

Legislative Assembly

Wednesday, 11 October 2000

THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

JOONDALUP, SUNDAY SHOPPING

Petition

Mr Baker presented the following petition bearing the signatures of 149 persons -

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

We, the undersigned residents of the City of Joondalup support the businesses located in our suburban shopping centre and are opposed to Lakeside Joondalup Shopping City and Whitfords City Shopping Centre opening on Sundays because this will:

1. Redirect consumer demand away from our local shopping centre on Sundays to larger centres.
2. Hasten the decline in the number of customers shopping at our local shopping centre; and
3. Further prejudice the economic viability of our local suburban shopping centres.

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

[See petition No 37.]

MINISTER FOR FAIR TRADING, RESIGNATION

Standing Orders Suspension

MR MCGINTY (Fremantle) [12.03 pm]: I move -

That so much of the standing orders be suspended as is necessary to allow the following motion to be moved forthwith -

That this House, noting the evidence given to the Legislative Council select committee by Mr Ken O'Brien and the dismissive response by the Minister for Fair Trading yesterday, demands the resignation of the Minister for Fair Trading.

My request for the suspension of standing orders to debate this motion is about the honesty of a minister. It is a fundamental issue affecting the procedures and principles of this and other Parliaments throughout the Commonwealth. Yesterday when confronted with evidence that seriously undermined the minister's public position on the favoured treatment received by his father-in-law - and that was, essentially, that "I didn't help my father-in-law; I brought no pressure to bear to assist him in recovering his money" - the minister, with a smirk on his face, was dismissive of the fact that now two people have given seriously conflicting evidence about his defence to that allegation.

To compound matters and make them worse, the minister dismissively said that he was intending to take no action - it was simply a matter of two people having different points of view - and the minister then sought to denigrate, perhaps with some justification, the person who had given conflicting evidence. He pointed out that Mr Ken O'Brien was of advanced years, that he was facing some 70 or 80 fraud charges arising out of his financial dealings, that he was under some pressure and that he had been involved in a falling out in his business relationship with his former partner, Kaye Blackburne. That was the minister's response. That is not an appropriate response for a minister of the Crown to make when confronted with evidence given under oath to a parliamentary committee which impugns the honesty and integrity of the minister. That evidence not only undermined the defence that the minister had put forward for the preferential treatment for his father-in-law; it was also shown that if the evidence given by Mr O'Brien was truthful - he swore before the Parliament that it was truthful - then the whole artifice erected by the Minister for Fair Trading lies in tatters. If that evidence is true, the minister will be exposed as having been the perpetrator of a great fraud on this Parliament and on the people of this State. That is how serious this matter is. If Mr O'Brien's evidence is honest and truthful, then that is the inevitable consequence that flows from it.

Mr Bradshaw: How about waiting until the evidence is proved to be true or false?

Mr MCGINTY: How will that be done?

Mr Bradshaw: I do not know.

Mr McGINTY: Exactly. The minister is sitting on his hands. I asked the minister yesterday to refer this matter to the police. He refused. I have now referred it to the police for them to investigate because someone is telling a lie. If the person who gave evidence to the Gunning inquiry told a lie, he will be dealt with by the courts; if the person who gave evidence to the Parliament was telling a lie, I presume he will be dealt with by the Parliament. The important thing is that if the person who gave evidence most recently, in the full knowledge of what Mrs Kaye Blackburne had told the Gunning inquiry, came forward and said, "No, she was not telling the truth" - and if that is right - then this minister should go, and should go immediately. That is the honourable thing to do in those circumstances when there is a doubt and it is the reason we have moved this motion today. One must now say there is serious doubt. Two people have given diametrically opposed evidence on oath. One is absolutely damaging to the Minister for Fair Trading's position, the other is supportive of it. The minister relied enormously on the evidence given by Mrs Kaye Blackburne to the Gunning inquiry to defend his position that he afforded no preferential treatment in recovering money for his family. It was unbelievable when he said it and it has now been demonstrated, if the evidence of Mr Ken O'Brien is correct, to be a construction designed to deceive. There is no other way to describe it.

I will return to the facts of this matter because they were raised in the Parliament only yesterday, which is what gives them a currency.

Points of Order

Mr COWAN: I take the standard point of order raised when a member moves to suspend so much of standing orders for the purpose of bringing on a debate. It appears that the member for Fremantle is about to embark on the substance of an issue that would normally be debated should the motion for suspension be agreed to. This is a complex issue. However, I ask you, Mr Speaker, to ensure that the member for Fremantle deals with the substance of the motion - that is, the suspension of standing orders - and does not transgress too far into the substance of what may be debated should the motion to suspend standing orders be agreed to.

Mr McGINTY: I will do that.

Mr KOBELKE: I do not wish to pre-judge how you will respond, Mr Speaker, but I suspect it will be along the lines that, having spoken for only five minutes, the acting Leader of the House is trying to fire a warning shot. He is trying to imply what may or may not be the rest of the contribution by the member for Fremantle and on that basis he does not have a point of order.

The SPEAKER: A point of order has been raised, and standing orders indicate that we should be debating the motion. However, the practice of the House has been to allow members some small but reasonable opportunity to explain to the House why it should suspend standing orders to allow a matter to be debated. The Deputy Premier and the member for Nollamara have heard my rulings on points of order which give members that opportunity. However, members must refer only to the reason for suspending standing orders which, although it allows an opportunity to explain the reason, is limited.

Debate Resumed

Mr McGINTY: This is a matter that came to public attention only this week. The absolute conflict in the evidence was brought to the attention of the Parliament in question time yesterday when the minister was confronted with it. Now is the first opportunity to point out to the House that people of honour, when confronted with this situation, stand to one side until the air is clear. For example, the former Premier of New South Wales Neville Wran, as Premier, stood to one side when a situation similar to this confronted him. That is what the Westminster tradition requires and that should have occurred on this occasion; but no, this minister is desperate to hang on to the trappings of office at all costs. The reason the Opposition now brings forward this matter and says the minister must go is that it is a topical matter that is before the public and the Parliament at this very moment.

I will refer briefly to the facts to explain why this is the case. Firstly, the evidence given by Mrs Kaye Blackburne to the Gunning inquiry was categorical. Her answer was a categorical no in response to the very important question: "Did you know that Mr Turton was the minister's former father-in-law?" I will contrast that with the evidence given under oath to a parliamentary committee only this week. The first point made was that Mr Turton, the minister's former father-in-law, rang Blackburne and Dixon threatening that he would get his former son-in-law, the minister Doug Shave, onto its back to help him recover his \$100 000 if it did not pay up. There was therefore a threat by Mr Turton that he would get the minister to lean on Blackburne and Dixon to pay the money.

The second thing that occurred, according to the evidence of Mr Ken O'Brien to the upper House committee, was a meeting between him and Kaye Blackburne to discuss the threat of the minister's personal involvement, at which point they decided they did not want the minister involved in the matter. Not only did they do that, but also Mr O'Brien said that file notes in the business of Blackburne and Dixon record that exchange and their concern about ministerial involvement and being leant on on behalf of Mr Don Turton to recover his money. They did not want that and that is recorded, according to Mr O'Brien's evidence, in these notes. If that is true, Mrs Blackburne lied to the Gunning inquiry. What happened then? The \$100 000 was repaid to the minister's father-in-law. It was repaid for one reason only, according to the evidence given.

Mr Shave interjected.

Mr McGINTY: No, I will not at the moment, I will go through exactly what happened. The \$100 000 was repaid for the very simple reason that Blackburne and Dixon did not want the minister breathing down their necks. That was the reason Mr Turton recovered his \$100 000 from Blackburne and Dixon.

The next development was that the ministerial staff, who were sent to Blackburne and Dixon's office to recover the money on behalf of Mr Turton, lost interest as soon as the cheque for the money was handed over, which coincidentally - what a great coincidence it was - was produced while the ministerial staff and the agent of the Minister for Fair Trading were in the offices of Blackburne and Dixon trying to recover that money. As soon as the money was recovered, that was the end of their interest.

The SPEAKER: The member for Fremantle is putting forward arguments as to the seriousness of the matter that he wants debated. However, the motion before the Chair is to suspend standing orders to allow these facts to be aired. The member must concentrate on the urgency of suspending standing orders otherwise I must bring his short window of opportunity to a close.

Mr McGINTY: I will relate the matter back to the reason that standing orders should be suspended. A well-established convention operates throughout the countries in which the Westminster system operates. When a serious cloud hangs over the head of a responsible minister - sworn evidence of such a conflicting nature being given to a parliamentary inquiry is sufficient to put a serious cloud over the minister's head - the minister should step to one side to enable that cloud to be cleared. The minister was given the opportunity to do that after Mr Ken O'Brien gave evidence on Monday and has chosen not to. Not only that, but also the minister has not set in train any process to resolve the conflict in the evidence before us.

Mr Speaker, you are the custodian of these very important conventions, as the Speaker of this House. We have before us a serious breach of that convention and, therefore, I should be permitted to explain the reason that the minister should either step to one side, or be told by the Premier to step to one side, and if he does not, why he should be sacked. I ask for your indulgence, Mr Speaker, to make one more point about the facts relating to the evidence that was introduced, and I will then go more directly back to the point. Mr O'Brien said, when asked directly in evidence, that Mrs Kaye Blackburne did not tell the truth when she appeared before the Gunning inquiry. The minister's position is absolutely dependent upon Kaye Blackburne and the evidence she gave to the Gunning inquiry. I do not know who is telling the truth; one of them certainly is not. It is impossible for both of them to be telling the truth. What Mr O'Brien said earlier this week was that Kaye Blackburne did not tell the truth to the Gunning inquiry when she denied knowing that Mr Turton was the minister's former father-in-law. All that adds up to a most serious matter of the conventions of this House, and this is the first opportunity we have had to raise them. That is the reason that standing orders should be suspended to enable a full debate to properly explore the way in which the conventions on which this Parliament operate should apply in the case of the Minister for Fair Trading. There is now an enormous question mark over his integrity and whether he has been party to constructing an artifice designed to protect his position as a minister and to mislead and deceive the public of Western Australia and this Parliament.

Mrs Kaye Blackburne gave her evidence, but earlier this week we heard in the Parliament why we should discount the evidence of Mr O'Brien. The minister gave his reasons and they were all quite compelling: Mr O'Brien is under pressure, he is facing fraud charges, and he is 66 years of age. I will tell members a little about Mrs Kaye Blackburne and why her evidence should be equally discounted. She told the Gunning inquiry -

The SPEAKER: The member for Fremantle is starting to get into points that he should make in the major debate. He is starting to debate potential issues. If the member cannot concentrate on telling us more about why standing orders should be suspended and do so promptly, I will have to ask him to bring his comments to a close.

Mr McGINTY: One of the reasons it is important to suspend standing orders is that this Parliament must be fully acquainted with all the facts. Only through the suspension of standing orders can we then put, essentially, the other side of the story of the credibility of these two witnesses, one of whom has seriously impugned the entire defence that the minister has used in this House. If the suspension of standing orders is granted, we will need to look at who is Mrs Kaye Blackburne and the evidence she gave to the Gunning inquiry. We will need to look at her role as the managing partner of Blackburne and Dixon. We will need to look in that context at the fact that she was responsible for losses of between \$20m and \$30m by the people who had invested their money through Blackburne and Dixon. They are the sorts of facts that we will bring out if standing orders are suspended.

Other matters that must also be looked at are the so-called coincidences that have occurred throughout this matter to see whether they are truly coincidences. The suspension of standing orders would enable a full debate so we can look at whether Blackburne and Dixon was aware and fearful of ministerial intervention and look at the handing over of the cheque while the staff member from the minister's office was attending on Blackburne and Dixon. Those are the matters that we want to pursue.

Equally we must look at the Gunning inquiry. Only a suspension of standing orders will enable us to properly look at the important finding by the Gunning inquiry that Mrs Kaye Blackburne was an honest person. We need to subject that

to greater examination, which we can do only via a suspension of standing orders to look at the fact that Mrs Blackburne received kickbacks. It was the \$1m kickback to Blackburne and Dixon, which was reported in the pages of *The West Australian*, that triggered the Gunning inquiry in the first place.. Also, kickbacks in the form of expensive cars were paid. These are the sorts of matters that I will want to develop in some detail - I will not go into the detail now - if the Parliament agrees to the suspension of standing orders.

As this is most appropriate, I say to the Minister for Fair Trading, "Oh what a tangled web you weave, when first you practice to deceive." He has set up an artifice. He has been caught out by this evidence. The air must now be cleared and it can be cleared only by a comprehensive debate and the suspension of standing orders in this place.

Finally, it appears to be the case that it is okay for a Liberal to lie. Members need only ask Sue Knowles, Peter Collier or the Minister for Fair Trading. We also want to pursue the question of double standards if this motion to suspend standing orders is agreed to.

MR COWAN (Merredin - Deputy Premier) [12.24 pm]: At the outset of this debate I indicate to the House that the Government does not accept the motion to suspend standing orders.

Mr McGinty interjected.

Mr COWAN: I will put a qualification on that statement: Everybody knows that every Wednesday the Opposition has three hours' debating time in which it can determine what order of private business it wants to take up. I can understand that issues might arise between the time when a member is required to give notice of a matter to be debated for private members' business and the time when private members' business can be discussed. In the eyes of the Opposition an issue of greater urgency may come forward. Clearly, I am assuming that the member for Fremantle has the support of the Leader of the Opposition that this is a significant issue. It is about time we challenged to what extent the Opposition sees the significance of this. I say to the member for Fremantle and to the Leader of the Opposition that if they want to move, at a later stage today, a motion to suspend so much of the standing orders as would permit this issue to be debated at some time after four o'clock - in other words, during private members' business - that motion will be accepted. However, the Government does not regard this as being significant to the extent that it should intrude upon government business. If the Leader of the Opposition and his colleagues believe that this can occupy the time of private members' business, my recommendation is that they seek to vary the motion that has been moved in a way that would clearly indicate that they want this subject to be dealt with without notice during private members' business. If they want to do that, the Government approach will be that they can. However, it will not be debated forthwith. The Government will oppose this motion.

DR GALLOP (Victoria Park - Leader of the Opposition) [12.27 pm]: There is no doubt that the finance broking scandal and the position of the Minister for Fair Trading will not go away. We know that because some members within the Government's own ranks are very restless about the position the Government has taken on this matter, which is to defend the Minister for Fair Trading at all costs. We know this from the continuing community concern that the standards of ministerial responsibility in this Parliament have not been properly upheld.

The reason we are calling for a suspension of standing orders to deal with this issue today was outlined very clearly by the member for Fremantle. Evidence was given to the Legislative Council committee earlier this week by Mr Ken O'Brien, which was directly contradictory to the evidence given by Mrs Kaye Blackburne to the Gunning inquiry. We must note that the Premier came into the Parliament of Western Australia and based a defence of one of his ministers on the honesty of and evidence given by Mrs Kaye Blackburne, as indeed did the Minister for Fair Trading when he was facing one of the many motions to censure him or calling for his resignation that we have moved in this Parliament. Therefore, it was a matter of great importance. The Opposition could have moved a matter of public importance yesterday on this matter; however, it chose a different path. We went to the Minister for Fair Trading to give him a chance to respond to the contradictory evidence. We gave him and the Government a chance to say that they were concerned that the Premier told Parliament something that could be totally wrong regarding what Kaye Blackburne said in the Gunning inquiry. What was the response? It reminded me of the response the Minister for Fair Trading gave the member for Armadale when she raised the finance broking matter in Western Australia in 1998. He was dismissive. The minister had a smirk on his face throughout his response. It was unbelievable: "I have survived all that. I will do nothing more about it and I will stay as a minister. Aren't I smart?" He had the opportunity to respond. That is why the Opposition moved this motion this morning. The minister could have said that he wanted the concern properly resolved through an outlined process to be set up by the Government. The Government or the Premier could have said, "There is a serious concern. I want it cleared up, and this is the process to be followed." Not even the Gunning inquiry will follow up on the serious discrepancy in the evidence before it.

Therefore, it was incumbent on the Opposition to come to Parliament this morning and immediately call for a suspension of standing orders so the ministerial position could be debated again in the light of new evidence. Interestingly, every time the finance broker scandal is subject to some inquiry and evidence, it comes back on the Government, which has not come to the grips with the problem or the position of the minister. That is the general argument for suspending standing orders and holding a debate now.

I respond now to the Deputy Premier's comment that we could have a debate, but in private members' time, not now. The Minister for Fair Trading did not meet his responsibility to Parliament yesterday; therefore, we must follow up on it as soon as practical. This is the opportunity. We will not use our private members' time on this issue. Why? The Government's continuing defence of this minister is at issue, and it should be dealt with in the Government's own time. The Government is defending the position of this minister. It is an untenable position. The member for Geraldton and anonymous members of the government backbench know it is an untenable situation. It is a government problem and must be dealt with in its time. If not, the Opposition will keep coming back until standards of ministerial responsibility in Western Australia are properly upheld.

To summarise, the matter could have been dealt with in question time yesterday, but it was not. It was dismissed by the minister in the way he dismissed concerns raised in 1998. It is not a matter for private members' time; it is a government issue and should be dealt with in the Government's time. A coalition minister is being supported. When a minister is under attack, the Government should make time available to defend that minister.

Question to be Put

On motion by Mr Tubby, resolved -

That the question be now put.

Motion Resumed

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Dr Gallop	Mr Marlborough	Mr Ripper
Mr Brown	Mr Graham	Mr McGinty	Mrs Roberts
Mr Carpenter	Mr Grill	Mr McGowan	Ms Warnock
Dr Constable	Mr Kobelke	Ms McHale	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Ms MacTiernan	Mr Pandal	

Noes (25)

Mr Ainsworth	Mr Day	Mr Masters	Mr Shave
Mr Baker	Mrs Edwardes	Mr McNee	Mr Trenorden
Mr Barron-Sullivan	Dr Hames	Mr Minson	Mr Wiese
Mr Bloffwitch	Mr Johnson	Mr Nicholls	Mr Tubby (<i>Teller</i>)
Mr Board	Mr Kierath	Mr Omodei	
Mr Court	Mr MacLean	Mr Osborne	
Mr Cowan	Mr Marshall	Mr Prince	

Pairs

Mr Bridge	Mrs van de Klashorst
Mr Thomas	Mr Barnett
Mr Riebeling	Mr House

Question put and negatived.

STAMP AMENDMENT BILL (NO. 3) 2000

Introduction and First Reading

Bill introduced, on motion by Mr Kierath (Minister assisting the Treasurer), and read a first time.

Second Reading

MR KIERATH (Riverton - Minister assisting the Treasurer) [12.38 pm]: I move -

That the Bill be now read a second time.

A ministerial statement was made to this House on 10 August 2000 announcing the Government's intention to legislate to address stamp duty avoidance practices that have emerged in this State. This Bill proposes amendments to the Stamp Act 1921 to address weaknesses in the legislation that were the subject of that announcement, and that are resulting in significant ongoing revenue loss to the State in the order of \$30m to \$40m a year.

The avoidance at which these amendments are aimed involves the purchase of property through company structures in a way that largely circumvents the operation of the conveyance duty provisions of the Act. Such practices are clearly inequitable when one considers that, as a rule, Western Australian families and businesses face up to their obligations to

the community and pay conveyance duty when purchasing their homes or business operations. Therefore, one would have to question why certain large companies that have significantly more resources available to them than others in the community should not likewise meet their tax obligations to the community when purchasing property in this State. To leave these practices unchallenged will further encourage the placement of property into companies purely to increase the future saleability of the property due to the stamp duty avoidance opportunities available to the purchaser. This discriminates against those vendors who do not have their property packaged in a company structure, as direct sales of those properties will result in conveyance duty being required to be paid by the purchaser.

Part IIIBA was originally inserted into the Stamp Act in 1987 to address an avoidance practice that had then only recently emerged. It involved placing high value property into a company structure, and selling the property by transferring the shares in the company rather than transferring the property itself. This resulted in the transaction attracting substantially less stamp duty than if the land were transferred directly, as the lower marketable security rate of duty applied, with the duty calculated on the net value of the shares rather than on the gross value of the land.

The provisions of Part IIIBA operate such that where shares in a non-listed company are acquired, the land and chattels of the company are subject to duty at conveyance rates, rather than the lower marketable securities rate, if three tests are met. Those three tests are, first, the company must own land in Western Australia valued at \$1m or more; secondly, 80 per cent of the property of the company must comprise land; and, thirdly, the transaction must involve the acquisition of a "majority interest" or "further interest" of the company, which is generally more than 50 per cent. The avoidance practices in question target the three tests and threaten the integrity of the land-rich provisions.

This Bill proposes a number of measures to address these avoidance practices and to increase the Commissioner of State Revenue's ability to detect transactions that may fall within the ambit of the land-rich provisions. In particular, it is proposed that the period over which acquisitions may be taken into account for the purpose of meeting the majority interest test will progressively be increased from 12 months to three years; the land-rich provisions will apply where a majority or further interest entitling a shareholder to participate in the distribution of property on the winding-up of a company is obtained, regardless of whether that entitlement arises upon the acquisition of a shareholding or at some other time; certain additional types of property are to be disregarded in determining whether a company meets the 80 per cent land-rich test; when determining whether a statement is required to be lodged with the commissioner, the value of chattels is now to be initially disregarded when determining if a company has non-land property greater than 20 per cent of total property value; the value of mining tenements or similar rights located outside Western Australia will be considered land for the purposes of the 80 per cent land-rich test, consistent with the treatment of tenements located within Western Australia; in the case of corporations incorporated outside of Western Australia, only the property of the corporation in which the majority or further interest is acquired and its subsidiaries will be relevant in determining whether the company is land rich, consistent with the treatment of Western Australian incorporated companies; clarification is to be legislatively provided on the treatment of uncompleted contracts to which the company in which the interest is being purchased is a party; where the land-rich test is defeated through acquisitions in holding and subsidiary companies that arise from substantially one transaction or arrangement designed to defeat the provisions, the underlying interest in land acquired through all acquisitions will be aggregated and brought to duty; and references to Corporations Law terms and sections will be updated. More comprehensive detail of these proposed measures and a number of less significant changes is provided in the explanatory memorandum associated with this Bill.

Reflecting the anti-avoidance nature of these amendments, they are proposed to operate from 10 August 2000, the date of the Government's announcement. To ensure that the transition to the new arrangements is equitable, the Bill provides that any acquisition which preceded the ministerial statement of 10 August 2000 will not be brought to duty by these changes. Furthermore, any acquisition on or after 10 August 2000 will be subject to the new rules, with the exception of an acquisition that is pursuant to a legally enforceable agreement executed in writing by both the purchaser and the vendor prior to 10 August 2000, providing the subsequent acquisition is completed by 31 December 2000. The 31 December 2000 sunset date for transitional relief is considered necessary to prevent abuse of this concession in the future. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

FIRST HOME OWNER GRANT AMENDMENT BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mr Kierath (Minister assisting the Treasurer), and read a first time.

Second Reading

MR KIERATH (Riverton - Minister assisting the Treasurer) [12.42 pm]: I move -

That the Bill be now read a second time.

The Bill seeks to extend access to the first home owner grant to New Zealand citizens who reside permanently in Australia. Under the Act, first home buyers who are Australian citizens or permanent residents may qualify for a grant of up to \$7 000 to compensate for the impact of the goods and services tax on house prices. The current legislation

defines a permanent resident as the holder of a permanent visa within the meaning of the Commonwealth's Migration Act 1958. This does not include special category visas granted to New Zealand citizens upon their arrival in Australia, even though both types of visa can serve the same purpose. As a result, New Zealand citizens residing permanently in Australia are at a disadvantage relative to other migrants who hold a permanent visa.

This anomaly emerged after the original legislation was drafted and it is intended that these amendments operate retrospectively to 1 July 2000, being the commencement date of the scheme. Similar amendments are intended, or have already been made, by other States and Territories so that national uniformity of the scheme is maintained in line with the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations. It is difficult to estimate the number of first home buyers who will be eligible for assistance as a result of the amendments contained in this Bill. However, the Government has received many complaints from New Zealanders who are currently excluded from the scheme.

The Commonwealth has indicated that it is supportive of this extension to the scheme, and that its current estimates of the cost of the scheme would already include grants paid to New Zealanders. Accordingly, any grant payments resulting from these amendments will be taken into account in the calculation of the Commonwealth's guarantee payments to the States and Territories, thereby ensuring that the State's budget remains no worse off as a result of national tax reform.

The Bill also proposes minor amendments to clarify that an applicant must meet the eligibility criteria specific to the applicant, at the commencement date of the eligible transaction. The commencement date is, in the case of a contract, the date when the contract is made, or, in the case of the building of a home by an owner builder, the date when laying the foundations for the home begins. The scheme has always been administered on that basis and the proposed amendments merely seek to remove any ambiguity that could arise from the current wording of the Act. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

ACTS AMENDMENT (PUBLIC TRUSTEE AND TRUSTEE COMPANIES) BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mr Prince (Minister for Police), and read a first time.

Second Reading

MR PRINCE (Albany - Minister for Police) [12.47 pm]: I move -

That the Bill be now read a second time.

The Acts Amendment (Public Trustee and Trustee Companies) Bill 2000 introduces a number of amendments to the Public Trustee Act 1941 in order to improve the operational performance of the Public Trust Office and to assist in the delivery of more competitive services to its clients, in keeping with the needs of today.

At a broad level, the Bill seeks to achieve four objectives. First, it addresses a serious inequity whereby participants in the Public Trustee's common fund are paying management fees in excess of comparable market rates. Second, it more closely aligns the operations of the Public Trustee to those of private sector trustee companies. Third, it continues the provision of support to disadvantaged members of the community while extending the overall range of services available. Lastly, the Bill seeks to effect a number of reforms to improve the efficiency and transparency of the Public Trustee's operations.

I should emphasise at the outset that these reforms do not represent the corporatisation of the Public Trustee. They do no more than reform its operations, bringing its activities in line with industry best practice for the benefit of both clients and the public.

For the information of members, I will provide some detailed background on why these reforms are being progressed. I will first set out in broad terms the current role of the Public Trustee, and inform the House of some major problems that need to be addressed. In particular, I will comment on the Public Trustee's treatment of "surplus interest", which prompted a full review of the Public Trustee's operations in 1997.

The Public Trustee is an institution of government set up in 1941 to provide a range of trustee services to the public, including trust management and estate administration. These services are of particular benefit to those in our community who are least able to manage independently. This includes the elderly, the infirm and those with disabilities. For nearly 60 years, the Public Trustee has helped many disadvantaged members of the public prepare their wills. Every year, it administers around one-quarter of all deceased estates in Western Australia where a formal grant of administration is required, and provides financial management services for over 5 000 persons who are not capable of managing their own financial affairs.

The Public Trustee also manages the common fund, into which all the moneys administered on behalf of its clients are placed. The common fund is essentially a 24-hour call cash fund which holds underlying investments that qualify as

authorised trustee investments under a section of the Trustees Act 1962 which was repealed in 1997. Participants in the common fund include disadvantaged and disabled clients of the Public Trustee.

One reason for reform is that to date many of the inefficiencies within Public Trustee operations have been hidden, because of the way in which it is funded. This is because the Public Trustee currently determines the amount of interest paid to participants in the common fund, while retaining so-called surplus interest effectively to subsidise other services.

This system has been to the detriment of Public Trustee clients, who have received interest payments below that which the fund has earned. Furthermore, because of the restrictions on how the common fund can be invested, it has frequently not met the investment expectations of all the Public Trustee's client base. The taxpayer has also been disadvantaged by this arrangement, as the Public Trustee has had no incentive to ensure maximum efficiency in its operations.

In 1997 an advisory board was set up by the Ministry of Justice with the assistance of KPMG to provide an objective review of the Public Trustee, as well as to make recommendations on its future role. It is largely on the basis of this review that the need for reform became apparent.

As mentioned at the outset, the practice by which the Public Trustee retains surplus interest from its common fund is to be abolished. It is proposed that this practice be replaced by a fixed fund-management fee based on market rates, approved by the minister.

As the surplus interest payment has been up to 3 per cent in recent years, while comparable fund management fees are currently 1.25 per cent, the benefit for Public Trustee clients investing in the fund is self-evident. This proposed new basis of charging is far more equitable than current practice as common fund participants, who include some of the most vulnerable members of our community, will no longer be cross-subsidising other Public Trustee services.

Further, the Public Trustee will have the power to create more than one common fund to meet the needs of a varied client base, consistent with the Trustee Companies Act 1987. As common fund participants comprise a broad range of people of different ages and with widely differing needs, providing a choice of investment objectives will ensure that their short and long-term needs are more effectively served. In particular, by enabling the management of common funds other than cash funds, participants will be able to invest in funds which offer capital growth, consistent with that being offered by private sector trustee companies. Over time, asset growth funds will help maintain the purchasing power of the money of participants.

In accordance with the objective of improved investment management, provisions in the Public Trustee Act 1941 which limit investments to "authorised trustee investments" are to be repealed. Instead, the Public Trustee will be subject to the "prudent person" rule of investment which applies to trustee companies in the private sector.

This enhanced flexibility will benefit both existing and future participants in the common fund. There are extensive provisions to ensure adequate safeguards for the prudent investment of funds. Investments must be in a form approved by the Treasurer and must conform to Treasurer's guidelines.

In more closely aligning the operations of the Public Trustee to those of private sector trustee companies, a number of additional amendments are also proposed. In this context, members may be aware that the current Act guarantees all investments in the common fund. In the event that moneys in the existing common fund are insufficient to meet lawful claims, any deficiency is to be paid by government out of the consolidated fund.

The Bill proposes to remove this guarantee on all future investments, although existing amounts in the common fund will continue to benefit under the guarantee for a further five years. The removal of the guarantee is important, as it has no commercial justification and is anti-competitive. As members may be aware, since the Public Trustee was established in 1941, it has never had to call on the government guarantee.

This Bill also proposes amendments in relation to the fees which may be charged by the Public Trustee. Fees presently applying to certain services and clients do not reflect the user-pays principle, creating issues of cross-subsidisation and transparency. As a consequence, Public Trustee clients, many of whom are financially vulnerable, are being overcharged for their common fund investments in order to subsidise the provision of services to other clients for which an inadequate or no charge is being made. This method of funding is both inequitable and lacks transparency. Consequently, under the proposed amendments the Public Trustee is enabled to charge for services such as will and enduring power of attorney drawing services, in accordance with a scale of fees set by the minister.

In more closely aligning the operations of the Public Trustee with industry best practice, the interests of the most vulnerable members of our community must continue to be protected. This Bill therefore provides for the incorporation of community service obligations. Specifically, a mechanism has been created to identify, cost and make transparent these non-commercial functions undertaken. These non-commercial functions will be included in business plans submitted each year by the Public Trustee for ministerial approval. In this way, the financial management needs of the disabled and disadvantaged can continue to be subsidised, not by other Public Trustee clients, but directly by the provision of government funding. As our population ages, this area will be one of growing concern to the Government,

making even more urgent the need for reform. The proposed new system will be more equitable and will make the Public Trustee more accountable in its financial management.

Currently, the Public Trustee is required to seek a formal grant of probate for all deceased estates with a value in excess of \$10 000. Consistent with section 10 of the Trustee Companies Act 1987, it is proposed to increase this amount to the threshold prescribed by regulation, which currently stands at \$50 000. Fees for estate and trust administration and related support services will also be made under provisions similar to the Trustee Companies Act 1987, providing a more flexible approach to the charging of fees for services provided by the Public Trustee, but still subject to ministerial approval.

The Bill provides for the future introduction of new services by the Public Trustee to its clients. In order to meet the needs of clients, new services may include conveyancing and property settlement, financial planning and taxation services, similar to those services already offered by the general trustee industry. The Public Trustee must first establish a business case for these new services, as the prior approval of the minister and the Treasurer is required.

The Public Trustee will also be empowered to provide investment management services in relation to investments other than those in the common fund. These proposed amendments will benefit Public Trustee clients, who will have access to services appropriate to a broader range of their financial needs. The Bill also provides for the restructuring of the common fund by the orderly disposal of real estate owned by the common fund, being the building in which the Public Trustee is based. Additional existing reserves of the common fund will be distributed to the Treasury, and the practice of creating and maintaining reserves, which is part of the surplus interest system of funding, will cease.

There are no present budget implications to the Public Trustee should this legislation be enacted. While the Bill removes the surplus interest provision that required payments to the consolidated fund, it also enables the charging of management fees commensurate with industry practice. Moreover, increased efficiencies at the Public Trust Office, derived from the measures I have outlined, will help ensure that there will be no additional cost to the consolidated fund. Indeed, a one-off benefit of \$3.2m will result from the payment of common fund and superannuation reserves to Treasury.

I also bring to members' attention that the Public Trustee has superannuation liabilities over and above those that would normally be held by a private trustee company. This is due to historical practices of state government agencies in accruing superannuation liabilities rather than making payments to superannuation funds. It is proposed that superannuation liabilities of the Public Trustee will in the future be managed on the same basis as government agencies by transferring all existing reserves and net liabilities to Treasury.

Members may be aware that the Public Trustee has, for administrative purposes, been treated as part of the Ministry of Justice since its inception. This Bill establishes a new body corporate to be called the Public Trust Office, which will have crown agency status, separate and distinct from the Ministry of Justice. The Public Trust Office is to be added to the list of senior executive service agencies in schedule 2 of the Public Sector Management Act 1994.

Under the Bill, the office of the Executive Director, Public Trust Office is created, responsible to the minister. In addition, an administrative agreement is proposed under the Bill, to allow the Attorney General to delegate the organisation and control of administrative and planning matters, and the identification and funding of non-commercial activities, to the Director General of the Ministry of Justice. This arrangement preserves the independence of the Public Trustee, yet formalises the current working and management relationship with the Ministry of Justice.

Consistent with the obligation placed on the State Government through what is generally referred to as the national competition policy, a competitive neutrality review of the operation of the Public Trustee has been conducted. The recommendations of that review are to be implemented progressively over time to ensure that the operations of the Public Trust Office are competitive. As part of that reform process, under the Bill competitive advantage is removed, most significantly, by discontinuing the surplus interest arrangements and by the proposed removal of the government guarantee to participants in the common fund. Competitive disadvantage is proposed to be reduced by allowing the Public Trust Office to create a range of common funds, to adopt the "prudent person" rule of investment, and to provide an extended range of services at competitive market rates. Additionally, a national competition policy review of the Bill and of the current Act has been undertaken. The Bill was examined and found not to restrict competition. Therefore, consistent with the government obligations under national competition policy, a review of the Bill is not required.

To conclude, this Bill modernises a legislative framework which has remained largely unchanged for almost 60 years. It seeks to remove inequitable arrangements that adversely affect common fund participants, including some of the most vulnerable members of our community. It enables the Public Trustee to operate on a more equal basis with private sector trustee companies. It protects community service obligations by ensuring that the costs of non-commercial functions are separately identified. The Bill also ensures greater transparency and improved efficiencies in the operations of the Public Trustee.

I have already brought to the attention of members that these reforms act to modernise the operations of the Public Trustee. They are clearly for the benefit of clients and other stakeholders of the Public Trustee. The reforms do not

corporatise the Public Trustee and do not affect commercial reform greater than that in the interests of clients, or greater than the capacity of the office to manage.

Given the advantages I have already outlined for clients and the public, as well as the office of the Public Trustee itself, I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ACTS AMENDMENT (PUBLIC TRUSTEE AND TRUSTEE COMPANIES) BILL 2000

Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

CRIMINAL CODE AMENDMENT (HOME INVASION) BILL 2000

Second Reading – Cognate Debate

Resumed from 10 October.

MR NICHOLLS (Mandurah) [1.00 pm]: I wish to contribute my thoughts to the deliberations of the House on the Criminal Code Amendment (Home Invasion) Bill and the Offenders (Legal Action) Bill. It is pertinent to say that having chaired a committee of this House that looked at crime prevention, and having had the opportunity to consult with a wide cross-section of people within Western Australia and within my electorate, it is clear to me that there is a level of misunderstanding and ignorance in the community about how the law applies to people who are seeking to defend themselves or their property from a home invader.

It has been suggested during the debate on these Bills that the Offenders (Legal Action) Bill effectively changes very little, with the exception of removing the potential for an offender to take a common law tort seeking redress for injuries caused while participating in an illegal act. I do not care that as yet there is no recorded case where an offender has succeeded in claiming damages against a property owner or occupier who is defending himself or his property. I care even less that it appears that the United States is being used as a source of precedent. The reason is that, whether we like it or not, Australian society is following, albeit loosely, in the footsteps of the social change that is taking place in the United States. Therefore, I am not interested in waiting until we do have a successful case where some unfortunate victim of a home invasion is found guilty in a civil court action and is required to pay damages, or even to go through the process of having to defend himself against such litigation.

The Government should be roundly applauded for having the initiative to be proactive and to remove any doubt about this area of common law by clarifying for the community the rights that individuals and families have to protect themselves and their property. I believe that a person who chooses to invade somebody else's house or to participate in illegal activity that is likely to cause trauma, harm or damage to individuals or their property gives up his rights. However, as a compassionate society, our laws provide parameters whereby even people who break the law retain their rights. This legislation is a step in the right direction. It clearly provides protection to home owners or occupiers and their family. It endorses the right of law-abiding citizens to take action to protect themselves. To the minority of individuals in our community who believe that because they have not been able to succeed in this community through law-abiding means they need show no respect for other people's property or person, it also sends clear signals that this Government and this community will not provide them with the means to take redress against law-abiding citizens should they be injured in the course of their offending activities.

One matter that needs to be clarified is that the Offenders (Legal Action) Bill is not designed to create anomalies by allowing people to wantonly harm other people simply on the premise that they will have protection if they take that action. The purpose of this legislation is to remove the doubt that exists in the community about what protections the law offers to people who take action to defend themselves against people who gain illegal entry to their dwelling and seek to harm or threaten the safety of their family. I wholeheartedly endorse the Offenders (Legal Action) Bill, because it is a positive step forward. I expect that the majority of the community will applaud the Government on this initiative and endorse the direction in which the Government is proceeding, for no other reason than that it will remove any doubt and provide clarity for those people in our community who stand up to and protect themselves and their family against thugs who have no respect for community guidelines and values, nor for other people's personal property and safety.

I strongly support the Criminal Code Amendment (Home Invasion) Bill. Home invasion is a serious crime. I believe that in the past, Governments, and in some cases also the police, have not understood the severity of the trauma that is often caused when a person breaks into somebody else's house, violates his space and traumatises him and his family, and then usually pleads that there are some extenuating circumstances that absolve him of responsibility and blames his actions on anyone from his parents, to society, to another person.

Mr Cunningham: Do-gooders gone mad.

Mr NICHOLLS: That is right. This society has allowed the pendulum to swing too far, to the point where we try to find excuses to not hold people who commit crimes responsible for their actions and, to a lesser extent, where we

abrogate our responsibility as a society to say, "There is the line in the sand. If you step over it, the consequences are clear, no matter what is your previous upbringing, no matter what are your current circumstances, and no matter what you believed or did not believe at the time." The victims of home invasion are often the ones who feel forgotten. Our judicial process works on the premise that once somebody is identified and charged, that person is taken to the court, and the court then determines his or her guilt. However, in many cases, particularly if the offender pleads guilty, the victims do not have an opportunity to inform the court and the wider community of the traumas that still exist in their lives and the impact that the event has had on them personally or on their family.

Members of my community explain to me the traumas that they live through every day, and usually every night, for months, if not years, after some thug or disrespectful, non-caring offender has broken into their home, simply because that offender desired to take something that was not his. The trauma and the scars, both physical and psychological, that are left afterwards do not go away simply because the offender is caught and goes before the court. In many cases, the offenders are then allowed back into society, in the hope that the fact that they have been brought face to face with our judicial system will stop them reoffending. The key issue is that these people, the victims of home invasion, are often the ones who are forgotten after the court case is finished. They are the people who go through the nightmares, night after night. They are the people who worry and blockade themselves in their homes. A lady came to see me after an incident when her home was invaded. She feels so afraid and is so fearful of a repeat offence that she locks herself in her bedroom - I do not mean with just a door lock; she locks herself in her bedroom so that it is like a fortress. If, unfortunately, there happened to be a fire inside her bedroom, I fear that she may perish because she could not get out. That lady is living in fear. Her life has been turned upside down. Her quality of life has suffered because a person felt it was okay to invade her privacy, to break into her home, to violate her property and, of course, to traumatise her and her young daughters at the same time. The reason that the trauma is so great is that when the offender was identified and caught, he showed absolutely no concern for, and no recognition of, the trauma he had caused. In fact, in her view, the offender did not care a damn about the harm he had caused. All he wanted to do was blame society and everybody else because he had been caught. In many ways, it was not the fact that he had broken into the house that was the crime; in his eyes, the crime was that he got caught.

This legislation changes, albeit very slightly, the rules under which people can defend their home and protect themselves against these unwanted elements in our society. I use that term because I am sure that if we apply ourselves to a few other issues in our community - some of the social factors, particularly within young families - we might be able to prevent many of these people becoming offenders in the future. However, the signal we must send these offenders, of whatever age, is that if they want to violate other people's property, to enter or invade their homes and cause them harm, they must understand that the law will stand behind the law-abiding citizens who protect their property and their person.

I have listened to a number of speeches which have raised concerns about the way in which some people may protect themselves. We have heard comments about mantraps and about people being incited to use unreasonable force against these offenders. When I listen to those sorts of comments, I think about an elderly lady by the name of Mrs Fry, who lived in the Mandurah electorate. She was an elderly lady who did not cause anybody any harm. I did not know her personally, but from all accounts she was a well-meaning, caring, compassionate lady. However, when some thugs decided to break into her house because they thought that she was an elderly lady and it would be easy pickings, they did not worry that they murdered her in the process, because they did not have any respect for her or her personal property. When somebody tells me how bad it is that people may set some traps or may put in place mechanisms so that they can protect themselves and that an offender may get hurt, I have little compassion for that offender who breaks into a house and who may find all of a sudden that he gets seriously injured because of a protection mechanism. The only genuine fear I have is that when people set traps or use mechanisms that can seriously harm people, innocent people may be inadvertently hurt because they go through that mechanism and the property owner has not disarmed it or taken action to ensure that it operates only when an offender or somebody who is seeking to harm him or her is on the property.

I have read about occasions on which families have shot and in some cases killed teenage children who have crept out during the night and then climbed back in through the window. The parents have got up during the night and, thinking it was an intruder, have shot him, only to turn on the light to discover that it was one of their children. I would hate for that to ever happen to anybody. In fact, I hate to think that anybody would feel that he or she must kill another human being, simply because that person is getting through a window. However, the fear of home invasion and crime in our community is such that we need to make it clear that we stand behind the law-abiding citizens who are protecting themselves and their property.

In this legislation, we are making changes to section 244 of the Criminal Code to allow people to defend property not only inside their home but also in the associated buildings within the envelope of their property. The law is also being changed so that people can defend themselves or take action to remove unwanted intruders from their property without first having to wait until those intruders use force to try to enter. Again, this is important because many of the victims who are of concern to me are people who do not have the strength to, or are of an age at which they cannot, protect themselves once an intruder applies force or is in a position to forcibly enter their dwelling.

People need to think about their safety and the actions they would take - it is no different from what they would do in the case of a fire. It is an unfortunate situation in our society that people need to think about what they would do should they be victims of home invaders, should they be unfortunate enough to be home when some of these totally disrespectful offenders decide to violate somebody else's property simply because they want to get something through illegal means, showing no respect for the individual or his or her property. Although we should all ensure that we understand what we would do to protect ourselves in those sorts of circumstances, I like to think that we will never have to put those measures in place. It is just like the fire drills, Mr Deputy Speaker, that you and I went through when we were members of the Royal Australian Navy - we had to prepare in case of crisis. It is not a case of scaremongering; it is a case of ensuring that should a crisis occur, we understand what we should do to protect ourselves, our property and our family. This legislation provides the guidelines within which people can protect themselves and their property.

On numerous occasions I have been asked what people are allowed to do to protect themselves, and what reasonable force means. Confusion has been created because one part of the message given to the community is, "Let them have it. Do not protect your property because you are likely to be harmed." That message is well intentioned. Unfortunately, on occasions in recent years people who have tried to protect their property or person and have confronted these offenders have either suffered serious and disabling injuries or, in some cases, have died as a result of injuries inflicted in the confrontation.

This Bill is definitely not a message to the community to do whatever it wants. This legislation is not an invitation to the community to confront these offenders who are doing whatever they want because they think people will not retaliate. People in the community still need to be cognisant of the risks of confrontation. However, they can be assured that when they take whatever action is necessary or reasonable to protect their property the community will stand behind them. That is the way the law should be.

A number of changes have taken place in the past four years. The Government reintroduced the offence of burglary in amendments made to the Criminal Code in 1996. The previous Government had removed that offence. The 1996 amendments to the Criminal Code introduced a maximum penalty for this offence of 18 years' imprisonment. The penalty for any offence involving aggravated assault was increased to 14 years. That was a substantial increase, but there was still some doubt in the community about what action people could take to defend themselves. The Government also introduced mandatory sentencing laws specifically to address the behaviour of those people who repeatedly engage in home invasion. Mandatory sentencing for home invasion is an indication of this community's clear expectation that it will give offenders not one chance, but two chances to learn from their mistakes. However, if they commit the crime of home invasion for a third time and are convicted for a third time, it is mandatory that they will do time in detention.

To my absolute dismay, Kim Beazley, the federal member who represents the people of Mandurah, has repeatedly engaged in a campaign to force this State to withdraw those laws. Kim Beazley is committed to removing those laws because they may be too harsh on home invaders. In his view these young people can have five, six or 20 opportunities to commit the crime before we require them to learn from their mistakes. The people in my electorate and in Western Australia do not believe that offenders should continually be given chances without any penalty. As the member for Girrawheen said, they are simply told not to be naughty girls or boys, and they should not do it again. That is not good enough. We need to be compassionate. However, the damage that is caused by home invaders - the trauma and the scars of the emotional distress of the victims - should not be pushed aside and forgotten. Mr Beazley may think it is smart to campaign for the withdrawal of the three strikes mandatory sentencing laws, but that will be put to the test. Mr Beazley is out of the touch with the average person in our community. Heaven forbid that this should happen - and I should be condemned for thinking this way - but when I heard the federal Leader of the Opposition tell people how bad mandatory sentencing is, the thought went through my mind that he would not sing the same tune if he had been a victim of a home invasion and had suffered the trauma that many of these people have gone through. I am sick to death of the repeated undermining of this law and statements by the federal opposition leader, and the Labor Party, that these young people need more chances.

I do not believe these young people are that hard of hearing. Many home invaders believe they are untouchable. The member for Girrawheen will agree with me that, because we find excuses for them and their actions instead of holding them accountable, we have created in our society an attitude that says, "When I get caught, I will look for someone else to blame." This legislation will change the premise by which people decide they will break into somebody's house. If it were your house, Mr Deputy Speaker, you would feel exactly the same as many of the people we represent feel when home invaders have violated them. That applies to any member in this place. I am not sure of the veracity of the statement but, if I interpreted the information correctly, the Prime Minister of Britain, Mr Tony Blair, who we know is a friend of the Leader of the Opposition, may be an advocate for mandatory sentencing for repeat offences such as home invasion. This is not simply a party political issue.

Some of our state and federal representatives want to remove the protection and support the Western Australian Government has put in place to help law-abiding citizens protect their property, person or family. They promote the notion that these young people do not know what they are doing and, therefore, we should not have mandatory sentencing but should give them more options. It is time we stopped making excuses; it is time to draw the line in the

sand and say what will happen. Although there may be some grey areas about how far people may go to protect their property, and other definitions, this legislation will stand behind the law-abiding citizen. It sends a message to offenders that if they invade somebody else's home, and traumatise them, they take the chance that householders will stand up to them or use a mechanism to defend their families, and the community will not run to the offenders' aid if they get hurt. The community will not allow them to go to court and sue for damages or find excuses to blame the home owner.

With this legislation, the Government is saying to people that if they step over that line and invade someone's home or property, they do it contrary to the values of our society and without the protection of our society. They will have no legal recourse to claim damages or seek pity from the courts.

MR WIESE (Wagin) [1.30 pm]: I regret that once again I am standing in this Parliament expressing contrary views to those of my coalition colleagues. If members want to know why I feel that way, they should reflect on what the member for Mandurah, for whom I have some respect, has just said in this Parliament. He said that we would solve the problem of burglary and home invasions by passing legislation that will allow people to do whatever they believe is necessary to protect their homes and property. The problem is we are not doing anything to take those people away and put them in jail. The member for Mandurah touched on an area which we should consider.

When I was Minister for Police, I argued with my police colleagues and with the judiciary that the judiciary must support the work of the Police Service. The member for Mandurah referred to one way of protecting the people of this community from the offences outlined in this legislation; that is, to take them out of circulation and put them where they will not be able to repeatedly commit the same type of crime.

This Bill will not solve the problem; it will allow the home owner to do whatever he thinks is necessary to defend his property. Despite this legislation, an offender who invades a home will do exactly the same thing next door and the same thing in the next street and the next suburb until he is finally locked away under the present law.

As the member for Mandurah said, the present legislation contains a maximum penalty of 18 years for home burglary. If that does not send a message to the judiciary of how this Parliament feels that the judiciary should deal with people who are apprehended for committing home burglary, it is difficult to imagine what will send that message.

Aggravated burglary or home invasion brings a maximum penalty of 20 years, not 14 years as the member for Mandurah said. How on earth do we convince the judiciary to take notice of the Parliament's wishes, which are a true reflection of the wishes of the community we represent? People who invade homes should be locked away to at least protect the community and to prevent them from continually committing crimes until they are ultimately locked away in any event.

My opposition to this Bill is based on my belief that it will result in tragedies. As the member for Mandurah said, they will occur when people are accidentally stabbed, shot or belted over the head with a 3-wood, as the member for Dawesville indicated, although he was not referring to the head. People will be killed as a result of this legislation.

Mr McGowan: People who follow the philosophy of the member for Dawesville are more likely to be hit over the head themselves by a 3-iron than to hit someone else with a 3-iron.

Mr WIESE: The point I am making is that we have already seen the physical retaliation mentality in the community. People sit on premises armed with baseball bats or golf clubs in case someone tries to rob them. Cases resulting from that type of action have come before our courts. People arm themselves because they are terrified and we cannot blame them for that.

I understand why we are addressing legislation of this nature in an attempt to deal with crime. However, I am saying that this legislation will not have the desired result. As has been shown time and again, when the level of violence is raised, the level of violent response is raised. When we arm the Police Service, they are confronted by people who are armed. All the experience and wisdom of the Police Service will tell us that when we allow - de facto encourage - home owners to defend their property by whatever means they believe is necessary, people will not stop committing home invasions; they will be adequately armed to protect themselves against what they believe they may meet when they enter properties. Neither the level of violence within households nor the number of offences will decrease; they will increase. That is why I am so strongly opposed to this legislation.

In an attempt to downplay the intent of the legislation, the minister made some soft pedaling noises in response to other members who spoke yesterday about the legislation. If anyone has any doubts about the intent of this legislation, they should read the minister's second reading speech. I will quote from it to ensure members have no illusions about its intent. It reads -

It widens the definition of "defence" to give the occupant the right to "use any force or do anything else" to defend against an intruder.

That is clear. Immediately after that the minister says in explanation -

The occupant will have the right to do whatever he believes, on reasonable grounds, to be necessary to defend against home invasion.

That is a very clear statement of the intention of this legislation.

Mr Cowan: What is your objection to that?

Mr WIESE: My objection is that as a result of that, the violence that will be used against people in those situations will increase, whether it be due to the home owner defending himself or the person coming onto the property defending himself. The minister says further -

An occupier will be able to use any force or do anything else he believes, on reasonable grounds, to be necessary to prevent a home invader wrongfully entering his dwelling or an associated place; cause a home invader wrongfully in the dwelling or on or in an associated place to leave the dwelling or place; to make effectual defence against violence - used or threatened -

If the person believes he is threatened, this legislation will enable him to do whatever he likes to defend himself. The minister goes on to spell out the exact effect of this clause -

The effect of the clause will be to enable a home occupier to use whatever force he believes is necessary to defend his home and surrounding. All that has to be shown is that the occupier did what he believed necessary and that he was reasonable in his belief that it was necessary.

The minister goes on to make this extraordinary statement -

It does not mean that the force used must be reasonable;

Members should just think about that -

It does not mean that the force used must be reasonable; however, the holding of the belief must be reasonable.

That is what this legislation is about. We need to stop and think about what the effect will be. He continues -

This will take into account the state of the mind of the occupant . . .

The minister then summarises that section of the legislation, and says -

Unless it can be shown that it was unreasonable for a person to believe that he had to use the force he used, he will be protected by . . . section 244.

I would like to ask you, Mr Deputy Speaker, how on earth one does that. How does one show that it is unreasonable for a person to believe that he had to use force? I might think it was unreasonable and you, Mr Deputy Speaker, might think it was unreasonable, but if the occupier believed it was reasonable, it was reasonable. The effect of this proposed legislation is that it gives home owners carte blanche to do whatever they believe is necessary to defend their home and, as has already been said, it also enables them to protect the surroundings of their home. If they live on a quarter acre block, it enables them to do whatever they think is necessary to protect themselves within that quarter acre block. That is the intent of the legislation. As other speakers have said, many people believe that this is absolutely appropriate, and I respect that right. I ask them to think about the end result of going down this legislative path. I believe the end result will mean that there will be tragedies. They will not be intended tragedies - I do not believe anyone will go out to defend their home with the intention of killing somebody - but the result will be the same. At the end of the day, a life will be lost; in all probability a young life will have been snuffed out as a result of this legislation. My real concern is that this legislation will lead to tragedies and it will lead to unintended consequences that we will all regret at some stage in the future.

I now wish to address a couple of other issues associated with this legislation. I have spoken about the comments made by the member for Dawesville and his use of a 3-wood. That has already been the response by some people. Some people have a baseball bat, a golf club or a hockey stick behind their door, and in all those instances people have actually been prosecuted under the existing legislation. The Parliament has expressed its opinion and belief about the seriousness of these offences by putting in place maximum penalties of 18 to 20 years for burglary. The real tragedy is that Parliament would not be considering this type of legislation if, firstly, members of the Police Service used their brains as to how and against whom they laid charges when people have used force to defend themselves because they have been in fear of their lives or the lives of their families as a result of the invasion of their property. We have all heard about those sorts of cases. It is an absolute tragedy that members of the Police Service have not used their brains when laying some of these charges. If some of these people had not been prosecuted, when they had been in absolute fear for their lives and had defended their properties, we would not be confronted by this legislation.

I also have a great deal of sympathy for members of the Police Service because I know the frustrations they encounter. I know the frustrations I encountered as minister, when time after time we would see people taken to court and then walk out with a rap across the knuckles, as mentioned by the member for Girrawheen. The judiciary should stand condemned for the manner in which it has treated people who have been charged and prosecuted for a number of these offences. The community believes these people should be dealt with a great deal more harshly than they are at the moment, and the Parliament has signalled that they should also be dealt with more harshly. This Parliament said that there should be a penalty of up to 18 years for burglary, and that was a clear signal to the judiciary that it should put in place appropriate penalties against persons charged with and convicted of home invasion offences. The judiciary has

not done that. As a result, Parliament is now endeavouring to pass legislation - I am sure this legislation will be passed - such as we are dealing with today.

The tragedy is that we, as members of this Parliament, should not be debating this type of legislation, because the courts should have dealt appropriately - as this Parliament intended - with persons who came before them for these types of offences. I do not like having to stand in this place and be critical of the judiciary, but this is something about which I feel very strongly, and I know a number of people in this Parliament have also expressed strong views on the subject. If the judiciary had done its job, we would not be in this situation.

I made a note while listening to other speakers that all of the discussion was in relation to males defending their castles and contents against persons coming onto their property. I want to move down another route and indicate the situation in which a number of females also find themselves. They are more vulnerable. I believe I would be correct in saying that females, generally speaking, feel far more vulnerable to home invasion situations. This also applies to farming families and people who live in the country. I know from personal experience that a number of people in farming situations, especially the wives, also feel a great degree of vulnerability. In many cases they are on their own, their nearest neighbours are 3 to 5 kilometres away, the houses are far removed from the roads, and even if somebody was passing on an adjacent road, that person would not be aware that anything was happening on that farming property. People on farming properties have a great deal of concern about their safety. The women are concerned about their personal and family safety and the males about the safety of their women and family.

I refer to this matter because I know, from my experience of the firearm legislation and as a former Minister for Police, that not only farming people have access to firearms, but also a great number of people in the metropolitan area. A natural response of people when they have fears and concerns about their safety is to have a firearm available to defend themselves.

I must confess that I once slept with a firearm beside my bed. That was when some prisoners had escaped from a prison down south - Pardelup Prison Farm, I think. They had stolen fuel from the owner of a farming property in the Katanning area, tied him up and dragged him behind a utility. That group went through the country creating havoc and an enormous amount of fear and concern to farming people in the area.

Mr Cowan: If you had used that firearm, would that have been regarded as reasonable force?

Mr WIESE: The Leader of the National Party is getting the picture. At that time I slept with a firearm beside my bed, as did a great number of other farming families in that district. Under the current legislation it is inappropriate to use a firearm to defend oneself against an intruder in the great majority of circumstances; under this legislation it would be appropriate. That is the intent of the legislation. If members were to tell me that, as a result of this legislation, no situations would arise when an available firearm would be used, I would tell them they were living in dream world.

Mr Cowan: You did not put the firearm beside your bed with no intention of using it. You would have used it if you had to.

Mr WIESE: I disagree with the Deputy Premier in this case. In the great majority of cases I would not use a firearm against a person. I would certainly fire a bullet to frighten somebody away and to make them think twice about coming further into my house or my bedroom. That is the intention of having a firearm in the great majority of cases.

The point I am trying to make is that the legislation states that if people believe it is reasonable for them not to fire a bullet in the air but directly at an intruder, and their intent is to fire at the body of the intruder and not the legs - as the police are taught to do - this legislation would fully allow and approve it.

Although I understand the intention of the legislation, it is absolutely appalling and dreadful to be sending a message to the community that when this legislation is passed they can use a firearm or some other weapon if they believe it is an appropriate response, as the minister said in his second reading speech. That is the reason for my reservations about the legislation.

I will sum up by saying that the member for Mandurah signalled the direction in which we should be going, although he fully supports the legislation. I have heard other members in this Parliament say that the legislation does not go far enough. My mind boggles at that and I cannot understand how they believe the legislation could go further. The direction in which this Parliament should be going, as signalled by the member for Mandurah, is to insist that people who are apprehended for crimes of burglary and home invasion are put behind bars for the protection of the community. That is the reason that four years ago the Government raised the penalties for such crimes and why the penalties for these offences are set currently at 18 years and 20 years. The reason we are now dealing with this legislation is that the judiciary has not taken heed of the message that we as a Parliament tried to send to it; that is, persons who commit these offences should spend an appropriate time behind bars.

I regret that I am in opposition to the beliefs of most of my colleagues. However, I believe strongly that at the end of the day the result of this legislation will not be fewer home invasions and fewer home burglaries but, rather, a substantial increase in the level of violence that occurs when home invasions take place. For that reason, I say this is bad legislation and we should not be passing it. We should be going down the route of insisting on and, if necessary, putting in place mandatory sentences to ensure that persons who commit home burglaries are put behind bars so they

cannot re-offend. That is the direction in which we should be going, not in the direction of this legislation, which will result in more tragedies.

MR McGOWAN (Rockingham) [1.56 pm]: I have limited time before question time to say what I want to say about this Bill. I will put on the record some of my concerns in this matter. Firstly, I congratulate the member for Wagin for once again telling us what he believes is right and for giving his leader a bit of a touch-up along the way; that was very good to see.

Like every other member, I represent an electorate that has a great deal of concern about home invasion, burglaries and the level of crime; I deal with these concerns every week. I receive calls from a range of concerned people who ask what will be done about the levels of crime in the community. One of the most awful forms of crime is home invasion, whereby people's domains, which are their castles, are invaded by somebody who puts them under physical threat and fear in their own home. That is wrong. Like every member of Parliament, I work a great deal of late nights. We are often away from our homes, leaving loved ones there, and we fear for them when we cannot arrive home until late at night, if at all. I suppose we live under threat and fear more so than most people and worry about what could happen in our homes due to our absence. I therefore understand the level of concern in the community about these matters.

I have a number of concerns with this Bill. I do not disagree that people should have the right to protect their homes and to ensure that they and their loved ones are safe in them. My concern is about the way in which the Bill is structured. This Bill expands the area in which one is able to use reasonable force to include one's yard.

Mr Prince: Necessary force.

Mr McGOWAN: I am sorry, necessary force. The Bill states that if people have a reasonable belief that their home is being invaded, they can use whatever force they believe is necessary to defend that home and its surroundings.

That will take into account the state of mind of the occupant and all things that are relevant for that person to believe. The state of mind of different people is often quite difficult to determine. Some people are paranoid and others are completely paranoid. That concerns me because when I was a boy, I often used to hit a cricket ball or kick a football or soccer ball over someone's fence. It may have been in the evening, because not so long ago people used to play cricket on the road. Often a ball would be hit over someone's fence. I would not ask permission and I would jump that fence and go into that person's yard.

Debate adjourned, pursuant to standing orders.

[Continued on page 1928.]

QUESTIONS WITHOUT NOTICE

PRINCESS MARGARET HOSPITAL FOR CHILDREN, ERNST AND YOUNG AUDIT OF TRUST ACCOUNTS

225. Ms McHALE to the Minister for Health:

- (1) Has the minister provided a copy of the Ernst and Young audit of trust accounts at Princess Margaret Hospital for Children to the Australian Medical Association so that doctors are at least aware of the allegations that have been made against them?
- (2) If not, why not?

Mr DAY replied:

- (1)-(2) No. I have not provided the Australian Medical Association with a copy of the reports that have so far been prepared. To the best of my knowledge, the Metropolitan Health Service Board, which has direct responsibility for those reports, also has not provided a copy to the AMA, and, in my view, nor should it. It would not be appropriate to do so.

Dr Gallop: Why?

Mr DAY: It would be appropriate to discuss the issues with the doctors concerned at the right time.

Dr Gallop: What about a bit of natural justice in this world? Don't you believe in that?

Mr COURT: You'd know about that!

Dr Gallop: Would we?

Mr DAY: It may be appropriate to discuss the issues with the doctors concerned in the same way as the process being followed in the audit of theatre usage at Princess Margaret Hospital for Children. Just last week the Opposition was criticising the Government and its agencies for not doing enough about these issues. A draft report has been prepared on the theatre audit process. The Metropolitan Health Service Board and I have made it clear that the draft needs to be discussed with the doctors concerned. Due process will be followed and natural justice will be observed. To provide a copy to the AMA is not necessarily the most appropriate way to go about things.

PRINCESS MARGARET HOSPITAL FOR CHILDREN, ERNST AND YOUNG AUDIT OF TRUST ACCOUNTS

226. Ms McHALE to the Minister for Health:

In view of the Australian Medical Association's desire and role in the matter of protecting doctors, will the minister reconsider his position to release those documents to the AMA? If not, we will.

Mr DAY replied:

I take that as a threat from the Opposition, and it can take responsibility for its actions. The appropriate processes must be followed.

Dr Gallop: What are these appropriate processes - illegally sacking the chief executive officer of the hospital? Is that appropriate?

The SPEAKER: Order, members!

Mr DAY: I agree that individuals who are the subject of adverse comment should have an appropriate opportunity to respond. If they want to involve the AMA in that process, that may be a matter for them.

Mr McGinty: What do you have against the AMA?

Mr DAY: I have nothing against the AMA. As I have made very clear -

Mr McGinty: The Premier said that it should grow up. Is it immature?

Mr DAY: As I have made clear on many occasions as Minister for Health, I will listen to the views of many organisations, including the AMA. Sometimes I agree with the comments it makes; on other occasions I do not.

Dr Gallop: You doctor documents! You don't reveal all of the information. You appoint managers who ride roughshod over hospital procedures.

Mr Cowan: Don't talk nonsense!

Dr Gallop: Every one of those things is correct.

Mr Cowan: No, they're not.

The SPEAKER: Order, members! What is happening is unacceptable. There are too many interjections. I allow interjections from people who have an interest in the area and others that are pertinent. If the minister stops talking for a long time and then responds to interjections, he will be all over the place.

Mr DAY: As I was saying, it is important that the principles of natural justice be followed, and that is exactly what is being done through the establishment of the inquiry into services at King Edward Memorial Hospital. If the Metropolitan Health Service Board considers at some time that it is appropriate for a copy of those documents to be provided to any particular organisation, whether it be the AMA or anybody else, that will occur. It is essential that doctors or any other individual who may be the subject of adverse comment be given adequate opportunity to respond if it is appropriate, and that will occur.

BUILDING AND CONSTRUCTION INDUSTRY TASK FORCE

227. Mr BLOFFWITCH to the Premier:

Is the Premier aware that the Labor Party wants to get rid of the building industry watchdog, the building and construction industry task force?

Mr COURT replied:

Yes, I am aware of that. The Parliamentary Labor Party will do whatever it is told by those union masters. We are well aware that six or seven people in the back room will determine what is the Labor Party's policy on this and other issues. I recall the member for Pilbara saying that the party is made up of about six or seven faceless men who sit in the back room.

Mr McGinty: How many members does Noel Crichton-Browne have in your back room?

The SPEAKER: Order! It would appear that things are heating up as the election moves closer. Members still need to reflect on where they are. I will allow some reasonable interjections, as I always do. We cannot have a number of people yelling out interjections at once.

Mr COURT: It was the former federal Labor minister Gary Johns who said that Western Australia's Labor Party had the most crooked preselection of any ALP branch. There is a little nervousness on this side, because -

Dr Gallop: You are the nervous person, because you cannot front up to your own record.

Mr COURT: Sixty per cent of the numbers in the Labor Party are made up of people from the trade unions and the other 40 per cent is the Leader of the Opposition's hand-selected members.

Ms MacTiernan: Your government report said to get rid of the task force.

Mr COURT: The Leader of the Opposition has been silent on all the incredibly serious allegations that have made about the construction industry. His silence denotes consent in these matters.

Dr Gallop: Who wrote that line for you? You could not think it up; you are not bright enough!

Mr COURT: One of the faceless men involved in these allegations is Mr Kevin Reynolds. I know he is involved in an election campaign. I was not impressed to see a sign on the side of the belltower saying, "Vote Kevin Reynolds 1".

Ms MacTiernan: You are in a democracy!

Mr COURT: It is common knowledge that the reason he wants the Labor Party to win the next election is so he can be the Premier.

Mr Brown: Look, there goes another one!

Mr McGINTY: Keep going, Premier. That was funny.

The SPEAKER: I do not consider it was funny. I understand that when people are under attack, they need a reasonable opportunity to respond. However, they are not responding in a responsible way.

Mr COURT: That person said that he told the Leader of the Opposition to his face that he was the best leader to lead the Labor Party. He has anointed the Leader of the Opposition as the leader. He is the chosen one of the 60 per cent who control the votes inside the Labor Party.

Several members interjected.

The SPEAKER: Order! I formally call the member for Armadale to order for the first time. I hope the Premier will wind up his answer reasonably quickly. I intend to call more people to order if they continue in this manner.

Mr COURT: The allegations of intimidation, corruption and standover tactics are incredibly serious, and the building industry in this State should not be subject to such behaviour.

Several members interjected.

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

Mr COURT: It is critical that there be a body to look into such allegations. Interestingly, the Labor Party's policy is unquestionably to get rid of that task force, the job of which is to look into those types of allegations. If the Leader of the Opposition wants to talk about open and accountable government, he should be the first to say that these matters should be properly investigated.

BUNBURY REGIONAL HOSPITAL - CHILDREN'S WARDS

228. Ms McHALE to the Minister for Health:

- (1) Can the minister confirm that adult male patients were placed in a room in the children's ward at Bunbury Regional Hospital?
- (2) If so, can he explain why this occurred?
- (3) What action does he intend to take to ensure there is no recurrence of this event?

Mr DAY replied:

- (1)-(3) I thank the member for some notice of the question. I understand that this situation occurred at the Bunbury Regional Hospital when the rest of the hospital was full to capacity. I am further advised that the hospital wards have been established to allow for overflow from one area of the hospital to another. The children's wards have private rooms with en suites which back onto the surgical wards, and are separated from the children's wards and allow for adult use. I am advised that this will recur if a situation arises in which it is necessary for some overflow from one area of the hospital to another. This allows for the most effective use of hospital beds. The hospital was designed to allow for this overflow to occur when necessary, and to provide adequate patient privacy. The Opposition is obviously trying to beat this up into a major issue when it is part of the normal functioning of the hospital.

BUILDING AND CONSTRUCTION INDUSTRY TASK FORCE

229. Mr MASTERS to the Minister for Labour Relations:

Will the minister please advise the House of the reasons for the establishment of the building and construction industry task force and its outcomes to date?

Mrs EDWARDES replied:

The building and construction industry task force was established in 1993 to monitor and require compliance with the voluntary code of practice in place for the State's building and construction industry. An aim of the code is the elimination of unacceptable industry practices, such as threats, fraud, receiving secret commissions, trespassing, and breaches of industrial relations legislation, such as that relating to freedom of association.

The task force was transferred to the Department of Productivity and Labour Relations. It comprises industrial expertise and works closely with police, WorkSafe, the Office of the Employment Advocate and the Director of Public Prosecutions. In 1999-2000, the task force investigated 122 complaints and made 505 visits to building sites across the State. It has laid 80 charges since 1993 against both employers and unions. I table a schedule of those charges.

[See paper No 325.]

Mrs EDWARDES: That schedule highlights the value of and need for the task force, as was further highlighted by events in recent weeks. Scrapping the task force, as the Leader of the Opposition plans to do, would return the construction industry to the bad old days of standover tactics, coercion and strongarm intimidation. Members opposite will hand over the construction industry and building sites to the unions.

POLICE STATIONS - CLEANING OF CELLS

230. Mrs ROBERTS to the Minister for Police:

- (1) Is the minister aware that the cleaning of cells in Mirrabooka, Cannington and Armadale police stations, previously carried out by Transfield contract cleaners, now must be done by police officers?
- (2) Was the change to the new cleaning contracts at the stations to specifically exclude the cells a cost-cutting measure?
- (3) Is it appropriate for police officers to be compelled to clean cells made filthy by excrement or smeared with blood?
- (4) With what training and equipment are police officers provided to clean the cells?

Mr PRINCE replied:

- (1)-(4) I thank the member for the question, of which I had no warning; therefore, I am not in a position to respond definitely to the things said. In answer to question (3), no, police officers should not do this work, other than in some extraordinary circumstances in which no-one else is available and cleaning must be done so the cells can be used. I know nothing about the other matters alleged by the member. I will investigate them this afternoon and respond when I have an answer.

ANTI-CORRUPTION COMMISSION - OPERATIONS

231. Mr BAKER to the Premier:

Is the Premier aware that the Labor Party wants to effectively spend a minimum of \$20m to undermine the operations of the Anti-Corruption Commission?

Mr COURT replied:

Yes, I am. The Labor Party's policy on this matter is to spend a minimum of \$20m on a royal commission. I will talk about that in detail shortly.

When government members asked questions yesterday about the Labor Party's policy, the Leader of the Opposition was quick to accuse the Government of having stolen, or whatever, documents. The Minister for Police said yesterday that the Government received this information from an impeccable source - namely, the offices of the Leader of the Opposition. Those opposite faxed that material. It has come to us, and I can only assume that they want us to comment on their policy. I will comment on it today.

Was not interesting how cute the Leader of the Opposition got yesterday when talking about leaked documents? The member for Armadale is not able to give a speech in this place without some leaked documents to provide her background! Even in question time today the shadow Minister for Health said that if we do not make public information which is currently a matter of investigation, the Opposition will make it public. Members opposite are prepared to make that information public even if it sabotages investigations and is defamatory. Was it not cute when the Leader of the Opposition yesterday became indignant about this leaked information? I remember the member for Bunbury suffering some embarrassment after he dropped a document in the corridor. The member for Nollamara could not act quickly enough to move a matter of privilege against the member for something he picked up off the floor.

I appreciate getting the information. Why would members opposite be afraid about people knowing about their law and order policy? I do not know. They obviously want comment, so I will give them a bit. The Labor Party will hold a royal commission into the police. The policy then states that it will look into the operations of the Anti-Corruption

Commission. It states that the Labor Party will fund the royal commission - that is, spend a minimum of \$20m - by winding back the operations of the ACC. Therefore, the ACC, which is an independent body set up by Parliament with the support of members opposite, and with a joint parliamentary committee overseeing its operation -

Mr Cowan: And which has the powers of a royal commission.

Mr COURT: Yes. Members opposite will wind back its operation. They will go soft on corruption and wind back the operations of the ACC while the royal commission is under way.

We have already had a royal commission into corruption and the like. One of its recommendations was the establishment of the office of the commissioner for the investigation of corrupt and improper conduct. When the coalition was in opposition, it introduced a Bill to establish the Official Corruption Commission. It then established the Anti-Corruption Commission, giving it more powers and resources. We spent \$34m on the first royal commission. Not only do members opposite want to establish another royal commission, but also they have pre-empted its findings. The executive summary states -

Labor recognises that the Royal Commission may well recommend that the ACC be replaced with a new special-purpose agency better focused and able to combat police corruption.

Mr McGinty: Do you have full confidence in it?

Mr COURT: The ACC was established by this Parliament with Labor Party support. It is powerful and independent, and it is overseen by a joint standing committee of this Parliament. Do I have confidence in it? Yes, I do. I am not fully aware of all its workings, but the constant undermining by members opposite -

Dr Gallop: That is rubbish.

Mr COURT: Why have a royal commission to investigate the operations of the ACC?

Dr Gallop: You are soft on corruption. Why are you afraid of a royal commission into the police?

Mr COURT: It is no secret that the Labor candidate for the seat of Innaloo wants to get rid of the ACC. He has written the blueprint for a royal commission that would effectively undermine its operations. Members opposite want to nobble the ACC. I am interested in the Leader of the Opposition's providing more details. Members opposite want the commission to investigate the Argyle Diamonds affair. That happened while the Labor Party was in government, and it did nothing about it. Extensive investigations have been carried out, but members opposite want to spend a minimum of \$20m going over those issues. Why would they want to undermine confidence in the Police Service and the operations of the ACC by removing its funding?

Dr Gallop: You and your deputy have said that you have used a stolen document.

Mr MacLean: It was not stolen; you faxed it to us.

The SPEAKER: I formally call the member for Wanneroo to order for the first time.

Dr Gallop interjected.

The SPEAKER: I formally call the Leader of the Opposition to order for the first time.

LISA GOVAN - DISAPPEARANCE

232. Ms ANWYL to the to the Premier:

I refer to my letter to the Premier dated 31 July requesting that the Government offer a \$50 000 reward for information relating to the disappearance one year ago of Lisa Govan, who was last seen in broad daylight outside the Club Deroes motorcycle gang clubhouse in Kalgoorlie, and ask -

- (1) Will the Premier explain why the Government has to date not supported calls for a reward, including appeals from the missing girl's mother?
- (2) When is the Government expected to make a decision?
- (3) Does this disappearance not deserve the same attention as that given to the disappearance of Hayley Dodd, in which a reward was posted?

Mr COURT replied:

(1)-(3) The member has written to me and I thought I had responded.

Ms Anwyl: You wrote to me in August indicating that something would happen and I am still waiting. I have written again, but I have not had a response.

Mr COURT: If the member had given me notice of this question, I might have been able to provide some information. I can recall the response to the member's letter. I will find out what has happened. I agree that it would be appropriate to post a reward if it would encourage people to provide information.

POLICE SERVICE - ROYAL COMMISSION

233. Mr TUBBY to the Minister for Police:

Over the past seven years, the Opposition has said repeatedly that it will establish a royal commission into the Western Australia Police Service. Does the minister have any information about the terms of reference proposed by the Opposition?

Mr PRINCE replied:

The Opposition's draft policy paper of 19 September, headed "executive summary", states -

. . . Labor will:

- Appoint a Royal Commission into Police Corruption as a matter of priority.

The terms of reference for the Royal Commission will include:

- To investigate and report on specific allegations of police corruption, including but not limited to:
 - The abandoned Operation Red Emperor . . .

That operation was set up by the former Commissioner of Police, Bob Falconer, to target organised crime. It was headed by Detective Sergeant Coombs, who has since been stood down. On 7 August - that is, before the *Four Corners* television program went to air - the Commissioner of Police, Barry Matthews, said he was satisfied that Mr Falconer's decision to shut down the operation was appropriate. He pointed out that it was compromised, that dangerous activities were being undertaken and that some management issues could have landed the agency in trouble. The commissioner said that he had looked at a number of aspects of the operation and that he did not know why Mr Falconer took so long to decide it was a dead duck. After the *Four Corners* report, the commissioner told Liam Bartlett during an ABC radio interview that there was nothing new in the report and that although the Red Emperor operation was wound up in 1998, it was formally closed down in 1997.

It is interesting to note that Mr Bob Kucera, a Labor Party candidate in the next election, has said that it would now be difficult to avoid a royal commission. The member for Midland has said that she has called for a royal commission as a result of the *Four Corners* report, and the Leader of the Opposition and Mr John Kizon have supported those calls.

The Opposition wants the death of protected witness Andrew Petrelis to be investigated. I refer members to tabled paper No 133 of 5 September, which is the Roberts-Smith report and which includes an extensive review of what occurred. Members may not be aware that the Queensland Coroner has determined to hold an inquest, which is scheduled to commence on 13 November.

Members opposite want to reopen investigations into the Argyle Diamonds affair, and the Premier has already commented on that. They also want an investigation of the leaking of the criminal record of Perth City Council candidate Terry Maller to the Lord Mayor of Perth - who is, of course, a member of the Liberal Party. That matter has been extensively debated in this place. There is no point in investigating that issue because a person's criminal record is a matter of public record.

The Opposition has also proposed further investigation into the discovery of drugs during a raid on the armed robbery squad. Members opposite probably do not know - otherwise they would not have included it in this proposal - that the commissioner has carried out an inquiry and that he issued a comprehensive press release on 28 March. I table that paper for the benefit of members. The document deals with the discovery of drugs on the armed robbery squad premises. I also table the Opposition's draft policy paper.

[See papers Nos 326 and 327.]

Mr PRINCE: The leading royal commission carried out in this country was that undertaken by Mr Justice Wood in New South Wales. It cost in excess of \$70m and took several years to complete. It came down with some very good recommendations that members should read and keep in mind. In summary, Justice Wood stated that there must be a fundamental change in the approach of the Police Service to corruption. That must include a systematic restructure under which all officers are empowered to reject corruption. This Government has presided over a cultural change under the Delta program, and the professional standards group reports directly to the commissioner. We now have a very strong emphasis on accountability.

Mr Justice Wood said that there should be a permanent, independent body, with police corruption as its focus. The Ombudsman has oversight of complaints and the ACC has that role. John Quigley said that it is better and fairer to go through the process of laying charges than to establish a royal commission. He has also said that he would go to jail before he would cooperate with the ACC. He has written this policy for the Labor Party and that is why it should never see the light of day. Members opposite sent it to the Government for advice and comment. This is my advice and comment: Do not follow it - it is a dud.

POOLE, YVONNE, UNFAIR DISMISSAL SETTLEMENT

234. Mr RIPPER to the Premier:

- (1) What payment was made to Yvonne Poole to settle her claim for unfair dismissal from the office of the member for Southern River?
- (2) Why was this payment made if the Government genuinely believed the claim of the member for Southern River that Ms Poole resigned her employment?

Mr COURT replied:

- (1)-(2) I thank the member for the question. The answer I have is that Ms Poole has agreed in a deed of settlement and release to keep all aspects of the deed, including the settlement amount, confidential.

Mr Ripper: This is taxpayers' money, is it not?

Mr COURT: Let me answer the question first. In the spirit of that deed, it is not considered appropriate to reveal the settlement amount; but I add that if it was suitable and Ms Poole agreed that the settlement amount be made public, we would have no difficulty.

POOLE, YVONNE, UNFAIR DISMISSAL SETTLEMENT

235. Mr RIPPER to the Premier:

As a supplementary question, why has the Premier not answered the second part of the question?

Mr COURT replied:

I should have said (1) and (2) at the beginning of my answer because it covered both parts of the question.

Several members interjected.

The SPEAKER: Order!

PROSTITUTION LEGISLATION

236. Mr BAKER to the Minister for Police:

The prostitution Act has been law since 1 July 2000. What results have the police to report on concerning its use to date?

Mr PRINCE replied:

The prostitution Bill came into this House and was agreed to, particularly by the member for Midland - and I applaud her for doing so - and other members, although there was vigorous debate here and Labor Party members attempted to change it. It went to the other place and was changed extensively and then came back here. The Labor Party basically did everything it could to stop that Bill going through and ran an extensive interference campaign. Notwithstanding that, the Bill passed and became law on 1 July. The police set up an operation that started around then and as at 10 October have laid 54 charges for offences against that Act; nine against the Criminal Code, eight against the Misuse of Drugs Act, six against the Police Act, two against the Road Traffic Act and six against the Bail Act. Six summonses have also been issued. Move-on notices have been issued under the Act and are a relatively new exercise, particularly for this State. Some 180 move-on notices and 40 cautions have been issued, which is a total of 220 contacts with people on the streets. Three restraining orders have been sought, three search warrants have been issued, and a whole series of liquor cautions, traffic cautions and property receipts have been issued, and so on. The effect has been to take the most offensive and objectionable parts of prostitution, that were making the lives of the people of Highgate and other parts of Northbridge, particularly the Town of Vincent, absolute misery -

Dr Gallop: What about the finance broking industry? You sat there and went along with the finance broking industry.

The SPEAKER: Order! Although I allow interjections, I reminded members yesterday, and I do so again today, that interjections must relate to what is being discussed and the question that is being answered. They are not meant to be an opportunity for people to sling mud across the Chamber during the answering of other questions. If members wish to do so, they must move a motion.

Mr PRINCE: Many members in this place - for example, the member for Perth and the member for Midland - have brought petitions into this place from the residents of those areas, asking the Parliament to do something. Against opposition from the Australian Labor Party, we did it. The Act is now in operation, so women and children can go to and from their houses without being harassed by kerb crawlers, and other people in the area are not harassed by prostitutes and their pimps. The legislation works and is being well enforced - against what the Labor Party wanted to do.

POOLE, YVONNE, FORGERY ALLEGATIONS

237. Mr RIPPER to the Minister for Police:

I refer to the minister's claim in this House on 13 September that he would again raise the investigation into forgery in the office of the member for Southern River with the Commissioner of Police in three or four weeks.

- (1) Has the minister again raised the forgery investigation with the commissioner as promised; and, if not, why not?
- (2) If the minister has raised it with the commissioner, what is the outcome of the further investigations commenced as a result of debate in this House?
- (3) Does the minister expect charges to be laid as a result of this investigation?
- (4) Is the case still open?

Mr PRINCE replied:

- (1)-(4) It is difficult to give precise answers to those four questions. The Commissioner of Police mentioned to me in our weekly meeting last Wednesday that the investigation was continuing. I cannot answer whether charges are likely to come out of it because I do not know. In the normal course of events I would not expect to be told unless and until officers have made a decision to charge. I make that as a general statement. I do not expect to be told that somebody will be charged. That is the situation at the moment. As soon as I have more to report, I will do so. As far as I know, the matter is not closed.

Mr RIPPER: A supplementary -

The SPEAKER: No. Question time has finished.

CRIMINAL CODE AMENDMENT (HOME INVASION) BILL 2000*Second Reading - Cognate Debate*

Resumed from an earlier stage of the sitting.

MR MCGOWAN (Rockingham) [2.37 pm]: Before question time I was saying in essence that I understood the public's level of concern about home invasion and burglary. I was saying how, as a member of Parliament, I am aware of people's concerns when they have loved ones at home, particularly at night, and have a fear of people coming into their homes, assaulting them, injuring them and taking their property. Those concerns are legitimate. I know as a local member and from opinion polls that it really upsets, annoys and disturbs people. However, I have some concerns about the mechanics of this Bill.

The area in which people can take action against someone whom they perceive to be a home invader has been expanded by this Bill to include front yards and backyards. Certain criteria are laid down for it, but my great concern is that many people enter other people's yards without any criminal intent. Most young people, particularly young boys, will go into other people's yards at some point in their lives - in fact, probably regularly during the years in which they are growing up. They might go to retrieve a tennis ball, cricket ball, soccer ball or football. I recall doing so on numerous occasions when I was growing up. Without any permission I would go into people's yards and collect something which had gone over their fence. It was a standard thing that young people did, and I suspect that young people do it all the time today. They probably should ask permission, but having all the attributes of young people, they do not always ask permission to go into someone's yard or climb onto someone's roof to get their ball back.

There are innumerable circumstances in which people may mistakenly go onto someone else's property. I did so a few weeks ago. My wife and I were driving around the streets of Rockingham. We saw a "Home open" sign. My wife is always attracted by such signs and for some reason likes to go and look at people's houses. She made me go and look at this house, so we walked down the driveway and into the backyard. However, we had misinterpreted the sign that was on the street, and it was not a home open. I am sure those people would have been impressed to see their local member of Parliament wandering around their backyard. They would have thought that the fact that I was in their backyard and was inspecting their facilities, and, not only that, had brought my wife with me, was true commitment. However, it concerns me that under this Bill, the owner of that home would have been justified in coming out and beating my wife and me to death. That would have been an over-reaction.

Mr Marlborough: Fifty per cent of it would have been.

Mr MCGOWAN: My wife did hold the little athletics 100 metres record for the State when she was 13, so she might have escaped, but I am not in the fortunate position of being so speedy on my feet, and I might well have been beaten to death by the owner of those premises. I am concerned that a child who jumped a fence to collect a ball and mistakenly ended up being on someone else's premises might have force used against him in inappropriate circumstances. No member can deny that as a young person he or she jumped a fence and ended up being on someone else's property. That is part of being an Australian child. It is what children do.

I agree with the intent of the Bill to allow people to defend their property, but I am concerned that the Bill states that it will enable a home occupier to use whatever force he believes is necessary to defend his home and surroundings. All that needs to be shown is that the occupant did what he believed necessary and that he was reasonable in his belief in his own mind that it was necessary. The Bill states also that this will take into account the state of mind of the occupant. Many people have an unusual state of mind. It concerns me that this Bill may give people who have an unusual state of mind carte blanche to take extreme measures against a person who is innocently and unintentionally on their property. I am not talking about a person who is in someone else's living room at 2.00 am without permission. I am talking about a person who goes onto someone else's front lawn to collect a tennis ball. I have given the example of how I mistakenly ended up being in someone else's backyard because I thought it was a home open. There are probably a million permutations of how a person can mistakenly and innocently end up being on someone else's property in the middle of the day and where on any objective test it is obvious that person is not involved in any wrongdoing. However, under this Bill, that person can then be beaten by a person who has an unusual state of mind. That is a disturbing development.

I support the intent of the Bill in allowing people to defend their property. I, like everyone else, do not want to be woken up at night by someone who is creeping around my lounge room. However, I am concerned that the wording of this Bill may allow people who are irrational or paranoid to grievously maim a child who has climbed over their fence to collect a tennis ball, or a person who has been guided by his wife to go into their backyard thinking they had a home open. The Government should reconsider the wording of this Bill to ensure that innocent people are not caught up in what most, if not all, people would support; namely, the right to be safe in their bed at night.

I agree with the member for Wagin. A lot of people are put in the position of having to defend themselves. They may be asleep in their bed at night, like the member for Dawesville, who said he wanted to be able to wrap a golf club around somebody else's head -

Mr Wiese: He actually said around their legs.

Mr McGOWAN: He might miss their legs in the middle of the night and clobber them over the head, thinking he was hitting a forehand; he is often telling me how good his forehand is. I am concerned that people a lot older than the member for Dawesville are put in a position where they need to defend themselves in their home. I expect that nine times out of 10, those elderly people will have the instrument with which they are defending themselves taken from them and used against them. The reason I disagree with the use of pepper spray is that a person who is assaulting or attempting to steal from an old lady can take it from her and use it against her. I am concerned about the philosophy of encouraging people to use defensive measures that may then be used against them. People should not be in a situation where they need to defend themselves at night. There was a philosophy in England that we should get tough not only on crime but also on the causes of crime. We need to investigate how we can prevent people from being in such a state of mind that they go into other people's homes in the middle of the night to steal from them. The member for Willagee has proposed a number of trial measures with regard to drug law reform that may go some way towards dealing with that situation. Until we take those measures, these things will continue to occur, because many of the people who break into someone else's home in the middle of the night do so because of a drug dependency, and it will be difficult to stop them doing that if we cannot also stop their drug dependency.

I have set out my concerns about this Bill. I am concerned that a child who has jumped somebody else's fence, or a person who is innocently in somebody else's backyard, may be subject to grievous harm. I am concerned that elderly people who go to bed with a golf iron next to their bed may have an offender use that golf iron against them. As a society we need to use better and smarter measures to stop crime before it begins, and to improve policing in our community.

MR CARPENTER (Willagee) [2.49 pm]: Members on this side of the House have made a decision to support this legislation; therefore I will not argue against it. However, I will raise a few issues. I am really concerned about how we got into this position in the first place and where we go from here. In my time in the Parliament, I have tried to point out that unless we address the underlying conditions that create these social problems, we will get nowhere. What has happened in our community is that over recent years we have allowed situations to develop to a point where members of the community demand the kinds of actions that we are now enacting in legislation. The sad fact is that we should never have got into this position. The other sad fact is that if we believe the Minister for Police, who regularly gets to his feet in this Parliament and tells us what a fantastic job his Government is doing on law and order and how the crime rates are tumbling, we do not need this legislation.

I will give an example in microcosm of the kind of circumstance about which I am talking. It emanates from my electorate and it is a matter that I have raised in this Chamber ad infinitum- , ad nauseam probably to everybody else; that is, the circumstances surrounding Hilton police station. In 1996, when I doorknocked every house in Hilton in the prelude to the 1996 election, law and order was not raised regularly or markedly as an issue. Many other issues were raised in Hilton, but law and order was not, in contrast with the frequency with which it was raised in suburbs like Willagee, Coolbellup and Hamilton Hill. Coincidentally perhaps, the only police station in the electorate was located in the heart of Hilton, and had been there for a long time.

It became apparent during 1996 that the Government intended to close the Hilton police station to help make way for the construction of the new Murdoch Police Station, even though the member representing that area had expressed in this Chamber a desire to see no police stations built in his electorate. Nevertheless, the police station was built. When I began a campaign in Hilton to try to change the Government's mind about closing Hilton police station, I raised the prospect of an increase in antisocial behaviour and crime in the suburb if the police station and the police presence were to disappear. I was given a personal assurance by senior members of the Police Force and by ministers in this Chamber that there was no intention to close the Hilton police station.

Mr Wiese: Would the member mind if I were to tell him exactly what the intention was while I was the minister?

Mr CARPENTER: No, I do not mind.

Mr Wiese: The intention while I was minister was to relocate it from its site, which had the station and a house alongside it - the house was used only for storage - into the shopping centre. I went into that shopping centre and looked at a potential site there. Therefore, the intention was not to remove it from Hilton but to relocate it to a more appropriate area in Hilton and a far more appropriate building, because the building the police were in was appalling.

Mr CARPENTER: It would have been a good outcome if it had been located in the Hilton shopping centre, because the centre provides better access to the main transport routes around the area. One of the problems is that the station was tucked away in Paget Street.

Two weekends ago I attended a public meeting in Hilton - the first public meeting that has been called in Hilton since I was elected. Lo and behold, what was the subject on everybody's lips? It was a rise in crime and antisocial behaviour and an absence of police resources. I was not the only member of this Chamber to attend that meeting. I think the Minister for Police was invited and passed up the opportunity, as did every other member of the Government. However, strangely enough, the member for Kimberley found his way to the meeting and made his presence felt, which was much appreciated by the people.

Mr McGowan: Did you appreciate it?

Mr CARPENTER: Yes, I did. Also, the upper House member for South Metropolitan Region, Hon Jim Scott, attended. Those members will verify what I am about to say. At that meeting, which was called because several hundred people had wanted a public meeting to address the issues of law and order, various points were put forward. The policeman in charge of the Fremantle police district, Jim Monteleone, was there, and he gave an explanation of why he had to close the Hilton police station. I found that very interesting, because I have here a letter from the current Minister for Police to constituents in my electorate, a thousand of whom from Hilton - some of them live directly across the road from the police station - petitioned this Parliament on two occasions for the reopening of the Hilton police station. The letter that this minister wrote back to those constituents reads, in part -

The Western Australia Police Service has advised me that the Hilton Police Station has not been closed.

I took up the point with the Minister for Police. He has not managed to confront the reality that the Hilton police station has been closed, and that is why the thousand people petitioned this Parliament. This Minister for Police, who is so well informed of his role, expressed the view to those petitioners - as I said, many of whom live, and have lived for up to 40 years, within a stone's throw of the police station - that they were incorrect and that the police station had not been closed; therefore, they had nothing to worry about. He went on to say in his missive to my constituents -

I am further advised that the level of resources in the Fremantle Police District is adequate to address the policing needs and concerns of the community.

That is why the thousand people in Hilton petitioned the Parliament and the 300 people attended a public meeting; that is, they were quite happy not only that the police station was open but also that the resourcing level of the police was adequate!

Since the closure of the Hilton police station which, for the minister's information, occurred some two years ago, there has been a marked and significant - and I mean significant - increase in antisocial behaviour and crime in the suburb of Hilton, which is exactly what I predicted would happen. The sad part about that is that all sorts of other tensions have risen to the surface in an otherwise peaceful suburb, and people are turning against each other over a whole range of issues, one of which is race. It is quite tragic that in the suburb of Hilton racial tension has risen to the surface. I congratulate the people who called the public meeting, and I must say that issue was dealt with adequately - I thought splendidly - at the meeting, which, incidentally, was chaired by the former deputy leader of the federal Liberal Party, Fred Chaney. He did an excellent job in chairing what could have been a very ugly meeting. In fact, he turned it into a positive experience for everybody who attended.

The point I make is that Governments can adversely affect issues, such as law and order and social issues, by their actions in the community - in this case, by the Government's negligent action and by the ignorance of the minister. It is tragic that that has happened.

The Minister for Police rises in this Chamber constantly on the issue of law and order. Yesterday he gave one of the most disgraceful performances of any Minister for Police that I have ever heard or that has been reported in any

Parliament anywhere when he asserted that the Labor Opposition in Western Australia was promoting prostitution as a legitimate career path for women in Western Australia. I have never heard such a disgraceful, pathetic exhibition from a Minister for Police, particularly in the circumstances which pertain in this State. Those circumstances were outlined by the same minister in a speech in this Parliament some time ago when he said that his advice from the Police Service was that around 3 000 prostitutes are now working in Perth, as opposed to a figure some five years ago, I think, of around 500 to 600. In other words, whether or not as a result of the policies of this Government, under the direction of this Government, prostitution in Western Australia has boomed. That is the legacy that the Minister for Police should be dealing with - the legacy of his own policy and his Government's responsibilities - rather than making those outrageous and ridiculous assertions that he made yesterday. In the speech in which the Minister for Police outlined the number of working prostitutes in Perth he also said that the police asserted that about 80 per cent of those prostitutes were on the streets of Perth to support a drug habit.

Mr Prince: That is an estimate.

Mr CARPENTER: I accept that figure because it is supported by anecdotal evidence. The Minister for Police continually rises to his feet to boast about his Government's performance in one issue; that is, government policies pertaining to the management of drugs in Western Australia. In the past five to 10 years in Western Australia there has been an explosion in illicit drug use, particularly opiates. The policies of this Government, not the policies of the Opposition, have been in place for the entire period. Those policies have led directly or indirectly to the explosion in prostitution in Western Australia. They have been inadequate to deal with the changed reality that the community now faces as opposed to what it faced in the late 1980s. In the words of the former Director of Public Prosecutions, John McKechnie, who is now a judge, the streets of Perth are awash with heroin. The same gentleman also said something along the lines that it was easier to get heroin in prison than to get candy for a baby. The coalition parties are in government. These circumstances have been allowed to grow and manifest under the direction of this Government. The majority of the prostitutes are women. What are the young male drug users doing if they are not prostituting themselves?

Mr Wiese: They certainly are.

Mr CARPENTER: Not so many men as women are prostituting themselves. The young male drug users are committing other crimes to feed their habits. They are breaking into people's houses, and bashing old women at automatic teller machines. The figure that came out in the estimates committee hearings was that about 70 per cent of male prisoners in Western Australia have a substance or drug abuse problem. We need to understand what is happening in the community. If we do not understand what is happening in the community we will never be able to resolve the issues that confront us. Punishment as a deterrent has some value, but it is not the answer. The European colonisation of Australia took place because of the massive amount of crime in Britain in the middle of the last century. The punishments meted out to those people, including my great-great-grandfather, who was a juvenile criminal, were terrible. They were sent to a place on the other side of the world from which there was no hope of returning. It did not deter them from committing the crime. They were committing the crime because of conditions that pertained in their society at the time. Unless we do something about that in the context of what we are doing here, we will not achieve much at all.

It is necessary for the Government to confront the circumstances honestly. We can walk and chew gum at the same time. We can have extremely powerful punishment measures. We can also take other steps to alleviate the causes of crime. Rather than make ridiculous assertions - as the Minister for Police has done so frequently - about the initiatives being put forward by the Opposition and other members of the community to try to address some of the social circumstances in Western Australia, the minister should open up his eyes and ears, and so should his Government. They should take on board some of the opinions that are being put around the place. It is a sad fact that the population of Western Australian prisons has more than doubled in the past two years. During the estimates committee hearings I put to Ministry of Justice officials that nowhere else in the world had there been such an explosion in prison numbers. However, I was assured that it had happened in other places. We can fit only so many people into our prisons. We can jail only so many people with these extreme punitive measures. We must be more sophisticated than that. We must put in place social and educative policies that will alleviate the amount of crime that is taking place.

The member for Wagin has pleasantly surprised me a couple of times in the time I have been in Parliament. I listened to his speech today and I did not disagree with a word in it. The potential tragedies that he outlined will occur. A fellow came into my electorate office last week. He is a reasonable, rational man, a businessman from a suburb in my electorate, who came in about an issue that was not related to the matter that we finally talked about. He told me about how he was bashed senseless outside his home a few years ago by three young men who were creating a disturbance in his backyard late on a wet night. He went outside and confronted them to defend his property. He was smacked over the head with a picket and sustained considerable injuries. He managed to make it inside. He told me, with some embarrassment, that he fully intended to load his gun and shoot someone, because in his state of mind at the time he had deemed that was the appropriate measure to defend himself and his property. He said that, fortunately for him, he was in such a state and bleeding that he slipped over in his house and knocked himself out, and by the time he came to the miscreants had disappeared and the opportunity to shoot someone had passed. That is the kind of potential this

legislation will open up here. I do not blame people in the community for demanding the sorts of laws that we are enacting here. I represent the kind of electorate in which these sorts of feelings run deeply. However, we should never have put ourselves in this position in the first place. We should be doing a lot of other things as a community to ensure that we are employed, educated and aware of our responsibilities as citizens so that these sort of extreme measures are not necessary. We should not be doing this. The Government is saying to people de facto: Fend for yourselves; take things into your own hands.

When a crime is being committed in Hilton, people must phone the Fremantle Police Station instead of phoning the police station that used to be located 100 yards up the road. However, no-one answers when they phone Fremantle. There were 20 000 unanswered calls to the Fremantle Police Station last year. Two weeks ago a shopkeeper in Paget Street, Hilton, caught someone trying to steal from his shop. He rang the Fremantle Police Station and was put on hold, because the person who answered the call could not take responsibility for what was happening. The shopkeeper eventually rang my office and asked for some assistance, by which time the person he had captured had taken off - luckily without injury to either party. The shopkeeper again telephoned the police station. The police officer apologised and said that he was the only officer there and there were six phones ringing. That is a simple problem that we need to fix. We can at least manage these circumstances when they arise rather than back off from our responsibility and tell the community that it can do what it can and when someone belts someone to death, or whatever, we will support that person with the weight of the law. It will happen. It has happened already in Bunbury. It will happen more frequently. It will be a tragedy. The Minister for Police and the other ministers in this Government must accept some degree of responsibility for the unfortunate circumstances occurring in the community right now.

MR MARLBOROUGH (Peel) [3.09 pm]: I will run through a short history of events in my electorate in the past 24 months or so and discuss why this legislation raises a great deal of concern about the type of society the Minister for Police and the Government will create. Some statistics have been provided to the House that boil down to this: The people serving time in our prisons are predominantly young men. More than 70 to 80 per cent of them are in prison due to a drug-related problem. There is also an overpopulation of Aboriginal people in the prison system. The other most telling statistic is that, in the main, they are under 24 years of age.

The minister should come clean about the Government's agenda to get rid of the gun laws in this State. This legislation provides the platform for any home owner to apply for and obtain a gun without much ado.

Mr Wiese: The firearms legislation specifically says self-defence is not a reason for having a firearm. People cannot get a firearm on that basis.

Mr MARLBOROUGH: If I were part of the gun lobby of America lobbying Governments in Australia to change their view, I would concentrate on Western Australia in the light of this legislation. It is the best legislation I have seen in support of a gun lobby.

Mr Prince: It is based on New South Wales Labor Government legislation.

Mr MARLBOROUGH: I do not care on which state legislation it is based. It provides that anyone can take whatever action is necessary to protect themselves. We will not only give them that power, but also broaden the area which they should be able to defend, by providing in proposed section 244(1)(a) that someone can use any force or do anything else that the occupant believes, on reasonable grounds, to be necessary to prevent a home invader from wrongfully entering the dwelling or surrounds. The Bill will cover action taken in areas such as front yards and backyards, garages, sheds, etc. I presume that includes a caravan on the block.

In the past five years, Homeswest has refurbished most of its properties in Kwinana, which has resulted in the Homeswest flats becoming strata titles. As part of that, additional dwellings, such as lockup garages and in some instances garages and storage areas, have been added to the properties. Although they are not immediately attached to the dwelling, they are within the land holdings of the property.

Mr Prince: That exercise was done by the best Minister for Housing you will ever know.

Mr MARLBOROUGH: About 30 or 40 metres from the two-storey blocks of units are garages and lock-up facilities. If I lived in one of the units and saw somebody break into my garage during the middle of the night I would be allowed to take whatever action I believed would be reasonably necessary to stop a person carrying out an offence. Point 3 of the explanatory notes reads -

... give an occupant the right to "use any force or do anything else that the occupant believes on reasonable grounds":

- in preventing a home invader from entering the dwelling or surrounds;
- cause a home invader to leave the dwelling or surrounds;
- to defend against violence by a home invader; or
- to prevent or cause a home invader from committing an offence.

Unlike some of my colleagues, and although people would like to be given greater protection from the law when protecting their property, the vast bulk of people want the means only to defend an attack on themselves.

Mr Prince: Yes.

Mr MARLBOROUGH: Most of the elderly people I know do not want to go outside their front doors even though they can hear somebody breaking into their car or making noises next door.

Mr Prince: Do you accept that a number of people go out to stop potential car thieves?

Mr MARLBOROUGH: I will come to those circumstances. I am concerned about the many other circumstances that apply to people outside their homes. I live with those circumstances in Kwinana. The Bill should start where it refers to people's ability to protect themselves from injury. The minister indicated by interjection that he agreed with my observation that the majority of people who have suffered home invasion and who may be angry and upset and want to see people locked away for a long time, want the right to defend themselves when they feel personally threatened or have been physically attacked. They do not necessarily want to be able to confront someone who came into their front room and walked out, while they were asleep in the house. We could therefore adequately meet the needs of the public demand in Western Australia by deleting from proposed section 24(1) paragraphs (a) and (b) and starting this Bill at paragraph (c) which reads -

- (c) to make effectual defence against violence used or threatened in relation to a person by a home invader who is -
 - (i) attempting to wrongfully enter the dwelling or an associated place;

The minister has already agreed that the vast number of people who concern themselves with this approach to law and order support the intent of the words from paragraph (c) onwards. What happens once we allow people to take the action described in paragraphs (a) and (b) in which the definition of a home widens to include the yard, a garage, sheds, etc?

To illustrate my point I turn now to events in Kwinana. For the past three years a group of youngsters known as the BMX Bandits have featured in the local newspaper. They are all Caucasian youngsters with an average age of 14. They have been into my office and indicated that they set themselves up as a gang because they were bored because they had nothing to do and they wanted to protect themselves from Aboriginal gangs.

In the past three years they have caused numerous problems in the area. For more than 18 months they have caused the Department of Transport to put security guards on buses. Transport workers have advised me, as the local member of Parliament, that they are within a smidgin of withdrawing all their labour for a bus service into Kwinana due to provocation by these young people. They are the cause of numerous problems on people's properties, including shopping centres and private abodes.

The BMX Bandits caused me, as the local member, to call a public meeting that was attended by approximately 200 people, including the police from the Fremantle district and a group of the bandits. The outcome of that public meeting was very interesting. A great deal of anger was directed at the kids, particularly by women in the audience who had been confronted and frightened by them in a house or backyard. Ultimately, it turned into a positive evening due to the actions of two local businessmen in the audience, one of whom owns an earthmoving company and who said he did not believe the solution was to act like vigilante groups with the kind of lynchmob mentality that was driving the audience. He felt the community could take steps to keep the youngsters occupied and that we should be attempting to do that. As a result of their statements we were able to put in place, with some degree of success - not as much as I would have liked - some community initiatives that these youngsters appreciated and which, one hopes, will help change their attitude to their position in the community in a positive way.

The meeting also highlighted the anger and frustration that was being felt in the community. I will tell members what happened to those youngsters - predominantly 14-year-old young men - out in the community as a result of this anger and frustration. There was evidence on video of a 14 year old being beaten to a pulp at the Mobil service station in Leda by a 40-year-old man, who I would say weighed about 18 stone. The sole reason for the beating, at eight o'clock at night, was that this youngster had dared to cycle through the service station - it was a favourite hang-out for the kids on their bikes - and some words were exchanged between the pair. He was subsequently ripped off the bike and beaten up. The police have laid charges and they have the video. More importantly, when these 14 year olds attended this public meeting they demanded their right to speak. They listened to everything that had been said and then demanded their right to speak.

Mr Shave: Very democratic.

Mr MARLBOROUGH: Yes, very democratic. A section of the audience did not want them to speak at all; they thought it was outrageous that I should allow them the opportunity to speak. After all, these were the scum of the earth; these were people who had broken windows, damaged their property, and in some instances done break and enters and so forth. I gave these kids the opportunity to speak, and the interaction that took place between them and the audience

was quite amazing. While they were attempting to speak they were being yelled down by the audience. In the toing-and-froing, pointing to a woman, a youngster said, "I know why you're yelling and screaming, it is your husband who wears a balaclava and chases us with a baseball bat and jumps in his four-wheel drive vehicle and tries to run us down on the path or on your front lawn. It is your group of husbands who stretched piano wire between two trees in the Leda reserve and knocked us off our bikes and nearly killed one of my mates." Unfortunately, that is the real world. No doubt this sort of action has been taken because the residents feel that the authorities should be implementing the present law. The present law is sufficient to enable them to apprehend any of these youngsters if they are caught offending, but the authorities and the Governments who are responsible for putting those resources in place do not have the resources upon which they can rely. In other words, whether the police, the Government, or we in opposition like it or not, the community in many instances has given up relying on the appropriate authorities to look after its best interests. The 20 000 unanswered calls at Fremantle Police Station are a measure of that; the 53 000 unanswered calls to police last year throughout the metropolitan area are another measure of that. People are taking the law into their own hands.

I can assure the minister that this legislation will legitimise many of the things that those adults at that public meeting were accused of doing. I am not saying the people individually committed those acts, but all of those events - such as the piano wire stretched between trees, the belting up of a 14 year old at the Mobil service station, the chasing by a vigilante group with balaclavas and baseball bats - are factual matters that had been raised with me as a member of Parliament before the meeting and that I knew were already in the hands of the police. In some instances charges had been laid, but not in all cases because they could not find the culprits.

If we went to the people in that audience and said, "Do you want to treat these 14 year olds who are causing you lots of grief and lots of problems in the way that has been demonstrated here tonight? Do you want to see piano wire used? Do you want to form yourselves into a group where you can wear balaclavas and beat them up with baseball bats?" we would find that they would not. They want the proper authoritative body, the police, to be there in sufficient numbers to secure their neighbourhood. Unfortunately, this legislation is a cover-up hiding the lack of government concern for those needs. We have all seen home invasions at a personal level.

I told this story some time last year: My mum is 76 years of age and lives on her own. At one o'clock in the morning someone broke into her back room; they could not get into the main house. She lives on her own - dad died nine years ago - but she was smart enough at one o'clock in the morning to speak as if my father was there" She said, "Joe, get this and get that; get the back door!" That was enough for those young 17 year olds; they bolted. The police came very quickly and eventually caught those young people in the street. They had put the bottles of bourbon they had stolen from the Newmarket Hotel neatly inside a green bin to be picked up after the home invasion, but they were caught by the proper authorities. I would have hated to see my mother try to defend herself physically. I do not know what the outcome would have been. I doubt that she would have come off better than by verbally using her wits and frightening the youngsters away from the place. That is what people want.

It concerns me that the minister drives law and order issues to an extreme position every time he gets his hands on them. I do not know whether that reflects his personal view. However, with his background as a lawyer in a small country town like Albany, I would have thought he would not be personally driven in that way. He has represented enough rogues in Albany in his role as a lawyer to know that there is a real world out there in the community that we should be living in, rather than creating an artificial set of circumstances under which the demands are so great that we no longer have a society in which we want to live. That is what this legislation does. Every time we give the minister legislation to draft, whether it be prostitution or in this instance home invasion, he goes overboard and takes it to the far extreme.

In my observation of the minister in this House, the only time he is able to make allowances in legislation is when it relates to his own activities. In his first few months in office he left the cabinet room, having been advised by the then Minister for Industrial Relations that the workers compensation legislation was about to change dramatically. Having got that first-hand information, the minister saw nothing wrong in ringing his legal firm in Albany to tell it to go to the court before four o'clock in the afternoon to register its 18 outstanding cases so that they would come under the provisions of the old legislation rather than the new because under the new legislation the people involved would be screwed. He had no difficulty with that, and he had no difficulty when as a minister he was caught - I am not putting any guilt on him - giving advice to his constituents to continue to invest with his mate Jamieson as a broker in Albany when he knew historically that he was a crook.

Mr Prince: That is not true. It was Albany Finance Ltd, not him.

Mr MARLBOROUGH: The minister certainly knew him.

Mr Prince: Of course I did. I represented the man.

Mr MARLBOROUGH: Exactly, so the minister knew what a crook he was, and there is no excuse for the minister.

Mr Prince: He had committed an offence, gone to court, pleaded guilty and been dealt with. If you do not have a prospect of making a mistake and getting on with your life, the whole system falls apart. The proposition from your side of politics is that if a person makes one mistake, that is it; he is jailed for life.

Mr MARLBOROUGH: No, the minister is supporting my proposition. That is exactly the point I am making with regard to his legislation. He has removed that from the home invasion legislation. He has removed the ability to make one mistake. He has removed the ability to be unintentionally in someone's backyard.

Mr Prince: Nonsense.

Mr MARLBOROUGH: Yes, he has. This legislation allows me, before it gets into the minister's or the court's hands, to take action on reasonable grounds. By the time it gets to the courts and the minister it is too late - the reasonable action has been taken. I could say that I thought it was reasonable at the time to shoot that person in my backyard, or I thought it was reasonable at the time to stab multiple times a 61-year-old man who was in my backyard with an 18-inch piece of white plastic conduit.

Mr Prince: The man who did that was convicted.

Mr MARLBOROUGH: Absolutely. However, by the time he was convicted it was too late. This legislation may convict him or it may not if he was reasonable in his view about the intention of the man in his backyard. I never read anything in the newspaper to indicate that the man with the plastic conduit was in his house. Under this legislation it would be reasonable to stab multiple times that 61-year-old man in that backyard who had an 18-inch piece of white plastic PVC pipe. Under this legislation it would be reasonable for me to assume that he would do massive damage with an 18-inch piece of plastic pipe and that at 61 years of age he was so physically aggressive that I was absolutely frightened of him. If I found myself in that position, why would this legislation find me guilty? The reality is that it probably will not find me guilty. However, the minister agrees with me. Even if those circumstances prevail, it is not what the public wants. The minister said that he had the same experience as I have, in that he talks to people who are concerned about home invasion and concerned about what goes on in their homes.

Mr Prince: And outside their homes.

Mr MARLBOROUGH: I will give the minister an example of the young people known as the BMX Bandits and the outside situation.

Mr Prince: I accept what you say with regard to elderly people.

Mr MARLBOROUGH: One of the traits of the 14-year-olds in the Kwinana-Leda area is to cause some mayhem at one house. These are nimble and fit 14-year-old kids who can climb a fence like a cat. Imagine if they cause a bit of mayhem in one house and somebody chases them over a few fences. By the time they get to the fourth fence somebody whacks them across the head with a baseball bat. This legislation will allow that. A defence for that person would be for him to say, "The kid was coming over my back fence and it was his intent to do damage to my property", when the intention of the 14-year-old was to get out as quickly as possible with no criminal intent. Under this legislation, when that 14-year-old is coming over the fourth fence at 10 or 11 o'clock at night in pitch darkness trying to get away from something he has done six houses away, it is reasonable for the person to assume that something will happen in his property.

This definition in the legislation would cover the circumstances I related earlier involving some strata titled units where the garage with lock-up facilities is 50 metres away. Someone may be breaking into the garage, which is nowhere near the house, and that person has not entered the home unit. It is reasonable to assume that the person is up to no good and before I go down there I reasonably assume I may be attacked, therefore I arm myself. I could go down there and a set of circumstances could result that neither party would want.

Mr Prince: I take it you will vote against the Bill?

Mr MARLBOROUGH: I may not be here to vote. I feel very strongly about where this Bill is taking us as a society and I question how we will vote.

Mr Shave: Why would you not be here to vote?

Mr MARLBOROUGH: There may be all sorts of reasons I will not be here to vote. However, somebody somewhere must take a stand on this nonsense, because it is a nonsense. This legislation is not about my fear as an individual and wanting to be protected. It is about legislation that plugs a loophole in the Government's mismanagement of law and order. The Government has no intention of putting into the community the correct number of police officers to offer the community the protection it deserves. The Government has failed miserably to adequately man the Police Force to provide satisfactory response times; 53 000 calls last year went unanswered. That figure came from the minister's report, not mine.

Mr Prince: Yes, I know. I asked the police to do something about it, they did and, lo and behold, the report was leaked!

Mr MARLBOROUGH: I suggest to the minister that the reason the police are leaking reports is that they have just about given up on him, as we have.

Mr Prince: No, they have not. There are more police per capita in this State than in any other State in Australia.

Mr MARLBOROUGH: Regardless of the way I vote on this matter, I assure the minister of something that will not change: None of the issues that we are concerned about that drive the present crime rate is addressed by this legislation. Greater lock-up time of individual young people does not work. The penalties attached to this legislation will be greater than that for many murders. A sentence of 18 years for home invasion does not include an attack on anybody; it is more for an attack.

Mr Prince: Yes, 20 years.

Mr MARLBOROUGH: Yes, 20 years, says the minister proudly. What is the minister going to do for murder?

Mr Wiese: If you fill them full of drugs, have your way with them and then kill them, you get 10 years.

Mr MARLBOROUGH: That is what I am saying. A home invasion without an attack on the individual is subject to 18 years. If we follow the line of the member for Wagin, what will the Government do for murder?

Mr Prince: Wilful murder has strict security life imprisonment and a person's eligibility for parole is looked at after 25 years, but that does not mean release.

Mr MARLBOROUGH: I have indicated clearly that this is poor legislation. At best, it should start at proposed section 244(3), which refers to the attack on the individual, not the home invasion and not the invasion of the broader property. The Government is starting to tread on very dangerous ground and is simply plugging holes. It is giving people their own power, because it has given up on policing it in the way it should be policed.

MRS ROBERTS (Midland) [3.41 pm]: I will highlight the Government's absolutely appalling record in dealing with the level of crime in this State. Nearly eight years ago, people in this State looked to the coalition Government to improve the level of crime in this State. Back then there was a lot of concern about crime; there were rallies and so forth and people were looking for a solution. Unfortunately, they could not have made a worse choice, because this Government has presided over dreadful crime rates. All we get in response from the Government is more propaganda and words. The words do not count for much if people's homes are broken into, if they are assaulted, if their cars are stolen, if their family members' lives are in jeopardy or if they must live in fear.

As part of the Government's response, it often pulls out sections of statistics and says that we have had a win here or there is a small improvement there. The only statistics that are worth looking at are the annual statistics. The most objective statistics one can look at are those provided by the Australian Bureau of Statistics. In its most recent recorded crime report, which it puts out every year - this one was released on 28 June 2000 and reported on recorded crime in Australia until 1999 - it concluded that for unlawful entry with intent, Western Australia recorded the highest victimisation rate of 2 998 victims per 100 000 persons. This was followed by Tasmania with 2 612 victims per 100 000 persons. It points out that the lowest rates were recorded in Victoria and Queensland, with rates of 1 619 and 2 113 per 100 000 persons respectively. The rate in Victoria is more than 1 000 victims fewer per 100 000 persons than the rate in this State. The rate in this State is nothing short of a disgrace. Over its two terms in office, the Government has failed to address the dreadful situation of home burglaries. No wonder people are sick and tired of this Government. The report also notes that the highest victimisation rate for other theft was recorded in Western Australia with a rate of 4 238 victims per 100 000 persons, followed by South Australia with a slightly lesser rate. It also records an increase in sexual assaults in this State.

It is very sad news that this Government has done very little to address Western Australia's position on these disturbing crimes, which occur at incredible rates. It is worth noting that these are just the recorded offences. Other offences occur, but they go unreported. Information is available on what people speculate to be the rate of unreported crimes in various categories. Rather than just the rate of home burglary, which is the highest in Australia, it is worth noting the sheer number of unlawful entries with intent that took place in Western Australia during 1999. The raw figure was 55 793. Nearly 56 000 homes or premises were broken into in one year. That is a disgrace. It is interesting to compare it with South Australia, which had 33 974 break-ins. Some of the bigger States have higher raw figures, but they also have three and four times the population.

On the statistics and some of the rhetoric that has been coming from the Government on issues such as home invasions and the like, I have received several emails from Thomas Lawson, who wrote the book *Justice on the Edge*. He is quite a scholar when it comes to these matters. I also note that he is someone from a conservative political background. That is his natural inclination and he has said that many times. He is desperate because he cannot get through to this Government. He has tried on numerous occasions and it is like water off a duck's back to the Government. In one of his emails dated 15 July, of which he sent me a copy, he pointed out that Commissioner Matthews had made some misleading statements and he itemised three of them. He says -

First, he said that "WA already has a high ratio of police to population". This is true: in relation to population we have 22% more police than the average of the Eastern States.

It is also irrelevant. The police do not deal with the overall population. They deal primarily with victims and offenders.

Second, Commissioner Matthews stated that “West Australians have an exaggerated fear of crime which is not justified by the numbers”.

Mr Lawson points out that the Western Australian rate for crimes against persons is 31 per cent higher than the average of the eastern States. He continues -

Our property crime rate is 50% higher. The combined crime rate is 47% higher which means that our police are at least 20% more loaded than their counterparts in the East. In relation to area we have 1/6 as many police.

The six in that fraction favours the eastern States because of their smaller land areas. Mr Lawson continues -

My estimate is that the workload of our police is at least 30% higher than that of their eastern counterparts.

The third misleading statement was the Commissioner’s dismissive remark about “the detective who threw away his suit because of a few drops of blood”. He implied that a reasonable person would have had it dry-cleaned.

This of course was following on from the police union conference. Mr Lawson goes on to say -

The detective had to deal with the corpse of a female murder victim. It had been rotting for 10 days. I made some enquiries and found no commercial dry-cleaner agency willing to accept such a job.

In any event, it was not a suit - he wore tee-shirt and jeans.

In another of Mr Lawson’s emails dated 2 August, he writes -

In a counterattack against the Australian Democrats both the Premier and the Minister for Police have asserted that crime rates are falling.

They should have said crime rates were falling.

The claim was based on the change from 1997/98 to 1998/99. There were small decreases in most categories. This may explain why, for the first time in fifteen years, the WA Police Service included crime statistics in the WAPS Annual Report. WAPS then went on to post crime stats on the website. I am told that the top brass are now very unhappy about this.

The best way to see trends in monthly figures is to calculate Moving Annual Totals. This allows us to compare, say, twelve months to April 2000 with the same twelve months to April 1999.

Property crime is the key issue and is the focus of the Bill under debate. Mr Lawson continues -

Australia has the highest rate in the developed world, and the WA rate is 50% higher than the eastern states.

Those statistics are remarkable. Mr Lawson advises that Australia has the highest property crime rate in the developed world. That is a pretty damning figure in itself; however, Western Australia’s rate is 50 per cent higher than that in the eastern States. Mr Lawson backs up his argument as follows -

From 1968/69 to 1991/92:

Commercial burglary went up threefold

Car theft went up fivefold

Domestic burglary went up sevenfold.

Since 1991/92:

Car theft has declined 20%, thanks to immobilizers

Commercial burglary went down by 35% by 1998/99

Domestic burglary went up by almost 40%, then declined to about 19% by October 1999.

Starting in July 1999 commercial burglary turned up, and has increased every month to May 2000, the latest figures available. The rate of increase is about 16%.

Starting in October 1999 domestic burglary turned up from 18% to 25% above the appalling rates at the beginning of the current series in 91/92. This is an annual rate again of about 16%.

Mr Lawson states -

I am sure the Premier and the minister believed what they were saying. It merely reflects the sad state of criminal justice statistics in WA.

Mr Lawson is kinder than most in that regard. He outlines that he has a full analysis of the statistics on his website, <http://www.ditpublishing.com/justice/frames/index.html>. He keeps those statistics up to date. That email outlines the statistical basis for the dreadful performance of this Government, which has not offered much at all by way of solutions

during the past eight years. It has had a late run on some legislation so it can portray itself, at long last, as a Government that is doing something to assist people in the difficulties they face. It is too little, too late. As others have pointed out, this Government has done little, if anything, to address the causes of crime. It has failed repeatedly in that area, despite some excellent research forwarded to it and the enormous number of complaints made in the community.

The community is in dire straits. I receive complaints in my office almost every day of the week concerning the appalling state of crime in Western Australia. For example, people often send me bits and pieces from newspapers. Most local papers print crime figures every week or so, and people send me a bundle of papers. I have a batch with me from the *Eastern Suburbs Reporter*. A person, who has chosen to remain anonymous, writes -

. . . a weekly menu of crime which will be reported next week and the week after and so on. The crims know that there is no Police Force but now a Police "Service" and of course Delta. The residents must learn that they are now "Customers" with no service.

That is the kind of frustration people in the community feel about crime. They feel helpless. Each week there are more break-ins. They are relentless. According to Mr Lawson we suffer under some of the most horrendous home burglary rates in the world, let alone in Australia. I repeatedly receive complaints about police responses. Apart from not addressing the causes of crime, this Government has starved our Police Service of resources. The Government has left numerous key posts unfilled and not provided the resources needed at the operational level. An article in *The Geraldton Guardian* of 11 September by Mike Marren entitled "Police response time under fire" reads -

Geraldton police have been criticised for taking 40 minutes to answer a call for help from a couple whose car was being broken into by a gang of youths.

The couple, Dave and Brenda Burrows, said they were forced to look on helplessly as eight youths damaged the vehicle parked outside their unit in Spalding.

Mr Burrows said the youths were eventually scared off by a passing motorist who shone his headlights on them, but he was concerned that the situation could have been a lot worse.

The accusations, however, have been rejected by Geraldton police who claim the situation was not as serious as portrayed by Mr Burrows. . .

During an interview with *The Geraldton Guardian*, Mr Burrows recounted the events of Wednesday, August 30, as a personal example of the lack of police resources in Geraldton.

He said his wife rang the police at 9.25 pm to report the incident but was told that only two cars were available and both were attending a violent domestic incident at a caravan park in Dongara.

"Luckily in the meantime another person came around the corner and hit them with the headlights and they scattered," Mr Burrows said.

"But we were helpless to do anything except watch them. In the end they didn't get into the car because they were disturbed but there was damage to the passenger door.

"The situation is just not good enough. Either they haven't got enough resources or there is a major problem with managing the ones they have got."

Sgt Phil Nicholls, of Geraldton police, said the cars had been attending another incident at a caravan park near Greenough River, not Dongara, and it was deemed at the time to be of greater priority.

"Having said that there is no question that if a situation had arisen that required urgent attention it would be attended immediately either by bringing one vehicle back earlier or other staff back on duty," Sgt Nicholls said.

I wonder how long it would take to get other officers back on duty, into a vehicle and despatched to the scene of a crime. What ill fortune could have befallen the Burrows, or other people in a similar situation? The message is that eight youths attacking a car outside the owner's home is not a priority - the police have more important things to do. It is important that we have sufficient police officers to be able to respond to such situations, which require fairly immediate attention.

Total despondency is felt in the community about the ever-escalating crime rates, and the fact that Western Australia has high crime rates, with more home burglaries than anywhere else in Australia. That should not be the case. With a smaller population, a greater potential exists for lower crime rates here than in places like Victoria and New South Wales. The reverse is true.

The Government's mishandling of law and order has done nothing in eight years to turn around crime levels in our community, has not dealt with the causes of crime, and has starved police of operational resources. The unfilled police positions at various locations have had a number of sad effects. One of the saddest consequences of this litany of failures is that police officers are becoming very despondent. Morale in the Police Service has never been lower. I was disturbed to receive an email from a police officer dated 24 August 2000, which reads -

I am writing this e-mail to you as I feel I can no longer keep my tongue on this issue any longer. . . .

I am a 10yr serving Police Officer now stationed in the country, I have wanted to be a Police Officer for as long as I can remember and I wish to remain so but it is now becoming very difficult to do so.

In all my service I have never found it to be so short staffed, the work load is now double of that when I joined, this is (despite what the public is told) due to a steady increase in crime which is being reported and also a marked increase in the amount of paperwork required to be completed by Police. This is despite the "advances" in computers that have been taken. The new system is so slow, sometimes it would almost be quicker to drive to Perth to get the information.

At my station alone it has become very difficult to follow through correctly on inquiries due to a lack of staff and resources. To put it simply we do not have enough officers to cover the required shifts through the week and weekends. Quite often officers are working alone, this practice is not only dangerous it also has serious consequences in relation to corroboration of evidence in court.

I am not talking about more staff to make the job easier, it will never be easy, we are talking about managing satisfactory staffing levels to enable proper coverage of shifts and investigations. This lack of staff is also affecting the ability of officers to undergo training and to clear annual and long service leave.

I know there is no quick fix solution, but I feel that people like yourself need to hear more from rank and file officers like me, not misinformation from the administration on the sixth floor.

I also know that if you were to raise any of the issues I have mentioned, it would be quickly dismissed with meaningless facts and figures and as another "disgruntled" Police Officer who would be better off resigning. Yes I am disgruntled and slightly disillusioned but I have committed myself to this vocation, (as teachers and Nurses do to theirs) and I will continue, despite the stresses and restraints placed on me to do the best job that I can.

I appreciate the time you have taken to read this.

Debate adjourned, pursuant to standing orders.

LAND ADMINISTRATION AMENDMENT BILL 2000

Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

METROPOLITAN REGION TOWN PLANNING SCHEME AMENDMENT BILL 2000

Receipt and First Reading

Bill received from the Council; and, on motion by Ms MacTiernan, read a first time.

Second Reading

MS MacTIERNAN (Armadale) [4.02 pm]: I move -

That the Bill be now read a second time.

This Bill was originally introduced by Hon Norm Kelly MLC as the Metropolitan Region Town Planning Scheme Amendment Bill 1998 on Tuesday, 18 August 1998. One year later, after prorogation of Parliament, the Bill was reintroduced on 18 August 1999. Unfortunately, due to the lack of opportunity provided to debate non-government Bills in the Legislative Council, this Bill also lapsed upon the prorogation of Parliament. Now, two years from the initial introduction of this planning reform, which remains unchanged from the earlier two Bills, except for the obvious change of year in the Bill's title, the Bill has been debated and passed through the Legislative Council and I am pleased to have the opportunity to now introduce it in this House.

The purpose of this Bill is to amend the Metropolitan Region Town Planning Scheme Act 1959 to allow for partial disallowance of omnibus amendments to the metropolitan region scheme.

Section 33 of the Act deals with amendments to the MRS. Subsection (1) allows for amendments to the original scheme, while subsection (4) provides for amendments to the MRS to be disallowed by Parliament. Importantly, section 33A allows for amendments not considered to be substantial alterations to the scheme to bypass section 33 provisions. It has been the Government's policy over recent years to introduce omnibus amendments and to make them subject to the disallowance procedures stipulated in section 33(4) of the Act. These omnibus amendments are a compilation of minor amendments to the MRS. Often these minor amendments would otherwise be regarded as not being substantial under section 33A of the Act and, as a result, not subject to parliamentary scrutiny.

The Opposition supports the Government's policy of putting forward minor amendment proposals as part of an omnibus instrument. This policy ensures that otherwise minor, non-contentious amendments are tabled in Parliament. Members on this side will continue to support this policy to ensure that all amendments to the MRS are brought before the

Parliament to undergo parliamentary scrutiny. Although the Opposition supports this process of tabling and scrutiny of amendments, it is the intention with this Bill to overcome the current situation whereby each House of Parliament is presented with an option to either allow or disallow all proposals contained within an omnibus amendment. This “all-or-nothing” approach is not in the best interests of proper planning practices and impedes Parliament’s role in scrutinising such amendments.

It is the view of the current Attorney General, Peter Foss QC, that under the Metropolitan Region Town Planning Scheme Act 1959 a partial disallowance is not permitted. This view has been enforced in the rulings of the President of the Legislative Council. I think that view is wrong. The terms of the Act allow for the disallowance of an amendment to the metropolitan region scheme and this can properly be interpreted as any of the constituent amendments contained in an omnibus instrument. The Attorney believes the word “amendment” means “instrument”. However, there is nothing in the Act to support that interpretation. Given this restrictive interpretation, members have the difficulty of considering the possible merit of disallowing a single proposal within an omnibus amendment against the impact that such a disallowance would have on other worthy proposals contained within the same instrument. The effect is that, no matter which way members vote, and therefore whether a disallowance motion is supported or opposed, the result remains a win-loss situation. This Bill intends to change that to a win-win position.

Omnibus amendments can be an extremely costly process and disallowance should not be taken lightly. However, it would be negligent of the Parliament, particularly the Legislative Council in its role as a House of Review, to support passage of an MRS omnibus amendment if any of the proposals contained therein were deemed worthy of disallowance. Those fearful that the possibility of partial disallowance of an omnibus amendment may encourage the occurrence of more frequent disallowances need to balance that possibility against the danger of an entire omnibus amendment being thrown out after much time and expense due to a single contentious proposal within that omnibus amendment which was judged to be worthy of disallowance. That has already occurred. A number of amendments before the House illustrate the case in point and, indeed, will be subject to debate in the Legislative Council over the next few weeks.

The Bill will allow for the disallowance of either the whole of the amending instrument or any constituent part of the amendment by deleting anything from it. The Bill also makes a change in the number of sitting days in which a disallowance motion can be moved. The current period is 12 sitting days from the date the amendment is tabled in Parliament, but this Bill will extend that period to 14 sitting days to bring this procedure into line with the period allowed under the Interpretation Act 1984 for moving disallowance motions of tabled regulations. Having the same disallowance period for both Acts will lessen the possibility of confusion for members, the public and parliamentary staff. I commend the Bill to the House.

Debate adjourned, on motion by Mr Kobelke.

NURSING SHORTAGES, REPORTS

Motion

MS McHALE (Thornlie) [4.10 pm]: I move -

That this House notes with concern the revelations that at least six reports have been conducted by or on behalf of the Health Department examining the nursing shortage including difficulties in retaining experienced nurses and calls upon the Minister for Health to explain -

- (a) why the Minister or the Minister's agencies have not acted upon these recommendations;
- (b) what the Minister intends to do with these reports and recommendations; and
- (c) why the Minister has commissioned a further very expensive review when in reality answers and solutions exist even though the political will to implement them does not.

We know that up to six reports on the nurse shortage have been conducted by or on behalf of the Health Department of Western Australia or various agencies, yet it appears that the situation with nurse numbers is worsening as the months, if not the years, go by. The Minister for Health has now commissioned a further study, at considerable cost. The concern of members on this side of the House, those who work in the health profession and the Australian Nursing Federation is that we already have a body of knowledge and recommendations, all of which indicate why nurses are leaving the nursing profession and why there is a shortage of nurses. Why do we need a further study into the nurse shortage when no practical action appears to have been taken on the recommendations of those previous reports? No doubt the minister will tell the House it is not the case that no action has been taken. I would welcome the minister’s telling us what action has been taken and, more importantly, what has been the effect of that action in increasing or maintaining the number of nurses.

Mr Day: I will do that. Can you tell us whether you support this new study which is under way?

Ms McHALE: The minister may recall that my comment at the time was that I was surprised the minister believed it was necessary to conduct another review, because I was aware of at least one or two reports; I was not aware there were six.

Mr Day: So you do not support it?

Ms McHALE: I question the need for it. Let me be honest. It is not a question of supporting it or not supporting it.

Mr Day: Do you think it should go ahead? If you were in government, would you continue with it?

Ms McHALE: I would look closely at spending about \$300 000 on another report. I would probably look at the recommendations of those six reports and see what has been done to implement those recommendations, because those reports were very thorough, and I would then determine whether the review should go ahead. At this stage, until I have had the privilege and opportunity of looking at those reports and at what has happened or not happened, it would be premature to make a statement.

Mr Day: A lot of nurses in this State would be interested to hear what you just said.

Ms McHALE: Nurses are keen to know why the previous recommendations have not been implemented. Let us not get sidetracked by whether I do or do not support the review. The fact is that a significant number of reports have been done, each at considerable expense, yet the nurse shortage is worsening. I will outline some of the findings of the previous reports, and the practical effects of not addressing the nurse shortage in our health system, because we have example after example of how the nurse shortage is causing real problems for the operation of our hospitals and for community health.

The reasons that nurses leave the nursing profession are varied and range from pay and conditions to management styles, the availability of different patterns of hours, and training and postgraduate training of nursing staff. It is interesting that when the minister announced the review, the ANF supported that review. However, the ANF now believes that to some extent it was duped, because it was not made aware of those previous reports; and now that the ANF has found out about those previous reports, which it believes are gathering dust, it is questioning the need for a further review. It is not difficult, therefore, to understand why the ANF is saying that the State Government has been sitting on these reports for up to three years, while the nurse crisis has been worsening.

A report on the modalities of nursing care and retention of nursing staff at Royal Perth Hospital was compiled in February 2000. The report states that as at December 1999, the vacancy rate for registered nurses was around 6 per cent of the nursing establishment at Royal Perth Hospital, which is 81 full-time equivalents. When this study was done, the nurses expressed concerns about staff morale, leadership, empowerment and organisational culture, and more global issues pertinent to the satisfaction of nurses in their workplace. It can be seen from that report that the driving force is not necessarily pay but factors such as organisational culture, management style, and whether nurses feel empowered or disempowered in the control and management of their time in the workplace. To a large extent, therefore, many of the issues that impact on nurses' job satisfaction are industrial relations issues, as well as the culture and climate of the organisation in which they work.

The study indicates that the Wellington Street campus of RPH has a high staff turnover and at times is unable to retain its senior nursing staff. Burnout is a real issue in the culture at RPH. Obviously the Wellington Street campus is distinct from the Shenton Park campus, which was the point of comparison. The Wellington Street campus is for very sick and seriously injured patients. That places great pressure on the nurses at that hospital, and it calls for a response that may be different from the response that is required at other hospitals. Therefore, what we need in our health system is a flexible environment that can respond to the different pressures that are faced by nurses in the different institutions. The expression "one size fits all" does not work for our hospital and health system. What we need, and what we have not seen under the current management, is the ability to be more flexible in dealing with the needs of nurses.

Another study to evaluate graduate nurses was conducted in the public sector only a few months ago in June. This looks at a smaller population of nurses; that of graduating nurses. It is a fairly specific research population and is not necessarily representative of the whole of the nursing population. From this study we know that nurses have raised concerns about the lack of clinical experience during their studies, the inadequacies in the graduate program, particularly the high patient loads, lack of access to preceptors or mentors, and the attitudes of other nurses. The recommendations in that report included screening for suitable supervisors, training for preceptors, better access for graduate nurses to the preceptors, and workloads for graduate nurses that allow enough time to study.

The graduate nurses who are being employed in the health system are given a workload that would be comparable to that of a more experienced nurse. However, they do not yet have the skills and expertise of someone who had been in the system for two or three years to deal with a full caseload. However, the pressure on the nursing staff because of a shortage of nurses results in first-year graduate nurses being put into situations that many find untenable. The situation puts undue pressure on graduate nurses, many of whom respond by leaving. We are losing not only our experienced nurses but also those who have gone through three or four years of training only to find that the support mechanisms do not exist in the system that will enable them to cope with acute and sick patients so they exit the work force. We need to address that sort of thing. The research about the pressures on nurses has already been done, and recommendations have been made. However, nurses feel that those recommendations are not being acted upon.

In November 1998, Edith Cowan University carried out a further labour force study of junior registered nurses. It looked at the factors that would encourage nurses to stay in nursing and that would attract back into nursing nurses who

had left. Those factors were increased pay, increased staff levels to reduce workloads, less job-related stress and more training opportunities. We also find with training that clinical nurses who had been allocated training time as an official part of their job description are being put back onto the ward floor. The training element of their job description is not being addressed; it is being severely eroded. Worse still, they often have two jobs - one as full time clinical nurse and one as nurse educator. Nurses cannot carry out two full-time positions in one. Because of the pressures and the lack of experienced nurses, those specialist nurses with a particular function are being used on the wards. Their function as a trainer and educator is not being utilised. That study of junior registered nurses found that the main issues which would influence existing staff to leave, and which had influenced respondents who had already left the profession, were the work environment, pay levels, work-related stress and staff shortages. Obviously an inverse correlation exists between those things that will encourage people to stay in the system and those forces that drive nurses out.

It is interesting to look at the findings of that study, which should be of concern to those who develop policy in health and, more importantly, try to manage the health system. The findings are that for one reason or another junior registered nurses view nursing as a short-term career. They no longer have the view that they will be in nursing for the long haul. Junior nurses feel they are underpaid for the work they do. That is not a surprising finding given the antecedents of that study. Work-related stress and staff shortages are key factors that would influence a decision to leave nursing. Increased staff levels to reduce workload and provide less stress in the job rated in the top three factors that would retain nurses. Nurses have indicated that they would like to continue nursing after starting a family. However, the downside is that this is dependent on the suitability of hours offered to them. The study found that 57 per cent felt they would be in nursing for another five years; in other words, 43 per cent would leave the nursing profession as a career after five years. Only 31 per cent felt that they would still be in the profession after a decade. The study showed that 69 per cent of all the junior nurses in this cohort did not see that they would be in nursing after 10 years. When one calculates the costs involved in training our nursing staff as undergraduates and as postgraduate first, second and third year nurses and factors in the opportunities lost through these nurses leaving after 10 years, one can see what a huge cost we are incurring by ignoring the recommendations contained in these studies - as the Government appears to have done. We can build on those opportunities with some better management practices and greater flexibility.

The next study the Australian Nursing Federation became aware of was conducted by Donovan Research to assist the development of nursing as a career. This is an interesting study that was conducted among secondary students in years 10 to 12. This study tried to measure the attitudes and perceptions of students of nurses and nursing as a career. This is important when we consider the strategies that Governments are implementing such as offering scholarships, particularly in rural and remote areas of our State, to attract high school students to health services as a career. It is important to understand how students see nursing as a career. They view nursing as a low status, subservient occupation. It is seen as a menial occupation and hard and tiring work. Members should remember that these are the perceptions of nursing of years 10, 11 and 12 students. They view nursing as a lowly paid and boring job. They feel that nurses do not get much credit for what they do, and nurses are caring, patient, selfless and noble. Those perceptions were about nursing as a career. The research also dealt with students' perceptions of nurses. They feel that nursing is a career for women and that nurses are healthy, strong, robust and physically fit. They feel that nurses like helping others. I reinforce that these are the students' views of nurses, and I do not necessarily agree with their comments. However, it is interesting to see how nurses are portrayed. The students see nurses as meek and mild when young, and fearsome when older. They say that nurses have no life.

Mr Day: There are matrons around the place like that.

Ms McHALE: Some matrons would scare the living daylights out of many of us.

The students say that nurses are emotionally strong.

It is interesting that the image of nursing is that of a female-dominated occupation. In reality, it is. Nurses are seen to be underpaid, overworked, and as having no life. Nursing is not seen as a career that young people want. A lot of work must be done to change that image and the stereotyping of nurses. The push toward the university training of nurses and of establishing professional pay rates in the late 1980s and early 1990s was, in part, trying to change the Florence Nightingale image of nursing to one that puts it very clearly where it should be. It should be a profession that is on a par with other allied health professions. It should be on a par with the respect given to other clinical staff in the hospital system. The report shows that a lot of work must be done to address the stereotypical image of nursing by young people at a point in their lives where they are making decisions about their careers.

The final report I want to refer to today was conducted by Nexus Strategic Solutions on behalf of the Health Department during December 1999 - it is still relatively new - into attraction and retention rates for nurses. It is a final report of an extensive study that looked at the retention of nursing staff in country areas throughout the State. The report made a series of recommendations in respect of future strategies. It recommended -

That decision-making structures within health services recognise and value the professional clinical input of nurses.

A classic example of that not happening was the abolition of the position of director of nursing at King Edward Memorial Hospital and Princess Margaret Hospital for Children. If the clinical and professional input of nursing staff is

to be valued, why on earth would the position of director of nursing be abolished at the State's women's and children's hospitals? It further recommends -

That the nurse practitioner be recognised as an integral part of a career in clinical nursing.

I am pleased to see that the Government has committed itself to nurse practitioners. We are yet to see the legislation that will allow nurse practitioners to operate in areas where they need to. The Government has committed itself to nurse practitioners. The Opposition welcomes it and wants to see it implemented. The report continues -

That the amount of time nurses spend on non nursing duties is minimised.

That nurses have the opportunity to develop a structured career plan.

Improve the balance between working life and personal life.

It is extraordinarily difficult to achieve a balance between work and family commitments. Most women face full-time work and full-time domestic duties. Women have a double burden of care. Employers should work harder to see how they can facilitate the working lives of nurses, most of whom are women. Many nurses leave work in order to have children and then want to return to work at a later date. They believe they have enormous skills and expertise to offer, but they also have family responsibilities. There is yet to be an arrangement where the opportunities for part-time work for nursing staff are maximised. It is possible to do that. It may not be easy due to the rostering arrangements but the problem has been known for many years. It is incumbent upon a good Government that takes work and family matters seriously to ensure that better arrangements can be made.

I find it extraordinary when I hear of cases of nurses applying for annual leave but who are told that they can have only a week or 10 days at most because they cannot be replaced. This can happen many times. Many nurses react by telling employers that if they cannot get annual leave they will resign as they are so stressed and burnt out. They will then work on a casual basis for an agency so they can choose their own hours. One may say that is their choice. We must stop and think about the consequences for our health system. One consequence is that the system loses years of nursing experience. Very qualified and competent nurses are burning out and being lost to the system. Many go to the private system or leave nursing altogether. Better ways must be found of arranging working hours so that nurses who want to combine working and family lives can do so. Not all nurses need to, but many do. Many nurses find that the system and culture of the health system is alien to combining family and working lives. The solution does not lie solely with the Government or government policies. The real issue is to change the culture of the management of the health industry and the way nurses are treated. There are various levels at which the cultural change needs to be effected. I do not think that change is happening quickly enough. It is not an issue that has just come onto the agenda; it has been around for many years.

The Nexus report also discussed the need to clarify lines of accountability and responsibility so that nurses clearly know what are their functions and responsibilities. The report also calls for improved accommodation in rural areas. It is a critical need. I can hear the minister's response: That the Government has done such and such in Fitzroy Crossing, for example. If it has been done it is a good thing. Accommodation in rural areas needs to be upgraded at an accelerated rate. The minister and I know that the accommodation in some of the more remote areas of the State is absolutely appalling. There is no argument about that. I see the former Minister for Health nodding his head in agreement. It is a question of funding, but if it is not done we will lose the nursing staff and not be able to replace them. The solutions exist and must be put into effect.

The Nexus report also recommended -

Improved transport and communication facilities in rural areas.

Structured graduate programmes with monitoring and evaluation to be given priority.

If all the reports were summarised one would have the main points under the following headings: Greater flexibility of hours; reconsideration of pay; the provision of on-site, affordable child care - I know that is a claim that has been made by the Australian Nursing Federation - part-time work; changing the shift options; the need for further training; and further autonomy in the workplace. For each of the points there is a counterpoint that explains why nurses are leaving the workforce: Family responsibilities; increased workload; pay; the perceived lack of career opportunities; inflexible rostering arrangements; the restructuring of the health service; and the inability to work preferred hours.

The nurses themselves have pointed to those driving forces. The health service restructuring deserves specific mention, because the nurses are seeing one review after another and one restructure after another without perceived gains. Staff will tolerate restructures if there is a perceived plan and if there are outcomes that will benefit the delivery of services. They will not tolerate restructure without purpose, as they have been experiencing.

One of the complaints of the nurses is that none of the positions on the Metropolitan Health Service Board is explicitly for a nurse. A nurse may well be on the board by virtue of her experience, but where is the evidence of valuing the clinical input of nurses? The Director of Nursing position at Princess Margaret Hospital for Children and King Edward Memorial Hospital has also been abolished, and nurses feel there is no formal opportunity to take a clear and active role in providing clinical input.

The minister, in his justification for the current review, said that all the independent reports do not add up to the whole. I just wonder where the gap is. Graduate nurses, junior nurses, experienced nurses at Royal Perth Hospital, and students have all been surveyed, and nursing staff have again been surveyed and researched in the Nexus Strategic Solutions report. I am interested in hearing from the minister where the gaps are, because collectively, in these findings, a body of knowledge exists that gives great insight into what is going wrong, and paints a comprehensive picture of what a good Government needs to do to attract nurses back into the profession. While these various reports might be described as the building bricks, I do not know if any bricks are missing.

In Western Australia the profession has actually expanded, from 24 697 in 1993 to 26 128 in 1999. It is not a question of students not entering the profession, because the number of people going into nursing has not diminished, and the number of registered nurses has increased. What is more worrying is that, notwithstanding the fact that Western Australia is one of the few States where the number of registered nurses has increased, the number of working nurses has decreased. That puts Western Australia into a different category, and we must look at other factors leading to the loss of nurses from the profession. In the view of the Opposition, these factors range across systemic and organisational problems, the ideology of the Government, and the climate in which nurses must work. This Government has failed to address these factors. A Government must have a commitment and a will to deal with those areas, and this Government lacks that.

I finish my contribution to this debate by dealing with some of the practical difficulties that the shortage of nurses is creating. The first, raised in *The West Australian* a couple of days ago, is the enormous increase in the number of pressure ulcers suffered by patients. I went last night to the launch of the Nurses' Charitable Trust, which replaces the Nurses' Memorial Centre. Two papers were presented by nurses from Fremantle Hospital, who had received a modest grant to undertake research into the incidence of pressure ulcers. Pressure ulcers are formed on the body as a result of the body being stationary in bed for unacceptable periods. The cost to the national health system of pressure ulcers is in the region of \$350m. Secondary complications can result, and if an ulcer reaches stage four or beyond, it can become badly infected, and the patient can contract septicaemia and die. About 60 000 patients nationally suffer from pressure ulcers, which can be avoided or at least reduced by proper care. On Monday we learnt that the shortage of nurses in public hospitals may be contributing to a surprising number of patients contracting pressure ulcers, according to a vascular surgeon, Professor Stacey. He said more than 25 per cent of patients in public teaching hospitals had pressure ulcers, more than double the predicted rate. Pressure ulcers or bed sores result from excessive or prolonged pressure on the skin. The surveys he is referring to are the same ones, I believe, that were referred to in the papers presented last night. One of the difficulties is a lack of knowledge of pressure ulcer prevention. He says, in passing, that most hospitals are having difficulty getting nurses. A shortage of nurses means less time is available for the sort of action that prevents pressure ulcers. The easier things get dropped off. When the nurses are constantly on the move looking after many patients, procedures such as turning, massaging and keeping the body dry tend to be neglected because they are not part of the illness of the patient, and secondary complications arise. The practical effect of the shortage of nurses is pervasive.

I asked a question this afternoon about the situation in Bunbury. It was answered by the minister, but he did not say why the male patients were placed in the children's ward. The Opposition understands, from the patients who were placed there, and from other inquiries, that this happened because a ward has had to be closed due to shortage of nurses. We have a serious problem in this State, as well as a serious shortage nationally, in certain areas of nursing, though not across the board. In Western Australia the Government commissioned six thorough, competent and academically valid reports, each with a set of recommendations or strategies, which seem to have vanished and have not been acted upon.

Then the Government said it had a nurse shortage; that it would conduct a review which would be the first of its kind in Australia; that it would spend \$300 000 on it and call it "The New Direction - A Study for the Future of Nursing and Midwifery in Western Australia"; and that it would be an extensive and realistic process for the long-term future of nursing. That may well be, minister, but nurses want to see - and are not seeing - action taken on the current reports.

Can the minister tell me specifically what action has been taken, what recommendations have been implemented and what has been the effect of those recommendations on increasing the number of nurses? We must address this problem seriously. I doubt that it has been addressed seriously, otherwise the major nursing bodies would not be saying, "Hang on a second, what has happened here with these reports collecting dust?" This crisis with the shortage of nurses will get worse, and the net effect is that we shall not deliver effective health services to those people in our community and our public system who need it most."

MS ANWYL (Kalgoorlie) [4.50 pm]: I shall make some general comments about the motion standing on the Notice Paper and some comments, as I usually do, about my electorate. I shall begin with general comments that are not restricted to this State and I shall refer to my experience of the nursing profession in Victoria, where I grew up and which I visited again recently. During my visit I came across a number of nurses whom I knew when we were at school together. They aspired to be nurses through their final years at school, some having repeated year 12 so that they could study nursing. That indicates how firm they were about entering nursing as a career. Recently one Saturday during the Kalgoorlie-Boulder race round, with some 20 000 people at the racecourse, the number of people I came across was

phenomenal and, once again, I came across some friends who are nurses. They do not live any more in Kalgoorlie-Boulder but live all around the State. I detected a very interesting pattern in nursing: Many nurses who choose to live in regional and remote areas stay in those areas by moving from one town to another. Some return to Perth and some leave the profession, but it is always interesting to see the sorts of jobs those nurses end up in. I also came across some friends who had nursed in Kalgoorlie and had worked in other parts of the State - particularly the Kimberley which seems to be a popular destination - and are now in main teaching hospitals.

They told me all sorts of things because they are aware I am a politician. They were keen to get their views across to me as a politician and, hopefully, shortly as a member of the Government. They had very strong views that, although all sorts of pressures came to bear on them, the one that caused the most problem is the stress and strain in the wards created by resource shortages. The member for Thornlie ably outlined the crazy results that follow when economic rationalism is applied to reduce the number of nurses on wards. It eventually leads to all sorts of other costs. She gave the example of the cost to the state health system of bedsores.

I was impressed particularly by an anecdote that I will relate to the House. When I was studying law I lived in Melbourne with some girls who were enrolled nurses. They worked in generally privately-owned aged care institutions, and some of the stories they told me were unbelievably bad. It was to the credit of those nurses that on occasions they took bandages -

Mr Cowan: They did not have kerosene baths in those days, surely?

Ms ANWYL: I never heard that story but it would not surprise me. If aged care institutions are doing it now, they were probably doing it then. Some of those nurses bought bandages with their own money from a chemist and took them to the nursing home to apply them where needed. The scrimping and saving that went on was amazing. I say to the Minister for Education that I know of teachers who buy items from their own pocket to take into the classroom because of the cost pressures in some of our schools.

I gave that history because I wanted to impress on the Parliament the utmost respect I have for nurses, who do a phenomenal job. I know I am not alone in saying that because every year, after a poll of the general population, a list is published, usually in *The Bulletin*, of the most highly regarded professions. As members know, politicians are towards the bottom of the list. It is fortunate that the member for Geraldton is absent from the Chamber; his profession is at the very bottom of the list and has not moved from the 3 per cent mark for a long time. I believe journalists are about the closest to politicians, and lawyers are slightly above, much to my chagrin. However, nurses are at the very top of the list; they are considered by the community to have the utmost ethics and integrity and are very highly respected.

I have not seen the full report, but I will read from a summary of a survey of school students in years 10 to 12 and their attitudes to nursing as a career. They described nursing as a very low status, subservient occupation, a menial occupation and hard, tiring work. Nurses are seen to be lowly paid; nursing is a boring and dead-end job; nurses do not get much credit for what they do; and nurses are caring, patient, selfless and noble.

Mr Barnett: What do you think the solution is to that?

Ms ANWYL: The solution is to learn to better market nursing as a profession. I am unsure of the efforts that are made to promote nursing as a profession in schools, and am keen to know more about that. I participated in the local Kalgoorlie-Boulder community's expo recently at which there was a presence from nurses, which was a positive thing. It would be worthwhile doing more research and I hope to get hold of this report of the student survey to try to work out the sample. It would be interesting to know from which area the students were sampled, whether they were metropolitan or country and whether they were from high or low socioeconomic status suburbs. It is disturbing to hear those sorts of comments from students in years 10 to 12. One would expect that those views have not been obtained in isolation from older people. Presumably those young people have heard comments at home or in the media which have led to those attitudes. It is interesting to note the number of television dramas that are based in hospitals, particularly American productions, although there are also some Australian programs. I do not believe nursing is portrayed in an unglamorous way in those programs.

In the survey, students described the image of nurses. A couple of the comments were that nurses are old-fashioned, frumpy and unglamorous. That view is intriguing because the men I know tend to believe that female nurses are an incredibly attractive group of women, and they aspire to go out with nurses. However, for whatever reason, young people have that attitude. It is important for the Government to have the will to lift the status of nursing. The point made by the member for Thornlie, that the Government has effectively sat on all the reports that investigated the reason the number of nurses is declining, is alarming. I hope the Minister for Health will tell us the reason there has not been more public discussion of these reports. If a range of strategies has been employed by the Health Department, I am sure he will let us know about them.

Mr Day: I will.

Ms ANWYL: I look forward to that. I mentioned before that the stresses and strains in the working situation of nurses appear to be the straw that breaks the camel's back in terms of nurses leaving the profession. I note that fact is borne

out by a study of junior registered nurses, which was conducted by Biztrac at Edith Cowan University in November 1998.

The findings were that work-related stress and staff shortages were key factors in influencing the decision on whether to leave nursing. That report confirms my anecdotal understanding.

The member for Thornlie outlined that nursing is a profession largely comprising females; therefore, it is necessary to provide child care. I have mentioned in Parliament before the need for affordable child care, which is confirmed as an important factor in deciding whether people will return to nursing. The cost of child care is out of many people's reach following the savage budget cuts of close to \$1b inflicted by the Howard Government. I am happy to provide the detailed analysis to the member for Collie of the \$1b removed from child-care subsidies.

Dr Turnbull: I have read those papers. You will find in your area that if your child-care people are managing, they will be able to suit a nurse's roster if necessary. Go and ask them how they fit in with a working nurse. As you said in your introductory remarks, of course, your area might be different from elsewhere.

Ms ANWYL: The member raises an important point. A difficulty is that existing child-care arrangements, if they can be afforded, tend not to cope with roster arrangements, if that is what the member is alluding to. Child care is important as nurses are required to work three different shifts. One could have some kind of in-house child minding service. A trend is evident in some Organisation for Economic Cooperation and Development countries for the provision of child-care facilities in the workplace. My understanding is that this would be possible in Kalgoorlie-Boulder. We have seen the closure of some child-care centres in Kalgoorlie-Boulder, and perhaps one of the closed centres could operate -

Dr Turnbull: Home-based child care has increased, which allows for more flexibility.

Ms ANWYL: Sometimes. We have also seen a huge increase in informal arrangements. Unfortunately, they often rely on extended family to provide that child care, and people in Kalgoorlie-Boulder often do not have extended families.

The aged care situation in Kalgoorlie-Boulder is reaching a crisis. Can the minister elucidate his position on the split federal award-based system under which private and aged care hospitals have a much lower rate than the award for public nurses? Is the minister lobbying his federal counterpart on that matter? We need some equity in pay rates for nurses in aged care facilities and those in public hospitals.

I was approached by two former nurses in the past couple of weeks. I met the minister who was at the Kalgoorlie Regional Hospital to open the palliative care unit. A former nurse approached me there. She is keen to return to nursing. She had significant work-related injuries that involved an assault in the workplace. I was concerned that she perceived she had difficulties getting back into the work force. She has a lot to offer at a time when nurses are in short supply. Another person, a registered nurse, who was also injured at work, approached me. She had applied to get back into the hospital under a required retraining scheme. She believed that a couple of people had made applications for a couple of positions, but she was denied that employment. That appears to have turned her completely off nursing. I hope it does not. She has been lecturing in nursing in Kalgoorlie-Boulder. She will move out of town as her partner has been transferred, which is a problem for us because of the transience of the mining industry.

It is very important to recruit locally and to offer incentives. The Australian Nursing Federation expressed concern about the announced initiatives of the Federal Government to bring doctors into remote areas. It encouraged doctors to train and move out to remote areas. It was felt that the changes were necessary, but also that it is important to extend the incentives to other ancillary health staff, and not to confine them to medical practitioners. The declining participation rates by rural dwellers in tertiary education also needs to be taken on squarely. If one does not have a significant proportion of students from rural areas studying professions like nursing, one will not fill the country jobs. The ideal way to fill nursing positions is with locals, if possible. I do not suggest that people should not move around Australia. One good thing about this country is the tremendous opportunities for travel. My situation is an example, as I moved to Kalgoorlie 10 years ago. Those management issues need to be sorted out.

There is a culture of fear about talking out on some of these issues. It is evident that people are nervous about being seen to talk about these issue out of school, so to speak, which is not in the best interests of the profession. We need to recognise some of the occupational hazards of the industry, particularly the lifting type of injuries. Although changes have been made over the years, the resourcing issue is crucial. When working in understaffed institutions, nurses will not be able to employ safe lifting practices, particularly as another nurse may not be available to assist.

Another issue is the level of criminal assault which can occur. Technically, it may not be criminal assault with many aged care institutions because, under criminal law, a patient's mind may be not have the intention to cause the problem. We have not worked out how best to protect nurses. Only last week an assault on a nurse occurred in her premises in Kalgoorlie. All members of Parliament would abhor such occurrences. Some steps have been taken to build some better accommodation. If money were spent, it would be possible to secure the current premises. I have spoken before about the need to provide good accommodation, and the minister became involved in a dispute about the siting of nurses' accommodation. Nurses want accommodation close to town because many do not have cars and want to access the main city area easily. Croesus Street is the optimum site. I am pleased something will be built there, although I am

not sure why it has taken so long for the units to be built. Importantly, medical specialists - for example, a paediatrician - are living in the nurses' quarters. The problem of accommodation for all medical people is far from being resolved.

It is all very well for the Government to trot out the capital works expenditure figures, but it has not appreciated the necessity for that spending.

I acknowledge the work that general and community health nurses undertake in remote areas that do not have a medical practitioner. Because of the difficulties involved in attracting staff, enrolled nurses must take on duties that are technically outside their normal responsibilities. It is important that we find some way to assist those nurses. The community health nurse position at Leonora was vacant for more than 12 months, and I do not know whether it has yet been filled. Notwithstanding that it is not in my electorate, nurses regularly visit my office to discuss the issues confronting them when working in remote areas. Given the number of remote mine sites in the State, it is particularly important that we staff those jobs. The irony is that the mining companies offer better salaries than those offered by the public health system, so there is unlikely to be any shortage of nurses willing to work for them.

I hope the minister can tell the House why these reports have not been made public and addressed.

DR TURNBULL (Collie) [5.11 pm]: This afternoon I will address the difficulties of attracting nurses to and retaining them in Western Australia. The Government knows that Western Australia has a shortage of nurses, but that is part of a worldwide shortage. In the past 30 years during which I have been actively involved in medical practice in Western Australia, the nursing environment has changed enormously. Even 20 years ago, nurses did not have tertiary qualifications. The increased status of nursing that has resulted from a higher level of training has meant that the type of woman who once would have undertaken nursing training now feels she will not succeed in tertiary studies. That is tragic because many young women who would make wonderful nurses are not choosing to follow that career path. That level of study has been introduced for two reasons: First, to give nursing professional status by requiring a tertiary degree; and, secondly, to cater for the fact that nursing has become much more complex. That is a dilemma for nurses and particularly for those guiding the profession.

The training requirements for enrolled nurses have also increased. Although enrolled nurses undertake their studies at technical and further education institutions, it now takes a year to complete the course, and that can extend to two years. It is understandable that enrolled nurses want a wage that is commensurate with the increased training requirement. Enrolled and registered nurses working in our hospitals have training that qualifies them to be paid higher salaries, and they deserve that monetary acknowledgment. This Government does not for one minute deny that those salaries are necessary and that they reflect of the complexity and value of the work.

However, nurses are currently performing some duties that do not need that level of tertiary training. Who will perform duties such as the turning of patients and so on? We now have another level of health worker in our hospitals - particularly in the convalescent and nursing home areas. These "personal care aides" will now perform many of the tasks that enrolled nurses and, at times, nurses once performed. It was interesting to hear the lead speaker refer to pressure ulcers. People suffering from these ulcers need personal attention, such as regular turning, and personal care aides should be providing that care. Managers in many hospitals are trying to juggle the number of personnel on shifts to ensure that a registered nurse and personal care aides can provide that care.

The treatment of pressure ulcers is a very interesting subject. About six years ago I investigated the cost of disposable incontinence management equipment. One of the major contributors to pressure ulcers is urine on the skin. Keeping urine off the skin and maintaining healthy skin is an interesting science. Nowadays, "bluey" sheets and incontinence pads, which absorb urine, are highly specialised. Huge advances have been made in the design of these materials in the past 15 years. The top layer is never wet because the urine is absorbed and never comes into contact with the skin. That is an enormous advance in the management of this condition. However, as with every advance in medical science, those who hold the copyright or patent, or those who enjoy a monopoly situation, make money out of our health industry. Nursing and medical care are legitimate and essential costs in our hospital system. The other essential cost is equipment to provide highly sophisticated care. Our health system is being ripped off in that area.

This Government has put in place management processes to ensure that our hospitals have no excess personnel. When I was working at Sir Charles Gairdner Hospital there was a room full of orderlies playing cards while waiting to be called to move a trolley of linen or a patient.

The current management system ensures that no longer happens. I am sure from the hospitals I have visited that there are no extra personnel in our health system in Western Australia at this stage. Some hospitals need more medical personnel, and the personal care aid people will form an important part of our medical manpower and woman power.

Another area where costs are rampant is the supply of materials and prostheses for health services. The people who are really making the profits from health care are the people who supply those items. Johnson and Johnson Medical Products Pty Ltd and Epicon Pty Ltd have worldwide patents on the equipment that is used for laparoscopic surgery. The rider on that equipment is that it must be disposed of after use. The equipment for a laparoscopic cholecystectomy

costs about \$1 000, yet it is disposable. That equipment does not need to be disposable, because it is engineered in such a way that it can be used many times and not break.

Point of Order

Mr KOBELKE: Mr Acting Speaker, I draw your attention to the relevance of the contribution by the member for Collie. The member has been speaking for 10 minutes about cost matters, and while those matters are of interest and importance, they are not relevant to the motion. The member should relate those matters to the motion, or sit down.

The ACTING SPEAKER (Mr Baker): The motion refers to certain reports, and those reports refer to cost. In view of that, the matters being raised by the member for Collie are relevant to the motion before the House.

Debate Resumed

Dr TURNBULL: The cost to the health system of those disposable items is immense, and that is an issue we must tackle, because those items do not need to be disposed of after one use. However, that is a separate issue. The cost that I particularly want to raise is that of materials for managing incontinence and keeping urine off the skin. About six years ago, I examined the cost of these items and found that the Health Department had entered into a contract to buy these materials at a much higher price than that paid for the same products in supermarkets.

Mr Kobelke interjected.

The ACTING SPEAKER (Mr Baker) Order, member for Nollamara!

Dr TURNBULL: We had that contract re-assessed and re-advertised, and that resulted in a 50 per cent reduction in the contract price for the supply of incontinence pads. We have since managed to reduce the cost of that contract even further. That is a great achievement. Nurses and personal care aides can make an important contribution to the management of pressure ulcers by changing incontinence pads regularly. That issue was discussed at some length by the lead speaker in this debate, who pointed out that it is important to reduce the cost of our health service in Western Australia by ensuring that patients do not get pressure ulcers. The medical and scientific skills that are required to look after patients are enhanced by having appropriate equipment, at the right price.

The introduction of personal care aides in wards is an important move. Personal care aides do not require the amount of training that nurses require. Nurses want to make sure that their patients are well cared for, and if the personal care aides can attend to the personal care of their patients, less stress will be placed on nurses while they are doing their rostered duties, and they will get greater satisfaction from their nursing career because they will be part of the high technology nursing scene and will have more time to use their tertiary skills. That is an important factor in the attraction and retention of nurses.

I turn now to the attraction and retention of nurses in country areas. I was pleased to be part of the enterprise bargaining agreement negotiations that took place with the Minister for Health last year, under which nurses in country hospitals were granted different conditions from nurses in metropolitan hospitals with regard to rostered days off and the accumulation of time off. It is important that nurses in country areas can accumulate time off and can take that time off when it suits them. I am proud that as a National Party member I could provide some basic and hands-on information to the Minister for Health with regard to this matter and that the hospital boards in country areas could include this variation in the EBA for registered nurses. It will make it easier to retain nurses in country areas if they know they can take their time off when it suits them. Variation in rosters is another important issue and is an extremely valuable tool in country areas.

The impact of agency nurses is another important issue. Competition is entering into the supply of agency nurses. This is good because it will force agencies to reduce the agency costs so they charge less for agency nurses. The cost of agency nurses has pushed up the cost of our health services. Agency nursing is not attractive to most nurses, but some of them love agency nursing because they can move from one job to another. However, most nurses do not like to do agency work in the long term; they want a settled situation or at least a contract for six months so that they can get to know an area. Nurses are wonderful men and women, and many of them travel a long way with their nursing certificate.

The Government has made some important moves to attract overseas nurses. Nurses coming to our hospitals from overseas are part of the globalisation of the nursing profession. Most of the nurses I know who have worked overseas and those who come from overseas to work in our hospitals have enjoyed their work. It is essential that we provide good accommodation for nurses in country areas. The Government has expended a lot of money to renovate nurses' accommodation, so that houses are available rather than single rooms in nurses-quarter type accommodation. We now offer nurses duplexes and units in country towns. That is another good move by the Government to attract and retain nurses in country areas.

The Government acknowledges that a lot more needs to be done to attract and retain nurses, and it will work on those issues. However, in the past seven years there has been an improvement in government efforts to attract and retain people in that profession.

MR BRADSHAW (Murray-Wellington - Parliamentary Secretary) [5.32 pm]: I have thought long and hard on this subject for many years. In the 1980s when nursing training was changed from a hospital-based system to tertiary education based system, I was concerned about the ramifications. We are starting to see the results of that change in the style of education.

I will focus on ways to overcome the shortage of nurses in Western Australia. The problem is not unique to Western Australia; it is a worldwide phenomenon that needs to be addressed. Mention was made of several reports that have been prepared on how to overcome this shortage. We need a commonsense response to the shortage of nurses in Western Australia. I lay the blame fairly and squarely on the move away from a hospital-based training system wherein student nurses were paid by the hospital during their training. That gave them an opportunity to experience the roster system. People in hospitals work antisocial hours. Nurses who graduate from a tertiary institution do not experience the roster system until they are much older than nurses who were trained in hospitals from day one and who became used to the antisocial night and weekend work. We should consider trialling a system that combines hospital-based training and tertiary education; the two systems can run in tandem.

Another problem with the current nurse training system concerns extra qualifications. In order to become a midwife or a psychiatric nurse, students must first complete a four-year nursing degree and then a further two years of studies. They must pay the higher education contribution scheme fee up-front; they cannot defer HECS. A midwife requires six years' training. One may as well become a doctor, which requires six years' study at university and another year or two as a hospital intern.

We must look at nursing training to work out ways to get people back into the system so that they enjoy being part of the profession and will stay in it. It is not a matter of employing only people who are highly qualified, they should also be loving and caring people who want to become nurses for the right reasons. They must attain certain qualifications and have a reasonable level of intelligence. The system has gone too far in the wrong direction. It is important to review the whole system. As I said, someone who wants to become a midwife or a psychiatric nurse will need to undertake a six-year course. That is a huge deterrent. For a start, they must study at university for four years, during which time they are not paid, and then study for another two years to obtain midwifery or psychiatric nursing qualifications. It is a big burden and is hard on people who wish to work in those fields.

We all agree that nurses do a fantastic job. We all wish they were paid a bit more. One of the problems is that increasing the pay scales for the large number of nurses in the health system would add up to many millions of dollars. Even though this Government has increased funding to the Health portfolio each year, the costs are galloping ahead because modern technology now enables procedures such as hip and knee replacements, open heart surgery and other treatments to be carried out. The combination of the availability of modern technology and an ageing population means it will be difficult to keep up with the amount of money required to run the health system - no matter who is in government. When the Opposition was in government, waiting lists for hospital treatment were growing. It is a difficult situation. More money is needed and there are only two ways to get it: One is to charge people when they go into hospital, and the other is to increase taxes. Both of those options are generally unacceptable to the public. The public demands a Rolls Royce health system, so it is difficult to achieve a balance between the amount of money required for the health system and the amount that is available. No matter how much money is put into the health system, it will be gobbled up. Over the years pressure has been applied to achieve efficiencies in the health system. There is always room for that. However, we have squeezed as much as we can out of the system, and no more efficiencies can be achieved. Regardless of the criticism about the shortage of nurses and long hospital waiting lists, Western Australia still has one of the best health services in the world. It is second to none. If someone is really in need, he will be able to gain admission to hospital for an operation or treatment.

We should return to hospital-based training for nurses in conjunction with university training. If we were to return to hospital-based training, I would be surprised if the Health Department were not overrun with applicants. Many people would love to enter the nursing profession but are unable to undertake a tertiary course because of the cost involved. Under the old system trainees were paid, which was a great incentive. It also attracted loving and caring people into the profession. We have all met nurses over the years, whether they be friends, relations or in a professional capacity. They are dedicated people.

I was appalled when, in the 1980s, the then Labor Government took mothercraft training from the Ngala Family Resource Centre. Loving and caring people were needed - not necessarily those who went to a tertiary institution and who came back with a certificate in child care, as they do these days. It has taken away the opportunity for many young women - I do not think many men were interested - to look after young children. Many of the young women were dedicated to the work. The Labor Government took the opportunity away from them, and told them that they must have tertiary-qualifications. We are pushing things uphill to provide enough money for education as it is, yet Governments are pushing more people towards tertiary education. The situation seems to have gone crazy. If people need to undertake specialised training in their nursing careers, then extra training should be provided for them. If they want to become, for example, a theatre nurse, the system should pay for that training. Nurses should not have to pay for it. If the system needs them to have further qualifications, it should pay for it. We have gone down the wrong path. We need to determine whether tertiary training is better than hospital-based training.

The nursing establishment started pushing for tertiary training in the 1970s and 1980s in order to lift the status of nurses. Most people would like to have their professional status lifted, but my attitude is that everybody has a role to play in society. We cannot all be rocket scientists or whatever we like, and we must fit into society in one way or another. If diplomas and degrees were required for every job, it would impose a very expensive burden on our society. One of the major reasons for the problems in the nursing profession is the way nurses are trained.

MR MASTERS (Vasse) [5.44 pm]: It is not uncommon for private members' business, whether it be motions on notice or whatever, to have a grain of truth in it. This motion certainly contains a grain of truth, as there is no doubt there are problems within the health system - not just in Western Australia, but around the world. It is important to note that some of the problems that have been highlighted in recent months are exaggerated to a significant degree. One reason may be the forthcoming election, and another may be due to the hold the unions have over many aspects of the health system. The unions have ideological and other reasons for doing what they do. There are also many in the media who believe that their ratings or profits can be improved by exaggerating the problems in the health system. There is some truth in the motion, but I am unable to support it.

I shall address some of the comments made by the member for Thornlie. She quoted from a report that found 69 per cent of nurses leave the profession within 10 years. She also said that nursing is seen as a career for women. Those key findings are strongly linked. I am not surprised that 69 per cent of nurses leave the profession within 10 years, as most nurses are women and, understandably, they want to leave their career at some stage to raise a family. The issue is not that 69 per cent, or any percentage, choose to leave after one, 10 or 20 years, but whether the system has the ability to attract the nurses back after they have raised their children.

I have no doubt that nursing is seen as a career for women. I have a younger brother who is a qualified nurse. He has worked in the health system in Western Australia for a number of years. He also worked in the United Kingdom. I could tell the members a number of stories that would both amuse and alarm them. In 1975 or thereabouts, he applied to King Edward Memorial Hospital for permission to undertake the midwifery course. He was refused permission, and I believe the general feeling at the time was that midwifery was an aspect of nursing that could be undertaken only by women; it was regarded as inappropriate for men to be involved. The decision was made by the authorities in charge at that time, a majority of whom were women. I am happy to say that those attitudes and practices have changed, and I suspect a significant number of male nurses now have qualifications in midwifery and use those qualifications in their day-to-day jobs.

The member for Kalgoorlie told the House that recently at the Kalgoorlie races she was approached by a number of female nurses who, knowing she was a politician, made various comments to her about the nursing profession. When I am out and about in public I try to hide the fact that I am a politician; and especially that I am an elected member of Parliament and, therefore, a representative of the people. I find that when I utter the profound words "I am a politician" people change their expectations about me and what they think they should say to me. If I get into a conversation or a meeting with new friends, or with strangers, and they do not know my profession, they will speak from the heart, answer me and discuss things with me, believing that I am an ordinary member of the public. I have attempted to do that on many occasions over the years when talking with nurses, although many nurses in my electorate know very well that I am a member of Parliament. About two and a half years ago the Australian Nursing Federation was trying to negotiate an agreement with the Government in relation to country nurses through the various health service boards, such as the Vasse-Leeuwin health board. I went on record as saying that aspects of the draft agreement put forward to the Government by the ANF were overly generous and capable being negotiated down for the mutual benefit of the nursing profession, health services and the taxpayers of Western Australia. It would be rather time-consuming for me to go through the sections of the ANF draft award and to highlight what I think were the overly generous requests or demands of the ANF. At the end of the day, the ANF and the Government agreed on pay and conditions, but I got into some hot water over the comments I made. Nonetheless, there is no better way of getting a reaction than by being a bit provocative.

As the member for Murray-Wellington has pointed out, the health system in Western Australia is world class; there is arguably no better health system in the world. Acknowledging that there may be problems in the system implies that the problems elsewhere in the world are profound and potentially disastrous. Over the years, as a geologist, I have travelled to a number of third world countries, such as India, China, Brazil, Uruguay and Madagascar. To say that the hospital systems of those countries are in crisis is an understatement. This morning I was at the Australian Red Cross Blood Service, making my eighty-fifth donation of blood. Again, I was reasonably anonymous. The nurse I was speaking to was from Scotland, and we started comparing the health systems of Western Australia and the United Kingdom. She said that, while the Scottish health system is not too bad, in England the hospitals and other facilities are simply atrocious. The facilities in Western Australia are, in her words, brilliant. Asked whether pay was an issue in the United Kingdom, she replied that it was, but a far more important issue was the quality of the facilities and the lack of equipment. This Scottish nurse's opinion was that the conditions under which nurses worked and the workload they had to carry, created many problems for the nursing profession in Western Australia. I am, therefore, pleased to agree with the member for Kalgoorlie. As an example of the difficult conditions and workloads experienced by nurses, the member for Kalgoorlie said that when some nurses apply for annual leave, they are told that even though they may have many weeks owing to them they may take only one week's leave because the hospital is so short staffed.

Two key issues face the health system in Western Australia. The first is undoubtedly the need for higher pay rates. I have worked for a number of large and small mining companies over the years. Sometimes the wages and conditions have compared well with the industry average, sometimes they have not. High rates of pay normally are not necessary in any career if the working conditions and job satisfaction are above a certain level. Yes, we need to pay our nurses more, but I believe they would be quite happy to accept no increase in wages, or only a modest increase, if the working conditions were improved. Nurses tell me that they would rather work under better conditions and receive lower pay, than the converse. The second and most important issue, therefore, is the conditions under which nurses work. Positive action is needed to reduce the workloads of nurses in hospital. The stories I have heard, similar to those recounted by the member for Kalgoorlie, are not exaggerations. Nurses are under such extreme pressure at times during their working day that they are unable to undertake the tasks expected of them. The newspaper report of two days ago referred to pressure ulcers becoming more prevalent and costing the taxpayers of Australia dearly. The cause of this increase is simply that nurses are too busy to attend to the patients, to turn them over, and to massage the places where blood circulation is failing. We need to sit down, maybe even wipe the slate clean, and look at the sort of health system we need to achieve the correct balance between pay and conditions.

I cannot support this motion by the member for Thornlie, because one key element is missing from her criticism of the Government.

Certainly the Government is a key player in this equation. However, the experience in my electorate in the past few years indicates that the other key player in this equation is the Australian Nursing Federation; in other words, the union and its members. I am sorry if people in the community are naive enough to believe that the Government has a limitless budget to allow everything to be funded; they are wrong if they do. I remind members that if they believe it is up to the Government only to solve the problems, the Government will never be able to do so. The other side of the equation - the Australian Nursing Federation - must sit down with the Government and seriously consider significant changes to nurses' financial remuneration in exchange for more nurses; in other words, better working conditions than its current members either suffer or enjoy in the health system.

I will provide an example to the House of the way in which it is appropriate for people to put the interests of their profession above individual interests. I admit it is a completely different issue. My electorate has more dairy farmers than any other electorate in this State. As members know, recently the dairy industry in this State underwent a deregulation process. Many farmers have been financially badly hurt by much lower milk prices now being paid to them by various companies. However, some farmers are prepared to take fewer cents per litre for their milk if the industry as a whole can benefit with those farmers who would otherwise get a lower price for their milk having their payment rates raised above a break-even point. I commend the dairy farmers in my electorate and elsewhere who are prepared to forgo some of their higher rates of income to ensure the industry benefits as a whole. I hope the Australian Nursing Federation, the nursing industry's union, is also prepared on behalf of its members to forgo significant pay rises and other benefits arising from the nurses' award - certainly a feeling I get when talking to union members - in exchange for the Government's putting more nurses into the system so that the workload in hospitals is reduced, thereby improving the quality of the working experience for the nurses whom the Government does employ.

This is an important motion. It is important that the focus not be directed against the Government because, as the member for Murray-Wellington said, the money that could be spent by the Government on the health system is not limitless. A great deal of money could be spent on the health system but we must impose some self-control on it. I believe the onus must be directed very much towards the Australian Nursing Federation and its union members so that the resolution is one of mutual benefit to the taxpayers of Western Australia and to the nursing profession as a whole.

MR DAY (Darling Range - Minister for Health) [6.03 pm]: I am very happy to have an opportunity to respond to some of the comments made during this debate on important issues relating to the profession of nursing in Western Australia. There is a worldwide shortage of nurses, particularly in the western world, and no doubt in the developing world as well. Western Australia is also experiencing difficulties as a result of that shortage. I note also that many people have trained and registered as nurses in Western Australia but, for a variety of reasons, choose not to work as nurses. In some cases they have no doubt left the profession to bring up children and so on. In other cases they have found other professions or vocations to enter that are perhaps less demanding, less stressful or maybe more appealing for other reasons.

Mr Brown: In other cases they have been treated very shabbily by the Government.

Mr DAY: Is the member for Bassendean saying that nurses have been treated very shabbily by the Government?

Mr Brown: Do you want me to give you a case? Will you take the interjection?

Mr DAY: I will take the member's interjection in a moment. That is the typical, superficial, nonsensical contribution that I would expect from the member for Bassendean; but he should go on.

Mr Brown: I know of a very experienced nurse with 15 or so years' service in the government sector who worked for the Kalgoorlie health service. She was employed until February 1999. A new enterprise agreement was negotiated and, because of the time it took, backdated to either June or January of the previous year. However, the agreement was

signed after she left and this absolutely lousy, stinking Government refused to give her the back pay. This is a mean-minded Government that refused to complete the agreement.

Mr DAY: Mr Deputy Speaker, if the member for Bassendean wants to make a speech, he is welcome to do so.

Mr Brown: You won't answer it because you know the case.

Mr DAY: I do not know that specific case. However, there is an overall policy that people who should benefit from wage and salary increases that flow through should be those who are employed in the system. I have no doubt that that policy would apply whether the Labor Party or the coalition Government were in office. It is all very well for people like the member for Bassendean to come into this place and to grandstand. If he wants to make a speech, he is very welcome to. His initial statement that nurses have been treated shabbily by this Government does not hold water and is not borne out by the facts. This Government, I as Minister for Health and my predecessor, the member for Albany very much respect the crucial role played by nurses in our health system. It simply could not work without the contribution of nurses who, in many cases at the moment, work very hard, long hours and in a very dedicated and caring way. There are individual examples where that may not be the case, but that is true of any profession or group of people. Overwhelmingly it is a caring profession which works very hard, and that is recognised by this Government. I very much respect the role that nurses play in contributing to our health system in Western Australia, both individually and collectively. However, the issues about the profession of nursing, how to attract more people into the profession and how to retain them when they are trained and have entered the profession, are complex. Although I accept that pay issues are obviously part of the overall environment of how people are attracted into nursing and retained, it is totally simplistic to say that the matter is all about pay. Anybody who pretends that these issues are only about pay is simply deluding himself and not facing up to the total situation.

There are also important issues about flexibility of working hours and how we can make them more attractive to nurses who have families so that they can be made more family-friendly in some cases. Also issues of work practices must be considered. It may well be argued that many of the work practices of today are a legacy of time gone by or are inappropriate, given the changes that have occurred in the provision of health services in many respects in the past 10 to 20 years. There are also important issues about education and training and how best to educate nursing undergraduates. About 20 years ago there was a move away from the entirely hospital-based education system for nursing undergraduates to a university-based training system. A great deal of debate occurred about that and some people continue to express the view that things were a lot better when the training course was hospital-based. Equally, I am aware that many people have the view these days that, although the clinical training which was provided as part of the course is not as great as it was when the courses were hospital-based, on the other hand nurses do receive a much stronger theoretical base to their training than was the case in the past. Although it probably takes them some time to come up to speed with their clinical skills, they have a much better foundation for their ongoing practice of nursing as a result of the move towards university-based courses. I will return to that before I conclude my comments.

I believe some important issues have been raised, including by the Opposition, but I cannot get away from the fact that there has been a significant amount of grandstanding by members opposite. There has not been a great deal of original thought about these issues. I am aware that the Australian Nursing Federation put out a media statement last Friday arguing that the Government had the six reports which have been referred to it and which have not been acted upon, and that is exactly the argument that was taken up by the Opposition here today. I can assume only that if the ANF had not put out that media statement last week we would not be having this opposition-initiated debate. Of course we must listen to the arguments put forward by the ANF. I know that the ANF is very keen to ensure that discussions occur in the reasonably near future about a new enterprise bargaining agreement, leading of course to salary increases which will inevitably flow through to nurses. The ANF quite rightly is responsible for representing the interests of nurses from a salary point of view and for arguing their case as strongly as possible. Equally, from the Government's point of view, it has the responsibility of acting in the overall public interest. The Government must take into account the interests of taxpayers in particular, and it needs to reach the right balance between those two imperatives. We are happy to enter into discussions with the ANF with a view to a salary increase flowing through to nurses once their current EBA expires in the middle of 2001.

I found quite amazing the attitude expressed by the Opposition during question time today, about whether I had provided copies of the trust account reports to the Australian Medical Association. That was in complete contrast with the attitude expressed by the Labor Party just last week, and towards the end of the week before if I recall correctly, when it accused the Government of going slow on this investigation, not taking it seriously and not doing enough to report the matters to the appropriate authorities. The Opposition had better work out where it stands on this issue - either the Government has been going too slowly or it needs to be a lot more kind to doctors, as was implied in the question from the Opposition today.

Mr Kobelke: You will go a lot faster if you follow proper process.

The DEPUTY SPEAKER: Order!

Mr DAY: The reality is that those matters are being treated very seriously, but they are also being treated fairly from the point of view of all the individuals concerned.

The Opposition is asking me to explain why the six reports produced by the Health Department over the past few years have supposedly not been acted upon. That supposition is not based on fact. The reality is that those reports have been acted upon.

Mr Kobelke: Will you explain what action you have taken?

Mr DAY: I certainly will. Let us look at one of the reports entitled "Research to Assist the Development of Nursing as a Career", which was undertaken by the Health Department with assistance from Donovan Research. This report looked at the issues involved with students choosing nursing as a career and the factors which would determine whether a young person leaving school might consider going into nursing as a career. The outcome of that report was that a high profile marketing campaign was put in place. I am pleased to indicate that that campaign, which I had the pleasure of launching approximately 12 months ago, has been very successful, with the result that there are now no vacancies in nursing courses at any of the three universities which provide those courses in Western Australia. I am advised that this is unique to Western Australia. We have gone from a situation wherein as late as last year there were vacancies in nursing courses at Edith Cowan University and Curtin University of Technology, but as a result of this marketing campaign - entitled "Are You Good Enough To Be A Nurse?" - both courses have been filled this year. That is a very pleasing situation. This is an example of the benefits that have flowed from the action which has been appropriately taken by the Health Department about nursing over the past few years. The third nursing course is at University of Notre Dame. This is the first year for that course and it is also full, and that is a credit to the work put in by the University of Notre Dame in developing that course. I am sure some well-trained nursing graduates will come out of that course at the conclusion of their studies.

Another important outcome has been that undergraduate nursing scholarships were introduced to address what was a perceived dropout rate from the nursing courses at these universities. In total, \$198 000 has been allocated to fund undergraduate nursing scholarships in the current financial year. That has been another significant development to flow from the study entitled "Research to Assist the Development of Nursing as a Career" undertaken in 1998.

Let me return to the first report referred to, namely "Attracting Nurses Back Into the Nursing Workforce", which was undertaken in 1997 by Biztrac at the Edith Cowan University at the request of the Health Department. I am advised that that was the first study conducted to look at the issues of nursing retention and was an attempt to understand why nurses were leaving nursing as a profession. I will return to that issue.

Another study undertaken in 1998 was the "Junior Nurses Labour Force Study", which was also undertaken by Biztrac at Edith Cowan University. That study flowed from the earlier study in 1998, the one to which I referred previously, and it looked at why junior nurses in particular were leaving nursing. One of the key findings of that study was that there was a need to support graduate programs more so than occurred previously. That recommendation has been acted upon, so that now funding of \$360 000 a year for graduate nursing programs is being provided by the Health Department out of our Health budget. That is another very significant development which has occurred as a result of the work undertaken previously.

It is important to realise that all of these studies have provided the building blocks for the "New Vision, New Direction: A Study for the Future of Nursing and Midwifery in Western Australia" study which is under way at the moment and which in reality is the most significant initiative ever undertaken into the professions of nursing and midwifery in Western Australia. I am pleased to say that this study has been supported by the Australian Nursing Federation. That was certainly a view the federation expressed on the day that this study was launched, and I am not aware that it has changed its view since that time, notwithstanding the comments made the other day.

I now refer to one of the other reports which has been prepared as a result of the studies undertaken. In 1999 the "Western Australian Government Health Supply Council Attraction and Retention of Nurses Final Report" was undertaken by Nexus Strategic Solutions on behalf of the Government Health Supply Council. That inquiry found that a comprehensive study into nurse retention was needed. The "New Vision, New Direction" study to which I referred came about as a result of that study. Importantly, this is a comprehensive study expected to take 12 months or so, and we will not wait until the end of the 12 months before implementing recommendations if clear views are formed along the way. We expect the study to report to the Government through the Health Department as it progresses if clear views are formed about any changes that should be made. Contrary to the impression sought to be created by the Opposition, the studies previously undertaken were definitely not ignored. They have been acted on where appropriate. They have led to the comprehensive study under way, which will deal with many issues in a more holistic manner than was possible in the past.

I refer in a little more detail to the purpose of the "New Vision, New Direction" study. It is important to place on the record the aims of the study and the issues undertaken as part of the considerations of the committee which is overseeing the study. Incidentally, I am pleased that this study committee has Her Honour Judge Antoinette Kennedy of the Supreme Court as chairperson. My discussions with her indicate a strong commitment to the area. Her standing in the community and strong sense of impartiality about all issues the committee is considering will ensure a major contribution will be made on issues we need to face. I also place on record my appreciation of the considerations of all other members of the committee.

First, the question of professional nursing practice, particularly how to improve the quality of patient care, will be considered. This will be through the development of a nursing and midwifery decision-making framework, which is intended to incorporate the delegation of care and collaboration required with other health care professionals. The entire health industry has changed significantly over the past 20 years. New treatments are provided with new technology and research developments. What was appropriate 20 or 30 years ago is not necessarily appropriate these days. These areas of professional practice will be considered, particularly whether the roles of nurses and midwifery practice should be expanded.

Second, work force issues will be considered, particularly the management of the nursing and midwifery work force. Recruitment and retention strategies will be considered, with appropriate skill mixes within the nursing profession. Career development and appropriate utilisation of other health care workers will also be examined.

Third, the question of professional standards will be considered by the study, particularly professional competency and its relationship to nursing standards. Fourth, consideration will be given to the most appropriate education and training arrangements for the profession of nursing, particularly in professional development and clinical specialisation. As I indicated earlier, a change has occurred from hospital to university based training over the past 20 years. We must consider whether the proportion of the university courses in place - they are here to stay I suggest - are devoted to clinical training in the hospital environment. Fifth, nursing and midwifery strategic leadership will be considered. We must consider how strategic nursing and midwifery leadership can be encouraged so we will have strong advocates in that profession over the next few decades.

The desired outcome of the study will be the development of clear strategic development for nursing and midwifery in Western Australia. We can develop that direction if we adopt a comprehensive process with input from many sources; namely, the nursing profession, whether it be the Australian Nursing Federation, the Hospital Workers and Miscellaneous Workers Union or others; the Royal College of Nursing Australia; the Nurses Board, the nursing education providers, such as the universities; and others who have an important contribution to make. They will all have an opportunity to make a contribution to this very important study. The time frame is 12 months. If recommendations emerge about changes that should be made along the way, the Government will take them seriously and do what it can to ensure they are implemented.

Nurses' accommodation around rural areas of the State was raised in debate. It is an important matter which is being taken very seriously by the Government. About \$10m was allocated last finance year to upgrade and provide new accommodation for health professionals. This was largely, but not only, for nurses. This year we will spend approximately \$4m, and a total of \$9.6m over the next four years, to provide upgraded and new accommodation for health professionals around Western Australia.

I give a few examples of this activity. Two new three-bedroom units are currently out to tender and will be constructed soon in Broome. Carnarvon has a new three-bedroom house and three one-bedroom units are at the planning stage. A three-bedroom residence for staff was completed in 1999 in Carnarvon. Cunderdin has a two-bedroom unit planned. Exmouth has a new four-bedroom residence either being planned or that has been constructed. A new three-bedroom unit is planned for Fitzroy Crossing with \$460 000 allocated for the upgrading of staff quarters. I understand that construction will commence soon. I had the opportunity to visit the renovation of staff quarters at Gnowangerup, for which \$183 000 has been allocated. I assume that the project is completed because I visited in March. Accommodation upgrades are occurring at Halls Creek with \$450 000 allocated for that purpose.

Mr Prince interjected.

The DEPUTY SPEAKER: Order!

Mr DAY: Some interjections are less disorderly than others, Mr Deputy Speaker.

THE DEPUTY SPEAKER: That is up to the Chair to decide.

Mr DAY: I agree entirely.

A new residence has been purchased in Kalbarri at a cost of \$90 000. In Kalgoorlie major works are under way with \$1.8m being spent on new on-site accommodation. An additional \$1.35m has been allocated for new staff accommodation at the site that has been acquired in Croesus Street. I also make the observation that a substantial capital works program is under way in Kalgoorlie, and a new paediatric ward will be provided. The member for Kalgoorlie referred to the new palliative care unit, which I had the pleasure of opening only a week or so ago. New mental health accommodation is also about to be constructed in Kalgoorlie and an emergency department upgrade and other works will occur as well. In Karratha four new three-bedroom units at a value of \$403 000 have been planned. A new residence to the value of \$200 000 has been purchased in Katanning. At Lake Varley a new three-bedroom residence is currently out to tender. Two new two-bedroom units are being planned in Laverton, and \$275 000 has been allocated for the upgrading of the sister's house in Leonora. In Meekatharra, four new two-bedroom units have been constructed, and two new two-bedroom units are planned in Merredin to the value of \$360 000. In Morawa two new three-bedroom units have been completed, and I had the opportunity of visiting those earlier this year. In Mt Magnet a new three-bedroom unit has been planned. In Northampton a new residence has been purchased at cost of about

\$200 000. In Onslow, two new two-bedroom units and a manager's residence are under construction, two new three-bedroom units have been planned and some additional renovations to staff quarters have been completed. At Oombulgurri, in the far north of the State, two new three-bedroom units are under construction at a cost of \$680 000. In Port Hedland three new two-bedroom units and one new three-bedroom unit have been completed at a cost of \$776 000. In addition, various renovations to housing are occurring and four new two-bedroom units and two new three-bedroom units are in the planning stage. In Warmun, just south of Kununurra, two new three-bedroom units are currently under construction. They have probably been completed as well, because I had the opportunity of visiting Warmun and seeing those two units in April this year.

The message that is clearly conveyed by that extensive list of staff accommodation upgrades and construction is that the Government takes very seriously issues related to providing high-quality accommodation for health staff from one end of Western Australia to the other, whether they be in large centres in Western Australia or in much more remote areas and smaller communities. It is not easy to meet all of the needs or expectations that people may have, given the vast landmass that we must cover in Western Australia. However, the reality is that we are making a genuine effort to provide upgraded accommodation for people in many different locations in Western Australia. We have a very high standard health system in Western Australia, as the member for Vasse indicated earlier. We have given a high priority through our Health budget, which has grown by \$700m annually since we have been in government, to providing health services wherever they may be required in Western Australia.

I will conclude by referring to the profession of nursing in this State. I put on record the fact that Cabinet has given approval to the recommendations of the remote area nurse practitioner project, chaired by Judge Antoinette Kennedy, which was completed earlier this year. It was established when my predecessor, the member for Albany, was the Minister for Health in recognition of the fact that nurses in many remote and rural communities in Western Australia have long provided health services and often offer the only health service that is available. They are forced by necessity to function outside of the customary and, in some cases, legislative boundaries that they would traditionally follow if they were in a much more populated area. When we return to government in 2001, we will introduce legislation into this Parliament to give legislative authority and recognition to nurse practitioners as a specialist area of nursing, so they can be authorised to work in the many designated remote areas of Western Australia. I place on record the magnificent contribution made by remote area nurses, some of whom I have had the pleasure of meeting.

It can be clearly understood from my comments that the Government takes very seriously all the issues raised about the profession of nursing. I am always happy to discuss these sorts of issues with nurses and their representatives, and I do so on a regular basis. I know that many constructive contributions about how we can best provide health services in Western Australia for the future can be made on behalf of the nursing profession. There has been some debate in the past few days about the contribution that may be made by doctors on how we should provide health services in the future. As I have made clear in my public comments on that issue in the past couple of days, we want the input of clinicians, whether they be doctors, nurses or other professionals, about how we should be providing health services in the future. We can never necessarily accommodate the sectional needs of any one group, but we want constructive inputs and contributions from health professionals, whether they be medical practitioners, nurses or many of the other health professionals who are working in a very dedicated way in Western Australia.

The sentiments that are expressed in the motion moved by the Opposition simply are not borne out by reality, as I have clearly demonstrated; therefore, the Government opposes the motion.

Question put and negatived.

CRIMINAL CODE AMENDMENT (PROTECTION OF SENIORS) BILL 2000

Second Reading

Resumed from 6 September.

MR PRINCE (Albany - Minister for Police) [6.40 pm]: I am the first speaker on this side of the House to respond to this fraud that has been brought into this place by the Leader of the Opposition. I use that word after very carefully looking through what had been said about this measure.

The DEPUTY SPEAKER: Order! If members want to hold a conversation, they can take it outside.

Mr PRINCE: I have also for some time considered the performance of the Opposition not only on this particular matter but also generally on law and order matters. I want to go through this debate in some detail. I regret that there will probably not be enough time tonight, because it will take more than 20 minutes to explain exactly what this is all about.

The Bill proposes amendments to sections 318, 393, 400 and 409 of the Criminal Code. For the purposes of laying the foundations to the debate, I propose to go through these matters in a little detail. Chapter XXX of the Criminal Code deals with assaults. Section 313 deals with common assaults. A common assault occurs where a force is applied by one person to another but it is a minimal force in the sense that it does not in any way interfere with a person's health or comfort. If injury is caused by the infliction of force and it interferes with health and comfort, it is assault occasioning

bodily harm. It then ceases to be a common assault under section 313 and becomes an assault occasioning bodily harm under section 317.

Section 371A deals with assaults with particular intent - for example, an assault of someone with the intention of facilitating the commission of a crime. Whether there is bodily harm or not, it is an assault in connection with something else as opposed to a simple assault. Section 318 deals with serious assaults. This section refers to the person against whom the assault is perpetrated. The public officer is the classic case, whether a police officer or prison officer, or a person who is driving a vehicle, a train, ferry or passenger vehicle, such as a bus driver, taxi driver and so on.

In that hierarchy of assault sections in the Criminal Code, common assault incurs a possible imprisonment of 18 months maximum or a fine of \$6 000. Almost all common assaults are dealt with by lower courts, such as the Magistrate's Court and the Court of Petty Sessions, and so they should be. Common assaults are dealt with relatively simply and with relatively minor penalties, and again so they should be because we are talking about a situation in which people may use some force against others in the form of a slap, push or punch, which of its nature does not cause an injury which interferes with health or comfort. It is very much at the lower end of the scale.

We are not talking about that here with the amendment to section 318 because section 318 deals with serious assaults. Assault occasioning bodily harm carries a maximum penalty of five years' imprisonment, because it is a crime, but there is a summary conviction penalty. Of course, many of these charges are dealt with in the Magistrate's Court. The magistrate can impose a sentence of a maximum of two years' imprisonment or a fine of \$8 000.

Assault with intent involves the commission of a crime or intent to inflict grievous bodily harm that is not carried out. The assault of a person with intent to resist or prevent lawful arrest or detention is again a crime and carries a liability of imprisonment for five years. It can be dealt with before the Magistrate's Court or the Court of Petty Sessions by imprisonment for a maximum of two years or a fine of \$8 000. Again most of those forms of charges are dealt with in the lower court.

The first amendment in this Bill proposes to alter section 318, which deals with serious assaults. Serious assaults are assaults of any nature against a public officer who is performing a function of his office. I have given an example of police officers and prison officers, who in the course of their employment are unfortunately often assaulted. However, there are other officers for whom this section offers some form of deterrent to a person who would otherwise have a go at them. It also covers a person performing a function of a public nature conferred on him by law or on account of his performance of such a function. This includes assaulting a person who is acting in aid of an officer. For example, for the assailant of a person who goes to the aid of a police officer or a prison officer who is acting in the execution of his duty, an assault of such a nature or category would carry the potential for 10 years' imprisonment.

That is the most serious assault until one gets to the issues of wounding or grievous bodily harm. Grievous bodily harm is a permanent injury or one that is life threatening. Wounding is the penetration of skin or some form of wound to the body which is far more serious than assault. In that context this Bill intends to add a new paragraph to section 318, which contains paragraphs (d) to (g), (a) to (c) having been deleted. It is proposed to insert new paragraph (h) to make it a serious assault to assault a person over the age of 60 years. The result would be that it would be a crime and the assailant would be liable to imprisonment for 10 years maximum, but on summary conviction imprisonment for three years or a fine of \$12 000.

The proposition would seem superficially to have some merit. However, one must look at what has happened in the superior courts of this State during the past few years, particularly 1998-99 for which I have figures. The table to which I refer was tabled in this House by me on 20 September of this year. I am unable to give members the tabled paper number but I have the extract of *Hansard* of that day. The table clearly shows cases of assaults occasioning actual bodily harm dealt with in the superior courts. It means that the nature of the factual circumstances was such that it went from the magistrate, who could otherwise deal with such cases of summary conviction, to a superior court. As I have said, for assault occasioning bodily harm the maximum penalty is five years. The maximum that superior courts have imposed is three years, the minimum is six months and the average is about 1.7 or 1.8 years. Nobody has ever got the maximum. It is extremely unusual in any circumstance for a person to get the maximum where a variation is capable of being made by a court. I would not encourage courts to go for the maximum. That range of sentences probably reflects the way the community through Parliament has expressed its view in the making of this law. However, to some extent one could also say that an average sentence of a bit over one and a half years, where the maximum is five, would seem to be on the low side. It is significantly less than half of the maximum sentence that could be imposed.

For serious assaults covered by section 318 the maximum sentence which can be imposed by a superior court is 10 years. The maximum sentence that has been imposed is six years, the minimum six months and the average is under two years in 23 cases dealt with over the period in which these figures were taken. The maximum sentence of 10 years was first inserted into the Criminal Code in 1994, the section being first inserted in 1985. It is a good law, and I am not saying that it should not have been inserted. Notwithstanding that the maximum sentence for serious assaults has been 10 years from 1994, as I have said, the average sentence imposed is under two years in 23 cases dealt with. The maximum under the code and what the courts are doing do not have a lot of relevance to each other. I will apply the same basis to other matters that this Bill will amend -

Mr McGinty: Section 318 of the Criminal Code provides particular protection for taxi drivers. What is it about them that warrants protection that should not then be extended to senior citizens?

Mr PRINCE: The code provides that a taxi driver is a person who is operating or in charge of a passenger vehicle. I have no objection to the proposition that if someone has assaulted an elderly person - the age does not matter because some 60 year olds are robust and some are not - he should be given a much harsher penalty than if he had assaulted someone in the prime of life and more capable of resisting the assault. The same proposition applies to a child and someone with a disability. A person in his 30s may be disabled as a result of a stroke, multiple sclerosis or severe arthritis. I am not talking about people in wheelchairs, but people who are less able to defend themselves than a robust, healthy individual. Those factors should inform the court in imposing a higher sentence, particularly if the nature of the fragility is apparent.

Mr Kobelke: Does that lead you to extend or amend the application of this Bill, or to oppose it totally?

Mr PRINCE: I will be generous in assuming that the Opposition's intention is to provide a greater deterrent to those who would attack older people because they are less able to defend themselves. The same argument applies to a child or any other person in the gamut of human life who, for whatever reason, is less able than a robust person to defend himself. A person with a disability - it may be an eyesight problem that does not otherwise prevent him leading a full life - arthritis or a variety -

Mr Kobelke: Where does that leave you in respect of this Bill?

Mr PRINCE: We should be telling the courts that, if they are dealing with an individual who has assaulted someone who has a degree of frailty, they should deal with that perpetrator far more harshly. That would provide a degree of protection - insofar as we ever get protection using deterrents written into a sentencing regime - for those who are far more vulnerable. The intent of this legislation is good, but it is drafted inappropriately because it singles out people over the age of 60 and no-one else, and that is unreasonable.

Mr Kobelke: Will the Government look to enhance or extend the application of this Bill?

Mr PRINCE: I have another 46 minutes in which to speak, so the member will have to bear with me.

Section 393 refers to the "punishment of robbery". The punishment of robbery is interesting. The code provides that -

Any person who commits the crime of robbery is liable to imprisonment for 14 years.

As far as I am aware, that penalty has not been changed for 20 years or longer. The section also provides -

If the offender is in company with one or more other person or persons, or if at or immediately before or immediately after the time of the robbery, he wounds or uses any other personal violence to any person, he is liable to imprisonment for 20 years.

Robbery at the lower end of the scale attracts a sentence of 14 years' imprisonment, and robbery with an aggravating circumstance - namely, the use of violence or involving two or more people - attracts a sentence of 20 years' imprisonment. Over 36 cases of robbery at the simple level, the maximum sentence imposed by the courts has been four years' imprisonment, the minimum sentence has been six months' imprisonment and the average has been just over two years' imprisonment. As far as I can recall, and looking at the footnotes to the section, the 1981 amendment is the most recent. Notwithstanding that we have had that regime for about 20 years, this is what the courts are doing. The average sentence is the important issue, and it is just over two years' imprisonment. In 32 cases of aggravated robbery - that is, robbery in company, which attracts a maximum penalty of 20 years' imprisonment - the maximum penalty imposed has been, again, four years' imprisonment and the minimum has been imprisonment for one year. The maximum penalty was last changed in 1992, when the Labor Party was in government; in other words, it has not been changed in recent times. The courts can impose a very low average penalty - no doubt for all sorts of good reasons - notwithstanding that the Parliament set the bar at 20 years' imprisonment a long time ago. That average will be the punishment at which the court starts to determine a sentence.

Mr Kobelke: These are the arguments that have led the Government to oppose this Bill.

Mr PRINCE: I will talk about the matrix Bill in a while.

Mr Kobelke: So you are opposing this Bill.

Mr PRINCE: We can change the maximum sentence, but that will not change sentencing practices. I said that in this House on Wednesday, 20 September during question time, and I produced a table, but my comments appear to have fallen on deaf ears.

Mr Kobelke interjected.

Mr PRINCE: The member will have to wait to hear what the Government will do.

Mr Kobelke interjected.

The DEPUTY SPEAKER: I formally call the member for Nollamara to order for the first time.

Mr PRINCE: Section 400 defines the expression “circumstances of aggravation”. That is important because section 401 creates the offence of burglary and provides for a three-tier regime of seriousness. Burglary is entering into or being in the place of another person without his consent with intent to commit an offence. If that home invasion is committed in circumstances of aggravation, the maximum punishment is 20 years’ imprisonment, which is about the same as the penalty for drug trafficking. The second tier of offence relates to a place that is ordinarily used for human habitation, but the offence was not committed in aggravated circumstances. In that case, the penalty is 18 years’ imprisonment. We are talking about places in which people live, whether it be a house, unit, caravan, car, tent or conveyance. This is not limited only to a home.

Mr Kobelke: Are you going to use the last minute to explain this?

Mr PRINCE: I will continue my contribution next week.

The third tier relates primarily to commercial premises - in other words, not places in which people live - and the penalty is imprisonment for 14 years.

I wish we did not have these sitting hours on a Wednesday; I would much prefer the debate go for much longer.

The maximum sentence imposed by the courts for burglary of commercial premises has been four years’ imprisonment, the minimum has been six months’ imprisonment and the average has been just under 21 months’ imprisonment.

Debate adjourned, pursuant to standing orders.

House adjourned at 7.00 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, PAYMENTS TO LAW FIRMS

406. Mr KOBELKE to the Parliamentary Secretary to the Minister for Tourism:

- (1) What was the total of all payments, whether for legal advice or other work, paid by all agencies within the Minister's current portfolios in 1998-99 to each of the following law firms, including payments to related parties, and their costs -
- (a) Blake Dawson Waldron;
 - (b) Clayton Utz;
 - (c) Corrs Chambers Westgarth;
 - (d) Freehill Hollingdale & Page;
 - (e) Jackson McDonald;
 - (f) Mallesons Stephen Jacques;
 - (g) Minter Ellison;
 - (h) Phillips Fox;
 - (i) Pullinger Stewart; and
 - (j) Skea Nelson & Hager?
- (2) What was the total of all payments, whether for legal advice or other work, paid by all agencies within the Minister's current portfolios in 1997-98 to each of the following law firms, including payments to related parties, and their costs -
- (a) Blake Dawson Waldron;
 - (b) Clayton Utz;
 - (c) Corrs Chambers Westgarth;
 - (d) Freehill Hollingdale & Page;
 - (e) Jackson McDonald;
 - (f) Mallesons Stephen Jacques;
 - (g) Minter Ellison;
 - (h) Phillips Fox;
 - (i) Pullinger Stewart; and
 - (j) Skea Nelson & Hager?

Mr BRADSHAW replied:

Western Australian Tourism Commission

(1)-(2) FIRM	PAYMENT MADE BY WATC	
	1988/99	1997/98
Blake Dawson Waldron	\$0	\$ 661
Clayton Utz	\$28,917	\$ 6,695
Corrs Chambers Westgarth	\$0	\$ 100
Freehill Hollingdale & Page	\$ 1,308	\$ 3,445
Jackson McDonald	\$0	\$0
Mallesons Stephen Jacques	\$0	\$0
Minter Ellison	\$ 2,774	\$0
Phillips Fox	\$75,640	\$ 553
Pullinger Stewart	\$0	\$0
Skea Nelson & Hage	\$0	\$0

Rottnest Island Authority

(1)-(2) FIRM	PAYMENT MADE BY RIA	
	1988/99	1997/98
Blake Dawson Waldron	Nil	Nil
Clayton Utz	\$926.00	Nil
Corrs Chambers Westgarth	Nil	Nil
Freehill Hollingdale & Page	Nil	Nil
Jackson McDonald	Nil	Nil
Mallesons Stephen Jacques	Nil	Nil
Minter Ellison	\$47,663.25	Nil
Phillips Fox	\$132,123.12	\$77,312.22
Pullinger Stewart	Nil	Nil
Skea Nelson & Hage	Nil	Nil

WORLD EXPO 2000

591. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

- (1) Has the Western Australian Tourism Commission taken part in the World Expo 2000 in Germany?
- (2) If so, how many visitors to the West Australian display have there been?
- (3) Are any statistics available on the demographics of these visitors?
- (4) How much did the display cost?

Mr BRADSHAW replied:

- (1) No.
- (2)-(4) Not applicable.

RURAL TOURIST BUREAUS, INFORMATION IN LANGUAGES OTHER THAN ENGLISH

604. Ms WARNOCK to the Parliamentary Secretary to the Minister for Tourism:

- (1) What assistance is provided by the Tourism Commission to country and regional tourist bureaus to provide appropriate services for non-English speaking tourists?
- (2) What written information and publications in languages other than English are being provided for country and regional tourist bureaus by the Tourism Commission?
- (3) What action is being taken by the Tourism Commission to make country and regional tourist bureaus aware of the need to provide tourism information in languages other than English?

Mr BRADSHAW replied:

- (1) The WATC does not directly provide assistance to country and regional tourist bureaus. I would advise the member that Tourist Bureaus, Information Centres and Visitor Centres around Western Australia are autonomous bodies who have the local knowledge to best determine the quantity and quality of information required. The WATC has increased funding to Regional Tourism Associations and regional tourist bureaus from \$1.017m in 1995/96 to more than \$1.4m in 1999/2000. The Regional Tourism Associations spend a considerable percentage of their marketing resources on marketing to non-English speaking tourists.
- (2) The "discover" section of www.westernaustralia.net is available to regional tourist bureaus and consumers around the world. This section has information on each of the regions in Western Australia in English, German, Japanese, Chinese and Italian. The WATC also produces Discover WA a 32 page brochure which is in Italian, German, French, Mandarin and English. The WATC also has brochures in Japanese produced by its office in Tokyo.
- (3) Not applicable.

CONVENTION AND EXHIBITION CENTRE, PAYMENT OF RATES

637. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the Perth Convention and Exhibition Centre project (PCEC) and ask -

- (a) what is the rate situation in relation to the PCEC;
- (b) will the PCEC be exempt from paying rates to the City of Perth; and
- (c) on what basis will the PCEC be rated?

Mr BRADSHAW replied:

- (a)-(c) The State Government has made no commitments to any proponent regarding State or Local Government Taxes and changes. The member should contact the City of Perth for this information.

CONVENTION AND EXHIBITION CENTRE, INCOME FROM CAR PARKS

638. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the Perth Convention and Exhibition Centre (PCEC) project and ask -

- (a) who received the income from the Wellington Street and Busport car park sites;
- (b) what was the net car park income per annum from these sites;
- (c) what will happen to the car park income from these sites;
- (d) what is the notional value of such income in the following years -
 - (i) 2001/2;
 - (ii) 2002/3;
 - (iii) 2003/4; and
 - (iv) 2004/5; and
- (e) what will that income be used for?

Mr BRADSHAW replied:

- (a) The City of Perth.
- (b) As this matter is a responsibility of the City of Perth, the member will need to seek a response from them.
- (c)-(e) This will be subject to negotiations and final outcome of discussions between the State, the City of Perth and Multiplex.

CONVENTION AND EXHIBITION CENTRE, IMPACT OF BUSPORT SITE ON ROAD NETWORK

640. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the Perth Convention and Exhibition Centre project and ask -

- (a) what will the impact be of the Bus Port site Convention Centre on the existing road network in that area;
- (b) will any on or off ramps need to be adjusted;
- (c) if so, how;
- (d) if so, what will the cost be;
- (e) if so, who will meet that cost;
- (f) will any of the other roads need to be changed;
- (g) if so, how;
- (h) what will be the costs of these adjustments; and
- (i) who will meet this cost?

Mr BRADSHAW replied:

- (a) There will be very little impact. In fact, there will be no operational changes to traffic at all within the vicinity.
- (b) Yes.
- (c) The current Mitchell Freeway off-ramp through to the No. 2 Carpark to Mill Street, will be remodelled to skirt the site.
- (d)-(e) Costs will be borne by Multiplex
- (f) No.
- (g)-(i) Not applicable.

NEXUS CONSORTIUM, WELLINGTON STREET SITE

719. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

- (1) Is it true that the Government is now working with members of the Nexus Consortium to develop another solution for the Wellington Street site?

- (2) Will this be available for public comment?

Mr BRADSHAW replied:

- (1) No.
 (2) Not applicable.

PERTH CONVENTION AND EXHIBITION CENTRE, TENDER COSTS

721. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the answer to question on notice No. 131 of 2000 in respect to the failure of the three leading tenderers to conform to the tender specification the Minister stated that Leighton's bid was conditional on the States acceptance of the Goods and Service Tax liability and the exhibition hall was not divisible into 7 spaces and ask, will the Minister explain why the Media Assessment Report for the Perth Convention and Exhibition Centre issued to the media on the announcement of the preferred tenderer the Task Force admits that Leightons proposed a facility which meets the minimum mandatory requirements?

Mr BRADSHAW replied:

The member refers to a comment which appears on page 13 of the Media Assessment Report under Section 4.1.1.1 - "Financial Feasibility of the Project (15%)" and as such, the reference to meeting minimum mandatory requirements is limited to Section 4.1.1.1 and is only relevant to that Section.

MINERALS AND ENERGY DEPARTMENT, FATALITY AND SERIOUS INJURY INVESTIGATIONS

734. Ms ANWYL to the Minister representing the Minister for Mines:

- (1) On average what is the time taken by the Department of Minerals and Energy to prepare an investigation report into -
- (a) a fatality; and/or
 - (b) a serious incident?
- (2) What steps are taken to keep families or injured workers advised of these time limits?
- (3) What is the average time taken for a mining inquest to be held?
- (4) Is the investigation report prepared by the Department of Minerals and Energy in the case of a fatality made available to the workers family and/or solicitor?
- (5) Will the Minister specify the requirements of the Department in relation to this?
- (6) If the report and other documents are not made available to the family, will the Minister state the reason why?

Mr BARNETT replied:

- (1) (a) From analysis of the last 22 currently complete fatality investigations the average time taken by the Department of Minerals and Energy (DME) before an investigation report into a fatality is released to the Coroner is 5 months.
- (b) DME does not keep statistics on the length of time taken to investigate serious incidents. Depending upon the exact nature of any given incident, the time taken to investigate could vary widely.
- (2) Inspectors are made available to advise on the timeframe if this is what is desired. In addition, an information booklet on the mining fatality investigation process and the Coronial inquiry process has been prepared by DME for use by bereaved families. This booklet clearly lays out the procedures adopted, the various agencies involved and their roles in the process and the time likely to be taken by the Inspector to complete the investigation process.
- (3) From an analysis of the last nine mining fatalities into which an inquest has been held, the average time taken to hold an inquest is 16.5 months. (This equates to 11.5 months after the DME investigation report is forwarded to the Coroner).
- (4) The investigation report prepared by DME is provided to the Coroner, who may make it available to any person with a sufficient interest, along with any other material, such as the Police report, that he may consider to be appropriate.
- (5)-(6) The Inspector who investigates and prepares a report into a fatal accident may, in accordance with Section 26(4) of the Mines Safety and Inspection Act 1994, release to the Coroner a report covering the investigation. Apart from this, the Inspector is prevented from releasing information relating to any accident investigation by the provisions of Section 26(2) of the Act.

LOTTERIES COMMISSION, ADVERTISING CONTRACT

745. Mr RIEBELING to the Minister representing the Minister for Racing and Gaming:

- (1) Has the advertising contract for the Lotteries Commission been awarded?
- (2) If yes -
 - (a) who was the successful tenderer;
 - (b) what is the total value of the contract;
 - (c) on what date was it awarded; and
 - (d) on what date does it expire?
- (3) What is the estimated annual value of the contract?
- (4) Does the contract include both ScratchnWin and Lotto?

Mr COWAN replied:

- (1) Yes
 - (2)
 - (a) Marketforce Ltd
 - (b) \$8.5 million
 - (c) 5 September 2000
 - (d) 4 September 2003 [plus 2 X 1 year options terminating 4 September 2005]
 - (3) \$1.7 million per year
 - (4) The contract includes both Lotto and Scratch'n'Win and also includes Cash 3 and all other lottery products, along with all corporate and community funding advertising
-