whether we are being led down the garden path by people who want to make a bigger profit or we really do have a problem.

Secondly, when we prevent people from accessing their right to common law or we reduce their ability to access common law as a way of reducing premiums for workers' compensation insurance, we create a system which does not do anything to prevent accidents. It is easy to say, "We have a problem with premiums, so we will just cut off people's right to access common law." The committee needs to look at whether that will be a dangerous move.

The next reason that this matter should go to a committee is that people have been saying that the cost of common law claims is significant, but I have had briefings from and been shown graphs by experts in the field who claim that there have been significant increases in other areas, such as in the medical field. That may be good, because people are receiving better treatment, but I do not know that it is. The committee can look at that matter. There has also been a huge increase in the cost of counselling. I know from both the insurance companies and people who have been injured that it is not working. It is a disaster area. The committee can look at that matter also.

The committee can look also at whether insurance companies are being a bit slack in their administration and are partly to blame for their own cost increases, rather than the increases being due to legal costs and so on. The committee can look at a range of factors that may be causing the problem.

I, like Hon Kim Chance, have a copy of the letter from McAuliffe and Associates, Solicitors, to Mr V. Evans, Managing Director, Insurance Commission of Western Australia. I interpreted that last paragraph as meaning that it would be impossible to tell how many claims that are going through the second gateway would go through the first gateway and would end up incurring legal costs anyway. If this Parliament passed legislation to cut off the second gateway and people merely moved back to the first gateway, we would not have achieved anything. The committee will be able to look at that matter and see just how many claims are likely to be made in that area. That is very important. McAuliffe and Associates did not just look at that problem, but put forward a number of solutions that would not cut out people's common law rights. I will give one or two examples -

> The Relevant Test
>
> Section 93D(5)(c) uses the phrase "is likely to have". This phrase has been interpreted in the case of Fraser v Southern Cross Nursing Homes as requiring the plaintiff to only prove that he has a real and not remote chance of succeeding in achieving the statutory threshold at trial. Such an approach grants to the court a wide discretion in its consideration of leave applications. The potential exists for this phrase to be redrafted and to insert into the legislation some form of test requiring the plaintiff to demonstrate a prima facie case at the time of the leave application.

Another simple proposition put forward relates to timing -

> Future economic loss should be calculated upon the basis of the long term residual disability.

Many people recover from their injuries to a greater extent than was anticipated and within a couple of years they may be able to resume the same work they did before, but in the meantime they have received a large payment. That is another area to be looked into, and perhaps staged payments could be made. The letter contains a number of propositions that would not prevent people with a real claim having access to common law. I would rather this House moved in that direction, and the way to do that is by referring the Bill to a committee. Hon Peter Foss spoke about the problems that could be encountered in the next eight weeks. He said he agreed with many of the points made -

Hon Peter Foss: I did not challenge them.

Hon J.A. SCOTT: If I remember correctly, Hon Peter Foss said some valid points were raised, and his principal concern was the log of claims that could be made over the next eight weeks. He suggested that whatever the outcome

of the committee's deliberations, retrospectivity provisions should be considered. I am sure that, having heard that comment, committee members will consider that. However, I agree with Hon Helen Hodgson that most of the claims have probably already been submitted. People have heard about the proposed changes to the legislation and most have already lodged their claims. Therefore, I do not think the Attorney General's argument is valid.

If injured workers, insurance companies and people representing the injured workers in court know this Bill will be referred to a committee, in order to achieve a fair outcome, they will not be so concerned. Most members recognise the importance of and absolute need for a system that is economically viable. Members appreciate that a no fault system is in place but, at the same time, the problems occurring must be properly examined. This House should not race through at the last minute and members should not be expected to make a instant decision when, on the basis of the information received, they know these amendments are not likely to work. In that case, it is better to send the Bill to a committee and ask it to propose a system that will work.

HON TOM HELM (Mining and Pastoral) [11.04 pm]: I ask the House to reject the argument put forward by the Attorney General that this Bill should not be referred to a committee. The Attorney deserves all the praise members can give him for his valiant defence of the indefensible. He spoke about bending over backwards to accommodate members and to be as nice as he can for the purpose of debate, and all members appreciate that. The poor man has the thankless and unwinnable task of defending the actions of the Minister for Labour Relations. He cannot escape from the fact that we have a problem. As well as displaying his incompetence the Minister for Labour Relations has adopted a small minded, mealy mouthed attitude with the legislation that is before this place. The committee must have an opportunity to see what it can do to put a human face on the problems of people who have been injured going about their work through the negligence of their employer. We have graphs, letters, facts and statistics that tell us that the working population is working safer - thank God! That is great. This Government has played a significant role in that. The former Labor Government laid the groundwork, but this Government took the ball and ran with it. One can understand the capitalists on the other side of the Chamber supporting the view that it is good business to provide a safe workplace, because they can make a quid out of being safe.

The Government is trying to convince us that it is not a good idea to send the Assembly's message to the committee for full and frank scrutiny. Not one person has said that we do not have a problem. One member pointed out the problems most succinctly. I am sorry if I upset him; I did not mean to. He said that if employers' premiums continue to increase they will employ fewer people. I cannot dispute that. However, do we resolve that by taking away workers' rights? They do not want a social security handout; they want to argue their case in a court of law to obtain some sort of compensation for an accident that occurred in their place of work. The Government is saying that they cannot do that. It is my belief that courts exist to administer justice. The committee must examine how the courts can continue to provide justice. Why should a person who has been injured through no fault of his own bear the burden of being restricted from making a living? Why should that person be denied the right to explain his case in court and to win, lose or draw? In our world, if he wins his case he will be compensated with money. The court will award cash to people who have a restricted ability to earn an income. Anybody who says he would rather be in an accident and get the cash than go to work needs his head examined; he must be unstable. The committee's only conclusion must be to help those people who are unable to help themselves.

The secretary of Trades and Labor Council is in the President's Gallery.

The PRESIDENT: Order! We know that, but the member cannot refer to it.

Hon TOM HELM: I simply made that comment, in passing, Mr President. It is important to do that.

Hon N.F. Moore: We know it is a preselection meeting.

Hon E.J. Charlton: What's his name again?

Hon TOM HELM: The Minister should pay attention.

Hon E.J. Charlton: I thought it was Tony Cooke.

Hon TOM HELM: The photographs I am holding up are of Tony's brother, who worked as a rigger in Karratha. They show the extensive injuries he sustained to his leg following a workplace accident which was not his fault. It took two and a half years to repair that damage to his leg. At the end of the day a determination was made that he had lost 40 per cent of the use of his leg. Under the present legislation, he would have been assessed as having lost only 23 per cent of the use of his body. Under the 30 per cent rule, Tony's brother would not be able to claim under the common law provisions, which have been shut out by first gateway. As the accident occurred before the law was changed, he was able to make a claim, the money from which enabled him to provide a house for his family. His ability to earn wages by working as a rigger was severely restricted, which is clearly shown in the photographs of his injured leg. He was fortunate - if there can be anything fortunate about this at all - that the accident happened when

it did because his ability to make his mortgage payments was not taken away. He was reasonably compensated for the workplace accident which was not his fault.

The point I am trying to make is this: Under this proposal there is no ability for people like Tony's brother to make a claim. We must question the motives of people who support a proposition that people not be allowed to go to court to argue a case for compensation. Obviously those who do support such a proposition have never been out of work as a result of an accident or an injury. I was out of work when I had a job as a rigger with Hamersley Iron Pty Ltd. As a result of that accident, I received 120 stitches in my leg and was off work for about six weeks. Being off work was one thing; having to live in the Pilbara on workers' compensation payments was something else. Although I did not pursue the matter any further by going to court, I am sure I would not have received an assessment of anywhere near 30 per cent for my disability. My injury is fine now.

I take on board what the Attorney General said about the increase in returns for people who have been injured. The difference between the earnings of a rigger at Hamersley Iron and workers' compensation payments is a huge drop in income. Under the present legislation, had my disability lasted more than six weeks, there would be no ability for me to make up the compensation payments by going to law to try to prove a case of negligence.

Hon Peter Foss: Do you realise you are not a worker at the moment and you are not covered by workers' compensation?

Hon TOM HELM: I am earning enough money. I can still go to court because my earnings are over the $106 000 barrier. The second gateway is open to me.

Hon Peter Foss: You are not a worker.

Hon TOM HELM: Does that mean I could not go to court?

Hon Peter Foss: You could go to court, but you would not succeed.

Hon TOM HELM: Our job is to look after those who are workers. They pay our wages so we must look after them. I return to the attempts of the Attorney General to defend the Minister for Labour Relations. The Attorney General was very nice, which is unusual for him: On this occasion he did not lecture us. He put up a nice case, and I accept that. He should try it more often.

The PRESIDENT: Order! The motion is that we refer message No 139 to Legislation Committee. That is what we are meant to be talking about.

Hon TOM HELM: I am arguing that we should, and I am asking the House not to agree to the proposition put by the Attorney General that we should not. The Attorney General gave some figures on cases that were before the court at the moment. By way of unruly interjection, I mentioned the name of Minister Kevin Prince.

Members will recall that some time ago an imminent change of law was to occur under the conservative Government, and Mr Prince informed his legal firm to take some actions that would -

Point of Order

Hon N.F. MOORE: I fail to see the relevance of this line of argument when talking about a reference to a committee.

The PRESIDENT: Order! I understand why the member raised the matter. Hon Tom Helm refers to an unruly interjected he made earlier. We would do well to proceed to talk about why the message should or should not be referred, and not worry too much about personalities along the way.

Debate Resumed

Hon TOM HELM: If I upset people, I apologise. I am not being critical. Somebody tried to get Mr Prince for breach of privilege, and he argued that he sensibly was trying to get matters before court, by getting leave or whatever is required in legal circles, to minimise the damage to his company. I am sure that is happening with this matter. That is what the Attorney General is saying.

Hon Peter Foss: I am sure.

Hon TOM HELM: If it will take only six or eight weeks to determine whether the message is valid, it should be referred to the committee. It is possible to put premiums back or compensate people, whatever the case may be. That will be tough. If I understand the Attorney General correctly, he argues that we should not send the message to the committee but, instead, help lawyers in this State. Lawyers and politicians are not the most popular groups of people. He argues that those cases are rushing to court so we must have the matter settled tonight rather than down the track.

Hon Peter Foss: I gave you an alternative, but if you did not want to agree to that -

Hon TOM HELM: I do not agree to it. I believe the amendment should go to the committee.

Also, this matter should go to the committee for another reason: We must have justice in these matters. Justice to working people is being trampled on because insurance companies either refuse to offer insurance cover because of problems with other industries, or companies close down because premiums are too high. I wonder whether this matter has been exacerbated by the fact that the State Government Insurance Office was privatised. We have a responsibility as a society to look after those who, through no fault of their own, are less fortunate than most in society, and we rely on some commercial transactions committed by insurance companies. Maybe the committee could consider the role of insurance companies and the role of self-insurance organisations. A question was raised about the safer firms having lower premiums. WorkCover has some role to play in not only prosecuting those who breach the law with unsafe workplaces, but also providing premiums and insurance to make it easier for companies to take out insurance so workers are properly covered.

I could not let this matter go without comment. It is agreed that it is a good idea to have safe workplaces. It was put to me during supper that if one took away the employers' responsibility to take out insurance to cover their workers, and if workers were then denied the right to access the funds through the insurance companies, one would provide a disincentive for insurance and make workplaces risky. More unsafe employers would then operate because it would not matter if people were injured, as long as they were not injured to an extent of claims over $106 000 over a certain time.

As long as workers are not incapacitated by more than 30 per cent as determined by an Act of Parliament -

Hon Kim Chance: Which is really 50 per cent.

Hon TOM HELM: It is 50 per cent by any sensible consideration of the issue. As long as those factors apply employers do not have to give a damn; they can get away with requiring people to work in unsafe places.

Hon Peter Foss: That is the substantive motion.

Hon TOM HELM: Surely the Standing Committee on Legislation will consider what is proposed by the substantive motion. Referral of the message to that committee is the most sensible thing to do. We must send out the right messages from this place rather than the wrong messages.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens	Hon E.R.J. Dermer
Hon Cheryl Davenport	Hon Ljiljanna Ravlich	Hon Ken Travers	*(Teller)*
Hon Tom Helm	Hon J.A. Scott		

Noes (12)

Hon E.J. Charlton	Hon Ray Halligan	Hon M.D. Nixon	Hon Greg Smith
Hon M.J. Criddle	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson
Hon B.K. Donaldson	Hon N.F. Moore	Hon B.M. Scott	*(Teller)*
Hon Peter Foss			

Pairs

Hon John Halden	Hon Barry House
Hon Bob Thomas	Hon W.N. Stretch
Hon N.D. Griffiths	Hon Max Evans
Hon Mark Nevill	Hon Derrick Tomlinson

Question thus passed.

SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA

Report - Extension of Time

Hon Tom Stephens (Leader of the Opposition) reported that the Select Committee on Native Title Rights in Western Australia had resolved that the time in which it must report be extended from 31 July to 31 August 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 1788.]

PUBLIC TRANSPORT PRIVATISATION

Statement by Minister for Transport

HON E.J. CHARLTON (Agricultural - Minister for Transport) [11.25 pm]: I thank members for allowing me to make this statement at this late hour.

I wish to inform the House of another important step in the public transport reform program which will see the remaining Transperth bus services provided by MetroBus change over to private sector operators.

In September 1993 this Government embarked on a program to reform the public transport services in this State. MetroBus was created as a corporatised entity to provide public transport services. The program would restructure the Transperth public transport system to separate the dual roles of public transport coordinator and public transport provider. Under the plan, public transport services in Perth would be opened up to competition. It was estimated that the changes would save Transperth up to $41m annually. The aim of the reform program was to reduce the community cost of providing public transport, while at the same time preserving the integrated multi modal nature of the system. The reform of Transperth bus services has reached a significant milestone with the completion of the competitive tendering process. From Sunday, 5 July, Southern Coast Transit will operate the Fremantle, Cockburn and CAT system services. International operator CGEA Transport Asia Pacific Pty Ltd will run the Belmont-Claremont service and PATH Transit Pty Ltd will provide the Morley service.

As the MetroBus era draws to a close, I thank the chairman and members, management and staff of the Metropolitan (Perth) Passenger Transport Trust for the huge contribution they have made to the public transport reform process.

We have spent a lot of time and considerable effort working with everyone at MetroBus during the past eight months to help them better manage the changes which are occurring across the public transport industry. The Government will provide a comprehensive training program for those MetroBus employees who have chosen to seek redeployment within the public sector. Although the private bus operators offered employment to MetroBus staff, only 229 people, which was about half the number required to fill the available positions, have chosen to pursue a career with the new operators.

The 437 MetroBus employees who have requested redeployment within the public sector will now participate in one of the most comprehensive career transition packages ever put in place in this State. Each redeployee will participate in a specific four week program to be held at Curtin University which will guide them through an extensive process including one-on-one counselling, self assessment, skill profiling, goal setting, communication skills and improving the ability to adapt to change. Following this initial transition program, the Ministry of the Premier and Cabinet, Department of Transport and MetroBus will work together to coordinate the placement of redeployees across the public sector. These placements will be with a variety of organisations, including the Police Service, Department of Conservation and Land Management, Main Roads WA, Agriculture Western Australia, Fremantle Port Authority, Rottnest Island Board and TAFE.

Earlier this year, successful tenderers for the various Transperth services had to demonstrate their ability to provide maximum opportunity for current MetroBus employees to find jobs with the new operators of the services. All new operators provided MetroBus staff with the first opportunity to obtain positions in their organisation before commencing recruitment on the open market. The list of assistance provided to MetroBus employees include -

notice of close down of MetroBus provided in the first week of October 1997;

financial and career counselling since that notice;

improvement and special redundancy conditions including attendance bonus, redundancy payment and no restriction on employment or transition, superannuation discount reimbursement;

priority recruitment by new bus operators - three to four weeks in advance of open market recruitment;

four week skill and practice development training at Curtin University;

outplacements within the public sector; and

job search assistance in the public and private sectors.

As part of the outplacement process MetroBus employees may be required to clear their leave entitlements. The Government is committed to helping the MetroBus employees change their career path and we are confident that they will seize this opportunity to use their experience in new and challenging roles.

Although it has been a difficult time for MetroBus employees, the reform process has brought enormous benefits in terms of Perth's public transport services. The first of the new generation of Transperth buses, which are the latest technology, low floor, low emission vehicles, will be delivered in December. The new buses will gradually be introduced across the whole Transperth system. Everything we have done during the public transport reform process has been directed to providing better public transport for the people of Perth. We have a comprehensive guide for the future in the "Better Public Transport - Ten Year Plan for Transperth". I would like to place on record the huge benefits that have flowed from the public transport reform program since its commencement in 1993.

We estimate that cumulative savings achieved have exceeded $110m and the annual ongoing savings are approximately $41m. In excess of 57 Transperth buses have been released by increased operator efficiency for allocation to new services. The capital value of these buses, if the Government were required to buy them, represents a further saving of $17.1m.

The introduction of flexible work practices to public transport provision in Perth as a direct result of private sector operation has achieved the delivery of the same services using fewer buses and drivers. In the 1997-98 financial year alone, Transperth has introduced in excess of two million kilometres of new services. Over the past few years, in excess of 14 major new routes have been introduced, with a larger number of services across Transperth's bus network being upgraded, revised or extended.

All of these improvements in public transport services deliver more direct and frequent services - they are a direct response to growth in the metropolitan area and to the demands of the community. New services or changes to services have been implemented after consultation with the public. There has been increased marketing of new services prior to introduction, and the public response to these service improvements is reflected in increased patronage figures for Transperth.

Some other major features include the progressive implementation of more direct routes with a higher service frequency, improved information on public transport routes and improvements in the system's ability to respond to community growth and local demand. In excess of 249 service variations were implemented during the past 14 months to improve the existing bus services. All new services, together with the extension and improvement of existing bus services, have been implemented without the need to acquire additional buses or infrastructure.

Through the competitive tender process, the Government has established benchmark costs and service delivery standards to allow clear assessment of the return on its investment in public transport bus services. Also, the competitive tender process has allowed the Government to lay the foundation for the introduction of significant innovation in the delivery of metropolitan public transport services. For example -

> Transperth passenger information services answers in excess of 90 per cent of all calls. The best result previously achieved by the government operator, MetroBus, was to answer 48 per cent of all calls.
>
> Internet journey planner for all Transperth services.
>
> "Night Alight" services, which operate after 7.30 pm every night.
>
> The well patronised Mandurah CityLink, with an increased frequency to accommodate peak and off peak passengers.

Another very interesting fact is that with the introduction of private sector bus operators, insurance claims arising from bus accidents have fallen from in excess of 2 000 per year to less than 150 per year. To make all these improvements extend into the future, a program of service performance audits has been introduced to ensure that all service operators contracted to Transport adhere to the specified service quality obligations.

Through initiatives taken and innovations arising from the Government's public transport reform program, the benefits to public transport users in the Perth metropolitan area is assured. This includes five new two-car train sets and the new railway line for the proposed south west railway, the planning for which will be completed in November of this year. I advise all members to take an interest in that planning process as it occurs. With the introduction of the new buses, all of whose bodies will be assembled in Perth, people who use the public transport system in Perth have many good times to look forward to. I thank members for their indulgence.

Referral to Standing Committee on Public Administration

HON KIM CHANCE (Agricultural) [11.32 pm]: I move -

> That the statement be referred to the Standing Committee on Public Administration.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.32 pm]: A statement of this sort normally would be made an order of the day for the next sitting of the House. I understand the member is moving to refer this to a committee.

Hon Kim Chance: Yes.

Hon N.F. MOORE: I do not think this needs to be referred to a committee. The committee that the member is seeking to refer it to is the one that will spend a lot of time discussing education. Is that the same one?

Hon Kim Chance: Yes, it is; spot on; sharp as a razor.

Hon N.F. MOORE: That is the committee that will meet once or twice in the next two or three months to deal with the School Education Bill. Now, for some reason, the committee chairman wants to refer the whole public transport system, and the significant progress to which the Minister has just referred, to that committee for its consideration. I cannot think of any reason why he would want to do that when it is possible for a committee to do things on its own motion. The members of that committee, several of whom I understand will not be around for the next month, will have many other things to do during the period before the House resumes; bearing in mind that the House will be prorogued and this reference will die in prorogation. I cannot think of any reason the House would need to agree to this reference.

Question put and a division taken with the following result -

Ayes (11)

Hon Kim Chance	Hon Tom Helm	Hon Christine Sharp	Hon Giz Watson
Hon J.A. Cowdell	Hon Ljiljanna Ravlich	Hon Tom Stephens	Hon E.R.J. Dermer *(Teller)*
Hon Cheryl Davenport	Hon J.A. Scott	Hon Ken Travers	

Noes (14)

Hon E.J. Charlton	Hon Ray Halligan	Hon N.F. Moore	Hon Greg Smith
Hon M.J. Criddle	Hon Helen Hodgson	Hon M.D. Nixon	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon Norm Kelly	Hon Simon O'Brien	
Hon Peter Foss	Hon Murray Montgomery	Hon B.M. Scott	

Pairs

Hon Bob Thomas	Hon W.N. Stretch
Hon Mark Nevill	Hon Barry House
Hon N.D. Griffiths	Hon Derrick Tomlinson
Hon John Halden	Hon Max Evans

Question thus negatived.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1)

Second Reading

Resumed from 30 June.

HON CHRISTINE SHARP (South West) [11.38 pm]: I refer in particular to the twenty-second line of the Bill, which relates to the appropriation for the Department of Conservation and Land Management of $34.101m. I will also discuss the department's astounding economic performance. Since its formation in 1985 - it was transferred from the then Forests Department - the department's generation of revenue has increased from 46 per cent. Now, including this budget, it runs at about 80 per cent of the revenue of the Department of Conservation and Land Management, which is extraneous to this Bill.

Last year Dr Shea gave a very interesting talk in New Zealand about the revenue generation of the Department of Conservation and Land Management, in a paper called "The Integrated Approach to Conservation, Public Land and Wildlife Management and Commercial Forestry - Case Study in Western Australia". In that paper he pointed out that the application of commercial principles to public land and wildlife management had resulted in large savings to the community. Indeed, CALM's wildlife budget has increased by more than 300 per cent in 10 years, but the net appropriation - that is, the funds derived from the taxpayers to the department to enable it to fulfill its community service obligation over the same 10 years - has decreased in real terms by some $5m.

I would like to offer some comments tonight about how this economic miracle for this department has been brought about. Yesterday, during question time I put a question to the Minister for the Environment: I supplied the Minister with three versions of recommendation 5 of the Environmental Protection Authority's Bulletin No 652 of October 1992. These three versions disclose that recommendation 5 was altered. There is an original version, then there is a stick on label over recommendation 5; finally, there is a reprint of that recommendation, so that the amount of old

growth karri recommended to be conserved is constrained. I asked the Minister if she would investigate and report regarding by whom that alteration to recommendation 5 was made, and under whose authority.

I intend to seek leave to table the three versions of Bulletin No 652, which I have had in my possession as a member of the Environmental Protection Authority in October 1992 when the bulletin was released to the public; together with the first version which is identical to the second and third, except with regard to the wording in the first sentence of the recommendation. The first version states that the Environmental Protection Authority recommends that CALM should identify on a regional basis and with the benefit of public involvement, areas of outstanding old growth karri forest not protected by reservation which are particularly valued by the community. The second version has a stick on, and reads similarly except where it states that the EPA recommends that 3 200 hectares of outstanding old growth karri proposed by CALM for protection from logging should be identified on a regional basis and with the benefit of public involvement. The third version uses identical wording to that which I have just read, except this time there is no stick on and basically it is a new reprint. I seek leave to table the documents.

Leave granted. [See paper No 1789.]

The PRESIDENT: Order! I ask Hon Christine Sharp to correct the record. She said that she posed a question to the Minister for the Environment. She might like to let the House know that she directed the question to the Minister for Finance representing the Minister for the Environment.

Hon CHRISTINE SHARP: You are absolutely right, Mr President, and it is a matter of regret to the Greens in the upper House that we do have to direct our questions to the Minister for the Environment via the much beleaguered Minister for Finance.

What does this mean, and why is it important? I am sure members will realise that the gist of recommendation 5 in the altered version is constrained by the amount of old growth karri that the Environmental Protection Authority has recommended should be put into reserve. An area limit has been put on it of 3 200 hectares. As far as I am aware, as a member of the Environmental Protection Authority at that time, this alteration to recommendation 5 took place without EPA approval or authorisation, and it took place after finalisation.

When the EPA did the forest assessment in 1992, it was a fairly harrowing affair, with lots of disagreement. It was a bit like debate in this House, but on a smaller scale. A lot of fairly robust debate occurred between different authority members, because we were looking at a difficult technical issue about the change in the way that the jarrah forest was to be logged, and the complexities of trying to keep a sustainable jarrah forest logging system in place certainly stretched the tolerance of all authority members.

However, the one thing about which we did not argue was recommendation 5. We all thought that was a great idea. During several working drafts of the report that eventually became Bulletin No 652, we all agreed that outstanding karri forest should be identified by the community simply for its aesthetic and social values and because the community loved it, and that those areas should be put into reserves. I have in my possession working documents of that same recommendation, which moved through a few stages completely unchanged. In fact, it went back beyond 1992. This recommendation was actually picked up from a 1988 ministerial condition based on the former Environmental Protection Authority's assessment of the Western Australian chip and pulp renewal in 1988. That document, which was translated into binding ministerial conditions in 1998, stated in recommendation 4 that the Department of Conservation and Land Management, "shall identify within old growth state forest additional areas which should be excluded from harvesting to protect their exceptional scenic, faunal and other amenity values."

When we were assessing the forest management proposals in 1992, the authority was of the opinion that that condition had not been acquitted, so it was repeated. In 1992, the authority again recognised what it had recognised in 1998; namely, that the community had an enormous amount of concern about some outstanding heritage areas of the karri forest, and that there was a sincere and important movement within the community that those areas not be subject to large scale clear felling for woodchipping. The irony is that had the intent of that process to involve the community in 1988 and 1992 been put into place, as recommended in the unaltered recommendation, it might have provided a process which would have significantly altered the level of conflict that we are seeing today with regard to the logging of old growth forest.

What happened? How was the recommendation altered? Through the Minister for Finance, I asked the Minister for the Environment how the recommendation was altered and on whose authority. Her response was to ask me to put the question on notice. I await the result of her investigation. However, I indicate to this House that I know the alteration occurred after a copy of Bulletin No 652 had been provided to Dr Syd Shea, the Executive Director of the Department of Conservation and Land Management. When he was provided with a copy of that bulletin he apparently became very heated. I gather he virtually threw a tantrum, and the executive director is quite infamous for that. I know that meeting occurred, but I do not know who subsequently altered the recommendation and on

whose authority. I hope the Minister will provide that information to the House. I also hope that a former Minister for the Environment, Hon Bob Pearce, who last week was appointed as the new executive director of the Forest Industries Federation of Western Australia, will indicate whether he had any role in this alteration of the recommendation about old growth karri.

The figure of 3 200 hectares in the stick on version did not spring out of the blue. It was already part of CALM's proposal. At the time, the Environmental Protection Authority was assessing the proposal document to amend the 1987 forest management plans and timber strategy to meet environmental conditions. At page 11 of the proposal document CALM indicates its intention not to harvest 3 200 ha of old growth karri in order to provide linkage zones through its clear felling coups. That is where the figure came from but it had already been proposed by the proponents.

When I told the story about what happened when the bulletin was delivered to Dr Shea, I noted that a few members in this Chamber laughed. I am sure this story comes as no surprise to anybody. It is common knowledge in the gossip circles within government that when Dr Shea cannot get his way by charm, he frequently resorts to intimidation. I am also told that when a former EPA chairman visited the Executive Director of CALM about another matter, a missile was thrown at him by the Executive Director, although I have no proof of that.

I also know that before Bulletin No 652 was finalised, an authority member was frequently telephoned by Dr Shea and yelled at. A complaint was sent by the Chairman of the EPA to the Minister at this tactic that was being targeted at one EPA member in particular; it was not I. These are merely allegations on my part. I am mentioning them tonight not in order to belittle Dr Shea but to suggest that there is a regular pattern which is continuing to the present in the way that the executive director of the Department of Conservation and Land Management conducts his affairs. Although I do not have proof of those incidents I have a letter which I will seek to table in a moment which was dated a couple of months later, but before the recommendations of Bulletin No 652 were finally settled into ministerial conditions. By then Hon Jim McGinty was the Minister for the Environment. I will read a letter from Barry Carbon, who was then Chairman of the Environmental Protection Authority, to the Minister titled "EPA report on forest management". It states -

> The Executive Director, Department of Conservation and Land Management has recently written twice to the members of the Environmental Protection Authority . . . regarding the above.
>
> At its last meeting the Authority discussed some of the points raised and agreed that you should be advised of its concerns.
>
> While the general tenor of the letter was aggressive, that is of less consequence than specific statements and questions they contained.

The letter then refers to specific paragraphs of Dr Shea's letter. It continues -

> The inferences made and the targeting of specific members of the Authority and its Technical Advisory Panel is disturbing coming from a chief executive of a Government agency. Indeed since the promulgation of the Environmental Protection Act 1986 the Authority has not seen comparable behaviour in any other proponent from the public or private sector. Furthermore the strategy behind the letters appears to be intimidatory towards the appeal process which is yet to be concluded.
>
> This would be an unfortunate consequence . . . of a . . . legitimate environmental assessment process of a public sector proposal with considerable public concerns associated with it and potentially significant environmental implications.

The letter finishes -

> It is time that the Department of Conservation and Land Management accepted that both statutorily and from the viewpoint of public accountability, its operations and proposals are subject to the same set of rules as proponents from other Government agencies and the private sector.

I seek leave to table this document.

Leave granted. [See paper No 1790.]

Hon CHRISTINE SHARP: Despite the authority's complaints, on 18 December 1992 Dr Shea wrote to the authority. That letter reads -

> I attach a copy of the mills that will be closed as of that date -

That is, 1 January -

> if the EPA's recommendation are translated into legally binding conditions.
>
> I have prepared letters to all the sawmills and employees of the sawmills involved and advise them that the reduction of cut, in CALM's view, is not based on science but is a consequence of the EPA process.

The various attachments to that document include a list of 47 saw mills that were apparently to be closed in a couple of weeks, according to Dr Shea. It has been conveyed to me that this process of intimidation was also happening to the member for Fremantle, the then Minister, who was subjected to similar harassment by Dr Shea. I have been told of a meeting by someone working with the then Minister where apparently Dr Shea "went ballistic" and told the Minister that if he upheld the position being put by the then appeals convenor, all mills would be forced to close.

On the first page of the same document from Dr Shea listing the mills, he states that he and his senior staff had concluded that if the EPA recommendations were translated into conditions, it would be necessary to reduce the current level of harvest in the jarrah forest by 40 per cent on 1 January 1993. I seek leave also to table that document.

Leave granted. [See paper No 1791.]

Hon CHRISTINE SHARP: This need to reduce the level of harvest in the jarrah forest by 40 per cent was strangely prophetic. On Christmas Eve, just less than a week after the letter was written, the ministerial conditions as a result of those recommendations were finally set. The jarrah cut was not set because there had been so much argument about the proper level. Instead of setting the cut, the Minister said that because of the implication of such proposals for the maximum sustainable yield of the timber supply and the existing and future industry, a further inquiry should take place.

This took place and in June 1993 reported to a new Government and a new Minister, the member for Greenough. That report on the setting of the cut in the jarrah forest is known as the Meagher report, after the chairman Dr Tim Meagher. We had a new report by a new set of people for a new Minister. This report confirmed the level of the jarrah forest which needed to be cut. The Minister set the allowable cut at 490 000 cubic metres; that is, 185 000 cu m less than the cut the proponent, CALM, was suggesting. However, even when the proposed cut was reduced to 490 000 cu m, the Meagher report recognised that this level still consisted of a 60 per cent overcut of the maximum sustainable yield of sawlogs, according to the figures of CALM and, therefore, at some time in the future the yield would need to be reduced by 40 per cent, just as Dr Shea had mentioned some months beforehand. Therefore, Dr Shea was quite consistent in his remarks despite the various inquiries into the matter. Indeed, he was consistent in his scorn of this assessment of forest management. He was quoted in *The West Australian* of 29 December 1992 as saying that if his dog had produced the EPA report, he would have taken it out and shot it!

Why do I dig this up now? Why is it important? Why do I bother? I have had those documents sitting in a cupboard for years now. I wondered what happened, but not why - I have a pretty good idea why. I have never known what to do about it. I thought one day it would be relevant to bring the three versions out of the cupboard to make them public. I feel that the right time is now; the events of five years ago are relevant to the current RFA process.

Until the public consultation paper with the various options came out a little more than a month ago, I was prepared to accept that perhaps this time CALM would play the game fairly. However, since the release of the public consultation paper, I have felt appalled and alarmed at the process and the implications of what may result in the forest with a 20-year binding agreement. That public consultation paper, to begin with, lets the timber industry itself down. For example, it ignores the potential to develop a dynamic plantation industry with downstream processing. It ignores the need to move the timber industry into restoring some 40 000 hectares of karri forest which have already been clear-felled and regenerated. The industry could commercially thin those areas so one day they will become a mature forest.

Ironically, the public consultation paper makes a huge deal about option A, the most conservation-minded option, to have some 7 per cent extra jarrah forest in reserves. Therefore, logging of the jarrah forest will need to be reduced by 7 per cent. However, it does not mention that in addition to any possible reduction through that most conservation-minded option, it represents an absolutely piddling reduction compared to the 40 per cent reduction the industry needs to face within four years if it is to bring its cut of the jarrah forest in line with CALM's figures regarding the maximum sustainable yield of sawlogs if any sawlogs are to remain after about 2030. In other words, if the jarrah industry continues to cut at the present rate, not one single sawlog will be left after about 2030.

Hon J.A. Scott interjected.

Hon CHRISTINE SHARP: It is not mentioned. There is huge hoo-ha about option A's impact on the industry and the jobs lost. However, the nitty-gritty of the over cutting is ignored.

Another issue that is ignored - this is why I say that CALM is letting down the industry - is that under the regional forest agreement process the federal Department of Primary Industry has available the forest industry structural

adjustment fund which is able to provide money to the industry to make just these adjustments. At this stage it looks as though Western Australia will not get any of that money, although some other States have received up to $100m to meet sustainability criteria.

As if that were not enough, the RFA process is further misleading because option A, again referring to jarrah, indicates that it is a reduced, severely impacting conservation scenario. Based on the current cut, at approximately 455 000 cubic metres, it is a 1 per cent increase in logging - although it is being promulgated as a reduction in logging - and will cause huge impacts because of the glut in the jarrah industry caused by the years of overcutting to which I referred earlier.

A shire councillor from Manjimup who met me a few months ago and who knew I had an interest in forest management is also involved with the timber industry. He set me a challenge and said, "If you understand so much about the timber industry, explain to me how come the trucks are picking up logs in the coupes and driving off to two or three mills without being able to find a mill that wants the logs." In other words, if members have visited any timber mills in the south west lately they will have noticed the enormous stockpiles of logs. As their contracts are on a take or pay basis, logs are being literally forced on them.

They have been given some consideration by the department which means that the current cut is less than option A; that is, the best conservation option of the RFA.

The karri situation is even more astounding because as far as I can tell option A in the comprehensive regional assessment document - a different RFA document that came out a little while ago - sets out the current karri cutting levels. The actual cut, not the allowable cut, in 1996-97 is 152 000 cu m. That means that under option A - this wonderful conservation proposal - karri logging will increase by 28 per cent.

Hon J.A. Scott: It is a disgrace.

Hon CHRISTINE SHARP: An enormous public process is in place to provide a so-called adequate reserve system which in reality is all about permitting an increase in logging in real terms. What shocks me so much about it is that it is so false and dishonest. I cannot believe how so much propaganda can go into a process which, for the people who read the fine print or know about it, is so extraordinarily misleading. What a farce.

I refer now to the protection of old growth karri and remind members about recommendation 5 and that option A is an increase in cutting of old growth karri. In support of recommendation 5, the EPA explicitly mentioned some of the most beloved blocks in the south west, which I expect some members of this House have visited.

The blocks include Jane, Crowea, Hawke and Giblett blocks. The Environmental Protection Authority specifically mentions those blocks as the sorts of blocks it had in mind as needing protection because of their outstanding social and environmental values. That is the EPA's solution. It is far less sophisticated and is cheaper than the whole of the regional forest agreement's grand circus. In that solution those blocks would have been protected. However, option A of the regional forest agreement process for those blocks, which are of the ecosystem main karri type, offers a measly 3 800 hectares extra in reserve. It is very sad that if that recommendation had stayed the same and its spirit had been put into place with a really genuine goodwill, a lot of the conflict we are seeing in the south west in my electorate might never have taken place. That is why this matters today.

When the Minister set the conditions at the end of the process to which I was referring, recommendation 5 did get a guernsey. It was translated into condition 7, which is that the proponent shall identify and protect areas of old growth karri up to 3 200 ha. That condition also stated that the proponent shall report on the implementation of recommendation 7 within three years. That three years was up last year. Last year when the Department of Conservation and Land Management had to say whether it had complied with the constraints condition, it answered by writing to the current Minister for the Environment, suggesting that condition 7 was to be acquitted through the regional forest agreement process. CALM itself has linked this directly to the regional forest agreement process and has asked the Minister if she accepts that it is a proper acquittal of the requirements of recommendation 7. The Minister replied in writing last year. The second last paragraph of her letter states -

> I therefore agree with your approach to integrate the assessment required under Condition 7 with that of the RFA, and note that this assessment is "implemented on a regional basis and with the benefit of public involvement" as is required in that condition.

About a week or maybe two weeks ago I believe the Minister for the Environment requested that the Environmental Protection Authority should report to her and advise her on the regional forest agreement process. My understanding is that the EPA will be looking at whether the compliance with recommendation 7 is being adequately acquitted through the regional forest agreement process. I hope that when the EPA reports to the Minister within a month or six weeks - in the fairly near future - it will bear in mind that the origin of condition 7, for which it is testing

compliance, goes back a long way to 1988 and it has specifically offered protection to Giblett, Crowea, Hawke and Jane blocks. They are specifically mentioned. I trust that the EPA in its reporting of compliance will advise the Minister accordingly. I hope the current EPA will be interested in the story that I am sharing with members tonight.

I round off my remarks by thanking the House for its indulgence in listening to this story. I know how tired all of us are and how late it is. However, before we finish, I remind members that we are considering the Appropriation (Consolidated Fund) Bill (No 1) 1998 and that members need to ask themselves: How can the Department of Conservation and Land Management offer an increase of 300 per cent in its wildlife conservation budget over a decade while its net appropriation has decreased in real terms by $5m in that period? Dr Shea has explained in the document that he wrote last year, "The integrated approach to conservation", how this can happen. About the CALM corporate ethic, he said -

> It was recognised from the time that CALM was formed that rigorous financial management would be critical to its success. Even though in the first years after its formation revenue generated by the Department was retained by Treasury, a systematic program was initiated to increase revenue. This involved overcoming a deep-seated culture in some parts of the Department which was opposed to revenue collecting.

However, as a result of this new corporate ethic introduced by the new department with its new executive director, the department was very quickly able to achieve huge strides in the improvement of revenue generation. Indeed, since the formation of the department in 1985, the percentage of total budget covered by revenue raised by the department itself increased from 46 per cent to 80 per cent.

In this same document it is reported that the department's native forest business unit, after absorbing all the costs from maintenance of regeneration of the forest, generated a surplus of $20m a year. Therefore, it is no wonder that the Western Australian timber industry is just beginning now to wonder whose side CALM is on. I suggest that because of the way this department's revenue is generated, CALM is on CALM's side, and only CALM's side, that is all.

Of the 80 per cent of CALM's total budget which is self-generated, 93 per cent of that comes from logging. When one takes into account this portion from the appropriation fund that we are discussing tonight, 72 per cent of the total of the department's budget comes from logging. In other words, logging is paying for nearly everything. The only other thing that is paying for anything is CALM's active program of tourism, through which it has now decided that the best thing to do with our nature conservation estate is to work out how we can actively encourage as many people as possible to spend their money there.

Another way that the department is actively keeping its budget nicely propped up is the recently discovered avenue of selling off the Blackwood pine plantations land, about which I have enormous concerns because we are talking about the softwood industry. I wonder at the wisdom of our selling the softwood plantations, particularly when we sell them to landowners who have no intention of doing forestry and who wish to convert them to lifestyle blocks. What will happen to the second rotation of the softwood resource if the department itself does not offer that security of supply to the industry? Just when everyone agrees that the obvious solution to the difficulties and enormous destruction going on in the forests rests with our bread and butter timber from softwood plantations, CALM is starting to sell them.

Hon E.J. Charlton: CALM is buying all the farms, though.

Hon CHRISTINE SHARP: No, it is selling them.

Hon N.F. Moore: Mr Charlton is going to have a cup of coffee.

Hon CHRISTINE SHARP: I think it intends to make $11m this year from selling softwood plantation land. The figure has increased since last year. The forest is making this $20m profit on logging. It is all cost cutting; it is all slash and burn. Indeed, in many areas of the jarrah forests the department has abandoned its own silviculture prescription - the Bradshaw system - and has now reverted to what it calls "extensively managed" areas. I gather that a significant proportion of the jarrah cut last year was logged without any pretence at regeneration and silviculture. In fact, things have become worse in the past two or three years since the EPA did its assessment.

Hon J.A. Scott interjected.

Hon CHRISTINE SHARP: That is right - outstanding jarrah forest blocks like Hilliger in the south near D'Entrecasteaux. The most recent figures we have for 1996-97 indicate that 22 320 ha of jarrah forest were logged intensively. When the jarrah forest is logged intensively it is smashed about appallingly. Because of this glut, only the first grade logs are taken. Many people who go to the trouble of acquainting themselves about these matters have been out in the bush and have seen the log landings. Huge numbers of logs are cut, stockpiled and left. Sometimes the piles are about two or three years old and have young trees beginning to grow around them.

Hon J.A. Scott interjected.

Hon CHRISTINE SHARP: I have seen a block not far from Balingup. I knew that the area had been intensively logged about five years ago, but I did not know that the loggers had been in again this year. My son, in his enthusiasm for trout fishing, discovered what was occurring on the block. He insisted that the family go for a drive and look at it. We drove past kilometres of logging. The logging had been so intense that the log landings occurred extraordinarily frequently - every couple of hundred of metres. Can members picture this? Stacked in each log landing were tonnes of dead jarrah-marri forest. Logs were placed across the log landings to prevent the likes of us, in our utility, from coming in with a chainsaw and taking some firewood home.

I remind members of a remark that will become famous. When Mick Malthouse visited the forest a few weeks ago he said, in a classic way, that CALM was a contradiction in terms. We have before us now an appropriation system and a budget for a department which is based on the over cutting, the destruction, of heritage forests, and a corporate ethic which is destroying the very values for which, as a corporate entity, it has responsibility and a charter to protect.

I guess I do not know a huge amount about other situations, and I would be pleased if someone could provide a worse example, but I suspect that this is the worst example in Australia - if not in the Organisation for Economic Cooperation and Development nations - of unregulated government administration. The sad aspect is that it is so rapidly gobbling up the future that the options close more and more as every month passes. Yesterday someone dropped off some photographs of the logging that is taking place. Members should look at these photographs which indicate the logs that are being cut at Northcliffe. Members can see from these photographs what is being taken from our heritage. This photograph is of Gardiner block, and this is the logging that has taken place in recent times. This logging is paying for CALM.

I had intended to suggest that tonight, as a House of Review, we should perhaps do something about this. I had intended to move, when this Bill reached the Committee stage -

Hon Tom Stephens: We were going to block it at the second reading stage.

Hon N.F. Moore: Why don't you try that? You have been talking about it for years.

Hon CHRISTINE SHARP: The motion that I intended to move was drafted with some help. It was to be that the Legislative Assembly be requested to reduce the sum provided in clause 3 of the Bill by the sum of $34.101m, being the amount to be appropriated for CALM, in order to review and revise that department's budget. I regret to say that, much to the disappointment of the Greens, we could not get any support for a message of that nature being sent to the Assembly. That is a great pity. I do not know why we should be so lacking in forthright conviction, when just about everyone would acknowledge that there is a significant amount of truth in what I have put before the House tonight.

Hon N.F. Moore: When you are in government you can do that. You can reduce the budget. When you have more than 5 per cent of the vote, you can do all those things.

Hon CHRISTINE SHARP: We will look forward to that.

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

Hon CHRISTINE SHARP: Because it is so late and we are tired, I decided that to move such a motion, without support, would be a posturing device and would keep us here longer. We would have all sorts of outrage, more talk and discussion, and we would all get to bed that much later, when we all need our sleep. Therefore, I have decided not to move that motion.

However, I advise this House, the Environmental Protection Authority, the Minister for the Environment, all the people who have concern about this matter, and, in particular, give notice to the Government whose job it is to look after our environment, that the current situation is unacceptable. It is causing massive and unnecessary environmental impacts, which will be in the best interests of no-one in this State in the long term. It is a scandal. It is a disgrace. I hope that by this time next year when the Budget is before us, this matter will have been adequately addressed.

HON LJILJANNA RAVLICH (East Metropolitan) [12.35 am]: Mr Deputy President, I thank you for the opportunity to comment on the Appropriation (Consolidated Fund) Bill (No 1) and on an area of interest to me.

Hon N.F. Moore: I thought you had already told us everything you know.

Hon LJILJANNA RAVLICH: That area of interest happens to be multicultural and ethnic affairs. As opposition spokeswoman for multicultural and ethnic affairs, I am particularly concerned about the lack of funding which will be appropriated to the Office of Multicultural Interests. All other agencies, with the exception of possibly two, have been funded by vastly greater amounts than has the Office of Multicultural Interests. I find that of particular concern

given that this State Government is crowing about how much it is doing for the ethnic community in Western Australia and the Minister for Multicultural and Ethnic Affairs is going from function to function with a copy of "Living in Harmony", which is the Government's document on multicultural and ethnic affairs. When we look below the surface, the simple facts reveal that the Government's commitment is heading backwards rather than forwards. The ethnic communities with which I have contact are all saying the same thing. They are all crying loud and clear about the cutbacks in funding to the respective programs.

I am also concerned that given that this Government speaks of its commitment to multicultural and ethnic affairs and given that an enormous amount of damage is being done by the Hanson factor, this Government has not been more pro-active in dealing with that issue. The Minister and the Premier have been fairly quiet about the impact of the One Nation party and the unsettling effect it is having on ethnic communities in Western Australia and on our indigenous population. It behoves us all to remember that this State has been built on the efforts of all people, including indigenous Australians and people from all over the world. The Australian Labor Party believes that our society has been enriched and continues to be enriched by the contribution of all immigrants. We on this side of the House are totally committed to a multicultural society, and we will not be shifted from that position.

As a Croatian born Australian, I do not intend to be an apologist for the migrants who were quite legitimately invited into and took their position in this country. The people who arrived here, be it in the 1820s or the 1850s, or in the wave of immigration following both the world wars, were invited as a result of the government policies of the day. As far as I am concerned, they should be welcome and they should not have to apologise for being here. I get sick and tired of people expecting those from different cultures and ethnic groups to apologise for being Vietnamese, Italian, Croatian and so on. They were the policies of the day; this country opened its doors to those people and, irrespective of whether they spoke English, they came to this country, made a contribution, and have a sense of belonging to Australia. They quite rightly regard it as their country. Their efforts have also helped this country to grow and prosper. People should not lose sight of that. Migrants have enhanced the economic and social fabric of our society, irrespective of the country from which they came. It is too late to tell them to go home because Australia does not want them. Regardless of people such as the federal member for Oxley, or extreme right wing forces, ethnic people and indigenous Australians are part of this nation and they intend to stay here. I do not support the view of the member for Oxley, as expressed in her maiden speech, that a truly multicultural society can never be strong and united. They are ignorant words from an ignorant woman whose policies are based on simple ignorance. They should have been jumped on very quickly by this country's leadership and because they were not, negative and racist forces have grown within the community.

There is a notion that Aboriginal people, Asians, Italians and the like have taken over this country. The bottom line is that the Western Australian population has not been taken over by any one ethnic group. That is quite clear from the Government's "Living in Harmony" document, which at page 3 outlines the composition of the Western Australian population, based on the 1996 census. At that time, 1 726 095 people were living in Western Australia, of whom 475 856 were born overseas and 50 971 were of indigenous origin. More than two-thirds of the population - 1 199 448 - of the people counted in Western Australia were Australian born. Of those born overseas, 205 152, more than half, were from the United Kingdom; 9 395 from Ireland; 38 990 from New Zealand; 25 124 from Italy; 17 328 from Malaysia; 12 653 from India; 11 072 from the Netherlands; 10 692 from South Africa; 10 065 from Vietnam; 10 062 from Germany; and 9 466 from Singapore. Those were the major countries of birth for the remaining overseas born people. Quite clearly, the number of ethnic people in this State is not overwhelming.

Nevertheless, many people from ethnic groups throughout society are particularly concerned about what is happening at the moment. Their sense of security in this country is now under threat, and I find that very disappointing given the commitment, input and contribution of those people to Australia and Western Australia in particular.

It appears that the Government does not have a position on the One Nation party. Quite clearly, the Government must articulate its position as soon as possible to reassure ethnic groups in Western Australia. It is interesting to note that the mission statement of the Office of Multicultural Interests is to advance a cohesive and fair culturally diverse community. This is not what is occurring in practice.

I will touch on what the Government has done to achieve that mission statement as outlined in the "Living in Harmony" document, which is to advance a cohesive and fair, culturally diverse community. It would appear from the Government's appropriation of $816 000 to the Office of Multicultural Interests that it is doing pretty close to nothing. There has been a cut to all of its programs, and most of this $816 000 is to run the office the primary function of which appears to be servicing the Minister's office. If we analyse the nuts and bolts of the Budget we see very little for ethnic community organisations or their programs. It is disappointing that the Premier has had to be told by prominent members of our community that he must take a position and do something about One Nation. I refer to an article in yesterday's newspaper in which Eric Tan, a prominent, Chinese born Western Australian asks Mr Court to do the decent thing. The article states -

> Two of Perth's most influential Chinese-born Australian citizens have warned of a big backlash from WA's Asian trading partners unless Richard Court follows other political leaders in being more decisive in his condemnation of Pauline Hanson.
>
> BankWest and Austrade director Simon Lee and prominent surgeon Eric Tan believe it is time for Mr Court to condemn One Nation's racially exclusive policies unequivocally.
>
> "We have always respected Richard Court as a decent man therefore we expect him to do the decent thing Dr Tan said.
>
> "We're not here to give him political advice, but I think decency is a very important principle." Mr Lee, who was appointed an Officer in the Order of Australia in 1994 for his services in developing Australian-Chinese relations, and Oz Concert organiser Dr Tan founded the WA Chinese Chamber of Commerce in 1986. They met as students in Perth 37 years ago.
>
> But Mr Lee said Australians of Asian origin already were feeling the backlash from One Nation's rise to prominence. He said there was more frequent abuse directed towards people of Asian origin at shopping centres and in the streets.
>
> Mr Lee and Dr Tan warned of dire ramifications for WA's trade with the Asian region if One Nation's policies led WA's Asian trading partners to view Australian as a racist nation.

These are people who should know. I expect that Eric Tan would be an authority in understanding how anti-Asian sentiment might be interpreted in Asian countries.

What is interesting is that on a number of occasions the Opposition has asked the Minister for Tourism whether he thinks that the tourist industry might be affected by the rise of One Nation. He has indicated that any decrease in tourism, if there were any, would be a result of the Asian crisis rather than anything that might emerge from the Hanson factor. We should not be too slow to address the potential damage and we should get our heads out of the sand. When prominent people like Eric Tan are warning of the potential negative impact on trade and relations we should heed that warning and ensure that we do something about it. A good starting point would be for the Premier to take Eric Tan's advice and do the right thing and condemn the One Nation party and clarify his position on One Nation.

In recent days we have seen evidence that Liberal Party members are close to One Nation. Naturally that is of some concern to us. From the reported defection of former Liberal state women's council presidents Marie-Louise Wordsworth and Margie Bass, we see they have started to jumped ship in recent days. We have seen the member for Geraldton getting very close to One Nation, with the Premier failing to show leadership in regard to that. I have with me a copy of *The Geraldton Guardian* from Wednesday, 17 June 1998 in which an article appears under the heading "Bloffwitch says Hanson is right" and states -

> Geraldton MLA Bob Bloffwitch has come out in support of One Nation in the wake of its stunning success in the Queensland state election.

It is a two page spread and there is a caricature of the member for Geraldton and Pauline Hanson in bed! It seems to me that in place of the caricatures of John Howard and Pauline Hanson in bed, we will now see the member for Geraldton in his place in those depictions. It is a shame the Premier has not come out and taken some strong action on this matter. On the other page of this story, page 7, is a picture of Premier, over the caption which states -

> Richard Court in Geraldton this week refused to distance himself from Pauline Hanson's One Nation.

I can assure members that these things give no comfort to members of ethnic communities and indigenous Australians. I predict more members of the Government will start to move closer to the One Nation party. I will not be surprised if a few do not start jumping ship; members like Hon Greg Smith, whose hair is turning red these days. The floodgates have been opened and others will follow.

I congratulate the Leader of National Party for putting on record yesterday morning that he has advised members of the National Party that they should put One Nation last in their preference arrangements. He has shown leadership within his party and it would be very comforting for the ethnic and indigenous communities if the Premier were to follow the leadership of the Leader of the National Party.

In yesterday's *The West Australian* another article reported that the member for Oxley has jumped up and down and said that only immigrants who speak English should be allowed into the country. That would result in no more than a preference for Anglo-Saxon immigrants. The application of an English test is a sentiment shared by many other people. If we start going down that line, it begs the questions of what the One Nation party will call for next and

whether we will see the reinstatement of a white Australia policy, with the State Government and Federal Government just sitting back and not responding. Although something like that takes a while to gather momentum, it would be a very sad day for Australia and Australians generally were it to happen.

The matter of most concern is that, irrespective of all the Government's rhetoric, the bottom line is that a movement away from the commitment to a policy of multiculturalism has been evident at the national and state level. This shift has been sensed by the community, particularly by indigenous Australians. The budget papers reaffirmed that view for me. I had a gut feeling that we were headed in this direction, and a close scrutiny of the budget papers hit home that the feeling was correct. The budget papers outline the first significant issue and trend for the Office of Multicultural Interests as follows -

> Public debate about the level and composition of Australia's immigration program has led to some community tensions and an increased incidence of racism.

Therefore, the Office of Multicultural Interests has recognised the increased incidence of racism, but nothing in its budget addresses that problem. That is very disappointing. The second significant issue and trend reads -

> The future of multiculturalism as the Commonwealth's official settlement policy is undergoing review with the release of the National Advisory Council's issues paper, 'Multicultural Australia: The Way Forward'.

I am not sure what that policy entails. As it is the second most important issue in the area, we are in trouble as the multiculturalism policy area is under review. The Government's lack of commitment to the Office of Multicultural Interests, and specifically to the ethnic community, is indicated through the major reduction in allocations made to relevant programs. For example, outputs in the budget papers indicate a drop of 22 per cent in the allocation to the "policy and service advice and support to the Government and its agencies" program. A reduction of 51 per cent in funding has occurred with the information to the community program. The support to the ethnic community activity program has suffered a drop of 21 per cent in funding. Financial assistance to non-government organisations has seen a drop of 6 per cent. Therefore, reductions have been made to all the key areas in multicultural and ethnic affairs.

The first outcome for the Office of Multicultural Interests is "a harmonious community and equitably access for people of all cultures". For the output of policy and strategic advice and support to the Government and its agencies we have seen a total reduction in the allocation of 17.5 per cent. The net cost of output has also been reduced. The next program refers to information to the community. This is the most disappointing aspect of the Budget. It indicates a betrayal by this Government of ethnic communities because, as members might appreciate, information to ethnic communities is very important. This has taken a savage cut by the Government. The total allocation to the output has been reduced by 41 per cent, and the net cost per output has been reduced by 50 per cent. This has resulted in a cut to the following defined output -

> Provision of information to ethnic and other community organisations on government and non-government services for migrants and events and celebrations in the ethnic community to promote access and equity and community harmony.

On the face of things, it looks as though the Government is interested in rhetoric and the ethnic vote. However, there is no doubt about it, we cannot keep the Minister for Multicultural Affairs down. If an ethnic function is being held, he will be there to tell everybody how good is his Government for ethnic communities. I can tell members how good is his Government: The amount of $816 000 has been budgeted for all the ethnic communities in Western Australia. In reality, it is not even for all the ethnic communities in WA because the bulk of it is purely and simply to service the Minister's office. When it comes to grassroots programs the money is not there. The situation highlights how, in real terms, this State Government has betrayed ethnic communities.

Bad as our State Government is, the Federal Government is even worse, if it can get any worse. Prior to the 1996 election the Federal Government promised $10m for an antiracial campaign. Obviously a promise of $10m for an antiracial campaign was based on the premise of racism in the community. It is a substantial amount of money. However, the money has not flowed. In his first Budget, the federal Treasurer halved the $10m to $5m. Naturally, the ethnic communities were pleased with the antidiscrimination campaign money. They thought it was a good thing which would lead to a reduction in racial taunts, etc and they bought the Government's promise. The Liberal Party picked up the votes, and in the Treasurer's first Budget the $10m was halved to $5m. In this year's budget it was shelved completely. In its wisdom the Federal Government has advised it will not run an antiracial campaign now; it will run it after the election. The $10m for an antidiscrimination campaign did not happen. If ever there were a need for an antidiscrimination campaign it is now. However, the Federal Government, in its wisdom, obviously does not agree. Perhaps it will use the $10m it was to put towards the antidiscrimination campaign for some sort of election campaign. I have no idea.

The bottom line is that the Federal Government betrayed ethnic communities in a major way. I will ensure that ethnic

communities are advised of that betrayal, as I will ensure that ethnic communities also know they are worth an appropriation for the whole State of $816 000 of which the bulk is to service the Minister's office so that he can run around town with his "Living in Harmony" document and sprout about the good things that are happening in multicultural and ethnic affairs, and the things that have been nurtured and delivered by this Government. As we all know, that is an absolute furphy.

I told a bit of a lie, because the Federal Government spent $50 000 of the $10m allocated to antidiscrimination because it wanted to know how to spend the $10m which it will now not spend. The Government issued a questionnaire. I have never seen the questionnaire but people have seen it and a press release was written about it. The Department of Immigration and Multicultural Affairs commissioned the questionnaire which cost $50 000. The telephone survey asked householders to agree or disagree with a number of race based statements. The national telephone survey was to assist the Federal Government to design its $10m antidiscrimination campaign, which it has just shelved. It asked people such questions as, "Aborigines are dirty and lazy. Do you agree or disagree? Vietnamese are responsible for crime. Do you agree or disagree? Muslims have strange ways and will never be a part of Australian society. Do you agree or disagree?" There were many more questions.

People taking part in the survey were also asked to dob in others whom they believed were causing trouble. The survey asked, "Do you agree that there are groups in Australia that contribute to the divisiveness in Australian society?" It demanded, "Nominate them." If this is the basis for a survey, I would hate to see the outcome and I fear for the future of any antidiscrimination campaign in which the Federal Government becomes involved. To any normal human being the survey itself is discriminatory. The questions are loaded with value judgments; they reinforce negatives; they are inflammatory; and they are an absolute joke. If this country is heading down the line where this sort of thing is acceptable and deemed legitimate, migrants and ethnic communities are justified in their sense of fear and rightly concerned.

I will quickly touch on the issue of trade and the potential damage to the economy of the State and the nation if we do not get our act together. We have discussed on a number of occasions in this place the importance of Asia as a major destination for much of the State's exports. We have spoken of the importance of fee paying students and the fact that it is an expanding market, particularly in Western Australia, which generates $400m a year to the local economy. We are aiming to attract Asian tourists. The tourism industry has been shaken. We know it is looking for solutions. I mentioned earlier in this place that the Minister is of the view that if there is any downturn, it is more likely to be as a result of the economic crisis rather than any Hanson factor. I just issue a word of warning that perhaps we should do a little more work in this area to make sure our judgments on these matters are correct. In the Government's publication on the education services sector the question of racism was identified as potentially affecting the market for international students in Australia.

I asked the Minister for Racing and Gaming to give us an indication of the importance of visitors, in particular high rollers from Asia and their contribution to the Western Australian economy through the Burswood Casino. Hon Max Evans replied that high rollers form a very large part of the Burswood Casino's income and in 1996 about 60 per cent of the profit from gambling came from high rollers. That percentage is a lot higher than in other States. We rarely have the premium players whom Victoria relies on. We rely on the junket groups. Cairns and Darwin have ceased junket operations. He went on to say that we have been very successful and we are still maintaining a successful run. People on those junkets bring their wives and children and spend a lot of money in Perth when they are here and a lot of them come many times. If we want to do business with the rest of the world, it is unacceptable for us to say, "We like your money but we do not like you." We have to think very clearly about ensuring that we do not give the wrong messages to people visiting the country or who have been quite legitimately received by this country through policies of the Government of the day.

One of the nice things I do as a member of Parliament is attend many naturalisation ceremonies, or citizenship ceremonies as they are called now. To be honest, I thought I would get bored with them because when Parliament is not sitting and I am available to go, it is not unusual to attend a citizenship ceremony at least once or twice every few weeks. Every time I attend a citizenship ceremony I have a sense of pride and I feel overwhelmed by the quality of people who apply for citizenship and the fact that they are so keen to become citizens. It never fails to move me that there is such an enormous commitment by these people to become a part of this country. Therefore, I wonder why that commitment is continually challenged and at what point will these people become Australians. If that ceremony signifies so little, why do we bother having it?

I went through a citizenship ceremony and I tell members that it was not an easy decision to make. I returned to Croatia for a holiday in 1981; I was about 20 or 21 years of age. It was bitterly cold over there. I felt a great sense of belonging when I went back because everybody looked a bit like me. All of them had high cheekbones and big foreheads. There was certainly a sense of belonging, no doubt about that. However, I can assure members that it did not take me very long to work out where my heart was. When I returned to Western Australia, I was posted to

Norseman. I drove to Norseman in the heat and the first thing I did was apply for citizenship; and I became a citizen in Norseman. It seemed to me to be a most apt place in which to have a citizenship ceremony, out there among the gum trees and the red dirt. The students at the school provided Peters pies and it was a great event for me. It must be a momentous occasion and a great thing for people who attend citizenship ceremonies. Therefore, we should be really proud of the quality of people we have taken into this country.

In attending the citizenship ceremonies, I am always moved by *Advance Australia Fair*. As members know, our anthem is an integral part of any citizenship ceremony. However, I am moved more by the second verse than by the first verse. I put this into context because the second verse reads -

> Beneath our radiant Southern Cross
> We'll toil with hearts and hands;
> To make this Commonwealth of ours
> Renowned of all the lands;
> For those who've come across the seas
> We've boundless plains to share;
> With courage let us all combine
> To Advance Australia fair.

That is a mixed message. Here we have as a part of our national anthem "for those who've come across the seas we've boundless plains to share". However, the people who have come are under constant criticism for being here. Perhaps we should look closely at our national anthem. We should either say something and say it with an open heart or we should not say it at all. I look at the fine words of that anthem and then in practice I see so much hypocrisy that I find it very disappointing.

Racial vilification of some ethnic groups in our community is a growing concern. The Government has done little to address the problem, particularly given its budget allocations. Western Australians, many of whom are ethnic or indigenous, need assurance that this country will not go backwards. Immigrants need assurances that they were invited, that they are welcome, and that we will let them get on and live their life and contribute to the society without expecting them to apologise every three weeks for being here. There is a real danger that people might sit back and say that One Nation is having a go at the Aboriginal people this week, but that is okay because they are English so it does not involve them. One Nation is attacking the Asians, and as a Croatian-Australian I might think that I can sit back because it does not involve me. There is a real danger in not becoming involved. We all have a collective responsibility to become involved.

I will leave the House with a message about the dangers of not accepting that collective responsibility. Martin Niemoeller, a Lutheran pastor, stated -

> In Germany, the Nazis first came for the Communists, and I did not speak up, because I was not a Communist. Then they came for the Jews, and I did not speak up, because I was not a Jew. *Then they came for the Trade Unionists, and I did not speak up, because I was not a Trade Unionist.* Then they came for the Catholics, and I did not speak up because I was not a Catholic. Then they came for me . . . and by that time there was no one to speak up for anyone.

HON CHERYL DAVENPORT (South Metropolitan) [1.16 am]: My contribution to this debate will be reasonably short. I wanted to raise two or three issues during the debate, but I have decided to confine my comments to an area of my shadow portfolio of Seniors. I will raise some questions that I asked in the Estimates Committee about the Health portfolio and the Home and Community Care Services program in Western Australia. As a result of the answers I received from the Health Department, I now have grave concerns for seniors and younger people with disabilities and their equitable access to HACC services.

I have quite a lengthy experience with this program. For the past 10 years I have been a member of a voluntary committee at a senior citizens centre in my electorate. During that time I have noted the expansion in demand for services. I have also noted the changing demographics of seniors in the community and the fact that they need many more services. The impact of the hostels and nursing homes upfront fee for home and community care has been quite profound, and it is something that no-one ever envisaged. For people who provide services to people in their homes, before they become institutionalised, the impact of that fee and the fear of it has meant that people do not want to go into nursing homes or hostels if they can stay in their own homes. However, the necessary information about services and the demand for the extra services placed on HACC over the past 12 months has been a major concern for service providers.

The make-up of the consumer group Australia-wide that accesses these services is 93 per cent age pensioners. Of that 93 per cent, 60 per cent are full pensioners. The statistics last year on the service in which I play a part indicate that of the 280 people who access our service monthly, 275 are either full pensioners or on some other benefit. We service only five self-funded retirees; and 70 per cent of that consumer group are women. I have grave concerns

about this service, but I am more concerned about the fact that as of 1 July, there is to be a phased in process for a national mandatory fee for service.

Although most services have charged a voluntary levy over the past few years, I am concerned that 15 months ago in this House I spoke at length about the phasing in of the fee. At that time, our centre received a circular from the Health Department asking us to look at a draft of 14 principles to deliver a national fees policy. We were given three weeks to comment on the possible national principles. However, to my astonishment, two days after I had asked a question during the Estimates Committee debate this year we received another circular from the Health Department - again giving us another two or three weeks to reply. Once again, the HACC national fees policy was a draft.

In addition, we received a circular indicating that during the 1998-99 budget year there would be a phasing in of that policy. During the past 15 months the only people who have been consulted about the possibility of a mandatory fees policy were the service providers. That appears to make sense. However, alongside that consultation process we should also be consulting the consumers who may be using the service. I was very concerned about the situation, and I took those concerns to the media following the Estimates Committee debate. I was not assured by the comments made by the Health Department on the implementation of this policy.

This is because we were also told that not only will this fee be imposed, but agencies such as mine which are providing a service will be asked to collect the fees. When I asked whether we would be able to retain the extra fees that might be collected to build up our services, because the demand for our services is greater than we can supply, with a waiting list of six to 12 people for virtually every service that we provide, we were told that we could not get a guarantee that we could retain that money because a range of areas within the State had unmet demand. Our agency will be given no extra money to collect these fees, yet our core grant will be reduced in order to meet that unmet demand in other areas of the State.

Part of the problem is that HACC is a commonwealth-state program. HACC is used mainly by frail aged seniors, and to a lesser extent by younger disabled people. We have been told for the best part of three years, certainly since the first Howard Government federal Budget, that no new growth money will be provided through the core grant and that money will need to come from the imposition of a fee for service policy. In context, one can understand that, but one needs to understand also that the population of seniors in Western Australia is currently about 14 per cent, and within 10 to 15 years that will increase to 22 per cent. It will be absolutely critical for us to assess how we provide this service and how Governments allocate money to meet that unmet demand.

The Government seems to be consulting, and it did provide, along with Aged Care Western Australia, for a workshop to be held on the possible introduction of fees for home and community care services. That workshop was held in Western Australia in December of last year. However, the concerns raised at that forum and the resulting issues paper that emanated in January leave a range of questions to be asked. What does the Government want? Is it just putting a philosophical position, or does it genuinely want to help these people? The way the Government is going about it is very much by having bureaucrats decide what the community will have, with minimal input from service providers, and none from the consumer group.

There is no doubt that HACC services and their funding is becoming a particularly complex issue, and it will not be resolved easily, because no-one can reach agreement on the commonwealth-state funding arrangement. It has been suggested for two or three years that the Commonwealth wants to hand this service to the States entirely. At the moment, it is 60 per cent commonwealth funded and 40 per cent state funded, but the States administer the program. Every year there is ongoing difficulty in deciding who will take ultimate responsibility for the final outcome of the service. It seems as though it is a top down process. The notion of fee for service began in Canberra as part of the 1996-97 Budget. It went to the senior bureaucrats in the Health Department through the program purchasing manager, and then to the home and community care project officers who are also employed by the Health Department. They have minimal contact with service providers and rarely visit projects. It then flows to the service providers who have direct contact with consumers. The consumers are frail aged and young disabled people, and they have had minimum input. I wonder how people in these huge bureaucracies in which the policies and ideas originate, can understand the lifestyle and choices of this consumer group. The way the policy is being implemented with the imposition of a fee for service on people with the least disposable income, who are predominantly frail aged and female suggests little knowledge and minimal compassion. It smacks of discrimination. I noted the comments of Hon Ljiljanna Ravlich with regard to ethnic communities. Seniors are no different; the Office of Seniors' Interests has a small budget line and limited ability to coordinate the departments making these decisions.

A number of questions need to be asked about this fees policy and the issues paper delivered by Aged Care Western Australia and the Western Australian network of community based home care services last January. First, is it important to direct funds to regions and consumer groups most in need? Second, is it important to ensure that consumers can receive services when they need them, irrespective of their ability to pay? Third, is it important to ensure that consumers pay only up to a set fee, irrespective of the services they receive? Fourth, should consumers

in like circumstances receiving like services pay the same fee? The phasing in of this process started yesterday, but none of those questions has been answered and services must implement this fee for services policy as directed by the department. They are expected to have some of their core grant removed because, presumably, it will meet unmet demand around the rest of the State.

The development of these sorts of policies should not start from the point of determining what is good or bad about a particular funding model. A policy should be developed around the notion of what is hoped to be achieved with a state fees policy. In that way service providers and consumers will feel some involvement in the process and will assume ownership, which generally ensures a successful outcome. In the past 15 months that the fees policy has been mooted, much time has been wasted, which has created uncertainty and hostility for service providers and has made very vulnerable people feel far more frightened.

I have grave concerns about whether the outcome of this fees policy will be equitable and ensure quality care for people in need. Those who are vulnerable and in need of this service must cope with the implementation of a fee for services policy, and may also face the additional burden of a goods and services tax imposed at the federal level. I see no evidence of any compassion on the part of this Government that would lead it to reduce the impact on this group. It is about time the Health Department gave serious consideration to the way it implements policies for seniors, and did it in a way that involves the consumer group for which it is responsible. We must remember that 93 per cent of this consumer group are pensioners. It is not good enough. As spokesperson for Seniors for the Labor Party I suggest that it is high time this was handled in a more appropriate way.

Opposition members: Hear, hear!

HON KIM CHANCE (Agricultural) [1.36 am]: I would like to make a small contribution and touch on a topic that has been occupying the attention of this place for several months.

Hon B.K. Donaldson: Not Pauline Hanson.

Hon KIM CHANCE: It is of vital interest to people in my electorate.

Hon N.F. Moore: The vast majority of whom are sound asleep and have no interest in what you are saying.

Hon KIM CHANCE: That specifically excludes Pauline Hanson or any of her colleagues in the Queensland Parliament. It is the issue of waterfront reform; in particular, the chicanery of Patrick Stevedores.

Hon E.J. Charlton: My leader might ask me to leave again shortly.

Hon KIM CHANCE: He may well.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Members, there is no need to incite the Minister for Transport.

Hon KIM CHANCE: I have no intention of inciting the Minister, although a few of the things I say may cause him to have urgent business elsewhere.

I refer in particular to the chicanery of Patrick Stevedores and certain members of the coalition Federal Government. This dispute which caused so much cost and pain across the Australian economy need never have occurred.

Hon N.F. Moore: We should have kept giving them all the money they wanted and let them carry on!

Hon KIM CHANCE: It is appropriate that the Minister for Transport is present because before this dispute began to affect Western Australia the Minister for Transport and I attended a meeting of the great eastern ward of the Country Shire Councils Association in Bruce Rock. I am sure the Minister will remember that well. At that meeting I suggested to delegates that we needed to avoid the spread of that dispute across the Nullarbor into Western Australia. At that stage there was no real suggestion that would occur. Perhaps the Minister for Transport had more inside knowledge than I, because he was confident that would occur. My plea was not to take one side of the case or another, but that we resist its spread across to Western Australia. I note that at about the same time, the Minister for Transport's own parliamentary leader, the member for Merredin, said something rather similar to what I had said.

I will paraphrase what the Deputy Premier said at that time. He felt we did not need PCS Ltd, the National Farmers Federation sponsored company, to begin its operations in Western Australia because we already had in this State a stevedoring company which had shown enterprise and the ability to reduce costs, and it was a matter best left to ourselves; in other words, the last thing we needed was for PCS to come to Western Australia. At that time members of one of the leading primary producer organisations in Western Australia, the Pastoralist and Graziers Association of Western Australia, were saying much the same thing. It was not until their colleagues in the NFF lent on them that they changed their tune.

Hon E.J. Charlton: Do you know why that happened?

Hon KIM CHANCE: They got leant on by the NFF.

Hon E.J. Charlton: They changed their tune when the trucks would not operate, after the picket was put in place. Some members of the PGA were never involved until a few decided they would take their trucks down. They thought they would just jump in their trucks and drive straight into the yard. They were going to show everyone.

Hon KIM CHANCE: It was a spectacular failure. I remember that night. The Minister for Transport has prompted me again.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The Minister for Transport ought not to prompt the member!

Hon KIM CHANCE: One thing that will stay in my mind as a result of being on that picket line at Fremantle - the community line as it was known, not the Maritime Union of Australia picket line -

Hon E.J. Charlton: They were drawn from all professional picket-liners.

Hon KIM CHANCE: I will tell the Minister a little more about that.

Hon E.J. Charlton: After we knock off. Buy me a beer after we knock off and explain it to me words of no more than one syllable.

Hon KIM CHANCE: What I noticed most at the north wharf precinct was the amount of commerce going on. Here we were in the middle of a major nationwide waterfront dispute, sparked by a lockout by one of the two big stevedoring companies in Australia - Patrick the Australian Stevedore - and what was the most telling thing about what was going on? The amount of commerce that was moving. Trucks were moving in and out of the yard on the P & O wharf continually; a constant stream of containers was being moved.

Hon E.J. Charlton: They were not on strike.

Hon KIM CHANCE: What a remarkable result! In the middle of a major industrial dispute, the thing I noticed most was the amount of commerce going on. P & O's cranes were hauling containers off ships at a rate of almost 30 an hour.

Hon E.J. Charlton: Faster than they ever worked before.

Hon KIM CHANCE: That is another point, and I will come to that as well.

Hon E.J. Charlton: How come they were so good when the strike was on?

Hon KIM CHANCE: I will come to that in a minute.

The DEPUTY PRESIDENT: Order! I ask the Minister to come to order and to stop encouraging Hon Kim Chance.

Hon KIM CHANCE: It was fascinating. It underlined the artificial nature of the dispute. What kind of dispute goes on when one wharf is occupied by a bunch of thugs from a private security company with their dogs at their feet, and right alongside at P & O's wharf commerce is going on? I thought there was something to be learnt from that. Sadly, the people who needed to learn from what was going on would not go near the place. Notwithstanding his propensity to get involved in what is going on directly - I give him credit for that - I do not know whether the Minister for Transport stood on the picket line and observed what was going on. He may have; and if he did, I apologise to him.

Hon E.J. Charlton: I was very keen to go down, but I had a lot of good advice not to go.

Hon KIM CHANCE: I am sure the Minister would have been able to see what was happening from the other side of the wharf from the Fremantle Port Authority headquarters, which I am sure he attended for obvious reasons.

This was an artificially created dispute in what turned out to be a failed attempt to harness what was perceived to be public antagonism towards maritime workers. It was hoped that some sort of flow-on effect would occur to bring the Government to accept a general mandate to further impede the entire union movement. The degree of failure which flowed from the manufactured dispute has been nothing short of spectacular.

It was clear from the beginning that the campaign, so carefully crafted by the Liberal Government, its supporters in the National Farmers Federation and Patrick Stevedores, relied on creating a violent and illegal response from the Maritime Union of Australia to generate public outrage against the union. It was a clear strategy. It is sickening that a democratically elected Government, a public company and an industry lobby group would set out to use those means to achieve their ends. Fortunately, what happened was different from the intended outcome.

Some isolated violent acts took place; however, in the main, many more of these were perpetrated by the anti-union

security guards and police than by individual unionists. Community support, instead of swinging behind the Government and Patrick, swung sharply behind the maritime workers. It was an unbelievable outcome. Nobody expected that public support would weigh in behind the waterside workers and their supporters. It happened.

Far from achieving the responses relied upon in this strategy, the Maritime Union of Australia demonstrations were peaceful and generally good natured. I observed them in three States; namely, Western Australian, Victoria and Tasmania. They were peaceful, generally good natured and rather than breaking the oppressive industrial relations laws the Liberals had constructed, the MUA carefully used the processes of law against the Government.

Poor old Patrick for its part found little or no support from the people from whom it expected support; namely, the business sector. Patrick certainly did not expect to receive support from the union movement. It did not expect too much support from the Government as it knew the limits of that support. However, it expected support from the business sector. Of course, the business sector had two things on its mind. It was clearly concerned, especially small business, about the tactics Patrick used. These were rejected on the basis of not only common, decent morality, but also that Patrick, through sheer stupidity, could have caused many businesses to be innocent victims of a protracted waterside dispute. Patrick was essentially taking a risk with every business in Australia.

The backfire with Patrick has been spectacular. I cannot feel any sense of compassion for Patrick. It has lost most of its market share to its competitors. If I were a Lang Corporation shareholder - I am almost tempted to buy some shares, just so I can turn up at the next shareholders' AGM - I would have said to the owner of Patrick, "What on earth did you think you were setting out to achieve?"

Hon E.J. Charlton: To get some changes to the work practices.

Hon KIM CHANCE: What right did Patrick management have to risk shareholders' capital on a madcap exercise?

Hon E.J. Charlton: It was through MUA intransigence.

Hon KIM CHANCE: These people had to believe the assurances of Liberals like Peter Reith. They rested the future of their company on these people engaging in a madcap exercise.

Hon E.J. Charlton: He supported reform on the waterfront. I do. Do you?

Hon KIM CHANCE: Of course I support the concept of reform on the waterfront, and we have delivered reform on the waterfront.

Hon E.J. Charlton: Will you support the P & O reform package?

Hon KIM CHANCE: P & O hardly needs my support. The other two major stevedores on Australia's wharves, P & O Australia Ltd and Sealanes Food Service, had much earlier made the decision that they wanted reform on the waterfront. However, their decision was based on the fact that reform was attainable by sensible negotiation and cooperation rather than by creating a waterfront dispute.

Any objective analysis of what has been achieved on the Australian waterfront over the past decade or decade and a half supports the decision of P & O and Sealanes. It is very significant. Members should not believe the downright lies that Reith was trying to tell us. They should compare the figures and the number of waterside workers who were employed a decade or a decade and a half ago with the number employed now and examine the tonnage they are moving. Both figures relate to productivity.

The outcome of the Waterfront Industry Reform Authority has been unspectacular, but calm, steady and progressive change towards reform. It did not make headlines. It was not something that Peter Reith could say in the Australian Parliament was a spectacular breakthrough. He got his spectacular breakthrough, but it was not quite what he intended.

Hon Ken Travers: It was a key plank of his re-election campaign!

Hon KIM CHANCE: It was a plank made of lead!

Facts have emerged about the dealings of the Federal Government and Peter Reith with Patrick Stevedores and certain members of the National Farmers Federation that have exposed the degree of collusion between those parties in engineering the dispute. I wish I could say at this point that ultimately we will learn more of the detail of that collusion as the conspiracy trial unfolds. It is a matter of great sadness to me that the conspiracy trial will not be held, at least not in the foreseeable future. That is a shame because the public of Australia has a right to know what happened in the construction of that conspiracy.

It seems to me that the Australian Government conspired with Patrick and certain members of the National Farmers Federation to subvert its own laws. That is the greatest crime any Government can commit. It is clear to me that the

dealings with Patrick and the NFF were aimed at assisting Patrick to find a way to put itself beyond the very law government Ministers are sworn to uphold. In every sense, this issue has been a disaster for the coalition and its eighteenth century attitude to industrial relations.

It has also been a disaster for Australia. Our reputation internationally as a country which advocates workers' and basic human rights in the third world, and which attempts to foster those values in developing countries, has been badly damaged. We have now faced the embarrassment of having the *Colombus Canada*, albeit not an Australian ship, but one loaded in Australia, refused entry to North American ports.

The *Columbus Canada* was refused entry to ports on the west coast of the United States. Ultimately it had to turn round. I think in the end it was sent back to New Zealand, unloaded and then loaded by union labour. As bad as those outcomes have been for Australia, the greatest damage could be avoided, and even will be avoided, if we can learn something from the whole debacle.

Coalition Governments make two fundamental errors in their assumptions about the union movement. Until they understand that they are in error, we are condemned to repeat history. The first of the fundamental errors is that the coalition believes that union activity is driven from the top down rather than by members themselves. The second is that unionists as a whole are thugs who are intent on exploiting any opportunity to use industrial muscle to further their aims. Those two beliefs are reflected in every piece of coalition policy that addresses industrial relations. They lie at the root of the cause for the failure of coalition industrial policy at both state and federal level in this country.

If I may, I will address those two elements one by one. To the extent that even if it were true that at some time in the past unions were driven from the top down, it is certainly not the case today, nor has it been at any time in at least the past two decades. Members do not have to take my word for that. It comes directly from Commissioner Fielding's report. I invite members to read Commissioner Fielding on that aspect. Unions are as democratic as any organisation in Australia today. The instances of union executive recommendations being modified or even rejected by meetings of the rank and file are commonplace and have been for probably 25 years. Despite the very clear indications that unions represent their members rather than their leadership's views, and the advice of Commissioner Fielding in his report, coalition policy is constructed on the premise that union power is wielded by an unrepresentative elite. We had examples of that with the last round of industrial legislation in this State, commonly referred to as the third wave legislation. Part of that legislation deliberately set out to inhibit union secretaries, organisers and finance officers. It was driven entirely from the point of view that unions are activated from the top down. Until coalition members understand that the function of those officers is to carry out the express will of their members, they have no hope of ever coming to terms with what the union movement is or even how it works.

The coalition's entrenched belief that union members are thugs as much as any other factor leads to the conservative parties' monumental misunderstanding of organised labour. Union members are the people we meet in the street and shopping centres. They are the nurses who look after us and our families when we are sick. They are the dedicated employees who work in this place. They are the people who teach our children, who build our houses and who work on the waterfront and ships on which our international trade relies. They are ordinary, hard working, honest citizens of Australia who, like the average Australian, abhor violence. The concept of calling people like that thugs is nothing more than stupidity. Members of the Maritime Union of Australia along with Missions to Seamen and the International Transport Workers Federation, with some able assistance from the staff at Geraldton Regional Hospital, recently took care of an Indian seaman who was injured off the Western Australian coast near Dampier.

The ship's master on that vessel had refused an offer from Australian authorities to evacuate the seaman from the ship by helicopter from Dampier and as a result of the injuries that he had received - his hand was caught in a winch - his hand became gangrenous, which caused him to lose most of it. When that ship finally arrived at Geraldton, Geraldton waterside workers virtually adopted this complete stranger, who spoke very little English. They arranged for his flight back to Calcutta and raised sufficient money for him to establish a chicken farm on his small property 40 kilometres from Calcutta because it is very unlikely that this man will ever work again as a seaman. At last report he was safely home with his family and looking forward to a much brighter future than he would have had but for the intervention of the Maritime Union of Australia and the International Transport Federation.

This was an act of extraordinary generosity. These members of the MUA in Geraldton collected - I think it was - in the order of $3 000 or $4 000 for this complete stranger. They looked after him extraordinarily well. I had the privilege of accompanying the seaman from Geraldton back to Perth where I arranged his handover to the Missions to Seamen. When we parted company at Perth airport he shook my hand and was crying as he left. He was so grateful that people had taken a complete stranger under their wing and looked after him as well as they had done.

I have to ask, Mr President, whether people who would do a thing like that deserve to be called thugs, because I simply cannot support that. More to the point, I wonder if we could expect the same level of generosity and compassion from a Chris Corrigan or a Peter Reith. Somehow I very much doubt it. Despite this, the coalition

continues to labour under the delusion that union members are thugs. The siege mentality arising from that belief is expressed in the industrial relations laws that we see passed in this place and in Parliament House, Canberra; laws which have no other intent than to weaken the union movement and to remove their ability to represent workers.

What we must learn from the Patrick conspiracy is that blind ideology is an extraordinarily dangerous concept. It is a dangerous concept to introduce into anything as subtle and sensitive as industrial relations. I hope they have also learnt that the community as a whole will not tolerate the kind of political chicanery that has been revealed in this case, the chicanery that involves Patrick, the coalition Government at a federal level and the National Farmers Federation.

The public expect Governments to uphold the law, not to assist private companies to find ways around the law. I also hope that we have learnt that reform is possible by way of sensible and mature negotiation and that the kind of cowboy tactics that were employed by Peter Reith and others are destructive and unacceptable. I fear that if we do not learn those lessons we are condemned to repeat the mistakes that were made on our waterfront over the last few months.

HON TOM HELM (Mining and Pastoral) [2.04 am]: I will not take too much time of the House tonight. However, an opportunity to speak on the appropriation Bill, which concerns the whole of government and how it funds its operations, allows me to highlight the responsibilities not only of the Government but also of ourselves to prevent people like David Oldfield, One Nation, the League of Rights and other fringe organisations from getting a foothold in our society; a society, I believe, that tends to turn to those organisations only out of desperation.

I will illustrate two points that might do something to stop those events from happening in Australia. One that is close to my heart and of which I have been a part for some time is the way small businesses in the major shopping malls are treated. I understand that at some time in the near future we may have a commercial tenancies Act that will help to redress the balance for those people who have been so blatantly ripped off and destroyed in the major shopping centres. Those small business people feel that politicians and Governments are doing nothing to support them.

The instance I bring to the attention of the House involves a florist in the Morley Galleria. The Galleria is owned by Westfield, which is a major shopping centre owner and one with which I have had run-ins previously. Members are aware that my office in Port Hedland is in the Port Hedland shopping centre, which is owned by Westfield. Shop owners have told me about horrendous incidents, and about how much they must spend to fit out the shops to the shopping centre owner's requirements. These people have invested their life savings. Some have worked in the iron ore industry, taken early retirement and stayed in the area and were a welcome source of inspiration for us all. They then committed the ultimate in dedication to the area by putting their life savings into shops. When they complied with all of the owner's requirements they had to dedicate their income to their rent. The independence that small business people seek to achieve was taken from them.

I fought a number of cases and tried to help where I could and where I was allowed to. The small business proprietors are proud, and they are reluctant to ask for assistance. It is only when one can guarantee that their financial situation will be confidential that they will ask for help. I have gone to Westfield on a number of occasions and I have gained some measure of success in having it behave more appropriately towards its tenants.

The florist shop in the Morley Galleria is called the Cascade Studio of Flowers. It is owned by my son's father in law. He has had it since the centre was opened and has spent $40 000 or $50 000 fitting it out. It looks very good. He looked for a small return on his investment and that is what he got because the location is not what it should be. He may have made a mistake in accepting that location - all is not the responsibility of Westfield. However, because of the lease requirements, the manager and owners know that the business is going through hard times at the moment. They have been asking for relief, a reduction in rent, and so on, but they have not been successful. That is okay. They will get by. They are working for peanuts, because the return is not good.

I raise this matter in this House because after those people had invested capital in the shop, Westfield encouraged another florist to open on the floor above, not far from their shop. That florist has only a sink and a fridge in the shop - nothing else. The offer for the additional florist was made to my daughter-in-law's father, who said that she was crazy because he thought that it would not make money, and so on; but my son was encouraged to open the shop. I went to see Westfield management to plead the case. I said that even though these people have never been in business and do not understand how business is operated, I respect their pride. We should support small business, and rather than molly-coddle people we should give them a fair go. My plea fell on deaf ears. I have received no response. These people are still battling and the business is up for sale. It will be difficult to find a buyer, given the circumstances in the shopping centre.

I am not happy about the situation because I have been unsuccessful in my attempts to help my daughter-in-law's father. My daughter-in-law is the manager of the shop. She is a hard worker; they are dedicated people. They are

of Italian extraction and are very proud. I sought their permission to raise this matter in this House, because I do not know of a better way to help people in such a situation than to use the privileges afforded to me as a member of Parliament and to place on the record some of my concerns.

Neither the previous Government nor this Government has been dinkum about supporting small business. I hope that with the rise of these fascists - One Nation, the League of Rights and other organisations, who give the cliched answers that are so attractive to many people - more will be done in that area.

I turn now to regional development. Again, this Government has followed the initiatives of the previous Government. We have the regional development commissions and many talkfests in regional areas. However, the Government addresses in a negative way the personal events that occur in the bush. It is almost like being penny wise and pound foolish because the commissions are established and well funded; they provide reports to government departments and to the Government as a whole; they consult experts and undertake surveys. Without doubt, it is all good stuff.

I must comment about the patient assisted travel scheme, which allows patients to travel from remote areas to the nearest hospital to consult specialists, and so on. The guidelines for the scheme do not allow a woman who has undergone a mammogram which has indicated a lump in the breast, to travel to Perth to undergo a biopsy to find out whether the lump is benign or malignant. The nearest hospital that provides that intrusive surgery is Hedland Hospital. PATS will provide only for the woman to get on the bus to go to Hedland Hospital, perhaps for an overnight stay, to have an incision of some size to find out whether the lump is benign or malignant. That gets up my nose. We are talking about something that is vitally important in our community. It is obvious that women in the metropolitan area can have that procedure done immediately without any difficulty. We are trying to encourage people to get early treatment for any suspected cancer, yet we have this ludicrous situation with PATS.

We are not talking about people who are ripping off the system. Minister Kierath insulted us to the maximum when he talked about people ripping off the system. He was asked by Larry Graham, the member for the Pilbara in the other place, and by other people in that House, to give examples of how people had been ripping off PATS. He did not know how. I could have given an example. I found out later how people had been ripping off PATS. We need to live in a community to know how people are ripping it off. However, when the mammography unit comes around once a year and women are encouraged to have their breasts screened, and when that examination reveals a lump and those women are asked to leave their home to have an operation to determine whether they need further treatment to remove that lump, PATS does not allow for them to come to Perth to have that operation. I do not know whether to laugh or cry when I hear things like that. How dare the Government treat our women in that way.

Members opposite decimated PATS when they came into office. They said that even though they had reduced the eligibility for PATS, they would bring specialists into remote areas such as Hedland, Newman, Tom Price and Paraburdoo. We now have fewer specialists. I am not saying that the Government did not intend to get specialists into the bush, because perhaps it did but the specialists would not go, or perhaps it could not pay them enough to get them to go to the bush. We did not get those specialists, and we did get a reduction in PATS. That is an example of the guidelines that we have to put up with.

I believe that is one of the reasons that people are attracted to fringe and extreme right wing parties in our nation that are a canker and are un-Australian. Hon Ljiljanna Ravlich talked about ethnic people who came to Australia for a better life. I am one of the lucky ones, but I am not alone; there are many of us. I say with some pride that it is people like us who have experienced different lives who appreciate what Australia is all about. Australia is not about people like the One Nation party. Australia is about a far go, not a handout. We will do our best as new Australians. We will do what we can - that is what Hon Ljiljanna Ravlich was talking about - but in return, people need to show us the respect that we do not demand but hope we earn, by giving people, particularly in remote areas, services that are similar to those in the metropolitan area. All these little things feed off each other, and people come to the conclusion that no-one cares. Those organisations get someone like David Oldfield, who is a real good spin doctor, to put some words together that are attractive, and people who know a woman who has been treated in that shabby way where she has had to go to the nearest hospital and have not a major operation but one that leaves a scar, rather than receive the treatment that can be provided in the metropolitan area, or a small business that is frustrated and feels that no-one cares, go running to these groups that appear to care. That is what I hope we are learning from what has happened in Queensland.

Those two events highlight to a large extent what we need to do, not just on the conservative side of politics but on both sides of politics. We have the rhetoric right and we have the words right, but we are not putting anything into action that will prevent those organisations from having a go. I support the Bill.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.20 am]: On behalf of the Minister for Finance, I thank members for their contributions to this debate. I will refer the speeches of members to the appropriate Ministers for a direct response to issues raised that require a response and questions that require an answer. I thank

my colleagues on this side of the House for delaying their speeches until the Address-in-Reply debate when the House resumes in the spring session. If they had not done so, the House would have sat until much later. Members can now go away and contemplate the wisdom or otherwise of all the speeches they have heard tonight about the various matters. I thank members for their contributions.

Question put and passed.

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

APPROPRIATION (CONSOLIDATED FUND) BILL (No 2)

Second Reading

Resumed from 17 June.

Question put and passed.

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

ADJOURNMENT OF THE HOUSE

Special Adjournment

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the House at its rising adjourn until a date and time to be fixed by the President.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.22 am]: I move -

That the House do now adjourn.

Gloria Hedges - Adjournment Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.23 am]: In our parliamentary lives we are served by a number of people in our various roles, and one of the staggering jobs in this place is the role of the Hansard reporter. One of those in our lives at the moment who is about to leave is a Hansard reporter who has served this Parliament for a very long time, and certainly for almost all of my parliamentary career. On her last night working in this House I pay tribute to the work of Mrs Gloria Hedges, one of the longstanding members of Hansard who has just completed her last turn in this place.

All of us have experienced the quality of work done by reporters such as Mrs Gloria Hedges. I know it is not customary for members to pay tribute to the work of Hansard reporters, who are regularly considered to be an invisible part of the fabric of our parliamentary lives. However, I take the opportunity to pay tribute to the work of this reporter, and I am sure this sentiment is shared by all members.

On this occasion, when speaking about Mrs Hedges who will leave Hansard at the end of this session, I also pay tribute to her colleagues who regularly translate our ramblings into some very fine oratory, more by their efforts and skill at composition than by the skill with which those contributions are delivered in the Chamber. That certainly applies as far as I am concerned.

I wish Mrs Gloria Hedges well in her life beyond the Parliament. Glo will be missed by all of us.

Members: Hear, hear!

[Applause.]

The PRESIDENT: I am sure that acclamation for Gloria Hedges speaks volumes for all members in the Legislative Council and the Legislative Assembly, which she has served for many years in a very professional manner.

Question put and passed.

House adjourned at 2.26 am (Thursday)

QUESTIONS ON NOTICE

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

OROYA TAILINGS DAM

1585. Hon GIZ WATSON to the Minister for Mines:

In reference to question on notice 1131 of November 11, 1997, on what date did the Department of Minerals and Energy first become aware that its design for Oroya tailings dam with its "ringdyke or paddock style structure" provided for leakage?

Hon N.F. MOORE replied:

The Department of Minerals and Energy did not design the Oroya tailings dam. Its original construction predated any process of formal design construction approval. However most tailings impoundments world wide are designed to hold or contain the tailings (solids), and allow loss of liquid by evaporation and by seepage through the sub-strata under the dam. Few such impoundments around the world are designed to totally eliminate any permeation of fluids, below the floor of the structure, and few of those so designed have been completely successful.

OROYA TAILINGS DAM

1586. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice number 1133 of November 11, 1997 -

(1) Can the Minister provide the complete analysis of the water samples obtained from the boggy ground which had a totally different chemical composition to the Oroya Tailings dam?

(2) If not, why not?

(3) Can the Minister explain how the chemical difference led to the department believing that its chances of successfully prosecuting, on the evidence available, was extremely remote?

(4) If not, why not?

Hon N.F. MOORE replied:

(1) Yes. The results obtained form a bore located in the boggy ground were:-

Date	TDS (ppm)	pH	Asenic (Mg/l)	Mercury (Mg/l)	Total Mg/l)	Cyanide Weak Acid Dissociable (Mg/l)
20.1.84	27,300	N.R.				
23.3.93	29,100	N.R.	0.005	0.0008	0.72	0.09
2.11.93	28,050	3.3			0.29	0.07

(2) Not applicable.

(3) The water discharged into the Oroya tailings dam was hypersaline averaging between 150,000 and 160,000 ppm salts, approximately 5.3 times as salty as that sampled within the boggy ground. The water in the dam was alkaline (pH of 9.0) while the samples from the boggy ground were acidic (pH of 3.3).

(4) Not applicable.

KALGOORLIE CONSOLIDATED GOLDMINE

Optimum Resources

1639. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice 889 of September 16,1997 -

(1) Does Kalgoorlie Consolidated Gold Mine’s substantial bond specifically apply to Optimum Resources tenements?

(2) Can the Minister state how the Government was “controlling the environmental aspects of KCGM’s operations” specifically on Optimum Resources tenements?

Hon N.F. MOORE replied:

(1) No.

(2) The Government controls all aspects of mining operations, including those of KCGM, via the Environmental Protection Act, the Mining Act and the Mines Safety and Inspection Act and their associated Regulations.

DYER, MR KEITH

Evidence for P26/2458

1676. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice number 877 of October 17, 1996 from the Hon Jim Scott to the Minister for Mines and ask -

(1) Can the Minister confirm that Mr Keith Dyer, described by the Warden Magistrate Kieran Boothman SM as an expert witness, did not in fact give any evidence for P26/2458?

(2) If not, why not?

Hon N.F. MOORE replied:

(1)-(2) Mr Keith Dyer gave evidence at the Warden's Court hearing for application for Prospecting Licence 26/2458 et al at Kalgoorlie on 20 September 1994. The nature of that evidence related to the survey of General Purpose Lease 26/15 located in the immediate vicinity of application for Prospecting Licence 26/2458.

RANFORD, MR LEE

Failure to Comment on Briefing Note to Minister for Mines

1677. Hon GIZ WATSON to the Minister for Mines:

I refer to a letter dated 20 March, 1998, reference WP.SS 712/92 signed by Mr Lee Ranford Director General, Department of Minerals and Energy -

(1) Can the Minister advise why Mr Lee Ranford was"unable to comment on what he may have believed or understood at that time" with respect to the briefing note to the Minister for Mines dated 19 August 1996?

(2) If not, why not?

Hon N.F. MOORE replied:

(1) The letter of 20 March 1998 was in reference to previous correspondence to Mr Lee Ranford's predecessor Mr Ken Perry which had asked of Mr Perry "I asked you to note that I have specifically written to you as the Director General as I understand it was you as the Director General who signed the document dated 19 August 1996. I raise this with you as you will note that for all of my queries above I have mentioned you as the Director General".

The letter from Mr Ranford stated that he was unable to comment on what Mr Perry may have believed or understood at that time. The full text of the sentence from which the words quoted in the member's question have been taken is as follows:-

> As pointed out in my letter of 23 February 1998 the briefing note of 19 August 1996 you refer to was signed by my predecessor Mr Ken Perry and I am unable to comment on what he may have believed or understood at that time.

(2) Not applicable.

FIMISTON TAILINGS DAMS INVESTIGATION

1679. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice 1136 of November 11, 1997 -

(1) Can the Minister advise why "there is no evidence that breach of Section 98 is taking place"?

(2) If not, why not?

(3) How many times since November 1997 up to the present, has the Director General, Mr L. Ranford, been requested in writing by the holder/agents of P26/1848 and P26/1858 to visit onsite, to investigate and see evidence of supposed breaches of Section 98 of the *Mining Act 1978 and Regulations*, by the operator of Fimiston I and Fimiston II?

(4) Will the Minister ask Mr Ranford, Director General, to inspect onsite at P26/1848 and P26/1858 supposed breaches of the *Mining Act 1978 and Regulations* by the operator of Fimiston I and Fimiston II, together with a representative from the Trades and Labour Council of WA, who are also members of the MOSHAB Prevention of Mining Fatalities Taskforce?

(5) If not, why not?

Hon N.F. MOORE replied:

(1) This matter relates to claims that Optimum Resources has been inconvenienced on its Prospecting Licences 26/1848 and 26/1858 as a result of the actions of Kalgoorlie Consolidated Gold Mines. Commencing in 1993 the Department of Minerals and Energy has received in excess of 100 letters from agents and representatives of Optimum Resources regarding these claims. A number of site inspections have taken place between 1993 and 1997 with Departmental officers being accompanied by either the Directors of Optimum resources or other agents of the company. The outcome of all these investigations was a fine being imposed by the Minister for Mines on Kalgoorlie Consolidated Gold Mines for a breach of a tenement condition on General Purpose Lease 26/8 which is adjacent to Prospecting Licence 26/1848. Investigations by the Department did not reveal sufficient evidence of any offence relating to the claims of inconvenience.

(2) Not applicable.

(3) Between 1 November 1997 and 30 April 1998 nine written requests have been received from Mr Steve Kean and three written requests from Mr Ray Kean.

(4) No.

(5) The holder/agents of Prospecting Licences 26/1848 and 26/1858 have been invited to provide the Department of Minerals and Energy with any relevant summary documentation which substantiates their claims, so that the question of whether or not another on-site inspection is warranted can be considered in the light of the evidence submitted.

FIMISTON TAILINGS DAMS

Notes in Departmental File

1680. Hon GIZ WATSON to the Minister for Mines:

I refer to a letter dated February 9, 1998, reference WP.SS 712/97, signed by Mr Lee Ranford, Director General addressed to Mr S Kean -

(1) Is it correct that "There is no indication on Mines Files 705/93 or any other files as to why the article is on the file, and it is not known who may have been responsible for either making the handwritten note on the side of the article or placing the article on the file"?

(2) If not, why not?

(3) If so, can the Minister explain why?

(4) Can the Minister state why the Director General "does not have any comment to make on the relevance or importance of any papers contained within the departmental files for Prospecting Licences 26/1848 and 26/1858"?

Hon N.F. MOORE replied:

(1) Yes.

(2) Not applicable.

(3) The information sought does not form part of the records held at the Department of Minerals and Energy.

(4) The newspaper article and other papers on file form part of the official Departmental record, and cannot be removed without good cause. In the context of the enquiry made by Mr S Kean, there is nothing to be said as to the relevance or importance of particular papers.

FIMISTON TAILINGS DAMS INVESTIGATION

1708. Hon TOM HELM to the Minister for Mines:

I refer to a letter dated April 15, 1998, departmental reference 712/97 signed by Mr L C Ranford, Director General and a limited inspection only by Mr Bill Biggs which I understand occurred on August 27, 1997 on P26/1848 and P26/1858 -

(1) Did Mr Bill Briggs from the Department of Minerals and Energy state verbally to agents and representatives of Optimum Resources on September 1, 1997 that he was getting a list of things (evidence) together that he required from Optimum Resources and was preparing that list now, and in turn that Mr Eugene Bouwhuis would get that list to Optimum Resources shortly?

(2) If yes, can the Minister explain why this was not carried out?

(3) Did Mr Bill Biggs also verbally state to agents/representatives of Optimum Resources on September 17, 1997 that "I have actually got to get back to you with some other stuff as well, the sort of evidence that needs to be put up, so I certainly have to finish that off, and I haven't done that. I must admit that I've been taken off and put on other things, but I must finish that and get back to you"?

(4) Can the Minister explain why Mr Biggs "hasn't got back"?

(5) Can the Minister state the reasons why Mr Ranford is satisfied that the matters previously raised have been properly investigated?

(6) Has the Department of Minerals and Energy received a letter from the Trades and Labour Council of WA, from a member on the MOSHAB Prevention of Fatalities Taskforce pointing out that he has seen first hand the considerable volume of information that the tenement holders have at their disposal requesting and asking that the department view the documentation held by the tenement holders and the tenements (P26/1848 and P26/1858) to establish the facts of this matter and that the member of the task force should be involved in this process?

(7) Can the Minister explain why the department has not investigated properly and thoroughly all of the considerable volume of information (evidence) that the tenement holders have at their disposal in conjunction with the member from the Trades and Labour Council of WA on the MOSHAB Prevention of Mining Fatalities Taskforce?

Hon N.F. MOORE replied:

(1) Mr Bill Biggs recalls discussing on several occasions with agents and representatives of Optimum Resources the nature of the evidence required relating to the issues raised. He does not recall the specific conversations but may have made these statements.

(2) Mr Bill Biggs did not make a written record of this matter, and if he did make the statements claimed, it was an oversight that the matter was not followed up.

(3) As for (1) above.

(4) As for (2) above.

(5) The matters previously raised relate to claims that Optimum Resources has been inconvenienced on its tenements P 26/1848 and P 26/1858 as a result of the actions of Kalgoorlie Consolidated Gold Mines. Commencing in 1993 the Department of Minerals and Energy has received in excess of 100 letters from agents and representatives of Optimum Resources regarding these claims. A number of site inspections have taken place between 1993 and 1997 with Departmental officers being accompanied by either the Directors of Optimum Resources or other agents of the company. The outcome of all these investigations was a fine being imposed by the Minister for Mines on Kalgoorlie Consolidated Gold Mines for a breach of tenement condition on General Purpose Lease 26/8 which is adjacent to P 26/1848. Investigations by the Department did not reveal sufficient evidence of any offence relating to the claims of inconvenience.

(6) Yes, such a letter was received on 11 February 1998.

(7) The letter referred to in (6) above suggested a range of proposals relating to this matter, and in response to the letter the Director General sought and obtained the agreement of the TLC representative and the Acting Manager of KCGM to participate in a meeting or meetings with representatives of Optimum Resources. The outcome sought was a forward-looking solution taking into account the interests of both parties. I understand that a meeting of some eight hours duration took place in Kalgoorlie in March 1998 to discuss the issues involved and I have been informed that a further meeting is planned.

OROYA TAILINGS DAM LEAKAGES

1709. Hon TOM HELM to the Minister for Mines:

I refer to a departmental file note dated September 29, 1993 from Mr Hugh Jones, Acting Deputy Director Mining Operations Division to the Acting Director General titled "Oroya Tailings Structure" -

(1) Can the Minister state the specific dates on which investigations by the department indicated that KCGM was in breach of the condition requiring that the District Mining Engineer be immediately notified when leakages occur?

(2) Can the Minister state on what specific date did investigations by departmental officers first notice that significant leakages were occurring from the Oroya Tailings Dam?

Hon N.F. MOORE replied:

(1) Yes. Departmental records indicate that a site inspection took place on 5 August 1993 and that there was a subsequent investigation of Departmental files after that date. Departmental files do not specify a date on which the Department investigated the District Mining Engineer's records.

(2) Yes. Records indicate the date was 5 August 1993.

OROYA TAILINGS DAM LEAKAGES

1710. Hon TOM HELM to the Minister for Mines:

I refer to a departmental file note from Mr Hugh Jones, Acting Deputy Director Mining Operations Division to Mr L Ranford, Acting Director General dated September 13, 1993 titled "Alleged Pollution Discharge from Oroya Tailings Facility". Can the Minister state why the department believed that the facility in question was definitely leaking significant quantities of liquor, the majority of it flowing directly into the ground water?

Hon N.F. MOORE replied:

The design and construction of the Oroya Tailings Facility is such that it leaked liquor into the ground water from its first day of operation in 1974. The Oroya Tailings Facility was decommissioned in October 1995. I refer the honourable member to Question on Notice 1585 on the same topic.

FIMISTON TAILINGS DAMS

Newspaper Article on Departmental Files

1711. Hon TOM HELM to the Minister for Mines:

I refer to a letter dated October 28, 1997, departmental reference LCR:JH MF 705/93, signed by Mr Lee Ranford, Acting Director General, and the newspaper article dated Tuesday, August 17, 1993 which should be on departmental files -

(1) Can the Minister explain why this newspaper article has been kept on departmental files for Prospecting Licences P26/1848 and P26/1858?

(2) Can the Minister state what relevance does this article have to do with Prospecting Licences P26/1848 and P26/1858?

Hon N.F. MOORE replied:

(1) The newspaper article forms part of the official Departmental record. It would not be removed in normal circumstances unless it was believed appropriate to do so following a request for its removal.

(2) I do not wish to speculate on the relevance this article may have to Prospecting Licences 26/1848 and 26/1858.

FIMISTON TAILINGS DAMS INVESTIGATION

1712. Hon TOM HELM to the Minister for Mines:

I refer to a letter dated January 10, 1994, reference 3491, signed by Hon George Cash addressed to Optimum Resources Pty Ltd and all the departmental files for P26/1848 and P26/1858 -

(1) Does the Minister stand by the statement that "the delay in responding has been primarily due to the complexity of the investigations necessary in evaluating the multitude of matters raised in your questions"?

(2) If not, can the Minister explain why?

(3) Does the Minister stand by the statement "I do not consider the letters sent by the department have been evasive"?

(4) If not, can the Minister explain why?

(5) Can the Minister state why departmental officers did not believe that the department should be telling Optimum Resources of all of their actions?

(6) Can the Minister state how many photographs did Mr Bradley take during his site inspection and on what date were these photographs taken?

(7) If not, can the Minister explain why?

(8) Can the Minister describe for each of the photographs taken by Mr Bradley during his site inspection, what they depict?

(9) If not, can the Minister explain why?

Hon N.F. MOORE replied:

(1) Yes. The full text of the letter on this issue was as follows:-

The delay in responding has been primarily due to the complexity of the investigations necessary in evaluating the multitude of matters raised in your questions. Your approach in sending similar, but often not identical, letters on the same subject to three separate individuals placed additional demands on the limited resources of the Department of Minerals and Energy which further contributed to the delay. The approach via your Solicitors to the Department and the Department's need for legal advice before responding was an added delay factor.

(2) Not applicable.

(3) Yes.

(4) Not applicable.

(5) It is assumed that this question is in relation to several statements in the letter dated 10 January 1994 that "the Department's dealings with individual companies regarding their tenements cannot be communicated to a third party". Such dealings are regarded as a matter between the parties involved.

(6) Three photographs were taken on 5 August 1993, and eleven photographs were taken on 6 August 1993.

(7) Not applicable.

(8)-(9) There is a written description provided on each of these photographs on file 705/93. The following is a list of those descriptions:-

Seepage from east side of vats on Mining Lease 26/86

Area of disturbance caused by vehicle bogging.

Process water dam under repair (collecting seepage water) south side of Oroya tailings facility.

Process water dam south of Oroya Tailings Facility, looking south east.

Leach vats - eastern wall adjacent to Prospecting Licence 26/1848 showing seepage into collection trench (all on Mining Lease 26/86).

Oroya tailings facility showing good beaching despite single point discharge.

Seepage collection trench on Mining Lease 26/86 on boundary of Prospecting Licence 26/1848.

View of vats on Mining Lease 26/86 looking east from top of Oroya tailings facility. Fimiston No. 2 tailings facility in background.

General view of vats on Mining Lease 26/86 taken from top of Oroya tailings facility (looking east over Prospecting Licence 26/1848). Note: water ponding in vats.

Seepage collection trench north side of Oroya tailings facility.

General view of vats on Mining Lease 26/86 taken from Oroya tailings facility looking north east.

Seepage collection trench south of Oroya tailings facility and east of process water dam.

Seepage collection trench picking up water on east side of vats on Mining Lease 26/86.

Low grade stockpiling north side of Oroya tailings facility - over south side of "Goldconda" tailings facility.

MINING LEASEHOLDERS' EXPENDITURES

1753. Hon GIZ WATSON to the Minister for Mines:

What are the annual minimum or maximum expenditures, by area, required by the Department of Minerals and Energy for leaseholders of a -

(a) mining lease;
(b) mineral claim;
(c) temporary reserve;
(d) an exploration lease; and
(e) a prospecting lease?

Hon N.F. MOORE replied:

The minimum annual expenditure requirements on mining tenements are as follows:

	TENEMENT TYPE	MINIMUM EXPENDITURE
(a)	Mining Lease	Expenditure rate of $100 per hectare with minimums of $5 000 if five ha or less, or $10 000 in excess of five ha.
(b)	Mineral Claim	No expenditure requirement. Pursuant to Mining Act 1904 subject to labour conditions.
(c)	Temporary Reserve	No expenditure requirement. Mining Act 1904.
(d)	Exploration Licence (non graticular)	Expenditure rate of $300 per square kilometre with a minimum of $20 000.
	(Graticular)	Expenditure rate of $900 per block with the following minimums: - $10 000 for one block - $15 000 for two blocks - $20 000 for more than two blocks Extension of term Years 6 & 7 $50 000 per year, thereafter $100 000 per year.
(e)	Prospecting Licence	Expenditure rate of $40 per hectare with a minimum of $2 000

MINING LEASES SUBJECT TO RIGHT TO NEGOTIATE

1769. Hon TOM STEPHENS to the Minister for Mines:

(1) How many mining leases are currently subject to the right to negotiate?

(2) How many of the lease applications have been placed on a priority list by the Department of Minerals and Energy?

(3) How many, and what percentage, of these mining leases are simply renewals?

(4) How many of these mining leases relate to productive or actual mines as opposed to maintenance of an interest in a tenement?

(5) Given that multiple tenements may be involved in a single mine, what is the actual number of productive mines to which the mining leases relate?

Hon N.F. MOORE replied:

(1) 1898.

(2) 347.

(3) None.

(4)-(5) It is not possible to determine from an examination of these mining lease applications and Departmental registers of mineral titles whether or not these mining lease applications are related to productive mines. I would be happy to arrange for the member to receive a briefing from the Department of Minerals and Energy concerning the processes involved in dealing with mining lease applications and the information that is recorded regarding such matters.

MINING LEASE FEES

1770. Hon TOM STEPHENS to the Minister for Mines:

(1) What is the current State fee for a mining lease?

(2) When was this fee last varied and to what degree?

(3) For each of the last five years, what is the total State revenue from mining lease fees and for how many applications?

(4) What is the current State fee for an exploration licence?

(5) When was this fee last varied and to what degree?

(6) For each of the last five years, what is the total State revenue from exploration licence fees and for how many applications?

(7) For each of the last five years, how many exemptions have been granted from mining lease fees or exploration fees, to whom, for what reason and what is the State revenue foregone?

(8) Do mining lease fees apply at the end of the native title process or at some other point?

(9) What State fees are paid during the native title process?

Hon N.F. MOORE replied:

(1) (a) Application fee of $165.40
(b) Annual rental $10.00 per hectare.

(2) (a) Application fee was increased from $144.45 to $165.40 on 5 July 1991.
(b) Rental was increased from $9.30 to $10.00 per hectare on 1 July 1995. This rental will be increased by 3% to $10.30 per hectare on 1 July 1998.

(3)

YEAR	APPLICATIONS RECEIVED	TENEMENTS IN FORCE	TOTAL REVENUE $
1992/93	759	4,082	8,092,894
1993/94	947	4,542	17,348,560
1994/95	1,228	4,860	20,688,483
1995/96	1,214	5,108	23,525,913
1996/97	1,653	5,172	28,344,810

(4) The graticular block system of applying for exploration licences was introduced on 28 June 1991.

(a) Application fee of $400 for a 1 block licence (introduced 10 June 1994),
$824 for more than 1 block.

(b) Rental is $80.00 per block,
$30.60 per square km for pre graticular licences.

(5) (a) There have been no increases for graticular block licences since they were introduced on 28 June 1991.

(b) Rental on a per square km basis was increased from $28.60 to $30.60 on 5 July 1991.

Rental will be increased by 3% on 1 July 1998 for both graticular and pre graticular exploration licences to $82.40 per block and $31.50 per square km respectively.

(6)

YEAR	APPLICATIONS RECEIVED	TENEMENTS IN FORCE	TOTAL REVENUE $
1992/93	1,632	2,787	5,000,309
1993/94	2,205	3,692	12,133,710
1994/95	1,645	3,950	10,703,589
1995/96	1,869	4,417	12 528 958
1996/97	2,484	4,718	14 263 128

(7) None.

(8) Rental fees apply from the date of grant of the mining lease.

(9) The applicant does not pay any fees to the State during the native title process.

GIANOLI, MR PETER

1826. Hon KEN TRAVERS to the Minister for Sport and Recreation:

In a prospectus entitled "Creating Communities" which outlines the services of a business of the same name, the CV of one of the partners of the company claims he "has recently worked to restructure Athletics in Western Australia by appointment from the Minister of Sport and Recreation" -

(1) Can the Minister for Sport and Recreation confirm whether he appointed Mr Peter Gianoli to restructure Athletics in Western Australia?

(2) If yes, when was Mr Gianoli appointed and what tasks has he performed to date for the Minister?

Hon N.F. MOORE replied:

(1)-(2) Peter Gianoli was appointed by Athletics West (now trading as AthleticA) in August 1996 to assist them continue the process of restructuring as a result of the report into the sport of Athletics commissioned by the Opposition when in office.

TOURISM COMMISSION'S REGIONAL BOUNDARIES

1885. Hon TOM STEPHENS to the Minister for Tourism:

(1) Will the Minister table a map showing the regions that is the basis for the operations of the Western Australian Tourism Commission across Western Australia?

(2) What was the basis for establishing these boundaries?

(3) What relationship do these departmental regional boundaries have to the regional boundaries of other State Government departments and agencies?

Hon N.F. MOORE replied:

The WATC undertakes two primary roles (1) marketing the state and (2) developing the state. As both are very different the division of the state is different for each function. Hence the two following answers:

Marketing

(1) Yes. [See paper No 1782.]

The State is divided into 10 regions, each defined for tourism marketing purposes. The 10 regions are:

The Kimberley	Kimberley Tourism Association
The Pilbara	Pilbara Tourism Association
The Gascoyne	Gascoyne Tourism Association
The Midwest	Midwest Tourism Promotions
The Heartlands	The Heartlands Tourism Associations
The South West	The South West Regional Tourism Association
The Great Southern	Southern Regional Tourism Association
The South East	South East Travel Association
The Goldfields	Goldfields Tourism Association
The Peel	The Peel Region Tourism Association

(2) For tourism marketing purposes, the boundaries were established based on the data provided in the Australian Bureau of Statistics' Statistical Local Areas map.

(3) The boundaries for tourism marketing purposes are generally not consistent with the regional boundaries of other government agencies, but clearly mirror them.

Tourism Industry Development Division.

(1) Yes, also as per the tabled map. There are Regional Development Managers based in all regions listed above, including Perth but excluding the Pilbara. It should be noted that the WATC is currently looking at the efficiency of the operation of these regions.

(2) Their establishment was based on boundaries as set down by the Australian Bureau of Statistics.

(3) Again, the boundaries are not generally consistent with the regional boundaries of other government agencies, but clearly mirror them.

SPORT AND RECREATION, MINISTRY OF

Regional Boundaries

1886. Hon TOM STEPHENS to the Minister for Sport and Recreation:

(1) Will the Minister table a map showing the regions that is the basis for the operations of the Ministry of Sport and Recreation across Western Australia?

(2) What was the basis for establishing these boundaries?

(3) What relationship do these departmental regional boundaries have to the regional boundaries of other State Government departments and agencies?

Hon N.F. MOORE replied:

(1) Yes.

(2) Initially determined having regard for local government boundaries and the then regional development authorities. The current Regional boundaries align with the Australian Bureau of Statistics statistical regions.

(3) Ministry staff are aware of other Government regional boundaries. In addition staff work with client groups; for example, sporting organisations in accordance with their regional boundaries.

[See paper No 1783.]

OPTIMUM RESOURCES' MINING TENEMENTS

1922. Hon GIZ WATSON to the Minister for Mines:

In reference to a letter dated June 1, 1998 departmental reference WP.SS 712/97 addressed to Mr S Kean signed by Lee Ranford, Director General, Department of Minerals and Energy -

(1) Can the Minister state why no written confirmation was provided by Mr Bill Biggs in relation to the “nature of the evidence required”?

(2) If not, can the Minister explain why?

(3) Can the Minister state the "nature of the evidence" which was supposedly "discussed on several occasions" and the specific dates on which it was "discussed"?

(4) If not, can the Minister explain why?

(5) Can the Minister state when on what specific date "the results of drill samples or water quality samples were verbally requested from Optimum Resources well in advance of the August 1997 on site inspection"?

(6) If not, can the Minister explain why?

(7) Can the Minister state why the results of drill samples or water quality samples were verbally requested and no written request was made to Optimum Resources for this information?

(8) If not, can the Minister explain why?

(9) Has the Department of Minerals and Energy received a letter recently in June 1998 from the Trades and Labor Council of WA pointing out that the person has personally witnessed evidence, in the form of substantial documentation and visual evidence, which is best observed in Kalgoorlie, so a departmental officer can track any lines of enquiry down to the detail in order to find a resolution to outstanding matters?

(10) Will the Minister direct his department to properly and thoroughly investigate all of the substantial evidence held by agents/representatives of Optimum Resources in Kalgoorlie in conjunction with the person from the Trades and Labor Council of WA?

(11) If not, can the Minister explain why?

Hon N.F. MOORE replied:

(1) Mr Bill Biggs did not make a written record of his conversations with agents and representatives of Optimum Resources on this specific issue. He does not recall the specific conversations, but if he did undertake to provide written confirmation, it was an oversight that the matter was not followed up.

(2) Not applicable.

(3) Advice was given that information should be provided which would support the claims that Optimum Resources is being inconvenienced on its Prospecting Licences 26/1848 and 26/1858 as a result of the actions of Kalgoorlie Consolidated Gold Mines. Examples were given of the type of information which could include:-

certified assay results for analysis of water samples and drill core samples;
drill log data certified by a competent geologist;
construction details of sample bores;
sampling methods used to sample ground water;

together with an explanation as to how this information demonstrates the claims being made.

Telephone records at the Department of Minerals and Energy show that Mr Bill Biggs had telephone conversations with agents or representatives of Optimum Resources on 1 August 1997 and 25 August 1997. No record is available for incoming telephone calls from these parties. There is no Departmental record of the other specific occasions on which this particular issue was discussed.

(4) Not applicable.

(5) See answer (3) above. It is not known on which specific occasions this particular issue was discussed however the written report of the August 1997 on-site inspection states that "These" (the drill samples of water quality samples) "had been requested well in advance of this visit to enable Optimum time to prepare them".

(6) Not applicable.

(7) It is common practice for verbal requests to be made for such information.

(8) Not applicable.

(9) Yes.

(10) No.

(11) The letter to Mr S Kean dated 1 June 1998 from the Director General, Department of Minerals and Energy suggests that he should now provide to the Department any relevant summary documentation which substantiates his claims, and the question of whether another on-site inspection is warranted can then be further considered, in the light of the evidence submitted. I consider that this action is appropriate in the circumstances.

I would also refer the member to my answer to Question on Notice 1708 from Hon Tom Helm dated 19 May 1998 which refers to a meeting that took place in Kalgoorlie in March 1998, and a further meeting that is planned to find a forward looking solution to this matter.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD

Tailings Storage Seepage

1923. Hon GIZ WATSON to the Minister for Mines:

In reference to a departmental file note titled “Trans Australia Railway Line (“TARL”), Possible Effects of Water Seepage from Tailings Storages operated by KCGM” dated July 16, 1996 to the Assistant Director, Research and Technical Services, A/Principal Mining Engineer signed by Jay Ranasooriya, Geotechnical Engineer -

(1) Can the Minister state why, and for what reasons, the department decided to assess the potential impact of the rising groundwater on the TARL?

(2) If not, can the Minister explain why ?

(3) Can the Minister state why it was considered that the rise in water table could affect stability of the TARL?

(4) If not, can the Minister explain why?

(5) Can the Minister state why it was strongly recommended that KCGM be requested to commence dewatering the area of concern as soon as possible?

(6) If not, can the Minister explain why?

(7) Can the Minister state why from a long term public safety point of view that it was recommended the relevant railway authorities be formally informed of the rising water levels in the vicinity of the TARL?

(8) If not, can the Minister explain why?

Hon N.F. MOORE replied:

(1) Yes. In response to a claim made on 18 June 1996 by Mr Ray Kean, consultant to Optimum Resources, that a railway culvert located in the Trans Australia Railway Line adjacent to the Fimiston II Tailings Storage Facility required structural reinforcing due to wet ground conditions and slumping of the railway line.

(2) Not applicable.

(3) Yes. Under the worst possible ground conditions, it was considered that a rise in groundwater could affect the stability of the TARL. A subsequent study performed using the information available from the nearby sites concluded that there was no immediate threat to the performance of the TARL.

(4) Not applicable.

(5) Yes. The Department considered it appropriate to pro-actively limit a rise of the groundwater level in this area. In addition, a fall in the groundwater level below the level existing at that time would be an improvement of the groundwater conditions. The Department considered that dewatering using the already proposed and partly constructed bores should be actively encouraged.

(6) Not applicable.

(7) It was considered that the newly available information on the groundwater levels within the railway reserve should be passed on to the railway authorities because this information may be useful to them in their role as long term managers of facilities used by the public.

(8) Not applicable.

MINING ACT EXEMPTIONS

1929. Hon GIZ WATSON to the Minister for Mines:

In relation to the answer to question on notice 1588 of 1998 with regard to the exemption from their expenditure requirements under the *Mining Act*, what were the reasons, in general terms, given for exemptions sought by the miners concerned?

Hon N.F. MOORE replied:

In general terms the reasons given for the exemptions sought were:-

Mining Act 1978 section 102:

(2) (b) That time is required to evaluate work done on the mining tenement, to plan future exploration.

(2) (d) That the ground the subject of the mining tenement is for any sufficient reason unworkable.

(2) (g) That political, environmental or other difficulties in obtaining requisite approvals prevent mining or restrict it in a manner that is, or subject to conditions that are, for the time being impracticable.

(2) (h) That the mining tenement is comprised within a project involving more than one tenement, and that expenditure on a tenement or tenements comprised in that project would have been such as to satisfy the expenditure requirements in relation to the tenement concerned had that aggregate expenditure been apportioned in respect of the various tenements comprised in the project.

(3) Notwithstanding that the reasons given for the application for exemption are not amongst those set out in sub-section (2), a Certificate of Exemption may also be granted for any other reason which may be prescribed or which in the opinion of the Minister is sufficient to justify such exemption.

EXPLORATION LICENCE AND MINING LEASE APPLICATIONS

1983. Hon CHRISTINE SHARP to the Minister for Mines:

(1) How many exploration licence and mining lease applications have been made in each of the past ten years?

(2) How many of these applications were objected to in the Mining Wardens Court on environmental grounds?

(3) Of these, how many were sustained by the Mining Warden?

(4) Of these, how many were overturned by the Minister for Mines?

(5) How many of these exploration licence and mining lease applications have been objected to in the Mining Warden's Court by mining companies during the same period?

(6) If the information can not be supplied for the whole period, can the Minister supply the information for the period for which it is available?

Hon N.F. MOORE replied:

The issues raised in this question are complex and cannot be answered from an examination of Departmental registers of mineral titles and objections. I would be happy to arrange for the member to receive a briefing from the Department of Minerals and Energy concerning the processes involved and the information that is recorded regarding such matters.

GREY AND JURIEN BAY LAND TENURE

1989. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

(1) What policy has the Minister for Lands in place to deal with the land tenure and future of the communities at -

(a) Grey; and
(b) Jurien Bay?

(2) If there is no clearly defined policy for Grey would the Minister consider a 20 year lease for current residents on the basis that no new huts are constructed, that the current shack owners pay rates in lieu to CALM, that current shack owners purchase the farm in the Nambung National Park for inclusion in the national park, and that a planning development plan be undertaken in the Grey community?

Hon MAX EVANS replied:

(1) The State Government Squatter Policy, that was introduced by the former Government, provides for the removal of shacks at Grey and Jurien Bay over a period of six years. The areas will then be subject to a rehabilitation program. Both areas are included in the draft management plan for the Nambung National Park. The plan is produced by CALM for the National Parks and Nature Conservation Authority.

(2) Not applicable.

LAND AUTHORITY ACT REVIEW RECOMMENDATIONS

1990. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

(1) Which recommendation from the Report of the Review of the *Land Authority Act* has been -

(a) adopted; and
(b) implemented,

by the State Government?

(2) Which recommendations have been rejected?

(3) Which recommendations are under consideration?

Hon MAX EVANS replied:

(1),(3) In accordance with S48(2) of the Western Australian Land Authority Act 1992, the Report on the Review of the operations and effectiveness of the Western Australian Land Authority was tabled in both Houses of Parliament on 24 June 1998. The tabled Report is generally supported by the more detailed recommendations of the Gauntlett Report on the Ministerial Review November 1997.

(2) Recommendation 14 of the Gauntlett Report.

MOORE RIVER HOUSING DEVELOPMENT

1994. Hon GIZ WATSON to the Minister for Tourism:

In respect of Plunkett's proposed housing development south of the Moore River -

(1) Is the Minister aware that the Gingin Shire Council received 704 submissions about the Outline of Development Plan, most of which opposed the Plunkett proposal and suggested instead of utilizing the tourism potential of the area by creating the Guilderton Regional Park?

(2) Is the Minister aware that Mr Shane Crockett, CEO of the WA Tourism Commission, has offered the Gingin Shire expert cost/benefit analysis of tourism verses residential potential of this area?

(3) Does the Minister know whether such advice has been forwarded to the shire?

(4) Does the Minister know what Mr Crockett's findings were?

(5) Will the Minister table these findings?

Hon N.F. MOORE replied:

(1) No, I was not aware of the number of submissions made.

(2) No, I am advised however, that on 12 August, 1996 the Chief Executive Officer of the Western Australian Tourism Commission wrote advising the Guilderton Community Association that it was not able to undertake a cost/benefit analysis of the area. It did however, advise that the Commission would be happy to provide assistance for the tourism side of the "tourism/residential" equation.

(3)-(5) Not applicable.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD, BREACHES OF MINING ACT

1996. Hon GIZ WATSON to the Minister for Mines:

(1) Has the Department of Minerals and Energy received complaints from a Williamstown resident at 25 Austral Road, Kalgoorlie, about alleged breaches to the *Mining Act 1978* and regulations?

(2) Has the Department of Minerals and Energy thoroughly investigated all of the complaints made by the resident, including speaking to the resident and gaining any further evidence about the alleged breaches?

(3) If not, will the Minister direct his department as a matter of urgency to do so?

(4) Has Kalgoorlie Consolidated Gold Mines ("KCGM") breached condition number 6 of Mining Lease 26/261 in not obtaining the written approval of the District Mining Engineer to carry out all of the work described in the complaints?

(5) If yes, will the Minister and his department give serious consideration to forfeiture of Mining Lease 26/261, given that KCGM has previously breached conditions on numerous KCGM operated mining tenements?

(6) If no to (4) above, will the Minister explain why?

(7) Has KCGM breached condition number 38 on Mining Lease 26/261 in not obtaining written approval from the State Mining Engineer to carry out all of the work described in the complaints?

(8) If yes, will the Minister and his department give serious consideration to forfeiture of Mining Lease 26/261, given that KCGM has previously breached conditions on numerous KCGM operated mining tenements?

(9) If no to (7) above, will the Minister explain why?

(10) Has KCGM breached condition number 30 on Mining Lease 26/261?

(11) If yes, will the Minister and his department give serious consideration to forfeiture of Mining Lease 26/261, given that KCGM has previously breached conditions on numerous KCGM operated mining tenements?

(12) If no to (10) above, will the Minister explain why?

(13) Has KCGM breached section 26(5) and section 154 of the *Mining Act 1978* and regulations thereto in not obtaining the written permission from the resident "to otherwise interfere with or to mine on or under" the land for the activities described in the complaints by the resident within 100 metres of the residence?

(14) If yes, will the department prosecute the company?

(15) If no to (13) above, will the Minister explain why?

Hon N.F. MOORE replied:

(1) Yes, the Department received a letter of complaint from Mr Kevin Francis of 25 Austral Road Kalgoorlie on 9 June 1998 and a second letter following up on the first on 22 June 1998.

(2) The mines inspectors in Kalgoorlie were instructed to investigate Mr Francis' second complaint on 22 June 1998. A letter acknowledging receipt of the complaints, and informing Mr Francis of the action being taken and assuring him of notification of the outcome of the investigation was sent on 22 June 1998. The investigation is still in progress.

(3) Not applicable.

(4)-(15) It is not possible to forecast the outcome of the investigation.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD, BREACHES OF MINING ACT

1997. Hon GIZ WATSON to the Minister for Mines:

(1) Has the Department of Minerals and Energy received complaints from a Williamstown resident at 30 Brownhill Road, Kalgoorlie, about breaches to the *Mining Act 1978* and regulations?

(2) Has the department thoroughly investigated all of the complaints made by the resident, including speaking to the resident and gaining further evidence about the breaches to the *Mining Act*?

(3) If not, will the Minister direct his department, as a matter of some urgency, to investigate throughly all of the complaints and any further evidence the resident may have?

(4) Have Kalgoorlie Consolidated Gold Mines ("KCGM") employees/contractors involved breached section 20(5) and section 154 of the *Mining Act 1978* and regulations thereto in not obtaining written permission from the resident to "otherwise interfere with or to mine on or under" the land to construct an earthen bund with a loader within 100 metres of the resident?

(5) If not, will the Minister explain why?

(6) If yes to (4) above, will the department prosecute the company?

(7) Have KCGM employees/contractors involved breached section 20(5) and section 154 of the *Mining Act 1978* and regulations thereto in not obtaining written permission to "otherwise interfere with or to mine on or under" the land for the new construction and re-routing of the pipeline within 100 metres of the resident?

(8) If not, will the Minister explain why?

(9) If yes to (7) above, will the department prosecute the company?

(10) Has KCGM breached condition 5 on Mining Lease 26/353 in not obtaining written approval from the District Mining Engineer for the use of the large loader "mechanised equipment" to carry out various work?

(11) If yes, will the Minister and his department give serious consideration to forfeiture of Mining Lease 26/353, given that KCGM has previously breached conditions on numerous KCGM operated mining tenements?

(12) If no to (10) above, will the Minister explain why?

(13) Will the Minister advise the date when written approval of the District Mining Engineer, under condition 5 on Mining Lease 26/353 was given to carry out all of the work raised in the complaints from the resident?

(14) If not, will the Minister advise why?

(15) Has KCGM breached condition 6 on Mining Lease 26/353 in not obtaining written approval from the State Mining Engineer for the construction of an earthen pipeline bund or the new re-routing of the pipeline in the complaints raised by the resident?

(16) If not, will the Minister advise why?

(17) If yes to (15) above, will the Minister and his department give serious consideration to forfeiture of Mining Lease 26/353, given that KCGM has previously breached conditions on numerous KCGM operated mining tenements?

(18) Will the Minister advise on what date the written approval of the State Mining Engineer under condition 6 on Mining Lease 26/353 was given to carry out all of the new work construction activity raised in the complaints from the resident?

(19) If not, will the Minister explain why?

(20) Has KCGM breached condition 27 on Mining Lease 26/353?

(21) If not, will the Minister explain why?

Hon N.F. MOORE replied:

(1) Yes. The Department received the letter of complaint from Mr Meyer-Forst of 30 Brownhill Road, Kalgoorlie, on 17 June 1998.

(2) The mines inspectors in Kalgoorlie were instructed to investigate Mr Meyer-Forst's complaint on 19 June 1998. A letter acknowledging receipt of Mr Meyer-Forst's complaints, informing him of the action being taken and assuring him of notification of the outcome of the investigation, was sent on 19 June 1998. The investigation is still in progress.

(3) Not applicable.

(4)-(21) It is not possible to forecast the outcome of the investigation.

QUESTIONS WITHOUT NOTICE

TAXES AND CHARGES

Additional

1813. Hon TOM STEPHENS to the Minister for Finance:

Apart from increases in public transport fares in April, increased motor licence fees in May and the increased cost of registering an average car of $55, what additional taxes and charges come into effect today? I refer to increases in taxes and charges apart from those we already know about; that is, increased stamp duty on general, motor vehicle, home contents and workers' compensation insurance policies and the increased water, sewerage and drainage rates. These increases will result in Western Australian families paying $54 more this year.

The PRESIDENT: Order! The leader knows that that preamble is not in order.

Hon Max Evans: He has the journalists listening to him.

The PRESIDENT: I ask the leader to ask his question.

Hon TOM STEPHENS: With what additional costs has the Government of Western Australia laid into ordinary Western Australian families as a result of the decisions that the Minister has made effective as of 1 July?

Hon MAX EVANS replied:

That is a hypothetical question. We have not laid into anyone.

The PRESIDENT: For the record, that was said by the Minister for Finance. I must say that because there is someone downstairs switching cameras and unless I call the right person the task is very difficult. I am not having a go at the Minister; I am letting members know it is not my grumpiness that causes me to conduct the proceedings in a deliberate way but that other people in the building have some responsibilities.

ANTI-CORRUPTION COMMISSION

Duration of Appointment of Independent Inquirer

1814. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) What is the proposed duration of the appointment of the independent inquirer inquiring into complaints against the Anti-Corruption Commission, and what are the reasons for that duration?

(2) What categories of complaint about the ACC are proposed to be dealt with and how does the Government intend other complaints be dealt with?

(3) How much will the independent inquirer be paid?

(4) Will the recommendations of the inquirer be binding on the ACC and has the Premier received legal advice as to whether legislative amendments will be necessary to achieve this?

(5) Has the Premier received legal advice as to whether it will be necessary to give the inquirer access to ACC operational material and whether it will be necessary to amend the ACC Act to enable that to be done?

(6) If so, will he table it; and, if not, why not, and does he intend to do so?

(7) Who will inquire into the work of the ACC special investigators and, if no-one, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question, which I presume was given. However, I do not have a copy of the question or an answer.

Hon Tom Stephens: That is unacceptable.

Hon N.F. MOORE: I am not aware of when the question was handed in to be asked. I do not believe the Premier is in the city today; he certainly was not yesterday. I indicate to members who have questions for the Premier that I do not have any answers to questions asked of him. A couple were placed on notice. I do not even have a copy of this question. If there is anything wrong, perhaps the member has made a mistake.

Hon Tom Stephens: It was lodged and signed.

Hon N.F. MOORE: Was it in the leader's name?

Hon Tom Stephens: It is in my name.

ATTORNEY GENERAL

Indemnities for Legal Costs

1815. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the Attorney's answer to question without notice 1794 asked last Thursday with respect to whether he had made application pursuant to the guidelines relevant to Ministers and officers involved in legal proceedings and ask -

(1) Has any application been made to cover any potential liability for legal costs or damages concerning the Attorney?

(2) If so, when and with respect to what matters?

Hon PETER FOSS replied:

(1)-(2) I must emphasise that applications are not made by me - they are made and handled by other people. If they come to Cabinet, I absent myself. I understand some applications have been made in respect of threatened actions. However, I do not have the detail and I do not know the precise terms. If the member wishes me to investigate them, I will. However, I normally do not concern myself directly in any matters that affect me.

FAIR TRADING PROSECUTIONS

1816. Hon NORM KELLY to the Minister representing the Minister for Fair Trading:

Some notice of this question has been given. Can the Minister provide figures for each of the past three financial years detailing -

(1) How many prosecutions have been initiated on fair trading matters?

(2) Of these, how many have been successful?

(3) How many prosecutions have been successful when the charges have been defended?

Hon MAX EVANS replied:

The Minister has provided the following response -

(1) 1995-96 - 11
1996-97 - 11
1997-98 - 31

(2) 1995-96 - 11
1996-97 - 9
1997-98 - 21 to date with nine still to be heard.

(3) Seven out of 10.

FAMILY PLANNING ASSOCIATION FUNDING

1817. Hon B.M. SCOTT to the Minister representing the Minister for Health:

Some notice of this question has been given. What is the funding for 1998 for the Family Planning Association of Western Australia?

Hon MAX EVANS replied:

The Family Planning Association received a total of $257 300, comprising $88 100 and $169 200 from the Health Department's operations and public health divisions respectively in 1998.

ROTTNEST MOORINGS

1818. Hon J.A. SCOTT to the Minister for Tourism:

Some notice of this question has been given.

(1) What moorings systems are permitted for current use in Rottnest waters and who gives this permission?

(2) What certification has been obtained for permitted mooring systems at Rottnest Island and when was it obtained?

(3) What future changes to the list of permitted moorings are planned for the protection of seabed flora and fauna in the bays of the island?

(4) What is the current policy from one mooring lessee to the next for an existing mooring?

Hon N.F. MOORE replied:

(1) A variety of moorings systems is permitted in Rottnest waters, including cyclone style and fixed single point moorings. Moorings must adhere to guidelines determined by the Rottnest Island Authority. The authority gives permission to mooring site contractors who have approval to work within Rottnest Island waters to install and maintain mooring systems.

(2) Certification of specific mooring systems is not required by the Rottnest Island Authority. Installation and maintenance of moorings is the responsibility of the mooring site contractors who have approval to work within Rottnest Island waters. A yearly inspection report for each mooring site contractor is required by the authority to ensure continuation of the mooring licence.

(3) Guidelines for low impact moorings have been developed by the Rottnest Island Authority and will be gazetted in the near future.

(4) The allocation of a mooring site is not finalised until proof is provided that negotiations regarding the apparatus have been satisfactorily completed with the outgoing licensee.

POLICE SERVICE

Report on Joint Investigation with Australian Federal Police

1819. Hon DERRICK TOMLINSON to the Attorney General representing the Minister for Police:

(1) Is the Minister aware of some criticism made about the report tabled by the Minister for Police in the other place on Thursday last week following a joint investigation conducted by the Western Australia Police Service and the Australian Federal Police?

(2) Does the Minister have any information relating to these claims?

Hon PETER FOSS replied:

I thank the member for some notice of this question. My office sought advice from the Minister for Police and I table two letters on this matter, one from the Australian Federal Police and one from the National Crime Authority.

[See paper No 1781.]

ABROLHOS

1820. Hon GIZ WATSON to the Leader of the House representing the Premier:

I asked this question a week ago, in relation to the Abrolhos.

Hon N.F. MOORE replied:

I do not have the answer to that question.

COOPER, MR BRENDAN

1821. Hon MARK NEVILL to the Leader of the House representing the Premier:

(1) Did Mr Brendan Cooper take up a position with the Office of the Premier following the 1996 state election?

(2) What are Mr Cooper's duties and remuneration?

(3) During Mr Cooper's previous employment with the Federal Government's members' secretariat did he visit or attend any offices of the Premier or his Ministers?

(4) If so, when and why?

(5) What facilities, office or desk space or other resources were provided to Mr Cooper during those visits or attendances?

(6) Has Mr Cooper travelled by air intrastate or interstate since his appointment to the Premier's office?

Hon N.F. MOORE replied:

When was that question lodged?

Hon Tom Stephens: Today.

Hon N.F. MOORE: As I explained to the Leader of the Opposition, a number of questions were asked of the Premier today, and I indicated that I did not have the answers because the Premier apparently is not in town and, therefore, cannot provide an answer to the questions. I also advise that members who asked the questions were told when they lodged them, that no answers would be given today, and by asking those questions they are wasting their own time.

GERALDTON REGIONAL HOSPITAL

Budget Blowout

1822. Hon KIM CHANCE to the Minister representing the Minister for Health:

(1) In respect of the Geraldton Regional Hospital, what is the extent of the budget blowout in 1997-98?

(2) Why have the severe economy measures introduced at the hospital, including closing 30 per cent of all beds, not prevented the blowout?

(3) Will the Minister table the review of Geraldton Regional Hospital's budgetary situation recently completed by Dr Graham Fisher?

(4) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) An independent audit of the Geraldton Health Service financial position is currently underway. Geraldton Health Service was recently advanced $1m to allow processing of essential creditor payments and to protect salary commitments. The extent of any budget overrun will be known following the independent audit review and the completion of end of year financial accounts.

(2) The impact of management strategies both within the short and longer term will be assessed during the review.

(3) No.

(4) This information is currently being considered as part of the review.

SCHOOL CLEANING AND GARDENING SERVICES

Contracting Out

1823. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

(1) What were the savings made in the last financial year as a result of the contracting out of cleaning and gardening services?

(2) How many schools have needed to renegotiate contracts due to inadequate performance?

(3) How many complaints have been received by the Education Department about the cleaning of schools?

(4) Have these costs been taken into account in calculating cost savings?

Hon N.F. MOORE replied:

(1) I take it that the question now relates to the previous financial year.

Hon Helen Hodgson: The question was submitted yesterday, and the date has changed.

Hon N.F. MOORE: The question was submitted on 23 June.

(1) There has been no contracting out of school gardening services this year - and that means the last financial year. In the last financial year, there have been no net savings in the implementation of contract cleaning because of the additional costs of severance and transition payments and the improved contract specifications.

Staff salary savings last financial year are $577 300 which represents a staff reduction of 24.2 FTEs. Over a full calendar year this equates to a salary saving of approximately $1.561m or 65.6 FTEs.

(2) No contracts have been renegotiated due to an inadequate performance by contractors.

(3) Considering the number of schools in the State, the department receives very few formal complaints about cleaning of schools. Based on the contract cleaning quality monitoring system, only nine of the approximately 270 schools currently using contract cleaners have reported unsatisfactory cleaning standards in the last six months.

(4) All costs associated with the implementation of contract cleaning have been included in the determination of savings.

HOMESWEST

Land Investment

1824. Hon RAY HALLIGAN to the Minister representing the Minister for Housing:

(1) Does Homeswest take account of existing and proposed future transport routes when it invests in land in the outer metropolitan areas?

(2) If so, does it have a long term plan to invest in land along the expanding northern transport corridor?

(3) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Homeswest has become increasingly conscious of the need for new housing areas in outer metropolitan locations to be well served by public transport. As an example, Homeswest has recently acquired a large holding at Clarkson, which is adjacent to the proposed railway line and which affords the opportunity to establish a railway station precinct. A design interrelationship between land use planning and public transport offers significant benefits for housing diversity and the vitality of local communities.

(2) Yes. Within the context of its role as a provider of land and housing for the low to moderate income sector, Homeswest proposes to invest in land along the northern transport corridor which offers development potential in the short to medium term. Given the advantages of lower income households being well served by public transport, Homeswest considers that priority should be given to extending the northern corridor railway to the Clarkson-Butler area in the medium term.

(3) Not applicable.

MEMBER FOR ARMADALE

Defamation Action by Fremantle Port Authority

1825. Hon E.R.J. DERMER to the Minister for Transport:

(1) What are the legal fees incurred to date by the Fremantle Port Authority in pursuing a defamation action against the member for Armadale?

(2) Has the Fremantle Port Authority obtained an estimate of likely costs if the matter goes to trial?

(3) When was the matter first raised with the Minister by the Fremantle Port Authority?

(4) Is the Minister being kept informed of the progress of the case?

(5) Is the Minister aware of any precedent within a western democracy wherein a government agency has taken legal proceedings against a member of Parliament for making a political statement?

Hon N.F. Moore: Try asking Brian Burke and Bob Hawke.

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) As the matter referred to remains open to legal processes, it is improper to divulge costs incurred at this time.

(2) Meaningful estimates cannot be given as it would depend upon the extent of the issues at trial.

(3) Soon after the allegations were made.

(4) Yes.

Hon E.R.J. Dermer: What about precedents?

Hon N.F. Moore: Try the WADC!

Hon E.J. CHARLTON: The Fremantle Port Authority is out there trying to win business for Western Australia. Considering what the member for Armadale did, I am very pleased that the FPA decided to try to protect the integrity of Western Australian businesses, because the member and everyone else is the poorer as a result of denigrating statements.

(5) It is proper for the Fremantle Port Authority as a commercial entity to seek to redress serious and defamatory allegations about its behaviour which damage the good reputation of the Fremantle Port Authority and its board members.

ONE NATION

Trade Policies

1826. Hon JOHN HALDEN to the Leader of the House representing the Minister for Commerce and Trade:

I refer to the prediction by BankWest and Austrade Director Simon Lee and surgeon Eric Tan of dire ramifications for WA's trade with the Asian region if One Nation's policies lead WA's Asian trading partners to view Australia as a racist nation.

(1) Does the Minister accept this position as accurate?

(2) If not, why not?

(3) If yes, what policies or strategies does the Government have in place to ensure WA's trade with its Asian trading partners is not damaged by One Nation's policies?

Hon N.F. MOORE replied:

(1) I give this answer on behalf of the Minister for Commerce and Trade, and his answer is that he does not accept this position as accurate.

(2) Western Australian trade linkage in the Asian region is based on a long established network covering Indonesia, Singapore, Malaysia, China, Japan, Korea, India, Thailand and the Philippines. Western Australia maintains an extensive network of international offices, including offices located in China - Shanghai, Hangzhou and Hong Kong; India - Mumbai; Indonesia - Surabaya; Japan - Tokyo and Kobe; Korea - Seoul; Malaysia - Kuala Lumpur; Singapore; and Thailand - Bangkok. It has been through these overseas offices that Western Australian exporters have developed strong, long term trade linkages that have strengthened the cultural linkages between Western Australia and its overseas neighbours. Furthermore, the Minister for Commerce and Trade has recently travelled to Malaysia and Brunei affirming these linkages and assuring Western Australian exporters and their clients of our strong continued involvement in Asia. In July and September 1998, the Minister will travel to Indonesia and Thailand with industry representatives to reinforce the message that Western Australia values the trade relationships that Western Australian exporters have developed over time. Notwithstanding the economic crisis that is affecting some Asian economies, and the comments made by One Nation party leaders, Western Australia's exports to Asia between January and April 1998 increased by $14m, or 2 per cent, over the same period of the previous year.

(3) Not applicable.

VALUER GENERAL

Valuation of School Sites

1827. Hon KEN TRAVERS to the Minister for Finance:

I refer to the Valuer General putting the total realisable value of the schools which are to be sold at Kewdale, Scarborough, Hollywood and Swanbourne at $36.65m, and to the Minister for Education's expectation of $58m - a 58 per cent difference - and ask -

(1) Does the Minister stand by the Valuer General's valuations of the school sites?

(2) Can the Minister explain why the Minister for Education operates on other valuations and not those of the Valuer General?

(3) Is the Minister aware of any other instances where advice of the Valuer General has not been accepted by Ministers?

(4) If so, when and which Ministers?

Hon MAX EVANS replied:

(1)-(4) Mr President-

A government member: The old Swan Brewery!

Hon MAX EVANS: That was a good answer! As a chartered accountant, I never wanted to get into a fight with valuers. There are times when the valuers do not agree. All that really matters at the end of the day is what price we get for it. The Valuer General's figures are a fairly true indication. We know from the number of appeals about land valuations that not many appeals are won by the appellant when all the facts come out. The valuations are done on a mass appraisal basis, and they are updated every year. They will not be far wrong. It will all depend on what the market is prepared to pay at the time.

GOVERNMENT HEALTH TRAINING ADVISORY BOARD

1828. Hon CHERYL DAVENPORT to the Leader of the House representing the Minister for Employment and Training:

(1) Will the Minister list the criteria that were applied by the State Training Board under section 22 of the Vocational Education and Training Act and were deemed to be met by the Government Health Training Advisory Board in order for it to become an industry training advisory board?

(2) On which matters will the State Training Board be seeking advice from the Government Health Training Advisory Board?

(3) Will the Minister table the request and supporting documentation from the Minister for Health seeking recognition from the State Training Board of the Government Health Training Advisory Board?

(4) Will the Minister table the request and supporting documentation from the Commissioner of Health seeking recognition from the State Training Board of the Government Health Training Advisory Board?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The capacity to represent the view of the government health sector in Western Australia.

1.1 The capacity to collect and present the necessary vocational education and training advice and strategic industry intelligence, as well as the skill requirements of the government health sector, to the State Training Board.

1.2 Industry coverage - the State Government employs the majority of employees in the public health sector in Western Australia.

1.3 The Health Department of Western Australia has indicated its commitment to providing the necessary vocational education and training information on the needs of the public health sector through the industry training advisory body function.

(2) Vocational education and training strategic industry advice and skill needs of the public health sector in Western Australia.

(3)-(4) The State Training Board has yet to finalise some associated matters arising from its decision to recognise an industry training advisory body for the government health sector, and it is anticipated the board will determine these matters at its meeting on 3 July 1998. Following finalisation of the issue by the board, I will table the documentation requested.

METROBUS

Redundancies Cost

1829. Hon LJILJANNA RAVLICH to the Minister for Transport:

(1) What is the cost of MetroBus redundancies paid to date?

(2) How many more MetroBus employees have indicated they will take redundancy when MetroBus ceases to operate on Friday?

(3) What is the projected cost of these latest redundancies?

(4) How many employees are on redeployment now and how many are expected to move onto redeployment after Friday?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) 11 October 1997 to 27 June 1998 - $2.3m.

(2) 267 - 238 on severance and 29 on transition.

(3) $7.5m.

(4) There are currently 14 redeployees, but after 5 July 1998, the number is expected to be 437. The cost of voluntary severance packages has been factored into the MetroBus closure process. Since the commencement of the bus reform program, accumulated savings in excess of an estimated $110m have been made. Annual ongoing savings of approximately $41m per year - versus 1992-93 levels - in government public transport subsidies have also been achieved. Significant reinvestment into the Perth public transport system has occurred as a result of the reforms that have taken place.

The new operators will take over at midnight on Saturday night, not on Friday.

MINISTER FOR TRANSPORT

Transcom Shares

1830. Hon NORM KELLY to the Minister for Transport:

(1) In the past two months, has the Minister, or to his knowledge any member of his family, bought shares in Transcom?

(2) If so, in what quantity?

(3) Has the Minister made any recommendations to any people in the past two months to purchase Transcom shares?

(4) If so, in what form were these recommendations?

Hon E.J. CHARLTON replied:

I could answer this with a range of additional comments.

Hon Tom Stephens: Just try the truth!

Hon E.J. CHARLTON: The answer is -

(1)-(4) No. I suggest Hon Norm Kelly and his colleagues buy a few.

INTERNATIONAL INVESTIGATION AGENCY'S CONTRACT WITH MAIN ROADS

1831. Hon E.R.J. DERMER to the Minister for Transport:

In answer to question 1669 asked on 16 June 1998 on the procedures followed in hiring the private investigation company International Investigation Agency, the Minister informed the House that the Commissioner of Main Roads "applied standard state government procedures".

(1) Will the Minister outline the actual steps taken by the commissioner in hiring this company?

(2) As written quotations are required for services worth between $5 000 and $50 000, from what other private investigation companies did the commissioner obtain quotes?

(3) Was a security check carried out on this company before the signing of contracts?

(4) What was the nature of this security check?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(2) Advice was sought from a number of government agencies regarding the engagement of private investigators, as well as from commercial advertisements for such services. International Investigation Agency was the second organisation contacted. The company was interviewed and had the necessary licence and experience to carry out the work required. It was imperative that the investigation commence immediately. The company could meet this requirement, and was engaged. Main Roads' initial expectation was that the company would be able to complete the exercise within a short period of time and that calling for written quotations was, therefore, not necessary. However, the scope of the investigation proved to be more complex and time consuming than originally expected. When the agency was contracted and asked to do that investigation, it advised Main Roads that the activities were quite substantial; as a consequence, Main Roads requested the company to carry out that further extensive work.

As I said publicly today, I would be supportive of that $50 000, or whatever the financial cost is, going on to become $100 000, because this is about ensuring that the changes to Main Roads are properly considered by the Main Roads management. Instead of going to the public when only half the assessment had been done and telling it that it will not work or will be unsafe, every person in Main Roads has the right to put his point of view to management and have it properly considered. A final determination can then be made instead of people going off half-baked telling everyone in Western Australia what may or may not happen in the future.

(3) No.

(4) Not applicable.

ECONOMIC PEST CONTROL

Consumer Complaints

1832. Hon MARK NEVILL to the Leader of the House representing the Minister for Fair Trading:

Some notice of this question has been given.

Further to the decision of the Ministry of Fair Trading not to prosecute Economic Pest Control, notwithstanding numerous consumer complaints, will the Minister direct the ministry to obtain a second opinion from the Crown Law Department or the Director of Public Prosecutions as to -

(a) the likelihood of a successful prosecution; and

(b) what further evidence may be needed to launch such a prosecution?

If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(a) The advice provided by the ministry is that it does not consider it necessary to obtain a second opinion from Crown Law or the Director of Public Prosecutions as -

> the legal opinion was provided by an experienced legal officer after a detailed examination of the evidence and there is no indication that the opinion is in any way deficient or that a further opinion is required.

(b) The ministry's decision not to prosecute related to one matter only. The ministry will continue to monitor Economic Pest Control and will take appropriate action if there is any evidence of unfair trading practices.

Points of Order

Hon TOM STEPHENS: Mr President, you will be aware of the process whereby the Government is given notice of questions up until 12 noon, for which answers are provided. A practice has developed whereby at 12 noon Ministers advise of their unavailability to give answers. My concern is that a Minister gave advice after 12 noon that he was not available to give those answers and we were told to put the question on notice. A couple of questions directed to the Leader of the House representing the Premier today were in that category. Will the putting of those questions on notice be effective as of today so that the Premier might feel inclined to give members an answer before the House is prorogued or will another day be required for the question to be placed on notice? The Leader of the House handling questions on behalf of the Premier has indicated that we must put those questions on notice.

Hon N.F. Moore: I do not have the questions.

Hon TOM STEPHENS: We have put the questions on notice now.

Hon N.F. Moore: I did not say put them on notice at all.

Hon TOM STEPHENS: The questions go on notice now by virtue of the response of the Minister. The Premier did not tell us he would be here to answer our questions. He shot out bush.

Hon Max Evans interjected.

Hon E.J. Charlton: Of course, Hon Tom Stephens never goes to the bush.

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order! I think I understand the point of order. Members should not introduce debatable material into points of order because it makes everyone else want to interject.

Hon TOM STEPHENS: All I am asking is -

The PRESIDENT: Order! I have an answer for the Leader of the Opposition. I understand what he is getting at.

Hon TOM STEPHENS: I want to make sure the question is right. Is there any chance of getting an answer to those questions before the House is prorogued?

Hon N.F. Moore: What has that to do with it?

The PRESIDENT: Order! I am not the person the Leader of the Opposition should ask that question.

Hon TOM STEPHENS: Okay.

Hon Eric Charlton interjected.

The PRESIDENT: As to the questions that he sought to ask the Premier today, of which the Leader of the House has said he has no notice, I understand the Leader of the Opposition said those questions have now been placed on notice.

Hon TOM STEPHENS: I signed them.

The PRESIDENT: Order! They will now go through the system and, in due course, an answer will come out in the red book. I do not know when that will occur.

Hon Bob Thomas: Are those two questions actually on notice?

The PRESIDENT: Hon Tom Stephens, as I understand it, asked one of the attendants to place that question on notice. In due course, I presume it will be given to the Deputy Clerk and he will put it into the system.

Hon TOM STEPHENS: Thank you.

Hon N.F. Moore: He now knows how to put questions on notice after 20 years.

The PRESIDENT: Order! I am saying this on the basis that those questions did not get into the system as the Leader of the Opposition anticipated.

Hon TOM STEPHENS: Thank you, Mr President.

The PRESIDENT: I hope that we are agreeing to the same notion because I am not sure that we are.

Hon TOM STEPHENS: I agree with you, Mr President.

Hon N.F. MOORE: The Leader of the Opposition handed some questions into my office in Parliament House seeking answers to questions without notice from the Premier. He was advised by that office that the Premier would not be able to provide answers today.

Hon Tom Stephens: At 12.30 pm after questions closed.

The PRESIDENT: Order!

Hon N.F. MOORE: Because the Premier is not in town. In order to avoid the situation which the Leader of the Opposition has complained about before, of his wasting his time asking questions when I am sitting here knowing I do have not an answer, he was told by the office that no answer would be given today. In order to make a point, he asked the question anyway and wasted the time of the House.

Hon TOM STEPHENS: The Leader of the House had the Premier duck off bush. He did not tell anybody and he took a selected few.

The PRESIDENT: Order! Members, I am not sure that I fully understand what has happened to the questions the Leader of the Opposition claims that he submitted today.

Hon N.F. MOORE: They have probably gone where they deserve to go.

The PRESIDENT: Order! If they are now in the system which operates informally, whereby members of Parliament put questions through to the Leader of the House's office, they are locked into that system. If, however, they did not get into that system, because the Leader of the Opposition was told that the Premier was not available to answer them, then clearly he has an opportunity to place those same questions on notice. I do not know which of those propositions has occurred, is occurring, or may occur. I say no more.
