

Legislative Assembly

Tuesday, 24 November 2009

THE SPEAKER (Mr G.A. Woodhams) took the chair at 2.00 pm, and read prayers.

PAUL WILLIAM ANDREWS

Condolence Motion — Family's Thanks — Statement by Speaker

THE SPEAKER (Mr G.A. Woodhams): Members, on behalf of Gim Andrews, wife of Paul Andrews, former member for Southern River, I express her thanks for what happened in this place last week and her profound appreciation on behalf of her family for the words that were spoken and the actions that were taken. I acknowledge that on her behalf.

LANDGATE — FIREWATCH SERVICE

Statement by Minister for Lands

MR B.J. GRYLLS (Central Wheatbelt — Minister for Lands) [2.02 pm]: As we move into summer and also the fire season, I inform the house about Landgate's FireWatch service. FireWatch is an online fire management service that supplies critical information on discovering, tracking and managing prescribed burning and bushfires. FireWatch provides critical near real-time information from land monitoring satellites to detect bushfires as they are happening and their subsequent effect on the land. This information is supplied to Australia's emergency services, land management professionals, farmers, tourism operators, Indigenous communities, pastoralists and the general community.

The FireWatch service, which can be accessed online by anyone anywhere at any time, has gained a high profile as an innovative online service enabling informed decision-making that protects lives and saves both property and the environment.

Leveraging the technologies provided by Landgate's shared land information platform, or SLIP, also allows the FireWatch service to be integrated with other support data. For example, this integration is leading to making user-friendly information available to the Fire and Emergency Services Authority to assist in its operational activities, such as advising of road closures, the location of community centres, the identification of rally points and where emergency and support services are located during an incident. This will enable bushfire simulations to be run, which in turn will identify high-risk regions.

FireWatch has also had an international impact with its FireWatch Indonesia program. In June 2008 Landgate was awarded a \$1.5 million AusAID contract to increase Indonesia's capacity to design and implement a fully operational FireWatch web-based system. Landgate technical experts have worked with, trained and mentored, Indonesian government agency representatives in building a fire monitoring infrastructure to increase the Indonesian government's ability to monitor fires. The IndoFire system was launched in Jakarta in October of this year. It provides for early detection of fire hotspots across two Indonesian provinces that are particularly prone to fire. It does this by connecting satellite receiving stations with web servers to enable the high-speed production and delivery of satellite products for fire detection and suppression, and forest management.

FireWatch Indonesia is also part of the Australian and Indonesian forest carbon initiative to reduce carbon dioxide emissions and increase carbon dioxide sequestration from Indonesian rainforests.

HOMESWEST HOUSING — RESIDUAL CURRENT DEVICES

Statement by Minister for Housing and Works

MR T.R. BUSWELL (Vasse — Minister for Housing and Works) [2.04 pm]: In September I made a statement to the house following the tragic death of a small boy at Roebourne. I would now like to update the house on the further action taken with the residual current devices inspection and installation program.

As previously advised, the department is installing RCDs in all state housing properties where it is identified that they are not currently fitted. All remaining public housing properties throughout the state have now been visited for the purpose of inspection, and, as at 20 November, one property was awaiting the installation of an RCD and 32 had not yet been able to be accessed. All other properties have an RCD or are no longer owned or managed by the department.

The department is working through those properties to which access has not been possible. If necessary, the department issues a seven-day contact letter, following with a "breach of tenancy" notice if the tenant does not respond, as the Residential Tenancies Act requires the tenant to give access.

An ongoing RCD installation program is well underway in remote Aboriginal community properties and urban Indigenous housing organisations managed by the department. The completion date for this project is mid-December. Although this is longer than originally estimated, it is due to the logistics of implementing the program in remote areas with limited access and in communities where occupants are often not contactable to allow admittance to properties at the time of inspection.

These are not cursory inspections; they are inspections that meet Australian standards as well as statutory and EnergySafety Western Australia requirements. Inspection of electrical installations in both remote and urban communities has resulted in extensive work on service connections; earthing; the replacement of covers on switchboards and water heaters; the repair of over-exposed live electrical connections; and upgrading of switchboards to incorporate the RCDs for power, lighting and air-conditioning circuits and other non-RCD circuits. I am advised that many installations are taking between eight to 10 hours of repair and maintenance work before they are deemed safe.

Finally, I have asked the Auditor General to conduct an investigation into the department's performance in this issue. I understand that the Auditor General is still finalising the scope of the audit, which may include other agencies. I expect that the Auditor General's investigation will provide a comprehensive assessment of the extent to which the department did or did not carry out its role adequately with respect to the RCD installation program. Having said that, I believe that the inspection and installation work that has been done by the department over the past three months, with over 8 500 properties visited and inspected statewide, means that we can now have confidence that within the very near future, all public housing properties throughout Western Australia will have these life-saving devices installed.

ROYAL PERTH HOSPITAL — POTENTIAL CANCER CLUSTER

Statement by Minister for Health

DR K.D. HAMES (Dawesville — Minister for Health) [2.07 pm]: I wish to update the house on the allegations that the use of some cleaning products could have caused cancer amongst cleaning staff at Royal Perth Hospital. This is a very serious issue that was raised by the Liquor, Hospitality and Miscellaneous Union with the hospital management in July. The concern is over the use of the chemical cleaning agents Prephen and Phensol. Prephen was used from about 1980 to 2002, when it was replaced by Phensol. The use of Phensol ceased immediately that concerns were raised in July, and an investigation was commenced.

Letters have been sent to all current staff members within the patient support services department. The letter invites staff who have possibly developed a health problem from exposure to those cleaning agents to participate in the investigation to establish the likelihood of a link between their illness and the use of the cleaning agents. Adverts were placed in community newspapers last week advising former staff members that they may participate in the investigation if they think they have health problems related to contact with the cleaning agents. Furthermore, counselling is being offered if necessary to any staff member, and a hotline has been set up for concerned people to call—9224 2281. The response to date has been that 127 people have registered through the hotline, and 40 of those have submitted consent forms to have their cases investigated. So far, 85 consent forms have been received from 563 letters sent to current staff members. Three consent forms have been submitted on behalf of deceased persons.

Professor Bruce Armstrong, Professor of Public Health and medical fellow from the school of public health at the University of Sydney, is being consulted as an expert in the investigation of cancer clusters. It is necessary to consult an expert because proving cancer clusters is very difficult as one in two men and one in three women will get cancer at some time during their lives. A cluster management team has been formed and will be giving presentations to interested staff in the week beginning 7 December to update them on the investigation.

Mr Speaker, as you can see, this matter is being taken very seriously and hospital management is working closely with staff and the union in the investigation.

QUESTIONS WITHOUT NOTICE

DEIDRE WILLMOTT — POTENTIAL CONFLICT OF INTEREST

927. Mr E.S. RIPPER to the Premier:

- (1) Will the Premier detail the conflicts of interest that require Deidre Willmott to be removed from her position as his Chief of Staff and Cabinet Secretary to the government?
- (2) When was the Premier first made aware of these conflicts?
- (3) How can the Premier assure the house that these conflicts will not compromise Ms Willmott in her new position in his office?

Mr C.J. BARNETT replied:

I thank the Leader of the Opposition for the question because it gives me the opportunity to explain the situation.

- (1)-(3) First, I have the utmost confidence in the integrity and ability of Deidre Willmott as Chief of Staff and Cabinet Secretary. She is an outstanding person. I want to place that on the public record. In my view she is doing a brilliant job, both as Cabinet Secretary and Chief of Staff, and is assisting me on major projects. This is an important lesson for all of us. Deidre Willmott came to see me a little over two weeks ago—at the beginning of this month—and said to me that there were about to be some changes in her husband’s legal practice. He is a prominent, well-known Perth lawyer and has been working in areas that did not present any issues. However, and I think that some details have been released today, he is forming a different relationship with new partners coming into the business. Inevitably, they will bring with them their expertise and clients, which may involve matters in dealing with the state on contractual issues, probably particularly in the energy industry, and may be involved in litigation either on behalf of the state and its utilities or against it. This is the point: quite properly, with the highest level of integrity Deidre Willmott drew that to my attention virtually two months before that situation could even arise.

These changes will not come into effect until January next year. She simply pointed out that in her role as Chief of Staff and Cabinet Secretary there may well be the potential for a perceived conflict of interest and she did not want to put the government in that position nor, indeed, her husband’s legal practice. I can think of nothing more proper than drawing that to my attention two months before the event. As a result, and those discussions are certainly continuing, it is intended that Deidre will continue to work for me on major projects.

Mr E.S. Ripper: In the energy area?

Mr C.J. BARNETT: She will work on major projects in the state and we are yet to conclude that.

Ms A.J.G. MacTiernan: There isn’t much happening in the energy area, so it’s unlikely there’ll be conflicts of interest.

Mr C.J. BARNETT: Gee whiz, the member for Armadale would not want to talk about conflicts of interest in this house. She would not want to go near that topic.

I will conclude my comments: those discussions are still continuing. Deidre Willmott, all going to plan, will continue working on some major projects. One that has been identified is the Oakajee project. If any issues arise, they will be declared and made clear. I do not anticipate that they will, because she will work in some very clearly defined areas. I make it very clear that we are talking about potential conflicts of interest that may arise at a future time with partners of her husband, not even from her husband’s direct work. How careful can one be and how does that contrast with the performance of Labor in government?

DEIDRE WILLMOTT — POTENTIAL CONFLICT OF INTEREST

928. Mr E.S. RIPPER to the Premier:

I have a supplementary question.

- (1) Why was the Premier not so careful with the conflicts of interest surrounding the Minister for Environment?
- (2) Why is there one rule for Deidre Willmott and another rule for Hon Donna Faragher?

Mr C.J. BARNETT replied:

- (1)-(2) Gee whiz, if it were not Christmas, I would get carried away now, but I will not. I will have some Christmas spirit —

Mrs M.H. Roberts: Guess what? It’s not Christmas!

Mr C.J. BARNETT: Not for the member for Midland.

Perth is a relatively small community. Anyone who succeeds, in whichever walk of life it is, is bound to face potential conflicts if they are defined narrowly. Do Labor members pride themselves on the way in which they and the media pursued Hon Donna Faragher simply because her husband had a job in Woodside? Was there ever a conflict of interest? No, but the issue arose, and while he was employed —

Mr E.S. Ripper: You didn’t deal with it very well at all.

Mr C.J. BARNETT: While he was employed at Woodside, the Minister for Planning took responsibility for environmental issues in that area. Again, the opposition pursued the Minister for Mines and Petroleum, Hon Norman Moore, because his wife happened to have in her superannuation a share ownership in BHP. Those

issues arose. In the greater scheme of things they were minor. Was there ever any evidence of any decision made or any action taken that in any way portrayed anything that was in conflict? No, there was not.

Mr Speaker, we are happy to accept the standard. But, gee, Mr Speaker, if only it had not been Christmas! If we were to look at the conflicts of interest opposite us amongst members of the Labor Party —

Several members interjected.

Mr C.J. BARNETT: If ever there was an incestuous group of parliamentarians, they are opposite us.

BOORABBIN FIRE DEATHS — PAYMENTS TO INDIVIDUALS

929. Mr J.J.M. BOWLER to the Attorney General:

I first acknowledge in the public gallery the teachers, parents and students from Perth Waldorf School, which I understand is in the member for Jandakot's electorate.

My question is to the Attorney General. I refer to the recent coronial inquiry into the fires at Boorabbin National Park and the payments made to individuals on the basis that they would abandon their right to action against the government. Will the Attorney General provide the house with some further detail on how these agreements came to be reached?

Mr C.C. PORTER replied:

I thank the member for his question.

I can fully understand that members of the public would have serious concerns about the outcome of that matter in respect of those payments and the circumstances in which they were given. It is a matter that warrants some explanation. This explanation I will give as briefly as possible, but it is not without its complications. The Boorabbin incident occurred on 31 December 2007. In October 2008, two payments were made: one to Ms Bedford of \$35 000 and one to Mr Taylor of \$34 000. I will use the Bedford example, because it is illustrative of the process that was engaged in to reach those payments.

A letter was received on 14 March 2008 from Friedman Lurie Singh and D'Angelo, solicitors. That correspondence to the Insurance Commission of Western Australia indicated an action by the dependants of the late Mr Bedford. It indicated that the claim was to be made under the Fatal Accidents Act. Then in April, May and July of 2008 a range of correspondence passed between Friedman Lurie Singh and D'Angelo and the State Solicitor's Office. It needs to be noted that at that time the SSO was briefed to act for the state of Western Australia by RiskCover, who was the claims manager for the Department of Environment and Conservation. That, therefore, is the legal situation that was encountered.

I might say at this time that the question is not whether Hon Donna Faragher knew about the fact of the action in the matter and the correspondence because, of course, she was not the minister at the time. I think the member for Mandurah was the relevant minister at the time. I have read some of the statements made by the member for Girrawheen and I understand the context in which they were made. Their tenor was that it would be extraordinary for a minister to not know about the claims or the nature of the eventual settlements. It may not be the best outcome, but it is certainly not extraordinary. The reason is that we would not necessarily expect the minister—whether it was Hon Donna Faragher or the member for Mandurah—to have been aware of the claim or indeed of the later settlement unless the department had told the minister.

Ms M.M. Quirk: Wasn't that in itself an issue, Attorney?

Mr C.C. PORTER: It is an important issue to raise.

Ms M.M. Quirk: Excellent!

Mr C.C. PORTER: It is an important issue to raise, but I am just clarifying here —

Mr E.S. Ripper: You would have thought it would have been in the brief to the incoming new minister.

Mr C.C. PORTER: It would have been had the previous minister known that the claim was underway. If the previous minister does not know —

Mr E.S. Ripper: No; the department prepares the brief.

Mr C.C. PORTER: Yes, but if the department did not tell the previous minister, we can see that the department was acting in a way in which we would not expect the department to tell the new minister.

Ms M.M. Quirk: Exactly; the point I was making.

The SPEAKER: Thank you, members!

Mr C.C. PORTER: That might be a situation that needs remedying.

Ms M.M. Quirk: Yes.

Mr C.C. PORTER: I believe it is an unsatisfactory situation, but I am just explaining to members how it arose. We will get onto that in a second. The reason we might think DEC would tell the previous minister or the present minister is that, although this is a legal matter and involves the settlement of claims, it obviously is contentious and involves matters of public interest. The ultimate payments in the circumstances are questions of good political judgement as well as questions of law. Nevertheless, it appears that the previous minister was not informed about the nature of either the claim or the correspondence, or the fact that it existed, and the present minister was not informed about the settlement. I agree that that is unsatisfactory but it is so because of the fact that it was State Solicitor's Office representing RiskCover, which was representing the Department of Environment and Conservation. It was treated, for all intents and purposes, as a legal matter.

The final settlement was reached by deed of agreement, which was executed on 30 October 2008. As I said, the minister was not aware of that. It had a confidentiality clause. I consider that that was unsatisfactory but not necessarily unusual in matters of this type. It also contained a series of clauses that amounted to a waiver. This was an action that was purportedly under the Fatal Accidents Act, but the waiver was for all other actions, and so the money was given in full and final satisfaction of all and any claims whatsoever. There may be other claims at common law, such as breach of duty or negligence-type claims, or statutory claims of that nature; I am not sure. It is proper and necessary to state here three things. Firstly, I do not know whether or not other causes of action are available. Secondly, I do not know whether or not the action under the Fatal Accidents Act, if it had been successful, might have induced damages of greater than \$35 000. Thirdly, everyone in the house and in the gallery must know that actions under the Fatal Accidents Act are peculiar legal matters. The complainant must show that he or she was dependent in some way on the deceased. If there is no dependency, even if there is an action, damages will not necessarily be awarded in the matter. Nevertheless, it is the present view of the government—this would have been the view of the government and no doubt the minister had she been aware of the situation—that the money should not have been given over in those circumstances and on those terms and conditions. It should not have been given over in a way that prevented the recipient from speaking about the matter or in a way that effectively stopped the recipient from taking other actions against the state, whatever they might have been. In all those circumstances, what we have done as a government, and what I have done as the first law officer of the state, is say that in all the circumstances of this case, we will not rely on those clauses in the deed of settlement. Ms Bedford and Mrs Taylor will be able to take any and all actions they wish to against the state and they will be able to speak about those matters as they wish. To say that it was extraordinary or somehow unusual is not correct. Unsatisfactory, yes. I would have thought that if I were in that position, I would have wanted my department to tell me about those matters.

Ms M.M. Quirk: It is extraordinary that the director general kept his minister in the dark.

Mr C.C. PORTER: In this case, two ministers have been kept in the dark.

Ms M.M. Quirk: Even worse.

Mr C.C. PORTER: I agree that that is an unsatisfactory situation.

Ms M.M. Quirk interjected.

Mr C.C. PORTER: With respect, member for Girrawheen, it may be that any head of a department would be wise to inform the minister about what otherwise looks to be a routine claim if that claim arises out of a coronial inquiry. As a rule of thumb, I would have thought that would be absolutely appropriate. In any event, I am certain that this is a matter that Hon Donna Faragher will rectify.

DEPARTMENT OF HEALTH — SPECIFIC PURPOSE FUNDS

930. Mr R.H. COOK to the Minister for Health:

I refer to the admissions yesterday by the director general of the Department of Health that the department used \$70 million of specific purpose and other funds to pay 2008-09 operating costs.

- (1) Will the minister confirm that in early June 2009 the Economic and Expenditure Reform Committee refused a request for extra funds from the department despite advice that services would have to be closed or staff would not be paid if the funds were not available?
- (2) Can the minister confirm that a member of his department gave unqualified assurances to Parliament that specific purpose funds would not be used to cover shortfalls in operational funds management?
- (3) It is not even Christmas, but does the minister concede that his department's budget at this stage is set to blow out by an additional \$200 million this financial year?

Dr K.D. HAMES replied:

- (1)-(3) I do not know why the member keeps doing this. Obviously it is because the press are here and are listening. A matter of public interest is listed on the notice paper to discuss exactly these matters. That will give me the opportunity to discuss these things in full.

Mr R.H. Cook interjected.

Dr K.D. HAMES: The member does not even want to know the answer. I cannot tell the member about what happened at the Economic and Expenditure Reform Committee because that is a cabinet subcommittee. As the Deputy Leader of the Opposition knows, I am not permitted to talk about things that happen at the EERC. What I can tell members is that we put forward the case that we needed additional funds and some additional funds were provided by Treasury. As it turned out, they were not the full amount that was required to cover the bills that we had to pay. As was pointed out by the director general in the Legislative Council's estimates and financial operations committee, that figure represents a 0.5 per cent variation in the budget. Anyone would accept that to come within \$25 million in a budget of nearly \$5 billion is a pretty good effort. The shadow minister talks about us being \$70 million over budget, but he should remember that when we came to government in September 2008, the first thing the former Minister for Health said to me was that we were \$100 million over budget—not \$70 million. When we took office three months into the financial year, that is how much the Labor government was over budget in health.

Mr B.S. Wyatt: And you ended up \$370 million over budget.

Dr K.D. HAMES: No, we did not. The member should know better than that.

The SPEAKER: Member for Victoria Park, if you want to ask questions in this place, I would urge you to ask questions, not yell across the chamber. I formally call you for the first time.

Dr K.D. HAMES: The figure that we ended up over budget was not \$370 million. The member should spend more time studying his notes. We were \$180 million over budget. If he looked at the figures, he would see that an initial \$370 million was provided. Some of the funds that were provided were outside commonwealth funds. Our extra expenditure amounted to \$180 million, \$110 million of which was provided by Treasury to cover that overrun. The health department was required to manage its expenditure in the three to four months leading up to the end of the financial year to try to recoup that amount. We were able to do that in some areas, but not all. At the end of the year, the shortfall was funded out of those funds. We have had that debate. I remind members again that, under the opposition's watch, it had a shortfall of \$100 million after three months, compared with our shortfall of \$70 million after five months.

PRINCESS MARGARET HOSPITAL — WARD UPGRADE

931. **Mr W.R. MARMION to the Minister for Health:**

I notice that the minister was in my electorate of Nedlands on Sunday reopening a ward in Princess Margaret Hospital for Children. Can the minister please explain what has been done to improve the ward for children with high-level care needs?

Dr K.D. HAMES replied:

I thank the local member for the question. Members will have noted the chastisement in the question. I apologise to the member for not informing him that I was in his electorate. I explain to the member that the visit was scheduled to occur a few days later, either today or tomorrow. The event was brought forward to Sunday. Unfortunately, he was not notified of that. Nevertheless, it was a fantastic event.

Mr E.S. Ripper interjected.

Dr K.D. HAMES: The moustache might have frightened some of the children. I reckon I have caught the Leader of the Opposition already, and I started nine days behind.

Members would have seen the picture of the little girl wearing a beanie in *The West Australian*. I thank *The West* for publishing that picture and the two television channels that acceded to my request to run a story on her on the TV that night. She has a brain tumour behind her right eye. She was about to have surgery the next day.

We spent \$1.9 million on a major upgrade to the ward. More than 1 000 young kids who are at the more serious end of medical conditions go through that ward each year. When we went into the ward, we saw three children who had had cardiac surgery two days earlier, a child with a brain tumour and some children with spinal injuries, chronic severe head injuries and the like. Ward 5A has been significantly upgraded. It is a major step forward for PMH and the way we look after our patients.

The upgrading of that ward adds to a number of significant investments by this government since we have been in office, including \$30 million to reduce the waitlist for surgery, more than \$30 million for the patient assisted travel scheme, similar amounts for the Royal Flying Doctor Service and \$84 million to organisations such as Silver Chain that provide care in the home. This government has made a significant investment in health in this state. On top of that we have invested considerable funds in the regional areas, particularly the Pilbara. This government is committed to significantly upgrading health standards in the state, and I think this ward is an excellent example of that.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL — EMERGENCY DEPARTMENT EXPANSION

932. Ms A.J.G. MacTIERNAN to the Minister for Health:

On 27 January this year the minister opened Labor's \$10 million expansion —

Dr K.D. Hames: I have the date as the twenty-eighth.

Ms A.J.G. MacTIERNAN: Okay, I shall start again. In January this year, the minister opened Labor's \$10 million expansion of the Armadale-Kelmscott Memorial Hospital emergency department, at which time he promised the facility would increase the number of treatment beds by 23.

- (1) Can the minister explain why half the new beds have never been used and why eight of the treatment bays are now being used as a storage room?
- (2) Can he explain why a further four beds are now closed due to staff shortages when ambulances are regularly being ramped and are often asked to bypass to Perth and Fremantle?
- (3) Does he acknowledge that this failure to utilise more than half the new emergency department facility is a massive waste of taxpayers' money and a fraud on the people of Armadale?

Dr K.D. HAMES replied:

- (1)-(3) I do not acknowledge any of those things. I have the original press release from Jim McGinty, who announced this development in January 2008. Of course, all developments are not developments of the Labor Party; they are developments of government strongly supported on both sides of this house with funding that is provided for facilities such as that. At the end of the day, taxpayers' dollars pay for these things, not the Labor Party's dollars. Nevertheless, that was a program we strongly supported and proceeded with. After coming to government, I was very pleased to be able to open that ward. The plan was always to build enough emergency department beds to cater for growth in demand up to 2020. It was always anticipated that not all those beds would be opened at once, but that there would be a staged opening of beds within that emergency department as demand required.

Ms A.J.G. MacTiernan: You bought beds to put them in storage.

Dr K.D. HAMES: That has occurred. Currently 30 beds are open and 17 are closed. As demand grows in that hospital we will progressively open them. The long-term plans for Armadale hospital include a significant upgrade to around 300 beds to make it a major secondary hospital on that site. In the meantime, the demand is not there. The hospital is managed extremely well and copes well with the demand. A lot of those patients are transferred to other hospitals because the standard of care at Armadale is not up to the standard of a tertiary hospital, where significantly higher standards of treatment are provided, so often patients are sent straight on. I do not know whether the figure is 80-odd patients a month or a year. I think it is a month; in fact, I think that more than 800 patients a year are sent from that hospital to Fremantle Hospital for more critical management in a tertiary hospital. What has occurred is exactly what was planned by the former Labor minister and exactly what he said would happen, and we are following the plan that was set in place.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL — EMERGENCY DEPARTMENT EXPANSION

933. Ms A.J.G. MacTIERNAN to the Minister for Health:

I have a supplementary question. Can the minister explain why the project when announced by Mr McGinty was a \$10.4 million project but a year later had been reduced to a \$9.4 million project?

Dr K.D. HAMES replied:

I have not seen those specific numbers but I imagine our extremely efficient government got it down to a cheaper price.

POLICE — STOP-AND-SEARCH POWERS

934. Mrs L.M. HARVEY to the Minister for Police:

I first welcome back a familiar face in the press gallery, Geof Parry. We wish him good health.

Several members interjected.

The SPEAKER: Thank you, members.

Mrs L.M. HARVEY: Not long ago, an employee of our family business was stabbed in the back while trying to rescue a friend of his who was being set upon by thugs in Northbridge. When speaking to the police, they say that they have difficulty trying to apprehend thugs and prevent such attacks because they are not given sufficient powers to do so. Can the minister please clear the air, so that the waters that have been muddied significantly —

Several members interjected.

The SPEAKER: Members! I am going to ask the member for Scarborough to read the question again. While I am on my feet, I advise members on both sides of this place, once again, that only one person has the call to ask a question. Members do not have the entitlement to interrupt throughout that question. I am going to formally call you for the first time, member for Girrawheen. Member for Scarborough, I would like to hear the entire question. Thank you.

Mrs L.M. Harvey: Minister for Police —

The SPEAKER: Take a seat. Member for Albany, obviously you missed what I was saying then. I formally call you for the first time.

Mrs L.M. HARVEY: A short time ago an employee of our family business was knifed in the back in Northbridge while going to the aid of his friends who were being set upon by thugs—they were kicking him, in fact. From speaking to the police, I am given to understand that they do not have sufficient powers at present to apprehend people prior to attacks occurring. There has been significant muddying of the waters regarding our stop-and-search legislation. Could the minister please update the house on how our laws will improve protection for our police officers?

Point of Order

Mr J.R. QUIGLEY: I have a point of order, Mr Speaker.

The SPEAKER: Members, you are testing my patience. I will take your point of order, member for Mindarie.

Mr J.R. QUIGLEY: I make a point of order under standing order 77(1)(a), which states that questions should not contain preambles or opinions. The question contained an opinion that the search powers under section 68 of the Criminal Investigation Act —

The SPEAKER: Thank you for your point of order, member for Mindarie. I am not going to take the point of order. I am going to ask the Minister for Police to answer the question.

Questions without Notice Resumed

Mr R.F. JOHNSON replied:

I take this opportunity to welcome back my very good friend Geof Parry, who is up in the press gallery today.

Mr C.J. Barnett: I would not welcome him back!

Mr R.F. JOHNSON: I mean that sincerely. I wish Geof Parry all the very best in his recovery back to full health. He will attest to that, I am sure.

In relation to the question that the member for Scarborough has put to me, she has outlined the very reasons why we need to have the stop-and-search powers that this government —

Mr T.G. Stephens: The Speaker ruled the member did not give an argument!

The SPEAKER: Members, I want to hear the Minister for Police answer this question. I do not want to hear interjections, member for Pilbara. I formally call you for the first time.

Mr R.F. JOHNSON: What concerns me and members on this side of the house—or most members on this side of the house; I think everybody but one perhaps—is the hypocrisy of the Labor Party in relation to stop-and-search powers in WA.

Mr J.R. Quigley: And the hypocrisy of *The West Australian* newspaper?

The SPEAKER: Member for Mindarie —

Mr J.R. Quigley: Yes, sir?

The SPEAKER: I am formally going to call you for the first time.

Mr J.R. Quigley: Thank you.

The SPEAKER: I do not need to hear anything from you on the way back either. I just want you to listen, member for Mindarie.

Mr R.F. JOHNSON: As members would have seen on television a couple of weeks ago, there were something like 100-odd weapons on display at police headquarters. Those weapons were taken from people who —

Mr J.R. Quigley: Under section 68 of Labor's laws!

The SPEAKER: Member for Mindarie, I know you have an abiding and passionate interest in this. Perhaps you might like to share it with us through a question in this place. I formally call you for the second time.

Mr R.F. JOHNSON: In fact, the interjection by the member for Mindarie is totally wrong because those weapons were not taken from people in a stop-and-search situation; they were taken from people who were committing criminal acts, such as a robbery, or acting in an antisocial way—which is basically a criminal act anyway. We want to ensure that these weapons can be found before criminal acts take place. That is what the legislation that this house passed just a week or so ago does.

I mentioned the hypocrisy of the Labor Party. Members opposite throw their arms up and say that this is against civil liberties, the rights of people and all the rest of it. At the end of the day, this government believes in civil liberties and the rights of innocent people to go around areas such as Northbridge without the fear of being attacked by thugs and violent hooligans who have weapons. Members opposite do not like it when they get the truth.

Let me just outline the truth of the hypocrisy. Nobody seems to be taking up with the Labor Party why it brought legislation into this Parliament a year ago that was extremely draconian. I will read what the explanatory memorandum says about one part of that legislation.

Ms M.M. Quirk interjected.

Mr R.F. JOHNSON: The member for Girrawheen might very well be embarrassed by this, because it was the member for Girrawheen who brought that legislation into this house. I will read one little section from the explanatory memorandum about clause 5 of the member for Girrawheen's legislation. It states —

Section 13(1a) gives police the power to stop, detain and search any person who is —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I have formally called you once, and I thought I gave you a hint in the process. I am going to formally call you for the second time. I do not want to hear any more interjections from you on this minister during this answer.

Point of Order

Mr P.B. WATSON: The minister was talking to the member.

Mr R.F. Johnson: No, I was not.

Mr P.B. WATSON: Yes, the member was.

The SPEAKER: There is no point of order.

Questions without Notice Resumed

Mr R.F. JOHNSON: I think it is important to put this on the record, because we have heard a lot from the member for Girrawheen, and we have heard a lot from all the members of the Labor Party, about our stop-and-search laws. Let me quote what was in their legislation, which had to go through their caucus and to which all members opposite agreed. Let me quote this very important part of their bill. I say again —

Section 13(1a) gives police the power to stop, detain and search any person who is within a prescribed area at a prescribed time to determine whether that person is carrying a weapon or otherwise committing an offence under the Act. Subsection (1a) does not require the police to have a reasonable suspicion that the person being searched is committing an offence.

Several members interjected.

Mr R.F. JOHNSON: What their legislation omitted to say was what form of search would take place. Under our legislation, we say it will be a basic search; under their legislation, it could have been a strip search in the middle of Northbridge, because it said nothing about that in the legislation. I truly believe, and I think members on this side of the house believe, that we need some very sensible laws in relation to stop-and-search powers. The police will use those powers with great discretion. The sort of hyperbole that I have read in the newspapers recently, saying that male officers would search the inner thighs of women and nonsense like that, is nothing but scaremongering. Under the legislation, it says quite clearly that searches will be carried out by members of the same gender. In other words, in case those opposite do not understand, if a male person needs to be searched, it will be done by a male police officer, and—I believe in equal opportunity—if a female person needs to be searched, it will be done by a female officer. There is virtually no difference between the stop-and-search powers that are in this legislation and those that exist already, other than that police officers will not have to convince a court of why they had a reasonable suspicion. The whole purpose of the legislation is to make Northbridge and other areas a safe place for decent people to go to.

HIGH SCHOOL TEACHERS — NUMBER REDUCTION

935. Mrs M.H. ROBERTS to the Minister for Education:

I refer to the impact of the half-cohort and to the minister's previous statement that about 500 fewer government high school teachers will be required next year.

- (1) Is it still the case that 500 fixed-term high school teachers will be dismissed at the end of the year?
- (2) Has the minister made any changes at all to teacher-pupil ratios for next year to provide assistance to smaller high schools that will struggle to maintain the same range of subjects next year; and, if not, why not?
- (3) Is it still the case that we can expect a teacher shortage in as little as two years; and, if so, why would the minister be getting rid of so many teachers now?

Dr E. CONSTABLE replied:

I am very pleased the member has asked these questions, some of which she has asked before, because it gives me the opportunity to answer them again.

- (1) We have known for several years—nine years, I think—that when the half-cohort reached high school there would be a need for fewer teachers than we currently have. If we take 10 per cent of the students out of high schools, then we will need fewer teachers. That equates to about 500 teachers in secondary schools. As I have said before, the department and previous governments have handled this well through primary school. I have no doubt that when the half-cohort gets to high school next year, those students will be equally well managed. There are about 500 fixed-term teachers involved, and no-one is going to be dismissed, which is the word the member for Midland used.

Mrs M.H. Roberts interjected.

The SPEAKER: Member for Midland!

Dr E. CONSTABLE: No permanent teachers will lose their job. Some teachers on contract will not have their contracts renewed. This is no different from any other year; there has been no change to the way people are employed.

There has been a lot of work done on looking at smaller schools and at their pupil-teacher ratio needs. Indeed, extra funding will be available for those schools that have small numbers of students and require extra staffing. That has been worked out on a case-by-case basis. The rule of thumb is roundabout 600 or 700 students in a high school; at about that point extra full-time equivalents will be required, and a number of schools around the 600 or 700-student mark or below will get extra staffing to cope with the half-cohort.

On the third part of the member's question, it has been known for some time that a teacher shortage is coming in Western Australia; about 2013 or 2014 is when the major impact of that shortage will hit. The member asked why, because of that, we were not going to keep on the 500 teachers that she referred to. One of the reasons that cannot happen is that the member's government did not have any money in the forward estimates for such a purpose. The cost of that would be —

Several members interjected.

The SPEAKER: Thank you, members!

Mrs M.H. Roberts: He says our forward estimates count for nothing; yours are the ones that count!

Dr E. CONSTABLE: They obviously count for nothing in this case because there was no funding or planning for the half-cohort! It was a lack of planning on the previous government's part.

A lot of work has gone into planning for next year. Schools are being looked at on a case-by-case basis, and many of the 500 teachers that the member referred to may well have employment next year —

Mrs M.H. Roberts interjected.

The SPEAKER: Member for Midland!

Dr E. CONSTABLE: — especially in areas like mathematics, science, and design and technology, because we know that there is a shortage of teachers in those specialties.

HIGH SCHOOL TEACHERS — NUMBER REDUCTION

936. Mrs M.H. ROBERTS to the Minister for Education:

I have a supplementary question. How many fixed-term teachers will not have their contract renewed at the end of this year and how does that compare with previous years?

Dr E. CONSTABLE replied:

The member knows very well that staffing for schools is an ongoing process over the next few months and that the details in the answer to her question would not be available —

Mr E.S. Ripper: You know the answer; you just won't give it!

Dr E. CONSTABLE: I do not know the answer, because there are about 5 000 placements to be made at schools, with people asking for —

Mr M. McGowan: You should know the answer by now.

Dr E. CONSTABLE: The advice is just starting to flow through, and the member knows that it changes every week!

Mr M. McGowan: Put it out there.

Dr E. CONSTABLE: It changes every week. I do not have those figures; in fact, I asked for them yesterday and they were not available.

SOCIAL HOUSING INITIATIVES

937. Mr I.M. BRITZA to the Minister for Housing and Works:

In my electorate of Morley I receive constant feedback about the lack of social housing and about the impact of a handful of tenants who are a bit of a problem for their surrounding communities. I wonder whether the minister can inform the house of the government's innovative approaches to dealing with this situation.

Mr T.R. BUSWELL replied:

I thank the member for Morley; it is a very good question. Like a number of members on our side of the house, I receive regular inquiries from the member, some occasionally a little too persistent, about issues around social housing, around both the struggle to keep up with the demand for social housing and also dealing with behavioural issues in and around social housing. So what I thought I would do, in light of the member's question—as unexpected as it is—is provide a bit of background information so that the house is fully apprised of some of the exciting and innovative things that we are doing in and around social housing. The member is right. There is a growing waiting list. There are behavioural issues. These are not problems that emerged last week. These are not problems that have emerged in the past couple of months. These are problems that have emerged over a number of years. When it comes to behavioural matters in our suburbs—which pertain to a very small percentage of social housing tenants; a very small percentage—we had under the former government a regime that turned a blind eye to that sort of behaviour. We are not going to do that, and I will talk about that a bit more in a second before I close.

It is interesting to have a historic look at social housing. As at 30 June 2001, the social housing stock —

Mr P.B. Watson: You are in government now!

Mr T.R. BUSWELL: We are, and I will tell the member why that is a good thing for people who are waiting for social housing. As at 30 June 2001, the social housing stock was 37 307 units. As at 30 June 2008, the social housing stock was 39 130 units. That is an increase over seven years of 1 823 units. I have done the maths. That is an extra 260 dwellings a year.

Mr E.S. Ripper interjected.

Mr T.R. BUSWELL: That is an extra 260 dwellings a year, Leader of the Opposition. I have done the sums. I know that the Leader of the Opposition was the Treasurer before. I have done the sums. They add up. What have we done? We have embraced the ideas, and we have embraced the private sector.

Mr M. McGowan interjected.

Mr T.R. BUSWELL: I will get to the member in a moment—laser light!

This is what happened under the former government. Let us look at what we are doing. In terms of construction, in partnership with the commonwealth, we will be building 2063 homes over the next few years. The state's stimulus package is 720 homes. In fact, we currently have 850 homes under way in Western Australia. The rate of construction start-ups at the moment is about 40 a week, and it is climbing rapidly. I hate to bring bad news to members of the opposition, but 40 a week means that we are doing every seven weeks what the former government did in its annual construction! Every seven weeks, we are outperforming what members opposite were able to do each year when they were in power! But it is still a challenge. In the member for Perth's electorate, we have recently given \$20 million to St Barts to build a fantastic facility for 150 homeless people. In Success, in the member for Cockburn's electorate, we have given \$23 million for 80 new units. Soon, we will come down the member for Fremantle's way with a big —

Mrs M.H. Roberts interjected.

The SPEAKER: Order! Member for Midland, I formally call you for the first time.

Mr T.R. BUSWELL: I do not ever hear the member for Midland! I come from a town with a large seagull population —

Mrs M.H. Roberts interjected.

The SPEAKER: Order! Member for Midland, I formally call you for the second time, but I do not want to hear you interject during this question again.

Point of Order

Mr M. McGOWAN: Mr Speaker, I just heard the Treasurer refer to, by implication, a member of this side as being senile —

Mr T.R. Buswell: Seagull!

Several members interjected.

Mr M. McGOWAN: Mr Speaker, the Treasurer obviously needs elocution lessons!

Questions without Notice Resumed

Mr T.R. BUSWELL: I will get on with it. The point I was making was that, like the member for Rockingham, I live in a seaside suburb, with a lot of seagulls. We get used to that sort of noise when we live in that sort of place.

For us, it is not just about building extra units. It is about using our existing stock better. The member for Morley might be interested in this. Under our high-value housing strategy, 10 houses have been sold. They have yielded —

Several members interjected.

Mr T.R. BUSWELL: No—seagull! They are little white birds.

Ten houses have been sold, and \$11 million has been generated. That will build between 30 and 60 extra dwellings. That is a great initiative. We are finding people in social housing who are not senile, and who are not seagulls, but who are earning too much money to be in social housing. We reckon there are about 1 300 of those people, and through a polite process we will be moving them on. We have found some 86 people who may well own their own property. It is funny that we have let a system emerge where people in taxpayer-funded houses are keeping an eye on their investment property up the street. They will be politely moved on. We are working through some difficult issues with what we call over-occupiers. It is challenging to try to get people into appropriate accommodation. There are several hundred of those people.

I will close, member for Morley, by reassuring the house that we will take proactive steps to deal with behavioural problems in social housing. I have a very simple approach to this; that is, when we provide taxpayer-funded houses—I accept that people often face extreme challenges and that is why they need social housing—there is an obligation on them to behave in a way that is reflective of the community in which they live. We will insist that tenants behave in a way that is reflective of the standards of the broader community in which they live. We will help and work with tenants to give them the skills they need to meet those obligations, but when they do not meet those obligations, we will take action. Again, this is a difficult change in tack for the department. It reflects a change in focus of this government on not only increasing the housing stock, but also demanding and expecting better standards of behaviour from people in those houses.

EMERGENCY RADIO COMMUNICATIONS NETWORK

938. Ms M.M. QUIRK to the Minister for Emergency Services:

I refer to the need for interoperability of emergency radio in the regions between various responsible agencies.

- (1) At what stage is the installation of the Western Australian emergency radio network, and on what date can we expect functionality of this system?
- (2) Until it is completed, what measures are being taken to ensure seamless emergency management communications, especially in the regions?

Mr R.F. JOHNSON replied:

I thank the member for the question. I think it is a very good and genuine question.

- (1)-(2) I wrote to the chief executive officer of the Fire and Emergency Services Authority of Western Australia about six or eight weeks ago to ask her to compile a report for me on exactly what was needed for emergency communications throughout the whole of Western Australia. She is in the middle of compiling that report. She is discussing all the aspects with various agencies, including the police, because, as the member is aware, they have access to certain radio communications. She is also talking to bush fire brigades, local authorities and the Department of Environment and Conservation. She will report back to me very shortly on the best way to go forward with a communications system that is guaranteed to work throughout the whole of WA. Certainly, working with police is one area, because,

as the member is aware, the police have quite a comprehensive communications system now, and various channels will be available to be used for other emergency purposes. That is why the CEO of FESA is talking to the police. Once she reports to me, I will talk to the police and try to ensure that, rather than all the different agencies having separate and duplicate communications systems for emergencies, we combine some of those systems. If there is the capacity to do so, it would make more sense and it would be a better spend of Western Australian dollars. I think it can work. I do not want to anticipate the report until it comes back to me, but my initial view is that we can look at something along those lines to make it work and to ensure that we have great cooperation between all the agencies. We have the capacity to do so.

There is not a set date for the CEO of FESA to report back to me, but I expect the report within the next couple of weeks.

EMERGENCY RADIO COMMUNICATIONS NETWORK

939. Ms M.M. QUIRK to the Minister for Emergency Services:

As a supplementary question, was this issue not addressed in the report titled "Review of Western Australia's Bushfire Preparedness", dated April 2009 but tabled by the Premier in October 2009?

Mr R.F. JOHNSON replied:

Certainly, this issue was contained within the report that was handed down by the Premier. Various other things had taken place prior to that, such as amendments to the Bush Fires Act and those amendments played an important role. The Premier's report acknowledged that some contingency plans and some legislation had been put in place to try to assist in combating serious bushfires. That was one of the areas that the member quite rightly mentioned. I hate to say it, but I was ahead of the Premier on this one.

Mr C.J. Barnett: You always are.

Mr R.F. JOHNSON: Not always, Premier, but on this one I perhaps was. Prior to that, I had asked the CEO of FESA to carry out this feasibility study, to discuss the matter with all the other agencies and to report back to me.

Mr E.S. Ripper: That's been going on all year!

Ms M.M. Quirk: Why wasn't it dealt with in the review?

Mr R.F. JOHNSON: I think the Leader of the Opposition has obviously got hearing problems. I said to the member for Girrawheen that I thought that it was about two months ago that I wrote to the chief executive officer of the Fire and Emergency Services Authority of Western Australia and asked him to come back to me with a report on the best options for emergency communications systems, because I know that the police have some great systems in place that have spare channels—as do local authorities for their bush fire brigades, and I am pretty sure the Department of Environment and Conservation has also. The best way to spend Western Australia's dollars is to make sure that we have a comprehensive system, rather than duplication of the same thing in each and every agency.

EDUCATION SUPPORT WORKERS — WAGE OFFER

Petition

MR C.J. TALLENTIRE (Gosnells) [3.01 pm]: I have a petition regarding the remuneration of education assistants, school cleaners and gardeners in Western Australia. It has been certified as conforming to the standing orders, and it has been signed by 10 711 people. The petition reads —

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

We the undersigned, say the State Government is offering more than 10,000 education assistants, school cleaners and gardeners a pay rise of 2.5 per cent. This is only 44 cents an hour and isn't enough to pay the more than \$1,000 in increased bills from the State Government alone. This year, you have put up water by 10 per cent, gas by 23 per cent and electricity by 25 per cent.

While we understand that the economic climate has changed, the WA economy is still growing and with big projects on the way like Gorgon, we think it unfair that you are asking some of WA's lowest paid public workers to accept a pay rise of just 2.5 per cent. Especially when you just gave the police a pay rise of 8 per cent.

Now we ask the Legislative Assembly to urge the Premier, Colin Barnett and the Treasurer, Troy Buswell to offer a fair pay deal comparable to the rise other public sector employees already received earlier this year.

I table the petition, which has been signed 10 711 petitioners.

[See petition 191.]

Petition

MR P.B. WATSON (Albany) [3.02 pm]: I have a petition containing 3 455 signatures, which reads —

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

We the undersigned, say that the State Government is offering more than 10,000 education assistants, school cleaners and gardeners a pay rise of 2.5 per cent. This is only 44 cents an hour and isn't enough to pay the more than \$1,000 in increased bills from the State Government alone. This year you have put up water by 10 per cent, gas by 23 per cent and electricity by 25 per cent.

The National Party has always said that it believes in standing up for regional workers, but to date the National Party has not stood up for educational support staff in regions. We play a critical role in ensuring quality educational outcomes for our children in regions and play a critical role in our communities; we deserve a wage offer that is comparable to what the Liberal/National government has already agreed to for teachers and police.

Now we ask that the Legislative Assembly urge the leader of the National Party, Brendon Grylls, to publicly support a fair pay deal comparable to the rise other public sector employees already received earlier this year.

[See petition 192.]

MOORE RIVER — HOUSING LOTS SOUTH OF ESTUARY*Petition*

MR J.N. HYDE (Perth) [3.04 pm]: I present a petition with 18 signatures, which reads —

We, the undersigned, say that the announcement by the Minister for Planning on 9 June, 2009, to approve of the development of 2,000 housing lots on the south side of the Moore River Estuary, is contrary to the findings of the Gingin Coast Structure Plan and to the view that has been consistently and strongly put forward by the community since 1995.

Now we ask that the Legislative Assembly recommend that the land adjoining the proposed Wilbinga Conservation park which is subject to the Moore River Company's plans, be:

1. purchased by the Government at a fair price to the landowner.
2. be managed in perpetuity for the benefit of the whole community, for the protection of the estuary of the Moore River;
3. purchased to stop suburban Perth sprawling to the Moore River and beyond; and
4. saved from any form of urban development so that Western Australian tax payers are not forced to contribute to or subsidise the massive infrastructure costs (road, bridges, sewerage, water supply, electricity supply) that would be caused by a development at the extreme outer limits of the city).

We make this request because of the unique aesthetic environmental features which this area contributes towards the natural capital of Western Australia.

[See petition 189.]

ANIMAL SALES — LEGISLATION*Petition*

MR J.R. QUIGLEY (Mindarie) [3.05 pm]: The wonderful and indefatigable Pamela Williamson of Yancheep asked me to present a petition for animal welfare protection by regulation of the sale of animals by pet shops and illegal breeders. The petition reads as follows —

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

We, the undersigned applaud and support the New South Wales Animal Management (Cats and Dogs) Act 2008 which proposed a ban on the sale of puppies and kittens by pet shops and illegal "backyard" breeders.

Each year, Australia wide, over 250,000 healthy pets are put to death because they are unwanted.

We, the undersigned petitioners therefore dutifully pray that:

1. Pet shops be prohibited from selling puppies and kittens.
2. All puppies and kittens be de-sexed, except those kennelled by a legally registered breeder.

3. We plead that the Western Australian State Government introduce into State Parliament a Bill to match the provisions of the New South Wales Act.

This petition signed by 1 188 petitioners and is duly certified by the Clerk of the Legislative Assembly in accordance with the standing orders.

[See petition 190.]

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

BILLS

Notices of Motions to Introduce

1. Public Sector Reform Bill 2009.
Notice of motion given by **Mr C.J. Barnett (Premier)**.
2. Child Support (Adoption of Laws) Amendment Bill 2009.
Notice of motion given by **Mr C.C. Porter (Attorney General)**.
3. Railway (Butler to Brighton) Bill 2009.
Notice of motion given by **Mr M.J. Cowper (Parliamentary Secretary)**.

MINISTER FOR EDUCATION AND FOR TOURISM — ADMINISTRATION OF PORTFOLIOS

Notice of Motion

Mrs M.H. Roberts gave notice that at the next sitting of the house she would move —

That the house condemns the Minister for Education and for Tourism for the poor administration of her portfolios and her failure to stand up for democratic principles in the house.

BILLS

Assent

Message from the Governor received and read notifying assent to the following bills —

1. Bookmakers Betting Levy Amendment Bill 2009.
2. Racing and Wagering Legislation Amendment Bill 2009.
3. Racing Bets Levy Bill 2009.
4. Busselton Water Board (Supply of Water to Dunsborough) Bill 2009.

HEALTH SERVICES — FINANCIAL SUSTAINABILITY

Matter of Public Interest

THE SPEAKER (Mr G.A. Woodhams): Members, today I received, within the prescribed time, a letter from the Leader of the Opposition in the following terms —

Matter of Public Interest

I wish to raise the following as a matter of public interest today.

“This House expresses its deep concern about the future of health services in Western Australia following new evidence of financial mismanagement in the health system and in the State Budget.”

The matter appears to me to be in order, and if at least five members stand in support of the matter being discussed, the matter can proceed.

[At least five members rose in their places.]

MR E.S. RIPPER (Belmont — Leader of the Opposition) [3.11 pm]: I move —

That this house expresses its deep concern about the future of health services in Western Australia following new evidence of financial mismanagement in the health system and in the state budget.

Health is the first responsibility of every state government. Health is the first priority of the Western Australian community. It is so important, and so expensive, that we spend 25 per cent of the state budget on health services. There is considerable doubt about the long-term financial sustainability of health services in every state, particularly in Western Australia. Will we be able to deliver, in a decade's time, the quality of health services

expected by our community at that time within the finances available to us? Health requires careful management of the portfolio itself and careful management of the state budget, otherwise we may well face a situation in which the people of Western Australia are not able to fairly access the quality health services that they require because the state government of the day will not have the financial resources to meet the needs of that system. Neither the health portfolio nor the state budget is being managed in a way that will give us confidence about the future of health services.

I will begin with the health portfolio itself. There are two issues here: first, month-by-month management has been lacking and, second, the long-term strategy is deeply flawed. I will turn first to the long-term strategy. The very important Reid review reform program has degenerated into a hospital building program that is without genuine reform and lacks rationality. For gross, base political reasons, the government has decided to add another tertiary hospital to the configuration of tertiary hospitals in this state by trying to retain services at Royal Perth Hospital while funding the same services at Fiona Stanley Hospital. The whistle has been blown by the Department of Treasury and Finance. There is no future provision for the financing of these dual tertiary hospitals. As far as I am aware—the government has not reported anything since the last information it provided—there has not even been any consideration within the government of the total cost of that exercise. The government decided, for base political reasons, to campaign on the preservation of Royal Perth Hospital, but what the government has decided will result in an irrational expenditure of funds on an inefficient tertiary hospital system.

Of course some services should be retained at the Royal Perth Hospital site, but the idea that we should have an additional tertiary hospital with the construction of the Fiona Stanley Hospital and the retention of Royal Perth Hospital as a tertiary hospital means only that the whole system will become unsustainable, and there will be serious negative consequences as a result of the government abandoning rational reform in the long-term interest of the sustainability of health services. Amongst those consequences will be a failure to spend on the general hospitals that we need in the suburbs, where people actually live. The whole reform program was based on rationalising tertiary hospital provision, getting the most modern facilities and the most modern methods of providing services in those tertiary hospitals, so that we can reduce the growth in costs. The second element of the program was to divert expenditure to new general hospitals in the suburbs where people live, where services can be provided in a more cost-efficient fashion.

This type of program is not optional. It is absolutely essential that the government has a reform program like this; otherwise we run the serious risk that in 10 years' time people in Western Australia are not going to get the health services that they need. This government is storing up a huge problem for the future by abandoning that careful, disciplined management of the health reform program and of the health budget. We are also seeing, month by month, complete inadequacy in the management of the health system. In this calendar year the government has raided special purpose funds, funded in part by donations from the public, to meet a budget blow-out in the health department. The effect of that has been to borrow from this year's health budget to cover up for financial mismanagement in last year's health budget. We have a threat to services this year because the government could not manage its finances and its health system in the previous financial year.

The government faced a choice. When the government was advised that the health system had this blow-out, the government could have provided the funds. Instead, it decided not to provide all the funds that the health department requested. The government told the health department to live within existing resources. The health department did not do that. It raided donations in order to cover the shortfall, in a short-term fashion, intending always to cut money available for services this year in order to return those misappropriated funds. In effect, if we take the combination of government decisions here, given a choice of providing the funds or cutting services, the government made a choice to cut services this year in order to deal with the financial mismanagement of the previous year.

Let us go to the state budget. What the government needs to realise is that there is always less discretionary money available in the budget than would first appear. Always, money has to be set aside for the sorts of things that occur in any financial year. Often in a financial year there will be natural disasters and extensive bushfires. Often in a financial year there will be extra demand in the health system, which will need to be met by the government topping up the budget. If the government assumes that there is whole lot of free money that is available for discretionary purposes and gives it all to the National Party in an unsustainable deal to obtain political power, that government will have extreme difficulty in meeting crises and spikes in demand that occur from time to time in the health system. The government has always got to hold some money in reserve for health. Any financial manager in any state government always has to have something in reserve for health. That is one of the reasons the government needs a budget surplus.

Why I am so concerned about the future of the health system is the evidence of the day-to-day mismanagement, the evidence of the long-term corruption of the reform program and the fact that the state budget is in a horrendous state. There will be no capacity in the state budget to deal with the problems that emerge in health

and our people can only look forward to service cuts and more crises in health because the government has frittered away its capacity to deal with any problems that might emerge. The government is now living on borrowed money. The government is borrowing money to pay nurses' wages and to put petrol in police cars. That is what being in deficit means. And there is no doubt in my mind that the state budget is sliding into a horrendous deficit.

Dr K.D. Hames: Say that again.

Mr E.S. RIPPER: There is no doubt in my mind it is sliding into a deficit with too much spending. This government has been spending at a rate recorded in the "Monthly Report of General Government Finances". Its expenditure was 21 per cent higher in August 2009 than it was in August 2008.

Mr T.R. Buswell: You know that that isn't the true figure.

Mr E.S. RIPPER: If I were to apply the Treasurer's spin—that is, take out this and take out that—it would come down to 9.9 per cent. Any Treasurer can abstract this factor and that factor and say, "This is the underlying figure." The fact is that there are always long-term underlying trends and there are always things that happen from year to year that are special to that particular year. However, there is no year when there are no special things that happen. Therefore, the calculation that produces an underlying growth of only 9.9 per cent is quite wrong.

We are seeing too much spending and there will be too much spending to come, because all these things that should be in the budget are not. The budget includes \$200 million in revenue for a royalty deal that the Premier has abandoned; it does not include \$339 million for Oakajee; it does not include \$236 million for Northbridge; it does not include \$140 million for Midland; it does not include \$119 million for the Esperance port; it does not provide money to keep the Royal Perth Hospital open; and it does not provide any money for the Premier's waterfront project. The budget does not have the capacity to deal with the crises that will emerge in health. All we can look forward to in health is service cuts and that will be on top of the 10 per cent cuts in the South Metropolitan Area Health Service, denied by the minister but confirmed by document after document; on top of the 13 per cent cuts in mental health, denied by the minister but confirmed by document after document; and on top of the facilities that have been built but which the government refuses to staff.

Given the state of this state's budget, this is the future for Western Australian families: cuts to the most important service that the government delivers and skyrocketing family bills. There is mismanagement in the health portfolio and there is mismanagement in the state budget, and it is all bad news for Western Australian families.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [3.22 pm]: There is no more important task for a state government than the careful management of the Department of Health.

Several members interjected.

Mr R.H. COOK: I am the shadow Minister for Health, so we agree on one thing anyway. When we see the woeful mismanagement of that important area of government services, that is when it becomes a matter of concern and the Parliament has to act to protect this important area.

In question time today the minister—he often wonders why we ask questions on these issues and put the government under sustained pressure on these matters—seemed either unable or unwilling to come forward with the details of how the Economic and Expenditure Reform Committee treated the health department in respect of the financial difficulties it was confronting. Therefore, I will provide that information to the house today, because it is a very important series of events.

In March 2009 the health department, lacking cash reserves, asked the EERC for \$230 million to meet the extra demand on health services in Western Australia. The EERC's response was to send the Minister for Health and his department leaders away with \$180 million. This presented the health department with an automatic crisis; that is, how it would provide health services for the remaining months of the financial year. At that point, the health department observed that the state was holding \$50 million of commonwealth funds on its behalf. The question needs to be asked: why was the state holding those funds and not the health department? I suppose it has its reasons for holding onto these funds. Obviously, the health department requested the use of that money to cover the shortfall in its funding. That request was put to the EERC on 1 April this year and it was refused. By June 2009 the Director General of Health became increasingly concerned that his department would not be able to meet its commitments—that is, to its creditors, staff salaries and so on. The Director General of Health explained that he had four options: he could stop paying salaries—we understand that was seriously considered; he could stop paying creditors—we know that the Department of Health has many creditors, particularly small non-government health providers who rely on the health department's speedy payment of their bills to augment the health services that the department provides; he could use commonwealth funds—but already the cabinet Economic and Expenditure Reform Committee had suggested that that would be an improper use of these funds;

or he could use specific purpose funds that were sitting in the department's bank accounts to possibly form some bridging finance for services and commitments not able to be met in 2008-09.

The department therefore went back to the EERC in the second week of June to seek further funding to overcome the funding crisis that was at that point confronting the department. The EERC responded emphatically that there would be no further assistance to the department to meet its growing expenses. I guess the question has to be raised: what did the EERC have in mind? Did it have in mind that perhaps the closure of hospitals was an option open to the Department of Health and to the Minister for Health? Perhaps there was a range of other options that the EERC would consider appropriate—not paying creditors; not paying staff salaries when they fell due.

On 18 June an official from the Department of Health gave specific, unqualified, unreserved assurances to a committee of the Parliament that the Department of Health would not be raiding commonwealth and special purpose accounts for the purpose of meeting its shortfalls. In the last 20 days of June we know that the Department of Health had a crisis on its hands that it had to resolve. It went to the Minister for Health and said, "We need to raid specific purpose accounts so that we can bump this year's expenses into next year's budget", and the minister gave the department permission; he responded positively to this request.

It would probably be useful to provide an overview to the members assembled of the specific purpose account and what it is made up of. At this point it has \$96.6 million, made up of \$22.2 million of unrestricted funds and \$74.4 million of restricted funds. The government and the Department of Health therefore decided to raid not only \$24.9 million of the unrestricted funds, but also \$24.9 million of the restricted funds. These funds are made up of donations to hospitals, bequests to hospitals and, potentially, Telethon Institute for Child Health Research funds to hospitals, which are made to hospitals for the purposes of research and specific purposes. I wonder whether the people who made donations to Telethon—in the belief that the money would go to important health services—knew the fund would simply be used by the government to cover up for its mismanagement of the health budget.

We need to picture the staff in the health department in the last few days of June. They would have had daily meetings with managers.

Mr E.S. Ripper: Looking for jam jars.

Mr R.H. COOK: They would have been looking for money, looking for funds, desperate to get themselves through to 30 June. They would have had frantic meetings with creditors and daily meetings with managers, and the Director General of Health would have been scrambling to provide extra funds without the support of his minister, other than the simple lifeline of: "You can go and raid specific funds out of the specific-purpose account." We know from the testimony of the Director General of the Department of Health that the department started \$70 million in the red this year and that it continues to struggle under the unrelenting cuts made by this government. We are not even halfway through the financial year. The department is struggling into the second half of the second quarter and we already know that the department is predicting a \$200 million overrun of its budget. This whole sorry scenario raises several questions, one of which concerns the legality of this particular misuse of funds. Did the department exceed its appropriation? Was misconduct associated with authorising the use of these specific-purpose funds? What is the breakdown of these funds? At the very least, we require the Auditor General to look at some of the 1 200 funds that are inside the specific-purpose accounts and identify what the moneys were intended for that were ultimately used to cover-up the mismanagement of the department's finances in the last desperate days of the financial year.

The Economic and Expenditure Reform Committee knew that the department did not have the funds to cover its expenses for the financial year. What were the EERC's intentions for the Department of Health and health services in Western Australia? If the EERC was not prepared to provide the funds necessary, did it expect the director general to withhold salaries, withdraw health services and close hospitals, or did the EERC simply expect the director general to not pay creditors in that final month? I received a number of inquiries from hospital staff at that time. They were scratching their head and wondering why they were struggling to get their overtime payments for that month. In hindsight, we know the background to some of those things.

As I said, we need the Auditor General to conduct an investigation into these accounts. We want to know what the accounts were initially intended for. We want a simple question answered: what were the accounts initially intended for? We are told day in and day out that the government's cuts to the health budget are not affecting front-line services, yet on an almost daily basis we have heard testimony from patients who have been told by doctors, nurses and hospital staff that the reason they cannot receive their treatment in the time they want, the reason that they are not receiving care and the reason that their appointments are being postponed is because of these cuts. The hospital staff cannot talk about them but the patients can, and they talk to us and to the media on a daily basis. The Department of Health is adrift because of the mismanagement of this government, which has no plans for health. It has a slogan—save RPH—but it has no plan or vision. The Department of Health is beset

by a government that simply does not care. The government does not care about the management of the department's finances, about the level of services it provides to the community or about bumping expenses that the department rightly incurred in the previous financial year into this financial year to put the Department of Health behind the financial eight ball.

DR K.D. HAMES (Dawesville — Minister for Health) [3.33 pm]: I wish to address two issues. I will deal firstly with the Leader of the Opposition's comments about the Reid review. We fully supported the Reid review, other than two aspects of it. The first aspect was the retention of Royal Perth Hospital, which, in case members did not notice, won us two seats at the election. The second aspect was the closure to the obstetrics services at Osborne Park Hospital. The former Labor government dropped that proposal. Let us look at the number of beds that were going to be available under the former government's plan versus our plan at the time, and under our current plan. Under the former government's plan, Royal Perth Hospital was to close as a tertiary hospital. That would result in roughly 680 fewer beds. Sir Charles Gairdner Hospital was to have an increase in bed numbers from 630 beds to 1 000 beds, although the Labor government changed that plan at the very end without even publishing its proposed change. Instead of doing that, because the former Labor government realised that the beds would not fit on the site, it said that it would retain Fremantle Hospital at its current level of beds. Fiona Stanley Hospital was to have 473 beds. Under our plan, we will have fewer tertiary beds in the system across the three hospitals than the Labor government would have had across two hospitals. Our focus is on the peripheral hospitals, exactly as the Reid report recommended. We have progressed with the development of Joondalup Health Campus, which was initiated by the former Labor government, and completed the extension of Rockingham General Hospital. We are also progressing very quickly with the proposed redevelopment at Midland, particularly in getting commonwealth funding for it. We have secured commonwealth funding that will allow the closure and relocation of the 140 beds from the Shenton Park rehabilitation centre to Fiona Stanley Hospital. When the clinical services framework comes out in the near future, members will see the distribution of beds. They will see that we have fewer tertiary beds than the Labor Party's latest clinical services framework plan from 2005, and that we have more peripheral beds. The opposition has said that we are not following the Reid review. We are following the Reid recommendations more than the former government did. We are doing those things. In particular, we are providing \$84 million in funding for the program that will enable Silver Chain and similar bodies and general practitioners to provide services to, and look after, patients in their home. That is exactly what Reid said we should do. All those elements are there.

Last week I spoke to the former Minister for Health at the opening of the Joondalup Health Campus. He was very pleased that the federal Labor government had provided those funds. He said that this was great news because it was the final piece in the jigsaw puzzle to put together the recommendations of the Reid review. That is what he said, and it is true. They are not our recommendations; they were recommended by the Reid review. We are continuing to implement those recommendations, which the former Labor government initiated. We will ensure that they are put in place and we have brought forward the RPH and Midland —

Mr E.S. Ripper: You haven't brought forward RPH. You have promised it.

Dr K.D. HAMES: We will see that when the plans come out in the near future. We are certainly following the Reid review.

Let us look at the funding that is provided to hospitals. As members have heard, Dr Peter Flett said in a committee that so far this year, after four months, we are approximately \$70 million over budget.

Mr E.S. Ripper: Will you come in on budget or not?

Dr K.D. HAMES: I remind the Leader of the Opposition that when we first came to government, in September 2008, the former Minister for Health said, "I've got bad news for you mate; we are \$100 million over budget." We were in a worse position by \$30 million when the Labor Party was in government than at this stage of government. The budget position was \$30 million worse under the Labor government. The allocated budget for the first four months of this year was \$1.653 billion, which is 32.6 per cent of the health budget. Currently, our expenditure is \$1.724 billion, which is \$70 million over budget. That represents 34 per cent of the health budget. We are 1.4 per cent over budget than we should be at this time. Why are we over budget? It is because there was a significant increase in demand on the health system in the first four months of the year. Swine flu and the backfilling for sick staff placed a significant increase in demand on the health system. A significant number of staff were sick because they caught swine flu, and that required the expenditure of a significant amount of funds. The vaccination program for swine flu cost extra dollars and a collection of one-off redundancy payments needed to be paid. They are some of the reasons why we are over budget. Another reason is the growth in activity. In the first four months of this year there has been a 2.9 per cent increase in activity. If that trend continues for the rest of the year, that will be a significant increase. Outpatient activity was up by 10.2 per cent and emergency department activity was up by 4.7 per cent.

The opposition goes on about how we are managing this budget, saying it is out of control, but by what amount did it go up in its last full term of government? Does the former Treasurer remember what it was?

Mr E.S. Ripper: I'm sure you'll advise me.

Dr K.D. HAMES: I will. It was 12 per cent, as it was during a small part of the former government's financial year but mostly during our year. During the last year there was a 12 per cent increase as well. People say that is dreadful. The reality is that in the health budget, there will always be a core increase of four to five per cent that covers salaries and wages for existing staff, depending on the wage and salary policy, and existing services. The former government agreed to a considerable increase in funds—which was higher than usual—for doctors after its negotiations with the Australian Medical Association. There was something like a 5.5 per cent increase in budget just to cover the increase in salaries and wages. In any year there is roughly a two per cent increase in demand, partly from immigration—last year the population growth in this state was 3.4 per cent—and partly because of what is happening to the Leader of the Opposition and I with the ageing of the population, so there is increased demand.

Mr E.S. Ripper: Minister, these arguments are very —

Dr K.D. HAMES: I will just put these together because as the Leader of the Opposition knows, there is one more step to go.

Mr E.S. Ripper: Then you'll take an interjection?

Dr K.D. HAMES: I will. I am talking about new election commitments. There is the core 0.5 per cent, then another two per cent and then whatever election commitments are made. Problems occur when election commitments are made and they are not funded, like the beds at Rockingham that the former government increased from 90 to 240-odd but it did not fund the extra staff required. The former government said that staff should be moved from Fremantle Hospital, Sir Charles Gairdner Hospital and Royal Perth Hospital. We now have growth in demand at those hospitals so we cannot move staff across. As the Leader of the Opposition says, we are struggling to fund the increased staff that we need in the Leader of the Opposition's electorate because he did not put those additional funds into the budget as he should have when he was in government. Those areas of growth are a constant challenge. As the opposition knows, St John Ambulance is an issue. What will it do to the budget? We increased its budget by five per cent for next year to cover wage growth, two per cent to cover demand growth and whatever per cent to cover St John of God Health Care.

Mr E.S. Ripper: Minister, all those arguments are familiar to me because I heard the health department put them. The real question is: will your government provide the funds that you're requesting or will it put you under pressure?

Dr K.D. HAMES: That is an excellent question. I will leave it for the Treasurer to answer.

Mr T.R. Buswell: What was it?

Dr K.D. HAMES: The Leader of the Opposition recognises these requirements for five per cent growth in wages, two per cent growth in demand and then whatever other election commitments we add to it. He asked whether Treasury will fund it. I said I will leave it up to the Treasurer to answer it.

Mr E.S. Ripper: Will they have the capacity to fund it?

Dr K.D. HAMES: It is true that we need greater efficiency. I think we need to change the system. We leap from one of these years to the other. I will just cover that. During the Leader of the Opposition's term of government, how much was Treasury not paid for its out-turn budget in the last full year of government? Does the Leader of the Opposition remember that figure? I will tell him if he does not know.

Mr E.S. Ripper: You tell me.

Dr K.D. HAMES: It was \$34 million. During the Labor Party's last term of government a \$34 million deficit in the health budget was not funded. What did the former Treasurer say about the health budget? He said, "Fund it out of your reserves", which is exactly what I said.

Mr E.S. Ripper: What did you say?

Dr K.D. HAMES: Treasury said the same—"fund it yourself." That \$34 million was not funded by the Leader of the Opposition when he was Treasurer. Where did Treasury get it? It got it from its cash reserves. It had \$34 million in cash reserves and the former Treasurer said, "Good; use it." He would not put that amount into the budget to fund whatever it had spent that \$34 million on. There was no matching \$34 million in the next budget. That \$40 million came out of Treasury's cash reserves. As the Leader of the Opposition knows, \$25 million is 0.5 per cent of the budget. We can never land exactly on the mark.

Mr B.S. Wyatt: How much of the \$370 million is in the budget?

Dr K.D. HAMES: The member has that wrong. The Treasurer will explain why.

Mr B.S. Wyatt: Please explain it.

Dr K.D. HAMES: I can explain it if he wants. The \$370 million represents \$180 million that we were over budget plus additional budgeted items beyond the previous budget.

Mr B.S. Wyatt: Over the budget that was allocated in the —

Dr K.D. HAMES: Yes, but that is not over-expenditure; that includes items that had gone to cabinet, been approved and were allocated additional funds. We are talking about the amount that we spent that had not been approved.

Mr B.S. Wyatt interjected.

Dr K.D. HAMES: Yes, some of those things were agreed to. Does the member not think that that happened when the Labor Party was in government last time? The member went to the former Treasurer to seek additional funds for legitimate purposes and he would get them. The former government funded lots of additional things in the health budget.

Mr E.S. Ripper: We were generous to health.

Dr K.D. HAMES: I think the former government was. The former minister had the Treasurer by the we know whats because he got lots of extra money.

Mr E.S. Ripper: Don't you wish you had the strength of the former Minister for Health?

Dr K.D. HAMES: The former Treasurer might not have been as soft a touch. The fact is that the former government had a deficit of \$34 million. If that \$34 million is not funded when the budget is in deficit, what happens? Does it disappear? No, the government has to find it the next year. Where do members think our \$70 million over budget came from? A total of \$34 million was the former government's and \$36 million was ours. That is where the \$70 million came from. We were not able to catch up on that \$34 million of additional funds that was spent on health services because they were spent for legitimate purposes, such as the increased demand for health services. As the Leader of the Opposition said, there is always a requirement. It is a pity he did not fund the full amount and reset the base level at the amount that was extended so that \$34 million did not carry into the next year.

That brings me to something that we need to do for both our sakes—for our sake now and for the opposition's sake whenever it is back in government. We need to change the way we do things. That is what I am proposing to do. South Australia and Victoria both fund on an occasion-of-service basis. They fund for the service that has been provided based on the number of patients who turn up and get treatment, remembering that the tertiary hospital has a loading to account for training, teaching and the requirements of a tertiary hospital. That benchmarking is easily done. I just met with the Minister for Health in South Australia a week and a half ago.

Mr E.S. Ripper: So you're moving to casemix, are you?

Dr K.D. HAMES: Yes, I am. I have asked the staff to work on trying to get that up for next year. I do not know whether we can do it within that time. We have agreement from John Hill, the Minister for Health in South Australia, to benchmark off its figures. We are looking at the casemix methodology that is used in Victoria and South Australia to fund their hospitals, and we are doing benchmarking against New South Wales.

Mr E.S. Ripper: I think if you work off the South Australian figures, you'll be cutting the funding.

Dr K.D. HAMES: We will see. That will be an interesting exercise. Western Australia is always getting caned because our cost for occasion of service is higher than every other state. If we go to New South Wales, which has the lowest cost, and say, "Let's do some benchmarking and comparisons", we are not comparing apples with apples. It does not include lots of things in its cost per occasion of service. It does not include depreciation, capital expenditure or the cost of teaching. Poor old Western Australia looks bad as one of the most expensive states. I do not think it is. That is why we have asked South Australia, and it has agreed, if we can do a direct comparison with it as well. I think we provide a fairly efficient service in this state. If we do not, that is what we will compare. I can give the example of Joondalup Health Campus, Peel Health Campus and even the private hospitals that are largely funded by private insurance that pays for the services they provide. That will provide a much better discipline for our staff. The South Australian minister says it does not work perfectly because he was still significantly over budget, as are lots of others, particularly some of those hospitals. We have tried that in Western Australia in the past. It did not work. We need to explore why it did not work. I still think that is the best option. It puts discipline on the hospital, on its full-time equivalents and on its expenditures. The more people who come to the hospital, the more funds are attached to those people coming in. The Attorney General obviously works under a similar system with prisoner numbers. Prisons are funded according to the number of people in prison at any one time.

Mr E.S. Ripper: They would like it to be funded like that, but they are not actually funded enough.

Dr K.D. HAMES: That is a different question. The Attorney General complains similarly.

The opposition cannot have it both ways. It is on us all the time about cuts. Now it is whingeing because we are spending too much money.

Mr E.S. Ripper: We are whingeing about the government's financial mismanagement.

Dr K.D. HAMES: The reality is our financial management is going exceptionally well. The three per cent cuts are long gone. Despite all the whingeing and groaning about cuts, we are asking people within the health department to make savings by being more efficient. That money is not coming out of the health budget, as members can see. The expenditure has gone up but we are funding genuine areas of need. That is the way it should be. There is going to be some kickback. People will continue to complain and run to the opposition with leaks about this amount of money or that amount of money that has been cut. But the health budget has never had, in its history, more money. Health has never had, in its history, more FTEs. We have a system that is providing a very strong service to the patients of Western Australia. I guess the question is: do we have too many? Do we have more than is required? It is very hard to get the cut-off benchmark, because while the Labor Party was in government—this was not its fault—there were not enough nurses to properly supply the needs of patients. The department was always understaffed. The question is: exactly what is the correct number of staff? That is another thing we need to do with our benchmarking with other states.

Interestingly enough, New South Wales has more staff per patient than Western Australia despite suggestions that we might have too many. We need to explore those things. We need to get proper benchmarks. We need to have a proper base salary that recognises these past deficiencies and sets the bar at zero so that we do not have these issues again. But, on the other hand, we need something to drive efficiency within the health system because otherwise, under our government—under a Labor government, or under any government—it will continue to blow out of proportion. I think casemix funding as a methodology will do that. We will push to put that in place as quickly as possible.

I reject the motion that has been put before the house today. The health system is travelling extremely well. We have some extremely dedicated staff. We are forging ahead not only with the infrastructure program that the former government initiated but also with major extra infrastructure programs of our own, including getting on with Albany Regional Hospital, Busselton District Hospital and Princess Margaret Hospital. Not only that, we will make sure we address services. I have already recognised the deficiency that was highlighted by the member for Alfred Cove in terms of the provision of some critical service areas like speech pathology and occupational therapy. Over the full term of our government, it is an area that I intend to devote significant attention to, as we will of course address the problems within our ambulance service. This government is forging ahead in its management of health in this state. We have got nothing to be apologetic for.

MR B.S. WYATT (Victoria Park) [3.54 pm]: I thank the Minister for Health for that very powerful performance defending his financial management of the Department of Health. I am sure the Australian Medical Association will be delighted to know that he is spending more than ever on fewer tertiary beds.

Dr K.D. Hames: More total beds.

Mr B.S. WYATT: Fewer total beds than ever before. I am sure the AMA will have some very interesting comments.

Dr K.D. Hames: More total beds. Fewer tertiary, more total beds, as per the Reid report's recommendations.

Mr B.S. WYATT: Shush, minister. I did not interject on you. You will sit there and listen!

Dr K.D. Hames: You did so!

Mr B.S. WYATT: The problem we have is that, overall, the budget process is completely discredited. From the moment the budget was handed down on 14 May it became apparent that the budget process that sat behind the presentation of those numbers was flawed. It contained a significant number of items that were being committed to by the Premier and ministers that were not included in the budget.

As the opposition pointed out in its financial projections update a number of months ago, policy decisions amounted to \$350 million and additional investments in respect of assets amounted to \$1.2 billion over four years. I note the Treasurer mocks this; however, the fundamental problem is the Treasurer is not involved in the significant financial decisions made by this government. I think the Treasurer would have a very good influence on the Minister for Health. The Minister for Health clearly does not have an understanding of the finances of his own department. There is no question that as a doctor he understands the Department of Health and the operations of hospitals—I think that is a given—however, he has no idea about the finances that are driving his department. Up until a couple of minutes ago he had no idea that the Department of Health had blown its budget by \$370 million. He was still operating on the assumption it was \$180 million, as Dr Flett told the committee yesterday, because that was the extra amount of money he sought from the cabinet Expenditure and Economic Review Committee during the same time that the Treasurer refused to allow the department to take \$70 million—that is, the “inappropriate” money it was not entitled to.

So, there is \$180 million plus another \$70 million—that is, \$250 million. We have still got another \$120 million outstanding. We do not know where it is coming from. It is possibly from cash reserves, but the minister has already said there were no cash reserves left. There is \$120 million that the department has taken from somewhere; has used somewhere to make that patch between what was actually given to the department and what was actually spent. I look forward to the minister explaining that, because it is an absence of \$120 million he is yet to explain to the house. The Treasurer is here and I know he will say, “Why do you not write to the Auditor General?” The fact of the matter is he is the Treasurer, the minister is the minister, and this is the Parliament. It is up to him to explain exactly how and why money was spent.

This matter goes back to the Treasurer’s advance. Remember that? An amount of \$1.2 billion was sought by the Treasurer for out-of-budget spending. At the time the Treasurer said he was seeking \$35.1 million for Health. I remember that debate because the Premier took over and humiliated himself. He wandered off and, thankfully, the Treasurer came back to fill in. A number of questions were put to the Treasurer in respect of that \$35.1 million because the opposition had some doubts as to whether that was going to be a sufficient amount of money to tide over the Department of Health in light of the size of its spending under this government. It was put to the Treasurer that it would be up to \$60 million. We wish it was up to \$60 million! The Treasurer stated —

However, there is no way that that will result in a \$60 million draw-down on the Treasurer’s advance, because health will be achieving a significant proportion of the efficiency dividend.

In the Appropriation (Consolidated Account) Recurrent 2007-08 and 2008-09 (Supplementary) Bill 2009, it appears that \$180 million was drawn down through the Treasurer’s advance process. This is not a long period of time. This is a rapid deterioration in the financial management of the Department of Health. This is exactly what the Minister for Health is liable for. It is not something that can be brushed off like some petty crim at the District Court—“I took the money but I was going to pay it back.” That is the most absurd justification I have ever heard for the taking of money to which he was not entitled.

As I said at the beginning, the problem we have is that this government does not have a centralised decision-making process for how it spends money. We know the EERC exists. We know it is there for a reason. Through questions, I was told that the Treasurer chairs the EERC. There is no overall view of where the government is spending its money. A good example of that is in questions on notice put to the Premier on 20 October 2009. I asked the Premier if he had taken the Perth waterfront plans to the EERC. The Premier answered “No”. He never took them anywhere near the EERC. On the same date I asked the Premier whether the state’s contribution to the Oakajee development had been put to the EERC. The Premier’s response was “No”. I put a question to the Minister for Health about \$135 million for the Albany health campus. He refused to answer. Therein lies the problem: significant investments and significant contributions of money, not just in the health sector but across the whole of government, are being made by a Premier who has no care for the forward estimates and who does not involve the Treasurer in the EERC process. As a result of that, insufficient moneys are being allocated to departments. That is exactly what occurred when the Minister for Health took money to which he was not entitled, with the excuse, “It was okay; I was going to pay it back.” It is simply not acceptable. When the government does not have a rigid process for management of and control over its finances and when a deficit is rapidly appearing for 2009-10, when the government does not have those surplus positions, it loses its flexibility to respond to the sorts of situations that the Minister for Health could not respond to in the end because he was not given the money that he needed to see the department through to the end of the financial year. As a result, we see the Auditor General make the sorts of comments that he made about the minister taking \$70 million to which he was not entitled. The minister can brush that off all he likes, but the fact is that the Department of Health’s finances are in disarray and the minister has absolutely no idea about the condition of those finances.

MS A.S. CARLES (Fremantle) [4.01 pm]: I consulted with my Greens (WA) colleague Hon Giz Watson, MLC, who chairs the Standing Committee on Estimates and Financial Operations, and it is our view that the use of the words “financial mismanagement” in this matter of public interest motion overstates the position. It is fair to say that the Auditor General did find irregularities recently, but not illegalities. Let us not forget the problems that the opposition had in this portfolio. The opposition handed the health portfolio to the government with significant financial shortfalls that were locked in prior to the election, so it seems a little rich for it to consistently take the moral high ground on this matter.

Several members interjected.

The ACTING SPEAKER (Mr J.M. Francis): Order!

Ms A.S. CARLES: I spoke to Michele Kosky from the Health Consumers’ Council —

Mr E.S. Ripper: You’re a Liberal in a green suit!

Ms A.S. CARLES: I have an independent voice.

Several members interjected.

The ACTING SPEAKER: Order!

Ms A.S. CARLES: I have an independent voice in this Parliament.

Several members interjected.

The ACTING SPEAKER: Members!

Ms A.S. CARLES: I am not a member of the Labor Party, so I can speak with an independent voice.

I spoke to Michele Kosky from the Health Consumers' Council yesterday —

Point of Order

Mr P.B. WATSON: The member is reading from notes and that is unparliamentary.

Dr K.D. HAMES: I just remind the Acting Speaker that the member for Girrawheen has often in the past read from notes.

The ACTING SPEAKER (Mr J.M. Francis): I am watching the member's eyes. She is allowed to refer to her notes and I am sure that is what she is doing. There is no point of order.

Debate Resumed

Ms A.S. CARLES: I talked to Michele yesterday and she spoke about this continual attack on the health portfolio that oppositions have been mounting for years and years and how it is not solving the problems in our health system. She is someone who has had years and years of advocacy and she is extremely frustrated by what is going on. I notice that she actually said that the current health minister is making progress. She stated —

I don't think that he can fix all of it but if he can get the public hospitals running more efficiently by setting targets and adopting the four hour rule then I think that would be a very good first step, ...

This is a very difficult portfolio, and oppositions have for years used this "crisis in the health system" language. The Greens would prefer to see a multiparty approach to identifying health priorities and spending in this important portfolio area.

Mr M.P. Whitely interjected.

Ms A.S. CARLES: The political point-scoring is not working and that is all I will say.

MR T.R. BUSWELL (Vasse — Treasurer) [4.04 pm]: I thought the member for Fremantle provided a very well-made series of points. I happened to hear that well-known parliamentary intellect the member for Bayswater interject by humming *Kumbaya* —

Ms R. Saffioti: Bassendean!

Mr T.R. BUSWELL: It was the member for Bassendean—L. Ron Whitely! I always find it interesting that the member makes snide little comments —

Ms R. Saffioti: Why don't you talk about the finances of the state for a change?

Mr T.R. BUSWELL: I am going to do that!

Point of Order

Mr M. McGOWAN: Members are to be referred to by their title, being their electorate or a position that they hold in the house, and the Treasurer should not refer to members by other terms.

The ACTING SPEAKER (Mr J.M. Francis): I am aware of the standing order and I instruct the Treasurer to refer to members by the name of their seat.

Debate Resumed

Mr T.R. BUSWELL: My apologies, I was —

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: I am pleased that the member for Fremantle raised —

Mr M.P. Whitely: Why don't you dig a bigger hole for yourself!

Mr T.R. BUSWELL: I once asked why the member came to get that free trip to the USA, sponsored by Nick Xenophon's friends—who are they?—and they said that the member was wandering around Hay Street Mall and —

Several members interjected.

The ACTING SPEAKER: Order!

Mr T.R. BUSWELL: He failed the personality test! Was that it? He failed the personality test when the fellow with a clipboard came up Hay Street Mall and whipped him to Los Angeles.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: I am just going to pretend that I did not hear that. I ask members for a bit of decorum so that I can hear the Treasurer in silence.

Mr T.R. BUSWELL: Two interesting press releases have passed across my desk this week. One was about Kevin Reynolds' decision to quit the Australian Labor Party and take his members and his \$80 000 a year with him. I was interested in that —

Several members interjected.

Withdrawal of Remark

The ACTING SPEAKER: Member for Bassendean, I do not need a point of order to instruct you to withdraw those comments.

Mr M.P. WHITELEY: I withdraw.

Debate Resumed

Mr T.R. BUSWELL: The other press release was about the comments from Michele Kosky from the Health Consumers' Council. The point was well made by the member for Fremantle. The tenor of Ms Kosky's argument was basically that it is time for oppositions to simply stop trying to tear the health system down for political point-scoring. She acknowledged that the health minister, Kim Hames—I am reaching over to polish his halo—is making progress. He cannot fix everything but he is making progress.

Now let us very quickly look at the facts that are presented in the health budget for 2009-10. As the Minister for Health pointed out, it is a 12.4 per cent increase in the health budget.

Mr B.S. Wyatt: Is that above the actual spend?

Mr T.R. BUSWELL: It is a 12.4 per cent increase over the original budget of the previous year.

Several members interjected.

Mr T.R. BUSWELL: That is what it is—a 12.4 per cent increase!

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: The member for Victoria Park seems to come into this place fixated on his original budget position, and wanting to criticise the minister for his comments —

Several members interjected.

Mr T.R. BUSWELL: I am telling members what it was! It is important to note that in the context of that, the health budget last year was 8.2 per cent over its original budget—that is, \$371 million over. I think that highlights some of the underlying challenges that we have in managing the state's finances. Those underlying challenges are reflected no more so than in the fact that the rate of growth of expenses—12.3 per cent per annum—is significantly greater than the rate of activity growth, which is about 4.5 per cent per annum.

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: I know the member had a couple of weeks away and slipped down the potential leadership order, but he should just calm down.

Several members interjected.

The ACTING SPEAKER: Order! That is enough.

Mr T.R. BUSWELL: There is significant divergence between the rate of growth of activity and the rate of growth of expenses, and that is the fundamental challenge for government—a more than 12 per cent rate of expenses growth and a 4.5 per cent rate of activity growth. That is one challenge. The second challenge is that as a percentage of the total spending of the state general government sector, health has steadily increased. In 2000-01 the health percentage of general government sector expenditure was 20.1 per cent and in 2007-08 it was 24.9 per cent. Based on the budget figures, by 2012-13 it will be 25.4 per cent. Therefore, we have a rapidly growing amount of money being spent on health and we have this disparity —

Mr E.S. Ripper: My point is that it requires careful management by you and by the minister.

Mr T.R. BUSWELL: That is what I am getting to and it is a fair point. I accept that. It is a major challenge, I think it would be fair to say. I am sure the former Treasurer and now Leader of the Opposition would say that it is extremely difficult to instil in the Department of Health the sort of discipline that we are looking for. It is

extremely difficult. The Minister for Health, in my view—I will give some statistics in a minute to highlight this point—has started to take some very positive steps in this direction.

I was very interested to read some comments from Anna Hughes. The former Treasurer may have met her; she is a Standard and Poor's credit analyst who has an eye on Western Australia. She said that attempts by states to reduce recurrent spending growth often took longer than planned and that she was not overly concerned by short-term failures to cut expenses. In other words, it takes longer than planned. That is exactly the experience that we are having. What are we doing?

Mr E.S. Ripper interjected.

Mr T.R. BUSWELL: Leader of the Opposition, I just want to touch on a point. There is a lot of focus—I think this is what Ms Kosky is talking about—in the health debate about inputs and how much money is put in. It is not necessarily consistent with a focus on outputs, and I will perhaps give a couple of examples. In 2000-01 the budget of the Department of Health was around \$2.1 billion and in 2007-08 it was \$4.2 billion—that is, approximately double. I have read “The state of our public hospitals” report that came out in the middle of this year. That report indicates that despite a massive increase in spending on health in Western Australia, some of our key performance indicators have gone backwards. Key performance indicators such as average available beds per 1 000 weighted population in Western Australia and median waiting times in emergency departments have gone backwards. This has occurred over the past five or six years. Again, we need to move our focus. People who sensibly observe the health debate would agree—except perhaps for some commentators from, for example, the Australian Medical Association—that we need to start focusing on outputs and on the efficiency with which we spend money. Notwithstanding a doubling of the health budget, some of those key indicators, such as the availability of beds and the speed with which people are seen in emergency departments, have gone backwards. What do we intend to do? Quite simply, we intend to focus on delivering better outputs. It is not easy. Credit analysts agree that it is not easy to turn around those modes of behaviour. I will give an example from October. The health department has overspent its budget for the first few months of the financial year; that is clear. In October, expenses were \$5.6 million over the monthly target of \$466.5 million; that is, the department was 1.2 per cent over budget for October. I think that is a better result than that recorded in the first three months of the financial year. In October the average number of full-time equivalents per month in the health department went from 31 656 down to 31 298.

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: That is what I just gave members.

Mr B.S. Wyatt: No; you said October.

Mr T.R. BUSWELL: It went from 31 656 in September down to 31 298 in October. That is a decline of 358 FTEs. The health department is on a long-term plan to cut its FTE numbers because it overshot last year. It is ahead of the plan. That is a good outcome.

Point of Order

Mr B.S. WYATT: Mr Acting Speaker, the Treasurer is quoting from some official documents and I ask that you ask the Treasurer to table those documents.

Mr T.R. BUSWELL: These are my handwritten notes. I know that these notes are on letterhead that says “Office of the Premier” at the top, but they are handwritten notes. It is the only paper I could find. I know they look very official and seem to have the Premier's imprimatur, but they are my handwritten notes, which I am happy to show members. I know that the member for Victoria Park thinks highly of the Premier, but they are not quite official notes.

The ACTING SPEAKER (Mr J.M. Francis): There is no point of order.

Debate Resumed

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: This is data I have available to me. We are the government. The FTEs at Royal Street are down this year by around 70. Is that right, Minister for Health? We are trying to trim down right across the health department, because FTE growth has been the predominant driver. I am reluctant to hang my hat on one month's performance, but I think we are slowly starting to turn around —

Ms R. Saffioti: But you are anyway.

Mr T.R. BUSWELL: No, I am not; I did not say that. I said that these are encouraging signs. We have more work to do. I accept that it is difficult to manage the health budget and to try to change the handout culture that Dr Peter Flett referred to this morning. Peter Flett was right when he said that the level of management below him is characterised by a handout culture. Why is that? It is because when the Labor Party was in government, it

never insisted on those people being held properly to account for that budget performance; they developed a culture of saying, “We’re at the end of the financial year and we’ve overspent; we’ll put our hands out.” This government is not going to allow that. When those people put out their hands to Peter Flett this time, they will get a slap across the wrist. And will it hurt? Yes, it will. Are the Minister for Health, Dr Flett, Tim Marney and I committed to delivering on that? Absolutely.

DR J.M. WOOLLARD (Alfred Cove) [4.14 pm]: I will not support this motion that refers to new evidence of financial mismanagement in the health system, because the financial mismanagement has been going on for many years, particularly between the hospital sector and child health and community health services. I am very pleased that this minister and this government have agreed to look at child health and community health services. Since the Labor Party’s term in government, we are short 360 full-time equivalents in child health and community health nurses and in child development services staff.

I believe that people value health. I believe we should be putting more into health. Yes, some hospitals are not as productive as other hospitals. We know from questions that have been asked in this house that Fremantle Hospital is more cost-efficient than Royal Perth Hospital. We know that hospitals have traditionally received more money than community health services because it makes for good headlines when ambulances have to queue up outside hospitals—governments react to that. I would like this government to invest more in our healthcare system, particularly in community health nurses, school health nurses and child development services. We know from the two reports that have been tabled in this house that children are waiting 12 or 18 months for an appointment to see a specialist. I have spoken to child health nurses who say that some parents are not taking their children who have problems to them because those parents know that when they see a specialist, they are put on a waiting list and that by the time their children are seen, they may fall into a different age group. When their children finally reach the top of the waiting list and can be seen by a specialist, they are knocked off because they are the wrong age. If the government is going to address the problems in child health, it must accept that 360 FTEs are needed now. They were needed many years ago. The previous government failed to address child health needs. I am pleased that the Minister for Health has given a commitment that he will address the shortages in those areas.

Question put and a division taken with the following result —

Ayes (23)

Ms L.L. Baker	Mr F.M. Logan	Mr J.R. Quigley	Mr A.J. Waddell
Mr R.H. Cook	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Mr P.B. Watson
Ms J.M. Freeman	Mr M. McGowan	Mr E.S. Ripper	Mr M.P. Whitely
Mr J.N. Hyde	Mr M.P. Murray	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr W.J. Johnston	Mr A.P. O’Gorman	Mr T.G. Stephens	Ms R. Saffioti (<i>Teller</i>)
Mr J.C. Kobelke	Mr P. Papalia	Mr C.J. Tallentire	

Noes (30)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr D.T. Redman
Mr C.J. Barnett	Mr M.J. Cowper	Mr R.F. Johnson	Mr A.J. Simpson
Mr I.C. Blayney	Mr J.H.D. Day	Mr A. Krsticevic	Mr M.W. Sutherland
Mr J.J.M. Bowler	Mr J.M. Francis	Mr W.R. Marmion	Mr T.K. Waldron
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Dr J.M. Woollard
Mr T.R. Buswell	Dr K.D. Hames	Ms A.R. Mitchell	Mr J.E. McGrath (<i>Teller</i>)
Ms A.S. Carles	Mrs L.M. Harvey	Dr M.D. Nahan	
Mr G.M. Castrilli	Mr A.P. Jacob	Mr C.C. Porter	

Question thus negatived.

**JOINT STANDING COMMITTEE ON THE REVIEW OF THE RACING AND WAGERING
WESTERN AUSTRALIA ACTS — COMMITTEE MEMBERS’ PRIVATE INTERESTS PERTAINING
TO RACING AND/OR WAGERING**

Statement by Acting Speaker

THE ACTING SPEAKER (Mr J.M. Francis): I advise members that I have a letter dated 19 November 2009 from the member for South Perth, Chairman of the Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts. The letter reads as follows —

Dear Mr Speaker,

Disclosure of Interests by Members of the Joint Standing Committee

At its meeting on 15 October 2009, the Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts (‘the Committee’) resolved to advise you of Committee members’ private interests pertaining to racing and/or wagering.

While members' individual pecuniary interests are already subject to the disclosure requirements of the *Members of Parliament (Financial Interests) Act 1992*, the Committee also wishes to make a general disclosure regarding direct or indirect benefits both pecuniary and otherwise, which might appear to raise a conflict between members' private interests and their role as Committee members inquiring into the Racing and Wagering Western Australia Acts. As such, please find attached a schedule which outlines members' interests in this regard.

I also advise members that I have arranged for the schedule of members' interests to be placed on the noticeboard of the Legislative Assembly for the information of members.

MINES SAFETY AND INSPECTION AMENDMENT BILL 2009

Declaration as Urgent

MR W.R. MARMION (Nedlands — Parliamentary Secretary) [4.24 pm]: In accordance with standing order 168(2), I move —

That the Mines Safety and Inspection Amendment Bill 2009 be considered an urgent bill.

The reason for this motion is that the purpose of this bill is to introduce a levy, and for the levy to be in place by early 2010. Passing the bill today will allow time for it to be considered and passed by the other place. This will allow regulations to be drafted early next year. The bill was introduced to this house some two weeks ago to allow for some consultation. I understand that the Minister for Mines and Petroleum has consulted the shadow spokesperson for mines; I also attended a briefing on the wording of the legislation. The bill was delayed as a consequence, and an agreement was reached on an amendment. That amendment will be put during consideration in detail today. The bill was also delayed to allow the Labor Party caucus to discuss it this morning, and there has been consultation with industry and with UnionsWA. I support this bill being considered an urgent bill.

MR M. McGOWAN (Rockingham) [4.26 pm]: I indicate to the house that the opposition will support this legislation being brought forward now and treated as urgent, despite the fact that it has not laid on the table for the ordinarily requisite time. In supporting this motion, I indicate to the house that this is the first of a couple of bills, as I understand it, to which this procedure will apply this week. I also indicate to the house that this follows the same procedure used last week on a number of occasions. Indeed, the member for Mindarie was required to speak on significant and complex legislation, copies of which he received on the same day or the day before. We did not get the opportunity to put that legislation through the caucus, so we had to retrospectively consult on and deal with the legislation, through the caucus, after it had already been dealt with by this house.

That is very poor parliamentary practice, and I made that point plain last week. It is very poor parliamentary practice for the government to bring on legislation in this manner and expect the house to deal with it. The opposition will allow it to occur for this bill, but I indicate that the Leader of the House has, according to the letter he sent to me, put forward 14 bills to be dealt with today, tomorrow and the next day. I make it clear that the opposition will deal with each bill on its merits, and we will debate them so that they receive proper consideration in this house. If the government wants to call that filibustering, it can call it filibustering, but it is not; it is proper debate of legislation so that the house, members of the Labor Party and the people of Western Australia will know that Parliament is not just a rubber stamp, and that the legislation that comes before it receives proper consideration.

The Leader of the House said that the government has to do this because the opposition either stops legislation or slows down the progress of legislation through the house. I have a copy of the legislation that has been passed by this house since 15 September—a six-week period. The opposition opposed a number of these bills; we opposed the Waste Avoidance and Resource Recovery Bill, which imposes a tax on the households of Western Australia. We opposed the stop-and-search legislation—that quasi-fascist bill brought into this house by the Minister for Police. We opposed those two bills, but we have supported 20 bills that have come through this house since 15 September—bills which were often quite complex and difficult, and which often required considerable debate. There have been 18 bills passed through this house since 15 September, so if the Leader of the House is saying that the opposition blocks legislation just for the sake of opposition, the evidence does not support that assertion. This house has passed 20 bills, some of which have gone through the upper house. We did not slow down any of that legislation; we gave it proper debate, but we allowed the legislation through in a timely and reasonable manner.

However, we will not allow 14 bills to pass through this house this week without appropriate consideration. If the house has to sit round the clock, 24 hours a day, it does not bother me; I am happy to stay here to ensure that the legislation passed by this Parliament is dealt with appropriately. The opposition will not be corralled into a rubber-stamping exercise, or allow the opposition and Parliament of this state to be treated with contempt by the government in its attempt to put through that amount of legislation in such a short period. We will be debating

this bill properly. This piece of legislation deserves proper debate. This legislation provides for a tax on every mining company in Western Australia. Although we might support it, it imposes a tax on every mining company in Western Australia with more than 10 employees and it deserves proper treatment and consideration and proper debate, rather than going through this house in a matter of a few minutes, as the government would like to see happen. We will give this bill proper and appropriate consideration.

MR R.F. JOHNSON (Hillarys — Leader of the House) [4.30 pm]: I listened to what the manager of opposition business said, and I find it ironic that he keeps attacking me. It is not uncommon —

Mr C.J. Barnett: Unfair!

Mr R.F. JOHNSON: It is totally unfair. The question we are considering at the moment is that the Mines Safety and Inspection Amendment Bill 2009 be declared an urgent bill. The reason is that this bill needs to pass through both houses of Parliament, and it is the practice every year at this time of the year that we need to pass bills through this house before the Christmas break—certainly this is one of those bills. The manager of opposition business has called on me publicly to make members sit for 25 weeks. When did the Labor government ever sit for 25 weeks? I will answer that; it is a rhetorical question. The Labor government never sat for 25 weeks. In 2001 this house sat for 18 weeks. In 2004-05 it sat for 20 weeks. In 2007 it sat for 19 weeks.

Mr M. McGowan: Did we try to ram through 14 bills in three days?

Mr R.F. JOHNSON: I will come to that. In 2008, which was a classic case, the Parliament sat for nine weeks and then the Labor government threw in the towel. We sat for nine weeks! The Liberal-National government had to make up the parliamentary sitting that year by adding another four weeks to the sitting period before Christmas last year. We had to do it because the Liberal-National government was on the front foot and we wanted to get in here and hit the ground running. The Labor government sat for nine weeks. I think it had scheduled only 19 weeks—or maybe 17 weeks, I cannot quite remember—but it certainly was not 20 or more weeks. That was a government that had been in office for ages. The average number of sittings weeks in the time of the Labor government was 19.9 weeks.

Mr M. McGowan: You scheduled 17 at the start of this year and you flick in a week here and a week there.

Mr R.F. JOHNSON: The manager of opposition business goes on about rushing in bills to get them through and not properly debating them. Let me tell the member for Rockingham that in late 2001, when Labor had been in government for almost a year, the Legislative Assembly debated the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill and Acts Amendment (Criminal Investigation) Bill 2001—the anti-bikie laws in response to the Hancock bombing. These bills were rushed into the house with much fanfare by Premier Gallop, but were ultimately handled by Mr McGinty as Attorney General. The Legislative Assembly also sat through to mid-December 2001, mainly to debate the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001. The Labor government kept us here right the way through to mid-December on that bill. That must have been a critical bill to get through this house before Christmas! I can go on and on and give more examples, which I am more than happy to do at some stage, but, at the end of the day, we need to get through bills in this house.

I want to clarify comments made by the manager of opposition business. I sent the member a list of 13 bills, but the member tells me it is 14 bills and I will not dispute that.

Mr M. McGowan: The Appropriation (Consolidated Account) Recurrent 2009-10 Bill 2009 and the Appropriation (Consolidated Account) Capital 2009-10 Bill 2009 are two bills that you expect to be debated cognately.

Mr R.F. JOHNSON: That is the normal practice, and we followed that practice under the Labor government.

Mr M. McGowan: But it is two bills, therefore it is 14 bills.

Mr R.F. JOHNSON: But they are debated cognately and the member knows what that means.

Mr M. McGowan: My statement stands as correct; it is 14 bills.

Mr R.F. JOHNSON: We cooperated with the previous government in this practice every time. I do not expect us to get through all those bills, but I sent them through to the member as a courtesy, so that if we had to swap and change any bills, we could do so. I do not expect to get through 13, or even 14.

Mr C.J. Barnett: Couldn't be fairer.

Mr R.F. JOHNSON: Absolutely. I am Mr Fair. I really am. I sent the member a list so that the opposition could be aware of the sorts of bills the government would like to try to get through before Christmas. I do not expect to get through all those bills by the time we rise at the end of this week. However, let me put it this way: I am hopeful we can get through the bill we are discussing now and that the opposition supports. I am told arrangements have been made behind the chair that providing the government accepted the amendments put

forward by the opposition spokesperson, we would get through this bill expeditiously. Not many members need to speak on this bill. When we were on that side of the house, we normally had only one person—two at the most—who would speak on a particular bill where there was some expertise needed. The member for whatever it is—I cannot remember—talks on everything but he does not know about anything; he is irrelevant, in my view. Absolutely irrelevant! I suggest that there are probably only two members opposite who have some knowledge of this bill and its implications. I ask members opposite to act responsibly as an opposition to deal with it and to support it and let us get it through this place to the other place so that they can deal with it and then it can become law, because this is talking about mines safety.

MR F.M. LOGAN (Cockburn) [4.34 pm]: After listening to what the Leader of the House just put to the house, I have to jump to my feet and contest the points he put forward. The Leader of the House quoted statistics that highlighted the number of weeks that the house sat during a few of the seven and a half years of Labor administrations going back to 2001. However, the Leader of the House should pull out of those statistics an example of any extra week of sitting in those years that resulted in the then Leader of the House walking in and expecting the opposition to pass 13 or 14 bills—and it does not matter whether it is 13 or 14. It did not occur. This is the first time that has occurred.

Mr R.F. Johnson: In 2003 we sat for 24 weeks.

Mr F.M. LOGAN: Regardless of how many weeks we are sitting, the Leader of the House is asking the opposition on the extra week's sitting week—this is what this week is—to deal with some urgent and critical pieces of legislation that he believes should be passed. The Leader of the House is expecting the opposition to pass 13 or 14 bills.

Mr R.F. Johnson: That is what you did in government.

Mr F.M. LOGAN: That has never been done before. That is the point that the opposition manager of business in the house has been making to the Leader of the House. With respect to this bill and the urgency —

Mr M. McGowan: I am very fair.

Mr F.M. LOGAN: The member for Rockingham is a very, very fair person. We are more than willing to help the government out with pieces of legislation, and we will be agreeing to the Mines Safety and Inspection Bill 2009. As to whether this is an urgent bill, which is the point that the Leader of the House is making, that is very, very debatable.

The Leader of the House referred to the fact that there had been some consultation on this bill, and I will be talking about that in debate on the bill. However, consultation on this piece of legislation has been very, very minimal; and with respect to the urgency of this legislation, the Chamber of Minerals and Energy has argued that this bill, particularly the taxing powers of this bill—the levy—should not come into force until the new financial year beginning 1 July 2010. That would allow companies' budgets for the following year to be sorted out to take this levy into account. It would also give time for the industry partners—that is, the employers and the unions that will be affected by this bill—to be able to sit down and discuss and be consulted properly on the content of the framework of the risk management approach to safety in mining and the mines legislation. At the moment, that has not occurred at all. I will be referring to that later.

To argue that this is an urgent bill is debatable because industry does not see it as an urgent bill; they would prefer that it did not come in. If it is going to come in, those companies would prefer that to occur in the new financial year. I think the Leader of the House is stretching the point a lot to argue that this bill is urgent. It may well be urgent for Hon Norman Moore in the upper house and for the department because it wants to raise the money. And that is what this is all about. It is urgent for the government to raise the money, but is it urgent for the industry itself and for improving mines safety? I argue that it is not.

Question put and passed.

Second Reading

Resumed from 11 November.

MR F.M. LOGAN (Cockburn) [4.39 pm]: As I just indicated in the previous debate on the urgency motion, we will support the Mines Safety and Inspection Amendment Bill. However, we will also seek to introduce and debate an amendment that stands in my name on the notice paper during the consideration in detail stage. I also highlight that as a result of the discussions that the Leader of the House has already referred to, a government amendment to this bill has been agreed to. That amendment emerged as a result of those discussions and it too will be introduced during the consideration in detail stage.

As I indicated in the debate on the urgency motion, the Mines Safety and Inspection Amendment Bill 2009 is a taxing bill. The bill allows the Department of Mines and Petroleum to apply a levy on companies in the mining industry that employ more than 10 people. That levy will be based on the equivalent of one full-time employee.

It is a per capita levy across all mines in Western Australia that employ the equivalent of 10 or more full-time employees. The levy is the equivalent of a full-time employee because that takes into account casual and part-time workers. Effectively, the total hours worked by casual and part-time workers adds to the equivalent of a full-time employee and the levy will be accounted to that one full-time employee.

The levy has come about as a result of the extensive review of mines safety in Western Australia that was undertaken by Stephen Kenner and resulted in the Kenner report. The Kenner report recommended significant changes to the way mines safety is applied in Western Australia. It recommended moving away from the current environment of regulatory control by the department over the mines whereby mining inspectors occasionally visit the mines and ensure that the companies are complying with the occupational safety and health regulations and policies, to a system that is based on risk management. Effectively, that means the responsibility for managing mines safety lies with the employer of the mine and the monitoring of the manner in which occupational safety and health is applied on the job is undertaken by the department through its inspectors.

Last year was a horrendous year for mines safety in Western Australia. As early as October last year, the union movement was calling upon this government to increase the number of inspectors in the mining industry to a level that reflects the size of the mining industry in Western Australia. The mining industry in Western Australia is the biggest mining industry in Australia. It employs more than 70 000 people. A pitiful number of mining inspectors were expected to police mines safety across the vast number of mines that operate from Kununurra in the north to Esperance in the south and across all the districts of Western Australia. The union movement argued that there should be an increase in the number of inspectors, and that was agreed to by the employers. The union movement claimed that at least 40 more inspectors were needed in Western Australia to bring us to parity with the per capita inspector-employee ratio of New South Wales and Queensland. Queensland has a very large mining industry, although it is not as big as Western Australia's. Nevertheless, it has significantly more inspectors on the ground than Western Australia, which has a much larger industry that is spread out over a much greater distance.

The unions pointed to the lack of inspectors on the ground as being one of the prime reasons why mining safety took a serious downward turn last year. During the year from September 2008 six people died in the mining industry. Those tragic events show that five of the six fatalities occurred in the early hours of the evening. Of the six people who died in the mining industry last year, five deaths occurred in the early hours of the evening when the workers were on night shift. I hope that the additional inspectors in the new framework for safety in Western Australia undertaking the risk management approach will take into account the fact that the workers in the industry work night shift and will also take into account the hours of work and the way in which those people in the mining industry work. I hope that also as part of the inspection regime the inspectors place those factors ahead of the way in which work policies are carried out at the mine sites.

Mr C.J. Barnett: Are you saying that those accidents happened at the end of the shift or at the beginning?

Mr F.M. LOGAN: They happened around about the middle of the shifts. Five of the six deaths occurred when the workers were working on night shift. A study of the circadian rhythm cycle shows that humans concentrate less when working on night shift. That has been demonstrated. I hope that the risk management approach and the policies that are applied at the workplace that will be confirmed by the new inspectors will ensure that consideration is given to the way people work, the hours that they work and the hours that they have worked so as to not place those workers in an unsafe environment. I believe that the current regime of working and the length of hours worked, particularly on night shift, leads to a lack of concentration. I believe that is a causal link behind the deaths of at least five of the six unfortunate employees who were killed last year.

As I indicated to the house earlier, the union movement had been calling for more inspectors. As a result of the Kenner report and the government's response to it, it was agreed that a new regime of mining safety needed to be put in place in Western Australia. That regime will be based on a risk management approach. New inspectors need to be employed over and above the current number of inspectors who are employed by the department. It has been suggested that an additional 37 inspectors be employed. The opposition supports and congratulates the government for taking on additional inspectors. We also support the approach to overhaul safety in the mining industry in Western Australia.

That brings me to the costing for the 37 new inspectors. Completely overhauling the way safety is applied in the workplace is a significant cost burden for any government. At the moment the government expends about \$11.9 million on mining safety in Western Australia. This is a significant additional cost to the government. The government proposes to defray some of that cost by imposing a levy on the mining industry. With its significant turnover, it would be a minimal cost to the industry. The levy is the basis of this bill. As I indicated to the house earlier, the new levy will apply on a per capita basis. It will apply to each FTE employed in the mining industry. It is commendable to see how the determination of who pays has been defined in the explanatory memorandum to the bill, although not so much in the second speeding speech; that is, it applies to full-time employees, contractors, labour-hire organisations and administrative staff at the mines. That is a commendable approach

because there is a significant amount of contractor mining in the industry. If companies could get out of the levy by saying, “We don’t employ these people so don’t come to us for the money, go to someone else”, the whole scheme would be unworkable and difficult to enforce. An across-the-board approach means that the government can say that if people are on a company’s mine site and come under the Mining Act, for the purposes of the levy, they are full-time employees. The government does not care who employs them or about the status of their employment. For the government, if those people come under the Mining Act, the company, as the principal player under the Mining Act, is responsible for the collection of the money and the payment of that money to the government. We commend the government for applying the levy in that way.

Apart from the questions that I have for the parliamentary secretary, the member for Nedlands, one of my criticisms relates to stakeholder liaison. The unions, the employer associations, the Chamber of Minerals and Energy and a number of major employers in the industry are very, very concerned that the bureaucracy is getting way ahead of the government in the construction of the new risk management approach to mining safety. The department has done significant work on what the approach should look like, without consultation with the key players who will apply the outcome of the legislation in the workplace. The minister has always been very clear about that criticism that has been applied to the department. Those groups are still concerned that the minister is not listening to that criticism. They are also concerned that the government will proceed with raising the levy, getting the levy underway and getting the money through the door without the companies seeing what they are paying for because there will be no framework for occupational health and safety in the mining industry until at least 1 July next year; nevertheless, they will be paying for it upfront. The groups were very concerned that the government is taking that approach to this whole rework of occupational health and safety in the mining industry. Although the groups were informed about the legislation and the fact that it would be introduced to Parliament, they had no input into what it looked like, how it would be applied, when it would be applied, who will pay and how much they will pay. None of those questions was answered before the bill was drafted, finalised and taken through cabinet. Now we are debating it in the house. I say to the parliamentary secretary that one of the issues that comes out of the failure to consult is the costing of the levy; that is, how much is expected to be raised by this levy? We know that it applies to full-time equivalents in the mining industry. We know it will apply to all people who work on a mine site who are captured by the Mining Act. There is a formula for how many dollars are paid by the company itself but there is no clear overview of how much a company will pay per full-time employee.

One of the other issues relates to the way the levy applies. The levy will not be applied pro rata. A company will be assessed and it will have to pay the levy for the full year, regardless of when its mine site commenced. A mine site may well have started up part of the way through the levy financial year, which I believe has to be paid for by 1 September each year.

Mr W.R. Marmion: Payments are due on 30 September, with invoices sent on 1 September.

Mr F.M. LOGAN: Sorry. That is right. The invoice is sent on 1 September and the payment is due on 30 September. That is the financial year of this annual levy. If a company happens to get its mine up and running in between those dates, there is no pro rata approach. I accept that and I understand that is done for the sake of simplicity of application of the levy. That is not the point I am raising. Once this bill has been passed—let us assume that the government achieves the impossible and it goes through this place today, goes into the upper house as an urgent bill, passes before the end of next week and then comes into force before Christmas—will the levy be applied straightaway, will it be applied for the whole year or will a pro rata approach be taken for this year? I put it to the parliamentary secretary that he could not backdate the bill to 30 September 2009 given that it will not even be passed until —

Mr W.R. Marmion: My understanding is that it will apply from 1 January 2010.

Mr F.M. LOGAN: I thank the member for Nedlands. That is one thing that has not been made clear. I thank him for that clarification. Assuming that the bill is passed before Christmas and comes into force before Christmas, the parliamentary secretary is expecting the application of the levy to immediately apply from —

Mr W.R. Marmion: The regulations will have to be drafted. It will take some time in the new year for the regulations to come into effect.

Mr F.M. LOGAN: Can the parliamentary secretary give some estimation as to when he thinks the actual levy will be applied? There are a significant number of employers who are facing a very large bill.

Mr W.R. Marmion: I was going to raise it during the consideration in detail stage. My understanding is that the levy will be around \$125 and will apply for six months of the current financial year commencing 1 January, if the bill is passed.

Mr F.M. LOGAN: I thank the parliamentary secretary for that response. I will confirm that again once we are in consideration in detail.

I would also like to know how many people will be employed to manage the levy. There are going to be 37 new inspectors employed by the department itself for the purposes of assisting to manage the new risk management approach to mining health and safety. I hope that this levy does not allow the use of those inspectors for the purposes of collecting and managing the levy. The job of the new inspectors, along with existing inspectors, is to be out on mine sites ensuring that policies are in place for workers' safety and to ensure that the workers' safety is real, tangible and appropriate, and being applied on the job. I want an assurance from the parliamentary secretary that the new inspectors to be employed will not be used simply for tax collection purposes to manage and administer the levy or deal with the levy in any shape or form. That is not what that money is there for. That money is for maintaining the levels of current inspectors and taking on an additional 37 new inspectors. It is also to ensure that the inspectors are at the mine sites and not keeping their bums warm in offices in West Perth or in Collie, but actually on the job ensuring workers' health and safety and ensuring that we avoid any more deaths in the mining industry. I would like the parliamentary secretary to respond about how many people will be employed to manage the levy.

I would also like to know the cost of running the levy. It appears from the explanatory notes that the cost of running the levy will be sought from the levy itself—the levy itself will pay for the cost of running and managing the levy. The member for Nedlands has worked in the public sector and he has worked in government departments. He knows that costs can blow out, he knows that building empires can lead to more and more people being put on in particular parts of a department and suddenly the cost of running and managing a very simple fund becomes more and more expensive. The whole reason for establishing the fund starts to become undermined because the fund starts using up more of its money to look after itself. It is a critical issue. We want to know exactly how much the parliamentary secretary believes it would cost to manage the fund.

I also want to raise the issue of the proposed amendments. The first proposed amendment will come from the government. I would like to put on record why it comes about. The proposed amendment, in the member for Nedlands' name, is an amendment to clause 4, to insert a new section 105B "Mine safety account", which basically details that moneys collected under the levy will be put into a special purpose account—that is, a trust—under the department and qualified under the Financial Management Act 2006. That was not proposed in the bill; hence the reason for the proposed amendment. As that was not part of the original bill, that was one of the reasons why the Labor opposition and the spokesperson in the upper house for mines and petroleum, Hon Jon Ford, made it very clear to the minister that under no circumstances will we support this bill. We see it as a new tax and we see it as an unfair levy that has been brought in without any consultation whatsoever. We see it as simply a money gathering exercise by the department to fund its own operations.

We will go back to some of the issues we highlighted in the Waste Avoidance and Resource Recovery Amendment Bill; that is, our argument that it is a new tax. Why is it a new tax? It is a new tax to fund the operations of the Department of Environment and Conservation, which was one of our key points when debating the WARR amendment bill. This bill has the same hallmarks; the hallmarks of another government department seeing an easy way to fund its operations by whacking industry for more money. There is no accountability whatsoever. That was one of the key reasons we opposed the legislation in its initial form. After consultation between Hon Jon Ford and Hon Norman Moore as to how this bill could be agreed to by the Labor opposition, this proposition was put forward to ensure that there is some accountability for the collection of money. Accountability would allow the Parliament to have some oversight of how much money is expended, how much money it costs to run the levy—which is one of the issues I have just referred to—and how that money is distributed by way of the employment of inspectors. Is the money that is being collected spent for the purpose for which it was collected? That is the reason we argued strenuously. If the government is going to raise this levy, it should ensure that the department keeps its sticky fingers off it and it goes into an independently audited account that is held accountable to the Parliament in terms of inspection of the way the money is used within the account. That is the background to this proposed amendment. Although it is a government amendment, it is an amendment that is forced on the government by the rejection of the bill in the first instance.

The second proposed amendment is in my name. It is again to clause 4, and it is to insert a new subsection (2) after line 9 on page 3. That would reverse the onus of the way in which regulations are dealt with in the house; that is, rather than the regulations coming into force from the time they are tabled in the house, the regulations will not come into force until such time as 14 days after they have sat on the table of the house, assuming there has not been a disallowance motion moved to reject those regulations. Members heard earlier that the regulations of the Mines Safety and Inspection Amendment Bill are yet to be drafted, and the actual application of the fundraising will not occur, I believe, until after the introduction of those regulations. This amendment will ensure that once again there will be some accountability in the way in which the fund is applied and that there will be some level of consultation with the parties, particularly the parties that have to pay the levy, to ensure that what goes into the regulations will benefit the industry. Therefore, this provision is there as a failsafe mechanism, as asked for by the unions and employers in the industry, to ensure a level of accountability in the application of the

regulations and in the establishment of the fund into which employers are bound to pay significant amounts of money. That is the reason that this amendment will be put forward.

I have been advised by the parliamentary secretary that the government does not agree with this amendment and I believe that the government will vote against it in this house. I hope that when the amendment is moved again in the upper house—because it will be moved again in the other place—the government will see sense by that stage and support this amendment, because it is a sensible amendment to ensure accountability in the way in which this new tax will be applied to what is effectively the biggest industry in Western Australia. For the government to simply say, “No, we’re not going to agree with this” is a slap in the face for Western Australia’s mining industry, which is looking for this level of accountability from the government in the way that the regulations and the new taxing powers will be applied. At the end of the day, people in the mining industry will have to stick their hands in their pockets and fork out very, very large lumps of money to pay for this new levy. For people in the mining industry to be told by the government, “Just pay the money; trust us, everything will be okay” and for them not to have any input into the way in which the regulations will be framed is unacceptable, member for Nedlands. It is absolutely unacceptable. I believe that if the government continues to oppose this amendment that we seek to make to the bill, it will experience a significant backlash from the industry about the way in which it has approached the bill because, as I pointed out before, there has been a significant lack of consultation on the way in which this bill has been drafted and brought into this house. There has been a significant lack of consultation on where the whole regulatory framework is going and what it will look like because it has been driven by the department as opposed to the industry itself.

Finally, with reference to consultation, I would like confirmation from the parliamentary secretary, the member for Nedlands, that the failure to consult that has occurred up until this point will not occur in future. In fact, I would like the parliamentary secretary to put on record—I believe his minister has agreed that he should put it on the record—that liaison with the industry and industry stakeholders, such as the unions, will occur under a new advisory panel and new working groups that will work together with the government on establishing a workable framework for occupational health and safety in the mining industry, because to exclude employers and unions from helping to create that framework is simply nonsensical. At the end of the day, it will not work if they are not on board; it simply will not work. The object of the exercise, and of applying the recommendations that came out of the Kenner review, is to save lives and avoid accidents and injuries in the mining industry. That can only occur by the parties on the ground—that is, the employers, workers and unions—working together to ensure that the regulations and the occupational health and safety policies that have been created are workable and applicable to that mine site and that workplace. The role of the government is to ensure that it works with those parties. For the legislation to work properly, those parties have to be involved from the ground up. The point, member for Nedlands, that the unions and employers in the mining industry have been stating up until now is that they were not involved at the very beginning of the creation of the regulatory framework for a new occupational health and safety system in the mining industry. They have to be involved from the ground up. I would like the parliamentary secretary to put on the record that the government will commit to involving those critical stakeholders in the process of creating the new system of occupational health and safety in the mining industry from the ground up.

MR M.P. MURRAY (Collie-Preston) [5.17 pm]: I rise to support at least the objective of the levy, although probably not the levy and the detail of it. I had 24 years in the coal industry, working 12 years underground and 12 years on the surface, along with six or seven years in construction work as well. Therefore, I have seen people severely injured. Two of my shift mates—although I was not at work at the time—were killed. I certainly have a close understanding of the rigours of mining. Some people say that it is acceptable to have a small number of deaths; I do not believe that. I believe that everyone, especially in the mining industry, in Western Australia should be able to go to work and come home safely to his family. I think it is very important that we have that attitude and not an attitude that a small number of deaths is okay.

It seems that from time to time in the mining industry, in both open cut and underground operations, we have a spate of injuries, serious injuries and deaths. I believe that happens because after a while there seems to be a drop in the pressure to ensure occupational health and safety. We have this drift and then we get a jolt from a number of deaths and that gets us back on board. A lot of it is about cost; that is, the cost to companies and government in administering the safety regulations. But, to me, this is the full circle.

When I was working underground, we used to have check inspectors who were employed by the government. In Collie about 11 inspectors worked out of the mines department and half of them were people who were elected from the shop floor. If a person had a deputy’s ticket, he could put his hand up and say that he wanted the job as a check inspector. Check inspectors worked alongside the government agency people as well, so here we are again looking at people being paid by the companies to be check inspectors. It was a much sought-after, very highly prized and prestigious job because the check inspector had a huge amount of power. If a miner had a problem underground, he could ring the check inspector, who would come down. Especially if there was a roof fault, the miners could stop work and call the check inspector, who would come down and sit with the unions

and management to work through what the procedures would be if they were to work through that fault, or, in some cases, whether they would pull out of that area altogether. It was about working together. I believe that the companies paid the extra amount over and above the government wage structure because the miners got paid more, so those people did not lose wages. They took their job seriously. The check inspectors during the day and the deputies at night used to inspect areas for safety reasons. They really minimised the number of major accidents. Certainly, there were a number of daily accidents in underground mining, especially when axes were used to cut the props off to hold up the roof before the roof bolting. Many fingers went missing. One of my favourite stories is about walking along the flats down to the safety unit and seeing blood all over the wall. It was a bit like being in the fire brigade. I had to smash the glass to get the key to get the bandages. I thought, "Someone's been hurt", so I rang the surface and said that someone had been hurt and I was told that such and such had cut off his finger and then I was asked whether I could look for his finger. I said, "Okay; I'll do that. What do you want me to do with it?" and I was told to bury it, as he wanted to get the insurance money. That is just one story, but a number of people still limp around Collie or have crook backs. Those injuries are related to underground mining. A few people get injured in open-cut mining.

I have a problem with some of the ways that companies address the issues. We used to say that if a person had an injury, the company reduced the lost time injury frequency rate by asking that person to come to work to reduce the number of days off recorded. We had a saying that people would come to work and get hung on a peg behind the door and they stayed there all day just to get the numbers down. I believe that that happened a lot, because people used to come to work with broken legs. Those people did not really do anything productive. They might have folded papers or something like that just so that they were not on the books and so that the numbers were kept down for the lost time frequency rate to enable the company to say that it had lost only 100 days in the previous year. In reality, guys were in recovery mode sometimes for up to three months and were not productive at all. Those figures should have been on the books.

As I have said, we had elected safety representatives and then things changed. At the moment in Collie there are about three check inspectors who are government employees; that number is down from 11 check inspectors. There are no inspectors from the companies as such. We then went to safety committees. How could people get on a safety committee? The companies wanted to appoint their people to the safety committees, but we were lucky that the legislation provided that a ballot had to be held and people could put up their hand to be on a safety committee. But by gee did the companies fight against having union representatives on those safety committees. The companies did not want those people on the safety committees because they were outspoken and did not comply with the company line. At times they pulled up the job and said that it was not safe, when others may have deemed that it was safe. On safety matters, it is the first thought that this is not safe that counts, not the second thought that this may not be safe, because by then it could be too late. That was provided for in legislation. We moved another step forward with the committees. There was training that went with them. Again, there was an argument about whether the training would be done through a government agency, a private agency or a union agency and whether a safety representative could provide that training. The legislation has not been strong enough to make sure that there is proper and reasonable training and so these problems have come up. It was always my belief that some of the more meek and mild people were singled out to be on these committees because they would just say yes and things would go through unchecked. It is probably not fair to say "unchecked"; things were not checked to the nth degree. Some of the things that should have been done were not done.

We have moved on from there and now we are coming to the next phase of a levy. Again, my concerns about where the money will be spent have been raised by the member for Cockburn. Over time money has not been directed at the problem. We need many hands and feet at these mines. In recent times there have been more mining injuries in underground mining. There is pressure on workers, such as those who worked on the construction of the new tunnel, to make sure that the job is done on time and on budget. That puts a lot of pressure on workers not to say no when they probably should think again and think about their own health and safety first. There have always been problems with contractors.

One of the problems with the bill is that it has no detail. I made that very clear when I spoke about the regulations. Some people who live in Mandurah travel to Collie for work. It is quite different in the north west, because generally those workers are accounted for as they travel from one job in one town to another. That other town might be 200 kilometres away, but at least those workers are accounted for as they travel from one place to another. I do not believe that is the case at the moment, although it is being worked on. If a person lives in Mandurah and travels to Collie four days a week for 12-hour shifts, it makes for a very long week. Believe me, after working the night shift—the heebie-jeebies hour—a person's head will nod and he will want to have a sleep, but he has to jump in the car to drive home. Sometimes people do not even know where they are while they are driving home, because they had breakfast before they drove for a couple of hours to work, and then they worked a 12-hour shift, had a shower and then drove home. They are extremely long days, especially if people have to work night shift. Will an accident that happens on the way home be provided for under this system? I do

not think it will, because companies will not want that recorded on their books. Not all companies are saying that that is not their responsibility. Recently, there have been some moves to address that problem in my area by making the workers live in town. When we see unexplained accidents on the road, it is assumed that people have gone to sleep, veered across the road in their car and run into another car coming the other way. We need to be able to check that those things are not related.

I also have concerns with the ability of third and fourth-tier contractors to pay the levy. A person might be a subbie for a day, but he could be subbing to someone else who is subbing to someone else, if that makes sense. There is a tier of contractors all the way down the line. Where will a subcontractor fit in that pecking order? Where will a subcontractor fit if he comes onto a site for only a day or for only two hours? Who will pay the levy in that case?

Mr W.R. Marmion: The mining company will pay the levy based on the number of workers, and any subbie or contractor who comes on site will be totalled up.

Mr M.P. MURRAY: That is where I see the problem. If a mining company needs a hole to be dug with a backhoe, and the backhoe operator is brought in, will that go up or down, or will the company push it aside to save money and say, “He’s just one of the regular numbers”? It will be very difficult to keep control of that.

Mr W.R. Marmion: If someone comes on site, he will be captured.

Mr M.P. MURRAY: Worsley will have 2 000 construction workers on its site. It is probably a construction site at the moment, not a mine site. There have been times when that has happened at a mine site. It will be very difficult to keep control of that. I would like to see the detail of that before the legislation is passed.

Mr W.R. Marmion: They already supply the number of people on the site in lost time injury accidents, so they have the record of the numbers on-site.

Mr M.P. MURRAY: I hope the parliamentary secretary is right, but I see some flaws there.

Another issue that concerns me is the levy. I am not sure whether the levy will be collected on a three or six-monthly basis or weekly. If a smaller company goes broke one week—this happens on a reasonably regular basis—the following week the trucks are rebadged with a different name and are back on the job, but sometimes with the same drivers. Has that been wiped off or will it cause a problem?

Mr W.R. Marmion: No, it won’t. The trucking company won’t be paying the levy; the mining company will be paying it.

Mr M.P. MURRAY: The mining company will pay it. There is still a problem with the level. When that problem comes up, will the mining company, in its billing system, charge the people down the line for the people who come in? I do not know, because there is no detail. What I am trying to say is that the mining companies may pass the levy on to the subcontractor, and that subcontractor will pass the levy on to the next subcontractor. I do not know, because there is no detail in front of me. I would like to see some details about how this levy will work. I think that is very important, because we know that there is desperation in the industry. Some businesses will be so desperate to survive that they will take the short cut of not paying the levy, which would become a safety issue. It would be about dodging the levy or allowing someone else to pay it for them. How that will be dealt with does not emerge in any detail that I can see in this legislation.

I have had representations from the coal industry about input from the unions. The unions play a major part—not just a small part—in safety, particularly in the mining industry. They have played that role quite well over the past 100 years. That sort of consultation is very much needed at the top end, at the middle management level and at the ground level of the big companies. People on the ground are able to say what they need and how much the levy should be because they know what has to be done. Sure, the regulations will come in later, but I am concerned that that will go only so far before the companies say, “This is too expensive for us; how do we lighten the load? Should we perhaps not increase the levy next financial year?” That will result in people being dropped off at the end and we will end up with the same problem. I am not sure whether the levy is increased according to the consumer price index —

Mr W.R. Marmion: The levy will be based on the budget. The number of FTEs will be divided to come up with the annual rate per employee per company, and they will be sent a bill. It only applies to companies with greater than 10 FTEs.

Mr M.P. MURRAY: If there is a downturn in the gold industry, for example, a goldmining company might take the concessions so that its levy does not increase, but the end result might be the loss of three or four safety inspectors. That is my concern.

Mr W.R. Marmion: The levy will obviously go up to pay for an increase in the budget if the number of employees goes down.

Mr M.P. MURRAY: I hope the member is right.

I suppose this is the second time round on this issue. It was in place, and then it was wound back; the onus was put on companies. We have heard all sorts of horrific stories about shortcomings in companies' workings because there was no-one to check the checker. That is a problem that I have seen previously. We have to make sure that every gate is shut, because this is a major safety issue. There tend to be spikes; deaths can rise very sharply and come down very sharply. Why is that? It is because people drop the ball and it becomes a bit too expensive to be able to follow through on safety measures. That is why I think that the levy is a great idea. Members should not think that I am against the levy; I am just concerned about the checks and balances that have to be in place to make sure that we get those people on the ground. That is really where it is. The money should not just be eaten up along the way in administration and that sort of thing. If we do not do that, we will still have spikes from time to time. We also need more research into safety so that we can find out some of the causes of accidents. We should not just be saying, "Don't do that again". We should be examining the background of accidents and not just relying on the recommendations of the Coroner's Court. We need to conduct research into the background circumstances of accidents; some of those inspectors are very good and have been in the industry for many years. They can advise people well in advance of accidents, not when it is too late. Recommendations come from the Coroner's Court, but not all of them are acted upon; when the next accident happens, people ask why it happened when it could have been avoided by the implementation of an earlier Coroner's Court recommendation.

I have difficulty giving my total support to the bill due to the fact that there is no provision for communication with unions and middle management along with senior management. The bill is also lacking in detail, and that always makes it difficult to support all parts of the bill. I make it very clear that I will have reservations about supporting this bill until I see the final detail.

MR W.J. JOHNSTON (Cannington) [5.36 pm]: I will start by making some observations about my own background. I listened with particular interest to comments made by the Leader of the House about the relevance of members' contributions. I make the point that mining safety is an issue with which I have been involved for a very long time. As I made clear in my inaugural speech, I am a former vice-president of the Western Australian Trades and Labor Council. I played a key role in the union movement's monitoring of mines safety, and I remember working on inquiries with a number of people from the Australian Workers' Union in the 1990s. The records of some of those inquiries reveal that there were some effective cover-ups on mine sites. Employees would give evidence to health and safety inquiries that fitted in with reports that had already been written by their employers.

Mines safety has always been a very important issue. I was a member of the Trades and Labor Council's occupational health and safety committee, as was the member for Nollamara. I had specialist knowledge of the area of workers' compensation. There is no separation of mines safety from workers' compensation. It might also interest the Leader of the House that I was an official of the National Union of Workers, which covers people employed in certain aspects of the mining industry—particularly on the conveyor belts, as the member for Cockburn would know. The National Union of Workers is an amalgamation of a number of smaller unions, one of which was the Rubber Workers Union. There is a company in Western Australia called JLV Industries Pty Ltd with which the member for Cockburn was involved, as was I, through the NUW. It was at the forefront of world technology in the mining industry at that time. I know that technology has moved on, but I just make the point that these are all issues of which members on this side have direct and personal knowledge. As a Labor member of Parliament, it is very important to put on the record the role that unions play; that is something that the Labor Party is proud to do. We have had more than 100 years' connection with the labour movement. There are no former officials of the Australian Workers' Union in this chamber. I was not an official of that union, but I worked very closely with the former secretary, Tim Daly, when I was with the Trades and Labor Council. It is important to recognise the contributions made by unions such as the Australian Manufacturing Workers' Union, the Constructions, Forestry, Mining and Energy Union, the Australian Workers' Union and the Electrical Trades Union in the area of mines safety. It is important to include those contributions in the parliamentary record. I know that the parliamentary secretary acknowledges the contributions that those unions make.

When we look at health and safety issues, it is important to remember that only three per cent of the costs of workers' compensation actually fall on employers, whereas 50 per cent of the costs of workplace injuries fall on the workers and their families. It is estimated that 47 per cent of the costs fall on the broad community. There is no question that Labor members of Parliament have a responsibility to debate these important issues. This bill provides for a new approach to mines safety in this state. It gets away from the black-letter law approach to regulating mines safety and moves to the more contemporary approach of the safety case. It is not true that all unions support the move to the safety case approach, but it is true that that is considered a more contemporary management style. Although the safety case approach does not escape criticism, the idea of putting more obligations back on companies so that they are responsible for their own behaviour and less reliant on government inspectors to be everywhere and know everything is consistent with the sorts of things that the member for Collie-Preston commented on from his experience of working in the mining industry. Once upon a

time, one expected that there would be a government regulator at every step of the mining process, but that is no longer possible. This legislation is recognition of the new approach. Even though this bill effectively has only one clause in it, which is about the way to raise revenue, it is a complete change in the philosophy that underpins mines safety regulation in this state. When we are considering a bill with just one clause, it is important to understand that it is not just the regulatory process that we are dealing with; we are dealing with a complete change. It is interesting to go back to last year and look at the criticisms made by the now Treasurer about the safety case approach in the offshore petroleum industry. It is not without its critics. I know that the new government promised a royal commission into the Varanus Island explosion but decided not to proceed down that track and to continue with the National Offshore Petroleum Safety Authority inquiry. We all know that a number of court cases have delayed the finalisation of that process. However, it is important to recognise that the then opposition raised criticisms of the safety case approach. It is interesting, looking at the questions that I asked of the Deputy Premier in his role of representing the Minister for Mines and Petroleum in the budget estimates hearings, that even the Deputy Premier made strong qualifications on the safety case approach.

This is a new style of safety regulation and it is not without worries and criticisms. It will be important that unions and employers are involved in the process from here on in. This bill is about not just the collection of revenue, which is very important, but the management of the safety case approach. I urge the parliamentary secretary, on behalf of the Minister for Mines and Petroleum, to ensure that there is a continuing and proper strong role for trade unions. I know from my own background as a union official—as I described it—that often employees will use a union when they might not be prepared to come forward themselves. Providing a strong and continuing role for unions in the safety case approach will be important to its success.

The other thing about the safety case approach is that it rejects the idea that the mining industry is inherently unsafe. Once upon a time, we all said that the mining industry was unsafe and we must expect accidents to happen. The safety case approach says that, with proper training in systems, mining should not be unsafe. That should be celebrated. It is an important change to the way in which we view the industry. If we look at the history of mines safety, starting from hundreds of years ago, there was an expectation that there would be deaths, which is unacceptable in a contemporary industry.

We also have to think about the direct and personal cost of deaths on individuals. I read with interest the parliamentary secretary's second reading speech and his comment —

Although the lost time injury frequency rate in mining has fallen over the previous decade and the rate of fatalities has declined to a relatively low plateau —

He made those upbeat comments, but then went on to make some negative comments. He also said that any death is a tragedy.

There is a lack of focus in the community on the direct impact on people of the deaths of workers who go to work; that is, those people who say goodbye to their loved ones and do not come back. I made the observation earlier, based on research carried out by the Australian Council of Trade Unions, that only three per cent of the cost of workers' compensation falls on employers, and members can see that getting deaths not to a low plateau but to zero is essential. Every injury also leads to untold suffering. I know from my own experience as a workers' compensation officer dealing with cases, for example, of people who were getting significant over-award payments but who became injured and went onto the statutory rates. They experienced a massive drop in income; in fact, up to half their income disappeared. People who are doing their job, working hard for their employer, raising a family and buying a house suddenly have their income cut because of the way in which the workers' compensation system bases their income not on what they actually earn but on what their award provision provides for. As we all know, award provisions are minimum, and very few people earn that minimum. I wanted to make those general comments because it is important these issues are on the record on behalf of the Labor Party in looking at this new approach to safety and mines.

I will ask some questions at this point and the parliamentary secretary can address them how he chooses. I will continue with his comments in the second reading speech that —

over a similar period, recent events indicate —

I will emphasise this —

that production pressures, a less skilled workforce and other factors may be driving an unacceptable upward trend.

I wonder what evidence exists for the parliamentary secretary's comment about production pressures and a less skilled workforce driving up injury and fatality rates in the mining sector. I will make two comments about that. The first is that it would be unacceptable that production pressure is driving fatality rates up. If that was true and that was the standard, companies would be putting the interests of their commercial operations ahead of the interests of saving workers' lives. The second issue is the comment about the less skilled workforce. It is clear

that, under the current legislation, it is already the obligation of the employer to provide that training. I am wondering whether the parliamentary secretary can comment on that or provide any evidence to support that. If that is true, is it intended to have sanctions for those types of employers? If we are going to move from a black-letter law regulatory framework to a safety case approach, are we going to say that there are some employers we do not trust with the safety case approach? If the parliamentary secretary has the information available—as he is not the minister it may be that he does not have these things to hand—maybe he can address later in the process of the bill whether there is any intention to deal with those employers that are not fulfilling their current obligation.

Obviously the Labor Party has been calling for an increase in the resources of the inspectorate for some time now. Again, the parliamentary secretary might want to respond later in the debate about any expectation of trouble in finding appropriately qualified people to fill these additional roles in the inspectorate and whether there is any plan in place to deal with that. I am not going to the questions asked previously about financial issues and consultation, because this is a separate issue and I asked similar questions in the budget estimates process. I do not know how long the parliamentary secretary will have to deal with those issues. He might be able to provide that information subsequently. That is a critical issue and, as I said, I raised it during the budget estimates.

I refer now to the question of the levy being a tax. I imagine that the government has made it a tax so that there will be no question about the authority of the state to collect it. Is there any question about whether if it is a fee it will be subject to the goods and services tax and if it is a tax it will not be? I am not sure whether that is the case or whether it is a matter of enforceability. The parliamentary secretary can answer that. I also wonder how it fits into the Liberal Party's pre-election commitments on taxation matters. The Liberal Party promised to cut taxes by \$250 million. It has delivered \$100 million of that \$250-million promise so far. I wonder whether this increased tax must be offset against further additional tax cuts or whether it is another example of the Liberal Party having said something in opposition because it was a good idea and then not worrying about it when in government because it is too hard to implement.

I do not expect the parliamentary secretary to have knowledge outside of the matter of the Department of Mines and Petroleum, but can he answer on behalf of the government whether the safety case approach of applying the levy to fund the system is being looked at in other occupations, such as the construction industry? If it works in the mining industry—we are yet to see whether it does—the model might be applied to other industries so that we remove the burden of health and safety obligations from the community and onto the employers so that they meet their obligations. The Labor Party will support the bill, subject to the government accepting the amendments that have been discussed.

MR J.C. KOBELKE (Balcatta) [5.51 pm]: I rise to say a few words in support of the Mines Safety and Inspection Amendment Bill 2009. As the former Minister for Consumer and Employment Protection with responsibility for workplace safety, including mines safety, I have a very real interest in this legislation. I am very proud of the previous Labor government's record for not only getting rid of workplace agreements, which I believe had implications for safety in the workplace, but also implementing major occupational health and safety reforms. We introduced provisional improvement notices, which the Liberal Party opposed. They have worked well and, to my knowledge, there is widespread acceptance of them. The Liberal Party totally opposed the introduction of PINs to improve health and safety. The former Labor government also introduced workers' compensation bills. They were part of the major reform to look after injured workers. We also extended occupational health and safety to cover police for the first time ever. We have a proud record of introducing legislation to improve safety in the workplace.

We want to support the government's efforts to improve safety in the resources sector. This might not be the approach that would be expected of this government. The way the government has done this has raised questions about why it has done it this way and whether it is genuine. Perhaps we are suckers, but we will accept that the government is being genuine and we will back these amendments in the hope that the extra inspectors and resources will help improve safety in the resources sector. The contribution of the resources sector to our economy is incredibly important. The major miners and a range of contractors and supply companies are world leaders in the resources industry. It is therefore incumbent upon us to be leaders of safety in that industry. We have a long way to go to make sure that we have outstanding safety measures in place in the mining and resources industry. There are high standards of innovation, productivity and management across our mining and petroleum companies and we must be sure that we do everything we can to ensure that our health and safety standards are of an equally high standard.

When I was the minister responsible for safety generally, mines safety was under my portfolio for only a short time. The former Labor government inherited a system with mines safety separated from the general occupational health and safety portfolio, just as this government has done. I will return to that in a moment. When I was the minister responsible for WorkSafe, mines safety was a separate organisation in the Department

of Mines under the various names it has had over the years, and it did not get the resources that it required. The resources went into promoting mining and supporting the expansion of the mining industry. Resources were taken out of the area of mines safety. Many years ago, the industry and the Chamber of Minerals and Energy of Western Australia's safety committee expressed their concern that the government was not putting enough resources into mines safety. They said that they wanted to do things better for their industry. They are professionals who are committed to safety in the mining industry. They could see that the government was not putting in the necessary resources to make sure that the inspectorate was as effective as it could be. In fact, it fell a long way short of that. During our term of government there were spikes in the number of deaths that occurred in that industry. The number of deaths is just the pinnacle of the triangle. We must make sure that we deal with serious injuries, minor injuries and even near misses if we are to treat safety seriously in that industry. We are now talking about doing that for the resources industry.

The drivers of some of the spikes in major accidents and deaths in the industry relate to a range of factors. When there is a major change to the resources industry, there is likely to be an increased number of accidents and deaths. Those changes can be produced by a range of things. One of the factors under the Court government was, as I alluded to, the introduction of workplace agreements. A lot of skilled people in the mining sector refused to work under a workplace agreement and they got out of the industry. Therefore, workers were promoted perhaps five or 10 years before they would otherwise have been promoted and they had to take a leading role. That was particularly the case for underground workers. I believe that was a contributing factor to the number of fatalities and serious accidents that occurred at that time. Over the past few years there has been a huge expansion in the industry and people with less experience have come into it. The change and the lack of experience has been a contributing factor to the number of deaths and accidents that have occurred.

We saw throughout that period a move to employees working for long shifts; they were being rostered to work 12-hour shifts for extended periods. As the minister, I held an inquiry into those extended working hours with a view to introducing a regime with a cap on the number of hours that people could work. One mining company was reputed to be employing people to work for 13 weeks straight on 12-hour shifts without taking a day off. I spoke to a subcontractor at a Chamber of Minerals and Energy dinner when I was the minister and the subcontractor asked me what was wrong with people working for 13 weeks straight. I pointed out that there was a lot wrong with it because the workers are unable to maintain their concentration and perform at good levels and it affects their ability to work safely. When the boom occurred and there was a shortage of skilled labour, quite a few companies reduced the hours that people had to work so that they could hang on to their workers. When people could get a job somewhere else because of the shortage of skilled labour in the mining industry, a lot of mining companies reduced the number of hours that their employees were required to work. The companies did that not only for the safety of their employees, but also because they wanted to hang on to their skilled workers. The companies had to look after their employees and consider their lifestyles. There were a range of issues around that but I will not take up the time of the house by going into it in detail.

The minister is saying that in addition to this bill, he is talking about a safety case approach. I can see the benefits of that. However, I see real problems if the minister believes that a safety case approach is a fix-all, because it is not. No system is perfect. Every system has advantages and disadvantages. If this approach is not implemented properly, there will be more disadvantages than advantages. If the safety case approach is to be applied to small operators, we might find that they do not have the wherewithal to implement it properly. The safety case approach has the potential to be an improvement for the very large companies that have a lot of professionals who are looking after the health and safety of their workers. However, that might not be the case for the smaller companies.

Sitting suspended from 6.00 to 7.00 pm

[Member's time extended.]

Mr J.C. KOBELKE: Before the dinner break I had briefly covered some of the broader issues of occupational health and safety, particularly mines safety. I want to conclude on those issues before I discuss some of the specific issues of the Mines Safety and Inspection Amendment Bill. When I was the minister responsible for WorkSafe, we had a mines safety division that sat by itself. It was the aim of the Gallop government to make sure we had fewer agencies so that we were more focused and coordinated. The current government is spreading out and creating extra agencies at millions of dollars in extra costs. Members opposite can argue for that; I am not going to go into that now. But that was clearly a focus of the then Gallop government. We also wanted to make sure we delivered better outcomes, so we brought together within WorkSafe both energy safety and the mines safety division. Part of the driver of that was the inquiry that was held just before or about that time into fatalities at the BHP Billiton hot briquetted iron plant just outside Port Hedland. That led the company to reassess whether it would commit to continuing with that HBI plant. As we know, in the end BHP walked away and closed it down at a cost to the company of something approaching \$2.5 billion. It was a very expensive decision. I am sure that involved in that decision were issues of productivity, but the key stated issue—I take it

as being true—was that BHP was not convinced it could run the plant safely. That was part of the backdrop that led us to bring that mines safety division within WorkSafe. We were then confronted with the problem that the number of inspectors and the resources available, which had been inadequate for years and years, needed to be stepped up. At that stage, however, we were experiencing part of the boom period in the resources sector. Not only was it very difficult to employ additional people with the necessary skills, but also we could not retain the skilled people we had because they were offered so much more money to work for the industry. We therefore put in place attraction and retention bonuses and a range of other measures to try to keep and attract more people. About that time I moved to other portfolios and did not have the opportunity to see it through. I understand that the problems continued, and that we had to pay more money to retain people in that area. The skills WorkSafe needed were skills that were very much needed by the resources industry. The industry could pay far more than we could pay in government to keep those people.

That leads me into part of the reason I think the government is saying, “Let’s get the industry to pay for it.” That does not necessarily address the salaries and the attractions that will be in the remuneration packages to make sure we can recruit those people. That will ebb and flow, depending on the demand for skilled labour in the industry. It is a real problem for mines safety to make sure it has the money to attract and retain those people. Figures have been used that are clearly not in the bill, but the government has stated that, I think, 40 extra staff is the target.

Mr W.R. Marmion: I’m not sure.

Mr J.C. KOBELKE: In the briefing, we were given a figure of approximately that; I do not have the exact figure. I certainly support the government in that. That obviously grows from the fact that the figures are still not very good. In the minister’s second reading speech he draws from material in Commissioner Kenner’s report on the safety regime. The figures he uses there are that the ratio of inspectors to mining industry employees are one to 550 in New South Wales, one to 880 in Queensland and one to 1 800 in the resources industry in Western Australia, the leading mining state in the nation. Those figures clearly illustrate the problem we have in making sure we do expand the inspectorate. That is the clear intention of the government and we certainly want to support it.

We also support the mechanism provided in this bill, which is to ask industry to help pay for it. The difficulty we have is that this government does not have a track record of actually taking workplace safety seriously. We hope it has been on the road to Damascus and found enlightenment and now realises that it is important. We certainly want to support it and genuinely hope that is the case. However, when we look at the way the government is doing it, we have to say that it fits in more with what it has done in some other areas, which has been simply to raise revenue. That certainly causes us concern. The member for Cockburn has spoken about moving some amendments with the aim of providing a bit of assurance that this is not just another means of taxation—another grab for money. From my knowledge of members opposite, I believe they are good people with the best of intentions. However, we run into difficulty when good people who intend to do good things get caught up in government, with all its power, and they make grabs for money in a way that suddenly gets too narrowly focused on where to get the money from. They do not give the required attention to an area such as workplace health and safety to make sure they put in place the proper regime and the full consultation with all the key stakeholders to really deliver improved safety in the workplace. Safety in the workplace should not involve just a grab for money; it should be about working in partnership with the key players to actually change the culture to improve health and safety. It is not just about money. Money is needed for the inspectors to run the programs, to drive the profile of health and safety in the workplace. Yes, we need the money, but it is not primarily an issue about money. It is about changing the culture in workplaces to make sure they are safer. I have a real concern that this government is about grabbing money, even if the money is to go back into promoting health and safety in the mining sector. That is what the government has stated, so let us take it at its word.

We have seen recently with two other pieces of legislation that, while the government has talked the talk about some bold schemes, have simply been cons. I am referring to legislation that has been about increasing taxation. That is clearly true about the increase in the waste levy. That legislation is a total sham. It has nothing to do with improving recycling and waste avoidance; it is simply a grab for additional money to be channelled into consolidated revenue. That has been amply demonstrated, and I will not go there now. It causes us concern when we can see an example such as that, when even government supporters in local government know it is a con. That legislation is about increasing taxation; it is not about the clear intent of the waste levy, which is waste avoidance and recovery. Similarly, the increase in the levy for central city planning is simply a con to get more money. The government has not even outlined where that money will be spent.

We are cautiously supportive of this bill in the hope that it is not another example of a government simply seeking to increase revenue rather than being fully and totally committed to improving health and safety in the workplace. It needs to be committed to those things, and we support it in doing that. We hope, despite recent experiences, that that is what the government will do with the passage of this bill. The government has drafted

this bill in a rather slipshod way. It has not dealt with it in the normal way, which again causes concern that perhaps what it is doing with this bill is not its stated intention. The bill seeks to insert a new section 105A in the Mines Safety and Inspection Act 1994 that will provide a head of power for regulations to put in place a levy that we are told will be used for this purpose. Some amendments will try to tie that purpose down, but that is not what is outlined in the original draft. New subsection (1) states —

Regulations may be made under section 104 to provide for a levy, which may be of the nature of a tax, to be payable to the State for the costs of administering this Act.

It clearly says that this is a tax payable to the state. We are seeking to put that into a trust fund. The intention was to impose an additional tax. New subsection (2) states —

To the extent that the regulations provide for a levy that is a tax, the regulations may impose the tax.

This is clearly a taxing bill. That is what it is about. We trust that the government will use that money to improve health and safety in the resources sector.

As I said before the dinner break, the minister is talking about a safety case approach and that sort of stuff. That is well and good if it is committed to and done properly. These high-sounding names count for nothing if the details and commitment are not delivered to make them work. I will not go back into that area of the debate. Let us assume that the minister of the day provides a real commitment to improving health and safety. We need to see that consultation with the key industry players in the approach to be taken. There will be differences of opinion over the approach that should be taken. We need to work through that and get that commitment to ensure it works; otherwise, it can be high sounding and full of good intentions but it will not deliver safety in the workforce and save lives in Western Australia. We have to ensure that when people go to work they are safe and they do not leave their family in a situation in which that family loses a father or mother in the workplace or someone in their family gets injured and they spend the rest of their lives living with the consequences of something that happened in the workplace that should not have happened. We need to ensure that that is done. We are putting that aside and trust that the government will act in that way because there is no mention of that in the regulations. The regulations provide for that head of power to impose a tax. As I said, this is a pretty shoddy way of doing things. In large part, section 46 of the Constitution Acts Amendment Act 1899 relates to the relationship between the two houses. Subsection (7) states —

Bills imposing taxation shall deal only with the imposition of taxation.

I put it to the house that that is not what we have in this bill. What we have here is simply regulation-making power that bundles a whole lot of stuff together, not just the imposition of taxation. The regulations can deal with circumstances in which liability to pay the levy is imposed; how the amount of the liability is to be assessed; on whom liability is imposed to pay the amount assessed; when payment becomes due and how payment is to be made; who is exempt or partially exempt from liability to pay the amount assessed; the right to object to an assessment and how the objection is to be dealt with; and the consequences of failure to pay the amount; and how amounts outstanding may be recovered. All those powers are contained in the regulations; it does not just deal with the imposition of taxation.

Mr W.R. Marmion: They all relate to the money. That is totally wrong.

Mr J.C. KOBELKE: The member is a bit new to this place. There are two areas involving safety for which we have industry-based funding regimes in place—first, offshore petroleum safety, which is covered by the National Offshore Petroleum Safety Authority, and, secondly, energy safety, which comes under the Energy Safety Act 2006 but there is another very short act—the Energy Safety Levy Act 2006. Section 46 of the Constitution Acts Amendment Act was taken into account when the levy was framed so that people working in the energy industry would pay the energy safety levy to fund the inspectorate and the regulation of their own industry. In that case, we ended up with the levy act and the safety act because section 46 dictates that that is how we should do it. That is not the only example. There are many more. I will give one more example. The Building and Construction Industry Training Fund was set up in 1990 to impose a levy on industry to support and promote training in the industry. Again, there are two acts—the Building and Construction Industry Training Fund and Levy Collection Act 1990 and the Building and Construction Industry Training Levy Act 1990, which contains only a few sections. Section 4 states —

Subject to this Act, a levy is imposed in respect of construction work undertaken after the commencement of this Act.

The Building and Construction Industry Training Fund and Levy Collection Act provides the details of the application of the fund, the investment of moneys, the power to borrow from the Treasurer, payment of the levy, the penalty for late payment, recovery of levy and other amounts. They are not in the levy act. The parliamentary secretary can go through a dozen or so provisions and he will find that there are two acts to ensure clear conformity with section 46 of the Constitution Acts Amendment Act. As I pointed out, subsection 46(7) states —

Bills imposing taxation shall deal only with the imposition of taxation.

Mr W.R. Marmion: Which this does.

Mr J.C. KOBELKE: No, it does not; it goes beyond it. We are not caught constitutionally because subclause 46(9) states —

Any failure to observe any provision of this section shall not be taken to affect the validity of any Act whether enacted before or after the coming into operation of the *Constitution Acts Amendment Act 1977*.

No judiciable action can be taken against an act that fails to comply with section 46. It is a clear example of where we have a slipshod government, which again causes concern that the clear focus of the government is to increase taxation rather than improve safety in the workplace.

We certainly want a big improvement in safety in the resources sector. We support this bill because it provides a mechanism of funding, which, if directed, as the government is undertaking, totally and fully to safety in this industry, we will have much greater resourcing to ensure we have improvement in safety. We are not looking for the passage of this bill or the imposition of a levy; we are looking for a clear commitment from this government to take safety in the resources sector seriously and not use this bill as a front simply to gouge money out of the industry. That is the real concern. I have not been involved in this area; it is no longer my portfolio. I understand that there has been woeful consultation with the industry. That causes me great concern. Plenty of major players in the industry would be willing to sit down and do a deal with the government. They would not mind having to pay for it but they would want to know that they are not being gouged and that a whole lot of waste will not occur with the bureaucracy that will run it. Why do we not have two bills—one to establish the levy and one to set up some sort of industry board involvement with a clear trust fund so that all the money raised goes only to safety in the resources sector? That is not what we have before us. What we have before us in this bill is a general taxing power. That power is badly drafted, and not in conformity with the way things should normally be done. It is a taxing power for the government to tax the resource sector so that the government can put money into its own pocket. That causes grave disquiet. I have indicated that we will be proposing some amendments to the bill to seek to address that matter. It is on the basis of these amendments that we will be supporting the bill. However, these amendments are really just trying to patch up what has been a poor job by the government in consulting with all the key players—industry and unions, and obviously the people who are experts in safety—and making sure that they have a clear plan for what they are going to implement and how they are going to implement it; and in making sure that those people have some say, even if only in an advisory role to the government, in determining how the levy is set and how the levy is expended. None of that is contained in this bill. We are simply taking on faith that the government has good intentions. As I have said, I can give many examples of how the stated intention of this government does not conform with what it has actually done. I trust that, in this case, the government will be true to its word. As I have said, the men and women who are working in this area have good intentions. I hope we do not find that their good intentions will go out the window and that the money that will be raised from this levy will become just another form of revenue for a government that is cash-strapped. The government is cash-strapped because it has not managed the budget. Government expenditure has been growing at an unsustainable level. That has not happened because of outside influences. It has happened because of the government's own decision making. Clearly there are problems with revenue. But that is not what has caused the financial problem in this state. The financial problem in this state is that the government is likely to have a budget deficit this year. That is because of the profligate spending of this government. As I have mentioned, in this area alone, the government has re-jigged departments and has set up new departments. That has cost the government millions of dollars. The government has the right to do that. But the government has not gone through a planning process to set priorities for where it wants to spend its dollars, so it is spending dollars here, there and everywhere, without a proper assessment of priorities. The government now has a problem, because it is facing a huge blow-out in expenditure. I put the government on a warning. If the government thinks that this bill will be a cash cow that it can use to try to prop up a budget that is going into freefall, it has it very wrong. I think that when it comes to putting in place the regulations, the government will find it very difficult if it does not show through its actions that its commitment is to safety and not to just another method of taxation. I say that because this government has a track record of increasing charges and increasing taxation so that it can get itself out of a hole that it has dug for itself with its profligate spending.

MS J.M. FREEMAN (Nollamara) [7.22 pm]: Mr Acting Speaker —

The ACTING SPEAKER (Mr P.B. Watson): The member for —

Ms J.M. FREEMAN: Nollamara.

The ACTING SPEAKER: I was going to say that!

Ms J.M. FREEMAN: The member for Balcatta is often taken as being the member for Nollamara. That is because he has a proud history of having represented the people of Nollamara at one stage. I take on that

responsibility from him very gratefully. He also has a proud history, having once been the minister responsible for occupational health and safety, of having a very good and clear understanding of the issues in the mining industry.

I also want to speak on the Mines Safety and Inspection Amendment Bill and tell members a bit about my background. I have been very fortunate in that I have worked with the member for Balcatta at different times on these sorts of issues. I have also been fortunate in that I have sat on the Commission for Occupational Safety and Health. That is a bipartisan commission that provides the fundamental foundation for occupational health and safety in the state of Western Australia. Occupational health and safety in Western Australia is based on the Robens principles. I have spoken about those principles previously in this house. The Robens principles arose out of the situation in Great Britain in the 1970s, when there was a large number of regulations dealing with occupational health and safety. Robens was able to consolidate those regulations into a concise model for occupational health and safety. The Robens model is also based on bipartisanship and the need to ensure that everyone has the same objectives. I have also worked on the Hooker review, and on some of the discussions post the Ritter review. The Ritter review was in response to a number of deaths that had occurred in the mining industry. Those were major reviews of the occupational health and safety system. The Leader of the House challenged those members of the house who wanted to speak on this bill tonight to make sure that they had a background and an experience in the mining industry, so I wanted to make sure that my credentials were out there for all to see.

As the member for Balcatta has said, the need for this bill arises out of the separation of mines safety and general occupational health and safety that occurred under the previous government. The amalgamation was as a result of the Ritter report. That is a very important report on mines safety. One of the greatest contributions of the Ritter report is that it stressed the importance of consolidating these two areas. It is important, however, to ensure that the resourcing in the mining sector for occupational health and safety, and in particular for inspectors, is not at the expense of general occupational health and safety. We need to understand that many areas in the mining industry, such as machinery and equipment, will not be covered by this bill. This bill relates only to the mining industry. A great number of industries feed into the mining industry in Western Australia. Those industries also contribute to the growth of this state and the income that is provided to this state. Those industries will not get any advantage from the additional resources that will flow to the mining industry as a result of this bill.

One of the benefits of speaking on a bill such as this is that it has encouraged me to read the most recent review of occupational health and safety in the mining industry. It is good that there are scheduled reviews of both the Mines Safety and Inspection Act and the Occupational Safety and Health Act. That is an extremely important aspect of both mines safety and general occupational health and safety. Commissioner Kenner's review of the Mines Safety and Inspection Act comprises some 592 pages, so it makes for long and arduous reading, but it provides a very concise and detailed analysis of the act and of the mines safety environment. It was not immediately apparent to me on reading this report—perhaps I read it too briefly—that this bill arises directly from the recommendations of the Kenner review. The Kenner review recommended that additional resources be allocated to mines safety. He also highlighted the parlous state of resourcing of the Mines Safety and Inspection Act, and in particular the number of inspectors in Western Australia in comparison with other states. The member for Balcatta gave the exact figures for the number of inspectors, so I will not repeat those. The Kenner report also talked about the fact that Queensland is about to introduce a levy. In Western Australia, the ratio is one inspector to 1 700 workers. That can be compared with Queensland, where the ratio is one inspector to 880 workers, and New South Wales, where the ratio is one inspector to 150 workers. Even before the levy was introduced in Queensland, Queensland had a better situation with its resources for its mines safety inspections; it had a better level of inspectors in that area. Queensland also had difficulty maintaining employees, which was one of the crux issues. As I understand it, the hope is that this bill will address that issue, although that is not clear. It is interesting that Kenner's review stated that it is a worldwide problem, not just a statewide problem, and the review goes into the difficulties faced as a result of that. In a way, that is a good reason to levy the industry. I think we have to accept that for this industry we take good people, train them, give them specific skills and then value-add to them. The industry, which is always hungry for good, competent people, then takes those people and places them in the industry. Therefore, it seems to me to be a quite reasonable proposition that the industry should contribute to some of that training and some of that development. In addition, it is in the industry's best interests to ensure that the department that regulates and inspects the industry has the proper capacity to do that.

When I read the recommendations of the Kenner review, I was interested to see that the position of special inspector should include, but not be limited to, a number of different skills. There was a list of about 15 different types of technical skills that the special inspector was required to have, from geotechnical, mechanical, electrical and structural engineering skills right through to ergonomic, occupational hygienist and interviewing skills, gathering and securing evidence skills, and organisational and human behavioural skills. That is a lot of skills that are required.

I know that there are many contentions around safety case. I have been involved in discussions about safety case. I was privileged to be involved in some debates and some discussions with the National Offshore Petroleum Safety Authority about the review of safety case-type structures. The member for Balcatta is right. It is not enough to just use terminology such as "safety case" and abuse it and what it means. Certainly, the Geelong power station, which had the major explosion, had safety case. Part of its problem was that all its engineers were based in Melbourne and none of them was actually at the coalface where the people were facing the problem. The whole of the Melbourne central business district suffered as a consequence of that. Therefore, we need to be careful. In that case, I think it was called risk management, but it was a pretty similar situation. If we go down the path of safety case or something similar, we need to be careful that we do so in a manner that will ensure that the industry can still be regulated, properly monitored and properly checked. However, it will mean that we are not asking an inspector to go into and forensically examine a workplace; we are not asking an inspector to be able to take apart a piece of machinery or understand its capacity to work. With this bill and levying, we need people to have specialist skills, and I accept that. However, we should not make those skills so specialised that these people become the ones doing the job. Their job is to be able to monitor and critically assess the processes, whether it be safety case or risk management.

I attended the briefing that was given by the department. I thank the people who attended to give that briefing. They stated quite clearly that very little consultation had occurred in the drafting of this bill, or even in the establishing of this bill as such. That came as a complete shock to me, because that is not the nature of occupational health and safety, as I understand it. It is just not the culture of occupational health and safety. The culture of occupational health and safety is one of consultation. When I drilled down into that a bit, the comment was that a business case had been established about what the people wanted to do to implement a better safety system in mines safety, and there would be a levy so that the business case could be delivered; the levy is the money so that the business case can be delivered. To me, that seems a bit like the cart-before-the-horse type of stuff, because what we should be discussing is: what is the new system of safety and how do we resource it? We should not be saying, "Let's make money to resource something that we are yet to know about, that we are yet to discuss and that we are yet to talk about in terms of safety systems and safety systems analysis." Again, it strikes me as being a bit concerning because of that. It was even more concerning when it became clear that although the advisers were saying that this money would be specifically for occupational health and safety in the mining industry—mines safety—there was no quarantining of that. I understand that will be addressed through the amendments. I congratulate the government on recognising that that is an important part of this legislation.

I understand from speaking to certain people that it is about a \$250 levy a year for principal employers, but that does not appear anywhere in the detail. What also is not in the detail is how much will be raised from this levy. There is no detail on what sort of amount that will be. That is in stark contrast with the sort of information that came out of Queensland. Queensland had identified that it would raise about \$19.5 million in 2008-09 from its levy, and that would be in addition to the \$26 million cost for the provision of safety and health services for the industry. We need to be able to answer the question about how much we anticipate the levy will raise for the next financial year. Because the levy will commence on 1 July, there will be a bit of a gap year. I would like it confirmed on the record that the amount will be in addition to the current budget allocation for the mines safety and inspection areas; therefore, it will not simply be a replacement—a bit similar to what we saw with the waste levy bill. I understand that that should not be hard to do, because the department knows, on the data already provided, who it will levy. Therefore, those details are already available, from what I can ascertain after speaking to the department.

The mining industry certainly is an industry that seems to be able to afford a levy. As I said before, the industry contributes a lot to our state, but our state also contributes a lot to the industry. As I understand from the Kenner report, in 2007-08, a figure of \$58.6 billion represented the total sales in the mineral and petroleum resources area, with the value of mining resource production being some \$39 billion in 2007-08. Therefore, there is the capacity for us to say to the industry that safety is integral to the operations of any processes in Western Australia, and this levy will ensure that.

[Member's time extended.]

Ms J.M. FREEMAN: The member for Balcatta raised the issue of taxation. That was certainly a question which I had on my mind and which I asked when I went to the briefing. The officers at the briefing made it very clear to me that the Mines Safety and Inspection Amendment Bill 2009 is a taxing bill; they basically said that it gives the government the capacity to tax. That is really interesting, because as a new member of the Delegated Legislation Committee, I am trying to grasp the concept of what is a tax, what is a fee and what is an excise. I have not got it completely clear in my mind yet, but certainly this bill appears to give the government a capacity to tax. What is interesting is that this is actually a taxing bill that amends the substantial act, which is the Mines Safety and Inspection Act 1994. My question is: does that then make the Mines Safety and Inspection Act 1994 a taxing act; and, if so, does that mean that the other house cannot amend any part of the act? As I understand it, that raises the issue of the ability of the other house to amend this bill. Maybe I am misunderstanding the

process, but if this bill amends the act and it becomes a taxing act with taxing powers, and if the upper house is unable to amend such an act, that makes a bit of a mockery of the process, especially considering that the Minister for Mines and Petroleum is in the upper house. It strikes me as somewhat inconsistent, and it could have easily been remedied, as outlined by the member for Balcatta, by having a separate levy act. That separate levy act could have then specifically ensured that it was quarantined, as this bill will, for the purposes of that act.

Because of my role as a member of the Delegated Legislation Committee, I am also concerned that so much of this bill deals with establishing regulations, yet the regulations will have to be looked at in terms of the objects of the Mines Safety and Inspection Act. We will be looking at regulations to try to work out whether those regulations and the circumstances in which they will be imposed fit in with the objects of the Mines Safety and Inspection Act, otherwise they will just be regulations of which there can be no parliamentary review. The same consideration should be given to the amendment of the regulations as for other amendments, and they should be allowed to sit on the table of the house for 14 days and not come into operation until that period of time has passed. I think that is a very good provision, because occupational health and safety is an issue that should always be bipartisan and we should ensure that we are moving towards the same objective. If a regulation is brought into operation and it is later seen not to fit within the objects of the act, or it becomes contentious and has to be disallowed, for the period of time that it was in operation a lot of money might have been spent that might be difficult to reclaim. Also, good faith can be lost in those processes. I think it is a very sensible amendment, because so much of occupational health and safety is done on good faith. Good faith also includes the capacity for those on both sides of politics to be able to have input into the process. This bill is dictated very much by regulations, so there should be a capacity to properly review the regulations and that capacity should not be undermined by the fact that those regulations can come into operation before the 14-day disallowance period.

The Kenner report made many recommendations, and it is very important that they are all considered, not just a few that can be narrow and slotted into such a bill as this. The report covered many areas, including the ability of mine inspectors to tape-record interviews and issue infringement notices. One of the important recommendations of the report was that workers should be able to request that mine inspectors attend at the mine without them having to reveal who they are. The member for Collie-Preston talked about the period when he worked on the mines and how important it was to have the capacity to bring a mines inspector to the workplace without being stigmatised for, or feeling intimidated about, raising an occupational health and safety issue. The Ritter report raised as a major issue that there was a real fear and—perhaps he did not use those words, because he would have been much more judicious in his language—a reluctance to make a complaint about health and safety issues in the mining industry because it was run on the premise that workers should not make a fuss and should just get on with their work and produce results, otherwise they might be looked upon less favourably. I think it is really important that mines safety inspection officers have the ability to enter workplaces without notice, so that employers cannot contrive situations—not that many do, but there are those who do.

As a former organiser in the contract cleaning industry, I remember the days when we could go into workplaces without giving prior notice. The bad employers make the good employers suffer. I would work with the good employers to ensure that good occupational health and safety practices were used, and that chemicals were used safely and proper equipment was provided. I then had the misfortune to do the same job in the period when we had to give notice of a visit. It was very surprising how quickly things would be cleaned up and first-aid kits would appear. The workers would tell me that those things had not been there the day before. It is really important that we ensure that these inspectors have that capacity to enter workplaces without notice, which, as I understand it, is another recommendation of the Kenner report. The Kenner report also covers workplace bullying, which is extremely important to consider, especially when workers want to raise issues of safety and health.

Another question that the member for Balcatta asked, to which I would also like an answer, was about the anticipated number of additional inspectors that the payment of this levy will provide.

My final comments are that these amendments should be looked at in a context of national harmonisation. Most mining companies are large multinational and national companies, and we cannot continue to disregard the very good work being done nationally by the federal government towards a harmonised occupational safety and health system. Any such system should ensure that any levy imposed should be across the board. If Queensland begins to charge a levy, New South Wales begins to charge one, and Western Australia begins to charge one, then there has to be future harmonisation of that. That could become a major issue. It is a major issue that large national companies confront with workers' compensation premiums and multiple premium settings, regulations and laws. Whilst what the government is doing now is welcomed, and whilst the Labor Party supports additional resourcing for mines safety inspection and inspectors, we need to be cognisant that occupational health and safety is a national issue that needs to be pursued nationally and it is one that this government cannot turn a blind eye to. If it does, all the workers and the companies will suffer, because we will not all be working to achieve the same outcomes; we will be working under different regulations and from different perspectives. I commend the

parliamentary secretary for accepting one of the amendments, and I urge him to look very closely at the second amendment related to the regulations.

MR M. MCGOWAN (Rockingham) [7.51 pm]: As shadow spokesperson for state development, I am happy to contribute to this debate on the Mines Safety and Inspection Amendment Bill 2009. I acknowledge the superior knowledge and the contributions of people with far greater expertise and experience in this area than me, particularly the last four or five speakers from the opposition. The opposition has indicated its support for this legislation, and expects that it will pass through this house this evening. However, some very important issues have been raised by members of the opposition about the mechanics of how the legislation will operate and the issues surrounding the regulation-making power. I am pleased that there has been some negotiation between the government and the opposition to resolve these issues. I know that Hon Jon Ford and Hon Norman Moore have had considerable discussions over the past week or so to try to resolve some of the issues and see whether this legislation could go through the Parliament this year. I know that the government wanted opposition support for the legislation in order to pass it, and I know that Hon Jon Ford did a great deal of work in consulting with various people, particularly from the industry and the unions, to determine the opposition's position on this legislation.

The mining industry is Western Australia's biggest employer. I would be surprised if it was not the nation's most successful industry. It is the biggest export industry of any state in Australia and it is a very important employer of our citizens and an important part of the wealth and prosperity of our state. It employs many tens of thousands of people directly, and tens of thousands more indirectly, in Western Australia, in every single one of our electorates. The mining industry operates in very diverse and difficult locations, and in some of the most extreme climates on the planet. It uses a high degree of technical expertise and mechanisation, combined with a largely very skilled workforce that is very well remunerated by community standards.

There are more than 300 mines in Western Australia. Between 2000 and 2008, 170 new mines opened in Western Australia. Some would have closed during that period, but in general terms over the past eight years the mining industry has doubled in size, and doubled the number of mines throughout Western Australia. When an industry doubles in size, it creates a greater demand for services associated with that industry. There was a greater demand for services related to safety, and all the issues relating to mines safety and inspection came to the fore. One of the most significant problems over the past eight years has been large increases in the productive capacity of the private economy, and the government services needed to go with that had to catch up. We often found that the private economy—the industry itself—absorbed the people carrying out the government services associated with it, and then became very agitated about the fact that there were not enough people providing those government services. We experienced this throughout the entire economy. We would send teachers to mining areas to educate the children of people working in the mining industry, and then the mining industry would employ the teachers and ask why the government could not provide teachers. We would send another teacher out and exactly the same thing would happen again. This happened over and over again in every field. The success of the private economy meant that the public sector was having difficulty keeping up. Despite all the efforts to ensure that the public sector could keep up, the mining industry and, I might add, the property development industry would always complain about the lack of service, and then when the government provided the service, they would take the staff themselves. Their excuse was always that if their company did not do it, some other company would. Although they acknowledged that they were a large part of the problem, they blamed other competitors for the fact that they were part of the problem.

Of course, when the industry turns down, as it has, some of the people who left the public sector probably wish they had not, because they had greater security, they often had more holidays, and they had the capacity to go somewhere else with their employment. There has been some concern amongst those people that they might have chosen the wrong option at some point. One often has to make a cost-benefit analysis when deciding whether to take that leap, and there may be some benefits in staying with the greater security of the public sector as opposed to the private, even though the remuneration might be greater in the private sector. We suffered the exact same problems with mines inspectors. By their nature and experience, they are often quite attractive to the mining industry, and they will often be snapped up by mining companies to perform largely the same tasks as they would have done for the state government. That was a large problem that ministers in the previous government, such as the member for Cockburn, the present Leader of the Opposition, the former member for Willagee and the member for Balcatta, had to grapple with—trying to secure people to perform these jobs in these locations, when those people were often being picked up by companies that were offering money that the public sector could not match, even though there were other extraneous benefits available to them. That is the context of what has happened over the past eight or so years when the economy has been more successful than at any point in the past. As I said, 170 new mines opened up around Western Australia in that eight-year period. South Australia went from five to 10; we went from under 200 to over 300. Our mining industry was extraordinarily successful over those eight years, but it meant that there was a huge demand for these sorts of services.

This bill represents a new approach to the provision of mines safety inspectors. Up until now they have been funded from the consolidated account—the government has provided a service to the industry, funded by the government. This is a new approach, under which the government will now impose a tax on the industry to pay for the inspectors who will service the industry. I agree in principle with that approach. It is a reasonable proposition, as long as a few parameters are met. Firstly, the levy must be used for the purpose of paying for the mines safety inspectors; all of the money must be used for that purpose. I know that that was one of the issues that particularly agitated Hon Jon Ford, and he secured the amendment that will mean—provided the government agrees to it—that a separate fund will be set up for the levy and the funds in it can only be spent on the purposes of the mining inspectors. It is absolutely necessary to ensure that a situation does not arise as has occurred with the waste avoidance and resource recovery legislation, under which the fund that was originally set up for those purposes has been siphoned off for other purposes. We would not like that to happen in this area, so that amendment secured by the shadow minister is crucial to this legislation working effectively.

I have grave concern about the lack of consultation with industry on this bill. This legislation appears to me to have been rushed into this place. If the Chamber of Minerals and Energy of Western Australia, the major companies that employ people in the mining industry around Western Australia—BHP Billiton Limited, Rio Tinto and the like—and the union movement, which represents many of the employees in this sector, have not been consulted, then there has been a serious problem with the drafting of this legislation. There should have been full and frank consultation with the companies on which this tax will be imposed. It is an absolute minimum requirement. If major corporations such as BHP or Rio, predominantly in the iron ore industry, and Woodside or Chevron thought that they were to be taxed to the extent of approximately \$200 per employee per year, surely they should be asked about it before the tax is actually brought in. They might even be asked about how effective it would be, how the administration of it could be made easier for them to administer and be assured that the cost increase would not increase to such an extent that it would cause them difficulties. Members should bear in mind that some of these companies employ thousands of Western Australians. I do not know how many people BHP and Rio employ, but I presume that it would be in the tens of thousands of Western Australians. Therefore, the levy per employee—roughly \$200 per person—adds up to millions of dollars of tax payable by those companies. I know that they are big companies and can look after themselves. However, it would have been not only common courtesy but also good public policy on the government's part to have consulted with them on the creation of this levy. I would like the parliamentary secretary to explain why those companies that will be taxed were not appropriately and fully consulted in the formulation of this legislation.

This is a new arrangement by which the levy/tax will be created to provide for these new mines safety inspectors. The levy will be applied to every employee. It is designed to replace the existing arrangement by which about \$11.9 million is spent each year by the government to provide an inspection service around Western Australia. I would like the parliamentary secretary to explain what will happen to the existing arrangement once this legislation comes into play. Is the government taking away the effort it has been putting in? If so, the windfall to government would be roughly \$12 million per year, or \$48 million over a four-year period, and it would withdraw its effort from safety and security in the mining industry and transfer that effort to the industry. If there is to be that windfall gain to the government, I would like to know where that money will be spent. Will there be a reduction in the relevant agency's budget, which I think is the Department of Mines and Petroleum?

I understood that the original plan was that the inspection service would be in addition to what is already provided. Is the government moving away from that arrangement and going back to a situation in which government pulls out all effort, which the private sector takes up? Will the companies be taxed and be required to provide the service that the government was formerly providing? Will that mean that over four years the government will make approximately \$50 million? If that is the case, where will that money go and what will happen to the service that the government formerly provided? Will it be a direct transferral of what has traditionally been undertaken by government to the private sector? They are the two questions I have on this bill. It has not been a satisfactory process.

The opposition has proposed a way of regulating to ensure that some of the questions that it has are appropriately considered by the Parliament and not put in place in the way that the government seems intent on doing; that is, imposing regulations just before a parliamentary break, which would mean that there would be no avenue to deal with a disallowance motion over that break. I know that the government will reject that amendment. However, we will support the legislation despite the rejection of what is a reasonable measure to ensure that regulations that provide some of the administrative arrangements around this legislation are appropriately answerable to the Parliament. I understand that the government will reject the opposition's proposal. We have been reasonable in this regard. I do not think that the government has been reasonable in its consultation with industry. As time goes by I will take this up with industry participants and give them an example of how they are being treated. They should be treated a little bit better, especially as they are the biggest employer in Western Australia. This government should have given industry more respect than it has done. Industry participants might want to consider some of their attitudes as a consequence. Having said that, in spite of its concerns, the opposition will support the legislation.

MR W.R. MARMION (Nedlands — Parliamentary Secretary) [8.06 pm] — in reply: I thank all members for their contribution to the second reading debate on the Mines Safety and Inspection Amendment Bill 2009. I will endeavour to address as many of the points raised as I can. Obviously, some of them will be debated in consideration in detail.

In summary, from what members opposite have said, members seem to support the idea of a levy and additional resources for inspectors in mines safety. There was a general theme of wanting certainty around where the funds will go, hence the agreed amendment, which I am sure all members will support. The amendment will provide the certainty that all funds from the levy will go to mines safety.

The other general concern that members expressed was that there could have been more consultation on this bill. Some members wanted to know specifically how much money will be raised from the levy. I will try to deal with most of those concerns as I address each speaker's contribution.

The first speaker, the member for Cockburn, raised pertinent points specifically related to the bill. Other members digressed, but the member addressed his comments to the bill. He mentioned that this past year has been a horrendous year for fatalities in the mining industry, hence the need for this levy. He mentioned the disparity between the number of inspectors in Queensland versus Western Australia. He raised an interesting point; that is, that five of the six fatalities occurred in the evening-night shift. Although it is not an issue that is specifically related to this bill, it is an issue that the Department of Mines and Petroleum should take up, and I am sure it will.

The member for Cockburn also mentioned that already each year \$11.9 million is spent on mines safety and the levy will raise more money than that amount, which will enable more inspectors to be employed. The levy is about providing not only additional inspectors but also safety inspections and audits, investigation of mine accidents, collection and reporting of safety and health statistics, provision of safety and health advice, collection and maintenance of mining employee health records and research into mining safety and health. The member for Nollamara mentioned the importance of research. The levy will go towards safety in the mining industry.

The member then raised the issue of a lack of consultation to date and I will deal with that now. In terms of consultation that has been undertaken prior to consideration of the levy bill, independent reviews have made findings and recommendations over a number of years that the resources safety division is under-resourced to meet its obligations as a safety regulator. This has been due to the unprecedented growth in the resources sector of this state in the past decade and increasing responsibilities resulting from the introduction of new laws. Many members raised that issue. In the latest review, Commissioner Stephen Kenner consulted extensively with industry, industry peak bodies such as the Chamber of Minerals and Energy and Unions WA. He noted that the ratio of mine inspectors to workers in Western Australia was significantly lower than in comparable inspectorates in Queensland and New South Wales; hence he recommended that there be a substantial increase in resourcing of the mines inspectorate, including targeted risk-based compliance to ensure that it could meet community expectations and the demands placed on it by the mining industry.

Ms J.M. Freeman: Was that about the levy?

Mr W.R. MARMION: That is prior to the levy. That is the background.

Ms J.M. Freeman: Yes, but it was about the levy.

Mr W.R. MARMION: No, this is consultation prior to the levy. In that background, peak bodies such as the Chamber of Minerals and Energy and Unions WA had already received details of the proposed levy scheme; they have therefore been consulted. It is based on a similar scheme that has been introduced in Queensland and I understand that there has been considerable face-to-face consultation on this matter. Further consultation will take place through the Mining Industry Advisory Committee, which is a statutory committee already established and tasked with providing tripartite advice to the minister. The minister will also establish a broader ministerial advisory panel that can provide comment, if required.

Mr F.M. Logan: Who will be on that panel?

Mr W.R. MARMION: I do not know who will be on that panel. The member can probably ask the minister that one.

Although not ultimately responsible for the safety performance of industry, the duty belongs to those who create the risks and must be managed in consultation with those who are exposed to the risks. The vision is for a proactive safety regulator working with industry to create an environment in which resilient safety cultures are the norm, and for companies, workers and the wider community to be confident that industry is operating as safely as possible. The purpose is to put the onus back on the companies.

I can give members some detail on the Mining Industry Advisory Committee. The Mining Industry Advisory Committee is an existing independent statutory body. Its terms of reference are summarised as follows: to advise and make recommendations to the minister on occupational safety and health matters concerning the mining

industry; to inquire into and report to the minister regarding any matter referred to it by the minister relating to occupational safety and health in the mining industry; to make recommendations to the minister regarding the formulation, amendment or repeal of laws relating to occupational safety and health; and to repair or recommend the adoption of codes of practice, guidelines, standards, specifications or other forms of guidance for the purpose of assisting employers, self-employed persons, employees, manufacturers or other persons to maintain appropriate standards of occupational safety and health in the mining industry. That statutory advisory committee will be used by the minister in a great deal of consultation with industry in framing the regulations.

Mr F.M. Logan: One of the issues raised in consultation with industry stakeholders, particularly the companies themselves, is that if the moneys collected for the levy are held in a special-purpose account in the department—we have all agreed that is exactly what will occur with the amendment that the government is putting up—basically industry is looking for oversight of the expenditure of those funds; because remember the money is actually coming out of industry itself.

Mr W.R. MARMION: Industry will be consulted on how the regulations are formulated so that it will have input into them and will be able to comment at that stage on any concern it has. However, I would like to complete my reply.

Mr F.M. Logan: Yes, but this is our opportunity to ask you questions about the fund.

Mr W.R. MARMION: Is the member going to ask questions during the consideration in detail stage as well?

Mr F.M. Logan: We can do. We can do it now or do it at the consideration in detail stage.

Mr W.R. MARMION: I have only 37 minutes left to get through all the comments made by other speakers.

Mr F.M. Logan: All right, we will leave it, but bear in mind that that will be one of the issues I will be raising in consideration in detail.

Mr W.R. MARMION: Sure.

A question was raised by lots of members on the actual levy itself. My understanding is that the levy will be set at \$125 for basically the first six months. One can infer that it will be about double that once it gets rolling into a full year. The member for Cockburn is correct; it will not be applied pro rata and he is correct that it is due to budget constraints. We need to do a budget; hence that is why it will not be applied pro rata. It will apply to all mining companies that have more than 10 employees as calculated under the full-time equivalent formula. The member made a point that we need to be vigilant on the administrative side of the levy. I take his point that that is the case with any government department. We must be cautious of administrative creep, and the member's concern was that it could be a possibility. That is a management issue and one that I guess the minister and the CEO of the department will have to keep an eye on.

The member for Cockburn mentioned that the first amendment to be made to the bill by the government will be supported by the opposition and that it will support putting the money into a trust to give greater certainty. Both the minister and the opposition spokesperson for mines are very happy to have that in the bill because the intention always was for the money to be specifically hypothecated for this purpose. We were advised that the bill as it was did provide that certainty, but we are happy to have this amendment in because we also want it to be certain.

Mr F.M. Logan: It's not that industry didn't trust you; it's just that they didn't trust you!

Mr W.R. MARMION: Ha, ha! I will move on to the next amendment.

The government will not be supporting the other amendment because we do not want to move away from tradition. We believe in fact that the regulations will take some time to be put into practice and they will probably not even eventuate until March or April next year. There will therefore be ample time for Parliament to consider them. The full business case has been presented to the Chamber of Minerals and Energy, Unions WA and the Association of Mining and Exploration Companies. They, therefore, have a pretty good idea already of what the regulations will be, but those bodies will be further consulted in the development of those regulations. The current process is that once they have been agreed following consultation with MIAC—which will review and scrutinise the regulations in consultation with industry and the unions—they will go through the Executive Council and be gazetted. However, the Joint Standing Committee on Delegated Legislation will have the opportunity to examine those regulations, and I understand there is a mechanism in place to allow a recommendation for them to be disallowed. This government will maintain that practice and will therefore not be supporting that amendment. I think I have addressed the member's main point, which is lack of consultation. I must stress that the aim of this bill is only to enable regulations to be framed.

I respect the member for Collie-Preston's six or seven years in industry and acknowledge his contribution to the debate. He did not criticise the levy itself; he agreed that the current legislation is not strong enough. His concern was about where the money will be spent. I can assure the member for Collie-Preston that the amendment both

the government and the shadow spokesperson for mines have agreed on will ensure that the money will go towards mines safety. As I mentioned before, it will apply only to mining companies that have more than 10 employees on site. The little company with only a few people on site will not have to go through the administrative burden that the regulations will require. There had to be a limit and the limit of 10 employees is what was decided. I understand that the member for Collie-Preston supports the levy. He also suggested that there needs to be more consultation with the unions. I can assure him that consultation with the unions will occur during the drafting of the regulations.

The member for Cannington raised concerns about the current operation of the regulations and cover-ups on mining sites, which are not targeted in this bill. This bill is only about enabling regulations to implement a levy and to determine how it will be calculated and where the moneys will go. The member for Cannington took the opportunity to also raise some of his concerns about the industry.

Mr M.P. Murray: Is there any area precluding the mining company from passing on the levy to a contractor?

Mr W.R. MARMION: I am sorry; the member mentioned that point. I will probably take advice on that during consideration in detail. The levy will apply to companies that employ 10 or more people. How would we know whether a company was passing on the levy to a contractor? At the end of the day, the company will have to pay the levy, whatever it is. If somehow a company does something sneaky, who knows? It will be a case of following the money trail. One hopes that mining companies that have more than 10 workers on site will not stoop to that level. That is another good reason for having a reasonably high cut-off point. I will seek advice during the consideration in detail stage to clarify that.

The member for Cannington talked about workers' compensation and my last sentence in the second reading speech. I do not have a copy of the second reading speech. He referred to a possible conflict with the demand for production increasing pressure on accident levels. The member for Kwinana raised the same issue. The comment in the second reading speech was to give an example of the possibility of greater pressures in the mining industry, given that an additional 170 mines will be operating while the number of inspectors remains similar to the current level. Obviously there will be more pressure on inspectors. The point is that that is an indicator that we need to lift our game.

Mr P. Papalia interjected.

Mr W.R. MARMION: He is not listening, but I think he —

Mr P. Papalia: It's the member for Rockingham.

Mr W.R. MARMION: I am sorry; the member for Rockingham, not the member for Kwinana.

Mr M. McGowan: I am listening now.

Mr W.R. MARMION: I have finished; I cannot remember what I said.

The other point the member for Cannington made was that it is a tax. It certainly is a tax. We did not want to impose a fee that would incur the goods and services tax. I want to clarify that it is definitely a tax so that it will not result in any money heading off to the commonwealth. The member for Cannington's support was such that he indicated his hope for the same impost in the construction industry. I cannot comment on whether there are any plans for a similar levy to be introduced into the construction industry.

The member for Balcatta, who was a minister responsible for occupational health and safety, gave a good insight into his term as minister and how the mines safety division was merged with WorkSafe and how this government has turned that around. I think that placing the safety inspectors under the mines safety division will ensure mines safety gets a high priority. In light of the five or six fatalities that have happened in the industry, it is fairly important. The member for Balcatta asked a number of quite pertinent questions, such as: how will we pay to retain inspectors? I take the member for Rockingham's point. The member for Nollamara also raised that point and she referred to inspectors requiring 15 technical skills. The people who have those skills are quite exceptional; they are a sought-after commodity. In the boom period a few years ago, they were obviously poached. That is an issue that will have to be addressed. It is perhaps why it is very difficult to say how many extra inspectors could be engaged as a result of the money raised. Obviously, the issue of their remuneration will be a factor. The member for Balcatta obviously supported the increase in the number of inspectors.

He also suggested that members on this side of the house do not take workplace safety seriously, and I strongly disagree with that. I think workplace safety is a very important aspect of any workplace site, and I am sure all members on this side of the house treat it equally as seriously as do members on the other side.

I made a point about the importance of changing the culture. This bill is not about changing the culture, but I agree that improving safety is a cultural issue. This bill is about imposing a levy rather than changing workplace culture. The member for Balcatta indicated his concern about where the money will be spent. I can assure him that the amendment will ensure that the money will go towards mines safety. The member for Balcatta also

raised the constitutional matter of whether there should be a separate act, which was nice of him! I understand that the State Solicitor has advised—the member for Balcatta predicated this in his answer—that there is no need for two acts. After initially suggesting that, in light of one of the clauses there should be two bills, the member for Balcatta then said that another clause in the Constitution ensured that that was not necessary. He was correct. He raised also the issue of consultation with industry. I think I have addressed that. He again queried why there were not two bills, as did the member for Nollamara. The advice from the State Solicitor's office is that that is not necessary.

The member for Nollamara is very experienced in occupational health and safety; she has a very good record in the industry. She raised a lot of issues that arose from the Kenner review, which basically recommended that there be more inspectors, and that is what this levy is about. It will generate more revenue for the government via the mining companies. That revenue will enable the recruitment of more inspectors, reviews and other things, as I mentioned before. I was impressed by the member's reading of the 15 technical skills required of a safety inspector. It highlights why they are, indeed, a rare commodity and hard to retain. That is something that we will have to consider.

The member for Nollamara raised the lack of consultation. Hopefully, that will be addressed during the formulation of the regulations. The member also suggested the possibility of having two separate bills. I think I have addressed that matter. The member also raised an important point about the need for inspectors to go onto a site unannounced. The member is right. When the regulations are drafted, they will address that issue. My understanding is that a greater number of inspections will take place without notice. I agree with the member's comments. The member has obviously had experience of how when notice is given of an inspection, the first-aid kits are there and the workplace is swept clean and nothing is left lying around. I think the inspectors are quite knowledgeable about that and will take that into account.

I thank the member for Rockingham for acknowledging that negotiations did take place between the government and the opposition before this bill was brought in. He pointed out the importance of this levy to the mining industry. He also raised the issue of the lack of consultation, which I think I have addressed. I highlight again that the Chamber of Minerals and Energy has been consulted, and so have the unions, and they will be consulted again. The member for Rockingham also posed a very good question about what will happen to the existing arrangements. The member is not looking at me, so perhaps I will not have to address that particular concern that he raised. Now he is looking at me.

Mr P. Papalia: Are you a cricket commentator or something? Get on with your speech!

Mr W.R. MARMION: This is my last point. I do not know that I have the answer to this. I acknowledge that the member for Rockingham has raised a very good point.

Mr M. McGowan interjected.

The SPEAKER: Order! If you want to interject, member for Rockingham, I suggest that you move to your seat.

Mr W.R. MARMION: Thank you, Mr Speaker. The member for Rockingham has raised a very good point, and I will finish with this, because I probably do not have the answer. He asked what will happen with the existing arrangements. I assume that what the member is implying is that if any money is left in the budget for the last part of this financial year, then when the levy comes in, there will be some extra money.

Mr M. McGowan: Yes, for each of the years.

Mr W.R. MARMION: There will be an overlap only in the first year, because, after that, the levy will be the only source of funds for that particular expenditure. The department will need to provide some funds for the community service obligations and for freedom of information and the like, but the money from the levy will not be pushed into that area. The money from the levy will be allocated specifically to the mines safety inspectorate. On that note, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 105A inserted —

Mr F.M. LOGAN: Before I move to the amendment that I am seeking to move, I would like to raise an important issue. This clause deals with the regulations for cost recovery, so this is the most appropriate clause—in fact, the only clause—of the bill on which I can raise these issues. I want to come back to a question that I put to the parliamentary secretary during the second reading debate. I have referred to the concerns that have been expressed by industry about the expenditure of this money. The parliamentary secretary has highlighted that

there will be two levels of consultation with industry about the framework for the new mines safety regime—the Mining Industry Advisory Committee, and a ministerial advisory committee. The Mining Industry Advisory Committee is a standing committee that is governed by legislation. That committee is a tripartite body, and it will continue to play a significant role in providing advice to the government on the creation of the regulations, as well as the future framework for mines safety. Although I asked the parliamentary secretary who the members of the ministerial advisory committee will be, the parliamentary secretary was not able to tell me, because he is not the minister. I can understand that. However, the parliamentary secretary has not addressed some of the issues that have been raised with us by the industry. One of those issues is how the moneys in this fund will be directed. These funds should be deposited in a special purpose account for the purpose of expenditure on mines safety. They should not be used to underpin the running of the department. The employers in the industry—the mining companies—have said to us that they will be putting in the money, and they would like to have some input into how the money is spent. That is not an unusual request. We can compare that with the levy that is struck in the fishing industry. Those funds are collected for the purpose of the operation of the Department of Fisheries, and in particular for fisheries research in Western Australia. That is provided for in a longstanding piece of legislation. The determination about how that money is to be spent in the fishing industry is made by a fisheries advisory body. Therefore, examples already exist of how industry can have input into the way money is spent when that money is collected by the government for a specific purpose. In the case of this mines levy, the money is to be collected for the purpose of improving safety on mine sites—that is, on the companies' own premises. Therefore, these companies clearly want to have an input into the way this money is spent. However, at this point I cannot see how they can have such an input.

Mr W.R. MARMION: It is a good question. However, there could be a counterargument that the last thing we want is an industry telling the regulator how it will spend the money. For example, we may set up an inspectorate, and we may have BHP Billiton saying, "Hello. We'd like to put all the money into research on mining safety and health and put no money into safety inspections." There is that side of it. That is one point, and I think it is reasonable that we separate that.

I am advised that the invited members of the ministerial advisory panel are the Chamber of Minerals and Energy, the Association of Mining and Exploration Companies, UnionsWA, the Australian Petroleum Production and Exploration Association Ltd, the Australian Pipeline Industry Association and the Chamber of Commerce and Industry of Western Australia. The member probably knows those organisations better than I do.

Mr F.M. LOGAN: Can the parliamentary secretary explain to the house what the role of the ministerial committee will be? I take the parliamentary secretary's point that there is always a danger of allowing industry to determine where the money should be spent, particularly in an area such as safety, because, obviously, we want an independent voice to say, "Hang on; we don't want Dracula advising how the blood bank is going to be used." I accept that. Nevertheless, those parties in the industry, particularly the parties to which the parliamentary secretary has just referred, which are the critical stakeholders in the industry, also want to have some oversight of how that money is to be spent. Does the parliamentary secretary believe that the ministerial committee or the industry advisory committee, to which the parliamentary secretary referred earlier, will have that role?

Mr W.R. MARMION: I think the member wants me to answer specifically how this panel will be used regarding advice on this bill. Is that correct?

Mr F.M. Logan: Yes, particularly in the expenditure of money—not in determining how the money will be spent, but advice on and some oversight of how the money will be spent.

Mr W.R. MARMION: The way I see it working is that the panel will be consulted on the regulations as they are drafted. The regulations will deal with how the money will be collected, what it will be used for and the penalties et cetera, as outlined in the bill. The panel will be consulted on that, so it will be able to advise the minister on areas in which it does not believe he has done a satisfactory drafting of the regulations. That is how it will be used.

Mr F.M. LOGAN: I thank the parliamentary secretary for that answer. In that case, I will move to the opposition's first amendment that we will be dealing with. I move —

Page 3, after line 9 — To insert —

- (2) Regulations made under subsection (1) shall only be made by the Governor where —
 - (i) the proposed regulations have been laid before each House of Parliament for a period of at least 14 sitting days of such House; and
 - (ii) during such period neither House of Parliament has passed a resolution disallowing any proposed regulation.

I think I have already explained to the house the reasons for putting forward this amendment, which is a reversal of the way in which regulations are normally dealt with. The regulations will come into force after the 14-day sitting period of each house of Parliament has elapsed, assuming that neither house has passed a resolution disallowing any proposed regulation. That is being put forward basically as a safety mechanism for industry. Although I accept the commitment that has been put forward in this house by the parliamentary secretary about the involvement of industry in the creation of those regulations and, I hope, in the drafting of those regulations, this is a safety net for the industry to ensure that it agrees with those regulations that will be tabled before the house. It will give the opposition an opportunity to move quickly to disallow, if called upon to do so by industry.

This wording is not unusual. I take the parliamentary secretary to the Energy Safety Act 2006 and the Energy Safety Levy Act 2006, under which a levy was set up for the purposes of running EnergySafety WA. It is very similar. That is a levy that applies to any of the people involved in the energy industry, which involves generation and transmission and, I believe, the retail area. The Energy Safety Levy Act contains a provision that is very similar to the one I am putting forward to the parliamentary secretary tonight. This is not an unusual occurrence, and its purpose is to ensure that the parties, particularly the industry parties, are satisfied with the regulations that will be applied to them by the government of the day.

Mr W.R. MARMION: The government believes that sufficient consultation and safety mechanisms are in place so that the regulations, when gazetted, will meet industry expectations. Indeed, if the opposition decides that it does not like the regulations, it can refer them to the Joint Standing Committee on Delegated Legislation, and my understanding is that they can be disallowed there. I know that that is not satisfactory or desirable from the member's point of view, but the government believes that under the current mechanism there will be sufficient scrutiny of the industry through the Mining Industry Advisory Committee and the ministerial advisory committee. Indeed, it will then be the responsibility of the minister, and, if he gets it wrong, it will be on his head. I believe, and the government believes, that the current process is sufficient. Once the regulations have been ticked off by the minister, in consultation with the Mining Industry Advisory Committee, they will go to Executive Council and then be gazetted. If the opposition is not happy with the regulations—presumably, it will be the industry that goes to the opposition and says that it is not happy with the regulations—the current process under which the opposition can go to the Joint Standing Committee on Delegated Legislation will suffice. Amendment put and a division taken with the following result —

Ayes (21)

Ms L.L. Baker	Ms A.J.G. MacTiernan	Mr E.S. Ripper	Mr M.P. Whitely
Mr R.H. Cook	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J.M. Freeman	Mr M.P. Murray	Mr T.G. Stephens	Ms R. Saffioti (<i>Teller</i>)
Mr J.N. Hyde	Mr A.P. O'Gorman	Mr C.J. Tallentire	
Mr J.C. Kobelke	Mr P. Papalia	Mr A.J. Waddell	
Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson	

Noes (28)

Mr P. Abetz	Ms A.S. Carles	Mrs L.M. Harvey	Ms A.R. Mitchell
Mr F.A. Alban	Mr G.M. Castrilli	Mr A.P. Jacob	Mr C.C. Porter
Mr C.J. Barnett	Dr E. Constable	Dr G.G. Jacobs	Mr D.T. Redman
Mr I.C. Blayney	Mr M.J. Cowper	Mr R.F. Johnson	Mr M.W. Sutherland
Mr J.J.M. Bowler	Mr J.H.D. Day	Mr A. Krsticevic	Mr T.K. Waldron
Mr I.M. Britza	Mr J.M. Francis	Mr W.R. Marmion	Dr J.M. Woollard
Mr T.R. Buswell	Mr B.J. Grylls	Mr P.T. Miles	Mr J.E. McGrath (<i>Teller</i>)

Pairs

Mrs C.A. Martin	Dr K.D. Hames
Mr W.J. Johnston	Dr M.D. Nahan
Mr J.R. Quigley	Mr V.A. Catania
Mr D.A. Templeman	Mr A.J. Simpson

Amendment thus negated.

Mr W.R. MARMION: I move —

Page 4, after line 12 — To insert —

105AB. Mines Safety Account

- (1) An agency special purpose account under the *Financial Management Act 2006* section 16 is to be established for the department and called the Mines Safety Account.

- (2) The Mines Safety Account is to be credited with any levy paid under regulations mentioned in section 105A(1) including any additional outstanding liability and interest as mentioned in section 105A(3)(f).
- (3) Moneys held in the Mines Safety Account are to be applied in payment of the costs of administering this Act.

This amendment has been discussed with the opposition, and both the opposition and government agree to it.

Mr F.M. LOGAN: I think the parliamentary secretary has given us an undercooked explanation of the origin of this amendment by saying that it was discussed with the opposition. It has been moved by the government, but it occurs because of, as I earlier indicated, the opposition's rejection of and refusal to support the Mines Safety and Inspection Amendment Bill 2009 unless and until it had a provision that ensured that the moneys collected would be dealt with independently of the department's normal budgetary processes and be held in a separate trust account, being the special-purpose account identified in subsection (1) of this amendment. The industry stakeholders obviously wish this to occur because they want the moneys collected to be used for the purposes—as, hopefully, there will be agreement on—of the framework for the new occupational health and safety environment that will apply in the mining industry, and for no other purpose. The very fact that the levy came on industry so quickly and was applied so quickly without a significant level of consultation—if any at all—and the fact that the money initially appeared to be collected for and on behalf of the department itself, rather than for and on behalf of the industry, and the application of the regulations to the industry and safety at the industry level, was why the initial bill was opposed. This amendment was created as a result of consultation between the minister and the shadow minister. I think when it comes to congratulating anybody on this amendment, whilst it has been moved by the government, it is in fact a creation of the opposition and the opposition doing its job properly by holding the government to account and having this amendment not only created, but endorsed by the government and supported by the opposition. We claim credit for this amendment to the bill.

Whilst I am on my feet, I would also like to ask a question of the parliamentary secretary about the review of the fund itself. The act makes no mention of when, how and if the fund and this act will be reviewed. Obviously, the review processes of similar legislation vary from after 12 months. Sometimes it is three years and sometimes it is five years, and then after five years, but the act does not mention when a review should take place. There is a consultation process mentioned, which the parliamentary secretary highlighted earlier, but they are his only statements to the house. There is no structure specified as to what role those bodies will have, if any, in terms of a review of this act and the government's intention in terms of reviewing the effectiveness and application of what will be a substantial amount of money collected by way of this bill.

Mr W.R. MARMION: It is a very good question and I can answer it very easily—it is a great question in fact! The regulations will come under the Mines and Safety Inspection Act 1994, which includes section 110 which is a provision for a review of the act every five years. The act states —

The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after 1 December 2009 and every fifth anniversary of that day ...

Mr M. McGOWAN: I have a couple of points I want to make. First of all, I am pleased that this clause resolves some of the issues the opposition brought forward in relation to these laws, and those are to ensure that the funds raised by this levy are expended totally for the purposes of mines safety for our great mining industry in Western Australia, and to ensure that people who work in the industry are kept safe. It is a good initiative to ring-fence the funds generated for that purpose.

I have two questions; one is similar and one is slightly different to the questions I raised during the second reading debate. First of all, the amount of money secured by the levy is obviously to replace the amount of money put in by way of consolidated revenue. I want to confirm—and maybe the parliamentary secretary can confirm it verbally—that the \$12 million formerly spent annually by the state government has now been withdrawn by the government and will be replaced by this, so there is an effective \$50 million windfall out of this levy. My second point is that the levy is designed to rise and fall based upon the number of employees at a particular time of the year employed by each company, not just on the mine site. For a company running a mine, the levy will be calculated at a certain time of the year based upon the number of employees it has. The money will then go into the fund and will be used to employ the mines safety inspectors. It is a fairly simple and reasonable system. My concern, or question, relates to the fact that if the state goes through what it has been through in the past year, with many mines closing and a lot of people in the mining industry losing their jobs, there will therefore be a decline in the amount of money being collected by the levy. That decline in the levy will therefore mean that there will be less money to employ mines safety inspectors, unless the government has created something that defies the laws of mathematics. If there is less money coming into the scheme, how will the people employed currently as mines safety inspectors be maintained, or will they be on some sort of short-term contracts, and not be considered permanent employees? I am interested to know how, if the amount of

money collected by the levy declines, and there is therefore less money going into account, the government will continue to employ the same number of people as mines safety inspectors.

Mr W.R. MARMION: I will address the second question first, because that is the easy one. It is a reverse levy. The levy will be calculated each year based on the budget related to the number of inspectors. To take the member's point, if there is a downturn in the industry and there are fewer workers on site, the levy will go up. If a company employs 100 workers, and it has only 50 after the downturn, and everyone is in the same boat, unfortunately the levy will be doubled for the next year. That is covered. I am advised, on the member's first question, that the amount of consolidated revenue fund money has yet to be determined. I cannot give a substantive answer to the question.

Mr F.M. LOGAN: I take the parliamentary secretary back to the question I asked earlier about the review of the legislation, because I cannot see how his answer can be legally applied. How can a section of another act—I think the parliamentary secretary referred to the mines safety regulations act—that is not being amended by this bill refer to a review of this legislation without it being specifically mentioned in this bill? Either a review term should be included in this bill, or a reference to section 110 of the mines safety regulations act should be included in this bill by way of reference, but the government cannot rely on another act and its specific powers of dealing with the review of that act as a way of ensuring that there is a review of this legislation. How does it work?

Mr W.R. MARMION: The regulations are constructs of the Mines Safety and Inspection Act. An independent review of this act covers the regulations, and they are totally captured by this act. They are not new regulations under another act; the regulations sit fairly and squarely under this act, so they will fairly and squarely be covered—110 per cent—by regulation 110.

Mr F.M. LOGAN: Basically, is the parliamentary secretary saying that these regulations that will be redrafted and brought back before the house will make reference to a review of the Mines Safety and Inspection Amendment Act review period?

Mr W.R. MARMION: They do not have to. Regulations are captured by the act, so there is no need to put in the regulations the fact that they are related to the act that they are already related to, because the act says that they will be reviewed every five years. There is no necessity.

Mr F.M. Logan: For the benefit of Parliament, the parliamentary secretary should read those out, because we have not passed this bill, so how will those regulations actually deal with this act?

Mr W.R. MARMION: This is an existing 1994 act. There are existing regulations, and all we are doing is putting a bill through that enables an amendment to the existing regulations to create a levy. The existing regulations are already under the act, and we are just putting another regulation under the act. I do not think I can make it any clearer than that.

Mr M.P. Murray: It is clear as mud.

Mr F.M. LOGAN: It is about as clear as mud, as the member for Collie-Preston said. This is the Mines Safety and Inspection Amendment Bill 2009. It is a stand-alone bill. It is not the mines safety and inspection amendment of that act—the act that the parliamentary secretary has before him. If it was, I would concur with what he is saying. To me, from the way in which it reads, this is a stand-alone bill. It says it is a bill for an act to amend the Mines Safety and Inspection Act to enable regulations to make provision for a levy. It is not a mines safety and inspection act to alter the regulations that the parliamentary secretary has in his hand. If it was, the parliamentary secretary's argument would be right, but because it is a stand-alone piece of legislation, it can only have a review period that relates to this stand-alone bill.

Mr W.R. MARMION: I refer to section 104, "Power to make regulations". The power to make regulations is in the act, and this is what we are amending. Again, this legislation, which grants the power to make regulations, must be reviewed, under section 110, every five years; so every five years the effectiveness of the department, including the regulations, and the new regulations that we are about to put in place, will be reviewed for their effectiveness. That is how it is.

Mr M. McGOWAN: Can I seek some guidance from the parliamentary secretary in relation to the levy? I understand the way that the levy will work. A certain number of inspectors will be employed, and the levy will be adjusted to ensure that that number of inspectors can be accommodated and paid for. I am seeking advice from the parliamentary secretary about how many inspectors the government expects to employ up front, and what the average impost will be per company, considering it is a flat rate per employee. A small company employing 20 people on some tiny mine site will pay the same amount per employee as a large company, even though the aggregate amount that the large company will pay will be much more. I am seeking a snapshot for the average company—or any company—about what it will cost per employee when it is commenced, so that the industry knows exactly what it will be paying in the first year.

Mr W.R. MARMION: The industry has this report, called “Business Case 2009: Delivering best practice safety regulation for the Western Australian resources industry”, so it knows what is coming. The aim is to have an additional 26 mining inspectors.

Mr M. McGowan: What will the total number be—there will be an additional 26.

Mr W.R. MARMION: There will be an additional 26. While I am answering the member’s other question, I will get that information. The initial levy will be \$125 an employee and then it will go to about \$250 an employee. I have examples of what that will mean for companies. The recommended industry levy for a company with a workforce of 40 employees will be about \$10 000. Therefore, a company with 40 employees will be up for \$10 000 per annum. The levy imposed on a company with 8 200 workers on a mine site—I will not name a company that might have that number—would be in the order of \$2 million.

Mr M.P. MURRAY: The parliamentary secretary advised that there would be an extra 26 inspectors. As there is already office infrastructure in areas such as Kalgoorlie, Collie and, I think, Karratha, does the parliamentary secretary have any numbers, on a pro rata basis, of inspectors who will go to those areas? As I said previously, I am concerned about having a city-based group that fly in, fly out and are not on the ground doing the job. I would like to see that those numbers are distributed on an equitable basis to assist the officers who are already available.

Mr W.R. MARMION: Apparently it is difficult to say that there will be 26 inspectors, because that number will comprise inspectors, risk assessors and auditors at varying levels who go onto the mine site and check things out. I guess an auditor will look at compliance, whereas an inspector will carry out a thorough inspection. There will be a balance in getting the best mix to ensure that the safety mechanisms are in place and are being policed.

I have been advised that the early indication is that there might be six inspectors in Karratha; six in Kalgoorlie; ten in Perth; and four in a core investigations unit.

Mr M.P. MURRAY: My ears pricked up because already the parliamentary secretary is breaking down the number of inspectors we thought there would be on the ground. Already, the parliamentary secretary said there will be 10 in Perth. That would mean that, if the number reaches 26, there would be only 16 inspectors on the job. We want people out there doing the work on the ground.

Mr W.R. MARMION: They are out there. Six will be based specifically in Kalgoorlie, six will be based specifically in Karratha and 10 will be based throughout the state, even though their headquarters will be in Perth. They will be somewhere in the state carrying out their duties in the regions.

Mr M.P. Murray: How many will there be in the south west?

Mr W.R. MARMION: At the moment there is no intention to increase the number of inspectors in Collie.

Mr F.M. LOGAN: I come back to the review of the act. I understand the issue the parliamentary secretary raised in answer to my question about the provisions of the Mines Safety and Inspection Act 1994, including a provision for a review after five years. Although we all agree with the amendment, given that it is a significant change to the way that business is done and mines safety is funded and applied in Western Australia, I thought that there would be an earlier review than the review that applies to the act per se. If that was the case, we would then be in a position to determine whether the levy, in particular, and the account was working to the benefit of all concerned, at least after 12 months or a maximum of three years. The government should not simply rely on the existing provisions of the act, which is a standard review of the act every five years.

Mr W.R. MARMION: I have been advised that it will take at least 18 months to recruit the number of inspectors required. If we allow 18 months for that and time for the legislation to operate effectively—probably another year and a half—it will be time for the review anyway. At the end of the day we will have a system that brings in more money. I understand the issue of the effectiveness of the expenditure of that money. One would assume that with the extra money we would have a better outcome than we have now.

Mr F.M. Logan: We would hope.

Mr W.R. MARMION: Yes. Five years is probably a reasonable time after which to review the effectiveness of this legislation. I think that is where the member is coming from, and it is a very good point.

Mr F.M. Logan: It is the effectiveness of the establishment of a completely different structure that has not previously occurred in WA. The levy is in place in other states, but it has never been in place in WA. I refer to the term of review that exists in the act, which is a standard period for the review of the act and is very similar to what is in other acts. I would have thought that this review would have been brought forward to be held within a maximum of three years, because of the number of companies that are involved, the actual amount of money involved and the significant change from the current situation in which industry finds itself.

Mr W.R. MARMION: Five years is reasonable, given that the start-up time will be in 18 months. If industry is not happy with the way it is operating, there is the opportunity for the minister to review that aspect of the regulation.

Mr F.M. Logan: There is a big difference between industry calling for a review of the act and the minister of the day and the department saying, no, they will not do it, and a provision in the act that compels the government of the day to do it.

Mr W.R. MARMION: The act says that the minister will do the review. The last review was the Kenner review in 2008, so the next one will be in 2013. By the time this legislation is proclaimed, the review will be in three years.

Mr M.P. MURRAY: I would like to go back a step. I am not sure whether I heard the parliamentary secretary correctly. Did he say that there will be no extra inspectors in the south west?

I will expand on that. We have Wesfarmers Premier Coal with 400 employees; Griffin Coal, 400; Bemax Resources, probably 100; Doral Mineral Sands Pty Ltd, probably 100; Worsley Alumina Refinery 1 200; Boddington, I am not sure of the number of employees; Talison Greenbushes Pty Ltd, about 60; and Alcoa Wagerup Refinery, about 1 000. I am sure the companies in the south west that will be paying this levy will be very disappointed. I am astounded by those numbers. Don't those people have the same rights as others?

Mr W.R. MARMION: The issue is that this is a risk-based process.

Mr M.P. Murray: So is mining.

Mr W.R. MARMION: Yes, very much so. If there were an issue in Collie, the department could send all 10 Perth inspectors to Collie if it wanted to.

Mr M.P. Murray: We don't want part-timers. That's the problem with the whole system.

Mr W.R. MARMION: It is not about getting a whole lot of inspectors and just parking them on site; it is about a risk-based assessment. If Collie was going really well and had no accidents, but Karratha was having problems and that was where the risk was, the department would deploy its resources where the risk was. That is the way the system is designed to work. There will be more inspectors anyway, so the department will be better off than it is now.

Mr M. McGOWAN: I had a question, which may well be the same question the member for Collie-Preston asked. The member for Collie-Preston beat me to it. I am interested in whether the parliamentary secretary can give us an indication of the spread and where the inspectors will be based. If that is information that the parliamentary secretary can read out or table, I will be very happy if he indicates the increase in each region or each mining precinct.

Mr W.R. MARMION: I have given this information already. I have to predicate my remarks on the fact that this is today's plan, but the actual deployment will be based on a risk assessment.

[Interruption from the gallery.]

Mr W.R. MARMION: I do not know where that noise is coming from, Madam Acting Speaker.

Mr C.J. Barnett: It is very distracting.

Mr W.R. MARMION: It is very distracting for somebody who is trying to do figures.

The ACTING SPEAKER (Ms L.L. Baker): We are addressing it.

Mr W.R. MARMION: I reiterate that it is intended that there will be six new inspectors in the Karratha inspectorate, six new inspectors in the Kalgoorlie inspectorate and 10 new inspectors deployed throughout the state. As I said before, the deployment is risk-based. Those inspectors can be deployed anywhere to where the risk is.

Mr M.P. Murray: You just showed up a major flaw in the system.

Point of Order

Mr C.J. BARNETT: I know that members are looking at the issue. I do not wish to be a party pooper, but when there are parties in the Parliament actually coming into the chamber, I think that is when some action should be taken to tell them to quieten down or shut the door.

The ACTING SPEAKER (Ms L.L. Baker): Thank you, Premier.

Mr M. McGowan: I think there is bipartisan support for it.

The ACTING SPEAKER: We are trying to get security onto it, Premier. We will just wait for the noise to subside.

Debate Resumed

Mr F.M. LOGAN: I pick up on a point that was made by the members for Rockingham and Collie-Preston, and it comes back to the numbers that the parliamentary secretary has been referring to. My understanding of the announcement by the minister of the inception of the levy and the new safety case approach to mines safety on site is that the total number of new inspectors to be employed is 37. That is the figure that was given by the minister himself. I am at a bit of a loss to understand how there will be six new inspectors in Karratha, six in Kalgoorlie and 10 in Perth, bringing that number to 22. There seem to be 16 inspectors missing somewhere. I would like to know whether those 16 inspectors are real; and, if so, how they will be deployed in the field to carry out the role of inspector, which is critical for the purposes of achieving mines safety. With respect to the position that has been put by the department in advising the parliamentary secretary, my understanding is that the role of the risk management approach and safety case approach to mines safety is for the purposes of the application of mines safety policy on the job, not guidance for the department on how the department should run its affairs.

Mr W.R. Marmion: Yes.

Mr F.M. LOGAN: I do not foresee the department running on a risk management approach. I expect the department would work in accordance with the regulations and the act.

Mr W.R. MARMION: I agree. I do not understand the member's point on that.

Mr F.M. Logan: It's just that you referred to the department taking a risk management approach.

Mr W.R. MARMION: The inspectorate.

Mr F.M. Logan: Yes. I hope you're not talking about the inspectorate doing it in that way, because really that is for the application at the mine site and the way the policy should be applied at the mine site, as opposed to the functions of the inspectors doing their job.

Mr W.R. MARMION: On that point, the profile of the risk in each mine site is taken into account in the deployment of inspectors. In terms of the numbers, the 37 inspectors, which the member referred to as a figure that the Minister for Mines and Petroleum must have mentioned at some time, relates to the total number of inspectors not only in mining, but also in the petroleum and dangerous goods areas. Those are the 37 inspectors.

Mr F.M. Logan: I am sorry, could you just repeat that?

Mr W.R. MARMION: There are 37 inspectors—26 in the mining area and an extra 11 that relate to the petroleum and dangerous goods areas. I make one more point. In addition to the 26 field inspectors, another investigation unit will be set up so that there will be additional inspectors to troubleshoot special investigations.

Mr F.M. Logan: In total, how many mines inspectors—that is new and existing mines inspectors—will be in the field? I refer to the mining industry and not so much to petroleum.

Mr W.R. MARMION: I am advised that we do not have that information right now but if the member likes, I can get it to him tomorrow morning.

Mr F.M. Logan: Yes, we would like that information.

Mr M.P. MURRAY: I again labour the point that we are not changing the culture at all. Under the minister's scenario we are going to wait until accidents happen, then send people down south from Perth. That is not a culture change at all. As I said in my speech in the second reading debate, it is with great reservations that I support this bill. I have doubts about it. One of the biggest mining areas that is under-sung and under-sold is the south west. I am talking about sand mining, bauxite and minerals all the way through—you name it—and we are not going to get check inspectors on the ground where we need them. Could the parliamentary secretary explain why there is no change of culture, please?

Mr W.R. MARMION: There will be a change of culture within the organisation.

Mr M.P. Murray interjected.

Mr W.R. MARMION: Will the member let me finish talking?

Mr M.P. Murray interjected.

The ACTING SPEAKER (Ms L.L. Baker): Member for Collie-Preston, we do not need people speaking at each other across the chamber.

Mr W.R. MARMION: The safety case methodology is about changing the culture. It is a methodology. I have been advised —

Mr M.P. Murray: A Scarborough or a City Beach culture?

Mr W.R. MARMION: What is that supposed to mean?

Mr M.P. Murray: That is where the numbers will be—in the city.

Mr W.R. MARMION: The safety case methodology works by dealing with issues in the mines —

Mr M.P. Murray: They will be fairies in the wind; you'll never find them.

Mr W.R. MARMION: The member for Collie-Preston can vote against the amendment if he likes.

Mr M.P. Murray: I can tell you now that we have been there; done that. I've had 24 years in the mining industry and I've heard it all before.

Mr W.R. MARMION: This methodology is supported by the unions and industry and it is supported by the Kenner report.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Third Reading

MR W.R. MARMION (Nedlands — Parliamentary Secretary) [9.33 pm]: I move —

That the bill be now read a third time.

MR F.M. LOGAN (Cockburn) [9.33 pm]: I firstly thank the government for agreeing to the second amendment to ensure that there is some level of accountability with the moneys being paid into the levy. However, I must put on the record my concerns about some of the questions just asked of the parliamentary secretary during consideration in detail. Firstly, the concern that I think will now resonate around industry is that not all the 37 new mining inspectors will be used in the mining industry. I accept that the department covers more than the mining industry; it also covers pipelines and the oil and gas industry. However, I do not think it was expected that such a significant number of those inspectors would be used in different areas covered by the Mining Act safety regulations that are not part of the mining industry. I think everyone in industry, whether they be from the employees' side or the employers' side, were of the clear belief that 37 new mining inspectors would be employed. That is the way it was explained to the general public by the minister. The parliamentary secretary has said that not 37 new mining inspectors, but 26 new mining inspectors will be employed, six of whom will be in the Pilbara. That will be better than before, when none were employed in the Pilbara. Given that the majority of deaths that occurred in the mining industry last year were primarily in the Pilbara, having such a large number of inspectors based here in Perth rather than in the field where the mining takes place is a major concern, certainly to the Labor Party in opposition. I can assure the parliamentary secretary that it will be a concern also to the stakeholders in the mining industry. They were expecting that, in this new environment with our safety case approach to mining safety on the job, there would be significant regulatory inspection where mining takes place. Six inspectors will be employed in Karratha and six in Kalgoorlie, there will be no increase in the number of inspectors in the south west, and the majority of inspectors will be based here in Perth where no mining takes place. I accept the application of the Mining Act in terms of the Alcoa Kwinana refinery and a number of the other refineries down there. I am not suggesting there should not be mines inspectors in Perth, because they are needed for the companies covered by the Mining Act.

Western Australia is a big mining state and most of the mining takes place in the south west, in the Yilgarn-Craton area, which stretches in an arc around Kalgoorlie and the Pilbara region. That is really where those mining inspectors should be. As a former Minister for Mines, I know what it is like trying to encourage public servants to live in those places; it is very, very difficult. But somehow, by way of financial incentive or direction or whatever the government wants to apply, that is what must be done because that is where mining takes place; that is where injuries occur; and that is where inspections must be done to ensure that we minimise the number of injuries and deaths. From what the parliamentary secretary told the house by way of advice from the department, as the member for Collie-Preston just indicated, it does not appear at this stage that things will change dramatically. I hope they do, but it appears to me that it will be business as usual for the department, except that it will have a larger slush fund and more people to play with.

I was very disappointed to hear there will be no further increase in the number of mines inspectors in the south west. People overlook the size of the mining industry in the south west and the number of people employed there. The mining industry in the south west of Western Australia is a significant employer; it is not just about Collie coal. It involves all the other companies the member for Collie-Preston referred to. They need to ensure that they have a per capita approach to the number of mines inspectors and the number of full-time employees. It is nice to have a per capita approach to the amount of money raised to fulfil the objectives of the levy; it would also be nice to have a per capita approach to the number of inspectors in the field compared with the number of employees who live and work in those areas. I believe that, if we truly want safety reform in the mining industry,

that is how the Minister for Mines and Petroleum should reconstruct the department as part of the overhaul of the Mines Safety Act and the mines safety environment in the field.

I was very concerned that the government did not agree to the amendment I moved to enable Parliament to debate the regulations that will be drafted with the passing of this bill. The parliamentary secretary has asked us to rely on other measures for a review of those regulations.

That is not what industry wants. It is not just the unions that are saying this. The employer organisations and the employers themselves are also saying this. They would like to have parliamentary oversight of the regulations. That is not an unusual request. It has been done many, many other times in similar circumstances when a levy has been established. This is not an outrageous request. It is a logical request for further accountability over the establishment of this fund. A significant amount of money will be poured into this fund. Industry wants to have the ability, through the opposition, or through anyone in this Parliament, to have some parliamentary oversight of the regulations and to, if necessary, disallow the regulations. I am very disappointed that the government has not picked up our amendment. It will be put forward again in the upper house as part of the discussions in that place. Having made those two points, we support the bill.

MR M.P. MURRAY (Collie-Preston) [9.40 pm]: My comments will be along similar lines to the comments made by the member for Cockburn. I cannot understand how the life of a person in the Pilbara is worth more than the life of a person in the south west. This is a very rough figure, but about \$1 million will go into the levy from the south west. But there will not be one inspector for the south west—not one. People may say, oh, yes, we can fly an inspector down from Perth after the event. The people who say that obviously do not understand mining. These days, other than a bit of underground mining in Greenbushes, all the mining in the south west is open cut mining. If a high wall starts to creak, and if a pig-headed boss says that the employees must keep working it, and the employees cannot get hold of an inspector, someone is going to get hurt. That does show us one thing. It shows us that there will always be a role for the unions. I know that many members opposite are anti-unions. But this is a role that the unions will have to take up, because there will be no inspectors on site. I applaud the unions, in the coal industry in particular, for the job they have done over many, many years. They have probably saved many lives. They are now going to have to do that job again. As I have said, there could be a high wall, and it could be bolted, or just battened off, or whatever, but if that starts to run, the 300-tonne trucks underneath it will be completely covered in dust and just disappear. It is not good enough to then say, “Sorry, mate. We will fly someone down. We probably should have come down a bit earlier and had a look at those cracks that were up there, and we probably should have done an inspection a fortnight ago, but we were busy sitting on our backsides in Perth”. I find it absolutely appalling that all the officers and all the infrastructure is in Perth. There should be at least one inspector located in the south west.

I have been talking about high wall mining. There is also sandmining in the south west. That is quite a large operation. I missed out on naming one of the other companies in that area. That is Iluka. That is quite a large company as well. It probably has a couple of hundred employees, although it is winding down the number of workers and putting money into producing the end result.

We also need to have inspectors in the south west who are checking people who are travelling to and from work in the mines. Some of the companies are talking about putting people on 12.5-hour shifts so that they can have a hot-seat changeover on 12-hour shifts. I know that people are travelling from Busselton and Mandurah to work in the south west. There is also a safety aspect to that. If we do not have people in the south west to do the research and to do a check on the ground, we will have problems. Perhaps we should look at that. This is a matter that is really dear to my heart, because I have worked through those issues over the years, and I have had many fights with the bosses about safety issues, some justified and some not so justified.

I will give members a story to illustrate what I am saying. A guy on a mine site had pulled a rag out of a rag bag to do his job of cleaning an engine, and he got a needle stick injury because someone had put a dirty needle into the bag. The employer’s answer to that was, “Keep working. You’ll be right. Just wash it under the tap.” That is just appalling. The union had to take on the company about that. We had to stop work and put up notices and that sort of thing. But we could not get an inspector to come down, because it was night time. Public servants do not work at night time, even if they are a check inspector, do they? That is the way things will be under this legislation. If there is a fault at night-time, we will have to ring Perth and get someone out of bed. Now that we have the new highway to the south west, it will be a bit quicker, but it will still not be quick enough in my view. Dare I say it, but in the old days—not something I really want to hark back to—a check inspector was available to be called out at any time if there was a problem on a site. I am talking about sites right across the south west. The biggest producer of revenue for the state is still mining in the south west region. It is also by far the biggest employer. Yet we are not getting what I believe are our just rewards under this new system. I really do praise the system. However, as I have said, I have reservations about the regulations within the system, because what needs to happen is just not happening. My criticism has been that the mines department has been turning up after the event, when, from my work experience, it needs to turn up before the event. Unfortunately, in the past few years

it has been after the event and after the Coroner's Court. That is something that no-one wants to ever have to go through, because it means that someone has passed away or has been seriously injured. I have had to visit a family and tell them that their dad has been killed. That is not much fun. Yet we cannot get one inspector in the south west. Something is wrong with the system already. I think we have had something put over us. I am going to talk to other people outside the system, including the mining companies, and say, "You have been diddled, mate. You have been putting in the money, and what have you got in return? Absolutely nothing." Do not tell me that a person who works rock can come to the south west and work sand. It is entirely different. I have seen it hundreds of times. People come to the south west and they want to do things their way. They do not understand water, either. Anyone who has worked in rock mines does not understand water. I have seen that happen over and over again. The safety shortcuts that are taken are just unbelievable. I think I have made my point. I do beg the government to make sure that an inspector is located in the south west. The money that has been put into the system by the mining companies in the south west is well and above what will be taken out for them. I agree that we really do need more inspectors in the north, with the number of people who have been killed in recent times. However, it is incumbent upon every member of this house to make the system fair and not put other people's lives in jeopardy just because people are sitting in their offices in Perth and not doing the job that they are supposed to be doing—that is, on the ground. I cannot believe it. It sounds like a city-centric issue. People do not understand distance. No, we are not at Armadale. We are at Greenbushes, a two-and-a-half-hour drive away. We need these inspectors to be located in the centre. If it is Bunbury, I do not care. If it is Collie, I do not care. It is about having a person in the south west. That is the not the case at the moment. I rest my case at that. I hope the parliamentary secretary will take that back to the government. I hope the people in the mines department who have made these decisions are also listening, because I will come after them if something goes wrong. It is as simple as that.

Question put and passed.

Bill read a third time and transmitted to the Council.

**RETAIL TRADING HOURS AMENDMENT (JOONDALUP SPECIAL TRADING
PRECINCT) BILL 2009**

Declaration as Urgent

MR T.R. BUSWELL (Vasse — Minister for Commerce) [9.49 pm]: In accordance with standing order 168(2), I move —

That the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009 be considered an urgent bill.

I do not intend to speak for very long in justifying the urgency of this bill. Clearly, this legislation is a priority of the government. My understanding is that it has the support of the opposition, although, of course, as always, we look forward to the opposition's participation in the debate. The government is keen to clear this bill through the house as quickly as it can, so that if the opportunity presents itself, the bill can be considered in the upper house. Because the progression through that place of legislation from this place is the subject of some delays at the moment, the situation is largely unpredictable. However, our view is that we would like this bill cleared through this house, so that, if it is possible, it may well be transmitted to and dealt with by the other house as quickly as possible. Clearly, there is a strong desire in Joondalup, as expressed by the local council; the mayor; and the local member, the member for Joondalup, to have this legislation put in place, and, from our point of view, the sooner we can do it, the better.

MR M. McGOWAN (Rockingham) [9.50 pm]: Once again, the opposition will support the bill being declared an urgent bill. This will be the fourth time that we have done this in the past three parliamentary sitting days, and it is the second time today that it has happened. It means that the bill has not sat on the table for proper scrutiny for an appropriate amount of time. Although we accept and will support this legislation going through this house, I make the point again, as I expect I will make it on many occasions during this week, that it is an outrage for the government to have on the notice paper 14 separate pieces of legislation for debate. It is way too much, and it shows a haphazard and lackadaisical way of managing the business of this house when the government brings forward 14 separate pieces of legislation in this three-day sitting period of the house. With some of this legislation, the government expects to go through every single stage of debate, not only in an urgent sense, but in succession, so there is no delay between each stage of debate on each piece of legislation. We have just experienced debate on one such piece of legislation. We took some time to consider the mines safety legislation. It will impose a tax on the mining industry of many millions of dollars, on my estimation, over a four-year period—at least \$60 million, \$70 million or \$80 million—and should have received some consideration by the house. This bill also deserves some consideration by the house. It would have been far better if the government had brought it in a lot earlier so that we could give it proper consideration. We had this debate a little earlier today before the mines safety legislation came on. We spent probably four or five hours considering the mines

safety legislation, as we should have done. If members had heard the speech of the member for Collie-Preston and the speech of the member for Cockburn, they would know why it should have received that consideration. As I said, 20 pieces of legislation have been passed by this house.

Mr F.M. Logan: Twenty-one.

Mr M. McGOWAN: It is 21 now. I think two of those bills were objected to violently by the opposition. However, 21 pieces of legislation have been passed by this house since 15 September. Therefore, the government cannot argue that there has not been cooperation from the opposition. It would have been far better if, at the beginning of the year, there had been an allocation of perhaps 25 sitting weeks. Then, if we had excess sitting weeks, we could delete them from the diary; if we had too many sitting weeks, we could take them away. It is not a hard thing to do. When three weeks are slotted in, people have to change their diaries and events in their electorates and cancel overseas trips. Even the birth of children can intervene. Sometimes the timing of that particular event can be controlled. All those things are often planned by members of this place. If the government were to allocate a period of 25 weeks, members could plan around that. If there were excess weeks, the government could take out two, three, four or five weeks. That is a much simpler way of managing the business of the house than to allocate 17 weeks at the start of the year, and then add in three more weeks, as has been done, and have this incredible rush to deal with this legislation in the last week of sitting.

Having said all that, we will give this piece of legislation proper and appropriate consideration, as we did with the mines safety legislation. I understand that the opposition will support the legislation. However, I wanted to make the point that there are better ways of managing the business of this house than what has been going on in this place in the past couple of sitting weeks.

Question put and passed.

Second Reading

Resumed from 17 November.

MR F.M. LOGAN (Cockburn) [9.54 pm]: I rise to speak on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. The bill, in its structure, is a very simple bill in that it seeks to do a number of things. It seeks to amend section 12 of the Retail Trading Hours Act—this goes to the real content of the bill—by deleting the word “tourism” and inserting instead “special trading”, thereby changing the nature of the precincts, as they are defined in the act at the moment, from tourism precincts to special trading precincts. This is a move that the opposition supports, because it reflects what those precincts are in reality. It does not try to confuse the issue or try to get around the issue of extending retail trading hours by defining them as tourism precincts, but simply calls it as it is; that is, they are special trading precincts.

Clause 5, which amends section 12A, does exactly the same thing; that is, it deletes “tourism” and inserts “special trading”. Thereafter, in subclauses (2) and (3) of clause 5, the bill adds to the definitions in section 12(4) of the act of “tourism precinct”, which will eventually be “special trading precinct”, the area of Joondalup, being the Joondalup special trading precinct for the area prescribed for the purposes of this definition. Subclause (4) basically amends the existing provisions of the act and changes Fremantle and Perth from tourism precincts to special trading precincts. That is really the guts of the legislation. On the face of it, it does not do a great deal. It simply brings about a number of simple amendments. The application of the act is, however, a significant change from the way in which business is done in Western Australia at the moment.

As the minister has already indicated in his previous comments on the urgency of this bill, Labor supports the bill, and we will support the bill. Why? We support the bill because it is in keeping with Labor’s approach to retail trading hours when in government in 2005 and our proposal to introduce trading until 9.00 pm, which was rejected by the then opposition, and the policy that we took to the election in September 2008. I will remind members what the policy said. Members should bear in mind that this policy reflected also the will of the people at the 2005 referendum; that is, we were not simply going back to the previous proposal that we had for nine o’clock trading that was taken to Parliament and rejected; and we then had a referendum, which, in turn, rejected the proposition to extend retail trading hours. It was a reflection of that, but it went to some of the content of what we are dealing with in the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009 tonight; that is, the Labor Party said, during the September 2008 election campaign, that it would increase the standard trading hours for general retail shops from 6.00 pm to 7.00 pm on weeknights, which I will come back to. This bill does not deal with that, but an order that will be issued by the minister, which we will talk about later, will deal with that. We also said that, if elected, we would create a new category of domestic goods shops—shops that sold, predominantly, white goods, furniture or major electrical items—that would be open on Sundays, in addition to standard trading hours for general retail shops. That is still a critical issue that has not been addressed by this bill, and there does not seem to be any intention by the government to address that critical issue at this time, an issue that will continue to be raised by industry players.

The third point of our policy was to create a new outer metropolitan shopping districts that would allow Sunday and public trading in specified locations over and above the existing tourism precincts that I referred to earlier of Perth and Fremantle, being the areas of Midland, Joondalup and Armadale. Labor's proposed trading hours for those precincts, as stated during the September 2008 election campaign, were Monday to Friday trading hours of 8.00 am to 7.00 pm; Thursdays, 8.00 am to 9.00 pm; and Sundays, 11.00 am to 5.00 pm. There was also a proposal to increase the trading hours in the Perth and Fremantle tourism precincts from the existing seven o'clock, after consultation with the councils in those areas.

The fifth point of the policy that we took to the election was to provide further support for small business employees through amendments to the Commercial Tenancy (Retail Shops) Agreements Act 1985. We have even attempted to do that by introducing amendments to the Commercial Tenancy (Retail Shops) Amendment Bill 2009, which I am sure the government is considering—I hope the government is considering them—and comparing with its own intention of moving amendments to the commercial tenancy act to further protect the interests of small business as a result of the extension of retail trading hours. That was the policy that Labor took to the election in September 2008.

This was the document that was provided to the general public during the election campaign and detailed the Liberal Party's policy on trading hours. The first four points were simply a criticism of Labor, and the overall Liberal view about deregulation and the referendum. I will quote the fourth point —

- The Liberals respect the decision of people at the referendum. Despite what Labor says, there was no time aspect to the referendum (they now claim it was for one term only – not so).
- In general, any deregulation should be done slowly, carefully and in stages, (we are talking about people's jobs and livelihoods).
- Western Australia can be different if we choose a different lifestyle (note Paris does not have Sunday trading).

The fifth point stated —

If elected to govern the Liberals will take into account both business and community views.

- The Liberals would work with industry to fix obvious anomalies.
- For a further step in deregulation the Liberals would want a broad agreement.
- Believe that an extension to weekday trading could possibly be achieved.
- The Liberals will seek to strike the balance between quality of life and commercial reality.

That was the Liberal Party's stated trading hours policy that it took to the 2008 election.

Mr E.S. Ripper: They've got a robust mandate!

Mr F.M. LOGAN: Leader of the Opposition, there was no reference to nine o'clock trading. That was the reason I quoted from that document. There have been plenty of statements made that that was the policy it took to the election, but it was not. What I quoted from was the policy it took to the election. There was no reference whatsoever to nine o'clock trading, although I will say that when questioned about what this means, the now Premier—the then Leader of the Opposition—indicated that he would prefer nine o'clock trading. I am not saying that it was not mentioned.

Mr J.M. Francis: It was mentioned.

Mr F.M. LOGAN: It was mentioned. But that does not mean to say that that was the policy, which, I think, is the difference between the opinions that we have put to the house and to the public, and the government's view. There is a difference. I understand that from the government's perspective there might be a slight difference, but when it comes to actual written policy, which is what journalists go back to, there is a difference between what the government stated in writing and an off-the-cuff statement of what the former Leader of the Opposition would actually like. One is policy; the other is just a statement that they may do something and what their best intentions might be.

Nevertheless, I believe that the bill before us actually reflects a significant proportion of, first of all, Labor's intention, when in government, to extend trading hours to nine o'clock, but also what it took to the last election in September 2008. For that reason, we have indicated that we will support this bill. My point is that I believe that Labor has actually been consistent in its approach and in its support for this bill. I say that by making reference to the last election and to what we were actually saying when in government.

When Labor was in government and it put forward nine o'clock closing and Sunday trading by way of legislative amendment in this house, those people who were in the house—I think Mr Speaker was—will remember very clearly the opposition that was put up to the government's proposals to amend retail trading hours, particularly in

the lead-up to the referendum. I have some lovely pieces of documentation with me, one of which was published in the lead-up to the referendum. This is a quote from the minister himself, who stated that he was voting no and no. That was a quote from Troy Buswell, Western Australian Liberal candidate. He said he was voting no and he was voting against any extension to retail trading hours. Amazingly, in the “NO and NO” campaign that was being touted at the time, guess who the member for Vasse was in company with? Right under the member for Vasse’s picture on the “We’re voting NO and NO” campaign is none other than Kevin Reynolds, secretary of the Construction, Forestry, Mining and Energy Union. Now, that is amazing company for the member for Vasse to keep—himself and Kevin. Right next to him, on the left —

Mr T.R. Buswell: If Kevin’s underneath, who’s on top?

Mr F.M. LOGAN: I will provide the member for Vasse with that information—maybe the member should not have asked, but I will tell him anyway. The other person voting “NO and NO”—I hope some of our Liberal colleagues sitting on the backbench are listening and remember this when it comes to voting no and no—is Margaret Court, “Committed Christian”. She stated, “I’m voting NO and NO”. I am listening to determine whether there are any committed Christians sitting up there on the back bench who will be voting no and no when it comes to the extension of retail trading hours, particularly when it comes to extended retail trading hours on Sundays in particular areas. We will be seeing exactly how they vote.

Mrs L.M. Harvey: We will be interested to know how you vote.

Mr F.M. LOGAN: I have told members how we are voting. If they cared to listen they would know that we are supporting this bill. It is very clear how we are voting; we are voting with the government.

On the left of this amazing document, which I do believe we should have framed—I might provide it to the member for Vasse as a birthday present one day, just to remind him—is none other than the bearded wonder himself at the time, Dan Sullivan, the then deputy leader of the Liberal Party. He was the leader of the charge on the vote no-no campaign. He was out there with his satchel collecting the money from IGA to ensure that he knocked extended retail trading hours on the head. He was out there collecting the dough; we all know about that, and how much he got for the no-no campaign and the forthcoming Liberal election campaign. Some interesting documents come up. Just for the record, some of the other people on the no-no campaign—this is a walk down memory lane—included Howard Sattler, Bradley Woods, Peter Fitzpatrick and Dee Margetts. The member for Vasse is in fine company here.

Mr T.R. Buswell: Where is Brian Burke?

Mr F.M. LOGAN: I think Brian Burke was on the other side of the paper, hiding away. I think he had his hand up the backs of some of those people on this sheet. Bob Maumill was on this list, and Brad Dunstone, and Jimmy McGiveron, secretary of the Transport Workers Union and another favourite of the member for Vasse. We see Martin Dempsey, another stalwart of the Liberal Party; Sue Walker, the former member for Nedlands; Frank Hough—good old Frankie; and Vincent Tan. For those backbench pastors up there, this is what I would call a very broad church. What was the idea that unified them all? Opposition to the extension of retail trading hours to nine o’clock. That was the thing that solidified all those people on that list. All I am doing is comparing the approach that Labor has taken, which I would argue very strongly is a consistent approach in government and in taking policies to the electorate, with the flip-flopping by former and current Liberal members of this house. I referred earlier to Dan Sullivan, the former member for Leschenault, and his role in getting the support of the IGA —

Mr E.S. Ripper: With the full authority of his then leader, the Premier.

Mr F.M. LOGAN: With the total authority of his then leader, who is now the Premier of Western Australia. I will make reference to another person who figures in the current Liberal government and his view of what was going on at the time. I refer to the *Business News* dated 11 November 2004, which quotes Paul Plowman, who ran the Franchises Against Inequitable Retailing—FAIR—campaign.

Mr T.R. Buswell: Who are you talking about?

Mr F.M. LOGAN: Paul Plowman.

Mr T.R. Buswell: Who is he?

Mr F.M. LOGAN: I think the member for Vasse might know him.

Mr E.S. Ripper: He will be written out of history. Soon the photographs will be airbrushed.

Mr F.M. LOGAN: Exactly—he might be airbrushed out of history very soon, but he is still there employed at the moment, and the member for Vasse knows who he is. The article states —

Mr Plowman said that the WA Independent Grocers’ Association had promised the Liberal Party \$200,000 for campaign funds if it retained the status quo.

The status quo at the time, of course, was no extension to retail trading hours. When I refer to the role that the Liberal Party played in the IGA campaign to oppose the extension of retail trading hours and the support that was promised, I think there is a person very close to the Liberal Party at the moment who knows a lot about what happened in the previous opposition to retail trading hours. Next time I go into IGA at Shenton Park, I had better not see the member for Vasse there. I will finger him if he is down there in Shenton Park.

I take members back to the issue of consistency and the views that have been expressed on retail trading hours compared with the bill that is before the house. I refer to *The West Australian* of Thursday, 26 June 2003, which states —

Opposition Leader Colin Barnett said the party room had yet to discuss the Government's move but he would not support the Bill if it was bundled with plans to extend weeknight shopping.

That is exactly what occurred. Basically, the Leader of the Opposition at the time was opposed to the extension of weeknight trading hours. Members should remember what was actually said before, and members of the public should remember what has been said before and compare it with what is being said now. Grahame Armstrong in *The Sunday Times* was far more scathing about Mr Barnett's position. He wrote —

Mr Barnett, at times, looks and sounds like an opportunist and a hypocrite.

...

Take shopping hours. The Liberal Party's ethos is free enterprise, yet Mr Barnett's position is to oppose further deregulation of shopping hours

Some other extraordinary contradictions come to light when we go back and look at previous positions of the deregulationists.

Mr T.R. Buswell interjected.

Mr F.M. LOGAN: We have got to go back and review history, member for Vasse.

Dr G.G. Jacobs: Get on with it!

Mr F.M. LOGAN: No, we will not get on and do anything of the sort. We have to go back and look at history, just to ensure that we learn by our mistakes and that we do not continue to repeat the same mistakes of history. I am just trying to help here. In my little researches about who said what at the time, I found an extraordinary report in *The Australian* of Saturday, 5 February 2005. Member for Vasse, guess who was promoting the extension of retail trading hours in Western Australia and supporting the position being taken by the then Labor government? None other than Peter Costello.

I know that the Premier has a great relationship with the former federal Treasurer. Clearly, the Premier of the day must have some impact on federal members, because here was the Treasurer of the federal party supporting the Western Australian Labor government's position when he said in an article in *The Australian* —

“On the east coast, in the major states, there has been deregulation. The experience, I think, has been a good one,” the Treasurer said.

“People have been able to get access to shopping. If they are working late at night, they can get access at night after coming home from work. If you've got a need to get something on Sunday, you can go out and get it on a Sunday.

Who does that sound like? Only recently I heard those statements being made in this place by the Premier. The statements I am quoting here were made in 2005 by the then federal Treasurer. What was the response of this state's then Leader of the Opposition to those comments by the Treasurer of the day? According to Kathryn Shine and Nigel Wilson of *The Australian*, the response by the then Leader of the Opposition was a very angry one. The article states —

His comments —

That is, the comments by Mr Peter Costello —

provoked an angry response from Mr Barnett, who has opposed longer trading hours, indicating he will vote no in a referendum held with the election on February 26.

Mr Barnett said of Mr Peter Costello—and they were wise words—that he should butt out of it and keep his nose out of Western Australia's affairs.

Mr C.J. Barnett: He came into our campaign uninvited, and got on the plane and flew out. I have had various explanations on what that was all about from a number of federal members from New South Wales and Victoria.

Mr F.M. LOGAN: Federal leaders tend to do that.

Mr C.J. Barnett: It was a remarkable show of support, and I did not lay eyes on him during his 10 or 12 hours in Perth.

Mr E.S. Ripper: I personally congratulated him.

Dr J.M. Woollard: Is the member supporting this bill? He has already taken 26 minutes and it is now 10.20 pm and he is still carrying on.

Mr F.M. LOGAN: Does the member for Alfred Cove want to go home to bed? She can go if she likes.

Dr J.M. Woollard: Some members get six hours' sleep from the time they get home on a Tuesday night and then come back for committee meetings. It takes them an hour to get home and an hour to get back.

Mr F.M. LOGAN: Boohoo—welcome to politics!

The SPEAKER: We have an entirely different issue before the house. I know that the member for Cockburn would like to return to this bill.

Mr F.M. LOGAN: Thank you, Mr Speaker, for defending me against the outrageous comments of the member for Alfred Cove.

I am dealing with the bill and I am putting to the house the consistent approach that Labor has taken to this bill compared with the statements that were made by government members when similar legislation was brought before this house. I think that members opposite would expect us to do that. Surely they would not expect us to let them get away with debating the bill without commenting on statements that they made in this house that were directly opposite to what is in this bill.

Mr C.J. Barnett: In fairness to me, the member should look carefully at what I said on the issue. It is a matter of fact that at that stage there was a majority of members in the Liberal Party party room who did not support deregulation. I was not one of them, but I was the leader and accepted the party's position. If the member researched further back, he will find a debate between me and the then Premier, Peter Dowding. I think it was on *The 7.30 Report*.

Mr F.M. LOGAN: With due respect to the Premier, as the then Leader of the Opposition, he played it very carefully in not only opposing the referendum but also making clear from time to time his support for the deregulation of retail trading hours. I accept that there is no doubt that even during the debate in this house the Premier's comments were in support of further deregulation of retail trading hours.

Mr C.J. Barnett: Sometimes in politics one gets snookered.

Mr F.M. LOGAN: That is correct. The Premier made some statements that indicated that despite his heartfelt intent for a review of the Retail Trading Hours Act, he had to go along with the party's view, which was to oppose further changes to the act and the extension of shopping hours.

The point I am making is that the opposition is supporting the bill, but I am highlighting some of the comments that were made when Labor, in government, tried to do a similar thing. I am putting to the house that we are taking a consistent approach, and I have highlighted that approach by referring to various policies and the comments that were made in previous debates, and that is a fair and appropriate thing to do.

I will move on to a serious issue that goes to the heart of the bill; that is, the whole concept of what the bill is about. What is the bill about? It is not only about allowing people to shop a greater number of hours; it is effectively a bill that is trying to introduce greater competition into the industry. It not only deals with retail trading hours, but also, by extending retail trading hours, it is in essence encouraging a greater mix of shops and level of competition in the marketplace. Therefore, we hope that with a greater level of competition, a reduction in prices will follow and that will be of benefit to all.

Mr J.M. Francis: More jobs.

Mr F.M. LOGAN: Yes, more jobs.

Mr J.M. Francis: So why not Joondalup? What is so different at Joondalup?

Mr C.J. Barnett: First and foremost this bill is about giving consumers choice. That comes first regardless of the state of competition or prices in the marketplace. The first thing is consumer choice.

Mr F.M. LOGAN: I will pick up on the Premier's point about choice. A choice only comes about when one actually has the choice. That choice comes when we have the number of players in the marketplace to actually have that choice between.

I draw the house's attention to some of the comments by Professor Frank Zumbo of the University of New South Wales, who is a specialist in competition policy, particularly in the area of consumer affairs. I will quote some of the points that Professor Zumbo made on trading hours and the issues of choice and competition. He stated —

So the issue of **extended trading hours** has raised its head again only to be (again) **dismissed because of a lack of numbers in Parliament**.

This has become **a sad cycle of debate** and ultimately stalemate.

...

Small businesses oppose deregulation of retail trading hours, big businesses and their shopping centre mates want more trading hours, and consumers have mixed feelings.

That sums up the situation facing Western Australia. Professor Zumbo also said —

Now, extended trading hours may give consumers some greater convenience **but longer trading hours won't on their own lead to more competitors or cheaper prices**.

Professor Zumbo highlights that what should be concentrated on is not only the extension of retail trading hours; that is only one small part of the component of reaching greater competition and more choice in the marketplace. Professor Zumbo refers to a number of things that can and should be done to achieve those ends. Restrictive covenants on shopping centres is one of the key points that he made.

When Professor Zumbo was in Perth recently, he quoted the restricted covenant in place in Ellenbrook as a classic example of the ability of the major grocery trading houses to restrict players coming into the market. That is not unusual. He pointed to a significant number of examples of restricted covenants in Western Australia and around the country that basically keep the other large grocery retailers out of those shopping centres, thereby constraining competition and choice.

We heard just a minute ago the Premier say that this bill is all about choice. He is right: it is about choice, but a change in retail trading hours by itself will not bring that about. There have to be other changes to the structures in and around the market that will allow greater choice and greater competition. A restrictive covenant over a shopping centre is one of the provisions that has been identified. Another provision that he identified is restrictive zoning laws that prevent the entry of new competitors to both major supermarket chains and major shopping centre landlords. Those provisions are the two critical provisions that Professor Zumbo believes are absolutely necessary if the government is to achieve the stated ultimate aims of greater choice in the marketplace, cheaper prices and more competition. The issue being put forward is not simply extended trading hours; that is only a small component of the argument.

The reality of what we are facing is that although this bill brings about an extension of trading hours only to Joondalup, there will be, in conjunction with the bill, further changes by regulation and ministerial order to the way in which shopping will take place in Perth. Those further changes will extend the current boundaries around the city of what was deemed to be Perth to Subiaco, Mt Hawthorn, Victoria Park and South Perth. The trading hours in these areas will be extended to 9.00 pm Monday to Friday and from 11.00 am to 5.00 pm on Sunday.

People may believe that Professor Zumbo is wrong and that there will be some magical change in the way in which shoppers will shop in those areas simply because of an extension to retail trading hours. Unfortunately the reality is that that will not be the case. Those areas will probably be more lively places and there will probably be significantly more shopping on Sunday—I agree on Sunday. However, I put it to the house that there will be no change to the way shopping is undertaken by consumers in their willingness to go out and spend any more money than they currently spend between Monday and Friday until 9.00 pm. The other reality check that we need is that the shops in those areas will probably not open. That is unfortunate for consumers but it is a reality in the economics of running a small business. The shops within the current boundaries of Perth precinct are able to open until 7.00 pm now but they simply do not. An extension of those hours to 9.00 pm will not encourage them or provide an incentive to them to remain open.

Mr J.M. Francis: That is what the regulations are about.

Mr F.M. LOGAN: The question of what the regulations are about is not the issue we are dealing with here. The issue is about choice, competition and cheaper prices. That is the endgame. That is the objective. Forget about the emotion of what the government is putting up; that is the objective at the end of the day. Cut out all the waffle on the way and go to what the whole point of this is about. The reality is that it is not going to occur. There may be some movement on Sunday; I agree with the Treasurer that when the majority of people talk about extended trading hours they want the opportunity to go out on Sunday afternoon and do some shopping for larger purchases.

I put it to the house that Labor has remained very consistent in its approach to retail trading hours. We do not disagree with the ethos of what has been put forward by the Liberal Party in this bill; that is, to extend trading hours to Sunday in Joondalup. We do not disagree with the proposals that will be put forward—not in this bill, but by way of ministerial order and regulatory change—to extend trading hours to 9.00 pm in those special trading precincts including, I am advised by the minister, Joondalup as well. The minister has indicated that the

government is seeking to take a consistent approach to trading hours across those special trading precincts. However, as Professor Zumbo has indicated, these changes will not bring about the objective of achieving greater choice, more competition and cheaper prices, which was stated by both the Liberal government and Labor when it was in government and now in opposition. It just will not do that. To dress up these shopping hours changes by suggesting in any way, shape or form that they will bring about that change in culture or that change in the nature of the economy is misleading consumers and misleading the Western Australian public. For all the emotion that goes around this debate, the extension of trading hours will be simply a choice for the retail shops themselves as to whether or not they open. There will be no benefit of choice for consumers because, unfortunately, the state of the economy at the moment and the cost pressures facing small business means they will choose to not open. That is a sad fact that all of us in this house must face. Having said that, the opposition supports the bill.

MR A.P. O’GORMAN (Joondalup) [10.37 pm]: I will not go over the issues the member for Cockburn raised about the Jekyll and Hyde nature of this debate that has been going on for quite a number of years. I think we all as members have changed our position, and we now have this bill in front of us in the house. Essentially, the bill is seeking to do two things—one is to change the name of a tourism precinct to a special trading precinct and the other is to include Joondalup as a special trading precinct. That is something the City of Joondalup has been pushing for for some time. I had an issue with calling Joondalup a tourism precinct, as I did not believe that accurately reflected the nature of the move there. There are actually no tourist destinations whatsoever in Joondalup central business district and the area that is proposed as the special precinct. There are a couple of coffee shops.

Mr A.P. Jacob: That is good coming from the local member!

Mr A.P. O’GORMAN: Listen! The member for Ocean Reef should just sit back in his seat for a minute. There is tourism over on the coast but it is not proposed that the special trading precinct will bring in Joondalup Resort. Be honest about it. The bill is not about tourism; it is about deregulating trading. That is what the minister has agreed to do with this bill by removing “tourism precinct” in the Retail Trading Hours Act and replacing it with “special trading precinct”.

He has recognised the truth in this issue and that is the only issue. Joondalup is a fantastic place. I encourage every member of this place to go there and play a round of crazy golf at Botanic Golf and visit Yellagonga Regional Park. They are tourism facilities.

Mr A.P. Jacob interjected.

Mr A.P. O’GORMAN: Hang on! We are talking about tourism destinations. If members go to Joondalup and visit Yellagonga Regional Park, Joondalup Resort or Botanic Golf, they will experience true tourism facilities. People go there for the experience; they do not go there to shop. That is why, given the wording of this bill, I can still support it.

The other thing is that Joondalup has long been considered the second central business district of the metropolitan area, but in name only shall we say. This bill, which provides for only Joondalup, seeks to bring in that trading precinct. Unfortunately, and quite rightly so at this point, the minister has not included in the bill the parameters of that trading precinct. When the minister makes his reply I hope he will provide some of the boundaries. I understand the boundaries include Joondalup Drive to Ocean Reef Road, as far as Moore Drive and Winton Road and the commercial precinct within Joondalup and the Joondalup CBD, incorporating Lakeside Shopping Centre, Boas Avenue and Grand Boulevard and surrounding areas. That is my understanding of where the precinct should extend—nowhere else.

When I started talking to small businesses in the area about deregulation of trading hours, they started giving me indications that trading on Sundays was their preferred option rather than extending weeknight shopping hours to nine o’clock.

Dr M.D. Nahan: Eighty-five per cent said they didn’t support it last time.

Mr A.P. O’GORMAN: That is right, 85 per cent did say that in 2004.

Dr M.D. Nahan interjected.

Mr A.P. O’GORMAN: The member should keep quiet for a minute. I will give him the results of my current survey. Something he has probably not done is consult his electorate. I did not get the same grade A response that I got last time, so my guess is that people are less concerned about it. We identified age groups in that survey, but I will not go into what the specific age groups wanted. One significant response surprised me. Mostly when we talked to seniors in our community they were pretty happy with the way things were, but the survey showed that 68 per cent of people over 61 actually supported Sunday trading. That was quite a surprise to me, but that is how it is and that is the way to go. We respond to our electorates and that is what I think I have done.

If the member for Riverton wants me to dump the surveys on his desk, I will because that is what the response was.

Dr M.D. Nahan interjected.

Mr A.P. O’GORMAN: I do not think it was. Once again, the member for Riverton works with models; he should go and play with his models. I work with my constituents. If the member for Riverton tells me that he has worked well in his electorate and is re-elected twice, he can tell me about it then. But for now, he can keep his mouth shut and let me get through what I want to say.

Dr M.D. Nahan interjected.

Mr A.P. O’GORMAN: Eighty-five per cent of respondents were against it at the time. The member for Riverton is 90 per cent idiot and 10 per cent half here. Why does he not just back off?

Withdrawal of Remark

Mr J.M. FRANCIS: Mr Speaker —

Mr A.P. O’GORMAN: I will withdraw my remark. Members in the veggie patch are very touchy tonight!

Debate Resumed

Mr A.P. O’GORMAN: I have spoken to my retailers in Joondalup. As I said, when I spoke to them about deregulation previously they indicated that their preference was for Sunday trading rather than mid-week extended hours.

Mr A.P. Jacob interjected.

Mr A.P. O’GORMAN: The Joondalup Business Association now says it does not support it. I do not rely on organisations on their own; I go and talk to people as well. The JBA does not support it, right?

Mr A.P. Jacob: I spoke with them a month ago and they told me they supported it.

Mr A.P. O’GORMAN: I have also spoken to some retailers—some very large retailers, and some very successful retailers, who have been in Joondalup for as long as I have—and they totally disagree with any deregulation in the Joondalup area. One particular retailer—I will not name him, because I have not consulted him to do that—says that if this comes in, he will probably put his business on the market and go. I reckon he is probably doing all right; he is making \$10 million or \$12 million a year in turnover.

Mr B.J. Grylls: Have you made him an offer?

Mr A.P. O’GORMAN: The member probably could not afford his business, I can tell him that!

There is a significant move in Joondalup for support for this bill. That is why we are supporting it. I have done a survey of my residents, and what has come back is that the majority of those residents are in favour of Joondalup —

Mr B.J. Grylls: How many responses did you have this time?

Mr A.P. O’GORMAN: As I have said, this time I had a very weak response compared with last time.

Mr B.J. Grylls: How many?

Mr A.P. O’GORMAN: It was just under 300. Last time, I had well in excess of 500. So it is a bit different. That is what we do in politics. We respond to our communities. I am responding to my community. I hope the minister will give us some indication of the boundary. I also hope the minister will give us some indication about Armadale and Midland, because they are two other areas that we think are strategic within the metropolitan area. They are regional centres, just like Joondalup. They are not as important as Joondalup—sorry, member for Armadale; I consider Joondalup more important.

Ms A.J.G. MacTiernan: You do not know how wrong you are!

Mr A.P. O’GORMAN: I would like to see this extended to Midland and Armadale. That would give us a good selection right around the city, so that everyone from all sides of this argument—there are not just two sides; I think there are many sides to this debate—will be able to see exactly how it plays out for people right around the metropolitan area. We will be able to see whether our small businesses can cope with the extended trading hours, and we will be able to see whether our big businesses keep their commitment and stay open for those hours. My guess is that some of these businesses will not stay open if they are not getting a lot of trade through the door.

The other funny thing that I found in my survey was that we also asked people whether they intended to spend more. We had nearly 70 per cent of people aged over 60 years say that they wanted extended trading hours. But when we got down to asking people whether they intended to spend more, only 30 per cent of the people said they intended to spend more. That is not going to be enough to sustain many of the businesses. But that is what

people in Joondalup want, and we will support it. Some of the businesses have come to see me. The man who owns the fresh vegetable market told me that when he has finished trading on a Saturday, whatever vegetables he may have left over, he has to pack away and put into a coolroom, and if they are not quite as fresh, sometimes he loses stock over the weekend. He would like to have the option of selling those vegetables on a Sunday. I had similar approaches from the fishmonger and the butchers and other such people. There is a shift, because previously when I have spoken to those people, they were deadset against it.

The other thing people are concerned about is commercial tenancies. As the member for Cockburn has mentioned, the belief of people in commercial tenancies, and our belief, is that this bill will not adequately protect them. Certain things will need to be done in the commercial tenancies area to ensure that there is greater protection for small businesses. I think we all recognise that this state is built on small businesses. We need to maintain those small businesses. I am talking about not only the small businesses that are networked around the country, but also the independent small businesses that start with an idea of their own and build that up into a viable operation. This bill deals with only a very small matter. It does not even mention trading hours, because under proposed section 12A, the minister can already set the hours for trading precincts, or, as they are at the moment, tourism precincts. No hours are mentioned in this bill. This bill simply declares Joondalup as a special trading precinct and changes the tourism precincts of Fremantle and Perth to special trading precincts. That is probably the best way to go. As I said, it recognises the significance of Joondalup as a regional centre. Midland and Armadale will also be recognised later next year. We would probably support the bill if the government moved an amendment to recognise Midland and Armadale now. It is a good thing that we have a good spread around the metropolitan area so we can gauge public opinion and the effects and benefits on business. We will be supporting this bill.

The Mayor of Joondalup would be very concerned if an open slather approach was taken to deregulation of trading right across the metropolitan area. It would mean that Joondalup would not have those benefits. He would be fighting. We all know that he is a member of the Liberal Party and a strong advocate for the government's cause in the northern suburbs.

We will be supporting this bill. I will be proud to be out in the community telling people how good Joondalup is and that the place they need to shop at on the weekend is the special trading precinct between Ocean Reef Road and Moore Drive roughly, if that is what comes out in the regulations when the minister draws them up.

MR A.P. JACOB (Ocean Reef) [10.52 pm]: I will speak on the Retail Trading Hours Amendment Bill 2009 very quickly. I am delighted to finally see the bill make it to this house today. I have a long history of supporting this change for Joondalup. It is fantastic to finally see it in this house. I strongly commend the bill. I hope to see it move expeditiously through this place. I am particularly delighted that it was declared an urgent bill. It provides an opportunity to remove one of the longstanding impediments to the advancement of Joondalup as Perth's northern satellite central business district. I feel privileged to have been on the whole journey of this matter. However, it has taken far longer than I thought it would to come before us in Parliament. Some members may be interested to know that I was the original mover of the motion at the City of Joondalup in April 2007. I was one of the proponents of the motion, which was followed through in subsequent years and is now before us nearly three years later.

My involvement in this cause goes back to late 2006 when the newly-elected council first raised the possibility of the City of Joondalup proposing this matter with the then state government. However, this process was really initiated by the then acting Premier, the now Leader of the Opposition, in January 2006 when, in concluding a media statement, he said that it might be possible to consider whether, consistent with the referendum, there was significant support for any local interim measures such as tourism precincts. Tourism precincts were originally created for Fremantle and Perth by ministerial directive in 1995 through then Minister Foss. The designation permits full retail trading according to ministerial directive. The announcement by the then Leader of the Opposition went on through the council process and led to Joondalup City Council seeking tourism precinct status, which is now before us as special trading precinct status. The City of Joondalup sought to do this for four main reasons. Firstly, the Joondalup CBD was always intended to be the second city centre within Perth and tourism precinct status would support this. Secondly, the city's program of events, which it mainly runs in summer and often in the evenings and after hours, would be greatly complemented by extended trading. Thirdly, it would complement the business-friendly infrastructure that is already available in the City of Joondalup and would help to establish our CBD as the major retail hub in the northern corridor consistent with the ongoing plan for what we hope to see the City of Joondalup become.

Ms A.J.G. MacTiernan: Member, are you concerned about what's happening at Whitfords? That's going to undermine your aspirations for Joondalup.

Mr A.P. JACOB: One thing I will say is that most of the debate strayed into entirely separate issues. I would like to focus on the Joondalup CBD precinct at the moment.

Ms A.J.G. MacTiernan: That's right but your government's policy on Whitfords is the thing that is actually going to undermine Joondalup.

Mr A.P. JACOB: As I said, I do not wish to stray into the debate on 9.00 pm trading in general. Either way, this bill was going to come before the house. This bill was particularly focused on the possibility of Sunday and extended weekend trading in the Joondalup CBD.

The final reason that the City of Joondalup sought tourism precinct status—or special trading precinct status now—is that Joondalup is the centre for regional economic growth in the northern corridor, with a consistently high percentage of population growth that is matched by increasing economic investment in the region. Until earlier this year, I represented the southern region of this precinct, so I took a particularly keen interest in this issue when it was first raised in late 2006. I will be really honest with the house. Back then, I did not go into this argument with any set position. I went into it with an open mind and was willing to consider all the issues. Through that process, I came to the firm conclusion that this designation would be of fantastic value to our satellite city of Joondalup. This was clearly also the view of nearly all my colleagues, with only one councillor out of 13 elected members voting against the motion. That person is no longer an elected member, and tended to vote against everything that the Joondalup council put forward anyway. Therefore, I say that that represents as near a unanimous vote as there would ever be on the Joondalup council.

Support for this move has come from people in many areas of the community with whom I have discussed it. I will raise one of the suggestions that came from one of my constituents, who asked whether we could also give the City of Joondalup daylight saving status.

Mr A.P. O'Gorman interjected.

Mr A.P. JACOB: That is right. Residents have asked me about it. I said that we probably could not do it, but it would be nice if we could, given the incredibly strong support that we also had in the area for daylight saving.

Mr E.S. Ripper: Do they want it to be a republic as well?

Mr A.P. JACOB: Do not tempt me!

I congratulate the minister on the change of name in the bill from “tourism precinct” to “special trading precinct”. I agree that this far better reflects what the bill is about. I believe the term “tourism precinct” was a little deceptive when it comes to what the bill actually means. That is not to say, however, that I do not think we should explore the possibility of such a thing as a tourism precinct or that I do not think that consideration should be given to Joondalup being classified as some form of tourism precinct. I believe that there would be a lot of value to the region in exploring a way in which some sort of special tourism status could also be conferred upon the City of Joondalup. Along with retail trading, this was a big reason for the then council's support of this proposal.

I strongly support the provision of a special trading precinct for the Joondalup central business district, but I also believe that the classification of Joondalup as a tourism precinct could reflect some of the unique features and attractions of the area. This can be seen first and foremost in the fact that the City of Joondalup has the second most visited tourism destination in the state of Western Australia, that being the Hillarys marina. It also has the best golf resort in Australia in the Joondalup Resort, which is an award-winning —

Ms A.J.G. MacTiernan: You haven't been out to Araluen?

Mr A.P. JACOB: I have been to Araluen, but I prefer the Joondalup Resort. Joondalup Resort has been the best golf resort for three years running in the past five years, I think. That is a statistical fact. Yellagonga Regional Park is a particular favourite of mine.

Several members interjected.

Mr A.P. JACOB: It is magnificent. I will disagree with the statements that I read in “Inside Cover” earlier tonight. It is a fantastic ride on the dual-use path around the park.

Several members interjected.

Mr A.P. JACOB: I am not actually the member for Joondalup, but I will defend the Joondalup CBD. I think it has an awful lot of potential. When we look at the Perth CBD and its classification as a tourism precinct, I think we would struggle to say that it has any particularly strong tourism destinations beyond that which Joondalup has. Joondalup also has the potential to continue to develop in that respect. I will also say that, within the City of Joondalup, my electorate has some of the best tourism icons in Western Australia. I believe that, in iconic status, Mullaloo Beach gives Cottesloe a run for its money.

Mr A.P. O'Gorman: It is way ahead of it!

Mr A.P. JACOB: It is way ahead of Cottesloe. I thank the member for Joondalup. Unfortunately, Burns Beach was closed recently. I am really hopeful that in the future we will have the Ocean Reef marina, which will make Hillarys marina pale in comparison.

I believe that in many ways this bill is the City of Joondalup's moment. I think it is a bit unfortunate that a lot of the debate strayed into the debate on another bill that is in this house. That is why I want to focus on the area of Joondalup and say how fantastic the City of Joondalup is. I strongly encourage the minister to explore at some point in the future a way in which we can encourage Joondalup's status as a tourism precinct as well as a special trading precinct.

Mr J.E. McGrath: What about the Ferris wheel?

Mr A.P. JACOB: I will not comment on the Ferris wheel!

I will pick up very briefly on an interjection from the member for Joondalup. I also read the Joondalup Business Association's comments on the front page of the local paper. I found that particularly disappointing. I was conducting my own consultation prior to supporting this bill and it was the main business group that I first spoke to. It assured me that it supported it.

Mr A.P. O'Gorman interjected.

Mr A.P. JACOB: Within six weeks—that surprised me. But that is how it happens.

In closing, it is fantastic that we are finally here to see this come to fruition. I am led to believe that the bill will be supported. I thank the opposition for that. I do not think the opposition would dare oppose this legislation. I strongly commend this bill to the house. I hope to see it moved through this place as quickly as possible so that, as I said at the beginning of my speech, we can remove one of the longstanding impediments to the advancement of Joondalup as Perth's northern suburbs satellite central business district.

MS A.J.G. MacTIERNAN (Armadale) [11.01 pm]: It is with great pleasure that I support the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009 as it is the implementation of Labor policy. Labor went to the last election with a policy on trading hours. It included the recognition of the importance of allowing Sunday trading in our three strategic regional centres, as they were then known, in the metropolitan planning scheme. It is really important to reflect on the nature of the development of these three regional centres. In the member for Ocean Reef's contribution he used the term "satellite city". I do not think we would necessarily use that term. The concept of Joondalup was a very good one. I think the concept, in its original formation, came in the days of Sir Charles Court's government. A lot of effort was put into the development of that northern precinct and an understanding that we needed not a satellite, but, rather, an anchor out in the northern suburbs. The satellite concept is probably a discredited one. That was the concept we saw in South Australia. The concept that we had in Western Australia, with Joondalup, and later with these other centres, was very much one of an anchor to provide an area some distance from the Perth CBD as an alternative so that we could create employment, education and recreational opportunities in a node other than the CBD. It is very important to have that anchor.

One of the things that I came to appreciate during my time as the Minister for Planning and Infrastructure is that this stuff takes a long time to work. There is an argument that maybe the Joondalup Development Corporation was abandoned too early. I think it was there for 10 years or maybe more, but to do this big job of urban planning and to make it happen, to really get the implementation of those ideas, takes longer than 10 or even 15 years. It really takes a couple of decades to get that right. One has to be patient. One has to in fact quarantine certain land and say, "We can't get the intensity of development at this stage but we will quarantine that land and maybe allow it to be used as a car park or some interim use in the meantime." We need to recognise that after a time when we reach a critical mass of activity, we can get the scale of development that we need to make that work.

It has been a struggle in Joondalup; in part because we maybe did not appreciate how long it would take. I think now, looking at the experience of the East Perth redevelopment, the Subiaco redevelopment and what has happened in Bunbury, we are getting a greater appreciation of the time scale that is needed to really make things work properly. Certainly in the development of the Labor policy that we went into the last election with, it was recognised that we needed to beef up the capacity of these strategic regional centres, these anchors, to be able to compete and attract business and attract the right mass of retail opportunities to create jobs and diversities. That was a policy that was very much rooted in a real understanding of the planning issues and the realisation that we could not just zone something as a strategic regional centre and it would happen, but that governments actually have to drive this and put in place the regulatory regime and public sector investment to leverage private sector investment to make it happen. It is important that we make it happen. It is important that we have strong strategic regional centres that ensure that we have job, recreational and educational opportunities near where people live. We cannot continue with this fried-egg-style planning policy, in which we have this great yolk in the centre and the rest is an undifferentiated eggwhite.

Mr J.M. Francis: We're going to have an omelette!

Dr M.D. Nahan: No, we're going to have scrambled eggs!

Mr J.M. Francis: No, not scrambled eggs—just different eggs. Member for Armadale, seriously, I know it's late, and I am a little bit slow —

Ms A.J.G. MacTIERNAN: Perhaps a Spanish omelette!

Mr J.M. Francis: — but what is so special about Armadale that is not special about Cockburn?

Ms A.J.G. MacTIERNAN: Part of the problem with the “Directions 2031: Draft Spatial Framework for Perth and Peel” policy that was introduced is that it seeks to break down entirely these hierarchies of centres. If we do not have hierarchies of centres, we do not get the critical mass for which we need to minimise the transport task and to maximise the capacity for people to have something in their region where we can create those opportunities for employment and recreation facilities, and to make it possible to provide decent public transport. Without these intense nodes of activity, we will not be able to deliver an effective public transport system that will service our community.

All these policies are interrelated. The shopping policy is related to the centre of hierarchies and the public transport policy, with the aim of ensuring that we have got activity spread throughout the city, and that we predetermine a range of centres that will have that critical mass of activity. This is the issue I raised about Whitfords shopping centre: one of the complexities now is that bigger department stores are allowed to go to Whitfords, which will, in turn, undermine Joondalup's capacity to function as a strategic regional centre. The vision for Joondalup was to have a lot of medium, or even high-density, housing, but there must be street life to attract that, and it is the same with Armadale and Midland.

Mr J.M. Francis: But when you fall out of the cast of that streetlight, what will happen when Armadale is allowed to trade? Obviously, you support Armadale trading, but the member for Cockburn doesn't support Cockburn trading, so it can't. What happens to the guy who owns the JB Hi-Fi in Cockburn Gateway who used to sell 20 big-screen televisions a day on a Saturday but now he only sells 10 and is laying off staff because people are going to Armadale on a Sunday instead of buying them there? You are creating jobs and growth in your area at the expense of another.

Ms A.J.G. MacTIERNAN: That exists under the current situation, because Perth, Fremantle and, sort of, Rockingham can already trade.

Mr J.M. Francis: Rockingham is only during school holidays.

Ms A.J.G. MacTIERNAN: Therefore, it is sort of happening already. The question is: how do we get the best balance and how do we leverage off these shopping hours to serve bigger purposes, which are to spread activity across the metropolitan area? Currently we have Perth, Fremantle, and bits of Rockingham; that does not make sense. We have got three other major corridors.

Mr J.M. Francis: And Cockburn as well.

Ms A.J.G. MacTIERNAN: It is a somewhat difficult question, because Fremantle is trading. Therefore, if Cockburn was approved, it would have a very real consequence for Fremantle. The government has to think about that. All the planning laws that we have create restrictions; that is the nature of planning laws. However, these strategic centre policies aim to allow some centres to create that critical mass. As I say, we have Perth, Fremantle, we sort of have Rockingham and we have Mandurah down the other end. It is pretty obvious that there are three corridors that do not have a fully developed retail anchor. There are a number of disadvantages with that in that it reduces the attractiveness of those centres generally in not only their commercial operations, but also the other investment that will come in if we develop that critical mass, such as denser housing around that city centre because we want to create a street life and to attract more private sector investment, which is what we have been working very hard to do in those three centres. Joondalup has the Joondalup Development Corporation, Midland has the Midland Redevelopment Authority, and Armadale has the Armadale Redevelopment Authority, all of which are designed to try to enhance and strengthen these anchors on the edge of those corridors.

I want to raise another issue too. Certainly, I think Sunday trading for these centres makes sense. We feel that we can certainly support that because we went to the election and said that if people vote for us, they will be voting in favour of Sunday trading in these particular centres.

Mr J.M. Francis: Would you agree, though, that as a result of your policy, where you have —

Ms A.J.G. MacTIERNAN: And your policy now! It is a bipartisan policy.

Mr J.M. Francis: We are bound by you, but as a result of your policies —

Ms A.J.G. MacTIERNAN: No, you are not bound by us. We are not the government. Unfortunately, as members opposite often point out to us, we do not have the numbers in this place, so the government is not bound by us.

Mr J.M. Francis: I do not want to sound like a cynic, but I will tell the member what the people in my electorate think, and correct me if I am wrong or they are wrong. They think that three areas will get this because the three Labor members in those electorates support it, but the ones who do not support it, like the member for Cockburn, will miss out. But would the member agree then —

Ms A.J.G. MacTIERNAN: I can assure the member that that is not how that policy was developed. Why would the member for Cockburn not support it?

Mr J.M. Francis: That is an excellent question because I am waiting for him to do his backflip on this, because I will tell the member one thing —

Ms A.J.G. MacTIERNAN: I have explained to the member that what we were trying to do and what we were looking at was how we have to drive the development of these anchors. It is not easy; merely zoning spaces and areas does not deliver it. We actually must do a lot more to drive the development and to make these strategic regional centres strong enough to compete with the Perth central business district. It is actually a big and difficult task, so we agreed that we would support these three strategic regional centres, which would then give us a spread across the metropolitan area. Each of the four corridors would then have an anchor that was able to sustain Sunday trading and, one would think, attract bigger retail enterprises to their centres.

I must say that there is a great deal of concern, certainly in my area, about weeknight trading. The concern is not ideological; it is simply a straightforward business proposition; that is, people in the suburbs do not by and large shop after seven o'clock at night—they do not. From seven to nine o'clock on Thursday nights the shops are dead throughout Armadale, Kelmscott and Westfield. The worst trading period is the late-night shopping night. If we institute late-night shopping every night of the week, it will be very, very difficult for these enterprises because they simply do not make any money out of it.

Mr J.M. Francis: So, they do not have to open, but that is not the point.

Ms A.J.G. MacTIERNAN: I would like to see the supporting legislation that the government will introduce that will give those businesses the protection not to have to open. We know that pressure is applied, and that fundamentally this is being driven by Coles and Woolworths.

Mr C.J. Barnett: It is not.

Ms A.J.G. MacTIERNAN: Who is driving it then?

Mr C.J. Barnett: It is being driven by us wanting to give consumers a choice about when they shop. It is as simple as that.

Ms A.J.G. MacTIERNAN: We talk about choice, but I think it is really interesting that in the Melbourne central business district—the great Kennett wonderland of deregulation—we do not find a single shop open after six o'clock on any night other than Friday night. Not enough people want to shop. We have to understand the realities of how shopping centres work, and how they are all geared around the major tenant. Everything in the way that those businesses are structured is related to what makes Coles and Woolworths happy—what do Coles and Woolworths want? If we are to have any extension to weeknight trading we must make sure that there are ironclad guarantees for shop owners and, quite frankly, the government will not be able to deliver that. If the shopping centre says it wants a business to open because Coles and Woolworths want to open and the small business determines not to do so, it might not be possible for that business's lease to be terminated, but when the lease comes up for renewal and it is in the hands of the shopping centre owner, there will be 1 001 ways, and every excuse imaginable will be used, to not renew the lease. That will not happen in every case, but we know that the small store owner is very much a secondary business for these shopping centre owners. They need their anchor to be happy, and their anchors are almost inevitably Coles and Woolworths. That is just the reality of how power is structured within the shopping centres.

Having said that, the Labor Party is pleased that its policy of extending Sunday trading to these strategic regional centres is being embraced. The minister will be aware that I wrote to him over a year ago and suggested that he might like to consider giving Sunday trading to Armadale. It is certainly not as if we have been reluctant parties to this. It is a good move, and it probably makes economic sense. To have Sunday trading across the entire metropolitan area might not make economic sense; however, it serves the end of delivering a range of choice across the metropolitan area and not just in the central area and the south west corridor. It extends that choice to the northern corridor, and hopefully we will see it extended to the north east corridor and the south east corridor.

Mr J.M. Francis: Honestly, all politics aside, in the next couple of months—to you too, Leader of the Opposition—when you're heading south down the freeway and you've got five minutes to kill, get off at Cockburn, have a look on both sides of the railway line and come back and tell me why Armadale and why not Cockburn. What is so different?

Ms A.J.G. MacTIERNAN: I have just explained that to the member and he obviously was not listening. It is not that the Cockburn argument is entirely indefensible, but we also have Fremantle and Rockingham, both in the south west corridor. The south east corridor, the north east corridor and the northern corridor have nothing.

[Member's time extended.]

Ms A.J.G. MacTIERNAN: That is a difference. It is a complex issue. In the fullness of time, Cockburn will emerge as a strategic regional centre, but it is not there yet. We have to manage the consequences of this. It would have real ramifications for Fremantle if we were to do this.

As I say, there is nothing new about restrictions. All planning law is about restrictions; all planning law is about creating environments in which we can deliver a particular outcome. We know and understand that we have to develop critical mass in these anchor centres if they are to fulfil the objectives of the planning scheme—that is, to ensure that opportunities for employment and recreation are spread right throughout the metropolitan region. If those opportunities are too diffuse, we will lose them. This is an evolutionary thing. In 20 years it might be entirely different. The very sensible way to proceed at the moment is to create these extensions in Joondalup, Midland and Armadale. They will create stronger centres, they will spread opportunities throughout the metropolitan area and they will create opportunities for these strategic regional centres to fulfil their planning objectives within the metropolitan area.

MS A.R. MITCHELL (Kingsley) [11.21 pm]: I rise to support the legislation, and I will do so very briefly. It is important that we recognise that this approach by the City of Joondalup occurred quite a while ago; it did all the hard work back in 2008. I take this opportunity to recognise the member for Ocean Reef, or as he then was, Councillor Jacob, who on 24 April 2007 moved that the council move to gain this tourism precinct and to support the growth and development of the City of Joondalup, which my electorate falls within, although the shops in my electorate will not be able to afford themselves of the benefits of this trading precinct. Having said that, it is absolutely imperative that we have a major trading precinct in the northern suburbs. I am sure that many people do not really understand the size of the growth that has occurred in this area in recent years. Most people will have driven through Armadale at some stage to go south or down to Albany or through Midland at different times to go east. But because the road north to Geraldton does not go through Joondalup, not many people truly understand the growth of this area and how important this northern city centre is to the future of Western Australia.

I can understand that some people would ask why people would go to Joondalup for tourism, even though aspects of the area are very much tourism focused. Once again, I commend the City of Joondalup for the marvellous way that it has planned and used its events, markets and festivals to encourage people to attend activities in the centre. It is not just buildings; it is activities. Certainly, making this area a trading precinct will facilitate further the effectiveness of the vision that the city had many years ago. I will also provide an explanation for those people who have not been to the area because they will not quite understand it. I am not talking about a shopping centre, although there is within the proposed trading precinct a shopping centre, the Lakeside Joondalup Shopping Centre, that has the normal shops that people would expect in that type of environment. The proposed boundaries of this trading precinct that have been mentioned by the Treasurer will certainly encapsulate a much broader range of retail shops. There are fashion shops in the shopping centre, but people can drive along Joondalup Drive and out to other areas to purchase just about anything. It really gives the people who want to buy something specific or just have a wander a great opportunity to see everything they could possibly want to see. I do not think the Perth trading precinct or the Fremantle trading precinct provide those opportunities. This area is rather unique and will set the standard for a trading precinct. I certainly commend the concept of tourism precincts. Although I believe that Joondalup could have done that, the trading precinct covers it better. The retail industry is the largest industry in Joondalup and the surrounding area. It does not have a lot of light industrial industry. This is a great opportunity for that industry to grow as the feature industry of the area, which will benefit the entire area. The retail industry will excel and attract other businesses to the area that have not been attracted to the area previously. These opportunities will see growth in the northern regional centre become even more expansive. It will be done quickly and well. I conclude by saying that although the retail trade in my electorate will not be able to benefit directly, my constituents will be able to access the trading precinct in Joondalup. The shops in my electorate look forward to having those opportunities in the future.

MR T.R. BUSWELL (Vasse — Minister for Commerce) [11.26 pm] — in reply: I will make a couple of comments to close the second reading debate on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. In doing so, I thank those members who have made a contribution, including the member for Cockburn in his very inaccurate 41-minute rubbery reflection on the history of retail trading. I do not intend to incite his passions by correcting some of his errors, suffice to say that it would be fair to say that in this place many members have held many views over an extended time and perhaps that is what we are seeing. What matters, of course, is the view is that brought to the chamber when the vote is taken. I am pleased to note the opposition's support for the bill.

I will touch on a couple of matters that were raised. The member for Joondalup, who is not in the house, sought some information from me about the parameters of the Joondalup boundary. The City of Joondalup has made its submission through its wonderful mayor, his worshipfulness Troy Pickard, who is a great ambassador for the region and a great young individual—well, he looks young anyway! I will take members on a virtual tour of the proposed boundary. The boundary runs north down the Mitchell Freeway past Ocean Reef Road. That is where the precinct starts. That is the south-western corner of the precinct. Proceeding north on the Mitchell Freeway to Moore Drive, one would take a sharp right-hand turn and proceed down Moore Drive to the intersection of Joondalup Drive. Joondalup Drive goes past Arena Joondalup, which is the home of the mighty West Perth Cardinals. One would turn left on Joondalup Drive and proceed in a general northerly direction and meet a T-junction with Lakeside Drive. One would take a right-hand turn and continue south down Lakeside Drive. That is the eastern boundary. That goes around and back to Joondalup Drive, at which stage one would turn left and head south down Joondalup Drive and back up Ocean Reef Road. That is loosely what his worshipfulness, the mayor of Joondalup, is chasing. There will be a process to determine that. We will have to travel with our staff from the Department of Commerce and ensure that all those boundaries are appropriate. That will ultimately be brought forward by regulation. The important thing is that the regulation is an instrument that can be reviewed by the house. That is entirely appropriate in this case. We will use that boundary as a basis for the special trading precinct. The government does not desire to deviate from that, unless matters arise during the on-the-ground visitation.

The members for Cockburn, Joondalup and Armadale raised the issue of commercial tenancies. A bill to deal with that will be introduced into Parliament in the first sitting week of next year. The legislation will move through the internal committee processes on our side and we will make sure that the opposition is fully briefed on that bill. That matter will be dealt with by the government early next year. In addition to that, the government will also give consideration to Armadale and Midland. I assume I will meet with Mayor Charlie Zannino from the City of Swan and the relevant representatives from the City of Armadale early next year to understand the arguments and considerations they wish government to take note of. It is important to understand that, as the Premier has always said, we intend to proceed slowly and carefully on the path to regulatory reform in retail trading. We do not intend to open the floodgates. It is still our very strong desire for the Labor Party to support our very generous concessional offer of 8.00 pm closing for weeknight trading. I know it is something the Leader of the Opposition wants to support. It is still there on the notice paper, Leader of the Opposition.

Mr E.S. Ripper: What about the Small Business Development Commission; are you keen on that?

Mr T.R. BUSWELL: We are pretty keen to advance genuine reform. We put nine o'clock on the table, but the Leader of the Opposition offered only an extra four hours a week. That is not reform; it is not even a speed bump on the road.

Mr E.S. Ripper: You can have that tomorrow.

Mr T.R. BUSWELL: We will not accept something that is not even a halfway-house option. Our request is that the Leader of the Opposition give consideration to weeknight trading hours being extended to 8.00 pm. We will give him a bit of time before we introduce the bill, which we think is a valid step in the reform process. In this term of government, it would give us quite a tidy outcome, as I think the Premier more than adequately outlined to the house last week—an outcome whereby there could be weeknight trading till 8.00 pm across the metropolitan area and the expanded zones in Perth and Fremantle. I will be meeting next week with the new Mayor of Fremantle, the chief executive officer of Fremantle and the member for Fremantle to look at the footprint there. With extended hours in possibly Armadale and Midland, in addition to Joondalup, it would give us a tidy outcome for our first term of government. We will await with interest to hear the Leader of the Opposition's responses. Our hope is that, as we move out of the cloudy haze of the member for Belmont's first full year as Leader of the Opposition into the bright new future of 2010, he may awake in the new year with a different view. He may rid himself of that growth under his nose and think that a bright new dawn has emerged, and embrace some change. But we will wait and see what happens.

Mr F.M. Logan interjected.

Mr T.R. BUSWELL: That is a matter for further discussion. I do not want to talk for too long. I think the house has debated this matter in a thorough and robust matter.

However, there is one point I wish to make. The member for Cockburn talked about the choice of retailers to open or not to open. I think that is very important. We are confident that the amendments we will make to the commercial tenancy regime will give smaller retailers the protection they need. Yes, this is a bill that will involve changing behaviours from business. More importantly, this is a bill that will give consumers choice. The member for Cockburn said that, in his view, this was not about consumer choice.

Mr F.M. Logan: I said that it was about choice.

Mr T.R. BUSWELL: That was my recollection of his comments. Our view is that it is about consumer choice. I will not get my shopping basket; its contents have been largely consumed. In fact, my sons are eating the Weet-Bix at home at the moment. I am saving the toilet paper for one of the famous Liberal Party raffles; I think we will get a hefty premium for it! This legislation is about choice. It is about as simple a choice as this: a consumer who turns up at the Lakeside Shopping Centre in Joondalup—the subject of this bill—at one minute past six cannot go into the shops; he cannot go into the IGA in Joondalup, which I understand is a fantastic shop, as I am sure the member for Joondalup will agree. He cannot go into Woolworths at Joondalup; he is forced by the heavy hand of government to shop somewhere else. It is our view that consumers should have more choice. To extend shopping hours to eight or nine o'clock, as will be the case in Joondalup in the first instance, is to provide a retail trading regime reflective of contemporary life in Australia. At the end of the day, we are trying to provide consumers and retailers with a contemporary framework within which they can make the arrangements that customers and suppliers have always made. Various factors will influence that in different areas.

The member for Armadale talked about the fact that in Melbourne, a lot of the shops do not open even though they are allowed to open. She is right. When I was in Sydney recently, I strolled down that big, long street—Oxford Street. It was a very interesting experience. I saw people lining up at 10 o'clock in the morning to go into a nightclub! We do not have that in Busselton! There were areas in Oxford Street where all the shops were closed. But I then walked along the road for another half a kilometre, and there were areas where all the shops were open. Why? It is because the owners of those shops have obviously, through this marvellous mechanism called patronage and the forces of the market, decided that that is a good time for them to open, because that is when their consumers are in the habit of coming to shop there. That is great. That is how the system should evolve in this state. I accept the premise, and it is our position, that we are not necessarily about radical reform. We are about slow and careful reform. Mr Deputy President, in commending this bill to the house —

Dr E. Constable: Deputy Speaker!

Mr T.R. BUSWELL: Mr Deputy Speaker, my apologies! I have elevated myself to the upper house! I only hope that that is not my Christmas card that the Premier is scrawling in!

Mr C.J. Barnett: What makes you think I was going to send you a Christmas card?

Mr T.R. BUSWELL: I got one last year, Premier!

Mr E.S. Ripper: This year, you will be delivering the midyear review, so no Christmas card for you!

Mr T.R. BUSWELL: The Leader of the Opposition will be surprised by what will be in that midyear review!

Anyway, I think this bill is reflective of the government's intent—a slow, careful and well-planned approach to unwinding a retail trading regime that no-one would argue is anything other than complex, convoluted and confusing.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr T.R. Buswell (Minister for Commerce)**, and transmitted to the Council.

STATE FORESTS 4 AND 65

Partial Revocation of Dedication

Message from the Council received and read requesting concurrence in the following resolution —

That the proposal for the partial revocation of state forests 4 and 65, laid on the table of the Legislative Council on Tuesday, 10 November 2009, be carried out.

ACTS AMENDMENT (WEAPONS) BILL 2009

Returned

Bill returned from the Council without amendment.

House adjourned at 11.38 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

WAKATHUNI, BELLARY SPRINGS AND YOUNGALEENA COMMUNITIES — FUNDING

1819. Mr T.G. Stephens to the Minister for Regional Development

In reference to the Minister's visit to Wakathuni and Bellary Springs with Councillor Fernandez of the Ashburton Shire Council, can the Minister now make available to the communities a formal offer to follow up the Minister's verbal assurance that \$50,000 would be available from the Minister's portfolio for these communities, plus Youngaleena, to assist with the construction of a multi-purpose shelter and community meeting place?

Mr B.J. GRYLLS replied:

No verbal agreement was made.

I suggested to Councillor Fernandez that the local communities of Wakathuni, Bellary Springs and Youngaleena could apply for funding through the Country Local Government Fund in order to assist them with the construction of a multi-purpose shelter and community meeting place. I also advised Councillor Fernandez of the process of applying for this funding and recommended that these local communities apply.

COUNTRY AGE PENSION FUEL CARD — PILBARA VOUCHER PLAN

1820. Mr T.G. Stephens to the Minister for Regional Development

- (1) Is the Minister aware that senior residents of some towns in the Pilbara are unable to utilise the Pensioners Fuel Card as their local taxis cannot afford the machines to read the cards?
- (2) Will the Minister immediately put in place plans to supply pensioners in those towns with a form of pre-paid taxi voucher to substitute for the card so that these senior residents will not be discriminated against; and
 - (a) if not, why not?

Mr B.J. GRYLLS replied:

I requested the Department of Regional Development and Lands to investigate this matter. Twenty four Pilbara fuel outlets accept the Country Age Pension Fuel Card in the locations of Dampier, Karratha, Karijini (Auski Roadhouse), Newman, Onslow, Paraburdoo, Port Hedland, Roebourne, South Hedland, Tom Price and Wickham. By late October the 249 Pilbara card holders had expended more than \$60,000 on fuel products and \$2000 on taxi travel.

- (1) The card is accepted by four Pilbara taxi companies located in Karratha, Port Hedland and South Hedland. These taxi companies offer non-cash payment systems.
The card is not accepted by the taxi companies located in Onslow, Tom Price and Newman. I am advised that these companies do not offer a non-cash payment system and have never offered a non-cash payment system. I understand that one of the companies has new owners and is strongly considering the installation of a non-cash payment system. The other companies cite lack of demand for such a service. There is no evidence, as suggested by the Member for Pilbara, that the cost of machines to read the cards is a factor contributing to the decision not to move to a non-cash payment system.
- (2) The scheme commenced on 1 May 2009 and I am committed to improving the scheme where it needs improvement. During policy development and market research stages of the fuel card scheme, the provision of cash and/or vouchers was analysed at length, but was determined to have too many flaws by the Office of Government Procurement and the Department of Regional Development and Lands, due to the higher cost of administration and the higher risk of fraud. The Department of Regional Development and Lands is presently reviewing the scheme with a view to improving the scheme policy, product and administration. The Department of Regional Development and Lands is also re-examining local taxi voucher payment options.

ONE MOVEMENT FOR MUSIC FESTIVAL — FREE TICKETS

1822. Mr J.N. Hyde to the Minister for Tourism

The One Movement Festival was held the weekend of 17 and 18 October 2009 at the Esplanade in Perth and students and staff at Murdoch University were entitled to free tickets for the event valued at \$99 each, and I ask:

- (a) how many Murdoch students and staff had registered for the free tickets at the 11 October 2009 cut-off date;
- (b) will the free tickets be included in the attendance figures;
 - (i) if so, why;
- (c) will there be refunds for any Murdoch student or staff member who had purchased tickets before the opportunity for free tickets was given to them;
- (d) what process was in place to stop holders of the free tickets selling them; and
- (e) when was the offer first made to students and staff, and was it made due to low ticket interest?

Dr E. CONSTABLE replied:

- (a) Tourism WA is unaware of the number of complimentary tickets allocated to Murdoch University as this information is held as commercial in confidence by the Event organisers.
- (b) Yes, all complimentary tickets to the event will be included in the overall attendance figures.
 - (i) Irrespective of how a person accesses a ticket, they are still an attendee.
- (c) The Event organisers advised Tourism WA that they did not offer refunds to Murdoch University staff and students who had already purchased tickets.
- (d) Given online activity, anti-scalping measures to control re-sale of tickets is notoriously difficult to enforce. Tourism Western Australia is not aware of the resale of any tickets.
- (e) The Event organisers have advised that the ticket offer was not made to Murdoch University due to low ticket interest, rather this initiative was part of a broader strategic partnership between the event organisers and Murdoch University.

PUBLIC HOSPITALS — MAGNETIC RESONANCE IMAGING (MRI) MACHINES

1827. Mr R.H. Cook to the Minister for Health

- (1) Which public hospitals in Western Australia have a Magnetic Resonance Imaging (MRI) on site?
- (2) Does the Government plan to expand the number of MRIs over the next 3 years; and
 - (a) if so, where does the Government plan to locate these additional MRIs?

Dr K.D. HAMES replied:

- (1) The following public hospitals in Western Australia have a MRI on site: Sir Charles Gairdner Hospital (2); Princess Margaret Hospital (1); Royal Perth Hospital (1); and Fremantle Hospital (1).
- (2) Yes.
 - (a) A second MRI scanner is planned for Royal Perth Hospital, which is expected to be purchased and then commissioned in January 2011.

ONE MOVEMENT FOR MUSIC FESTIVAL — FREE TICKETS

1829. Mr J.N. Hyde to the Minister for Health

Given that One Movement Pty Ltd had received sponsorship from Healthway for the One Movement Festival, could the Minister please outline how many free tickets to paid events were offered to Healthway and how many were accepted?

Dr K.D. HAMES replied:

Healthway was allocated 40 tickets to the One Movement Festival of which 30 were utilised and distributed to sponsorship staff at Healthway and The Cancer Council of WA, and members of Healthway's Arts Advisory Committee.

These tickets were used in accordance with Healthway requirements to monitor One Movement's voluntary introduction of a smoke free policy on The Perth Esplanade and to assess the artistic merit and overall management of the event.

Healthway was also offered 6 All Access Passes but these were declined.

FIONA STANLEY HOSPITAL PROJECT — ABORIGINAL EMPLOYMENT

1830. Mr R.H. Cook to the Minister for Health

- (1) Can the Minister confirm that there is a requirement for a certain number of Aboriginal employees in the Fiona Stanley Hospital project; and
 - (a) if so, what is the number required?

- (2) How many Aboriginal employees are there currently under employment on the project?
 (3) How many Aboriginal apprentices are there currently under employment on the project?

Dr K.D. HAMES replied:

- (1) There is no requirement for contractors to employ Aboriginal staff on the construction of the Fiona Stanley Hospital Project.
 (a) Not applicable.
 (2)-(3) Nil.

COLLIE HOSPITAL — VACANT AREA USE

1866. Mr M.P. Murray to the Minister for Health

The closure of the Collie Hospital's Aged Care facility, Hillview, and the transfer of those patients to the new federally funded ValleyView complex have left a large area of Collie Hospital vacant. I ask the Minister:

- (a) are there discussions occurring to utilise this empty facility; and
 (i) if yes, what groups is the Minister in discussion with regarding this facility;
 (b) is the Minister undertaking discussions with Collie community members on the future usage of the site;
 (c) is the Department of Health in discussions to lease or sell the site;
 (d) if yes to either (b) or (c), what groups or organisations have indicated an interest in acquiring this facility; and
 (e) when will the Department of Health decide on the future of the Hillview site?

Dr K.D. HAMES replied:

- (a) Yes.
 (i) The WA Country Health Service (WACHS) — South West has been contacted by members of the Wellington District Advisory Committee and interested community members who requested a meeting with WACHS-South West.
 (b) The WACHS-South West is liaising with interested parties on behalf of the Minister for Health.
 (c) WACHS will invite expressions of interest (EOI) from community organisations interested in leasing accommodation at the site for a health related purpose.
 (d) A number of agencies/groups have informally expressed an interest and are awaiting the EOI process, to lodge a formal interest.
 (e) A decision will be made early 2010.

NEWMAN — LIGHT INDUSTRIAL AREA — WATER SUPPLY

1882. Mr T.G. Stephens to the Minister for Emergency Services

In reference to the Water Corporation's design standards for LandCorp's new Newman LIA subdivision that includes lot 18 Wonmunna Road, Light Industrial Area (LIA), Newman:

- (a) what is the water supply standard that has been applied for lots released in this development;
 (b) when did this particular standard come into effect;
 (c) will the Minister table the regulation and any other details that explains the water supply standard that has been applied to this land development; and
 (d) specifically, was this standard in place prior to the LandCorp putting these lots onto the market?

Mr R.F. JOHNSON replied:

The Fire and Emergency Services Authority (FESA) advises:

- (a) The potable water distribution network is managed by the Water Corporation for the vast majority of the State. The Fire and Emergency Service Authority of Western Australia (FESA) has established guidelines with the Water Corporation which detail fire hydrant requirements. The Water Corporation's Operating Licence requires minimum pressures to be met however in many locations actual water pressure is lower than the water flow and pressure required for fire protection systems installed to protect large commercial buildings.

The water flows and pressures required for firefighting systems in commercial buildings are specified in the Building Code of Australia (BCA). In this particular building, because of its size and intended use,

the BCA requires 20 litres/second at 200kPa. Hydrants tested could only supply 7.8 litres/second at 200kPa — a significant shortfall. Where the required water flow and pressures cannot be met, the BCA prescribes the installation of supplementary fire equipment, usually in the form of tanks and pumps or an alternative fire engineered solution may be proposed. An alternative solution must be endorsed by FESA and approved by the local government — in this case the Shire of East Pilbara.

- (b) The current firefighting water supply requirements for commercial buildings have been referenced in the BCA since its first issue in 1990. The FESA-Water Corporation design standard has been in operation since 2004.
 - (c) In any commercial / industrial estate in Western Australia, hydrants are located at 100 metre spacing in accordance with FESA-Water Corporation design standard. The hydrants located adjacent to this allotment satisfy this requirement, however they cannot provide the necessary fire fighting water at the required pressure and flow as specified in the BCA.
 - (d) FESA understands this land was released within the last two years. Both the FESA-Water Corporation design standard and the BCA firefighting water requirements for commercial buildings were in place prior to LandCorp placing these lots on to the market.
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