WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE ASSEMBLY

Tuesday, 17 September 1996

Legislative Assembly

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THE SPEAKER (Mr Clarko) took the Chair at 2.00 pm, and read prayers.

PETITION - CONCRETE BATCHING PLANT, EAST PERTH

MS WARNOCK (Perth) [2.04 pm]: I present a petition worded in a similar way to petitions I delivered in our last sitting of Parliament -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned call on the State Government to abandon the proposed siting of a concrete batching plant at 100 Summers St. East Perth.
>
> We submit that such a plant will produce unacceptable levels of noise, air and visual pollution and it is inappropriate to locate this facility in such close proximity to a primarily residential area.
>
> Your petitioners therefore humbly ask that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

The petition bears 16 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 130.]

PETITION - SENIOR HIGH SCHOOL, CANNING VALE

DR WATSON (Kenwick) [2.05 pm]: I present the following petition -

> To The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undermentioned people of Western Australia call on the State Government to:
>
> > oppose the location of a Senior High School abutting Comrie and Fraser Roads, Canning Vale, and
> >
> > propose that the Education Department identifies vacant Crown Land for a Senior High School to service the growing community of Canning Vale.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 247 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 131.]

PETITION - ALINTAGAS, REBATES

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [2.06 pm]: I present the following petition -

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

We, the undersigned call on AlintaGas to establish a scheme of rebates or discounts for senior citizens, pensioners and other low income earners.

AlintaGas is alone among the public utilities in not providing some form of assistance for low income earners and the elderly and we call on it to display social responsibility in conducting its business affairs.

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

The petition bears 178 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 132.]

PETITION - ABORTIONS, DILATATION AND EXTRACTION PROCEDURE

MRS PARKER (Helena - Parliamentary Secretary) [2.07 pm]: I present the following petition -

To the Speaker and Members of the Legislative Assembly in Parliament assembled:

The petition of certain citizens of Western Australia showeth:

That whereas current legislation permits the abortion of unborn babies when the physical life of the mother is deemed to be in danger, abortions performed under the "dilatation and extraction" procedure are in no way justified. This particular procedure, already followed by certain medical practitioners in other Australian states, inflicts horrific pain on the unborn child and has been justly outlawed in some other countries.

We, the undersigned petitioners, therefore humbly beg that the Legislative Assembly in Parliament assembled amend the existing legislation to prohibit any abortion performed under the "dilatation and extraction" procedure;

and your petitioners, as in duty bound, will ever pray.

The petition bears 1 082 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 133.]

PETITION - MT LAWLEY SENIOR HIGH SCHOOL, UPGRADE

MS WARNOCK (Perth) [2.08 pm]: I understand that more petitions on this subject will be presented on another day -

To: The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of WA in Parliament assembled.

We the undersigned, ask that urgent attention be given to the upgrade of Mt Lawley Senior High School. We believe that the said upgrade is essential in the interests of health, safety and equity of our students. To ignore this need poses a major threat to the quality of education provided.

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

The petition bears 174 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 134.]

PETITION - SCARBOROUGH BEACH, FOREIGN MATERIALS

DR EDWARDS (Maylands) [2.09 pm]: I present the following petition -

> To: The Honourable Speaker and Members of the Legislative Assembly of the Parliament of WA in Parliament assembled.
>
> We the undersigned people of Western Australia object to any foreign materials being placed on or under the white sand of Scarborough Beach such as clay, building rubble, rubber tyres, as seen during the recent EASTER ROUND UP.
>
> The introduction of foreign materials presents a situation to which no beach should be exposed.
>
> We therefore request that the beach never be subject to such use again.
>
> Your petitioners therefore humbly pray that you will give this matter your earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 040 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 135.]

BILLS (2) - ASSENT

Messages from the Governor and the Lieutenant Governor received and read notifying assent to the following Bills -

1. Consumer Credit (Western Australia) Bill.

2. Listening Devices Amendment Bill.

WESTPAC BANKING CORPORATION (CHALLENGE BANK) BILL

Returned

Bill returned from the Council without amendment.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

"A Guide to Local Laws"; Tabling

Mr Bloffwitch presented the Joint Standing Committee on Delegated Legislation's "A Guide to Local Laws" under the Local Government Act 1995, as subsidiary legislation under the Interpretation Act 1984, and on his motion it was resolved -

> That the report do lie upon the Table and be printed.

[See paper No 510.]

MINISTERIAL STATEMENT - MINISTER FOR FISHERIES

Fisheries Report, Tabling

MR HOUSE (Stirling - Minister for Fisheries) [2.14 pm]: This Government has initiated significant and positive changes within the Fisheries portfolio. They ensure a commitment to first class fisheries resource management,

quality consultative arrangements with client groups, fully open and accountable agency process and a variety of new practices and initiatives.

A number of issues were raised in the other place during last week's debated motion about fisheries matters. As the Minister responsible for the Fisheries portfolio, and to meet the commitment given by Hon Eric Charlton during the debate, I now table an update on specific items raised. My colleague will also table this information today.

It is important to understand that the primary focus of the Fisheries Department is to ensure the sustainable use of fish resources and protection of fish habitat. These resources presently support over $1b worth of direct and indirect activity and substantial individual and family involvement. This focus requires quality research and development, education and regulatory activities and a high degree of client consultation and cooperation. Some recent examples in support of this focus include -

new, wide-reaching legislation, the Fisheries Resource Management Act 1994;

a vastly improved budget position during this administration, which now totals $36m;

a new program structure in the agency which better targets priority fisheries and emphasises fish and fish habitat protection;

progression towards new research and development facilities; and

an extra budget allocation of $4.5m for aquaculture initiatives.

Complementing these new initiatives was the Fisheries portfolio review. The review set out to ensure that the portfolio was responsive to marketplace and industry development and that the agency was efficient and effective in servicing its clients and managing fisheries resources. Among other things, the review shored up support for the peak representative bodies; committed the partnership concept through management advisory committees; introduced the funder-purchaser-provider model; acted as a catalyst for further regionalisation; introduced cost recovery principles; and supported industry and other development funding. Each of the key client groups and the Government is committed to the review outcomes, which deliver openness and accountability, better customer service delivery and improved staff responsibilities and management processes.

I would also like to emphasise, however, that another consequence of major change is the prospect of uncertainty and the time required to bed down processes. It is very easy to concentrate on one or two of the old recurrent issues and lose sight of the overall picture of change and the improved performance levels. The Fisheries Department is now a modern natural resource management agency, better equipped, staffed and resourced to meet the demands for responsible management into the next century. It has also invested heavily in fisheries officer training in communication, supervision, performance management and professional standards. By their nature, fishery resource management issues are complex with competing interest groups demanding a share of the resource. This Government and the Fisheries Department will continue to be sensitive to this and ensure full and proper client consultation and involvement in the decision making process. In response to the needs of client groups, and through the ministerial portfolio review and the Fish Resources Management Act, this Government is delivering on those activities which are required to sustain Western Australia's fish resources.

[See paper No 509.]

MINISTERIAL STATEMENT - MINISTER FOR PLANNING

Metropolitan Region Scheme, North West Corridor Omnibus No 2 Amendment, Tabling

MR LEWIS (Applecross - Minister for Planning) [2.18 pm]: The State Government presents today the North West Corridor Omnibus No 2 Amendment which is the twentieth major amendment presented to the Parliament since this Government took office. The amendment I table today has promoted considerable public debate since its release in draft form in March. As a result of this debate a number of draft proposals have been deleted from the finalised document I am presenting to the House today.

I am sure it will be of considerable interest to members opposite that the proposal to rezone to industrial the Atlas Brick site in Mirrabooka has been removed from the amendment following a recommendation by the Western Australian Planning Commission. Public consultation is an important part of the planning process, which on this

occasion revealed a community expectation that, despite its current industrial use, the area would be converted to parks and recreation. There was also concern about the impact on residential amenity of existing and likely future industrial operations and a consideration that there was adequate provision for industrial land nearby. The depth of public concern in relation to this issue was highlighted at the recent Premier's community forum at Ballajura. The removal of the proposal to rezone the Alexander Drive site demonstrates that the amendment process is an effective planning mechanism in which the people of Perth can have great confidence.

Several members interjected.

The SPEAKER: Order!

Mr LEWIS: Be gracious!

A proposal to rezone to urban a 14.6 hectare public purposes site on the corner of Morley and Bottlebrush Drives in Kiara has also been deleted from the amendment. The member for Morley might be interested in this: In light of the public submissions there will now be further consultation between the Shire of Swan, the Department of Training and the Education Department on the future of the site.

Community support in relation to other proposals included in the amendment has ensured that nearly 300 ha of land will be reserved for parks and recreation purposes. The amendment rezones 220 ha on the corner of Wanneroo Road and Burns Beach Road from rural to parks and recreation, which is a significant step forward in securing a greenbelt between Lake Goollelal and Yanchep National Park. An extension to the parks and recreation reservation on the Maylands foreshore recognises the recreational significance of Bardon Park and will help to maintain the freshwater ecology of that wetland.

The State Government presents this amendment to the metropolitan region scheme after careful consideration of community opinion. I commend it to the House.

[See papers Nos 507 and 508.]

[Questions without notice taken.]

MOTION - TIME MANAGEMENT SESSIONAL ORDER (GUILLOTINE)

MR C.J. BARNETT (Cottesloe - Leader of the House) [3.00 pm]: In accordance with the sessional order for time management, I move -

> That the following items of business be completed up to and including the stages specified at 5.30 pm on Thursday, 19 September 1996 -
>
> 1. Statutory Corporations (Liability of Directors) Bill - all remaining stages;
>
> 2. Criminal Code Amendment Bill - all remaining stages; and
>
> 3. Home Building Contracts Amendment Bill - all remaining stages.

Only three Bills are subject to time management this week, two of which have been debated in the Legislative Council. The first two Bills, although important, are not large or complex pieces of legislation. The Home Building Contracts Amendment Bill is also an important piece of legislation which provides compulsory home indemnity insurance to increase protection for consumers who are either building or buying new homes or renovating existing homes. I anticipate that members on both sides of the House will support that legislation.

It is also the intention of the Government to deal with the Censorship Bill and the Electoral Legislation Amendment Bill this week, although not subject to time management. I had originally indicated to the Opposition that the electoral Bill would be subject to time management. However, on consideration, that would be inappropriate. As with the Budget Bills and some sensitive social Bills, that Bill should not be subject to time management. However, I hope we can deal with the electoral Bill this week. I anticipate that the whole of Thursday will be available for debate on that legislation. That will depend on progress. Once a Bill has received adequate debate, it will be

reasonable to have it subject to time management the following week. However, I anticipate our dealing with that legislation this week.

MR RIPPER (Belmont) [3.01 pm]: The Opposition opposes this motion in principle because we have rights as members of Parliament. We are elected to do a job for our constituents, to scrutinise legislation and to have our say about the laws that will apply in this State. This motion has the effect of limiting those rights that we have been elected to exercise. It has the effect of restricting our ability to fulfill our obligations to our electors. The motion is also contrary to the way in which this Parliament has traditionally operated. It is only under this Government that we have seen the frequent use of the guillotine motion. The previous Labor Government used the guillotine, but very rarely. This Government has not been prepared to extend to this Opposition the same courtesies as were extended to it by the previous Government.

Mr Nicholls: The coalition was a responsible Opposition.

Mr RIPPER: I remember that Opposition forcing us to debate a Bill twice. That Bill had already progressed through this House. I cannot remember the precise reason for the problem, but the current Leader of the House had a hand in the ensuing debacle when he was managing opposition business. We ended up debating a piece of legislation twice in this House. No wonder he wants a guillotine each week, when he reflects on his behaviour and the potential for the Opposition to frustrate the programs of the Government.

During the last sitting week the Opposition did not unduly frustrate the Government's program. For example, during that week the House passed a Bill beyond the weekly guillotine list. The shame of it is that the week before that, we witnessed a savage application of the guillotine on the Vocational Education and Training Bill and the competition policy Bills.

Mr C.J. Barnett: You chose to suspend standing orders to debate a ridiculous issue.

Mr RIPPER: One week we debated only four clauses of 72 clauses of a very important Bill. One week we could not have Committee debate on the competition policy Bills, which have very important implications for the future of Western Australia. However, the next week we were able to pass a Bill in addition to those to which the guillotine applied. It is obvious that we debate Bills at the convenience of the Leader of the House. We debate Bills according to his estimation of their importance, not according to what we think should be proper scrutiny.

Mr C.J. Barnett: I know that you do not like this sessional order but, in fairness, I do advise you the week before, and rarely do you suggest any changes. Occasionally, you do.

Mr RIPPER: Occasionally I do. Occasionally, I suggest changes, but they are not accepted.

Mr C.J. Barnett: Often I accept them.

Mr RIPPER: Often the progress of debate on a piece of legislation cannot be estimated accurately in advance. It depends on the number of people who wish to speak, the issues that might arise in Committee, and the responses the Minister gives. Often the Committee stage is unduly prolonged because a Minister is obstinate in providing information to the House. The Minister for Labour Relations has often prolonged debate on Bills through an aggressive and uncooperative stance in response to the Opposition's questions.

The Royal Commission into Commercial Activities of Government and Other Matters recommended the reform of Parliament. It said that Parliament should be the centrepiece of an improved accountability system. This sort of motion runs contrary to the spirit of those recommendations and to the practices of this House over a long time. The Leader of the House has introduced a new phenomenon, the weekly guillotine. He is imposing on the Opposition a much stricter straitjacket than ever was imposed on a coalition Opposition by a Labor Government.

MR BROWN (Morley) [3.06 pm]: I join with the leader of opposition business in opposing the motion, for all the reasons he has outlined. It is ironic that the Government continues to move this motion and push through this place Bill after Bill when we have seen within a relatively short time, because of the ineptitude of drafting, or the ineptitude of the Minister or the instructing officers, those Bills brought back for correction. On the one hand, the Government says that we must use the time of this House efficiently and effectively. On the other hand, because it does not allow time for scrutiny in this place, time and again Bills are returned to correct the mistakes made six, 12 or 18 months earlier. If one believes in the processes of this House, one hopes to have sufficient time for this House to debate the

various provisions. Look at the amount of time we spent in this House debating the Government's boot camp! We debated that legislation at length, over many hours in this House.

The Government was obstinate in its view that the boot camp had to be established, and that it was the Government's solution to juvenile crime in this State. The Government would not listen to reasoned argument or take on board the very comprehensive views of the Opposition. It would not listen to any reason. It adopted a high and mighty view that it alone was blessed with sufficient knowledge to deal with the matter. As a result, the Government's boot camp failed abysmally. Not only did we debate that issue once, as a Bill before this House, but as recently as this year - three sitting weeks ago - we debated another Bill amending the Young Offenders Act, dealing with the boot camp. At the time the Government had before it the report of former judge Kingsley Newman, which recommended that the boot camp be abolished. Notwithstanding that, it insisted on guillotining its Bill through the House which left the boot camp in place and simply modified the rules under which it operated.

This House has repeatedly experienced such absolute pig-headedness. No matter how constructive the Opposition's suggestions may be, Ministers do not want to listen. They adopt a high and mighty approach, believing that they, and they alone, have the wisdom of Solomon, and that nothing we suggest can improve the legislation. To reinforce that attitude, Ministers guillotine legislation through without respect for this place. Frankly, that is not good government and is an abuse of Parliament. Therefore, members must try to examine Bills while Ministers switch off, put on ear muffs and do not listen to any arguments presented.

Ministers not only are unprepared to listen to arguments, but also constrain the time available to the Opposition to present its views. When I tell young people that this House deemed to allow not quite seven hours to debate the important issue of vocational education in this State - a measure concerning the skills and future of young people - they think it is a disgrace, and I agree with them.

[The member's time expired.]

Question put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Mr House	Mr Shave
Mr C.J. Barnett	Mr Johnson	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Mr Court	Mr McNee	Mr Tubby
Mr Cowan	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mrs Parker	Mr Wiese
Dr Hames	Mr Prince	Mr Bloffwitch *(Teller)*

Noes (20)

Ms Anwyl	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mrs Henderson	Mrs Roberts
Dr Constable	Mr Kobelke	Mr Thomas
Mr Cunningham	Mr Marlborough	Dr Watson
Dr Edwards	Mr McGinty	Ms Warnock *(Teller)*
Dr Gallop	Mr Pendal	

Pairs

Mr Omodei	Mr Graham
Mr Blaikie	Mr M. Barnett
Mr Osborne	Mr D.L. Smith
Mr Kierath	Mr Leahy

Question thus passed.

CRIMINAL CODE AMENDMENT BILL (No 2)

Second Reading

MR PRINCE (Albany - Minister for Health) [3.16 pm]: I move -

That the Bill be now read a second time.

The Government shares the community's concern about the prevalence of home invasion offences and acknowledges the devastating effect which such offences can have on the lives of victims. Home burglary is a predatory crime which touches the lives of many people. It not only involves the expense of damage to or loss of property and the risk of serious personal injury, but also leaves victims with the sense that the sanctity of their homes has been violated. Police statistics and surveys of crime victimisation show that home burglary is all too common. Recently publicised findings of a study of community perceptions of the risk of crime victimisation confirm that people in Western Australia, like those in other States, are fearful of being a victim of such an offence. A manifestation of this concern is that home owners have sought clarity in respect of their rights to protect their property and, in particular, the circumstances in which they may use force to defend themselves and their family. These issues are addressed by the Criminal Law Amendment Bill which is currently before the House. That Bill -

makes it lawful for a person to use such force as is reasonably necessary to prevent the commission of any offence - not only an "arrestable" offence as at present;

enables a person to defend his or her house against entry by a person thought to be attempting to commit any offence - not only an indictable offence; and

replaces the definition of "dwelling house" with a broader definition which encompasses any place used for human habitation.

The aim of the present Bill is to deter burglars and to incapacitate those who commit such offences by providing for much tougher penalties. The existing provisions relating to burglary are contained in section 401 of the Criminal Code. Section 401 was amended in 1991, eliminating the concept of "breaking and entering" and replacing it with the offences of, first, entering or being in the place of another person without that person's consent with intent to commit an offence therein; and second, committing an offence in the place of another person, when in that place without that other person's consent. Both offences carry a penalty of 14 years' imprisonment when dealt with on indictment.

Prior to 1991, a distinction as to penalty was made between committing an offence in relation to a dwelling house and in relation to some other type of building, the former carrying a greater penalty. In addition, because of the greater likelihood that the occupants would be present, a greater penalty was available when a dwelling was broken into at night.

When the Criminal Code was amended in 1991, the distinction between types of buildings was retained for purposes of summary conviction only. The effect is that when an offence is dealt with on indictment, the statutory penalty for home burglary is no different from that for other forms of burglary. At the same time, the overall maximum penalty for burglary at night time was reduced from 20 years' to 14 years' imprisonment. The Murray review's recommendation that the code be amended to provide for graduated penalties for offences with aggravating circumstances was not implemented.

The purpose of this Bill is to -

reflect the gravity of home invasion offences by creating a new offence of home burglary distinct from burglary in any other place, with a more severe penalty;

give effect to the Murray review's recommendation that a higher maximum penalty should apply to the offence of burglary committed in circumstances of aggravation; and,

address the problem of recidivist home burglars by providing for the imposition of a mandatory minimum sentence where the offence forms part of a pattern of such offending behaviour.

Specifically, the Bill -

(1) differentiates between burglary in a place ordinarily used for human habitation and burglary in any other place by creating a new offence of burglary in a place ordinarily used for human habitation with a more severe maximum penalty of 18 years;

(2) increases the penalty for burglary committed in circumstances of aggravation to 20 years' imprisonment in order to reflect the extreme seriousness of the offence; and,

(3) provides that if a person convicted of an offence of home burglary has two or more previous convictions for such an offence, the court must sentence the offender to a minimum of 12 months' imprisonment or, if the person is a juvenile, to at least 12 months' imprisonment or 12 months' detention.

The scheme for the determination of whether a person convicted of an offence of home burglary is a repeat offender is simple and avoids the difficulties presented by the Crime (Serious and Repeat Offenders) Sentencing Act 1992. A person becomes a repeat offender if, prior to being convicted of the commission of the present offence, he or she committed and was convicted of a relevant offence and, subsequent to that, committed and was convicted of another relevant offence.

Circumstances of aggravation are defined to include circumstances in which, at the time of the commission of the offence, the offender either was or pretended to be armed; was or pretended to be in possession of an explosive; was in the company of another offender; caused bodily harm to another person; threatened to kill or injure another person; deprived any person of his or her liberty; or knew or should have known that there was another person, other than a co-offender, in the place being burgled. These elements are consistent with the definition of the circumstances of aggravation which applies in other parts of the Criminal Code.

The Bill also provides that burglary committed in circumstances of aggravation may be dealt with only on indictment. Similarly, if the offence involves any property to the value of more than $10 000, the offence is not to be dealt with summarily.

This Bill complements the amendments to the Criminal Code contained in the Criminal Law Amendment Bill 1996 relating to the protection of person and property. The Bill targets the unacceptable prevalence of home invasion offences and burglary involving circumstances of aggravation; reflects the views of the community and the Legislature that current penalties are manifestly inadequate to deter offenders and fail to give due weight to the distressing effect of these offences on victims; and responds with far tougher penalties where the burglary involves home invasion, involves circumstances of aggravation, or is part of a pattern of repeat offending. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) BILL

Second Reading

Resumed from 27 August.

MR SHAVE (Melville - Parliamentary Secretary) [3.22 pm]: This Bill was second read in this House by the Minister representing the Attorney General. It is part of the Government's anticorruption package. It specifically addresses a concern that arose out of the findings of the Royal Commission into Commercial Activities of Government and Other Matters, the WA Inc royal commission. The Bill has a number of benefits that have become necessary as a result of what happened in the WA Inc years, the 1980s. It brings the position of people sitting on government boards and authorities under the same regulations as those to which people who sit on the boards of private companies are exposed. The royal commission and the Government were very concerned about a number of things that occurred during the 1980s.

Ms Anwyl: That is why you moved so quickly to bring this legislation into this place.

Mr SHAVE: If the member listens, she will learn.

Mr Thomas interjected.

Mrs Henderson: And why you breached the convention by rising to your feet first.

Mr SHAVE: Those opposite are very critical of the Government, but when they were in government they were negligent and their performance was very ordinary. That is the stark reality, the truth, and that is what the people of Western Australia recognise. I am concerned with the attitude of some of the participants in those events. I refer specifically to the Leader of the Opposition, who says that he was never related to those WA Inc issues.

I will take the Parliament through a chronology of one of the WA Inc deals that occurred in the 1980s. In 1985 Mr Brush, then Chairman of the Government Employees Superannuation Board, entered into a deal with Connell and Bond through the Midtown Property Trust purchasing a 50 per cent share in the David Jones site that was to be known as Central Park. In this deal the GESB put up all the money. Midtown was to pick up half of the profit without having to outlay half of the money.

The share market crashed in 1987 and Connell sold his share to Bond on 24 December 1987. On 9 June 1988, the now Leader of the Opposition became a board member of the GESB. Bond found himself in trouble as a result of the share market crash and the then Government wanted Bond out of the deal. It was looking for someone to resolve the problem it had. It transpired that a Mr Anderson became involved in the deal through one of his companies, Esjay Shelf Co Pty Ltd. Effectively, he took out Bond; he went into the deal.

The way in which that buy-out was transacted is particularly disturbing. It formed one of the terms of reference looked at by the royal commission. With regard to that transaction, we must look at the conclusions of the royal commission about what occurred. Mr Anderson effectively told the GESB, or its representatives, that he was prepared to take Bond out of the deal, but he did not want any of the liability. He said, "If I take him out and put some money into this deal, if it gets messy or if you lose money, I want a situation where I can get my money back and I am not exposed at all." That is a gilt-edged deal for any businessman. It is very good if people have enough money to put into a deal and can receive half the profits, and if the deal goes bad, they get their money back, especially if it is being funded by someone else.

Mr Marlborough: Is it as good as the deal the member for Wanneroo had with the brother of the member for Wellington where he was loaned $250 000 and he did not have to pay it back?

The SPEAKER: Order!

Mr SHAVE: I am not acquainted -

Mr Marlborough: No, but the Parliament is.

Mr SHAVE: We have heard allegations from the member for Peel before. His shining star is looking very tarnished at the moment.

When Mr Anderson transacted this deal in June 1988, the now Leader of the Opposition was sitting on the board of the GESB, and Mr Anderson and the board worked out a way whereby Mr Anderson could limit his exposure. It was done in the form of a put option by which a guarantee was obtained from one of the parties under various conditions that none of the money that was put in would be lost. The royal commission was obviously very concerned about that transaction. These are some of the conclusions the royal commission made while the Leader of the Opposition was on the board of the GESB. Paragraph 22.37.6 states -

> The put option transaction exposed GESB to the risk of having to acquire the entire site and thereafter, having to bear directly 100% of the cost and risk of the development without recourse to any other party . . . The disastrous financing arrangements of May 1985 relating to Central Park had placed GESB in an unenviable position . . . As at June 1988, no contract for the office tower on the development had been let although the moment of truth was rapidly approaching.

This is the scenario: The GESB and the Government faced a dilemma. They wanted to work out how to get rid of the problem. They wanted to get Bond out of the deal, and they looked to one of their supporters for help. He came in with the money and said that he was prepared to offer finance, but that if he did, he did not want any exposure: If it fell in a hole, he wanted the Government and the GESB to be responsible.

Dr Gallop: Who do you think you are when you make these silly speeches?

Mr SHAVE: It is fine for the Deputy Leader of the Opposition to say that, but it will be on the record that although the member may scream and may try to denigrate what I say, his leader was directly involved in one of the rotten WA Inc deals. He is in it up to his neck.

Dr Gallop: You are disgracing this Parliament with your speech. Sit down. Who do you think you are?

Mr SHAVE: I am reading directly from the royal commission report.

Dr Gallop interjected.

The DEPUTY SPEAKER: Order!

Dr Gallop interjected.

The DEPUTY SPEAKER: Order! The Deputy Leader of the Opposition knows that members do not continue to interject when I am on my feet, and he continued for a considerable time. In fact, he could have racked up three formal calls to order. I formally call him to order to remind him that he must recognise the need to be quiet when the Chair is on his feet.

Mr SHAVE: Paragraph 22.37.9 of the royal commission findings states that evidence exists that a put option of some sort was discussed at the meeting of the board on 28 June 1988. That is the finding on paper from which I am quoting.

Dr Gallop: There is no reference to the Leader of the Opposition in this report. You have no principle.

Mr SHAVE: The royal commission finding is that the board of the GESB, of which the Leader of the Opposition was a member, discussed a put option on 28 June 1988 in relation to a property deal in which we assume it was involved. The royal commission states also -

> The document being discussed on that occasion was materially different from the document which was finally executed by Mr Rolston and Mr Edwards.

Paragraph 22.37.10 of the report states -

> A special meeting of GESB was held at 8.30 am on 30 June 1988 at which all members of the Board were present and at which the only item of business recorded in the minutes as having been discussed was the purchase by Esjay of an interest in Central Park.

Mr Marlborough: Is this another Elliott research package?

Mr SHAVE: Elliott who?

Dr Gallop: You've become a disgrace to your party.

Mr SHAVE: The member makes me laugh. The findings continue -

> At that meeting, specific authority was given to Mr Edwards to sign a letter varying the terms of the 10 May 1985 joint venture agreement to substitute Esjay for Midtown but the minutes are silent on the question of the put option which was executed by Mr Rolston and by Mr Edwards later that same day.

On 28 June at a board meeting there was discussion of a put option. Early on 30 June at a special meeting a document was executed which transferred Bond shares to Esjay Pty Ltd.

Dr Gallop: Don't you have any pride in your own personality? You are demeaning yourself.

Mr SHAVE: It does not come down to pride; it comes down to the truth. The member is screaming because I am getting close to his leader, and he feels uncomfortable about that. He does not like it. Like his predecessors, he has tried to hide the truth.

Dr Gallop: Let's see your true nature. Bubble it up to the surface. We want to hear what sort of person you are. Bring it out.

Mr SHAVE: I will bring it all out. Paragraph 22.37.15 of the royal commission findings states -

> It is clear that at the meeting of the Board on 28 June 1998, the members were aware that a put option might be required to cover Mr Anderson's company for its outlays.

Dr Gallop: It's funny it never made a finding on it.

Mr SHAVE: It is very funny. The special meeting was held after 28 June when Anderson made it clear that he would put up the money, but would not be exposed. On 30 June, a day and a half later, the deal was done. The Government at the time was subject to a great deal of exposure in the royal commission findings from what transpired as a result of this deal. Members can read about it. I have marked the place it can be found in the report.

Dr Gallop: Come on!

Mr SHAVE: The member does not like hearing it, but it is the truth. The conclusion some people could reach is that the board was not aware of what was occurring. If the board was not aware of what was happening, it should have been aware.

Mr Marlborough: Will this new Bill sort all this out?

Mr SHAVE: Absolutely.

Mr Marlborough: It'll sort out the Court marina?

Mr SHAVE: The royal commission did not talk about the Court marina deal. It spoke about the Rothwells deal and the State Government Insurance Commission deal in April 1988 when $300m-worth of Bell Group shares were purchased and became virtually worthless. I am sure the Deputy Leader of the Opposition knows a little about that. The third issue was the GESB deal. This legislation proposes to make those people who are in positions -

Dr Gallop: What is most important to you about the world in which you live: Respect for your fellow human beings or the sludge in which you swim?

Mr SHAVE: When I am a director of a company I know that if I do the wrong thing I pay the price.

Dr Gallop: Do you?

Mr SHAVE: Yes. Many of the deputy leader's fellow members were in a protected position - in a sheltered workshop.

Dr Gallop interjected.

Mr SHAVE: This legislation is designed to ensure that the things that happened in the 1980s do not recur. We would not be here today discussing the Leader of the Opposition -

Mr Thomas: We are not.

Several members interjected.

Mr SHAVE: If he had not been on that board there would not have been a problem.

Dr Gallop interjected.

Mr SHAVE: The problem is that he was on the board and the deal that was done between June 1988 and December 1989 was shrouded in deceit.

Dr Gallop: It is funny that the royal commission made no findings on that.

Mr SHAVE: I have read the findings.

Dr Gallop interjected.

Mr SHAVE: I have read the findings. They are straight out of the royal commission report. The deputy leader should read the report. The terms are there and I have highlighted them. I will give them to the deputy leader later.

Dr Gallop: Joe McCarthy has nothing on the Parliamentary Secretary.

Mr SHAVE: If the Deputy Leader of the Opposition thinks that by denigrating me he will stop me exposing the Leader of the Opposition for what he is, he is mistaken.

Dr Gallop: Is that what you are doing?

Mr SHAVE: That is exactly what I am doing.

Dr Gallop: I thought you were throwing mud.

Mr SHAVE: No, I am just telling the truth and reading what is in the royal commission report. Let us say that the current Leader of the Opposition did not know anything about a put option. That is not what the royal commission report stated.

Dr Gallop: No-one is listening to you.

Mr SHAVE: The deputy leader is listening. That is why he is screaming.

Dr Gallop: I am screaming because you have no personal pride and I am concerned about your mental health. Let us bring on the Mental Health Bill.

Mr SHAVE: The deputy leader is screaming because he is getting very irritated; he does not want to hear this. He is a political person and he knows that this GESB deal, in which his leader was involved, will haunt the Labor Party at the next election.

Dr Gallop: No it is not. You think it is because that is the only way you can think.

Mr SHAVE: Yes it is. The Labor Party was the guilty party in June 1988 and in 1989.

Dr Gallop interjected.

Mr SHAVE: We have a Deputy Leader of the Opposition saying that everyone but he is guilty.

[The member's time expired.]

Dr Gallop interjected.

Mr SHAVE: I would like an extension of time.

The DEPUTY SPEAKER: Order!

Dr Gallop: His time is up.

The DEPUTY SPEAKER: Order! The Parliamentary Secretary did not sit down, although I thought he was going to. I was prepared to give the deputy leader the call, and I will as soon as I can. However, the Parliamentary Secretary has requested his extra 10 minutes and he is entitled to that. The member for Melville.

Mr SHAVE: The result of this rotten Central Park deal was that more than $100m of taxpayers' money was lost. The Deputy Leader of the Opposition wants me to feel some sort of remorse for the people involved in that deal.

Dr Gallop: No, I want you to respect the royal commission and its findings.

Mr SHAVE: I have no remorse for the people involved in that deal. There are too many people coming to my office every day looking for help in obtaining medication or heart transplants and every other sort of assistance because others lived under the protection of this legislation during the 1980s. When I come into this place and hear members opposite - of all people, the guilty party - telling us that we are a bit slow with the legislation -

Dr Gallop: You are very slow.

Mr SHAVE: If we are a bit slow with the legislation, how slow were members opposite to put up their hands in the party room?

I can only commend the Minister and the current Government for this legislation. It saddens me that we have had to spend two or three years drafting it so that the Australian Labor Party cannot perform in a similar manner if it ever gets back into government, which seems unlikely.

Dr Gallop interjected.

Mr SHAVE: I learnt when I was a young man that if I were guilty of something I copped it sweet. If not, I kept quiet. Members opposite definitely should not come into this place and say, "I am living in a dream; I was not involved in any of this. They took a nice picture of me when I was on the super board but I was not involved in WA Inc; it was not me. Dowding was involved but I was not." He was involved and the Deputy Leader of the Opposition knows he was.

Dr Gallop: You have no pride.

Mr SHAVE: I have plenty of pride.

Dr Gallop: No you have not.

Mr SHAVE: The deputy leader does not like hearing this because it is too close to him.

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [3.48 pm]: Mr Deputy Speaker, I apologise to you for my earlier comments interrupting your ruling. I made them because of the disgraceful speech given by the member for Melville.

It is a very clear tradition and convention of this Parliament that the right of reply to any second reading speech lies with the Opposition. It is a very simple convention; good manners, apart from anything else, would mean that the Opposition would have been given the opportunity to put its point of view first. However, the member for Melville could not honour that tradition. He breaks such conventions because he cannot help himself. I do not know who gave him the job; he is either self-appointed or the Premier's office put him up to it. One of the Premier's advisers was in the gallery listening to ensure that the words came out correctly. The member has been given this silly little job to try to throw mud at the Leader of the Opposition.

The Opposition has made it clear since 1992 that it will respect all the findings of the royal commission, and we have. We have respected and agreed to carry out all the recommendations. We have nothing to hide. It was the member for Melville who treated the royal commissioners with contempt in his recent speech. He did not bother to look at any of the considered findings. We know where he is coming from and we know what standard he has set for himself in this Parliament in respect of these issues. It was very obvious to us on this side of the House that most of his colleagues were not willing to listen to that type of speech. The only members opposite who stayed to listen were those who had to because of their duties as Whip or Leader of the House. We know in what esteem the member for Melville is held. He should rethink his politics and the stand that he has taken in recent days. He is demeaning himself and setting himself up for defeat in his electorate. The public does not like that style of politics.

I know many people in the electorate for which he is a candidate for the forthcoming election who are in major positions in community groups and they will vote against him because they do not like his style of politics.

Mr Shave: Would you like a little wager on who will win?

Dr GALLOP: I will not bet.

Mr Shave: Of course you will not!

Dr GALLOP: It is not part of my nature to bet, but it is obviously part of the member for Melville's nature. The member is demeaning himself and the party he represents. What is even more tragic is that he is undermining his own position. Phillip Adams once wrote a very interesting article in *The Australian* about what he saw as the contradictions of politics. He said that whenever a politician does something to create an end, he actually creates the opposite. This is a classic example. The member for Melville thinks that by coming into this place and giving a wonderful speech on behalf of his Liberal colleagues he is undermining the Leader of the Opposition and destroying the credibility of the Labor Party. However, he is actually undermining his own credibility. It is the law of contradiction and it applies throughout politics all the time. He is a great example.

The House should really be considering the Statutory Corporations (Liability of Directors) Bill, which has the support of the Opposition; however, it will raise a few issues. One of the major questions faced by modern Governments is how to deal with the issue of the duties and responsibilities of directors of statutory authorities. Directors could include board members, commissioners and trustees. Whatever their title, it refers to those people appointed to boards of statutory authorities in Western Australia. Two sorts of claims are made on these directors. The first is their responsibilities to the Government and, in particular, the Minister of the day. The Burt Commission on Accountability very clearly argued that the doctrine of ministerial accountability should apply to all government agencies, for the simple reason that if the notion of Parliament and parliamentary government is to be preserved, the doctrine of ministerial responsibility must apply. This would provide a link between what happened in government and what happened in the Parliament and that could be made public to the people of Western Australia.

The first claim on a director of a government corporation is his responsibility to the Government and the Minister of the day. The second claim made on the directors, trustees or commissioners of government agencies is that the interests and welfare of that agency are their responsibility. This is where we bring into the equation the doctrine of personal liability, which is normally applied in the private sector, as outlined through the Corporations Law and the set of conventions which have been built up through legal interpretation.

One of the hardest questions which have faced Governments - regardless of which jurisdiction they are in and certainly in those parliamentary systems of government - is how to bring together ministerial responsibility, on the one hand, and personal liability, on the other. It is a very difficult issue to work through. Before the 1980s this was not such an obvious issue because circumstances and the political culture were different. In addition, the emphasis was more on ministerial responsibility than on personal liability.

Mr Bloffwitch: Would it not be more of a personal obligation, not liability?

Dr GALLOP: Either one. I think the liabilities flow from the obligations. I take the member's point that perhaps it is a better way of putting it.

The development of more commercial activities on the part of Governments and the notion that Governments should be more competitively neutral vis a vis the private sector, meant that there was more independence of government agencies. Therefore, the doctrine of personal liability was developed as an alternative conception of accountability rather than as ministerial responsibility to the Parliament. However, because we could not get rid of ministerial responsibility, we were left with a contradiction which had to be resolved in some way.

In the 1980s certain problems were brought to the surface and were analysed by the royal commission and recommendations followed. This legislation tries to find a solution to that question. The sources for this legislation are worth noting. There are three sources and it is interesting that the member for Melville has done so little research on this topic that he was not even aware of the background to the development of this legislation. The first source was legislation moved in the Legislative Council in 1989 and 1991 by the now Attorney General, Hon Peter Foss. He introduced legislation in that place outlining a way in which we might look at the issue of personal liability.

The second source for the legislation was a report prepared for government in 1992 based upon a committee chaired by Bruce Sutherland, who is now the head of the Department for Commerce and Trade. It was a report which was done for me as Minister at that time. The report was on codes of conduct and personal liabilities for directors of government enterprises.

Thirdly, there was the report of the Royal Commission into Commercial Activities of Government and Other Matters in November 1992. Members in both Houses of this Parliament were waiting for that report to get some direction on what should be done about this complex issue.

This legislation has been a long time in coming. The point I make to the member for Melville, who is not in the Chamber, is that the work for the legislation was actually done in the early 1990s, culminating in the royal commission report of 1992. The Government was in a position to move more quickly on this legislation than it has done. The Government's excuse for not moving quickly was given in the second reading speech; that is, the issue of the behaviour of certain individuals in government had been referred to the Director of Public Prosecutions. That is fine, but what was referred to the DPP was the specific matter and not the general matter of how the governance of statutory authorities should be organised. In respect of that, the framework was in the Foss legislation of 1989 and 1991, the Bruce Sutherland committee report of 1992 and the royal commission report of 1992. The Government should have moved faster on this issue.

Mr Prince: There is the question of justice for the people subject to investigation by the Director of Public Prosecutions. If you change the law to make that conduct unlawful, in the future there would be a strong implication that their past conduct was unlawful.

Dr GALLOP: That may be the reason for the delay and I take the Minister's point. I will not push that point beyond the realm of reasonableness. However, the legislation could have been introduced much earlier so that those people involved in statutory authorities would know the rules of the game. There is confusion in the community and there will be confusion even with this legislation, and I will come to that later.

The thrust of each of the reports to which I referred was that the doctrine of ministerial responsibility was very important, but we needed to tighten up and extend the personal obligations of those who were involved with government boards. The royal commission's report went so far as to say that the same standards as those which apply to directors of companies under the Corporations Law and common law should apply. The royal commission was clear that the same standards should apply as apply under the Corporations Law and common law. The Sutherland report of 1992 reached the same conclusion, but was a little more cautious. It may be that that report was written by a group of people who were on government bodies, so they had a degree of sensitivity to some of the issues. That is a good thing, because it is important to know where those people are coming from. The people who were appointed to statutory authorities, who did an excellent job in preparing the Sutherland report in 1992, pointed out that perhaps different conditions should apply to different types of statutory authorities. Some statutory authorities were fully corporatised. For example, at that time the R & I Bank was to all intents and purposes a company. There was virtually no direction coming from government except through the statement of corporate intent, which is pitched at a fairly general level anyway. There were many statutory authorities, some of which were commercialised such as the State Energy Commission of WA, the Water Authority and Westrail, and others such as the development commissions and the state housing commission, which did not have the same degree of commercial orientation.

The Sutherland report said that we must respect the different types of authorities that exist. It said that we should have omnibus legislation. That is what we have here today. The Sutherland report said that we should have a directors' charter or code of conduct for all government bodies which are set up under Statute. That is what this legislation does. The Sutherland report said that it was desirable for all government enterprises with a statutory body corporate basis to have a code of conduct for their directors, and that code should be contained in omnibus legislation that had a schedule identifying all agencies to which it applied. It said that the omnibus legislation should have two element; first, the statement of corporate intent, which is a statement of principles or objectives established by Parliament in enabling legislation, and which is to be observed by the board. We understand what statements of corporate intent are - sometimes they are a bit late in arriving in Parliament! However, it is understood now that the statement of corporate intent should be a connection between the government board and the Government in the governance of those authorities. The second element is a statement of personal accountability requirements. For example, personal honesty provisions should prevail.

The idea of the 1992 report was that there should be a directors' charter for all statutory bodies. I am pleased to report that part 2 of this legislation titled " Statutory Corporations Generally" provides a general basis for all statutory corporations. However, the 1992 report emphasised the different types of government enterprises; firstly, the fully corporatised enterprises, where the directors should be accountable under the provisions of Corporations Law and the directors' charte; secondly, the commercial trading bodies at that time such as SECWA, WAWA and Westrail, where there should be qualified business accountability and the directors' charter; finally, heavily regulated bodies such as regional development authorities, for which only the directors' charter should apply. The 1992 report said the directors' charter should apply to everyone. That outlined the basic personal honesty-type provisions. Business accountability would apply to fully corporatised bodies, where the whole gamut of Corporations Law applied, down to heavily regulated bodies, where some sort of directors' charter would apply. This legislation essentially takes the thrust of that recommendation and modifies it to some degree.

Part 2 of the Bill outlines the duties that are owed by all directors of government corporations. In a sense that is the directors' charter that the 1992 Sutherland report talked about. The Bill states that it will apply to all government agencies established for a public purpose by a written law, but does not include a local government. This legislation does not apply to local government. After this legislation is passed, all people on government boards will be subject to those general duties outlined in part 2 of the legislation. Part 3 of the legislation applies those duties contained in the Corporations Law to members of the board of government corporations that carry on a business. It singles out all the agencies that are conducting business activities and applies Corporations Law to them. The 1992 report made a further distinction that is not made by this legislation, which I will come back to in my concluding comments. I will raise a few questions about some problems that may arise as this legislation is subject to application and interpretation.

Part 4 of the Bill contains provisions relieving directors from liability in certain circumstances. Those important circumstances are outlined in the legislation as is the whole issue of ministerial direction, which I will come to in a minute. The duties that should apply to these government business operations are taken from the Corporations Law; for example, the duty to act honestly, to exercise reasonable care and diligence, and not to make improper use of information or position. I raise one question with the Minister on the whole issue of conflict of interest and disclosure of interest. It is not immediately obvious to me that the duties outlined in part 3 involve the necessity to disclose interests and the requirement by that government board to register directors' shareholdings or economic interests. It may be implied by those other duties, and those who understand the Corporations Law better than I may be able to say that the duty to exercise reasonable care and diligence in fact involves the duty to declare interests. I ask the Minister whether this legislation contains a requirement to declare interest.

I am pleased that the Minister for Energy has returned to the Chamber, because I want to refer to an issue that was recently brought to light which raises some issues with this legislation. Perhaps we need some clarity in the way this legislation will be interpreted. I refer to an article in *The West Australian* on 11 September headed "AlintaGas board member linked to Kingstream". It was an article on AlintaGas director, Stuart Hohnen. Conflict of interest is a key issue. I believe one of the great problems in government in Western Australia today is the number of conflicts of interest that have emerged at the heart of government. This has happened through a number of factors.

Mr C.J. Barnett: In the point that I suspect you are going to make, I urge you to make a distinction between a potential conflict of interest for persons having two positions and an actual conflict of interest through their conduct. You know the point I am making.

Dr GALLOP: I will come to that, and I will ask the Minister some questions. I am seeking a response from the Minister. The problem in Western Australia today with conflicts of interest arises, first, because of the disrespect that the Government generally shows towards people in the public sector. The Government increasingly has used consultants as advisers to government. In fact, many consultants have been used as de facto public servants and when a problem occurs in government, rather than going to the department or the advisory agent, the government has sought advice from a consulting firm.

In one year, $65m was spent on consultants in Western Australia. The problem which emerges is that consultants have a range of interests. A consultant who works for company X and is engaged by the Government of the day will inevitably also be engaged through that company in a range of other interests. The question is posed: Whom is that person representing in government? Is he giving honest and objective advice to the Government about the issue at hand, or is he somehow being influenced by other interests? More direct conflicts for consultants can arise. For instance, the Government sought advice on whether to privatise Sir Charles Gairdner Hospital. The Ramsay Health Care Group was asked to advise. I cannot imagine the Ramsay Group saying anything but that Sir Charles Gairdner Hospital should be privatised. How could the group on behalf of its shareholders recommend anything else? How could it, in all honesty, argue that it could not run that hospital? It would be going against the interests of its shareholders to say anything else. No matter how good are the people working for consultants they are subject to constraints in any advice given. The consultants are the first problem. In one year $65m has been spent on them. If we had a royal commission inquiry into consultants and the role they play in government, the sorts of conflicts that would emerge would be incredible. This is not because I have a conspiracy view of the world but because that is how it is. At any one time, consultants are working for all sorts of people.

I have just read a very interesting book entitled "The Spin Doctor" which members of the Government might find a useful read when next on an aircraft going somewhere. The book is all about an adviser to the British Government who represents no-one, and is responsible to no-one except making money. It points out all the contradictions and problems which emerge because of the role these people play in government. They are amoral people who have no interests except their own. The book raises all sorts of issues.

The second problem is contracting out. Today we have a lot of contracting out in the heart of government, whereby firms deliver government services. To whom are they responsible? On the one hand, they are responsible to their owners and shareholders. On the other hand, they are responsible to the Government of the day. This is a new contradiction which we have introduced to the heart of government in Western Australia, because of the extensive contracting out policies which, at the moment, amount to the tune of $1b -

Mr Prince: With respect, I disagree. Governments have always entered into contracts for things to be done. The responsibility to the shareholders is not discharged unless the responsibility is discharged to the contract with the contracting party, namely the Government. The Government must come first.

Dr GALLOP: The Minister may think that, but the situation is a bit more complicated. The $1b contracting out of Western Australian services is quite new; although there has always been contracting out, here and there, on the margins, we have never had contracting out at the core of government. We have it now. It was $671m in 1994-95, and at that time when the last report was done another $300m was coming on stream. That adds up to about $1b. That was only for contracts over $20 000. Smaller contracts were not counted. I can safely say that it amounts to more than $1b. A contradiction exists: Do those people work for the Government and the people of Western Australia to whom the Government is responsible, or do they work for their shareholders and owners? That contradiction is emerging every day in government, and it is a difficult one to work out. The whole issue of conflicts of interest has become very important.

I turn now to the issue of the members of the boards of business corporations. I seek clarification of the Government's attitude to this issue. Under clause 5 the Minister is responsible for the administration of the Act under which the director holds his or her position. Therefore, the Minister is responsible for the overall supervision of the directors' responsibilities. I talk here about the general and the specific responsibilities. As to the AlintaGas situation, I refer now to an article in *The West Australian* of 11 September which reads -

> AlintaGas director Stuart Hohnen has emerged as a consultant to Kingstream Resources, the WA steel hopeful which wants to build a gas pipeline similar to that already owned by AlintaGas.
>
> Mr Hohnen confirmed yesterday that a firm in which he is a partner, Ventnor Consulting, was advising Kingstream on matters relating to its proposed $1.4 billion steel mill near Geraldton.
>
> But he denied there was a conflict of interest with his position as an AlintaGas director because he was not personally involved in advising Kingstream on the pipeline issue.
>
> Mr Hohnen refused to say whether other Ventnor representatives were providing advice on the pipeline.

This is a consultant to the Government, who is also on the board of the government agency dealing with the same issue as the consultancy is dealing with in its private capacity. The response of the board member was that he was consulting in relation to the state agreement Act rather than the pipeline issue; therefore, the distinction is drawn between consulting on a particular issue and being part of a consultancy which has an interest in a particular project. I wonder whether the Minister thinks that distinction is sustainable. In other words, is the Government of the day arguing that if a person has a contract to do a job, when working for a consultancy, no general implication flows from that about the interests the consultancy may have in the project? That seems to be what the board is saying, in defending the position. I am posing the question.

Mr Prince: The general answer is that where the director has reason to consider there may be a conflict, that must be declared to the board; he should take no part in debate on it; he should absent himself from the room and not vote. That has been common law since 1864.

Dr GALLOP: Does that apply to every discussion on the board about the Kingstream project?

Mr Prince: I would need to have the details -

Dr GALLOP: That is the question I pose. Should Stuart Hohnen relieve himself from any discussion related to the Kingstream issue? The board seems to be saying that all he needs to do, when talking about the issue on which he must give advice, is to not take part. However, he can take part in any other discussions. I want to know the Government's view. Under this legislation the Government is given responsibility for interpreting the general clauses. I have posed the question on the issue, and I would like a response. If the Government is saying that he need only

not take part in conversations relating to the agreement, but he can take part in discussion regarding the pipeline, the Government is following a very interesting notion of interest -

Mr Thomas interjected.

Dr GALLOP: That is a good way of putting it. Are these so-called paper walls of any use when defining different interests?

Mr Bloffwitch: That has always been the case with any corporation. That is the way business is conducted.

Dr GALLOP: If the message for all government boards is that they can take on consulting on particular issues, and only those matters which come up before the board - and not the general contract itself - should be the issue, it should be thought through, because the Government has a problem.

Mr C.J. Barnett: Stuart Hohnen is well known as a former long-serving public servant. He is well respected; he has integrity. Ian Baker, the Chairman of AlintaGas, is an equally high standing person. When we decided on part privatisation of the Dampier-Perth pipeline the original thought was that Stuart Hohnen would be a good person to be involved. However, once the Kingstream project with which he was involved started to relate to pipeline issues - that was a recent development in which they decided they may need their own pipeline - it was clear that Stuart could have a potential conflict of interest in these issues. Therefore, he has stayed out of any pipeline issues to do with AlintaGas. The chairman has been kept fully informed. The chairman and Stuart Hohnen assure me that there is no conflict, and I am satisfied. I agree that there is a potential conflict of responsibility, but they are very cognisant of their responsibilities, competence and integrity; I have absolute confidence in both gentlemen.

Mr Thomas: There is another side: It depends very much upon the security of the paper wall at the other end - that is, the mineral resources to be dealt with. You have confidence in Stuart Hohnen, and I share your view.

Mr C.J. Barnett: There was that potential conflict of interest, and it was recognised from the outset. It is not playing a part. As other members have interjected from this side, it would be exactly the same situation with any other corporation involved in a joint venture. Companies in the oil and gas industry off the north west coast can be involved in several projects, and not always with the same partners. Therefore, you must have the paper and Chinese walls. It is always a problem in an area such as Perth, which has a relatively small commercial community.

Dr GALLOP: They often say in Perth, "I have a secret to tell - only 3 499 already know about it."

Mr C.J. Barnett: Probably more to the point, only 100 need to know about it!

Dr GALLOP: I have outlined some of the problems with the increasing role of consultants and the conflicts of interest which emerge. The Government is confident that it can manage all the conflicts successfully, but some of these conflicts have a logic of their own and sometimes what appears to be manageable theoretically is not so manageable practically. Before one knows it, one can drown in difficulty.

This Bill deals with relief from liability and acknowledges that there is a problem for government directors which is different from that of private directors. To what extent will this relief from liability apply? Persons becoming directors of government agencies may want to point to the following factors that restrict their freedom as directors and, therefore, make the concept of personal responsibility redundant. These issues are raised by people working on government agency boards. They express concern about the fact they must be responsible in the same way as a private director is responsible yet they inherit a business in a certain state. All sorts of restraints, restrictions, conventions and traditions could apply to that business from an era before the corporatisation concept was imposed.

Of course, ministerial directions are made from time to time, and these are dealt with in clauses 16 to 19 of the Bill. These make it clear that ministerial directions can be challenged; it outlines the way in which that can be done; it also makes it clear that if in the end the Minister is lawfully pursuing an issue, he or she should have the right to pursue it no matter what a director may think. That is a relief of liability. Also, all sorts of retained powers, external influences and non-commercial activities occur within any corporation of government, including price setting powers and the whole-of-government policy, which is known all too well by the National Party.

Also there is ministerial access to information. Under the Statutory Corporations (Liability of Directors) Bill, the director will have a duty not to make improper use of information. If a Minister is entitled to access information, will the director be protected from liability regarding the use of that information? People involved in government

business say, "I am worried about this company law. You're asking me to be personally liable when I inherit a business subject to all sorts of influences, which applied in some cases 100 years before the notions of corporatisation or commercialisation were even thought of; you're asking me to take responsibility when Ministers can make directions, and when all sorts of powers are retained by Government to influence the direction the company takes; and you're also asking me to be responsible when the Minister can access information and use it in any way that he or she wishes." Those arguments are raised in response to the view that the full Companies Code should apply.

Mr Bloffwitch: They are very similar to the arguments raised when the Companies Code was brought in for directors too.

Dr GALLOP: The member raises a good point.

I now draw a contrast between a private company and a statutory corporation of government - perhaps it is not as clear a distinction as first may appear to be the case. People appointed to company boards may also inherit practices and decisions for which they must be responsible even if they do not like them. Nevertheless, there is a difference between a company and a government business corporation. A company must act in the best interests of shareholders or owners, and directors have a responsibility to that company to seek profit, subject to the rules applied through convention and Statute. In a sense, the purpose of that business has a degree of clarity.

The most obvious difference with statutory corporations in government is that they are part of a great complex called government. Certain Governments will want agencies to achieve particular ends. Regional policy is a classic case - employment and pricing policies are others. We all know how Governments use agencies to help particular groups of people in outlying areas, to ensure uniform tariffs or to ensure that special interest groups that deserve assistance receive assistance. Therefore, a private company is rather an uncomplicated creature. It may be a part of a group of companies and, therefore, problems can emerge. Many of the cases appearing before the courts relate to the relationship between different companies being coordinated by the directors and the companies in such a manner that contradictions can leave them liable to claims of dishonesty or malpractice. However, compared to government agencies, they are fairly uncomplicated creatures.

Government agencies are part of the big machine called government. All of us in Parliament want to be in government so we can apply the machine to achieve what we regard as desirable aims - none of us can deny that. With the increasing corporatisation and commercialisation of government, certain contradictions have arisen that we have tried to resolve in a manner different from that of the past. Ultimately, one cannot commercialise every aspect of government. It may be done, but the price involved may be too high. As many Governments have found, when perfectly rational economic models are applied with consistency and logic right throughout the community, and when the heat goes on, it is discovered that it is impossible to preserve the line because the policy harms an interest which is politically important, or for which the Government has some sympathy.

As one cannot commercialise every part of government, one needs a degree of sensitivity in legislation. For example, the schedule to this Bill outlines many business corporations. The Bill lists a whole range of bodies from the Albany Port Authority to the Western Australian Meat Marketing Corporation. We have all the port authorities, the East Perth Redevelopment Authority, the cemetery boards, the Government Employees Superannuation Board, the Grain Pool of WA, the Lotteries Commission, Westrail, the Metropolitan (Perth) Passenger Transport Trust, the Perth Theatre Trust, many of the marketing authorities, the Rottnest Island Authority, the State Government Insurance Commission, the State Housing Commission, and the Totalisator Agency Board. Let us take two of those bodies; the State Housing Commission on the one hand and the port authorities on the other. They are quite different bodies. The State Housing Commission has a broad social purpose, which is laid down in its charter. Under this legislation the directors of the State Housing Commission are subject to the full gamut of Corporations Law, subject to the relief mechanisms I pointed out earlier, such as ministerial direction and the circumstances of the body. Therefore, it is qualified. However, the port authority is more clearly a commercial body, which has a commercial activity and is meant to achieve targets for its port. It owns property and has assets. The authority knows what it is there for and is like a company. This legislation does not really deal with that distinction. However, when it comes to the application of the legislation, we must be sensitive to that distinction. How can we apply the same set of principles to a person from the State Housing Commission as we would to a person from the Albany Port Authority?

Mr Prince: You can.

Dr GALLOP: We can apply the same set of principles but they will be applied to different degrees in different cases.

Mr Prince: It is called a fiduciary duty. As defined by the High Court, a person must act with fidelity, trust and honesty and in good faith to the best of that person's ability. That can apply to both corporations.

Dr GALLOP: That is the general duty that applies to all government agencies. I am referring to the specific duties outlined in part 3 that deal with the business corporations of Government and come from the corporations code.

Mr Prince: That is the definition of the fiduciary duty of a director.

Dr GALLOP: Yes, it applies under the business part of government. I point to this contradiction and problem, not to say that it undermines the quality of this legislation. We cannot avoid that sort of problem. If we are to make people on government boards personally responsible as well as responsible through a Minister, we cannot avoid that problem. It all comes down to how we apply the legislation and how it is interpreted. If this legislation is applied too restrictively in a cumbersome way and interpreted without sensitivity to particular circumstances, it may be impossible to get people to work on some of these government bodies. I am confident that we understand that we are dealing with government here, which is not exactly the same as the situation in the private sector. For that reason, those distinctions can be applied in a way which makes it clear that a person's obligations are understood in the context of his job.

The legislation is an important step forward and provides a framework within which we can approach people who wish to work on government bodies and say, "These are the rules of the game." When they come on board, they will be in a better position to know the limitations, rules and expectations. There will be some judicial interpretation of this legislation, because some of the principles are very general and will have to be applied to specific circumstances. By drawing a contrast between a port authority and the State Housing Commission, I hope I have illustrated that even though bodies may have a business orientation, the degree to which that business orientation dominates their overall rationale or purpose is different. The Opposition supports the legislation on its second reading.

MR THOMAS (Cockburn) [4.36 pm]: The Opposition supports this legislation. I share the misgivings expressed by the Deputy Leader of the Opposition because there is no precise comparison between the public and private sectors. I will illustrate some of the problems and shortfalls with this legislation with examples that fall within my portfolio responsibility, namely those in Energy. I hope the Minister for Energy will return during my speech. The scope of the Bill does not include the Electricity Corporation Act or the Gas Corporations Act, because they contain almost identical provisions in schedules to their enabling legislation. This Bill seeks to fill in the gap in longstanding legislation creating trading authorities that do not have such provisions.

Mr Prince: Does that mean that you will not say anything else because AlintaGas and Western Power already have those provisions?

Mr THOMAS: The experience we have had with AlintaGas and Western Power, or the Gas Corporations and Electricity Corporation as they are more properly known in a legislative sense illustrates that. This legislation is not enough. I ask what is the Government's attitude towards some of those shortfalls.

In his second reading speech the Minister said that the Bill forms part of the Government's package of anticorruption measures announced on 12 March 1996. He cited the Royal Commission into Commercial Activities of Government and Other Matters and other authorities as the base on which this legislation is erected. Essentially the legislation can be drawn down to two or three fairly simple propositions. People on boards of statutory corporations, particularly government trading enterprises, are there to perform duties of trust for their authorities and are not there for their own good. They have obligations to act in a manner that has regard to that duty of trust to those authorities. They are not to act corruptly or capriciously for the benefit of themselves or others in relation to access to valuable information and other valuable property. No-one would argue with that proposition, which the Opposition applauds. We are very pleased to see that the proposition is being placed in legislation. However, it does not go far enough. Although the Minister's second reading speech cited the report of the Royal Commission into Commercial Activities of Government and Other Matters where it referred to duties of directors, the document also referred to unfortunate activities, as the commission perceived it, which had occurred during the 1980s. It was not only that there was no legislation or code for fiduciary duties for directors of government trading enterprises, but also that there was no accountability. Except in one small measure, this legislation does not go very far with accountability for directors of government trading enterprises.

The Deputy Leader of the Opposition said earlier that no precise analogy can be drawn between public and private authorities with regard to the responsibility of directors to the shareholders. The directors of private corporations

are accountable in some sense to the shareholders through the Corporations Law, but there is no precise equivalent for public corporations. It is up to the Parliament to provide that equivalent with regard to accountability.

I wish to talk about the behaviour of AlintaGas and Western Power and the proper accountability measures that should be put in place. I am pleased that the Minister for Energy has re-entered the Chamber, because these matters fall within his portfolio responsibility. The directors must act prudently with regard to the financial interests of the corporation, and if they act in a way which is not financially prudent, a number of forms of relief are available, as has been outlined by the Deputy Leader of the Opposition, one of which is ministerial direction. We have debated in this House on a number of occasions, and I am sure we will debate it on a few more occasions between now and next February, the fact that Western Power has been directed by the Minister for Energy not to marginally price the sale of electricity into the eastern goldfields in competition with the -

Mr C.J. Barnett: No. You should be very careful in your choice of words. A direction under the Act is a formal instruction. I have given Western Power one formal instruction, which was about the Collie Power Station.

Mr THOMAS: Yes, for 300 megawatts instead of 600 MW. I have read the annual report carefully and I am aware of that. However, the Minister has said that he has had discussions with the board and he has told them that as far as he is concerned, there should be no marginal pricing - predatory pricing was the phrase that the Minister used -

Mr C.J. Barnett: Yes, I would use that term.

Mr THOMAS: - of electricity sales into the eastern goldfields market. If it was economically or commercially prudent for Western Power to marginally cost price electricity into the eastern goldfields, would it be able to do so, or would it be precluded from doing so by the general feeling that the Minister has communicated to it about what he wants it to do?

Mr C.J. Barnett: I have never interfered in the commercial dealings of Western Power on a contract. In some cases, I have indicated that some things may be worth pursuing, but it has always been of a general nature. However, if I found that its competitors were complaining that its pricing deals were unfair, I would draw those complaints to the attention of the board. I have done that on a range of issues and left it to the board to resolve, and generally it has done that.

Mr THOMAS: There is nothing to prevent its competitors in the eastern goldfields energy market from marginally cost pricing, if they believe it is prudent for them to do so, subject to the Corporations Law, which covers their relationship with their shareholders.

Mr C.J. Barnett: So long as they do not run into trade practices problems, that is all right.

Mr THOMAS: If they are able to do that, is not Western Power in the business with one hand tied behind its back if it is not able to do so? The Minister has said that he has communicated his view, and it seems that Western Power agrees that it should not do so; therefore, the necessity for an instruction has not arisen. However, the Minister has effectively foreshadowed that if Western Power were to adopt a view that it was prudent for it to do so - it might well be its statutory obligation to seek to do so - the Minister would issue an instruction to prevent it from entering into such an arrangement.

Mr C.J. Barnett: I do not accept that. Can you give me an example?

Mr THOMAS: The Minister cannot have it both ways.

Mr C.J. Barnett: You made a veiled accusation. If you can demonstrate to me a situation where I have in any way prevented or interfered with Western Power's making an energy supply offer to a company in the goldfields, I will be fascinated to see it, because there is no such event.

Mr THOMAS: We are clear that there has been no formal instruction, but we are all aware of the fact that in the sale of resources, whether minerals or energy, marginal cost pricing is a common practice and is commercially prudent in order to obtain a market and to sell the last tonne of iron ore, the last gigajoule of gas, or whatever the product happens to be.

Mr C.J. Barnett: That is the term that you use. I have not used the term marginal cost pricing in my discussions with Western Power. It is not a term I use in that context.

Mr THOMAS: The Minister knows what I mean. It is a common term.

Mr C.J. Barnett: I have a rough idea, but if you want to get down to economics, you can talk about short run and long run marginal concepts. We do not need that debate in the Parliament. I am saying there is no substance to your argument. I would be concerned if Western Power was behaving in a predatory way or was effectively dumping electricity into the market to capture customers with a prospect of higher price rises in the future. I have always had the view that it should have a long term ability to provide electricity in a stable sense, but the competition in the goldfields is pretty tough, and some companies have come to me and complained that Western Power has undercut them on price and won contracts. Competition is going on out there, and I am staying out of it.

Mr THOMAS: That is good, but if Western Power wished to sell energy for the marginal cost of that last kilowatt, or whatever measure we wish to use, there is no reason that it would not be allowed to do so, if it was what the Minister would describe as predatory pricing. If it was not selling at a loss, would it be allowed to do so?

Mr C.J. Barnett: I have issued no instruction that it cannot do so.

Mr THOMAS: I turn now to the accountability of directors of public corporations to this Parliament. The matters that are dealt with in this legislation - namely, the liabilities of directors - are only one part of the matters that were dealt with by the Royal Commission into Commercial Activities of Government and Other Matters. That matter, along with many others, was referred by the Government to the Commission on Government. The recommendations which the Commission on Government delivered in its third report are essentially consistent with this legislation. Paragraph 3.3.5 of that report sets out a series of recommendations that deal with the responsibilities of directors of public authorities to both those authorities and the Parliament. One-half of the recommendations of the Commission on Government with regard to that area are before the House in the form of this legislation, and that is an important part of it, but an equally important part of it, in the view of the Commission on Government, is the accountability of the Minister to the Parliament for the activities of those bodies.

As I indicated earlier in my speech, the analogy or the comparison between government trading enterprises or public authorities and private corporations is not an entirely precise one because the analogy breaks down when one asks who are the shareholders and what is to be the relationship between the shareholders and the board, whoever those shareholders are deemed to be. There are no precise comparisons and we end up with a relationship between the Minister and the board and the Parliament and the Minister. That brings in all sorts of implications for relationships that exist in our system of government between Ministers and the Parliament. The Commission on Government made quite comprehensive recommendations in relation to that.

I again remind the Minister of a couple of situations that have occurred within his area of responsibility since he has been the Minister for Energy. The first was the decision to enter into a contract without going to tender for the construction of the Collie coal fired power station. The Minister indicated in this House that the SECWA board had, with his authority I understand, entered into a contract for the construction of a 300 MW power station at Collie without going to tender. At about that time, a reputable and well-established engineering company in Australia - in fact, Australia's largest engineering company - claimed it was able to build that project for $55m less. Does the Minister regard it as a breach of duty by the directors of that company to enter into a contract for the construction of a power station when there is an established, reputable supplier of that same product in the market claiming to be able to do that same thing for $55m less? In the circumstances, would that normally be regarded as a breach of fiduciary duties?

Mr C.J. Barnett: Certainly not. This House does not need to hear the debate about the Collie power station for the fortieth time.

Mr THOMAS: It is going to hear it. I will decide what I will talk about.

Mr C.J. Barnett: Again, I remind you of the fact that the successful bidder, ABB, holds a government mandate. At the time we came into office we negotiated with it to change the structure of the power station from 600 MW to 300 MW. ABB held a mandate and that mandate was terminated by the Labor Party in government. There is such a thing as social and corporate responsibility - something of which you, on your side of the House, have no understanding.

Mr THOMAS: Others can judge whether I have complete understanding of it. I seek to understand the matter and I think I do.

The Minister's advice to the House at the time was that the board of the State Energy Commission of Western Australia had obtained legal advice, which was that it was under no continuing mandate to ABB once it had been directed to opt for a 300 MW power station instead of a 600 MW power station.

Mr C.J. Barnett: I cannot recall my exact words, but while the legal standing of the mandate may have been in doubt its moral standing was not. I had no question in my mind and I still have none.

Mr THOMAS: Therefore, the Minister was prepared for SECWA to enter into a contract which would cost the energy consumers of Western Australia an extra $55m on the basis that he saw some moral standing?

Mr C.J. Barnett: You may say it was an extra $55m. If you believe every ad you see in the newspaper, good luck to you. Bear in mind that the unsuccessful bidder went to some expense through full page advertisements to try to weaken my position on the subject after 10 years of inaction and indecision by the previous Government. I did not buckle to that sort of media onslaught; but you accept at face value a blatant public relations exercise to try to influence the Government. Talk about accountability and propriety in government. This Government was not moved at all by that sort of overt political pressure.

Mr THOMAS: I do not accept that it was able to do it for $55m less. I am saying that correct procedures exist universally within the public sector called going to tender, which for a project of that size the Minister has now enshrined in legislation, but which he breached on those occasions; that is, the Government should go to tender, and provided the company is a reputable supplier of the product, it opts for the lowest tender. We will never know whether that supplier could provide it, because the Minister did not enable a proper competitive process to be followed. There is no need to keep ploughing the Collie field because there are many more fields to plough in relation to this Minister.

Mr C.J. Barnett: I am always happy to debate Collie with you after your Government's record!

Mr THOMAS: That is good because we will have many opportunities to debate Collie.

The other matter that is dealt with in parallel with the accountability of directors of public corporations is the question of commercial confidentiality and accountability to the Parliament. On three or four occasions, perhaps half a dozen occasions, over the last three years that the Minister has been Minister for Energy and I have had shadow responsibility in that area I have asked questions in Parliament about money that has been spent by the energy utilities to purchase goods and services. On almost every occasion he has said that it is a matter of commercial confidentiality and I am not entitled to know.

Mr C.J. Barnett: Hang on! I don't think you are entitled to know and I do not know. I do not ask them what their prices are.

Mr THOMAS: How the Minister conducts his business is something that the electors will have to decide ultimately. I am elected to this Parliament to represent a good proportion of the people of Western Australia who are the consumers of the products of those utilities. They are a captive market. They cannot evade being consumers of the products of those utilities. Under the Westminster system, if I want to know I am entitled to know. However, the Minister says, "That is bad luck; we have the numbers in the Parliament and we are not going to tell you". I am not the only one who wants to know.

Access to information on matters such as these has been considered on a number of occasions. The first occasion on which it was considered in recent years was by the Burt Commission on Accountability. That commission considered the commercial confidentiality issue in relation to energy utilities, the ancestors of Western Power and AlintaGas. It cited the fact that a contract was entered into by the State Energy Commission for the purchase of gas. Sir Francis Burt said that the confidentiality agreement had a clause which prevented revealing that there was a confidentiality agreement. So confidential were the prices paid for gas by the State Energy Commission and the gas sales entered into by a former Liberal Government that not only was the public not allowed to know what were the prices, but also the confidentiality agreement prevented them from knowing what were the prices. There was a ridiculous amount of secrecy. The Burt report on accountability said that was unacceptable. The Royal Commission into Commercial Activities of Government and Other Matters, which has been cited in the Minister's second reading speech as the rationale for this type of legislation, gave as much attention to the question of accountability as it gave to the fiduciary duties of directors to public corporations. The Government ignored that. It referred it to the Commission on Government, and I guess it hoped that it would disappear, as it wanted the issue of one-vote-one-value and various other matters to disappear when they were referred to the Commission on

Government. However, the Commission on Government considered both government trading enterprises and the behaviour of boards in general. Its view was consistent with that of Sir Francis Burt and the Royal Commission into Commercial Activities of Government and Other Matters. I have expressed the same view in this Parliament on three or four occasions over the past four years, and will continue to press the issue.

Let us consider the sorts of matters this Minister is covering up, which is allowing boards and directors to make decisions which directly affect the citizens of this State but to which members of Parliament have no access. One matter debated when I first had responsibility for the Energy portfolio was the secret deal between the then State Energy Commission and Ord Hydro for the construction of a power station on the Argyle Dam. I was very critical of that decision at the time because it did not go to tender. The Government made a decision some time after the chairman of the finance committee of the Liberal Party, who was a consultant to this company, saw the Minister and was steered towards the State Energy Commission. The Minister said it was outrageous of me to impute anything improper against him, the board of SECWA or the gentleman from the Liberal Party. Perhaps there was nothing wrong but, as with the Collie decision, we shall never know because it did not go to tender. The Minister authorised, and was an accomplice to, SECWA, the Water Authority, the Department of Land Administration and other government departments giving away the resource base of a $70m project without going to tender. It was unprecedented at that time. However, in the past couple of years it has been exceeded. A further incident compounds the lack of accountability which pervades the area for which this Minister has responsibility. Only a fortnight ago I asked the Minister in this House about the arrangements if the project were interrupted. This great project - the Minister refers to it as progress - has not turned out quite so well, at least in the teething stage. For weeks on end it has been turned off and has not been working. As the shadow Minister for energy matters, I asked the Minister whether the arrangement entered into included any provision for compensation for Western Power when it had to incur additional cost by bringing out the diesel engines to generate power while this project was turned off. I was told that there were provisions but no information was available because the matter was confidential. There can be no legitimate reason for that company to claim commercial confidentiality in this matter.

The Minister does not agree with Sir Francis Burt, the Royal Commission into Commercial Activities of Government and Other Matters, and me on this matter. However, the most recent authority on the subject of commercial confidentiality and government contracts is the Commission on Government, which in its third report recommended that Parliament should have access to such information. It said that as a general rule government enterprises should not enter into arrangements containing commercial confidentiality clauses. It recognises that on some occasions intellectual property must be protected and that on occasions there may be legitimate reasons for citing commercial confidentiality. However, the Commission on Government stated that when that occurs, the Auditor General should be notified and the Parliament should be able to access the information. It recommended that a committee of the Parliament should make the decision as to whether the information should be made available.

The board of Western Power entered into a contract - a secret deal - with BP-Mission Energy to purchase energy for 25 years at a particular price. We can now infer from information the Minister has given in the Parliament that the price is at least 1.5¢ per kilowatt hour higher than it could have obtained from other sources. It is costing the energy consumers of this State at least $10m a year more than they would otherwise pay. This Parliament should have access to that information and should be able to debate the matter. The Commission on Government agrees with that. The Minister may have a good reason for this provision, but in terms of ministerial responsibility - and the ultimate responsibility is that of the Parliament to safeguard the interests of the citizens of this State in areas, such as energy, which fall within the realms of government trading enterprises - the Parliament should have access to this information. That is not just my opinion; it is the opinion of Sir Francis Burt, the Royal Commission into Commercial Activities of Government and Other Matters and, most recently, the Commission on Government.

Some weeks after the report was released I asked the Minister for his reaction to that recommendation. I will ask again whether he is prepared to accept the other part of the recommendations of the Commission on Government, of which this legislation is part, on commercial confidentiality.

MR PRINCE (Albany - Minister for Health) [5.06 pm]: I thank members for their contributions and their support of the Bill. I give notice to the House that I have been asked by the Attorney General, whom I represent with respect to this legislation, to move some minor amendments in Committee that have only just been circulated. The Opposition has notice of them. They relate to the addition in the schedule to the Bill of the South West Development Commission and the Mid West Development Commission. They are general government agencies. When the Regional Development Commissions Act of 1993 was passed, land in the ownership of the former Geraldton Mid-west Development Authority and the South West Development Authority was vested in the new commissions. However, in relation to performance and functions under part 5 of the Act, the Attorney General wants the two bodies to be included in this legislation because it is appropriate to do so.

With regard to matters raised by members I make the point, particularly with regard to part 3 of the Bill under the heading "Duties of Directors of Certain Corporations", that it is a declaratory piece of intended law. The clauses in part 3 are intended merely to state what the law is, and has been for a long time, in relation to the duties of directors. It is not new law. It is not an extension of the law in that sense, although the law with regard to a director's responsibility to a company is changing, evolves from time to time, and certainly has changed a great deal since the Second World War. For the benefit of members who do not have a commercial background, I refer to an excellent publication issued by the Australian Institute of Company Directors in August last year entitled "Duties and Responsibilities of Company Directors and Officers". It states at page 6 under the heading "A director's fiduciary duty and to whom it is owed" -

> The question of just where the director's responsibilities lie - does he/she owe it to the company, does he/she owe it to the shareholders, is there a broader group of persons or interests for whom the director must have regard - has been a fruitful area for the development of the common law. Generally speaking a clear statement of where the direct obligations of the director will lie can be made, but there are now some grey areas "at the margins". These are noted briefly in this Guide . . .
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> A director has a fiduciary duty to the company. A "fiduciary" duty has been clearly defined by the High Court as the duty to act with fidelity and trust to another. That is, the director must act honestly, in good faith, and to the best of his or her ability in the interests of the company. The director must not allow conflicting interests or personal advantage to over-ride the interests of the company. The company must at all times come first.

The book from which I am quoting goes on to say -

> Traditionally the courts had treated the company as being the shareholders - the members. The courts have also extended this to include future shareholders . . . Then there are trading creditors and those who lend money to the company . . . the Law has gradually widened the concept of what the company really is and in certain very special cases the courts have regarded these other groups as being relevant in evaluating what a director can or cannot do.
>
> Moreover, the company operates in a social and physical environment, which introduces the concept of corporate citizenship. There are many legal responsibilities in this context. The company must observe trade practices, environment, occupational health and safety and a myriad of other laws. Finally, without customers, there is usually no company.
>
> Reality requires that a director should have regard to all these factors if the company is to operate successfully.

I cannot find a better statement of what this is all about. The duties and responsibilities of directors of a statutory corporation or a corporation incorporated under corporations law are the fiduciary duty to act honestly, reasonably and with integrity. Questions of conflict that may then arise must be resolved in the context of what I have just said; that is, the company comes first. In that regard it is interesting to note at page 19 of the publication by the Australian Institute of Company Directors -

> One of the clear rules of company common law, derived from the rules of equity -

We are talking about rules that are hundreds of years old; they are not new -

> - is that neither a director nor a responsible officer should allow a conflict of interest to compromise their position in the company.

Perhaps the most important statement of this obligation was the Aberdeen railway case in 1854. I will bring the information a bit up to date -

> Besides obvious sources of conflict, such as a director of a company having an interest in a supplier of goods or funds to the company, a person may be a director of two companies, both of which may be interested in the same contract. Another instance is if it is proposed to sell property of the company to another body in which the director has an interest.

> The common law has very recently become harsher in how these conflicts should be managed in the boardroom. Besides declaring his or her associated interests in any matters before the board, the director, generally cannot vote on any such matter, the safe course is for the director to leave the directors' meeting on every occasion that the matter comes up. It follows that canvassing of individual directors before the meeting would be dangerous as well.

These areas have been the subject of litigation constantly over the years and are being refined, extended and modified all the time. Regarding the example the Deputy Leader of the Opposition raised concerning a series of companies that are interrelated in some way or another, I suggest that he read the observations of Chief Justice Rogers of the New South Wales Court of Appeal in the Equiticorp Finance Limited case. Equiticorp was in liquidation v the Bank of New Zealand in 1991, but the decision was made in 1993. The court looked at a group of companies in evaluating what directors were trying to achieve. The Deputy Leader of the Opposition may find some interesting elucidation on that.

Dr Gallop: Will you copy that document for me?

Mr PRINCE: Yes, of course. The other point regarding disclosure of interest and so on is in section 231 of the Corporations Law which reads -

> A director of a proprietary company who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director shall, in accordance with subsection (7), declare at a meeting of the directors of the company the fact and the nature, character and extent of the conflict.

The common law principles that derive from the laws of equity are now codified in our Corporations Law. Section 231(7) provides that a declaration is required in certain circumstances when a person becomes a director at the first meeting of directors and so on or where it may happen after he becomes a director it must be disclosed and recorded by the director of the company.

It also says in the Corporations Law that the provisions dealing with disclosure, so that conflicts of interest are avoided, are in addition to and not in derogation of the operation of any rule of law or the provision of articles restricting the director from having an interest in contracts.

The point I am coming back to is, what is said in part 3 of the Bill is declaratory of the legal provision as it stands now; it is not new. The point I then make is that those who are involved in commerce, in the operation of publicly listed companies, private companies, family companies or whatever are familiar with these problems as are many people involved in commerce as advisers, whether they be accountants, lawyers or financial experts. Perhaps in that sense there is a lack of understanding of these obligations and the liabilities that go with them by those who have not been part of the corporate world.

A consultant is employed as an adviser to provide advice or a service or anything else for that matter. In the words of Rumpole, consultants are "a taxi for hire". That is the way Rumpole describes a lawyer. The person who employs and who pays lawyers, owns them, as it were, for that purpose. That fiduciary relationship dictates how the work is performed. It is impossible for the person to maintain intellectual honesty in that relationship if he allows that to be interfered with by other relationships which could have a conflict. If another relationship has a conflict, one cannot take on the job.

As a practising lawyer if potential were to exist for conflict with a current or former client I could not take on a new client. As soon as potential for conflict arises, one must stop or not take it on in the first place. The same general rules apply to any consultant who is engaged whether in government or outside government. He cannot perform his task properly unless there is no conflict. However, that integrity must be preserved.

Dr Gallop: How specific should the interest be before a conflict arises?

Mr PRINCE: The concept of fiduciary duty determines whether a conflict arises. The individual circumstances of a case must be considered. With regard to Mr Hohnen in AlintaGas - I do not know the details - judging by interjections from the Minister for Energy, I understand that a declaration was made of his interest in the KingStream Group of Companies at the time he went on the AlintaGas board or at some stage before the present matter arose.

Mr C.J. Barnett: It was the other way around.

Mr PRINCE: One way or the other, a declaration was made, as it should have been because the AlintaGas Corporation legislation precedes the legislation before the House which is almost identical. In other words all the declarations were made and he had nothing to do with the decision making process, which was quite proper.

Dr Gallop: The implication in the article was that he could participate in some discussions on the board, but not others in relation to KingStream. That is a difficult argument to sustain if you have an interest in the KingStream process through consulting work.

Mr PRINCE: It depends on the nature of the interest. It would be an area where one would not tread easily without having good advice on the detail of the AlintaGas involvement in connection with KingStream. One should always err on the side of caution. If the potential exists for conflict of interest one should not participate in whatever the process may be which could potentially give rise to the conflict of interest. It is the law as it has been for a long time. It applies to all professional advisers and anyone involved in this area of work. We are declaring that this is the responsibility of directors of statutory corporations. I would have argued that this law applied to statutory corporations even before this legislation. I consider that the general common law relating to corporations and the obligations and duties of directors, which were common law, not statutory law - they have become statutory law - are things which common law and laws of equity have generated over the years. I believe they apply to statutory corporations, irrespective of any Statute law. Other lawyers may share my view, but there may well be some who do not.

Dr Gallop: How much case law is there in that area?

Mr PRINCE: Off the top of my head, I could not tell the member. I suggest that if he wants to know, he should subscribe to the annotated corporations law of Commerce Clearing House Incorporated of Chicago and he will find out. I do not have the money to do that, but he may have. I have two highly qualified legal advisers sitting at the back of the Chamber, so I can ask.

I refer to the comparison between different types of government trading enterprises. A comparison was given between Homeswest, or the former state housing commission, on the one hand, and a port authority on the other. The port authority is an entirely commercial exercise. I remind the member of what I just read out from the director's manual. It is a corporate citizen. It lives in society; therefore, it has obligations to society. For example, the Albany Port Authority has an obligation to the community of Albany and the hinterland it serves. The same goes for every port. If a port authority does not discharge that community citizenship task well, it will come under criticism and it will get into some kind of difficulty. That is an obvious answer. The ports have also always had a strategic aspect, particularly in a trading nation like Australia.

I will contrast that with Homeswest, which, as the member said, exists for a social purpose. It exists to provide housing for those who otherwise would not be housed. I am not saying that it does not do that now, it does. However, it also has many other tasks and reasons for its existence. Being a previous Minister for Housing I know, for example, one reason is for the management of low interest loans to people on low incomes. There are significant fiduciary responsibilities for hundreds of millions of dollars of public money - not taxpayers' money - raised on the bond market. Although there is a social purpose, there is also a fiduciary duty for the moneys raised on the bond market that run the Keystart scheme. I appreciate it is a different company structure, but there is a general, overall responsibility. That is another responsibility. I am not saying it is secondary or primary; it sits alongside in many respects.

There is also an obligation with regard to society. As I said many times when I was the Minister for Housing, and as others have said before and after me, previously we had the creation of ghettos by building public housing in just one place, and that was socially undesirable. We have seen the redevelopment in places such as Kwinana and Lockridge, the two main areas, involving $220m. However, there have also been redevelopments in Rangeway in Geraldton, Mt Lockyer in Albany and so on. Many redevelopments of housing commission suburbs are part of an exercise in saying that what was done in the past has been socially undesirable in the sense of having a concentration of public housing in one place, and that should be changed. Even though there may not be a necessity to do so, given that the structures are sound and will last into the future, there are good social reasons for proceeding down that line. People who occupy public housing will be given a better quality of life. It will also provide a better suburban society. There are differences between those obligations and those of a port authority, but there are also great similarities. As I said, they both exist in the same social structure.

It always comes back to the fiduciary duties of the directors. In the case of Homeswest, it is the commissioners; in the case of the port authorities, I think it is the directors, by label. Those positions are very much the same. They

owe a fiduciary duty not just to the organisations over which they exercise some control, but also in a wider context. In that context the directors must determine what are the duties at the time and also look at what may, or may not, be conflicts that could arise.

Other matters raised by the member for Cockburn were specifically to do with the Gas Corporation and the Electricity Corporation. In many respects they were answered largely by interjection from the Minister for Energy. The last matter I will draw to the attention of the House concerns the organisations listed in the schedule relating to disclosure of interests voting and so on. I have information in tabular form in respect of the matters in the schedule listing the authorities by name; the provisions in their respective legislation concerning disclosure of interests; voting; loans; indemnities; and false information. I seek leave to incorporate this table in *Hansard*.

[The material in appendix A was incorporated by leave of the House.]

[See page No 5469.]

Mr PRINCE: I prefer to do that, rather than to read it out. It will answer much of the detail and questioning that might otherwise come, particularly from members of the boards of these organisations, when this legislation passes. In many respects, it contains the answers found in the legislation already. In closing, I thank members for their support of the legislation.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 3 put and passed.

Clause 4: Interpretation -

Dr GALLOP: I refer to the definition of corporation in this clause. It means any body corporate established for a public purpose by a written law, but does not include a local government. I refer to the potential for government corporations to spawn offshoots or to enter into joint ventures; for example, perhaps one of the port authorities or the East Perth Redevelopment Authority may decide that to carry out its functions it needs to set up another vehicle. Presumably in some sense that would still be part of government but it would have been established through the workings of that corporation, rather than directly by written law. Is that an issue, or am I barking up the wrong tree? What is covered by "corporation"? Does it include all government bodies and those further bodies that may be created by that corporation, or just the statutory authorities created by written law?

Mr PRINCE: That is an interesting point. If there were a joint venture between, say, the Dampier Port Authority and Hamersley Iron Pty Ltd, clearly the port authority as a corporation would still be the port authority as a corporation, although in joint venture; consequently, the directors would still be liable and answerable and all the provisions of this legislation would apply. The reports that the port authority generates must disclose what occurs with regard to the joint venture. If a development authority, within Perth or located somewhere else, were to generate a wholly owned subsidiary, perhaps as a proprietary limited company and incorporated under the Corporations Law, because of its direct relationship and ownership by the head company, the directors - for want of a better term - of the port authority or development authority would still be liable and responsible for the operations of the company, including its subsidiary. The subsidiary is answerable through its shareholding to that which owns it. The directors of the statutory corporation are therefore responsible for the activities of their corporation, which includes the wholly owned subsidiary.

If there were different directors of a subsidiary, of course those directors would be liable under the Corporations Law anyway. I cannot think of any other example where something that resembles a corporation could be created by a statutory corporation without being incorporated under either the Corporations Law or the Associations Incorporation Act. The Associations Incorporation Act does not apply in this case; therefore, I cannot see how it could be done without that chain of responsibility and liability flowing up and down.

Clause put and passed.

Clause 5: Duties of directors -

Dr GALLOP: This clause outlines a framework within which we are to understand this issue of duties; that is, the Minister is ultimately responsible for the administration of the Act under which the director holds the position. Does this legislation mean that the Minister is ultimately responsible for what goes on in those corporations? If, for example, one of the directors acted improperly, is it the responsibility of the Minister to bring that to light and to take action? Does it mean also that the Minister has overall responsibility for the way the boards that exist within his portfolio behave and to ensure that they conduct themselves properly?

Mr PRINCE: A Minister has a responsibility under our Westminster parliamentary system in a political sense in this Chamber for that which falls under the portfolio he or she may administer - Acts of Parliament as well as common law - and, hence, is answerable. The shareholders of a statutory corporation are in a sense represented by the Minister. The shareholders ultimately are all the people of the State because it is a public trading enterprise - a public statutory corporation. Who owns the statutory corporation? Who owns a government department; who owns government? In a sense, it is the people. The Minister is elected and appointed to the position of the people's representative.

It is perhaps a little more complex than that. However, from the point of view of the responsibility chain, I would argue by analogy that the Minister effectively stands in the place of shareholders. Therefore, a Minister has ministerial responsibility for the administration of an Act under which a director holds a position. The director has a responsibility back to the Minister in the way that outside the public arena a director has a responsibility to the shareholders.

Dr GALLOP: Somebody must carry the responsibility for ensuring that all government boards operate properly. Interestingly, we do not tend to focus on that function. We tend to focus on the boards as being corporatised or commercialised, or, if they are neither of those two, at least having some degree of independence in their operations. It is up to them to be responsible for what they do. If there are any transgressions, legislation like this will come into play. However, the practical issue is that someone must take an interest in and show a concern for those things, otherwise it will not occur. The Minister must be in a position to know what is going on so that he can be sure that everything is working properly. Obviously regular meetings must be held between the chairman of the board and the Minister, and annual reports must be presented to the Minister. The Minister at any time can call for inquiries into what is going on. However, it seems that particularly good mechanisms do not exist within government for doing that.

The diligence of the Minister is a key point. The Minister must keep up an interest and know what is going on. Is the Minister satisfied that as the representative of the shareholders - in this case, the taxpayers or the people of Western Australia - he is in a position to be on top of these types of questions so that should problems emerge, he can take action? The experience is that things can get out of hand and take on a life of their own. By the time the Minister catches up with what is happening, it may be too late. We saw that with the banking problem in South Australia.

The Minister for Health had an interesting experience with the Harvey-Yarloop hospital. The board of that hospital, and not the Minister, contracted it out; however, ultimately the Minister is responsible for what goes on. The contractor started to have troubles and there were consequences, and he went into liquidation.

Mr Cowan: What about taking places on select committees for specific inquiries?

Dr GALLOP: As a mechanism?

Mr Cowan: No, what about those actions and things of that nature?

Dr GALLOP: I am not clear about what the Deputy Premier is getting at.

Mr Cowan: I'll explain it to you afterwards. Midland.

Dr GALLOP: The member for Applecross and I know a lot more about that than the Deputy Premier does. I do not see what he is getting at. He is trying to throw a nasty little comment into the debate. Has the Deputy Premier had ugly pills today?

Mr Cowan: I am just reminding you not to have two standards.

Dr GALLOP: I do not have two standards. I have one set of standards which are applied at all times.

Mr Cowan: I am talking about the SGIO and the SGIC.

Dr GALLOP: Where is the double standard there?

Mr Cowan: It would take me too long to tell you.

Dr GALLOP: Who was the Minister who brought all those boards into shape? Who was the Minister who brought about the restructuring of those organisations in the light of the problems? Answer the question. Who did it?

The DEPUTY CHAIRMAN (Mr Johnson) Order! I remind the Deputy Leader of the Opposition that he is supposed to be speaking to the Chair. I realise that he had an interjection.

Dr GALLOP: Mr Deputy Chairman, I think you should be addressing the Deputy Premier.

The DEPUTY CHAIRMAN: You are the one on your feet with the right to speak. I will tell the Deputy Premier not to interject if that is the request.

Dr GALLOP: Is a good institutional framework in place to allow the Minister to carry out the responsibilities outlined in this legislation? I am not sure that there is an easy answer to that question. However, I would be interested in the Minister's reflections on whether the simple relationship between the individual Minister and the agency, and the annual reporting or regular meetings is enough. We now have a performance monitoring process in Treasury, and that is a useful addition to the equation. Obviously, Treasury keeps in touch with what is going on so that if any financial problems arise, it advises the Treasurer and, through him, the individual Minister. Does the Minister think more institutional teeth should be put into that requirement?

Mr PRINCE: I appreciate the tenor of the question and the general inquiring nature of it. I will move back to the nonstatutory company area - the corporate watchdog in a sense - the ASC. It is not a policeman, but there are requirements for reporting that the ASC then polices. One then has the shareholders. All companies must go to their shareholders at least once a year. They must report; they are subject to questioning; and directors hold office only as long as the shareholders deem that they should. In a general sense, we have an accountability mechanism for performance and for discharge of fiduciary duty. We also have reporting in the statutory area, because all trading enterprises report in some form or another, at least annually if not more often. The Auditor General is also there as a policing mechanism along with Treasury.

The Minister has a political public responsibility, which in many respects is greater than that of the director in the nonstatutory area. For example, the Minister appears in this House every day for question time when the House is sitting, which is at least half of the year, and is subject to inquiry when the House is not sitting by members of the Opposition, the media and so on. The political process imposes an enormous amount of accountability pressure on the Minister that one would not find in private enterprise. There is a quite distinct difference.

The result is that by a combination of not so much systems in an institutional sense but of checks and balances, there is enough accountability. It is always possible to argue from specific examples where there has been a failure and therefore that we should have an overseeing mechanism that works all the time. The difficulty then is that such an organisation would have to be working so hard and be so large in order to be able to understand what was going on in all corporatised bodies that it would be a monster. To what end? Would we have it simply to prevent the few problems that arise? Perhaps that is a desirable thing to consider. However, it would have to be incredibly big. In any case, the Auditor General and the Treasury have that type of slightly independent role.

It is always useful to ask a "who watches them" question, because it might lead to a subtle shift, twist or modification of systems to ensure that when a problem is perceived to occur or could occur, some change is made so that it cannot. However, generally we do not need another institution in a systemic sense to do that which the member suggests.

Clause put and passed.

Clause 6: Unlawful directions -

Dr GALLOP: This clause provides that Ministers cannot give directions if they are unlawful.

Mr Prince: That is right.

Dr GALLOP: What is the point of the clause? That is obvious. Is it trying to make the point that if the direction is unlawful, those who must carry it out are given a defence from claims of malpractice?

Mr PRINCE: It means that the direction that has been given, which presumably would be in a formal sense in writing and so on, has no legal standing or basis; it has no force and effect. Consequently, refusal to comply with it by the directors is a totally correct act on their part. It could give rise, for example, to some consequences under relief from liability. If a direction were found to be unlawful, the director who had refused to comply might be relieved from liability for noncompliance. Again, in a sense, that is a statement of the obvious, and it is obvious. However, it focuses the minds of those who would be involved on what it is they are doing and being absolutely certain that there is a lawful power to give the direction.

Clause put and passed.

Clause 7: Interpretation -

Mr PRINCE: I move -

> Page 5, after line 25 - To insert the following -
>
> (4) The provisions of this Part apply to a Board member of the Mid West Development Commission and the South West Development Commission established by the *Regional Development Commissions Act 1993* only in respect of the functions of the relevant Commission under Part 5 of that Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 8 put and passed.

Clause 9: Duty to act honestly -

Dr GALLOP: I would like the Minister to outline which part of this division, which deals with duties, would require a proper declaration of interests when people become members of statutory authorities.

Mr PRINCE: There is no clause saying that one will declare potential conflicts, for fairly obvious reasons - that one cannot if one does not know what they are until they potentially arise. However, if one has a duty to act honestly at all times, either in this State or anywhere else, that inherently means that a person who is a director and who is confronting a position where there is a potential conflict must, when the potential becomes known, declare it, otherwise there is dishonesty.

For the protection of the individual the declaration should be done in a formal way; for example, in writing and recorded by the secretary, or whatever process is used for recording meetings of a board. The individual should not have anything to do with any decision making process concerning that which is the potential conflict, should not be involved in any votes and should not have anything to do with canvassing other members of the board. I strongly urge that clause 9 would be interpreted in that way. I cannot see how a director or member, by whatever name, could act honestly if he did not disclose a potential conflict of interest as soon as he became aware that a potential conflict of interest had arisen.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Duty not to make improper use of information -

Dr GALLOP: I refer to a Minister who has access to information and feels it necessary to reveal it - an example is that in recent times the Premier took it upon himself to reveal the details of the proposed contract for the

Commonwealth Games when, I understand, a confidentiality clause had been signed. The Premier decided the community should know about it, and that is fine. If a Minister uses confidential information he has been given in the Parliament, would the director of the statutory authority be liable? Would the director be responsible for having given the information to the Minister? Under the Westminster model, he would have to give the Minister information because it is part of the doctrine. Does the Minister envisage any difficulties with this clause?

Mr PRINCE: It is difficult because where does the public interest lie? In respect of a director, the rule is very clear. I suppose the classic example would be insider trading where someone, as a director of a company, has information about a commercial venture and uses it for personal gain. That would be straight out fraud of the company and improper. That is a blatant and obvious example. However, if the director has properly advised the responsible Minister of a certain thing, his duty would be discharged and what the Minister chooses to do with the information is a matter for ministerial responsibility. If the Minister makes what is deemed to be an improper use of that information, it would become a matter for the Parliament and the public process.

Clause put and passed.

Clauses 12 to 22 put and passed.

Schedule 1 -

Mr PRINCE: I move -

Page 15, after line 7 - To insert the following -

Mid West Development Commission	a Board member	*Regional Development Commissions Act 1993*

Page 15, after line 26 - To insert the following -

South West Deveopment Commission	a Board member	*Regional Development Commissions Act 1993*

Amendments put and passed.

Schedule, as amended, put and passed.

Schedule 2 -

Mr PRINCE: I move -

Page 21, after line 27 - To insert the following -

Regional Development Commissions Act 1993

1. Section 20 is amended -

(a) by inserting after "**20**." the subsection designation "(1)"; and

(b) by inserting the following subsection -

" (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996* so far as it applies to the Mid West Development Commission or the South West Development Commission. "

2. After section 25(2) the following subsection is inserted -

" (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996* so far as it applies to the Mid West Development Commission or the South West Development Commission. "

Dr GALLOP: Why were these amendments not included in the first draft? Why is it qualified in some way for the Mid West Development Commission and the South West Development Commission and why does it apply only to the functions of those commissions under part 5?

Mr PRINCE: It is the result of a matter of great moment raised by the Opposition in the Legislative Council. The question was in relation to the South West Development Commission and the Mid West Development Commission which, under the the Regional Development Commissions Act, have limited powers. A commission is not empowered, subject to part 5 to enter into any business undertaking, either directly or indirectly, or to acquire land, any estate or interest in land other than a tenancy to provide office premises for the commission.

It also provides that on the repeal of the Geraldton Mid-West Development Authority Act and the South West Development Authority Act all land that immediately before the repeal was vested in those authorities passes to and becomes vested in those commissions. It was done for the purpose of dealing with that land so that they may, in particular, manage and dispose of, subdivide, amalgamate, improve, develop and alter the land and enter into transactions and arrangements. These two commissions have substantial land holdings by comparison with other development authorities. It is thought desirable that these two commissions should be subject to this liability Bill, particularly in respect of their dealings in land.

Amendment put and passed.

Schedule, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

Sitting suspended from 6.01 to 7.30 pm

CRIMINAL CODE AMENDMENT BILL

Second Reading

Resumed from 27 August.

MR McGINTY (Fremantle - Leader of the Opposition) [7.30 pm]: The Opposition supports the Bill. It is a very brief Bill which seeks to do two things: First, ensure that any deficiencies in the current Criminal Code relating to the definition of a public officer are remedied; and, secondly, ensure that a person employed in the public sector who is under a duty of confidentiality while in the public sector retains that duty of confidentiality once he or she leaves the public sector. Each of those two provisions is simple and unobjectionable. According to the second reading speech the advice on the applicability of the Criminal Code provision extending to public officers is that this provision must be inserted so that Ministers of the Crown, parliamentary secretaries and members of Parliament are caught within the definition of public officer. As that was always the intention of the Criminal Code the legislation does nothing more than place beyond doubt the provision which already exists in the code. In that sense, to describe this Bill as part of the Government's package of anticorruption measures is probably a generous overstatement on the part of the Minister in his second reading speech.

Mr Prince: It might be the smallest part, but it is a part of many parts.

Mr McGINTY: It is certainly not a significant contribution. Nonetheless, it warrants the Opposition's support. Although the import of this Bill is to extend the ambit of the new Anti-Corruption Commission to members of Parliament and Ministers, it is unfortunate that the scope of the Anti-Corruption Commission is not as broad as it should be. To include members of Parliament and Ministers should go without saying. However, including members of Parliament and Ministers within the ambit of the Anti-Corruption Commission falls down if the Anti-Corruption Commission does not have the appropriate level of powers.

I wanted to draw attention to the fact that under the Labor Party's model in the Commissioner for the Investigation of Corrupt or Improper Conduct Bill, which was taken very much from the recommendations, first, of the Royal Commission into Commercial Activities of Government and Other Matters and, subsequently, the Commission on Government, the Anti-Corruption Commission would be considerably stronger than the body which has been created by the legislation passed recently by this Parliament. The Labor Party has given a commitment that upon coming

to office it will significantly enhance the powers and the jurisdiction of the Anti-Corruption Commission to accord with the recommendations of the Commission on Government and the royal commission as was evidenced in the Commissioner for the Investigation of Corrupt or Improper Conduct Bill which the Opposition introduced into this Parliament and which was defeated on a vote by members opposite. The Labor Party's model was far closer to the strong anticorruption body which was recommended by the various authorities and which I believe the public wants.

Significant support exists on the conservative side of politics in this State for the implementation of the recommendations of the royal commission and the Commission on Government. I expect that in the campaign leading up to the next state election a lot will be said about the recommendations of the Commission on Government and in particular the question of accountability. One area in which the Government will be vulnerable to attacks, not only from the Opposition but also from the seemingly growing number of Independent Liberal candidates who will be contesting this election, will be the issue of accountability. The Opposition can always rely upon the Independent members of this House on a straightforward matter of the implementation of the blueprint for accountable government as recommended by COG and the royal commission. On such matters we can predict that the Independent Liberal members of this Parliament will join with the Labor Party to ensure that accountability as recommended by those two bodies will be implemented. I have no doubt that in the upcoming election campaign many members of the Government will feel the heat in their electorates both in the marginal electorates and the very safe conservative electorates in which the Independent Liberal members will be campaigning. Mr Speaker, I have no doubt that with people of the ilk of Peter Kyle - if he decides to go down that path - contesting your former seat and, perhaps, in the new seat of Alfred Cove that replaces the member for Applecross' existing seat, significant debate will occur about the implementation of the accountability provisions in the same way accountability was a significant issue before the last election.

This Government rode to power on the coat-tails of accountability. It has failed to seize the opportunity to implement the recommendations of its own creation, the Commission on Government, or of the Labor Party's creation, the royal commission. To my way of thinking, there is a high degree of uniformity coming from the recommendations of the Labor Party's creation of the royal commission and the Liberal Party's creation of the Commission on Government on a model system of government for this State for the future. No doubt government members will feel the heat in their electorates, whether it be because they are being pursued by Labor candidates in marginal seats or whether they are unfortunate enough to hold super safe seats where they will be contested by both Liberal Party members and Independent members, but this issue will be a prominent feature of the next election.

For that reason it is important I take this opportunity to draw attention to the fact that the powers of the Anti-Corruption Commission will be the subject of that debate. We are concerned that the Anti-Corruption Commission - to the extent that it simply grafts on to the discredited Official Corruption Commission additional powers and different approaches - is not the appropriate way to go. We needed to throw out the old Official Corruption Commission and start again with a new piece of legislation, to make a new start and to get the Anti-Corruption Commission off to the sort of start that the people in this State have been wanting but have been denied for the past three and a half years. To achieve that end, we needed to see model legislation drawn up by the royal commission, or some variation of it, enacted in this place. I refer particularly to the recommendations of the Commission on Government and the way in which it proposed some modifications to what the royal commission recommended. We have seen grafted on to the Official Corruption Commission Act a number of amendments which were designed to give the appearance that an anticorruption body was being established, but it certainly is not the strong, powerful body I expect and which the public expects to see in place. The Government's model is still very much a part-time body. John Wickham is still in the chair of the commission, and special investigators are brought in only on a contract basis. The Labor Party proposed a full-time model with the commissioners exercising their powers on a full-time basis and ensuring that its own investigators had the coercive powers to conduct the necessary investigations.

Another criticism is that the Government's upper House Select Committee on the Western Australian Police Service recommended a dedicated or specific body to deal with corruption matters involving the police. That is what the Tomlinson report recommended. That committee had a majority of government members, but that report was not picked up by the Government's Anti-Corruption Commission; the Labor Party's model does that.

The other weakness in the Government's model is that it provides for secret investigations and reports. The Labor Party's model and the amendments which we moved to the Government's legislation sought to provide for public investigations in certain circumstances, as well as public reports. In the 1990s that is the least we should expect -

Mr Lewis: What you are saying is that, because someone writes a letter of allegation to the Anti-Corruption Commission - without any substance or evidence - that should automatically be made public.

The SPEAKER: I assume that the Minister is acting as Leader of the House. In that category I accept the interjection from that seat.

Mr McGINTY: I think he is Acting Premier in that seat.

Mr Lewis: I had better move.

The SPEAKER: I do not think he is that!

Mr McGINTY: We could always wish!

To answer the question, no; the amendments we moved during the course of debate did not provide for openness and complete publication of lower level matters. However, our notion was that, once the inquiry was embarked upon, it could be held in open session.

Mr Lewis: There must be a preliminary inquiry to establish the substance of a complaint or allegation.

Mr McGINTY: We did not propose that those matters be made public. There might be circumstances in which a controversial matter of great public interest was dealt with at the discretion of the inquirer or commissioner in a confidential way. However, the Government's legislation makes it mandatory that the investigation be in secret. That was the problem with the legislation. With the current Wanneroo royal commission, the Easton royal commission and the WA Inc royal commission - each of which was held in public session - there was a public requirement -

Mr Lewis: They are royal commissions. There is a difference.

Mr McGINTY: Once the stage is reached of establishing a royal commission with coercive powers, what makes the initial Kyle inquiry different from the current Davis inquiry -

Mr Lewis: A commission has protection.

Mr McGINTY: It has both protection and coercive powers to compel someone to come forward to give evidence. We have here both protection and coercive powers, when a special investigator is appointed; but to operate in secret. That was our problem.

Mr Lewis: It is at the discretion of the commission.

Mr McGINTY: It should be, but not under the Government's legislation, and that was our objection. My recollection of the Anti-Corruption Commission legislation was that there would never be a public hearing - and that was our objection. If it were a discretionary matter -

Mr Prince: It is in order to protect the reputations of those who appear. As has been said for a long time, reputations can be destroyed - and that is unjust. If the commission decides to make something public, it does so after the matter has received careful consideration. If after public scrutiny and the rest of it, a reputation is destroyed, it should be.

Mr McGINTY: But if during the investigations by the commission - not the preliminary ones - there is an allegation that a Minister behaved corruptly, a full investigation must be done behind closed doors, notwithstanding the great public interest.

Mr Prince: It is a matter of balance.

Mr McGINTY: The balance is not there. The balance should be to give the inquirer discretion to hold public or private hearings. One of the matters the inquirer should look at is the protection of the reputation of an individual against being destroyed by an unsubstantiated allegation. In the 1990s, if a serious matter of corruption is to be investigated, we should have the capacity to conduct an investigation in open session. I make these points because in our view the Anti-Corruption Commission Bill is seriously deficient. To the extent this Bill seeks to extend the scope of persons caught by the definition of "public officer" in the Criminal Code it does so, but it has only half the effect that Labor Party members would like to see, because we think the Anti-Corruption Commission should be significantly enhanced. During the course of the election campaign we will be ensuring that becomes a real issue. We will be campaigning on it. We will make clear commitments to upgrade the Anti-Corruption Commission. I look

forward to the debate taking place in a range of electorates to which members opposite have some attachment currently.

The second matter contained in the legislation relates to persons who in the public sector are under an obligation or duty of secrecy to make sure that duty of secrecy goes with them when they leave the public sector. That might appear to be a little at odds with what I have just said about openness; however, we are talking about extending a duty for a longer period, one which was anticipated to, but technically did not, apply. In that sense, this legislation can be seen as remedying two potential defects in the legislation. This is not a significant piece of legislation; it is simply a tidying up exercise, which is supported by the Labor Party.

MR BROWN (Morley) [7.50 pm]: I join the Leader of the Opposition in supporting the Bill as a lay person who seeks to have a number of matters placed on the record that are not immediately apparent.

The SPEAKER: Order! Members on my right will come to order.

Mr BROWN: This Bill seeks to amend the Criminal Code in two ways. It seeks to extend the operation of section 81 so that a person who has been under a duty to keep a matter secret while employed in the Public Service remains under that obligation when he or she leaves the Public Service. I have looked carefully at the second reading speech, as much of it as there is -

Mr Prince: Cheeky!

Mr BROWN: Basically, two pages are taken up dealing with two clauses of the Bill; it is not the most expansive second reading speech that I have come across.

Mr Prince: If it can be said succinctly, it should be said succinctly.

Mr BROWN: I agree with the Minister in that regard. However, I was looking for information that certainly was not contained in the second reading speech. The first matter - the more simple one - is the obligation to be placed on someone who leaves the public sector. If a person has had a duty to keep information secret, that obligation will stay with him for ever.

Mr Prince: It is an extension of an obligation created by section 81.

Mr BROWN: Even federally, after 30 or 50 years, a report is made to the Parliament to disclose matters that may previously have been official secrets.

Mr Prince: Some things are never disclosed.

Mr BROWN: That is true.

Mr Prince: But most things are.

Mr BROWN: Indeed. Most things that are deemed to be in the public interest to remain secret are disclosed after a period of years, be it 10, 20 or 50 years.

Mr Lewis: Secret is probably the wrong word to use; it is confidentiality. Secrecy suggests that you do not want to tell people. There are some matters that are in-confidence and should remain in-confidence.

Mr Prince: Secret is the word used.

Mr BROWN: Indeed. That is the word used in the legislation. I do not suggest that some very officious person in the Office of the Director of Public Prosecutions, now or in the future, will take a very harsh -

Mr Prince: Try literal.

Mr BROWN: - or a very literal reading of this proposed provision to prosecute somebody aged 93 years who happened to let slip in a dinner conversation what happened in the public sector when he was aged 22 years! It appears that the obligation not to divulge information is a lifetime obligation. Is that not somewhat excessive?

Mr Prince: No.

Mr BROWN: Perhaps the Minister could tell me under what circumstance the provision is not excessive. To carry on that obligation ad infinitum is quite onerous. I do not refer to the situation in which someone discloses for commercial gain or benefit information received in-confidence while in the public sector. I clearly exclude that circumstance. If one were selling or divulging secrets, whether it was one year or 10 years after the information was obtained, for commercial gain, obviously such a person would run foul of the proposed amendment to the Act. However, it seems to be somewhat harsh for that requirement to continue for ever and a day.

It seems that section 81 in some sense abuts, not conflicts with, the Freedom of Information Act. The Minister may care to explain that point in response to the second reading debate. Members of this House know that the Royal Commission into Commercial Activities of Government and Other Matters stated that this State should have a very strong Freedom of Information Act, which should operate on the basis that everything should be made available unless good reason exists for not making that information available. As one who from time to time uses the provisions of that Act, I am not sure that the spirit and intent of the Act has been achieved in some of the responses I receive.

Mr Prince: I will quote David Parker to you in a moment.

Mr BROWN: The Minister can quote him at any time. He is not a member of this House.

Mr Prince: He was only the Deputy Premier!

Mr BROWN: We can all quote. The Minister can quote David Parker, and I can quote Sir Charles Court and section 54B.

Mr Lewis: They are like chalk and cheese.

Mr BROWN: I agree. It was a pretty draconian section. We can all delve into the past and refer to matters such as the bottom of the harbour scheme and who cleaned it up.

Mr Lewis: They will be doing that to you in 10 years.

Mr BROWN: There is nothing to find. Anyone can look at my bank book!

Mr Lewis: They can still make allegations.

Mr BROWN: They can make all the allegations they like, but anybody who wants to can look at them; there are not too many secrets in my Commonwealth Bank book! It seems that this provision abuts the provisions in the Freedom of Information Act because it seeks to be, and currently is in the Act and the Criminal Code, a provision to extend the duty to keep information a secret. Will the Minister enlighten me as to who or what determines the matters that fall into that category? I ask that because events have moved on from when this provision was first put into the Act. At that stage, as the Royal Commission into Commercial Activities of Government and Other Matters said, the Government used very much to hold information to itself, if it were not convenient for the Government to release it. That might have been for political reasons only. Clearly the royal commission said that was not good enough and government must be open and transparent. Only when the public interest is served by not making information available should it be withheld. If that is the case, what is it a person's duty to keep secret? Let me give a case in point. Recently under the Freedom of Information Act I applied to obtain a report that had been commissioned and paid for by taxpayers. I asked the department concerned to provide me with a copy and sent my $30 application fee. I received a letter saying I could not have the report because it had still not been fully considered by the Minister! Presumably the report would not change or be rewritten, but still it was not available. Would that constitute a duty on the part of a public officer to withhold that report and to withhold any "secrets" that may be in that report?

Mr Prince: Were you watching "Yes Minister" tonight? It was all to do with rewritten reports.

Mr BROWN: I can show the Minister reports that have been rewritten. Where is the dividing line between this Bill and the Freedom of Information Act? As the House will be aware, under the Freedom of Information Act, it is possible to challenge the initial decision of a department on whether to release information. In order to obtain the information one is after, one can go to a review and then take a series of steps to keep appealing until such time as one cannot go further. If a public officer disclosed information that had been denied under the Freedom of

Information Act, could he be disclosing information which, in terms of the legislation, it is his duty to keep secret? This is an important issue. If one were to take a literal interpretation of this clause, it could be used capriciously. For example, in the Ministry of Justice an officer released information concerning a Senator and an application for an order in a court. The public officer was charged under the Public Sector Management Act. That officer allegedly released information which it was his duty to keep secret. If he did release information that it was his duty to keep secret, was he wittingly or unwittingly rendering himself liable to be dealt with under the legislation as it is and under the proposed legislation?

The question is not easy. I will tell members how difficult it can be for a public officer. A few weeks ago in this House I asked a question of all Ministers. I asked them to inform me what assets worth $100 000 or more had been disposed of by their respective agencies or departments. I had a number of different responses from Ministers. Some Ministers responded faithfully to the question and detailed in an itemised list the precise descriptions of the assets and the amounts raised as a result of sales. However, other Ministers have said, "These are the assets that we have sold over this particular threshold of value but the information is confidential; that is, it is secret. We will not disclose the amount for which we sold it." Therefore, if we had public officer A employed by Minister A who disclosed to this Parliament and, therefore, the public of Western Australia the information on the prices obtained, that person would not be disclosing a secret; whereas if we had officer B responsible to Minister B who said in his place, as some Ministers have said to me by way of answer today to my questions, "This is confidential", presumably any public officer who then released that information would be releasing information it was his duty to keep secret.

Based on the answers from Ministers today, the nature of the information that is required to be kept secret is inconsistent when compared with the information that is publicly available. Will the Minister in his response to this debate provide for this House, and therefore for the record, a definition of when we can decide that a document or certain information is secret? Is any information that is not being disclosed - not necessarily because it is highly confidential information but because we have not asked for it - secret? One would not have thought so. Although it is a worry with the existing provisions of the Act, this Bill proposes to extend for the term of his or her natural life an officer's obligation. If the obligation is ambiguous, it is a very onerous obligation.

MRS HENDERSON (Thornlie) [8.10 pm]: The Opposition supports the Bill. This is not a very complex Bill, and it appears to address two major issues. The first is to change the definition of "public officer" under the Criminal Code to include Ministers of the Crown, Parliamentary Secretaries and members of Parliament. The term "public officer" includes a police officer; a person authorised to execute or serve court process documents; a public service officer within the meaning of the Public Sector Management Act; and a member, officer or employee of any authority, board, corporation, commission, municipality, council or committee or similar body established under written law. It is a very broad definition.

The main section of the code that will now be extended to members of Parliament and Ministers is chapter XIII, which deals with corruption and abuse of office. The Government has indicated that this legislation is part of its response to the concerns expressed by the Royal Commission into Commercial Activities of Government and Other Matters and the recommendations of the Commission on Government. The offences which are listed under that chapter include corruption, which is covered in section 83, which states -

> Any public officer who, without lawful authority or a reasonable excuse -
>
> (a) acts upon any knowledge or information obtained by reason of his office of employment;
>
> (b) acts in any matter, in the performance or discharge of the functions of his office or employment, in relation to which he has, directly or indirectly, any pecuniary interest; or
>
> (c) acts corruptly in the performance or discharge of the functions of his office or employment, so as to gain a benefit, whether pecuniary or otherwise, for any person, or so as to cause a detriment, whether pecuniary or otherwise, to any person, is guilty of a crime and is liable to imprisonment for 3 years.

I think everyone would accept that those provisions of the Criminal Code that deal with corruption should extend to members of Parliament. The only issue that I raise - I think this has been raised by others as well - is that members of Parliament occupy an unusual position because of the wide range of information that comes their way. The only provision that saves members of Parliament with regard to that information is the opening words of section 83, which state, "Any public officer who, without lawful authority or a reasonable excuse".

For example, all members of Parliament are accustomed to seeing tabled in this Parliament from time to time extensive town planning documents and major amendments that foreshadow changes to land zonings and so on. That is not to say that public officers do not already have access to that material when they draw it up, because they certainly do, but the range of information that comes before members of Parliament is enormous, and it is not difficult to envisage a situation where a member of Parliament may decide to purchase land in the knowledge from that documentation that in future that land will be rezoned for urban use, or whatever. Therefore, we must ensure that the saving words of that section protect members of Parliament and others who -

Mr Bloffwitch: Do you not think they do?

Mrs HENDERSON: I hope they do, and I understand that they do, but generally members of Parliament and Ministers would see a wider range of information than would most other public officers who are caught by this section, and it could almost become impossible for them to conduct personal business without knowing of things that are not necessarily known by the broader community. I hope that the words "without lawful authority or a reasonable excuse" will ensure that people will not be inadvertently caught by this section.

The remainder of the section deals with falsification of records by public officers. This would now apply to any member of Parliament who made a false entry in any record, omitted to make an entry in any record, or destroyed, altered or damaged any record. As members of Parliament, we have always assumed that the records that we maintain in our parliamentary offices about our constituents' business and so on are our personal records, and that if we decided to destroy particular documents within our electorate office, we would have every right to do so because those documents belong to us. We must be aware that these issues with regard to documents were raised by the royal commission. I am interested to know whether in the Minister's view these sorts of records would be covered by this section. There is an important distinction between the records which are kept within government agencies, which are traditionally covered by this section, and the records which members of Parliament keep in their electorate offices.

Mr Lewis: Do you think it will encompass those records that are in a member's private office?

Mrs HENDERSON: I think it must, because although a Minister's departmental records would be picked up by this section, the bulk of a member of Parliament's records are kept in his or her parliamentary office, and as I read this section -

Mr Lewis: They are not in a position of trust.

Mrs HENDERSON: They are in a position of trust with regard to their constituents, and they are representing the public interest. I guess their duty would be to the general public - the people who elect them.

Mr Prince: The answer to the question is no, because we are not employed in the Public Service.

Mrs HENDERSON: Section 85 deals with the falsification of records by a public officer, and the definition of "public officer" will now be extended to include a member of Parliament. Traditionally, we are talking about records that are held by departments and government agencies. It seems to me that when we are talking about a member of Parliament, we may be talking about the records that are kept in a member's electorate office. Will those records be covered by the amendment to this section? I do not know whether this issue has been considered. I know that the change to the definition was aimed particularly at section 83 of the code, which deals with corruption; and I agree that members of Parliament should be caught by the same provisions with regard to corruption as are public servants. However, the traditional definition of a public officer was more the traditional public servant and the records in relation to that person are much clearer than those in relation to a member of Parliament. Perhaps the Minister could respond to that later.

Mr Lewis: Are you worried about what happens after the election?

Mrs HENDERSON: Not in the least, because the destruction of any of my records when I leave this place will not be done by me corruptly, I will be sure of that. I will do it so that my successor gets a clean office and does not move into an office with filing cabinets full of 14 years of records. I raise that as an issue in the same way as I raised the issue about members of Parliament and Ministers acting on the broad range of information that becomes available to them by means of the positions they occupy and the possibility that could lead to them gaining benefits, not necessarily corruptly. I understand that the saving words would be "without lawful authority or reasonable excuse".

The second major change that is proposed under this Bill is the amendment to section 81 of the code which extends the duty to maintain confidentiality of documents and other materials to which a public officer would become privy during his or her time with the Government. It has been described as being equivalent to an official secrets provision. We are all familiar with the fact that, increasingly, private sector companies require people to sign contracts which bind them to confidentiality when they leave. In most cases that is designed to prevent a person setting up in competition to that employer and using information gained while in the employ of that person. This provision has been included for a different reason. It is intended to protect the integrity of the information that people absorb and become familiar with through their work in the public sector. It is a very broad brush provision. It shows up the tensions within a Government which has claimed that it is concerned about open and accountable government, and the protection of the rights of whistleblowers. Those of us who were on the other side of the House a few years ago remember well the cries from the then Opposition about the need to provide protection for whistleblowers. These sorts of provisions have the exact opposite effect in that they make matters not only secret but they also ensure that, if a person reveals information when he or she ceases to be a public servant, he or she is still liable to prosecution.

It is interesting that the Attorney General, when he was talking about tensions between open and accountable government and the desire of a government to keep information secret, indicated that he did not really support this notion of blanket secrecy provisions across the whole of the public sector. He said that the Public Sector Standards Commission was currently working its way through the different government departments and agencies to weed out or separate those areas where secrecy was required, so that instead of this broad brush approach, the Government would be able to identify those that were secret and specify them rather than having this blanket provision. There is no question that is a preferable approach. It means that people are clear about what they are not entitled to reveal after they leave the Public Service, because there is no question that people who work for 10 or 15 years or more in the Public Service absorb a huge amount of information. I would imagine it would be very difficult for them to separate that information which, when they absorbed it 10 years earlier, was considered to be secret. It is like all matters: Something which is secret when it is being developed is often not secret four years later when it has reached a further stage of development and is spread more broadly than it was originally.

Mr Prince: The process by which that thing has been created may well still have an element of secrecy about it.

Mrs HENDERSON: Perhaps there is a need to keep the developing process a secret, although I cannot imagine why that would be the case.

Mr Prince: In terms of something which has a commercial value, the product of the creative process has value, but the creative process may have a value and hence confidentiality in respect of it may be highly desirable.

Mrs HENDERSON: That may be the case. I was thinking more about things like policy documents and changes in policy, which, when first being drafted, are extremely secret and the documents are stamped that way. However, as they are refined and go through multiple drafts and get to the stage where they go through small interdepartmental committees, to Cabinet or into legislation they become less secret. I know that the legislation talks about the status of the document at the point at which the person leaves the Public Service. Therefore, the point at which he exits the Public Service is the point at which he has to know whether the matter is still secret. That might be extremely difficult. A matter that was secret five years prior to a person's leaving an agency may have progressed through several more stages so that it is no longer secret. It would be difficult for a person to check before he or she leaves whether a matter is still secret. I am a little concerned about the possibility of people at a dinner party discussing matters that they had been involved in some eight years earlier and which they assumed are more widely known. I doubt whether they would, once leaving the Public Service, make a telephone call to a senior officer to check whether a proposal they had talked about five or seven years ago was still secret and whether they could talk about it at that dinner party that night. It gets to be quite absurd.

Mr Lewis: It would be dreadfully boring.

Mrs HENDERSON: I do not think it is boring. I see this happening all the time. People around a dinner table may be talking about the Northbridge tunnel and somebody will say that he worked for Main Roads 30 years ago and Main Roads got out the map and drew a line where the road would go. An old codger will say, "Let me give you an example" and he will talk about the plan to build such and such a highway. This legislation could cause that person to think that the fact that he designed -

Mr Lewis: Are you being gender specific? What is a "codger"?

Mrs HENDERSON: It could be either gender. I am using that as an example. I know this is an area about which the Government is sensitive. It is possible that a person could say, "I remember the grand plan for Servetus Street and the great western highway and how we drew it on a map". He could be talking about a process that might have been an issue 10 years earlier. However, knowing how long some of these projects go on, that person could find himself or herself in strife over that because it could still be a secret all those years later. I have concerns about that. I am concerned that, whereas we should be moving towards a more accountable and open system of government, this sort of provision tends to go in the opposite direction. Therefore, with the carriage of this Bill, I want the Minister to encourage the Attorney General or the Premier, who I think has responsibility for the Public Sector Standards Commission, to have the relevant officers move with all haste to identify clearly the areas in which matters are secret so that instead of having this blanket provision, people are clear about what is secret and what is not when they leave the Public Service.

Some of the issues referred to this afternoon in debate on another Bill raise further concerns with regard to this legislation; that is, with the increasing use of private consultants and contractors in government departments, these people become aware of information about the way in which the departments operate, the policies, financial matters and so on. Often they are under contract to maintain that confidential information. However, in many cases the contracts are of limited duration and the impression I gain from this part of the Bill is that it goes on almost indefinitely.

Mr Prince: How long must you study before you are a lawyer?

Mrs HENDERSON: I am at the kindergarten stage.

Mr Prince: You will learn.

Mrs HENDERSON: About the 30 year life?

Mr Prince: About this life.

Mrs HENDERSON: The Opposition supports the legislation and it supports measures to minimise the opportunities for corruption. However, some issues need closer attention.

MR RIEBELING (Ashburton) [8.31 pm]: I hope the Minister will be able to answer my concerns about this legislation and, no doubt, he will be rivetted to his seat throughout my entire speech! Having read this legislation and the royal commission reports into WA Inc, I am surprised at the second part of the Bill. The Minister will be aware that the royal commissioners were critical of the secrets and the way they were held within government at that time. The commissioners called for a more open and accountable style of government. The amendments to section 81 do exactly the reverse of the recommendations of the royal commissioners. In fact, most people thought the whistleblower legislation would be relaxed but this amendment will make it more difficult for people to blow the whistle if they become aware that something is wrong in a government department or agency. I am sure the community wonders whether this Government is serious about the recommendations by the royal commission when it is made more difficult for whistleblowers to bring problems to the attention of the public. In an earlier speech the Minister indicated that the amendments to this legislation relate to commercial information.

Mr Prince: That was one example.

Mr RIEBELING: A recent case involved the release of a restraining order, and that caused some dilemma in the Ministry of Justice.

Mr Prince: It was just the release of the complaint.

Mr RIEBELING: It is either that or a copy of the restraining order.

Mr Prince: I do not think a restraining order had been made.

Mr RIEBELING: I understand it was the release of the summons which had the restraining order in the body of it. In that instance a court officer went to the counter to serve a client who, on the face of it, was a Queen's Counsel. He requested a document, and it would be a brave counter clerk in the Central Law Courts who would tell a Queen's Counsel to nick off. I do not know whether that circumstance would be covered by the existing section 81 in the Act

and whether the clerk's defence would be that he released the document because he thought the person was entitled to have a copy.

Mr Prince: I think the counter clerk breached some form of administrative instruction.

Mr RIEBELING: He was charged under the Public Service regulations.

Mr Prince: There was no suggestion of criminal offence.

Mr RIEBELING: No, but section 81 could cover the release of that sort of information.

Mr Prince: No, it is a court of record.

Mr RIEBELING: Yes, but it was held by this Government that the information was confidential and should not have been released. The clerk was a public officer who was the custodian of the record that he released.

Mr Prince: That is right. I do not think he would have a duty as contemplated by section 81 but there was an administrative instruction that that sort of information was not to be passed out other than to parties involved in the proceedings. I think you will agree that is a sensible administrative instruction.

Mr RIEBELING: It depends on the information being protected.

Mr Prince: These documents largely arise from domestic disputes between husband and wife -

Mr RIEBELING: I am talking about court records in a broader sense, and not necessarily just Family Court matters. It was a Court of Petty Sessions record.

Mr Prince: It is a public document anyway which anyone can see except restraining orders which are subject to an administrative instruction.

Mr RIEBELING: That is right. I have yet to see that administrative instruction.

This amendment to section 81 will result in whistleblowers being more reluctant to come forward, even after they have left government employment. Some public servants may even leave the Public Service because they object to the activities within a certain department but even after they have left, they will be unable to bring these confidential matters to the attention of the public as a result of this legislation.

Mr Prince: They can go to the Anti-Corruption Commission. You cannot read this amendment in isolation.

Mr RIEBELING: I invite the Minister to tell me how this amendment will assist whistleblowers to have their case aired in public.

Mr Prince: They can go to the Anti-Corruption Commission.

Mr RIEBELING: Does this legislation make it more difficult?

Mr Thomas: What if they want to go to *The West Australian*?

Mr Prince: They run the risk. If they go to the Anti-Corruption Commission, someone will keep their name confidential and will investigate the matter properly.

Mr RIEBELING: The point made by the member for Cockburn is valid. If a person wished to go to the Press after leaving his employment, under this legislation he would contravene the Criminal Code. In my view this amendment to the legislation will make it more difficult for the public to have confidence in the government system.

Mr Thomas: They could make a freedom of information application if they knew that certain documents existed, and then release that information.

Mr Prince: That is another way of doing it.

Mr RIEBELING: That confidential information would not be released.

Mr Prince: Yes, unless it is exempt under the Freedom of Information Act.

Mr RIEBELING: I am somewhat suspicious of that. I do not think that is the case.

Mr Prince: You drafted the legislation.

Mr RIEBELING: I did not; the previous Government may have.

Mr Lewis: It was your Government.

Mr RIEBELING: No doubt it was very good legislation. I presume the Minister is indicating that these amendments will improve the situation. It is possible that all legislation contains at least some flaws.

Mr Bloffwitch interjected.

Mr RIEBELING: I hope the member for Geraldton is not indicating that legislation that the Government brings into this place is perfect in every respect and does not need amending. The Labor Government brought in legislation that was appropriate at the time. This Bill may be an appropriate change now. Nonetheless, I am somewhat suspicious that the amendments to section 81 will make it more difficult for whistleblowers and people in similar situations to make information public.

I am also concerned about the provisions under clause 4 concerning confidential information given to members of Parliament within their electorate offices. I understand that at times Ministers of the Crown are given highly sensitive information, which if released to certain people incorrectly could no doubt financially advantage them. It is difficult to know how we will be liable under this legislation. What sort of confidentiality applies?

Mr Prince: Where has the confidentiality ever been?

Mr RIEBELING: People put a great degree of trust in members of Parliament when they give them confidential information.

Mr Prince: Are you referring to section 85? You should have a look at the word "corruptly" in the first line.

Mr RIEBELING: I understand that word very well. I am saying that corruption can be in the eyes of the beholder. Information given out through a political office that may lead to a "corrupt" act may not be always known to that member of Parliament. The member for Thornlie raised the same issue. I hope the Minister will be able to clarify that position when he responds.

The rhetoric of the Government has been that it wishes open and accountable government and that it wishes to bring in strong, tough anticorruption laws. It is part of its system of toughening up the legislation. To that end, I agree with the amendments. However, I reiterate that I have concerns that the legislation appears to close yet another loophole in the system which allows the public to gain information. In that regard, this legislation is going in the wrong direction. The member for Thornlie mentioned that the Attorney General said in another place that he was examining all sorts of legislation to try to remove secrecy provisions under which the various departments operate. I applaud the Attorney General for that move. The fewer secrecy provisions within government operations, the better.

I hope the Minister will be able to explain how the operation of consultants and the like will be covered under this legislation, if at all. I understand the statutory corporations legislation the Minister introduced covers the operation of boards and the like. Does it cover consultants?

Mr Prince: It covers the boards of statutory corporations.

Mr RIEBELING: How would confidential information obtained by a consultant employed by a department be covered under these two pieces of legislation?

Mr Prince: If you employ somebody who is not a public servant, you sign him up on a confidentiality agreement with a financial penalty if he breaches it.

Mr RIEBELING: Is it not covered under the Criminal Code?

Mr Prince: No, because he is not a public officer, although he may be because of the insertion of the words "or employee".

Mr RIEBELING: I hope the Minister will find out and advise us in his reply whether that is the case.

Mr Prince: Absolutely.

Mr RIEBELING: It seems silly to have so many consultants operating in government circles but not have them covered by the same secrecy provisions that cover full time employees and members of the Crown. Much of the information they gather would go directly to the Minister and senior officers of government departments. It should be obligatory that the same rules apply to them as to any other member of the Government. I hope the Minister will be able to tell me that his reading of the amendments is that the employee provisions cover that possibility. During debate on the Home Building Contracts Amendment Bill the Minister may say that subcontractors are not in fact employees of building companies. Perhaps the Minister's advice may differ somewhat between this Bill and the next Bill we debate in this place.

Mr Prince: That is a different Minister.

Mr RIEBELING: Perhaps the Minister for Health will advise the Minister covering the next piece of legislation what are the correct roles of employees.

Mr Prince: Far be it from me to advise the Minister for Fair Trading in matters of law. She has a master's degree.

MR THOMAS (Cockburn) [8.48 pm]: My colleague was addressing essentially the proposed amendments to section 81, which seem to cast an onus contrary to that surrounding legislation in past years; that is, that information is secret unless a provision deems otherwise. It is contrary to the direction that public administration is expected to take in years to come; that is, unless privacy provisions are stipulated or good reasons laid down why information should be kept private, people should have access to it.

Earlier this evening the Minister for Energy and I debated some provisions. He seems to believe passionately that the public should be denied access to information about commercial operations, commercial undertakings and contracts, which, in many cases, are worth millions of dollars, that have been entered into on behalf of the public. He says that the public has no right to know about the terms of the contract, even under this legislation; that the terms of the contract entered into by the state instrumentalities should be excluded, notwithstanding that the public is a guarantor for the public authorities that have entered into the contracts and that the public may well be disadvantaged by tens of millions of dollars a year under the terms of those contracts. The public is not able to get access to the terms of the contracts and ascertain whether those contracts are prudent, notwithstanding that the people who entered into those contracts are public officers and ultimately responsible to the public. I believe that situation is unacceptable, as do numerous authorities that have looked at that question over the past four or five years. Ultimately the Minister will be shown to be very wrong in terms of current standards of public administration by continuing to retain a mantle of secrecy over the area of public administration for which he is responsible.

Not all that many years ago in evidence to the Royal Commission into Commercial Activities of Government and Other Matters my former colleague and friend David Parker gave evidence in which he said that all Government was based on secrecy and all government departments and authorities tended to try to keep their operations secret; that was a natural tendency among people engaged in public administration. He made that statement as an observation of the way in which people behaved, rather than as a justification of what was right or wrong. At the time people in some circles were horrified to hear that statement. Some members who sat on this side at that time said that they thought it was very wrong. I am sure those who hold a ministerial office now would have the same tendency and think they should be able to conduct their affairs without their being subjected to public scrutiny. That is why in recent years there has been a trend in the provisions of the freedom of information legislation about access to information in the public sector to presume that people should have access to public information.

In the amendments to section 81 there is a tendency to go back to a presumption that members of the public are not entitled to information unless they can demonstrate they have a right to access it. I think the onus should be the other way around. Members of the public who have dealings with government in all sorts of capacities, whether it be in the other area of the Minister's responsibility - that is, the Health Department - or whether it be within Family and Children's Services or many other areas of public administration, should not have have access to information about

private citizens. It should be jealously guarded and people who breach the confidentiality of members of the public should feel the full force of the law.

There is a difference between protecting the confidentiality of individuals and the Government seeking to protect itself from the scrutiny of the citizens whom it is established to govern; however, that is not the part of the legislation with which I wish to deal. I refer to the effect on section 83 of the amended definition of public officer. My colleague the member for Thornlie mentioned this earlier when she talked about Ministers of the Crown, members of Parliament and the other people to whom the definition of public officer is being extended.

I will raise two matters. I am sure the Minister will not be surprised to learn what they are. I refer to the offences that could be considered to be created. I will raise a hypothetical situation. Let us say a member of Parliament learns, in his capacity as a member of a parliamentary party, that certain legislation is to be introduced into the House and that information would allow him to confer some advantage upon other people, either commercial, legal, or stock market advice. That information might well be of some use to a person. I will be very interested to know the view of the Minister about that.

Let us take the case of a member of Parliament who is a member of a parliamentary party - not all of us are members of a parliamentary party. The standard practice when a party is in government is that before legislation is introduced to the House, it is made available by the relevant Minister to the members of the parliamentary party. In our party - I presume it is the same for the government parties - the parliamentary party has a vote on whether the legislation will go forward. Is a member of Parliament in a parliamentary party a public officer receiving access to information in his or her capacity as a public officer?

Mr Prince: It is strongly arguable that it is. People will be in the position to hear that information while in the room only by reason of their being members of that parliamentary party. It will happen only in those two conditions. To commit an offence they must act without lawful authority or reasonable excuse so as to gain a benefit, pecuniary or otherwise, for any other person, or so as to cause a detriment by acting corruptly.

Mr THOMAS: I do not like that. Section 83 says that any public officer who, without lawful authority or reasonable excuse - then there are some disjunctives - acts so as to gain a benefit, whether pecuniary or otherwise, for any person, or so as to cause a detriment, whether pecuniary or otherwise, to any person, is guilty of a crime and liable to imprisonment. I suggest under that clause - let us be quite detached about any examples that might come to mind - if I were a member of the governing party now and the Minister for Planning rolled up with one of his numerous omnibus amendments to the regional scheme, and it seems that some land is to be rezoned, nothing would prevent me - I could have done this 100 times in the past -

Mr Bloffwitch: After the announcement is made, not before. It is invalid.

Mr THOMAS: That is a distinction that has been borne out in an earlier case. By then, the information is not being accessed by a person in that capacity.

Mr Prince: Look at the words "reasonable excuse".

Mr THOMAS: I am not sure. As members of Parliament, we gain access to information that is potentially valuable. The Minister for Resources Development can role up to his parliamentary party room and say, "I have news for you; there is an agreement Bill under which this company will enter into an agreement with the State and the chances are that if it gets permission to build a second gas pipeline -

Mr Bloffwitch: The shares could go through the roof.

Mr THOMAS: That is right. People who were aware of that information could buy shares in that company. Often there is a delay of days or even weeks between legislation gaining the approval of the parliamentary party and its becoming public knowledge. There is time; it is not a matter of just a couple of hours before 4 o'clock that afternoon in which members can buy shares or tell a real estate agent to sign an offer and acceptance form or whatever. I am not sure that has happened; it has not to the best of my knowledge. However, does that mean that the person who is acting in that is acting corruptly? It can lead to rather strange conclusions in these circumstances.

One of the examples that comes to mind is the way these things can be construed. Early in my career as a member of Parliament I was the member for Welshpool, which included portions of the City of Canning. The City of Canning was reeling from a couple of cases that occurred shortly before I was elected as the member for Welshpool. Some

members of the council were convicted, or at least lost their seats on the council, for not declaring an interest in a vote that went before the council in relation to street improvements. It was a controversial issue. The councillors campaigned to have some street improvements go through. They lived in the street and it was in their ward. In large part that was their purpose for being on the council. When the matter came before the council they voted for it. They were in a general category of people who were advantaged in the sense that their property would probably be improved in value because they resided in the street, and culs-de-sac or roundabouts would be built and the traffic flow in that area would improve the amenity of people living in that street. It was therefore determined that they were obtaining a benefit, and because they did not declare an interest, they lost their seats on the council. I thought that was absurd because they campaigned on that issue and were elected to council for that very purpose. That is the nature of representative democracy.

Mr Prince: They thought they were doing the right thing.

Mr THOMAS: Yes, they were serving their constituents. They were there to advantage their constituents, and they happened to be in that general class. I understand that that interpretation of an interest is somewhat wider than that which applies here. On one occasion in this House I had to obtain advice from the Clerk because an agreement Bill was being debated that would result in the building of powerlines near some property I owned. That would have either devalued or improved the value of the property I owned. I sought advice on whether I should declare an interest and abstain from voting on that issue. I was told that under the most recent rulings from the authorities we always quote, if members are part of a general class of people, rather than a specific private interest group in relation to a particular Bill, the conflict of interest provisions do not apply and members do not have to declare anything.

Mr Prince: I declared an interest in a Reserves Bill last year or the year before, which had the effect of doing something to a property in which I had a 10 per cent interest.

Mr THOMAS: That is the sort of instance we must be careful about because we are all subject to increasing scrutiny. I suppose that is as it should be. We place ourselves in a situation here where unless these matters are tightly defined, it will be possible for people to commence actions against members of Parliament who take prudent action in relation to their own lives or possibly magnanimous action; for example, in relation to a professional practice with which they might be associated to advantage those people. They will then be acting to the benefit of or detriment to, as the case may be, some other person acting on information they have obtained by virtue of the fact that they are members of Parliament. I am thinking in particular of the circumstances I referred to earlier; that is, is a person a public officer when he is sitting on a committee of the Parliament or as a member of a parliamentary party? Members will agree that members of Parliament, Ministers and Parliamentary Secretaries are public officers and should be subject to whatever laws exist to protect us against official corruption. Equally, we should not encourage silly and possibly vexatious legislation and action against people who are acting properly, as they see it, in the public interest.

MR PRINCE (Albany - Minister for Health) [9.04 pm]: I thank members of the Opposition who have spoken for their unreserved support for this legislation, which although brief has nonetheless excited a number of speeches of quite significant length. It should be remembered that this legislation is part of the total package which has set up the Anti-Corruption Commission and which includes the legislation that members debated earlier today relating to statutory corporations and the liabilities of directors. As a number of members have pointed out, this legislation will effectively extend the operation of part 3 of the Criminal Code to members of Parliament, Ministers and others by changing the definition of public officer.

The remarks that have been made by a number of members about secrecy are of interest. It would be reasonable to say as a general proposition that in the past - I paraphrase David Parker - government has been about secrecy; everything is secret except that which is not. I put that in a general sense. Government is moving rapidly to the contrary proposition that everything is available and open except that which is secret. In a sense we are in a transitional phase from one to the other, which it seems right to say that the public wishes to see.

At the moment, with regard to that which is secret and that which is not, and particularly to section 81 of the Criminal Code, that a section applies only when there is a duty to keep secret and only to people employed in the Public Service. It does not apply to public officers. There must be a duty. A duty is a positive thing, imposed on an individual officer. It is not simply there as a negative exercise. In the main it is imposed under a number of directions. Regulation 9 of the Public Service Act and administrative instruction 711 are the areas in which one finds some of these directions. The Public Sector Standards Commission is overseeing the preparation of a series of codes of ethics that will be specific to agencies and no doubt will vary from agency to agency and will specify information that is to be kept secret.

It will be a step in the right direction when they arrive because in essence they will define the things that must be kept secret in a particular agency, and the rest will not have to be. Of course, the Freedom of Information Act operates as well. That Act overrides all but a very few Acts, including secrecy provisions that may be contained in other legislation. It is not an offence for people to give out information under the Freedom of Information Act. That Act makes exempt all personal and commercial information of third parties unless the public interest requires its release. That is an appropriate way for information to be able to be made public.

The duty to keep secret does not arise where the Freedom of Information Act can be used, although if information is not obtained under freedom of information legislation, even though it could be, and if a duty to keep secret exists, that duty is protected under section 81. I realise that sounds like a crazy situation because there can be a duty to keep secret, but the Freedom of Information Act will override that if someone makes an application. It will be desirable to see the agency specific codes of ethics that are developed by the Public Sector Standards Commission and to put them into operation to see how they work. In due course it may be something to look at to meld them to the Freedom of Information Act so that contradiction does not exist. Perhaps it is desirable that the contradiction continue. That matter can be debated at a later stage when the codes of ethics are not only known but have been operating.

The issue of electorate records intrigued me when it was raised by the member for Thornlie. She made reference to section 85 of the Criminal Code and the extension of the definition of public officer. It is correct to say that the records kept in electorate offices are now covered by section 85. However, that section refers to any public officer who corruptly makes a false entry. For example, if in taking notes when interviewing someone in my electorate office I make a mistake, that is not corrupt. If I am given information that is incorrect, the record I make is not correct, but it is not corrupt either. There would have to be some corrupting nature to the entry I made.

Mrs Henderson interjected.

Mr PRINCE: I understand what the member is saying. However, section 85 refers to making a false entry in a record, omitting to make an entry, giving a certificate of information that is false in a material particular and so on. This must be a corrupt giving of false information. I could give false information to someone who had a genuine inquiry while honestly believing it is true. That is not corrupt; I am handing out false information but not knowing it.

Mr Riebeling interjected.

Mr PRINCE: Get off it!

Reference is also made to a person by an act or omission falsifying, destroying, altering or damaging any record. One must be acting corruptly in destroying that record. No-one would be able to sustain an allegation of corruption in respect of any member of Parliament who destroys electorate records from 14 years ago, as happened in the case cited by the member for Thornlie.

Mrs Henderson interjected.

Mr PRINCE: They have just entered the real world in that sense. I would compare that to the situation of a doctor, an accountant or a lawyer. The lawyer's records are not the lawyer's records - they are the client's and always have been. The whole question of secrecy or confidentiality of those records is not a legal privilege, it is a client privilege. When one talks about how long the secrecy lasts, it is for life. The member will find that that which is confidential as a lawyer is the client's confidence, and it is only the client who can take it away. One can never reveal anything they say, unless they give permission.

Mr Thomas interjected.

Mr PRINCE: The client can take away the confidential nature of the information.

Mr Thomas interjected.

Mr PRINCE: In some circumstances, which is a change in the generally accepted rule. There are all sorts of exceptions to medical records, particularly in relation to notifiable diseases and so on. However, the generally accepted position in society is that that which one tells one's doctor is confidential. Of course, the doctor can be subpoenaed into court to give evidence and is protected in doing so.

Mrs Henderson interjected.

Mr PRINCE: They can maintain it all they like. Many doctors have had to go to court and say otherwise. That is the law.

I find no problem in respect of secrecy under section 81 and the extension after the employment has ceased. It comes out of the Murray review of the Criminal Code, which made the very reasonable point that a person could have knowledge in their possession that could be of advantage to someone else or themselves. If they were to leave public employment, they could then earn themselves or someone else a benefit, not necessarily in monetary terms, by being able to reveal information because they were no longer a public servant. If they were under a duty to keep something secret when they learnt that secret, the duty should last beyond the term of their employment. If it is to last for their lifetime, it does so. If in future that which they had a duty to keep secret is revealed by someone else - for example, under the 30 year rule - or if someone brings an FOI application, the information is deemed to be in the public domain and the duty is discharged, whether the individual concerned brings that application or someone else. That is a sensible interpretation of the way in which that combination of systems should be expected to work.

The points raised by the member for Ashburton did not rivet me. Section 81 is being amended because it is intended that the Anti-Corruption Commission should be able to investigate the misuse of information by officers, and former officers - and that is most important. The ACC cannot investigate unless there is some substantive provision in the code. That is another reason for it. The ACC cannot investigate former officers of the Public Service if section 81 continues to read as it does without the extension of the duty beyond the term of employment. That is important because the ACC investigation could be frustrated as a result of the resignation of the individual under suspicion. That is not seen to be in the interests of the public from the point of view of the proper investigation of corruption.

The concept of misuse of information by a former officer is consistent with the royal commission into WA Inc findings and it is referred to in the Commissioner for the Investigation of Corrupt or Improper Conduct Bill debated recently.

The definition of public officer in so far as the profession of consultant is concerned is interesting. This relates to any person exercising authority under a written law. I refer to subclause (b) of the definition of public officer in the code as it exists at the moment. If a consultant is engaged to exercise authority under a written law, that person would be a public officer. I suspect that that concept will apply more to a term of government consultant or a person employed for a specific purpose for a reasonably lengthy time and who has the ability to exercise some other authority under Statute, rather than the person whose engagement is to provide advice of a technical nature. If the consultant is engaged to advise, they may not be a public officer, but their position would be covered by contract. In most cases, consultants are covered by secrecy provisions that carry a penalty. By and large, that type of technical advice was covered when we discussed the Statutory Corporations (Liability of Directors) Bill. That is commonly found with commerce and with those who make a living out of giving professional advice. They trade upon their integrity and if they are found not to be of good integrity, they rapidly find they have no work.

The member for Mitchell, who is not here tonight, raised an issue in the debate on the Official Corruption Commission Amendment Bill that has not been raised in relation to this legislation. He argued at length that there should be a specific defence under section 81 to the effect that a person charged of an offence could demonstrate that he or she had been acting in the public interest. At the time the Premier advised that the matter would be considered in relation to the proposed amendments to the Criminal Code, which are before the House tonight.

In the absence of the member for Mitchell I will give a response on behalf of the Government to the matters he raised. Under section 7H(1) of the Official Corruption Commission Act, a person, including a public officer, may report to the commission any matter which that person suspects on reasonable grounds concerns or may concern corrupt conduct, criminal conduct, criminal involvement or serious improper conduct. Section 7H(2) provides that section 7H has effect despite any duty of secrecy or other restriction on disclosure imposed under a written law, whether enacted before or after the commencement of section 9 of the Acts Amendment (Official Corruption Commission) Act.

The Anti-Corruption Commission legislation which was recently passed provides a mechanism for anybody, including public officers, to report conduct that they consider may be corrupt or serious improper conduct. A primary object of the Anti-Corruption Commission is to provide an appropriate avenue for the reporting of matters of that nature. Pursuant to the proposed amendments to section 11, the commission will be able to divulge information about the performance of its functions if it considers that it is in the public interest to do so.

I have already referred to the Freedom of Information Act giving people the ability to gain access to documents of an agency. It is for the reasons I have enunciated that after consideration the Government is of the opinion that the suggestion made by the member for Mitchell - that is, there should be a defence for acting in the public interest to a prosecution under section 81 - is not appropriate because of the nature of the Anti-Corruption Commission legislation and its investigative powers and ability to entertain a complaint made to it by a person who is, or has been, in the Public Service. It is necessary that the ACC has the power to look at people who have been members of the Public Service. I thank members opposite for their support of the Bill.

Question put and passed.

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

CRIMINAL LAW AMENDMENT BILL

Council's Message

Message from the Council received and read notifying that it had agreed to the amendments made by the Assembly.

TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA BILL

Returned

Bill returned from the Council with amendments.

HOME BUILDING CONTRACTS AMENDMENT BILL

Second Reading

Resumed from 27 June.

MRS HENDERSON (Thornlie) [9.26 pm]: The Opposition supports this Bill. The inquiry which was held into the home building industry in 1989, during the previous Government's term in office, made recommendations about the need for consumer protection in the housing industry. One of those recommendations was the need to tackle the problem of builders not being insured if they became insolvent. While a scheme has been in operation for a number of years to which some builders belong - they have advertised that they carry housing indemnity insurance - most ordinary consumers did not know whether their builder had that cover until something happened. For example, if their builder became insolvent they found they would lose their deposit or that work on their home would not commence. Many complaints were laid by people who had paid out large sums of money and had no avenue of redress in the event that their builder became insolvent.

The previous Labor Government convened a number of meetings, which included people from the building industry and consumer groups, to discuss the best way of implementing a housing indemnity insurance scheme. The previous Government spent time looking at the schemes which operated in the other States. Members may not be aware that some States already have these schemes in place. Some States have legislation similar to this Bill which provides a framework for private insurance companies to occupy the market and to provide and make available different kinds of insurance schemes for consumers and builders. Victoria and New South Wales have government regulated schemes. The Governments of those States provide a scheme which encompasses both compulsory indemnity insurance as well as complaints about housing problems in relation to construction.

This State already has in place legislation which provides protection for home builders as well as a system to resolve disputes; therefore, this issue could have been dealt with by legislating to make it compulsory, but leaving it to the market to provide various choices of insurance schemes, or by the Government setting up a scheme. Obviously, the easiest path to follow would be to regulate for compulsion, but to allow the market to provide the scheme. The Government would then not have to go into the business of providing insurance. It is interesting to note that in those States which have government sponsored insurance schemes it is part of a much broader system which provides for inspections and resolution of complaints. It does not stand on its own. The Opposition is pleased about a number of features of this legislation. It is pleased that it is compulsory; there is no question that that was the intention behind the recommendation of the 1989 inquiry.

I note that even though indemnity insurance schemes are available the Minister has indicated that only about half of all new dwellings are covered by those insurance arrangements, so we need not only to extend that cover, but also to look at the situation in relation to owner builders. I am pleased that owner builders have been covered by this legislation. Previously there was a problem where a homeowner who obtained an owner builder ticket and subsequently sold the house before the six year statutory warranty for the structural guarantee of the house had expired. For example, under the existing legislation if the new owner had a problem, he could not take action against the owner builder. It is pleasing that this legislation requires owner builders to carry a greater responsibility. Obviously they will need to take out some kind of insurance against their own negligence for the way in which they supervise the construction of the house.

I note that the Minister will require that any insurance company which provides this kind of insurance must obtain approval and must meet all the necessary requirements under the commonwealth legislation for operating as an insurer. One of the areas where I have some concern is that the builder will be required to obtain indemnity insurance only where the work is carried out in connection with the construction or renovation of a residential dwelling. In another section of the Minister's second reading speech she states that such things as swimming pools, spas, pergolas, patios and those sorts of additional work that are not carried out at the time the original house was built could not be described as a renovation and will carry no requirement for indemnity insurance. I presume that a renovation must include some change to the internal structure of the house. It is a pity the Minister did not take as a benchmark the $10 000 threshold in the Home Building Contracts Act. The provisions of the Act and the requirement for a written contract come into effect only where the value of building work is $10 000 or more. It would have been quite tidy if a requirement for insurance could have come in at the same point. The home building contract legislation limits the amount that a builder can require for a deposit - I think it is six and a half per cent - so the amount a person can lose in the event of a builder defaulting or going into liquidation before construction had begun is at least limited to the amount of the deposit. In the construction of things like swimming pools, pergolas and so on, it is not unusual for a contractor to ask for a very substantial deposit. If those sorts of operators go into liquidation, or the work is not carried out satisfactorily or is not completed, unfortunately those building works will not be covered by this legislation unless they are associated with a renovation to the house.

Another issue I would like the Minister to comment on in her response is that the loss of a deposit is covered to a maximum of only $13 000. The Home Building Contracts Act sets a maximum limit for deposits of roughly 6 per cent, so the maximum deposit would relate to the construction of a house worth approximately $195 000. That is not a very extravagant figure in the current climate; in fact, many houses cost quite a lot more than that. I am intrigued why a limit was placed on the recovery of a deposit. If one is building a house that costs in excess of $195 000, one could well place a deposit of more than $13 000.

It is pleasing that the legislation covers not only the home owner, but also the successors in title to a property for the failure of the builder within the six years of the warranty. In the past there have been problems where insurers have claimed that the policy relates only to the original policy holder and any subsequent person who comes in during the period of a guarantee, or in this case an insurance policy, is not covered. That is a very wise provision, because it is not unusual for homes to be sold within that six year warranty period.

The Minister's second reading speech states that the legislation will apply to all building work over $10 000. I presume that section of the second reading speech does not apply to the other provision relating to pools and spas, and this $10 000 threshold relates to the construction or the renovation of a building. If that is not the case, perhaps the Minister can inform the House what is. I have previously stated that the $10 000 threshold does not include things like spas, swimming pools and pergolas, which not infrequently cost far in excess of $10 000. It is not unusual for families to install a swimming pool and to construct a pergola and an area of brick paving and spend well in excess of $10 000.

The Opposition supports the provision that owner builders will not be able to sign a contract to sell their property where they have supervised construction work unless they provide a certificate to the new purchaser showing that insurance has been taken out and the new purchaser is covered. I notice that the Bill covers buildings that are being moved from one place to another. There has been an increase in the number of these older buildings that might previously have been demolished but are now transported and placed on another site, often in country towns. It is pleasing that the proposed indemnity will cover that, because my recollection is that there have been large numbers of complaints about that kind of activity. There have been some horror stories about the condition in which those houses arrived at the building site. It is pleasing that insurers will not be able to avoid liability on the basis that the policy was misrepresented by the builder to the insurer or that matters were not disclosed. That is a common reason by which insurers are able to make void their policies.

I am also pleased that there will be an education program to advise people about the program. The Minister indicated in her second reading speech that this would be a joint initiative with the industry and $50 000 had been allocated in the budget of the Ministry of Fair Trading. Is the industry making a contribution, and will the advertising feature the names of individual insurers or perhaps the Insurance Council? I hope the Minister can elaborate on the way this joint initiative will educate people about these requirements.

It is important whenever legislation requires something to be compulsory that a mechanism exists to resolve complaints. People may have a complaint about the manner in which their application for insurance or a claim on the insurer was rejected. Will the Ministry of Fair Trading deal with complaints under this new section of the Home Building Contracts Act? Will consumers go through the home building disputes legislation process or the mechanism set up by the Insurance Council of Australia; or will they have a choice between the three mechanisms? If such matters are to be dealt with by the same dispute resolution procedure provided by the Home Building Contracts Act, will the current arbitration methods and orders relating to other home building matters be used to handle complaints about insurance schemes, payouts, rejections of claims and so on?

The Opposition supports the scheme. It will involve a number of different companies and only a couple of insurers will be involved. We would like to see competition to provide some variation in the insurance premium rates offered. I would like the Minister to consider two issues: The building work, including swimming pools, spas and patios valued at more than $10 000 should be covered; and a formalised complaint resolution mechanism within legislation which will enable people to proceed with their complaints.

MR LEAHY (Northern Rivers) [9.42 pm]: I support the Bill, although I have some concerns in various areas. I thank the Minister for Fair Trading for arranging a briefing with an officer from the Ministry of Fair Trading. We have been caught short because our shadow Minister is sick this evening and it has caused a few of us to improvise. The member for Thornlie did a great job, and I hope to add something to the debate as well.

These amendments are necessary because the original Home Building Contracts Act resulted from the collapse of the Mansard group of companies in 1991. Prior to that and subsequently a number of building companies have become bankrupt or insolvent. That has led to people who have paid substantial deposits being out of pocket. It has been necessary for those people to have their homes completed by another builder often at a significantly higher contract price. Therefore, not only did they lose the original deposit but also they faced a higher cost for the completion of the building by a substitute builder.

The original Act contains provisions for a code of insurance. Now, in consultation with the industry and consumer groups the Government has decided that voluntary insurance cover should be compulsory. I support that component of the Bill. Consumers should be covered by compulsory insurance. For many people the building of a home is the biggest investment of their lives. Many people go through the trauma of building or buying a house only once. It can be a traumatic experience for people who save for years to secure enough money to buy or build a house, only to face other problems during the building phase. This Bill eliminates the loss of a deposit and provides some redress should some building construction faults be discovered years later. It is possible that faults emerge six years down the track. This Bill provides some redress against an insurance company rather than the client having to chase the builder who may have disappeared, gone into bankruptcy or died.

The compulsory aspect of the Bill is a very good move. It will mean that people entering building contracts with building companies can now have some security during that process. However, the legislation does not cover the subcontracting stage. We are all aware of people who have subcontracted to principal builders and have been left high and dry when the building company went into liquidation. Unfortunately, this compulsory insurance provision does not cover subcontractors who enter contracts with building companies. I refer to the bricklayers, carpenters, tilers and so on, and I understand the argument against their inclusion in this provision: They are business people in their own right and have their own insurance -

Mr Bloffwitch: It is just like debtors and a normal insurance risk.

Mr LEAHY: In the building industry it involves principally a subcontract rather than an employee-employer relationship. When there is not much work to be had, the subcontractors are under pressure to take on whatever work is available and, unfortunately, the amount of credit they advance to the building companies can be substantial. On occasions they may be operating under a couple of builders and have a considerable amount of money involved not only in their labour costs but also in paying their employees and purchasing tiles, timber and other material. Provision is not made for that aspect but if it can be pursued in future, we should give it consideration. These are small business people and they must have some protection. Although I commend the Government for providing

compulsory insurance to protect the consumer - the purchaser of a home - a gap exists in the subcontracting side of the industry, and that should be covered.

I turn now to the amendment relating to building work valued at more than $10 000. The original Act provided that any building valued between $6 000 and $200 000 must be covered by a building contract, and the maximum amount of deposit that could be taken from the home owner was 6.5 per cent. This Bill provides for an amount for $13 000 - that is, 6.5 per cent of the top rate. I am concerned about the gap between the $6 000 in the original Act and the current $10 000. The briefing by the officer of the Ministry of Fair Trading indicated that the reason was that a registered builder was required for a contract of over $10 000 and, therefore, it was decided that $10 000 was the correct figure. It will be difficult to educate the public about the gap between $6 000 and $10 000. They will note that the original Act covered all building contracts between $6 000 and $200 000, and the general public will take it that this amending Bill will provide compulsory insurance for any building, construction or additions to a house to the same value. I have listened to the rationale, but it is convoluted. It would be far better if this amendment covered the same housing value groups between $6 000 and $200 000. That would eliminate much of the confusion that will arise if the figure applied is between $10 000 and $200 000, and above that figure.

The second reading speech indicates that this Bill is consistent with this Government's policy to support the industry's universal application of housing indemnity insurance for all new housing as a safety net to consumer complaints by way of a competitive system through private insurers. I understand that a requirement will be that the private insurance companies be registered insurance companies, and that some further checks on the bona fides of the insurance company will be required.

Mrs Edwardes: It is in clause 25G.

Mr LEAHY: At the briefing I was told that insurance companies were not clamouring to cover this type of insurance; therefore, the steering group which looked at these amendments decided that some exclusions were necessary. Basically, this was to ensure that the scarce number of insurance companies prepared to take on this insurance would not be scared away, and to prevent a monopoly and high premiums - it wanted competition to keep premiums down. A decision was made that the insurance not be extended to swimming pools or spas. I can accept that argument. Swimming pools and spas are not seen by the general public as constructions or additions to a house, but as separate items.

However, considerable confusion will arise about the exclusion of fencing and pergolas. I cannot see the difference between a free-standing pergola or one constructed on a substantial brick fence around a swimming pool and one off the back of a building; that is, if the building work is valued at more than $10 000. On many occasions substantial construction work is carried out to improve a property in the form of a pergola attached to a fence. The owner of that property may engage a registered builder and, as I said earlier, would consider that he will be covered by this insurance provision. He will read the publicity which the Minister will give the amendment and expect that the construction of a substantial building will be covered by a compulsory insurance policy. However, in such circumstances, people will not be covered.

My concern relates not to the first two items - that is, swimming pools and spas - but I see some confusion and difficulty with the exclusion of fencing and pergolas. The exclusion relates to work to the value of $10 000, and I would prefer that the figure be reduced to $6 000. That would mean that a smaller job carried out by a handyman could still be performed without requiring this type of insurance. When substantial jobs worth $15 000 or $20 000 are carried out, this cover would apply. A family person may save for years for such expansion of the house and value adding to the property, and would expect to receive this type of coverage. It is expected that such projects which are connected to the fence, not to the house, would have this sort of protection. I have some concerns in that regard.

The provisions concerning owner-builders are very good. Increasingly these days, owner-builders construct residential buildings. Obviously, such people usually engage subcontractors to carry out the work, and the same degree of control of the building program is not always as evident as occurs with a registered builder. At times the workmanship is not up to scratch because a qualified person is not overseeing the job; therefore, shoddy workmanship may be hidden for years. We operate on the adage of buyer beware, which is fair enough for owner-builders - they take that risk. If they do not want to engage a qualified builder to supervise that type of work, let it be buyer beware.

However, when the house is sold three or four years down the track, no requirement exists to declare that the work was not performed by a qualified builder. As such, a person buying the house can confront shoddy workmanship that requires repairs. It is pleasing to see that owner-builders are included in this provision. If they sell the house within

a six-year period, and reside in the dwelling for three years, they must take out insurance for the workmanship for the three years remaining; therefore, the purchaser has protection. Obviously, the owner-builder situation does not require coverage for the deposit as applies with a builder carrying out the project on as person's behalf.

The other area of concern which came to light in discussions with officers from Fair Trading was that the amendment provided for transportable dwellings. The Home Building Contracts Amendment Bill excludes a second-hand or used dwelling - that is, say, an old fibro home which is restumped and relocated - and the person who erects that dwelling is only up for workmanship involved in the restumping and the relocation. Obviously, he is not required to insure for workmanship of the dwelling, which could be aged 30 or 40 years or more. It is a sensible provision.

However, some clarification is required where a dwelling is not second-hand and is constructed in a workshop and relocated. The concern I raised with the officers of Fair Trading was that a house may be purchased by a person in the north west from, say, Arrow Transportables Pty Ltd or another building firm in Perth. This may involve no negotiations with a builder in the north. The person purchases the home from the factory, and arranges transport to truck it to Karratha, Port Hedland or wherever. A contractor is then engaged to erect the dwelling. The amendment will mean that these contractors need to insure not only the erection work and the stumping work, but also the workmanship in the dwelling. However, these people were not involved with the original building. That could cause problems in people not being aware of their responsibilities. They are only carrying out restumping work. In that case the house was built by somebody else, the transport was arranged by the purchaser and the builder is involved only in the erection and stumping of the house. I understand that it would be rare for such a contract to exceeded $10 000, but I hope the Minister will reduce that provision to $6 000. If so, one would find - especially in the north west where a number of dwellings are erected in that form - that such arrangements would fall within the clause. This would apply particularly if the contractor built some annexure, such as a verandah, to the dwelling transported. The amendment as it stands will place an onerous burden on a contractor in the north west who may not be aware of that requirement in the legislation. In any event why should he or she be responsible for the workmanship of a builder or a big construction company in Perth?

As I have said, overall I support the thrust of the amendments. They are very good and provide additional cover and protection for home builders. Obviously this will be welcomed by people undertaking a building contract whether through a registered builder or on some occasions in the country through people who are not registered. It will give them a greater feeling of protection. With the exception of the concerns which I have raised, I support the Bill.

MR RIEBELING (Ashburton) [10.01 pm]: This legislation was born out of the failure of the voluntary system of insurance for home builders. In the past few years we have witnessed the collapse of a number of building companies in Western Australia. This legislation is designed to put in place a compulsory system of insurance for the building industry to offer home buyers and people who contract builders an amount of protection which did not always exist under the old system. In her second reading speech the Minister indicated that 40 to 60 per cent of people were not covered through the voluntary system.

I have concern that this insurance system still misses a large section of people who are hurt by the collapse of builders; they are in the area of subcontractors. Primarily the vast majority of people who build in the building industry are subcontractors. When a builder collapses it is tragic to see the roll-on effect for subcontractors who have allowed some sort of credit to those building companies, and to see how quickly they are damaged by the collapse of the builder. This legislation does not touch that damage or group of people or offer any protection to them at all. I understand it is not the Government's intention to bring in legislation to protect subcontractors who are frequently hurt by building companies going down the gurgler, as it were. As far as the legislation goes for home builders, it takes protection quite a long way down the right road.

One clause causes me some difficulty. I hope the Minister may quickly answer my query. I understand that the old system offered protection of up to $200 000 as a minimum cover for a house. My reading of the legislation is that clause 5 of this Bill refers to section 25D(1)(e). It provides for an insurance cover of at least $100 000 or such other amount as is prescribed or the cost of the building work, whichever is the lesser. I hope the Minister will be able to tell me why it does not indicate the maximum amount now could well be $100 000 and not $200 000, as the Minister mentioned in her second reading speech. It may have been mentioned elsewhere. My impression was that $200 000 was to be the minimum coverage. This clause seems to indicate that $100 000 is now the minimum amount of insurance. If that is so, it is a backward step in that area. I hope the Minister will be able to tell me whether my reading is correct or there is another clause which I have misread.

I also understand that there is a $4 000 gap in the insurance cover and that the Minister indicated some $50 000 is being put aside to advertise the new scheme. I hope the Minister will be able to advise that a large amount of that

advertising campaign money will be directed to advising the public that there is a $4 000 gap in this insurance policy, so that the general public will not be shocked when a builder falls over and they find that their properties are not fully covered.

One other area of concern is the owner builder provisions of the legislation. The Minister and her department have drafted legislation which covers owner builders quite well and allows for owner builders to be liable for an insurance policy on their properties when they dispose of them after they have lived in them for a period. The member for Northern Rivers indicated that, if a builder builds a property and lives in it for three years and then sells it, the insurance cover would be for a period of three years after the sale of the property, which is the balance of the normal six years' cover. However, on page 8 of the Bill the reference to section 25E would seem to indicate that owner builders have an obligation for a period of seven years and not six years like that of an ordinary building contractor. I wonder why the Minister has made the obligation cover seven years for owner builders and not six as it is for the balance of the industry.

Mrs Edwardes: Sometimes it is difficult to know when a building is completed. I will explain.

Mr RIEBELING: Presumably there is a different starting date for owner builders.

Mrs Edwardes: Yes, there is. As I explained in the second reading speech, there is no method, as there is with a completion date with a consumer, to show when the building was completed. Therefore it was generally felt -

Mr RIEBELING: That a year was sufficient?

Mrs Edwardes: Yes.

Mr RIEBELING: That explains it. One of the other areas which the member for Northern Rivers covered, on which I disagree slightly, is the area of additions to a house. The member for Northern Rivers indicated that he accepted that swimming pools and the like should not be covered under the legislation. My experience and that of others in the north of the State is that swimming pools spring up all over town. Most people would think that if a system of insurance were introduced for home builders, something like a swimming pool, which inevitably entails a lot of other alterations to a house and is not just a hole in the ground with a fence around it, must be covered by it.

In some instances, up to $50 000 worth of alterations to a backyard is not outrageous when we consider that a swimming pool that would cost $7 000 in the metropolitan area would cost $15 000 in Karratha. It is not acceptable that if a builder took on that job and fell over, those people would not be covered because it was not considered part of the house. If a builder is engaged, no matter what the job, the public should expect a degree of protection under this legislation. Perhaps the desire of the Government to make sure an insurance company or companies would be interested in providing insurance cover is the reason it has gone down that path. However, if at the end of the day the insurance industry is not prepared to take on the full challenge of what I am sure the Government is trying to do in this area, the only alternative might be for the Government to set up some sort of fidelity fund so that the industry can provide its own insurance.

I urge the Minister to look seriously at trying to protect those people whom this legislation is designed to protect; that is, subcontractors. As the Minister would know, most of the building industry is subcontract-type work, and a number of small businesses collapse every time a building company, which may be a $2 company, collapses, because once the builder owes them more money than it is worth to pull out of the system, they must continue to work on credit to get any money back, because the builder says, "If you build the next two houses for me, I will be able to pay you for the previous one." Therefore, a cycle of disaster builds up, from which subcontractors have suffered for many years. I had hoped the Government would tackle that problem in this legislation, but obviously it has decided not to. I hope the Minister will be able to advise this House why the Government has decided not to try to protect subcontractors within the building industry.

I understand the Local Government Act now provides for registration of builders before they gain their building licence, which will involve builders being accredited through councils and the like. That will create a few problems within certain areas to make sure that everyone in the industry is registered and competent, but that will be greatly appreciated by the public. I know that when this type of registration was being considered, it was suggested that specific skill levels be recorded, and it would have been good if the Government had taken that course of action.

The member for Northern Rivers referred to the ongoing problem of insuring transportable accommodation. A great deal of transportable accommodation is used in the north of the State, and I understand from the legislation that if

the price of construction, which I presume would include the price of materials, was considered, the vast majority of that cost would be over the limit for insurance. It seems unfair that the person who puts the kit home together must insure against the quality of workmanship.

Mrs Edwardes: That is not the case. The member for Northern Rivers was wrong about that aspect of it, as I will explain in my response.

Mr RIEBELING: I got it wrong as well, after looking at the second reading speech. The member for Northern Rivers and I both probably misread it the same way.

Mrs Edwardes: The person who builds the kit home will have to get the insurance.

Mr RIEBELING: That is right; for the whole lot.

Mrs Edwardes: If somebody else stumps it and adds the verandahs and all the rest of it, that will be a separate contract and he will have to insure for that aspect of it, but he will not be required to cover the kit home.

Mr RIEBELING: The kit home builder will have to take out an insurance policy to indemnify against shoddy workmanship, or whatever, for the six year period, and the person who erects it will take out a separate insurance policy for his part of the work.

Mrs Edwardes: Yes, because it is two separate contracts. It is not part of the same contract.

Mr RIEBELING: That applies to the vast majority of cases in the north, where Joe Bloggs buys the home from Harry Smith kit home builders in Perth, the home is transported north, and a builder erects it on site, so there will be two insurance policies. Is the cost of this insurance considered to be about $250 or $300? Is that the limit we are looking at?

Mrs Edwardes: Yes.

Mr RIEBELING: Has the industry indicated how many insurers will be in the market? Is it expected that there will be two or three?

Mrs Edwardes: No, we do not have any indication at the moment, but, like the member for Thornlie, we want to ensure that there is a level of competition. We certainly do not want one insurance company in the marketplace.

Mr RIEBELING: If that occurred, what would the Government do?

Mrs Edwardes: Let us wait and see, because we have been working with the industry and the Insurance Council in the preparation of this Bill, and we will be doing all that we can to encourage others to enter the marketplace.

Mr RIEBELING: In her response will the Minister be able to cover the matter that I raised about subcontractors?

Mrs Edwardes: I will get that information for you.

MR KOBELKE (Nollamara) [10.20 pm]: I support this amendment. In doing so, I commend the excellent work done by Hon Alannah MacTiernan to ensure that we have some form of compulsory home indemnity insurance. She did a lot of work on this matter and put pressure on the Government to bring legislation into this Parliament. She investigated a range of areas, which included people who were building homes not being able to resolve disputes that arose when the builders they had contracted could not complete the work. Her public campaign to ensure a better deal for home buyers has finally, in the last stages of its four year term, brought this Government to Parliament with this legislation. Although it may be late, it is a good move and one that we support.

Indemnity insurance is already available for residential buildings, but not on a compulsory basis. It is available to those builders who are willing to offer it as part of a package. The Minister, in her second reading speech, indicated that somewhat less than half of the homes currently built carry indemnity insurance. The decision to build a house is a very important one for most people. It usually involves an amount of money which is way beyond that which people would consider spending on any other item during their lives. It has considerable consequences for families that decide to commit such a large amount to an investment in a home. When things go wrong, people do not have

the finances to take legal action and need a mechanism such as that which is available through the Builders Registration Board or which will now be available through compulsory indemnity insurance.

The legislation provides that, following the payment of a deposit, if a builder cannot begin the work, the home purchaser is covered for an amount up to $13 000 for the deposit paid. That deposit will not be paid until a certificate is issued indicating that indemnity insurance has been taken out. If a builder cannot complete the work at a later stage, the home purchaser is covered for an amount up to $100 000 or the cost of the building, whichever is least. The legislation provides for a variation in the amount of $100 000. That will take place from time to time to take account of inflation in the cost of building.

The major industry bodies have supported the move to compulsory home indemnity insurance for some time. Again, the Minister in her speech suggested that since 1992 there has been a push by some of the industry bodies to have indemnity insurance made compulsory. We are glad that the Government at this stage is now acceding to that pressure and to the good suggestions made by the Opposition. We now have legislation to ensure that people who decide to build a house have a form of indemnity insurance to protect them if they are one of the small percentage of cases that gets hurt when things go wrong during the building of their home. One hopes that it remains a small percentage that is affected by the collapse of a builder during the construction period.

There was some discussion earlier about the cost of indemnity insurance. We will need to watch that carefully. I say that not from the point of view of insurance companies profiteering in this area. It is an area of some complexity and forces may come into play that could push up the price of indemnity insurance. I am not sure what role the Minister of the day will be able to play to try to control that. Obviously the market will be the guiding influence on the cost. However, we will have to monitor it to ensure it remains a small component of the overall cost of building a home.

Where tendering is involved for larger organisations building strata title units, and for major project builders, the market is very competitive. That ensures the margins are very small. Until now that has been a factor in the price of the home. Although it might involve only an amount of $200 or $300, the margins are so tight that one builder could try to gain a small advantage by not offering indemnity insurance. That may be a false economy as it is for the people who get caught when the builder goes under or is unable to complete the work. In the past, in a very competitive market whether on project homes or in the sale or tendering process, some builders have sought to shave their margins by not offering indemnity insurance, which a competitor may offer. In many instances, people who are not fully conversant with all the factors that they should consider when weighing up their decision on which builder to employ have chosen not to insist on indemnity insurance and that has led them into a great deal of heartache and financial loss because they have contracted a builder who could not complete the contract. This legislation will place all builders on the same footing. They will have to provide indemnity insurance with the contract. It will remove from the marketplace builders who offer a lower quality product by not offering indemnity insurance and who put pressure on the good builders who offer a quality package including indemnity insurance.

Will indemnity insurance also apply to major builders such as Homeswest? I will get the Minister's response later. The example to which I will refer is WiseChoice units built by Homeswest. I assume it would have applied in this case because Homewest onsold them. Would Homeswest require indemnity insurance for rental properties? I know there has been a problem there. People who had moved into WiseChoice units at Mirrabooka came to see me about three years ago - from memory I think there were 12 of them - because they were having all sorts of problems with getting maintenance done. The company that won the contract from Homeswest had not been able to complete the work. It had got close to completion and ran into financial difficulties. Homeswest had to complete those units for pensioners who had contracted to buy them under the WiseChoice program.

The homes were of a good design and were excellently located overlooking a park and close to shops. The people were happy to move into those homes. Unfortunately, they found there were problems with the units. The workmanship on one unit that I inspected could not even be described as shoddy; it was hopeless. For example, the tiles in the bathroom were lifting. Homeswest agreed to fix them and engaged people to do that. When the tiles were removed, it was found that there was no concrete base to the wet area of the bathroom. Apparently some dry cement had been thrown onto a sand base and the tiles had been laid on top of it. The work was totally unacceptable. Homeswest made good that work, but it had to cart in concrete and re-lay the foundation for that part of the house. It caused incredible disruption to that couple.

The problem goes beyond that. People moved into those units expecting to enjoy some security and peace in their senior years. They did not want to go through the turmoil of this work being carried out in their new homes after they had moved in. Further, they are the owners of strata title properties and they must work through a body corporate

to cover areas of their property which, under the Strata Titles Act, are the responsibility of the body corporate. Their minds ran wild about the legal liability if problems were found in other units which would be the responsibility of the body corporate. It presented them with a legal minefield at a time of their lives when they wanted peace and security. There is a potential legal wrangle about who will accept responsibility for the cost of that work. I cite another example of this builder being engaged in work, the quality of which was totally unacceptable. Last winter there was heavy rainfall and a person hanging out clothes in the courtyard fell through the pavement. The drainage sumps had not been connected correctly, water had gouged a hole under the brickwork and it had collapsed. The work was clearly not of an acceptable standard.

Mr Johnson: Surely Homeswest would take final responsibility for that?

Mr KOBELKE: I took this matter up with the relevant Ministers, and I commend Homeswest for having taken full responsibility. However, under existing law Homeswest does not accept legal responsibility. I sought some guarantee from the former Minister and the current Minister because these people wanted the security of knowing that someone would solve the problem for them. However, I did not get that undertaking from either Minister. Finally, I received a reply from an acting Minister which fobbed me off. I could not give these people a guarantee that Homeswest had a legal responsibility to look after them. However, Homeswest has been fair and it has fixed the problems. Although Homeswest was the developer, it had on-sold the unit and under existing law any problems were the responsibility of the builder. That builder did not have indemnity insurance and, therefore, the people had no recourse. Even if they had the financial wherewithal, there was no-one from whom they could obtain the money. They were not in a position to take action because they did not have the substantial financial reserves to enable them to seek legal redress.

Mr Johnson: If the builder built for Homeswest and on-sold them to private individuals, it must be Homeswest's responsibility.

Mr KOBELKE: I thank the member for that argument. I put it to two Ministers on his side of the House and to Homeswest but, unfortunately, Homeswest was not willing to accept that legal responsibility. However, I place on the record that Homeswest has done the work required at no charge. The work was carried out to the great inconvenience of the residents of those units. At the outset when people contacted Homeswest it had to assess its legal position with respect to the builder. There was considerable delay while Homeswest determined the financial status of the builder and whether it could claim from him. That went on for some months before Homeswest did the required work. The residents are very thankful that it has been done. I ask the Minister whether this will apply to Homeswest in its building of rental properties.

Mrs Edwardes: Only where it on-sells within six years.

Mr KOBELKE: There is still a problem which is not caught up by this legislation. I am not suggesting that a simple change would fix the matter but there is still the problem with Homeswest when it builds rental properties.

Mrs Edwardes: You are talking about consumer-based legislation.

Mr KOBELKE: I refer now to some rental units in Dianella which I visited following a complaint about two years ago involving a well-known builder who went bankrupt. A number of problems were evident, including brick walls falling over, water coming through the ceiling and the like.

Mrs Edwardes: Homeswest had a responsibility to deal with it.

Mr KOBELKE: It would not make good the work without a great deal of pressure because of the cost involved. Even then it carried out only part of the work. It could not recoup the money from the builder who had gone bankrupt, and these residents had to live in these modern, well-designed units which had major faults that Homeswest was not willing to fix. That problem is outside the scope of this Bill, but it needs to be looked at. Perhaps Homeswest adopts a self-insurance approach instead of taking out indemnity insurance, given the size of its building program.

I turn to the point I made earlier when I asked the Minister to consider the level of premiums. Proposed new section 25D states -

> An insurer is not entitled to avoid liability under a policy of insurance on the ground that the policy was obtained by misrepresentation or non-disclosure -

(a) by the builder; or

(b) in the case of a claim by a successor in title to the person on whose behalf the residential building work was performed, by that person.

That is an excellent condition which is needed to make the whole thing work and to ensure there are no loopholes. However, it increases the risk for the insurers and they are likely to make an assessment of builders and to rate their premiums according to that assessment. I ask the Minister to indicate whether that approach is already being considered or whether premiums will be calculated on some other basis. It seems commonsense that insurers will look carefully at a builder to whom they offer the compulsory indemnity insurance and if that builder appears to be a bad risk because of the quality of his work or work practices, that will be taken into account in the premium. It could be that the insurer will refuse indemnity insurance to particular builders. Of course, that would present a real problem for many builders because if they cannot obtain indemnity insurance they will be locked out of the marketplace. That is a side issue that could cause a serious problem if good builders could not obtain insurance cover.

Mrs Edwardes: If they are good builders, insurance companies will not refuse to insure them.

Mr KOBELKE: I remind the Minister that in the Family and Children's Services portfolio many service providers in areas of community need, such as caring for the homeless, could not obtain insurance because it was not a market area in which insurance companies could make money. They withdrew policies from that area, without any judgment being made about the quality of the service providers. There was seen to be a level of risk therefore insurance companies withdrew from that market. No policies were available in Australia.

Mrs Edwardes: Are we not talking about something different from compulsory insurance? You referred to some builders carrying out work which may be shoddy and as a high risk not having access to insurance and possibly a problem for good builders. I asked how you saw good builders as a high risk.

Mr KOBELKE: I thank the Minister. I jumped from one point to the other without making sufficient connection between the two. It would be right and proper for poor quality builders to be unable to get insurance and therefore be pushed out of the market. However, we know that these things must take place by some bureaucratic means where assessments are made based on standards and criteria. In establishing that mechanism for assessing builders, insurance companies may use criteria which are useful for the actuaries and the insurance company, but which do not reflect the realities of the building game. Through a process of developing the criteria by which they offer insurance, they may exclude some reputable builders who build good quality homes. I am putting forward a hypothetical view that builders may have difficulty getting established. They may need a fair amount of money to buy an existing company to obtain the credentials that would ensure they could take out indemnity insurance. I am using a hypothetical situation to point out the complexities in this area.

This Minister or the Minister of the day will need to monitor this issue to ensure that the primary objective is met; that is, people will have indemnity insurance to ensure the contract they sign will stand up. If a builder goes by the wayside, the insurance policy must provide sufficient financial return so that the clients can continue the building without loss. That is the intention. In doing that the insurers will set various criteria by which to assess the premiums they will charge builders. They may use a flat rate and perhaps not offer indemnity insurance to certain builders. In other cases the effect of increased premiums may push some builders out of the market. There is a range of possible scenarios. One hopes the development of the various policies by insurance companies will be productive for the building industry and not open up a range of other problems.

That leads me to the current issue of $2 building companies. Builders have been able to set up companies and run them for short periods before they collapsed, leaving many people at a loss because the builders could not complete the work. As a result of that situation, costs are incurred. In that case many subcontractors must bear the burden of that collapse. A short time later that builder can set up another building company and continue. I do not know whether that will be addressed in the other legislation which the Minister has promised to bring forward to increase the powers of the Builders Registration Board. I hope some action will be taken in that area.

I refer now to insurance coverage for owner builders under proposed section 25F. Again this will be an excellent move. Without such a provision a loophole would enable builders to set themselves up as owner builders and avoid the provisions of this compulsory indemnity insurance. A young couple who built triplexes in Nollamara came to me as a result of problems they were having with the builder and the lack of action from the Builders Registration Board in making good the damage.

The couple contracted to a builder who used his brother to do the building work. I am not quite sure who was the legal builder and who was the developer. Problems arose when plaster fell off the walls and the young couple sought to have the damage made good. I will not go through the details of the actions they took through the Builders Registration Board; eventually the Builders Registration Board was willing to take action. However, the contractor simply blamed his brother and said he could not be found. The builder then threatened to declare himself bankrupt if action were taken any further. The couple tried to see whether they could get compensation from the person who contracted to build their triplexes, but they were at a loss because they had no indemnity insurance and the person who had done the work simply threatened to go into bankruptcy if they continued to pursue the issue.

That case also suggests the Builders Registration Board needs more powers to enable it to resolve disputes. We hope that we will see that in the next round of legislation.

Mrs Edwardes: We are looking at the dispute resolution process.

Mr KOBELKE: Does the Minister have a definite package ready to bring in?

Mrs Edwardes: It is almost finalised. We want to bring it into the Parliament this session.

Mr KOBELKE: I wish the Minister well. In this case the young couple could not gain redress because there was no indemnity insurance. Under this Bill indemnity insurance would be mandatory so that people would avoid the problems which beset that young couple in my area.

Proposed section 25D provides for the requirements of the insurance policy. First the insurer must not only be authorised under the Insurance Act of the Commonwealth to carry on insurance business, but also be approved by the Minister. How many insurance companies are already in discussion with the Minister about the package that will be required?

Mrs Edwardes: None.

Mr KOBELKE: I assume that this provision will ensure some control over the packages offered.

Mrs Edwardes: There is a provision which states "any other prescribed requirements".

Mr KOBELKE: What might be those prescribed requirements, or is that a catch-all?

Mrs Edwardes: It refers to anything else that is required.

Mr KOBELKE: Under proposed subsection 1(a)(ii) the policy insures the person and that person's successors in title against the risk of loss other than indirect, incidental or consequential loss. The Minister is the lawyer. Perhaps in her response she will explain the extent of that. I am not sure what is meant by "other than indirect". If a project were delayed and the client were paying rent on another property, would that rent be covered? I can think of a range of issues. I cannot see a clear definition of what is meant by "incidental or consequential loss" or "other than indirect". A person may want to conduct some form of business from a new home; for example, he may be a tax agent. He may want a contract completed by a certain date, and months in advance have put his name in the Yellow Pages, for example. However, the failure of the builder to complete the building on time may result in considerable loss of income to the client.

Mrs Edwardes: That would not be covered.

Mr KOBELKE: What about the additional rent?

Mrs Edwardes: That would not be included either.

Mr KOBELKE: I take it they are seen as other than indirect.

Mrs Edwardes: Yes.

Mr KOBELKE: I fully support this Bill. It is well overdue and we hope it will save much heartache for families who are building homes who get caught up in the unfortunate situation of having a builder who is not able to complete the work.

MRS EDWARDES (Kingsley - Minister for Fair Trading) [10.49 pm]: I thank members opposite for their comments; I hope I will cover all of them in my response. The industry will be contributing to education, although the amount it will contribute has not as yet been finalised. We will not be in the business of advertising individual insurers. We are talking about an education campaign for consumers and for builders. The industry is involved so that the builders know what their responsibility will be. The deposit of $13 000 represents 6.5 per cent of $200 000, and it was regarded as a fair figure. There has never been any intention to cover subcontractors because this is consumer-based legislation, although, as we well know, often in trader to trader disputes a very small business receives the goods or services and must resort to either a tribunal or the court. Obviously subcontractors are not covered by this legislation; it is an issue for fair trading generally. We need to keep that in mind when we review the fair trading legislation.

Mr Riebeling: Are you considering legislating in that area?

Mrs EDWARDES: No, but this issue regularly comes to me. We must look at it. Now that we have changed our approach from consumer affairs to fair trading, we have not contemplated looking at it under the Fair Trading Act. I am conscious that the people involved in a number of trader disputes run small businesses.

Mr Riebeling: They are the big losers, especially if they collapse.

Mrs EDWARDES: Yes, very much so. Although there was never any intention to cover them, we will keep that in mind in the broader picture. These amendments will be reviewed in two years. Members opposite have raised matters that are not covered by this legislation; they can form part of a review, if necessary.

Complaints under the legislation will go to the Insurance Council of Australia Ltd or to the Ministry of Fair Trading. Unless spas, pools, pergolas and fences form part of the residential building, they will not be covered. It must be part of the residential building contract in the first instance; otherwise people can go to the Building Disputes Committee if the amount is more than $6 000 or to the Small Claims Tribunal if it is less. I refer to the increase in the amount of $6 000 to $10 000. We will not reduce the figure from $10 000 for the reasons that have already been explained. Members opposite highlighted the potential for confusion or concern in certain areas; we will ensure these are covered by the education process.

The cost of the insurance premiums is estimated at about $350, but it will vary. Obviously, as is the case now, insurance companies will look at the viability of the company and at the complaints history, and that will be reflected in the premium. Again, we need to pick up on that in the education package to make sure people shop around. If the builders cannot get insurance because of a lack of viability or their complaints history or whatever, they can still do work valued at less than $6 000 or commercial work.

Mr Kobelke: There is not much work around under $6 000.

Mrs EDWARDES: I am just indicating the position. I am not backing away from what has been provided here, but merely indicating that there is also an opportunity for a small business with fewer than a certain number of workers to approach the Insurance Council of Australia to have the decision not to insure reviewed.

Mr Riebeling: When they collapse, if they are holding lots of small amounts, it is a problem. If they don't have a certificate and they collapse and they have 50 houses that they want to start, what happens then?

Mrs EDWARDES: As I am not sure to what the member is referring, I shall have a chat with him later. From what the member is indicating, yes, those small businesses would need compulsory insurance. The builders need to be covered for the Wisechoice units of Homeswest, or anything that will be on-sold. If a rental property is to be on-sold within the six years, the builders would need to be covered.

The insurance policies provide for minimum coverage of $100 000. The question was raised about the coverage not being $200 000. It was considered that consumers are being provided with a fair and reasonable coverage commensurate with the premium. As a general rule $100 000 was seen to be sufficient, looking at the current practice. Consumers can still negotiate with insurers for additional coverage if they consider a higher level of cover is necessary. The focus is more on the premiums and making sure the cost to consumers is fair and reasonable.

I thank members opposite for their support. This legislation will benefit home buyers, who enter into contracts with builders who have not taken insurance cover in the past, by providing them with a level of support and comfort.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Dr Hames) in the Chair; Mrs Edwardes (Minister for Fair Trading) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Part 3A inserted -

Mrs EDWARDES: I move -

Page 7, line 6 - To delete the line and substitute the following -

(d) it provides that claims may be made under it at any time before the expiration of a

Page 7, line 24 - To delete the line and substitute the following -

(2) Subject to subsection (3), where the policy of insurance relates to work

Amendments put and passed.

Mrs EDWARDES: I move -

Page 8, after line 2 - To insert the following -

(3) Where the policy of insurance relates to the placement of a transportable dwelling on land for the first time after its construction, the cost of the residential building work for the purposes of subsection (1)(e) is the cost of -

(a) the dwelling;

(b) placing the dwelling on the land including siting, stumping and any other work in connection with that placement; and

(c) any building work to the dwelling after placement.

Amendment put and passed.

Mrs EDWARDES: I move -

Page 9, line 25 - To delete the line and substitute the following -

(b) it provides that claims may be made under it at any time before the expiration of a

Mrs HENDERSON: The Opposition was handed these amendments five minutes ago. It is not too much to ask that when the Minister moves them she explains what they will do.

Mrs EDWARDES: My apologies to the member opposite. A briefing was provided to the member for Northern Rivers as the lead speaker, and he was given the amendments before we started the debate tonight. I apologise for the lateness of giving these amendments to the Chamber. It was brought to my attention only this afternoon that the transportable dwellings were not covered. It was always intended to cover transportable dwellings. When the Bill was brought into this Chamber it covered secondhand homes and their siting and stumping, but did not cover where a transportable home was built. It was always intended that it do so.

The other amendment is a clarification of how the six year period will operate. It was highlighted that the way it was drafted in the Bill was too open-ended and, therefore, may have discouraged insurers. The Government wants to have

insurance companies in the marketplace. It was always intended that there be a six year time frame. That amendment will clarify that it is a claim within the six year period.

Amendment put and passed.

Mr LEAHY: I refer to new section 25C(2). Does the requirement apply before the builders receive any deposit moneys, or will it be for progress payments? I would be concerned if deposit moneys could be received before a certificate is given.

Mrs EDWARDES: It means any moneys being paid. That would include deposits.

Mr LEAHY: A requirement exists that the owner of the house, or the person requiring the house to be built, is aware of the protection provided under this legislation. I know the Government will try to provide extensive coverage and that a budget is allocated for that. However, it will take time because some people enter into such contracts once in a lifetime. It concerns me that there is no check. I know that the onus is on the builder, but on many occasions builders are active in marketing when their financial positions are quite shaky. They go through a procedure of getting in as many contracts and deposits as possible to try to pay debts, and then expose the home builders to the dangers this legislation seeks to cover. All this legislation will do is place on the builders an onus, which has strong penalty clauses, but there is no backup that makes it more difficult for them to avoid the requirement to insure.

If a requirement existed that a certificate be provided to the local authority before a building permit were issued, and the local authority had to sight it, at least there would be a backup. It would not be up to the home builder or buyer of that home to sight it if they were not aware of the provision. It could be strengthened by making it a requirement that that certificate be provided to the local government and that the local authority sight it before issuing a building permit.

Mrs EDWARDES: The member has raised an important point. The Housing Industry Association indicated that it would like such an amendment. However, the Western Australian Municipal Association has some concerns about the onus that would put on their local councils. It indicated that at the time of builders' registration a certificate of indemnity insurance should be provided, similar to the Law Society and legal practitioners. It is possibly not feasible for the building industry, which is unlike the legal industry in the way the work is carried out, to do that.
We support the provision that every time builders apply for a builder's licence at the local council they must produce their certificate of insurance. We are working through this other aspect and I hope we will have an amendment in the other House that will ensure that the consumer is far better protected in the circumstances that the member has raised. We are considering this seriously to ensure that there is that added protection for the consumer.

Mrs HENDERSON: I am pleased to hear the Minister's comments because I share the member for Northern Rivers' concerns. I hope that the Minister will pursue the issue of having a certificate that is to be sighted by the local authority. At the moment, it is still quite possible for a consumer to pay a deposit and possibly a progress payment without satisfying themselves and for the builder to go into liquidation or whatever, and the consumer to be left with no insurance cover. I would like the Minister to consider an alternative provision, such as one of those which exists in relation to workers' compensation. If the individual employer who is required to take out that insurance has not taken it out, a general fund covers the situation. Over a period of years the contributions accumulate, so no-one is ever left without insurance cover. If the employer fails to do the right thing and has not been prosecuted, a general fund exists so that the worker is not left exposed. Similarly, the individual consumer should not be left exposed because he did not ask about insurance when the deposit was requested.

Presumably the builder is not likely to be subjected to this $10 000 penalty unless the consumer lodges a complaint that leads to the builder's being convicted. There must be some safeguard. A provision that the local authority require the certificate to be produced is the best approach. I imagine that the insurance would be for each building project; it would not be for a builder as a whole unless he were to limit himself to building, say, 20 houses a year and asked for that specific cover from the insurance company, but that would be quite rare.

Mrs EDWARDES: The legal profession works on the previous year's quantity of work; it is a different type of work. The Government supports this move and is working it through. I hope that the legislation will be amended in the Legislative Council to address that issue because it is particularly important. It is a shame that those involved have not got together and resolved it prior to this. It is something we must work towards.

Clause, as amended, put and passed.

Clause 6 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

House adjourned at 11.14 pm

APPENDIX A

QUESTIONS ON NOTICE

YOUTH EMPLOYMENT - PUBLIC SECTOR

324. Mr BROWN to the Parliamentary Secretary representing the Minister for Employment and Training:

(1) In the state public sector how many young people aged between -
  (a) 16 years and 21 years - both inclusive;
  (b) 22 years and 25 years - both inclusive - are employed?

(2) How many young people between the ages of -
  (a) 16 years and 21 years - both inclusive;
  (b) 22 years and 25 years - both inclusive - are employed as -
  (c) apprentices;
  (d) trainees;
  (e) cadets;
  (f) in some other form of formal employment training arrangement?

(3) How many young people aged between -
  (a) 16 years and 21 years - both inclusive;
  (b) 22 years and 25 years - both inclusive - are employed by -
business/contractors/persons on contract work obtained from and funded by the State Government?

(4) Since February 1993 how many new -
  (a) apprenticeships;
  (b) traineeships;
  (c) cadetships;
  (d) employment places has the State Government created in the state public sector for young people aged between -
    (i) 16 years and 21 years - both inclusive;
    (ii) 22 years and 25 years - both inclusive?

Mr TUBBY replied:

The Minister for Employment and Training has provided the following response -

(1) (a)-(b) No central records kept on the number of employees by age across the whole of the Western Australian public sector. Based on information available as at June 1995, an estimated 9 per cent of the Public Service was aged less than 25 years. There are no validated figures for the age groups 16 to 21 or 22 to 25 years.

(2) (c) Apprentices:
    (a) 189.
    (b) 45.
  (d) Trainees:
    (a) 243.
    (b) 221.

  (e)-(f) The Western Australian Department of Training is responsible for the Industrial Act. Under this Act indentured apprentices and trainees are required to be registered with the department. The department does not collate data on cadetships, other forms of formal youth employment or training, as there is no requirement for registration under the Act. Data is also sourced from the Australian Bureau of Statistics; however, there are no statistics available which would delineate cadetships from other forms of employment-based training arrangements.

(3) As many government agencies employ young people in the categories specified, I am not prepared to divert considerable resources to provide the requested information.

(4) (a) Apprenticeships:

(i) 222.
(ii) 46.
(b) Traineeships:
(i) 599.
(ii) 232.
(c) 11.
(d) (i) 4.
(ii) 7.

NORTHBRIDGE TUNNEL - ACQUISITION OF PROPERTIES

452. Mr BROWN to the Minister representing the Minister for Transport:

(1) In the last two years how many properties has the Government and/or Main Roads acquired in order to facilitate the construction of the Northbridge tunnel?

(2) What properties have been acquired?

(3) Who owned each property prior to requisition?

(4) How much was paid to the owner of each property?

(5) Are many properties being acquired in part to facilitate construction of the Northbridge tunnel?

(6) If so, how many?

(7) Which properties have been partly acquired?

(8) Who were/are the owners of such properties?

(9) How much was paid to the owners for the acquisition of part of the property?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

(1) Up to 12 September 1996 Main Roads has acquired 25 properties in all including nine part takes.

(2)-(9) Please refer to table below.

CITY NORTHERN BYPASS
Properties Affected
Mitchell Freeway to Lord Street

Owner	Lot	Street	Suburb	Purchase Price
*Annaghmore P/L & Evmaro P/L	PTY168	Newcastle	Northbridge	**
Arcus Shopfitters Pty Ltd	Y167 & PTY16	Aberdeen	Northbridge	**
Bilessuris V, Tagora Pty Ltd, T Temelcos A & Zambo L	1 & 2	Cnr Fitzgerald & Aberdeen	Northbridge	$1.1m
Burundi Holdings Pty Ltd	2 & PTY77	Aberdeen	Northbridge	$7.7m

Chicca Holdings P/L & Galipo MF & S	2	Newcastle	Northbridge	**
*Cohn E	Y70 & 71	Newcastle	Northbridge	**
*Coli E & C & E Developments	1	Aberdeen	Northbridge	**
Duffy PJ	1 & PTY77	Newcastle	Northbridge	**
Fermanis S	Y170 & 171	Lake	Northbridge	$580 000
*Gibbs & Duffy	Y75	Aberdeen	Northbridge	**
*Katsantonis/McVeigh/ Tsalikis	26	Aberdeen	Northbridge	**
Kounis CL	3	Newcastle	Northbridge	**
*Malaxos K & Kakulas BP, NP & TP	PTY169	Aberdeen	Northbridge	**
*Manessis C	PTY169	Aberdeen	Northbridge	**
Mangan J	PT5	Fitzgerald	West Perth	$195 000
Michael E	Y81,1,3 & 5	Lake	Northbridge	$430 000
NGD Mixed Store Pty Ltd	5	Lake	Northbridge	$14 300
Pitsikas LP	5	Lake	Northbridge	**
*Qureshi ZY	9	Newcastle	Northbridge	**
S & R Investments	PTY77 & 1	Newcastle	Northbridge	**
*Salici R A	PTY76	Aberdeen	Northbridge	**
Scolaro A & M M R	35	Palmerston	Northbridge	**
Timms J T & J J	18	Newcastle	East Perth	$144 000
Trott A	PTY67	Newcastle	Perth	$481 000
Zempilas BA	2	Lake	Northbridge	$400 000

as at September 11 1996

* Part take
** Not finalised - In some cases advance payments have been made.

POLICE SERVICE - LICENSING AND SERVICES, TRANSFER TO DEPARTMENT OF TRANSPORT; BUDGET ALLOCATION

537. Mr CATANIA to the Minister representing the Minister for Transport:

Will the Minister advise when the Licensing Division of the Police Service was officially transferred to the Department of Transport and what amount of budgetary allocation was transferred at that time?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

The Police Licensing and Services Division was transferred to the Department of Transport on 1 August 1995. The budgetary allocation transferred at that time was $110 623 066 for the period 1 August 1995 to 30 June 1996.

TRAFFIC VOLUME - NARROWS BRIDGE AND KWINANA FREEWAY

841. Mr PENDAL to the Minister representing the Minister for Transport:

(1) What numbers of vehicles did the Narrows Bridge and Kwinana Freeway-Narrows - Canning Bridges - carry in its first full year of operation in 1959-60?

(2) What are the comparable figures for the latest full year?

(3) Does the Minister's department have figures for projected use in the year 2000, 2010 and 2020, and if so, will the Minister please provide them?

(4) Does this section of the freeway carry the greatest volume of traffic of any freeway in Australia?

Mr LEWIS replied:

The Minister for Transport has provided the following reply -

(1)-(2) The annual average weekday traffic on the Narrows Bridge in 1959-60 was 18 180 vehicles and in 1994-95 it was 154 250 vehicles. The annual average weekday traffic on Kwinana Freeway between Judd Street and Canning Highway in 1974-75 was 42 980 and in 1994-95 was 114 750 vehicles. Traffic counts are not available prior to 1974-75.

(3) Forecasts are only available for the Narrows Bridge for 2001 and 2021 as follows -

2001	158 000 vehicles per day
2021	176 000 vehicles per day

(4) Yes, on average, 154 250 vehicles per day over seven lanes. That is an average of 22 035 vehicles per lane. However, the Western Freeway in the Sydney suburb of Merrylands carries an average of 121 457 vehicles per day over five lanes or an average of 24 291 vehicles per lane.

TRANSPORT, DEPARTMENT OF - VEHICLE INSPECTION, REFORM PROPOSAL

1011. Mr CATANIA to the Minister representing the Minister for Transport:

(1) Which vehicle examination centres are due to close and how many centres have been or are due to be sold?

(2) How many staff are to be sacked?

(3) How many staff are to be made redundant?

(4) How many staff are on workplace agreements in the licensing centres?

(5) How many of the contracts of the staff on workplace agreements are not to be renewed on expiry?

(6) How many staff have not had their contracts renewed?

Mr LEWIS replied:

The Minister for Transport has provided the following reply -

(1)-(6) A proposal for reform of the metropolitan vehicle inspection function is currently being prepared by the Licensing Division of the Department of Transport. This proposal is in the deliberative stage and has not yet been submitted for the approval of the Transport Board of Management and the Minister for Transport. The Minister for Transport considers it premature to discuss parts of the proposal until it has been considered in its entirety. Thirty-nine staff members within the vehicle inspection component of licensing centres are currently on workplace agreements.

PUBLIC SECTOR MANAGEMENT ACT - REVIEW

1089. Mr BROWN to the Minister for Public Sector Management:

(1) Has the Government carried out the review of the Public Sector Management Act?

(2) Has the review been completed?

(3) When was the review completed?

(4) Did the review recommend any changes to the Act?

(5) What changes were recommended?

(6) Does the Government intend to implement the recommended changes?

(7) If so, when?

Mr COURT replied:

(1)-(2) A review of the Act has been completed by Commissioner Gavin Fielding for the Government.

(3) The review report was submitted to the Government in early April.

(4) Yes.

(5)-(7) The report was tabled in Parliament on 2 July 1996. Its recommendations are currently the subject of consideration by a working party headed by Dr Des Kelly, which will be submitting a package of suggested changes to Government in the first half of next year.

ECONOMIC IMPACT STATEMENTS - PRODUCED BEFORE LEGISLATION PASSED

1093. Mr GRAHAM to the Premier:

(1) Does the Government require economic impact statements to be produced before legislation is passed by state Parliament?

(2) If so, from where are such statements available?

(3) If not, why not?

Mr COURT replied:

(1)-(3) A consolidated economic impact statement is not prepared. However, financial impacts and impacts on small business are noted before approval is given to draft legislation.

ACCOUNTS, GOVERNMENT - PAYMENTS IN FULL AND PROMPTLY PRACTICE

1103. Mr GRAHAM to the Treasurer:

(1) Are all government accounts paid in full and promptly on satisfactory completion of work?

(2) If so, on what date did the Government change to this practice?

(3) If not, why not?

Mr COURT replied:

(1) Treasurer's instruction 308 requires that, subject to satisfactory completion or delivery, accounts are to be paid within 30 days of receipt of the creditor's claim unless the terms or conditions of the contract provide for alternative arrangements.

(2) This policy dates back many years and the requirement was put into place as a Treasurer's instruction on the Financial Administration and Audit Act coming into operation on 1 July 1986. Following concern expressed by the Auditor General in his second general report for 1995 that the State was losing interest due to a significant percentage of accounts being paid before the due date, the Under Treasurer wrote to chief executive officers in April 1996 asking that agencies ensure best cash management practices, within statutory time frames, when paying accounts.

(3) Not applicable.

"RESPONSIBLE FINANCIAL MANAGEMENT-STATE BUDGET 1996-97" - COST

1120. Mr GRAHAM to the Treasurer:

(1) What was the cost of production of the document "Responsible Financial Management-State Budget 1996-97"?

(2) What was the purpose of producing the document?

(3) What was the cost of distribution of the document?

(4) To whom were the copies distributed?

(5) Where was the document printed?

(6) By which company was the document printed?

Mr COURT replied:

(1) $44 478.

(2) To explain the 1996-97 Western Australian Budget.

(3) $28 877.83.

(4) Western Australian households and businesses.

(5)-(6) Printing Resources Subiaco, Western Australia.

GOVERNMENT DEPARTMENTS - PILBARA TOWNS, STAFF; PROGRAMS FUNDED

1141. Mr GRAHAM to the Minister for Youth:

What are -

(a) the number of departmental staff in departments under the Minister's control located in the following towns -

(i) Port Hedland;
(ii) South Hedland;
(iii) Tom Price;
(iv) Paraburdoo;
(v) Marble Bar;
(vi) Nullagine;

(b) the classifications of those staff;

(c) the programs currently being funded in the towns listed in (a), in the departments under the Minister's control?

Mr COURT replied:

(a) There are no departmental staff under the Youth portfolio located in the abovementioned towns.

(b)-(c) Not applicable.

TAXES AND CHARGES - LICENCES, FEES COLLECTED BY GOVERNMENT, RATE

1178. Mr McGINTY to the Treasurer:

(1) In percentage terms what has been the specific or average increase or decrease in taxes, licences, fees and charges collected by each government department, agency or government-owned corporation in each of the last four financial years?

(2) What was the rate of each of these taxes, licences, fees and charges in 1993?

(3) On what date did the increase or decrease in taxes, licences, fees and charges take effect?

(4) What is the current rate of all taxes, licences, fees and charges collected by each government department, agency or government-owned corporation?

Mr COURT replied:

(1)-(4) This information is not centrally maintained and, because of the considerable research required to extract the information, I am not prepared to divert resources to undertake the work.

CITY NORTHERN BYPASS - TREASURY'S INFRASTRUCTURE EVALUATION GUIDELINES

1212. Ms WARNOCK to the Treasurer:

(1) Were the Treasury's major infrastructure evaluation guidelines followed on the northern city bypass project?

(2) If not, why not?

Mr COURT replied:

(1) The studies which preceded the decision to build the city northern bypass covered all the major elements for the evaluation of a major road project; for example, land use and transport planning criteria; social and environmental criteria; and economic criteria. The project is now in the delivery phase. The planning for this project has been in the public arena since the early 1960s and has been progressed by successive governments since that time.

(2) Not applicable.

INFORMATION TECHNOLOGY - OR COMPUTER EQUIPMENT, BUDGET EXPENDITURE

1244. Mr KOBELKE to the Treasurer:

(1) What is the total estimate in the 1996-97 Budget for capital expenditure relating to information technology or computer equipment?

(2) Can an estimate be given for the total recurrent expenditure on information technology within the 1996-97 Budget?

(3) If many departments do not carry a separate item relating to recurrent expenditures on information technology, what is an imputed estimate for the total of such expenditure in the 1996-97 Budget?

Mr COURT replied:

(1)-(3) This information is not centrally maintained and, because of the considerable research required to extract the information, I am not prepared to divert resources to undertake the work.

EDUCATION DEPARTMENT - COMPLAINTS OF SEXUAL ABUSE OR MOLESTATION AGAINST TEACHERS

1270. Mr PENDAL to the Minister for Education:

(1) Does the Minister's department have written procedures or guidelines for the handling of complaints of sexual abuse or molestation against teachers?

(2) For how long have these existed?

(3) Will the Minister table a copy?

(4) How long have they been in operation?

(5) What procedures or guidelines were previously in place?

(6) What year were these earlier procedures introduced?

(7) Will the Minister table a copy of these?

(8) If guidelines from previous decades are not now available, will the Minister confirm that the practice, once allegations are made, was to move the accused teacher to another school?

Mr C.J. BARNETT replied:

(1) Yes.

(2) Published in 1994.

(3) Yes. [See paper No 506.]

(4) Since 1994-95. Operational as soon as each principal had been inducted.

(5) None. Any allegations of misconduct were dealt with under section 7C of the Western Australian Education Act 1928.

(6) 1928.

(7) Yes. [See paper No 506.]

(8) The practice was to suspend the teacher without pay, conduct an investigation into the allegations and, if the teacher was guilty, dismissal followed. There may have been some instances where teachers were moved to another school when allegations could not be proven.

JUSTICE, MINISTRY OF - FORMER DIRECTOR GENERAL, REMOVAL

1286. Mr BROWN to the Premier:

(1) Can the Premier explain the circumstances giving rise to the decision of the Government to remove the former Director General of the Ministry of Justice from his post?

(2) Did the Attorney General recommend to the Premier that the former Director General of the Ministry of Justice be removed from that post?

(3) When did the Attorney General make the recommendation?

(4) Did the former Attorney General recommend that the former Director General of the Ministry of Justice be removed from his post?

(5) If so, when was that recommendation made?

Mr COURT replied:

(1) The Attorney General asked for his removal and in the context of ministerial changes being made at the time, I agreed that the director general should be removed and offered another position.

(2) Yes.

(3) I refer the member to question on notice 45(17).

(4) No.

(5) Not applicable.

CHIEF EXECUTIVE OFFICERS - TERMINATIONS BEFORE CONTRACTS EXPIRED, PAYMENTS

1306. Mr BROWN to the Minister for Public Sector Management:

(1) Have any chief executive officers terminated by the Government prior to the expiration of their contract been paid more than a month's pay in lieu of notice?

(2) If so, how much has been paid to each chief executive officer as a consequence of them being terminated before the conclusion of their contract?

Mr COURT replied:

(1) Yes.

(2) This matter is confidential between the employee and the employer, confidentiality being a condition of the offer. Such payments do not exceed a maximum of 12 months' remuneration which is consistent with provisions in the Public Sector Management Act 1994. Details of payments of this nature are forwarded to the Auditor General.

CONTRACTING OUT - BY GOVERNMENT DEPARTMENTS

1353. Mr BROWN to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) Has any -
(a) department,
(b) agency,
under the Minister's control made any plans to contract out work to the private sector in the 1996-97 financial year?

(2) Is any of the work proposed to be contracted out currently performed by government employees?

(3) If so, exactly what work is proposed to be contracted out?

(4) How many government employees' jobs in each department or agency will be affected?

(5) Will any plans lead to a reduction in the number of employees in any department or agency?

Mr OMODEI replied:

The Department of Local Government:

(1)-(5) The third annual survey of competitive tendering and contracting commenced in July, requiring agencies to report on contracts let during 1995-96. They will also be asked to again outline their plans for future contracting - for example, for the 1996-97 financial year - and, where the activity is currently performed in house, to identify the number of staff currently working in the relevant service area. Once the survey is undertaken and the independent analysis is completed, the ensuing report will be widely distributed. As has occurred in the course of past contracting decisions, there is likely to be a reduction in the number of public sector employees, as staff elect to transfer to private sector providers which are successful in tendering for public sector contracts, or they accept redundancy payments in accordance with approved packages. Despite the magnitude of change in the public sector, associated with CTC and other best practice management initiatives, there are currently only 358 employees actively seeking placement through redeployment.

Significantly the Federal Government's Industry Commission recently stated - in its final report on competitive tendering and contracting in public sectors across Australia - that CTC is expected to generate higher real income and some increase in overall employment. With average savings of 20 per cent and 24 per cent reported in Western Australia in the two previous surveys - and in light of the fact that for every public sector job "lost" in this State since February 1993 there have been 12 private sector jobs created - the Government remains committed to the continued implementation of competitive tendering and contracting in departments and other agencies throughout the public sector. This will involve the progressive examination of many different areas of current "in house" activity, as to their stability for testing in the competitive market environment and the eventual selection of the best value for money options for service delivery.

The Office of Multicultural Interests:

(1) No.

(2)-(5) Not applicable.

PUBLICATIONS - VIDEOS; OPINION POLLS, ALLOCATIONS

1448. Dr GALLOP to the Minister for Mines; Works; Services; Disability Services; Minister assisting the Minister for Justice:

(1) In 1996-97, what is the proposed allocation for brochures, pamphlets and other similar publications for each individual agency within the Minister's portfolio?

(2) What were the allocations for the previous three financial years?

(3) In 1996-97 what is the proposed allocation for production of videos and similar publicity ventures?

(4) What were the allocations for the previous three financial years?

(5) In 1996-97 has any money been allocated for opinion polling?

(6) If yes, what opinion polling is proposed and what will it cost?

(7) What were the allocations for polling in the previous three financial years?

Mr MINSON replied:

With respect to the Department of Minerals and Energy, the Department of Contract and Management Services and the State Supply Commission -

(1)-(7) Under the program budgeting format used throughout the above agencies, expenditure is not budgeted for at the level of detail sought. I am not prepared to direct considerable resources to obtain the information requested.

With respect to the Disability Services Commission -

(1) No specific allocation is made for brochures, pamphlets and other similar publications.

(2) Not applicable.

(3) No specific allocation is made for production of videos and similar publicity ventures.

(4) Not applicable.

(5) No.

SELECT COMMITTEE ON METROPOLITAN DEVELOPMENT AND GROUNDWATER SUPPLIES REPORT - RECOMMENDATIONS IMPLEMENTATION

1468. Mr KOBELKE to the Premier:

(1) Which of the 28 recommendations contained in the report of the Select Committee on Metropolitan Development and Groundwater Supplies, which was tabled in the Legislative Assembly on 1 December 1994, have been implemented?

(2) Can the Premier provide either directly or via the relevant Ministers the current status of implementation for each of the recommendations contained within the select committee report?

(3) What actions, if any, have been taken by the Government in relation to matters relevant to the preservation of our ground water supplies which are in addition or different to those contained in the select committee report?

Mr COURT replied:

(1) On 26 June 1996, the Minister for Planning provided a ministerial statement to the House on the implementation of the recommendations of the Select Committee Report on Metropolitan Development and Groundwater Supplies. I would refer the member to that ministerial statement. There has been substantial action on all 28 recommendations of the Select Committee Report on Metropolitan Development and Groundwater Supplies. Some of the key recommendations that have been implemented include -

Acquisition of 423 ha of private land within the priority 1 ground water area of the Gnangara mound at a cost of $4.25m.

Scientific definition of the boundaries of ground water used for public drinking water supplies.

Development of a rural ground water catchment protection zone and a water catchment reservation under an amendment to the metropolitan regional scheme.

Establishment of the Centre for Groundwater Studies with the purposes of carrying out coordinated research in ground water.

The Water and Rivers Commission was formed on 1 January 1996. This brought together expertise in water resources management and protection into a single agency. There is now a group within the commission that has specific responsibility for protecting public water sources, including ground water supplies addressed in the select committee report.

(2) Information on the current status of implementation of each recommendation contained within the report is available in a summary document. Members can obtain the document from the environmental planning branch of the Ministry for Planning.

(3) In addition to acting on the recommendations of the report, the Water and Rivers Commission has produced water source protection plans for several country town drinking water supplies. These plans have been developed in consultation with the local government councils, landowners and other stakeholders. A program is in place to provide protection plans for all country town water supplies. An agreement has been established between the Water and Rivers Commission and Water Corporation for managing the protection of all public water supplies in the State. It clearly sets out responsibilities for managing both ground water sources such as the Gnangara and Jandakot mounds and surface water sources such as the hills catchments. The commission has been able to formalise processes to protect public water sources. These include standardising permitting of premises under water protection by-laws and other statutory referral processes.

CHILD MIGRANTS - CHURCH OF ENGLAND PROVINCIAL IMMIGRATION SOCIETY OF WESTERN AUSTRALIA (INC), INTEREST FREE LOAN (1949)

1473. Dr WATSON to the Premier:

(1) Did the Deputy Crown Solicitor in a letter dated 29 July 1949 to the then Under Secretary for Lands, enclose a form of indenture he had prepared covering a joint advance as an interest free loan of £11 980 to the Church of England Provincial Immigration Society of Western Australia (Inc) of the Church Office, Cathedral Avenue, Perth, for the purpose of providing for the accommodation of child migrants at the Anglican Homes for Children, Midland Junction?

(2) Does a copy of that letter appear as folio 64 on the file ACC 1193 AN 228/1 501/48 Vol 1, in the Public Record Office in Perth?

(3) If not, what has been its fate?

(4) Was there an agreement that if the society wound up or the society voluntarily ceased to be an active body in relation to migration, that repayment of the loan would or would not be demanded?

(5) Did the Deputy Crown Solicitor advise that the form or the indenture was the same as that already approved by the Under Secretary in reference to the money advanced to the Catholic Episcopal Migration and Welfare Association of Western Australia?

(6) Do the Church of England Provincial Immigration Society of Western Australia (Inc) and the Catholic Episcopal Migration and Welfare Association of Western Australia (Inc) still exist?

(7) If those associations do not exist has the state or the commonwealth Government demanded the return of the interest free loans made to them?

(8) If not, why not?

(9) If so, when and how much was repaid by each organisation?

Mr COURT replied:

(1)-(9) As no file ACC 1193 AN 228/1 501/48 Vol 1 exists in the Public Records Office in Perth, I am unable to provide the member with any of the information requested. From investigations it appears the file details may be incorrect.

JUSTICE, MINISTRY OF - MIDDLETON REPORT

1511. Mr BROWN to the Minister for Public Sector Management:

(1) Does the Government intend to release the Middleton report into certain matters in the Ministry of Justice?

(2) If not, why not?

(3) If so, when will the report be released?

(4) What were the recommendations in the Middleton report?

(5) Did the report recommend a judicial inquiry into the Ministry of Justice or certain operations of the Ministry of Justice?

(6) Does the Government intend to hold a judicial inquiry?

(7) If so, when?

(8) If not, why not?

Mr COURT replied:

(1)-(8) As the member would be aware the Middleton response was tabled in Parliament on 2 July 1996.

EDUCATION DEPARTMENT - COMPUTERS IN SCHOOLS

1586. Dr CONSTABLE to the Minister for Education:

What was the total sum allocated for the professional development of teachers in the area of computer training in each of the last five financial years?

Mr C.J. BARNETT replied:

In recent years almost all funds to support teacher participation in professional development activities have been allocated directly to schools. Each school has decided on priorities for professional development in accordance with school and staff needs. There is no method available to determine the amount spent by schools in the area of computer training.

EDUCATION DEPARTMENT - TEMPORARY TEACHERS, FUTURE POSITIONS

1587. Dr CONSTABLE to the Minister for Education:

How many teachers employed in temporary positions in the 1995 school year -

(a) sought re-employment;
(b) were not re-employed; or
(c) became permanent employees,

for the 1996 school year?

Mr C.J. BARNETT replied:

(a) 3 245.
(b) 817.
(c) 90.

EDUCATION DEPARTMENT - TEACHER AIDES EMPLOYMENT

1589. Dr CONSTABLE to the Minister for Education:

(1) How many teacher aides for students with special needs have been employed for the 1996 year?

(2) How many students with special needs are enrolled for the 1996 year?

(3) What amount has been budgeted for teacher aides for students with special needs for the 1996 year?

(4) How do the figures for (1), (2) and (3) compare with the 1995 year?

Mr C.J. BARNETT replied:

(1) 584 FTEs.

(2) 4 866 students.

(3) $12.67m.

(4) (1) 1995 - 549 FTEs.
1996 - 584 FTEs.

(2) 1995 - 4 545 students.
1996 - 4 866 students.

(3) 1995 - $11.93m.
1996 - $12.67m.

EDUCATION DEPARTMENT - SCHOOL PSYCHOLOGISTS, DISTRICT ALLOCATIONS

1590. Dr CONSTABLE to the Minister for Education:

(1) How many school psychologists have been allocated to each district for the 1996 year?

(2) What is the school psychologist to student ratio in each district?

(3) How do the figures for (1) and (2) compare with the 1995 year?

Mr C.J. BARNETT replied:

(1)-(3) See below.

	1995		1996	
District	School Psychologists	District Ratio Psychologists to Students	School Psychologists	District Ratio Psychologists to Students
Albany	7.0	1:1166	7.4	1:1188
Alexander	8.8	1:1440	8.8	1:1467
Armadale	6.7	1:1551	6.7	1:1588
Bayswater	9.6	1:1285	9.6	1:1263
Bunbury North	5.0	1:1530	5.0	1:1540
Bunbury South	5.8	1:1383	5.8	1:1412
Cockburn	9.1	1:1266	9.3	1:1149
Darling Range	9.1	1:1604	9.4	1:1575
Esperance	4.0	1:822	4.0	1:833
Geraldton North	4.2	1:1131	4.2	1:1167
Geraldton South	3.8	1:1200	4.4	1:1045
Goldfields	6.0	1:1062	6.0	1:1109
Hedland	4.0	1:881	4.0	1:914
Joondalup	8.0	1:1642	8.0	1:1730
Karratha	3.5	1:1338	4.0	1:1234
Kimberley	5.0	1:843	5.0	1:910

Manjimup	3.0	1:1113	3.0	1:1105
Melville	8.3	1:1373	9.3	1:1241
Merredin	2.5	1:847	2.0	1:1102
Moora	3.0	1:954	2.2	1:1304
Narrogin	4.2	1:1062	4.2	1:1032
Northam	5.5	1:1373	5.5	1:1379
Peel	12.0	1:1379	13.0	1:1339
Perth South	6.5	1:1327	7.4	1:1223
Scarborough	7.8	1:1304	8.2	1:1248
Swanbourne	7.7	1:1358	7.8	1:1450
Thornlie	8.2	1:1422	8.2	1:1470
Whitford	10.4	1:1497	10.8	1:1411
Willetton	8.4	1:1685	8.4	1:1676

EDUCATION DEPARTMENT - TEACHER AIDES, REQUESTS FOR

1592. Dr CONSTABLE to the Minister for Education:

(1) How many requests were made for teacher aides for students with special needs for the 1994, 1995 and 1996 years?

(2) How many of these requests were granted in each of those years?

Mr C.J. BARNETT replied:

(1) 1994 - 498 requests.
1995 - 953.
1996 - 1 092.

(2) 1994 - 437 representing 87 per cent.
1995 - 839 representing 88 per cent.
1996 - 1 037 representing 95 per cent.

EDUCATION DEPARTMENT - EARLY CHILDHOOD EDUCATION COUNCIL

1605. Dr CONSTABLE to the Minister for Education:

(1) When was the Early Childhood Education Council established?

(2) What are its terms of reference?

(3) Who are its members?

(4) How often has it met?

(5) What reports or findings has it made, in particular has it reported on the school entry age?

(6) Are its reports or findings publicly available?

Mr C.J. BARNETT replied:

(1) The commitment to establish the Early Childhood Education Council was announced in July 1995. The first meeting was held on 15 November 1995.

(2) The terms of reference of the Early Childhood Education Council are:

1. To identify effective strategies for ensuring that provisions for kindergarten and pre-primary education are coordinated with other government-funded services for young children.

2. To advise on early intervention strategies that take account of the need for family support; early identification of health problems or developmental delay; continuity of support from home to preschool to school; and a coordinated approach by all service providers.

3. To advise the Minister and through him the service providers, on current research findings in the early childhood area and the issues which will require local research.

4. To advise on the educational outcomes that may be expected from early education programs - for children 4 to 8 years of age - taking into account the non-compulsory nature of kindergarten and pre-primary, the current curriculum provision, and the phased introduction of an older entry age to these programs from 2000.

5. To advise on the teaching and learning methodologies appropriate to program outcomes, taking into account current practices and resources in early childhood education and the junior primary years.

6. To provide advice on the pre-service and in-service needs of staff involved in early childhood programs.

7. To promote the benefits of quality early childhood programs in the community.

8. To consult with the community on issues referred to the council by the Minister.

(3) The current members of the Council are Professor Ann Zubrick (Chairperson), Dr Anna Alderson, Mrs Liz Binder, Mr Paul Birchall, Ms Barbara Bosich, Mrs Elizabeth Bowker, Mr Tony Giglia, Mrs Elizabeth Grindrod, Mr Brian Jeppesen, Mr Keith McNaught, Mrs Heather O'Neil, Ms Ruth Reside, Mrs Jean Rice, Associate Professor Collette Tayler, Mr Colin Veale, and Ms Pippa Warburton.

(4) The Early Childhood Education Council has met on six occasions.

(5) The council has provided advice to the Minister for Education on -

Curriculum development for the early years of education with particular reference to the Temby Report and the inception of the Interim Curriculum Council.

The Council of Australian Governments Child Care Working Group's discussion paper "A National Framework for Children's Services".

The need for informed discussion about multi-aged classes especially where preschoolers are involved.

The transfer of responsibility for programs for four-year-olds funded through Family and Children's Services to the Education Department.

The development of a survey to identify gaps, overlaps and problems of access to children's services.

Consultation with members of the South West Metropolitan Social Development Council on the need for improved coordination of preschool and care services.

The Council has not given advice on school entry age, though it has recently been invited by the Minister for Education to do so.

(6) The council will produce regular public newsletters summarising its activities. Copies of its first newsletter are being made available to members.

EDUCATION DEPARTMENT - SCHOOLS WITH OFF-SITE PREPRIMARY CENTRES

1612. Dr CONSTABLE to the Minister for Education:

(1) Which full time preprimary schools are not located on the same site as the main school campus?

(2) Which other schools have applied to retain off-site preprimary centres?

(3) What are the criteria for retaining preprimary centres off-site?

Mr C.J. BARNETT replied:

(1) Full time preprimary programs are located in 'off-site' facilities in 14 schools -
Gnowangerup District High School;
Avonvale Primary School;
Graylands Primary School;
Midland Primary School;
Pannawonica Primary School;
Roleystone Primary School;
South Terrace Primary School;
Wembley Primary School;
East Narrogin Primary School;
Bruce Rock District High School;
Chapman Valley Primary School;
Dwellingup Primary School;
Exmouth District High School; and
Mt Hawthorn Primary School.

(2) Five schools that will be offering full time preprimary programs for the first time in 1997 have expressed interest in remaining 'off-site'. They are -
Coolbinia Primary School;
Mt Lawley Primary School;
Hollywood Primary School;
Rosalie Primary School; and
Shelley Primary School.

(3) Off-site preprimary facilities are usually retained for the accommodation of kindergarten programs for four year olds or for sessional preprimary programs for five year olds. Some full time preprimary programs operate in off-site facilities according to local needs. In some cases there is insufficient space on a school site to place additional preprimary buildings; for example, Mt Lawley Primary School. In other cases the off-site centre adjoins or is adjacent to the school; for example, Mt Hawthorn Primary School.

SCHOOLS - CANNINGTON PRIMARY

Priority Schools Funding

1661. Mr RIPPER to the Minister for Education:

(1) Will the Minister guarantee that priority schools funding will continue at its present level for Cannington Primary School in 1997?

(2) If not, why not?

Mr C.J. BARNETT replied:

(1) No.

(2) Factors that could affect the program's allocations to the school are -

The recommendations by the Department of Employment, Education and Youth Affairs for a change to the allocative mechanism for equity element funds to states and education sectors.

National equity programs for school allocations from the current Government appropriations are unknown at this time.

EDUCATION DEPARTMENT - INTENSIVE LANGUAGE CENTRES

1671. Mr KOBELKE to the Minister for Education:

(1) How many Intensive Language Centres are there as of 30 June 1996 for -
- (a) primary school aged children;
- (b) compulsory secondary school aged children; and
- (c) post-compulsory secondary aged pupils?

(2) How many Intensive Language Centres are there as of 30 June 1996 -
- (a) in the metropolitan area; and
- (b) in country regional areas?

(3) How many of these centres have -
- (a) a person appointed to a level 4 position in charge; and
- (b) a person appointed to a level 3 position in charge?

(4) What are the criteria used in each case for creating these promotional positions?

(5) Are these promotional positions funded through the grant provided by the Federal Government for teaching of English as a second language under the new arrivals program?

(6) What has been the contribution from the state Education budget towards the funding of these positions?

Mr C.J. BARNETT replied:

(1)
- (a) 4 intensive language centres for primary aged students;
- (b) 2 intensive language centres for compulsory secondary aged students;
- (c) 1 intensive language centre for post-compulsory aged pupils.

(2)
- (a) 7 intensive language centres in the metropolitan area;
- (b) There are no intensive language centres in the country as there are insufficient numbers in any one district to establish a centre. There are programs in all schools with new arrivals. Currently there is a need for 22 such programs.

(3)
- (a) Two centres have a level 4 person in charge;
- (b) Five centres have a level 3 person in charge.

(4) The criteria for these levels are number of staff to be managed and number of students enrolled.

(5) Yes.

(6) The state Education budget met the cost of the classification process.

EDUCATION DEPARTMENT - ENGLISH AS A SECOND LANGUAGE NEW ARRIVAL AND SUPPORT PROGRAMS, FUNDING

1672. Mr KOBELKE to the Minister for Education:

As both new arrival and support programs for teaching of English as a second language are funded by a fixed capita grant -

(a) has any service within these areas been cut back as a result of 7.5 per cent increase granted to teachers in this State;

(b) has the State Government allocated funds to ensure that services are maintained; and

(c) have extra funds been requested from the Federal Government to cover the increase in teacher salaries?

Mr C.J. BARNETT replied:

(a) All core services were retained.

(b)-(c) No.

EDUCATION DEPARTMENT - ENGLISH AS A SECOND LANGUAGE NEW ARRIVAL AND SUPPORT PROGRAMS, REMOTE AREAS

1674. Mr KOBELKE to the Minister for Education:

(1) What steps have been taken by the Education Department to establish new arrival intensive English as a second language and ESL support programs for these pupils who move to more remote parts of the State within the first three years after arrival?

(2) Have the resources of the Distance Education Centre been utilised to develop these programs?

(3) What methods are in place to keep track of those pupils who -
(a) move to more remote centres within the State and require the new arrival and support programs?
(b) arrive from other States/Territories and require the services of the new arrival and support programs in English as a second language?

Mr C.J. BARNETT

(1) Newly arrived ESL students in country areas are serviced through the country areas program. In addition, there are ESL support programs in Bunbury and Geraldton.

(2) Yes.

(3) (a) Transfer notifications, school referrals and a statewide survey of every government school conducted twice a year assist in identifying the students.
(b) Students arriving from other States are referred for services by their enrolling school.

EDUCATION DEPARTMENT - INTENSIVE LANGUAGE CENTRES

Secondary Level; FTEs Employment, With English as a Second Language

1676. Mr KOBELKE to the Minister for Education:

(1) How many full time equivalent teachers are employed at secondary Intensive Language Centres?

(2) How many FTE staff are employed specifically to teach English as a second language to children of non-English speaking background within the secondary support program?

(3) How many teachers employed at secondary level -
(a) at Intensive Language Centres have teaching English as a second language as their major teaching area; and
(b) within the support program have teaching English as a second language as their major teaching area?

Mr C.J. BARNETT replied:

(1)

Melville Intensive Language Centre	5.0 FTE
Perth Modern Intensive Language Centre	16.0 FTE
Swanbourne Intensive Language Centre	14.4 FTE
Total	35.4 FTE

(2) 17.6 FTE.

(3) (a) All new teachers appointed to ESL facilities from 1993 must possess qualifications and training in teaching English as a second language - 35.4 FTE.
(b) 17.6 FTE.

SCHOOLS - ENROLMENTS; NON-ENGLISH SPEAKING BACKGROUND ENROLMENTS

1677. Mr KOBELKE to the Minister for Education:

(1) What was the total school enrolment at the start of term 3 1996 for -

(a) Morley Senior High School;
(b) Hampton Senior High School;
(c) Mt Lawley Senior High School;
(d) Mirrabooka Senior High School;
(e) Balga Senior High School;
(f) Girrawheen Senior High School;
(g) Ballajura Community College;
(h) Lockridge Senior High School?

(2) What was the total non-English speaking background enrolment as at the start of term 3 1996 for each of the above high schools?

(3) For each school how many of these students have been in Australia for -

(a) one year;
(b) one to three years;
(c) three to five years?

Mr C.J. BARNETT replied:

Please note that second semester census returns are still to be validated.

(1) (a) Data not yet available;
(b) 871;
(c) 1 183;
(d) Data not yet available;
(e) 625;
(f) 830;
(g) 909;
(h) 777.

(2)-(3) This data is not collected.

EDUCATION DEPARTMENT - ENGLISH AS A SECOND LANGUAGE, FTE TEACHERS

1678. Mr KOBELKE to the Minister for Education:

(1) How many full time equivalent teachers of English as a second language were employed in -
(a) 1993;
(b) 1994;
(c) 1995;
(d) 1996?
at these schools -
(i) Morley Senior High School;
(ii) Hampton Senior High School;
(iii) Mt Lawley Senior High School;
(iv) Mirrabooka Senior High School;
(v) Balga Senior High School;
(vi) Girrawheen Senior High School;
(vii) Ballajura Community College; and
(viii) Lockridge Senior High School?

Mr C.J. BARNETT replied:

		1993	1994	1995	1996
(i)	Morley Senior High School;	1.0	1.0	1.0	1.0
(ii)	Hampton Senior High School;	0.6	0.6	0.6	0.5
(iii)	Mt Lawley Senior High School;	1.6	1.6	1.6	1.6
(iv)	Mirrabooka Senior High School;	1.0	1.0	1.0	0.6
(v)	Balga Senior High School;	0.0	0.0	0.0	1.0
(vi)	Girrawheen Senior High School;	1.0	1.0	1.0	1.0
(vii)	Ballajura Community College; and	0.0	0.0	0.0	0.4
(viii)	Lockridge Senior High School?	0.0	0.0	0.0	0.0

EDUCATION DEPARTMENT - INTENSIVE LANGUAGE CENTRES

Northern Suburbs, Consultations

1679. Mr KOBELKE to the Minister for Education:

(1) What was the consultation process followed in determining the establishment of an Intensive Language Centre in the northern suburbs?

(2) Which schools were consulted?

(3) What was the process of this consultation?

(4) Were non-English speaking background parents in the area consulted in relation to the location of this new centre?

(5) Was the Ethnic Communities Council of WA consulted in relation to the location of this new centre?

(6) Was the Northern Suburbs Migrant Resource Centre consulted in relation to the location of the new centre?

Mr C.J. BARNETT replied:

(1) The consultation process involved the Ethnic Communities Council, the Northern Suburbs Migrant Centre, the District Education Office and the school communities of all the secondary schools in the identified district.

(2) All the secondary schools in the Alexander education district were involved in the determination of selection criteria and the selection process. Schools involved were Balga Senior High School, Morley Senior High School, Girrawheen Senior High School and Ballajura Community College.

(3) The process was -

(a) the location of eligible students was identified;
(b) the appropriate education district was identified;
(c) the Ethnic Communities Council was consulted regarding the provision of the service;
(d) the Northern Suburbs Migrant Centre was consulted;
(e) the superintendent of the identified district was consulted;
(f) the principals of all the secondary schools in the district met together with the superintendent and ESL personnel to determine the selection criteria and process to be undertaken to determine the location of the centre;
(g) all secondary school communities participated in the process;
(h) the Director General of Education approved the process and the subsequent selection of the host school.

(4)-(6) Yes.

ENGLISH DEPARTMENT - NON-ENGLISH SPEAKING BACKGROUND MIGRANT CHILDREN

Support Programs

1680. Mr KOBELKE to the Minister for Education:

(1) What support programs have been provided for non-English speaking background migrant children at -

(a) Balga Senior High School;
(b) Ballajura Community College;
(c) Lockridge Senior High School;
(d) Girrawheen Senior High School;
(e) Morley Senior High School;
(f) Hampton Senior High School;
(g) Mirrabooka Senior High School;
(h) Mt Lawley Senior High School?

(2) How much of these support programs was sponsored by -

(a) the Federal Government;
(b) the State Government; and
(c) voluntary out-of-school support by teachers at the particular school?

Mr C.J. BARNETT replied:

(1) (a)-(b) ESL support program;
(c) Nil;
(d)-(h) ESL support program.

(2) (a) The Federal Government provides salaries for the specialist teaching staff.
(b) The State Government provides for the school administration and capital infrastructure to enable the delivery of the specialist service.
(c) None.

ENGLISH DEPARTMENT - NON-ENGLISH SPEAKING BACKGROUND MIGRANT CHILDREN

Counselling Services

1681. Mr KOBELKE to the Minister for Education:

What counselling services specifically provided for migrant children of non-English speaking background within the state education system are provided by -

(a) the Education Department;

(b) other state government departments in cooperation with the Education Department; and

(c) other agencies?

Mr C.J. BARNETT replied:

(a) All students from culturally and linguistically diverse backgrounds have access to counselling services through the school and district education office. A specialist service is also available for new arrival students through the Swanbourne District Education Office.

(b) Delivery of services with other government agencies is organised as the need arises.

(c) The Association for the Settlement of Torture and Trauma Survivors is utilised as appropriate.

SELECT COMMITTEE ON METROPOLITAN DEVELOPMENT AND GROUND WATER SUPPLIES - RECOMMENDATIONS IMPLEMENTATION

1682. Mr KOBELKE to the Premier:

(1) Which of the 28 recommendations contained in the report of the Select Committee on Metropolitan Development and Groundwater Supplies, which was tabled in the Legislative Assembly on 1 December 1994, have been implemented?

(2) Can the Premier provide either directly or via the relevant Ministers, the current status of implementation for each of the recommendations contained within the select committee report?

(3) What actions, if any, have been taken by the Government on matters relevant to the preservation of our ground water supplies which are in addition to, or different from, those contained in the select committee report?

Mr COURT replied:

I refer the member to my reply to question on notice 1468.

EDUCATION DEPARTMENT - CONSTRUCTION AND MAINTENANCE WORK ON SCHOOL GROUNDS, SAFETY RESPONSIBILITY; TRAINING IN SAFETY AND HEALTH

1684. Mr KOBELKE to the Minister for Education:

(1) When maintenance or construction work is taking place on school grounds is it the principal who is solely responsible for the safety of the work with respect to students and staff?

(2) If the principal does not carry sole responsibility for the safety of all students and staff when maintenance or construction work is taking place, what is the level and extent of the responsibility for safety which rests with the principal?

(3) What is the nature and extent of any responsibility still remaining with the Building Management Authority to ensure that when work is undertaken on school grounds that full consideration is given to the safety of students, staff and the general public?

(4) How, if at all, has the responsibility of the BMA for the supervision and checking of safety changed since the move to contract out the supervision of construction and maintenance work on school facilities?

(5) What is the level and duration of the training and safety courses given to principals and health and safety officers in schools to ensure that they can identify all hazards to students, staff and the public arising from construction or maintenance work being undertaken at government schools?

(6) How often are principals or safety officers required to take additional courses to update their knowledge and expertise in safety and health matters relating to their workplace?

(7) What is the minimum number of hours annually required for training in health and safety that must be undertaken by all principals and/or safety officers at government schools?

Mr C.J. BARNETT replied:

This question was previously asked on Wednesday, 26 June 1996, and has been responded to. Please refer to question on notice 1485.

EDUCATION DEPARTMENT - SCHOOL LAND SALES, POLICY REVIEW

1687. Mr KOBELKE to the Minister for Education:

(1) Is it correct, as stated in an article in *The West Australian*, Thursday, 13 June 1996, that the Minister has initiated a review of the current Education Department policy under which schools can sell excess land to fund new facilities?

(2) If so, who is to undertake such a review?

(3) What are the guidelines and parameters for such a review?

(4) By what date is the review to be completed?

(5) Will the current policy allowing school land to be sold continue while the review is taking place?

Mr C.J. BARNETT replied:

This question was asked on Wednesday, 26 June 1996. Please refer to question on notice 1489.

EDUCATION DEPARTMENT - BURROWS, PHILIP

1692. Mr KOBELKE to the Minister for Education:

(1) Did Mr Philip Murray Burrows write to the Education Department seeking an appointment to a non-classroom position?

(2) If so, what was the date of that letter?

(3) What was the response from the Education Department and when was this reply provided?

(4) Was Mr Burrows offered a non-teaching position at the Cockburn District Office for the start of the 1995 school year?

(5) Does the Minister believe there is any conflict between the two different replies and if so, can he provide reasons for the change in the Education Department's position?

Mr C.J. BARNETT replied:

(1)-(3),(5)

The department's records indicate that Mr Burrows' personal file has six volumes. The Education Department has not been able to identify the correspondence referred to in question (1). If the member is prepared to provide more specific information, this will greatly assist the department in locating the correspondence and providing a response to questions (1), (2), (3) and (5).

(4) No. The Director General wrote to Mr Burrows on 20 January 1995 directing him to take up a position at Cockburn District Education Office with effect from 30 January 1995. This letter did not constitute an "offer" but was a "direction" by the Director General.

EDUCATION DEPARTMENT - GOOD START PROGRAM

1694. Mr KOBELKE to the Minister for Education:

(1) How many consultants have been contracted to work on the Good Start program in the 1995-96 financial year?

(2) When was Robertson-Hill and Knowlton or one or more of its consultants contracted to work on the Good Start program?

(3) What was the specific nature and extent of the work undertaken by consultant or consultants from Robertson-Hill and Knowlton for the Good Start program?

(4) Over what period was this work undertaken and what was the total cost of the work?

(5) Is there any ongoing consulting work for Robertson-Hill and Knowlton with respect to the Good Start program and if so, what is the anticipated cost of all work for which payment has not yet been received?

Mr C.J. BARNETT replied:

(1) Seven consultants or consultancy companies have provided independent expert services to the Early Childhood Education program during the 1995-96 financial year.

(2) Robertson-Hill and Knowlton was contracted to work on the Early Childhood Education program during July 1995.

(3) Robertson-Hill and Knowlton advised on public relations and communications strategies for the Early Childhood Education project.

(4) Robertson-Hill and Knowlton worked for the Early Childhood Education program from June to November 1995. The total cost of the work was $29 568.80.

(5) No.

SCHOOLS - LATHLAIN PRIMARY

Covered Assembly Area

1715. Dr GALLOP to the Minister for Education:

(1) Will a covered assembly area be provided for Lathlain Primary School in 1996-97?

(2) If not, why not?

Mr C.J. BARNETT replied:

(1) No.

(2) Due to other competing demands upon the available resources, it was not possible to include Lathlain Primary School in the program of works to be undertaken during 1996-97.

BUSINESS ENTERPRISE CENTRES - NEW ENTERPRISE SCHEME, FUNDING

1729. Mr BROWN to the Minister for Commerce and Trade:

(1) How much has the -

(a) State Government;
(b) Federal Government

provided to the
(i) new enterprise scheme;
(ii) business centres,

in each of the last four financial years?

(2) How many training places has each centre provided with funds made available?

(3) How many people who undertook the training secured self employment or other employment each year in the last four financial years?

(4) How many of those people were young people under the age of -

(a) 25 years;
(b) 21 years?

(5) How much will be provided to the new enterprise scheme/business enterprise centres this financial year?

Mr COWAN replied:

(1) (a) (i) The new enterprise scheme is funded by the federal Department of Employment, Education, Training and Youth Affairs. There are no state government funds provided to the scheme.

(ii) The State Government provides core funding of $50 000 per year to each business enterprise centre south of the 26th parallel and $60 000 to each centre north of the 26th parallel.

(b) (i) Details for the funding provided by the Federal Government would need to be sourced directly through DEETYA.

(ii) The Small Business Development Corporation administers funds provided by the Department of Primary Industry and Energy through its business advisers in rural areas scheme.

1995-96	$250 000	(five centres at $50 000 each)
1994-95	$250 000	
1993-94	$250 000	(administered by the Department of Commerce and Trade)
1992-93	$ Nil	

Details of any additional funding provided by the Federal Government would need to be sourced directly through DEETYA.

(2) Information on the number of training places each BEC provided with the federal funds made available must be sourced through DEETYA.

(3) Information on the number of people who undertook the training and secured self employment in the last four financial years would have to be sourced through DEETYA.

(4) Information on the age of these people must be sourced through DEETYA.

(5) The amount to be provided to the new enterprise scheme this financial year should be sourced through DEETYA. For 1996-97 the State Government will continue to provide each BEC south of the 26th parallel with core funding of $50 000 and for each centre north of the 26th parallel with core funding of $60 000. Details for the funding provided by the Federal Government for the BECs would need to be sourced directly through DEETYA.

EDUCATION DEPARTMENT - ASBESTOS ROOF REPLACEMENT PROGRAM

Ashfield Primary School

1732. Mr BROWN to the Parliamentary Secretary to the Minister for Education:

(1) Does the Government intend to replace the asbestos roofs over the library and covered assembly area at Ashfield Primary School?

(2) If not, why not?

(3) When the asbestos roofs were assessed in 1991, what rating were these two roofs given?

(4) What rating do the two roofs have today?

(5) When will the roofs be replaced?

(6) How much has the Government allocated for the replacement of asbestos roofs in the 1996-97 financial year?

(7) Is the Government giving any consideration to increasing the allocation for the asbestos roof replacement program?

(8) What consideration is being given?

Mr TUBBY replied:

(1)-(2) The Government intends to replace the asbestos-cement roofs at all schools as they reach the end of their service life.

(3) The deterioration rating was level 3.

(4) The survey was designed to enable the Education Department to establish a priority list for replacement of asbestos-cement roofs. The only factor that will change a school's priority is the need for considerable maintenance, which is evidenced in the roof and gutters item in the annual maintenance report.

(5) The date for replacement of the asbestos-cement roofs at Ashfield Primary School has not been determined. The condition of the roof will be monitored through the annual maintenance inspection process.

(6) The Government has allocated $1m in 1996-97 for the replacement of asbestos-cement roofs in schools.

(7) Funding will continue to be provided to meet the maintenance needs of schools with asbestos roofs.

(8) Not applicable.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1740. Mr BROWN to the Premier:

(1) Has the Premier asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr COURT replied:

(1) I have written to Ministers seeking their advice as to ways in which savings may be achieved in the non-service related activities of their agencies to meet the agreement reached with the Commonwealth at the Premiers' Conference to assist the Commonwealth with its budgetary problems. Ministers have been specifically advised that no reductions in service delivery will be entertained.

(2) Some $40m of savings measures have been identified by Ministers to date which will contribute to the $60m reduction in financial assistance grants agreed to at the Premiers' Conference. In relation to the $30m reduction in specific purpose payments, as the member is aware, the Commonwealth has not yet provided specific details of these reductions.

(3)-(5) As I advised the House last week, the savings being implemented arise from the ongoing identification of efficiency in the administrative operations of departments. They are continually being implemented and will continue to be implemented as more efficient ways of delivering services are identified.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1744. Mr BROWN to the Minister representing the Minister for Transport:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr LEWIS replied:

The Minister for Transport has provided the following reply -←

(1)-(5) I refer the member to the answer given to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1745. Mr BROWN to the Minister for Labour Relations:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr KIERATH replied:

I refer the member to question on notice 1740 of Wednesday, 21 August 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1747. Mr BROWN to the Minister representing the Minister for Finance:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr COURT replied:

The Minister for Finance has provided the following reply -←

I refer the member to the answer given to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1749. Mr BROWN to the Minister for Family and Children's Services:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mrs EDWARDES replied:

(1)-(5) I refer the member to the Premier's response to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1750. Mr BROWN to the Minister for Water Resources:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr NICHOLLS replied:

I refer the member to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1751. Mr BROWN to the Minister for Mines:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr MINSON replied:

I refer the member to the answer given to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1752. Mr BROWN to the Minister for Planning:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr LEWIS replied:

I refer the member to the answer given to question on notice 1740 of 1996.

BUDGET (COMMONWEALTH) - CUTS; SAVINGS, COST CUTTING MEASURES

1754. Mr BROWN to the Minister for Local Government:

(1) Has the Minister asked any of his departments or agencies to identify savings, cost cutting or other measures that will enable the Government to cover the $90m cut imposed on the State by the Howard Commonwealth Government?

(2) Have any savings, cost cutting or other measures been identified which will save some or all of the shortfall?

(3) What savings, cost cutting or other measures have been identified?

(4) What measures does the Government intend to implement?

(5) When does the Government propose to implement these measures?

Mr OMODEI replied:

I refer the member to question on notice 1740 of 1996.

HOUSING - KARRATHA, FUTURE DEVELOPMENTS

1761. Mr RIEBELING to the Minister for Housing:

(1) In relation to future developments in the area surrounding Karratha, will the construction of six homes in the Karratha area be sufficient to cater for the population increases, should any of the projects announced by the Government proceed?

(2) In relation to housing of government employees in Karratha, will the private sector be sufficient to cater for all previous government employees, if any one of the projects announced by the Government proceed?

(3) Does the very small allocation to housing, both Homeswest and Government Employees Housing Authority, indicate that the Government considers that, in the next two years, none of the projects will commence?

(4) Why was the Industrial and Commercial Employees Housing Authority home rental system dismantled in Karratha?

(5) How many ICEHA homes have been sold in Karratha in the past three years?

(6) Was the ICEHA program considered a success?

Mr KIERATH replied:

(1)-(2) I am unsure as to the intent of the member's questions but advise there will be 14 units of Homeswest accommodation constructed or completed in Karratha in 1996-97 and based on current demand trends, this will be sufficient to cater for the population increase. However, the situation is being closely monitored by the regional manager and the building program can be adjusted accordingly. In respect to the provision of government employees housing, it is anticipated demand can be met through leasing from the private sector. This leasing program will be closely monitored.

(3) No.

(4) The scheme has not been dismantled. As at 30 June 1996, the authority has 38 rental properties in Karratha. The authority is selling its surplus properties to retire debt and create a cash surplus. The surplus will be used to provide financial assistance including loans to businesses in the areas of need.

(5) 25.

(6) Yes; however, a housing financial assistance model, including housing loans is now considered more efficient.

METROBUS - 233 BUS, EUDORIA STREET, GOSNELLS, BREAKDOWN 13 AUGUST

1772. Dr WATSON to the Minister representing the Minister for Transport:

(1) What was the reason that the 233 bus scheduled to leave Eudoria Street, Gosnells at 8.35 am on Tuesday, 13 August did not appear?

(2) Is the Minister aware that no bus came until 10.00 am?

(3) What action has been taken to ensure the inconvenience - for example, people on way to the doctor, work, work experience - imposed on people by such irregularity will not recur?

(4) How do such breakdowns sit with the commitment to customer service?

Mr LEWIS replied:

The Minister for Transport has provided the following reply -←

(1) Unusually heavy traffic congestion on the Causeway on Tuesday morning, 13 August, caused major holdups on all roads feeding into the city, including Shepperton Road. This led to many buses running late with some unable to pick up later trips, which was the case with the route 233 service at 8.40 am ex Dorothy Street.

(2) MetroBus' records show the 9.20 am route 233 service did run on schedule.

(3) Events such as traffic congestion, accidents and mechanical breakdown are not always possible to predict. However, MetroBus makes every effort to cover trips with replacement buses or, where applicable, the use of maxi taxis. The Department of Transport expects all scheduled services to be run and imposes financial penalties on bus service operators for trips not run.

(4) This Government is committed to providing the very best public transport system for Perth with a much greater focus on customer needs. This is why we decided to competitively tender sections of the Transperth bus network. The current program of revitalisation has seen new work practices adopted and innovation and flexibility introduced which has produced savings in the order of $40m per year. This Government has introduced 14 new, or extensions to existing, bus services to areas previously neglected and will soon be ordering 133 new easy access buses as well as five new trains for the suburban rail network.

ROAD SAFETY - TASKFORCE ON ROAD SAFETY AT SCHOOLS; 1991

1793. Mr CATANIA to the Minister representing the Minister for Transport:

(1) Will the Minister confirm that a 1991 Taskforce on Road Safety at Schools referred its recommendations to the Government in 1993?

(2) Has the Department of Transport set out a policy in response to this report?

(3) If yes, what measures have been implemented in response to this report?

(4) Which recommendations have not been implemented?

(5) Will the Minister provide reasons as to why not?

Mr LEWIS replied:

The Minister for Transport has provided the following reply -←

(1) Yes.

(2)-(5) The Government has been progressively implementing the recommendations contained in the report -

School sites
The Minister for Planning has been negotiating with the Education Department on new development guidelines for schools which incorporate road safety principles. Progress has been made and the negotiations are to be expanded to include local government in the next phase.

Traffic Management Measures
Many local government authorities are installing traffic management measures to improve road safety at schools. This is an ongoing process with highest priority areas being addressed by councils within their budget constraints. Local Roadwise committees are also assisting with improved community and children awareness measures such as the Safe Routes to School program. Melville City Council is a good example of progress in both these areas.

School Zones
The Government has announced the introduction of 40 km/hour school zones in Western Australia and the traffic regulations are currently being amended to allow their installation. They will be progressively introduced, beginning with primary schools. School zones impose a time based speed restriction on school frontage roads.

Volunteer Guarded Crossings
Under the established guarded crossing warrant relating to children's crossings, the School Crossing and Road Safety Committee can consider an application for a crossing from either the school principal or recognised school/parent organisations. Information material explaining the function and processes for the establishment of children's crossings is made freely available to those who can apply. Inquiries or requests from other individuals or organisations are referred to the respective school representative to effectively coordinate applications as required by the crossing warrant. The provision of paid traffic wardens is independent of the Police Service's other staffing requirements.

Flashing Amber Lights at Guarded Crossings
A trial was undertaken of flashing amber lights on approaches to guard controlled crossings and the results were presented to the executive committee of the School Crossing and Road Safety Committee. While flashing amber lights reduced speed limits initially, the benefits disappeared over time. The lights did, however, enhance driver awareness when approaching crossings. The School Crossings and Road Safety Committee recently endorsed the proposition that two guards would be more effective than flashing amber lights at specific sites, such as dual carriageways, where the sight distance can be impeded. The provision of an extra guard ensures that a guard is visible to all oncoming traffic.

School Road Safety Advisory Committee
The School Road Safety Advisory Committee became redundant and its responsibilities transferred to the School Crossing and Road Safety Committee as recommended in the report. The School Crossing and Road Safety Committee considers broader aspects of road safety policy and issues and makes recommendations accordingly. Arrangements are currently being made to identify representatives from local government and the WA Council of State School Organisations who will attend the quarterly meetings.

School Crossing Road and Safety Committee
The School Crossing Road Safety committee was renamed in accordance with the task force recommendations and Cabinet decision, and the committee is now referred to as the School Crossing and Road Safety Committee.

TRAVEL - GOVERNMENT, REPORT; ACCOMMODATION COSTS

1800. Mr McGINTY to the Premier:

(1) I refer the Premier to the travel report tabled in the Parliament and ask whether accommodation is included in the cost of travel in all instances?

(2) If no, can the Premier provide detail as to which costs of travel include accommodation?

(3) Does a direction still stand, within the Government, stating that when the taxpayer pays the bill, travel is in business or economy class only?

(4) If no, who is able to fly first class?

(5) Are frequent flyer points used to upgrade flights or are they always used for cheaper fares?

(6) Who is able to use frequent flyer points to upgrade their points?

Mr COURT replied:

(1)-(2) The reporting guidelines require agencies to submit details of all travel costs including fares, accommodation, conference registration fees etc. However, in some instances part of these costs are met from funds other than those of the State Government.

(3)-(4) Current policy does not provide for first class travel by Ministers or government officers. However, members of Parliament utilising the imprest system are not precluded from travelling first class.

(5)-(6) Public sector employees are subject to the provisions of Circular to Chief Executive Officers 21/91. This specifies that officers should not utilise frequent flyer points, accumulated on government business under frequent flyer and other programs, to acquire benefits such as upgrading of tickets above their normal travel entitlements or for private travel or gain.

ETHNIC GROUPS - NON-ENGLISH SPEAKING BACKGROUND (NESB) PEOPLE, PROGRAMS MEETING NEEDS; LANGUAGE SERVICES, FUNDING ALLOCATIONS

1816. Mrs ROBERTS to the Minister for Family and Children's Services:

(1) What funds have been allocated, within the Minister's portfolio, for programs which are aimed at specifically meeting the needs of ethnic groups and individuals of non-English speaking background?

(2) To which/what programs have these been allocated?

(3) What amount has been allocated for language services?

Mrs EDWARDES replied:

(1)-(2)

Service Name	Annual Funding Level
Australian Jewish Welfare Society WA	$10 917
Ethnic Communities Council	$41 051
Fremantle Migrant Advisory Association	$43 745
North Perth Migrant Resource Centre	$43 743
Northern Suburbs Migrant Resource Centre Family Support	$44 200
Perth Asian Community Centre Inc	$83 622
Mirrabooka Aboriginal/NESB Family Centre	$42 500
Women's Refuges Multicultural Services	$207 524

(3) No funds were allocated, but from one-off savings $3 837 was expended on language services in 1995-96.

ETHNIC GROUPS - NON-ENGLISH SPEAKING BACKGROUND (NESB) PEOPLE, PROGRAMS MEETING NEEDS; LANGUAGE SERVICES, FUNDING ALLOCATIONS

1818. Mrs ROBERTS to the Minister for Heritage:

(1) What funds have been allocated, within the Minister's portfolio, for programs which are aimed specifically at meeting the needs of ethnic groups and individuals of non-English speaking background?

(2) To which programs have these funds been allocated?

(3) What amount has been allocated for language services?

Mr LEWIS replied:

(1) None.
(2) Not applicable.
(3) None.

EDUCATION DEPARTMENT - TRANSLATING AND INTERPRETING SERVICES, FUNDING ALLOCATIONS FOR SCHOOLS

1829. Mrs ROBERTS to the Minister for Education:

(1) What funds have been allocated to translating and interpreting services within the 1996-97 state education budget for -

(a) primary schools;
(b) secondary schools?

(2) What steps have been taken to inform schools of these services and funding to ensure the qualified individuals are utilised at all times?

Mr C.J. BARNETT replied:

(1) $31 000 for primary and secondary schools.

(2) Promotion of these services occurs through information provided to District Education offices, schools and individual teachers. Professional development programs promote the service and provide training in the effective use of the service. Community networks also promote the service with clients of the education system.

EDUCATION DEPARTMENT - WOMEN EMPLOYEES, EQUAL OPPORTUNITY REVIEWS

1843. Dr CONSTABLE to the Minister for Education:

(1) What, if any, reviews have been conducted by the Education Department on equality of opportunity, promotion and retention rates of women employed by the department?

(2) What, if any, programs are in place in the Department of Education to ensure equality of opportunity for women in the teaching, senior administrative and managerial professions?

Mr C.J. BARNETT replied:

(1) (a) A research project was carried out in 1993 to identify the attitudes, values and opinions in the teaching workforce towards women and promotion and to assess the factors in relation to women which influence the provision of equal opportunity for career development. The findings of the research project were published in a report "Gender in Promotion - an Examination of the Issues" in November 1993.

(b) The Education Department's equal employment opportunity management plan is reviewed and updated annually.

(2) A Women in Leadership program has been developed and will be trialled in the department in 1997. The program will target premanagement women and is designed to provide them with an opportunity to develop their knowledge and skills with the aim of increasing their participation in leadership positions.

CONSULTANTS - ENGAGED BY GOVERNMENT REPORTS, NEW DEFINITION

1850. Mr McGINTY to the Premier:

(1) In reference to the Premier's comments, on 20 August 1996, that the Government has drafted a new definition of consultants for its six monthly reports to Parliament, will the Premier table that definition immediately?

(2) What were the names of the officers involved in the redrafting of the definition?

(3) If they consulted anyone else, who were those people?

(4) Who initiated the request for the definition to be redefined, as distinct from who raised concerns about the previous definition?

(5) Had any consultants complained about the amount of detail being disclosed?

Mr COURT replied:

(1)-(4) The review undertaken by senior officers of the Ministry of the Premier and Cabinet was not directed at a redefinition of a "consultant" but rather to ensure that the material included in the report was confined to the specific area of consultants. As indicated in my ministerial statement of 20 August 1996, the review was initiated by the cabinet subcommittee on public sector management following concerns that previous reports contained details relating to contracts for services generally. Officers involved in the review were -

Dr Paul Schapper - Chief Executive, Public Sector Management Office
Mr Malcolm Wauchope - Chief Executive, Office of State Administration
Mr Ian Fletcher - Chief of Staff, Office of the Premier
Mr Glenn McAullay - Manager, Finance and Administrative Services, Office of State Administration
Ms Veronica Kerr - Special Projects Officer, Office of State Administration.

(5) Not to my knowledge.

TRAVEL - MINISTERIAL AND STAFF, PAID FOR BY NON-GOVERNMENT AGENCIES

1867. Mr McGINTY to the Premier:

(1) In reference to the Premier's comments on 21 August that, on a number of occasions, the Government has wrongly reported to Parliament on ministerial and staff travel because it had been paid for by non-government agencies, will the Premier provide the -

(a) dates;
(b) costs;
(c) names of those people in government

whose interstate or overseas trips were paid for by non-government agencies?

(2) Will the Premier provide the names of the agencies that provided the travel?

(3) The reasons why the agencies were allowed to pay for the travel?

(4) Whether any of those agencies stood to benefit materially in providing Ministers and/or their staff with free travel?

Mr COURT replied:

(1)-(4) The travel reports tabled to date include details of all interstate and overseas travel undertaken on official business by Ministers and government officers of every government agency, regardless of the source of funding. Information about travel funded by non-government agencies has not been wrongly reported in the past. However, some delays have been experienced in finalising the reports to obtain the necessary details from all sources. The format of the reports provides for identification of the source of funds. In this regard, it has been a longstanding practice for some travel to be funded from non-government sources. Where non-government agencies are involved, the source of funding is generally indicated as "industry" in the travel report. Some of the areas in which non-government agencies have traditionally funded government travel include Health, Tourism, Agriculture and Minerals and Energy when the travel is of benefit to both the Government and the non-government agency concerned. However, I am not prepared to divert considerable resources to provide the names of the non-government agencies concerned. Should the member have any particular concerns in this regard, I will have the matter addressed.

CONTRACT AND MANAGEMENT SERVICES, DEPARTMENT OF - GROUP CERTIFICATES, ERRORS

1870. Mr BROWN to the Minister for Services:

(1) Did the Department of Contract and Management Services recently write to government employees advising that some errors had been made in the 1995-96 group certificates?

(2) If so, in that letter, did the Department of Contract and Management Services advise it manages a contract with Fujitsu, the company that runs the public sector payroll?

(3) Was the error with the group certificates caused by -
(a) Fujitsu;
(b) the Department of Contract and Management Services;
(c) other?

(4) What was the precise nature of the cause of the errors?

(5) Did the Government have to meet any costs in rectifying the errors?

(6) If so, what costs did the Government meet?

Mr MINSON replied:

(1) The Department of Contract and Management Services wrote to those government employees affected by errors in the 1995-96 group certificates on 12 July 1996.

(2) Yes.

(3) (a)-(b) No.
(c) Yes. The third party contractor providing technical support for the government payroll system.

(4) The errors were caused by changes to the computer software program which produces the group certificates.

(5) No.

(6) Not applicable.

CONTRACT AND MANAGEMENT SERVICES, DEPARTMENT OF - FUJITSU, PUBLIC SECTOR PAYROLL CONTRACT

1871. Mr BROWN to the Minister for Services:

(1) Did the Department of Management and Contract Services recently write to all government employees advising a company by the name of Fujitsu had been contracted to run the public sector payroll?

(2) On what date was Fujitsu contracted to provide this service?

(3) How long does the contract run?

(4) When does the contract expire?

(5) What is the contract price?

(6) Was the contract, ultimately awarded to Fujitsu, put out to public tender?

(7) On what date or dates was it put to public tender?

(8) Did other companies apply for the tender?

(9) What was the contract price offered by other companies?

(10) What was the contract price offered by Fujitsu?

(11) How many government employees were previously engaged in the management and operation of the public sector payroll?

(12) What was the total cost to the Government of managing the public sector payroll?

(13) What is the total cost to the Government, now, of running the public sector payroll?

(14) Since the contract has been given to Fujitsu, has the Government incurred any costs in operating the public sector payroll?

(15) If so, what costs?

(16) Has the Government disclosed to Fujitsu, the government employees -
(a) tax files numbers;
(b) payroll numbers?

(17) Does Fujitsu carry out its contract obligations with the Government in Perth or Western Australia?

(18) How many employees of the company carry out that work?

Mr MINSON replied:

(1) The Department of Contract and Management Services wrote to government employees affected by errors in the 1995-96 group certificates on 12 July 1996, advising that Fujitsu Australia Limited runs the public sector payroll.

(2) 14 March 1996.

(3) Five years with a government option of a further one year.

(4) 13 March 2001 or 13 March 2002 should the Government invoke its option of a further one year.

(5) The contract price is determined by the type of services contracted by individual agencies and the number of employee records managed by Fujitsu.

(6) Yes.

(7) Request for proposal No 3/95 was issued by the State Supply Commission on 15 May 1995.

(8) Yes.

(9) The responses of both unsuccessful companies were non-compliant with the requirements of the request for proposal, therefore no contractual prices are available.

(10) See (5).

(11) At the time of awarding the contract to Fujitsu, 29 staff were engaged in the management and operation of the personnel and payroll services provided by the former Department of State Services.

(12) The cost of providing the personnel and payroll operation formerly managed by the Department of State Services for the financial year 1995-96, including total operating costs and contingencies, is estimated to be $4 849 060.

(13) Agencies pay Fujitsu on invoices supplied on a monthly basis. Total annual costs are not available at this time since the contract has been operational for only three months and the choice of future services by agencies cannot be predicted.

(14) The cost incurred by CAMS in the operation of the public sector payroll is the cost of contract management.

(15) The salary of one senior contracts administrator at $55 641 per annum.

(16) Yes.

(17) Fujitsu provides its services to government from a business unit in Perth, Western Australia.

(18) The Fujitsu business unit providing personnel and payroll services to government has 25 staff.

WORKPLACE AGREEMENTS - CHIEF EXECUTIVE OFFICERS; CHIEF EMPLOYEES EMPLOYED OR ENGAGED UNDER

1872. Mr BROWN to the Minister for Public Sector Management:

(1) Are any -
(a) chief executive officers;
(b) chief employees,
employed under the provisions of workplace agreements?

(2) How many -
(a) chief executive officers;
(b) chief employees,
are engaged under workplace agreements?

Mr COURT replied:

(1) (a) Chief executive officers' remuneration is determined by the Salaries and Allowances Tribunal similar to those of members of Parliament, other than chief executive officers of small organisations. Until recently, special division has been outside the framework of workplace agreements. The Government is also cognisant of the view of the Fielding review into the Public Sector Management Act regarding the advisability of chief executive officer remuneration diverging from the tribunal's determinations.

(b) Chief employees are not employed by me as Minister for Public Sector Management.

(2) (a) Nil.
(b) Not applicable.

PUBLIC SECTOR MANAGEMENT ACT - FIELDING REVIEW, CIRCULAR TO PUBLIC SECTOR UNIONS

1873. Mr BROWN to the Premier:

(1) Did the Premier issue a circular to public sector unions regarding the Public Sector Management Act Review conducted by Commissioner Gavin Fielding?

(2) If so, in that circular did the Premier advise having established a working party of public sector representatives to consult with the public sector union stakeholders?

(3) In the same circular were unions advised the working party would report to the Government on suggested Public Sector Management Act 1994 amendments for the 1997 parliamentary session?

(4) How many members have been appointed to the working party?

(5) What are their names?

(6) Have members of the working party commenced consulting with public sector employees and union stakeholders?

(7) When will the consultations commence?

(8) What form will the consultations take?

(9) Will the recommendations of the working party be made public?

(10) Has the working party been asked to complete its task by a specified date?

(11) What is that date?

Mr COURT replied:

(1)-(3) Yes.

(4) Seven.

(5) Dr Des Kelly, Mr John Langoulant, Ms Ricky Burges, Mr John Spurling, Dr Paul Schapper, Mr Kevin Payne, Ms Carole Paradine.

(6)-(8) I am advised that consultations have not yet commenced; however, a letter is shortly to be sent to all stakeholders seeking written submissions by 31 October 1996 to assist the committee in its work.

(9) Not before consideration by Cabinet.

(10) No.

(11) Not applicable.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1876. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) How many -
(a) apprenticeships;
(b) traineeships;
(c) cadetships,
were made available to young people -
(i) under the age of 21 years;
(ii) between 21 years and 25 years,
during the 1995-96 financial year, by each department and agency under the Deputy Premier's control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under the Deputy Premier's control in the 1995-96 financial year?

(3) How many young people described in (2) were -
(a) under 21 years of age;
(b) between 21 and 25 years of age?

Mr COWAN replied:

Department of Commerce and Trade -

(1) (a) None.
(b) (i) Four.
(ii) None.
(c) None.

(2)-(3) During 1995-96 the Department of Commerce and Trade recruited young people as indicated below -
(a) under 21 years of age - None.
(b) between 21 and 25 years of age - One.

As at June 1996, the Department of Commerce and Trade had young people on its permanent payroll as indicated below -
(a) under 21 years of age - Six.
(b) between 21 and 25 years of age - Six.

Small Business Development Corporation -
(1) None.

(2) Two.

(3) One.

Perth International Centre for Application of Solar Energy -
(1)-(3) None.

Gascoyne Development Commission -
(1)-(3) None.

Goldfields-Esperance Development Commission -
(1) (a) None.
(b) between 21 and 25 years - One.
(c) None.
(2) Five.

(3) (a) Three.
(b) Two.

Great Southern Development Commission -
(1) None.

(2) One.

(3) (a) None.
(b) One.

Kimberley Development Commission -
(1) None.

(2) Three.

(3) (a) Three.
(b) None.

Mid West Development Commission -

(1) (a) None.
(b) One.
(c) None.
(i) None.
(ii) One.
(2) Two.
(3) (a) None.
(b) Two.

Peel Development Commission -
(1) (a) None.
(b) Four.
(c) None.
(i) One.
(ii) Three.

(2) One.

(3) (a) None.
(b) One.

Pilbara Development Commission -
(1) None.
(i) One.
(ii) None.

(2)-(3) None.

South West Development Commission -
(1) None.
(i) None.
(ii) One.

Wheatbelt Development Commission -
(1) None.

(2) Eight.

(3) (a) Five - four for only part of the year.
(b) Three - two for only part of the year.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1881. Mr BROWN to the Minister for Water Resources:

(1) How many -
(a) apprenticeships;
(b) traineeships; and
(c) cadetships
were made available to young people -
(i) under the age of 21 years; and
(ii) between 21 and 25 years,
during the 1995-96 financial year by each department and agency under your control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under your control in the 1995-96 financial year?

(3) How many young people described in (2) above were -
(a) under 21 years of age; and
(b) between 21 and 25 years of age?

Mr NICHOLLS replied:

(1) (a)-(b) Nil apprenticeships.
(c) Nil cadetships, therefore (i)-(ii) not applicable.

(2) Seventy six young people - which includes permanent nd temporary employees and vacation students - were employed during the 1995-96 financial year.

(3) (a) Thirty people under the age of 21 were employed during the 1995-96 financial year.
(b) Forty six people between the ages of 21 and 25 were employed during the 1995-96 financial year.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1885. Mr BROWN to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) How many -
(a) apprenticeships;
(b) traineeships; and

(c) cadetships
were made available to young people -
(i) under the age of 21 years; and
(ii) between 21 and 25 years,
during the 1995-96 financial year by each department and agency under your control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under your control in the 1995-96 financial year?

(3) How many young people described in (2) above were -

(a) under 21 years of age; and
(b) between 21 and 25 years of age?

Mr OMODEI replied:

Department of Local Government -

(1) (a),(c) None.
(b) (i) None.
(ii) One.
(2) Two.
(3) (a) None.
(b) Two.

Office of Multicultural Interests -

(1) (a)-(c) None.
(2) One.
(3) (a) One.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1892. Mr BROWN to the Minister representing the Minister for Transport:

(1) How many -
(a) apprenticeships;
(b) traineeships; and
(c) cadetships
were made available to young people -
(i) under the age of 21 years; and
(ii) between 21 and 25 years,
during the 1995-96 financial year by each department and agency under your control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under your control in the 1995-96 financial year?

(3) How many young people described in (2) above were -

(a) under 21 years of age; and
(b) between 21 and 25 years of age?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

Department of Transport -
(1) (a) Nil.
(b) Two.

(c) Nil.
(i)-(ii) One.
(2) 23.
(3) (a) 10.
(b) 13.

Main Roads Western Australia -
(1) (a) (i)-(ii) Nil.
(b) (i) Two.
(ii) Three.
(c) (i) Four.
(ii) Two.
(2) 104.
(3) (a) 14.
(b) 90.

MetroBus -
(1) Nil.
(2) 12.
(3) (a) Two.
(b) 10.

Eastern Goldfields Transport Board -
(1) Nil.
(2)-(3) Nil.

Westrail -
(1) Nil.
(2) 102.
(3) (a) 24.
(b) 78.

Fremantle Port Authority -
(1)-(3) Nil.

Albany Port Authority -
(1) (a) Nil.
(b) Two.
(c) Nil.
(i) Two.
(ii) Nil.
(2) Two.
(3) (a) Two.
(b) Nil.

Bunbury Port Authority -
(1) (a) Nil.
(b) Two.
(c) Nil.
(i) Two.
(ii) Nil.
(2) Three.
(3) (a) Three.
(b) Nil.

Dampier Port Authority -
(1) Nil.
(2) One.
(3) (a) Nil.
(b) One.

Esperance Port Authority -
(1) (a)-(c) Nil.
(i)-(ii) One.
(2) Two.
(3) (a) Nil.
(b) Two.

Geraldton Port Authority -
(1) (a) Nil.
(b) One.
(c) Nil.
(i) One.
(ii) Nil.
(2) Nil.
(3) Not applicable.

Port Hedland Port Authority -
(1)-(3) Nil.

MAIN ROADS WESTERN AUSTRALIA - PAMPHLET ON PROJECTS, COST

1896. Dr WATSON to the Minister representing the Minister for Transport:

(1) Why was the name of the printer not published on the Main Roads pamphlet distributed to all households as a pre-election document?

(2) Why was the pamphlet not printed on recycled paper?

(3) What was the cost of the pamphlet?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

(1) The document was not a pre-election document but part of the commitment given by this Government that Main Roads would keep the public informed on projects to be funded by the $1b, 10 year additional road funding program. There was no need for the printer's name to be included.

(2) The pamphlet was printed on New Spectrum Gloss recycled paper.

(3) $106 994.77.

PYRTON COMPLEX - LAND VALUE; ASSETS VALUE

1897. Dr WATSON to the Minister for Disability Services:

(1) What is the value or approximate value of the land at the Pyrton complex?

(2) What is the value or approximate value of the assets at the Pyrton complex?

Mr MINSON replied:

(1) Freehold - $5 250 000.
Reserve - $550 000

(2) $2 000 000 according to Government Property Register.

PYRTON COMPLEX - RESIDENTS, PROGRAMS; SWIMMING POOL VISITS

1898. Dr WATSON to the Minister for Disability Services:

(1) What programs and/or activities are Pyrton complex residents engaged in which could be said to integrate them into community activities?

(2) How many residents, and how many times have residents, been taken to the local swimming pool in each month this year?

(3) Who pays for pool entrance?

Mr MINSON replied:

(1) Residents attend community access employment/leisure programs. Fifty-eight people attend these activities, ranging on an individual basis from one to five days per week, with all Carramar Hostel residents having at least one day per week on scheduled community outings. Under the support-people scheme, where residents employ support-people to accompany them on 1:1 outings into the community, a total of 15 residents go on 56 outings on a monthly basis. Other scheduled community activities, including church and sporting groups etc, are arranged dependent on vacancies in such groups. In addition to the above, programmed and casual outgoings into the community are organised and staffed from individual houses within Pyrton. These include picnics, barbecues, visits to local parks, Zoo visits, attending the cinema and community events; for example, the Royal Show, sporting events and concerts, personal shopping, visits to families/friends and the local hairdresser and beautician, meals at restaurants and hotels, roller skating, ice skating, horse riding etc. Visits to local GPs and other health professionals also occur as required. Christmas-in-July meals and family members' birthdays etc, are celebrated in the community wherever possible.

(2) Seventy-six people are currently residing on the Pyrton site. Due to the general lack of swimming skills of some of the residents, any such activities must involve suitable staffing levels to ensure maximum safety. In most cases this necessitates two staff to one resident. This is often difficult to arrange, however, some swimming pools, some areas of the river and some beaches were accessed by the following number of clients -

Carramar Hostel		Pindarra Hostel	
January	5	January-March	3 - four times per month
February	8		1 - once per month
March	3		
April	4	April-September	3 - four times per month

No swimming was held between April-August.

(3) Attendance by residents at any community venue/event is as for any member of the community - user pays, this includes swimming pools. However, being pensioners, residents usually pay reduced fees. Staff costs are paid by the Disability Services Commission.

DISABILITY SERVICES COMMISSION - HOSTEL VACANCIES

1900. Dr WATSON to the Minister for Disability Services:

(1) Further to the Minister's letter of reply to me - your reference 9601485 - dated 6 August 1996, how many times in the past two years have people been admitted -
(a) for respite;
(b) for ongoing care,
to Disability Services Commission hostels - please nominate - where there has been a vacancy?

(2) When a vacancy occurs in a DSC hostel, due to a death or to other circumstances, what is the maximum period that should elapse prior to allocating the bed?

(3) Is there a DSC policy to ensure vacancies are advertised?

(4) Are assessment and access procedures equitable or is there a waiting list?

(5) Is there a publicised policy - for parents and other advocates - about hostel vacancies and how they might be filled or not filled?

(6) Is the Minister aware that parents who knew of one vacancy were told by DSC that it would not be filled?

(7) If so, how is that consistent with the Minister's letter?

Mr MINSON replied:

(1) (a) The DSC has specifically designated beds within several of its hostels for the purpose of respite and the majority of bookings are coordinated via a central referrals function. For the period 28 August 1994 to 28 August 1996, 589 respite requests were either fully or partially met through the central referrals system at the following hostels -

Norwich	214
Boston	147
Sussex	94
Dorset	4
Milford	71
Fairholme	49
Croydon	10
Total	589 admissions

As the member would be aware, DSC is seeking wherever possible to provide services in community based, rather than institutional settings. Notably, the facility which provides the greatest amount of respite is a house in Karrinyup which provided an additional 522 admissions for the same period. In addition, the DSC regions are often called upon to respond to critical emergency situations where respite is required. An estimated 37 additional respite admissions were coordinated directly by the DSC's north, south and east regions for the period 28 August 1994 to 28 August 1996.

(b) Fifteen, as follows -

Milford	4
Fairholme	2
Bennett Brook	5
Pindarra	1
Norwich	1
Morriston	1
Croydon	1

(2) This varies. In allocating the bed, consideration must be given to the issue of compatability and a trial period may also be necessary. Where the vacancy is the result of the death of a client, a bereavement period of no longer than one month generally applies.

(3) Yes, however, where an emergency placement has occurred, advertising may be waived on the grounds that the client's needs were extremely critical and that a compatible matching has occurred.

(4) Assessment and access procedures are equitable and each DSC region maintains a list of all clients in critical need of accommodation which is regularly reviewed and updated.

(5) There is no publicised policy, however, there are well documented procedures which involve consumers. If parents or advocates request information on the filling of vacancies they are kept fully informed.

(6) No. I am advised by the DSC that no parents have been told tht a vacancy would not be filled. However as I stated in my previous correspondence to the member - reference 9601485 - dated 6 August 1996, there are legitimate extenuating circumstances which are resulting in some vacancies being held open for a period of time or not filled where hostel redevelopments are under way.

(7) Not applicable.

GUILDFORD CEMETERY - IMPROVEMENTS

1901. Mr RIPPER to the Minister for Local Government:

(1) Why is the Guildford cemetery not landscaped and grassed as are the Pinnaroo and Fremantle cemeteries?

(2) What improvements are scheduled for Guildford cemetery in 1996-97?

(3) What is the 1996-97 budget for maintenance and improvements at Guildford cemetery?

Mr OMODEI replied:

The Metropolitan Cemeteries Board has supplied the following information-←

(1) Due to an inadequate water supply the Guildford cemetery is maintained as a traditional cemetery.

(2) The Metropolitan Cemeteries Board will improve the internal roads and sink a bore to improve the landscape. The board is hopeful that Kalamunda Road will be realigned to rationalise the reserve.

(3)

	$
Operational expenditure	133 000
Internal road works	100 000
Bore and reticulation	40 000

Contribution to the realignment of Kalamunda Road - budget allocation yet to be determined.

COMMONWEALTH REHABILITATION SERVICES - CLOSURES AND RESTRUCTURING, RESPONSIBILITIES TRANSFERRED TO STATE

1911. Dr WATSON to the Minister for Disability Services:

(1) Further to closures and restructuring of the Commonwealth Rehabilitation Services, what responsibilities have now been transferred to the State?

(2) What programs are they?

(3) How many people are affected?

(4) What budget has been allocated by the Minister's agency to ensure the impacts are minimised?

Mr MINSON replied:

(1) None have been transferred, nor has the Commonwealth indicated its intention to transfer any services.

(2)-(3) Not applicable.

(4) None.

COMMONWEALTH REHABILITATION SERVICES - CLOSURES AND RESTRUCTURING, RESPONSIBILITIES TRANSFERRED TO STATE

1913. Dr WATSON to the Minister for Labour Relations:

(1) Further to closures and restructuring of the Commonwealth Rehabilitation Services, what responsibilities have now been transferred to the State?

(2) What programs are they?

(3) How many people are affected?

(4) What budget has been allocated by your agency to ensure the impacts are minimised?

Mr KIERATH replied:

(1)-(4) The Commonwealth Rehabilitation Service is one of over 60 approved vocational rehabilitation providers operating within the workers' compensation system; therefore the withdrawal of this service would have a minimal impact.

JUSTICE, MINISTRY OF - CAMP KURLI MURRI, LAVERTON

1931. Ms ANWYL to the Minister assisting the Minister for Justice:

(1) With reference to Camp Kurli Murri, when will the Newman report be made available?

(2) How many people have been sent to Camp Kurli Murri?

(3) What was the-
- (a) age;
- (b) nature of the offence of which they were convicted;
- (c) total amount of time served;
- (d) level of recidivism since release;
- (e) nature of educational or other qualification completed whilst at the camp; and
- (f) usual place of residence, by town, prior to custody,

for each person sent to Camp Kurli Murri?

(4) Does the Ministry for Justice intend to investigate the building of a remand facility for juveniles in the Goldfields-
- (a) if yes, when;
- (b) if not, why not?

(5) How many juveniles were-
- (a) remanded in custody;
- (b) sentenced to detention,

from the Kalgoorlie Court of Petty Sessions for the years-
- (i) 1994;
- (ii) 1995;
- (iii) 1996 (to date)?

(6) How many juveniles were held in the Kalgoorlie Police Station lockup in the years-
- (a) 1994;
- (b) 1995;
- (c) 1996 (to date)?

Mr MINSON replied:

(1) 29 August 1996.

(2) As at 29 August 1996, 44 work camp orders have been made.

(3) (a)

18-19 years of age	18
19-20 years of age	11
20-21 years of age	10
21 years of age	5

(b) The nature of offences included burglary, assault, damage, stealing motor vehicle, no motor vehicle licence, breach of adult probation, receiving and fraud.

(c) Four months except those returned to prison prior to completion of sentence.

(d) Of the 29 detainees discharged to supervised release orders, one has been breached for reoffending.

(e) The responsible citizenship program.

(f)

Perth	9	Geraldton	1
Balcatta	7	Kalgoorlie	2
Rockingham	2	Mandurah	1
Midland	2	Albany	2
Bentley	11	Narrogin	2
Fremantle	2	York	1
		Northam	1
		Port Hedland	1

(4) No.
(a) Not applicable.
(b) Only 81 juvenile offenders were remanded in custody from the goldfields between July 1995 and June 1996.

(5) Only a small number of 17 year olds who have breached adult probation or community service orders would have been dealt with in the Kalgoorlie Court of Petty Sessions.

(6) (a)-(c) This information is not available within the Ministry of Justice.

CONTRACTS - GOVERNMENT DEPARTMENTS

1951. Mr BROWN to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) In each department and agency under your control, how many contracts does the Government have with the private sector for work which was carried out by government employees when the Government was elected to office in February 1993?

(2) What is the name of each contractor?

(3) What is the nature of the work provided by each contractor?

(4) What is the contract price paid to each contractor?

(5) How many government employees used to carry out the work that is now carried out by each contractor?

Mr OMODEI replied:

Department of Local Government -

(1) None.
(2)-(5) Not applicable.

Office of Multicultural Interests -

(1) None.

(2)-(5) Not applicable.

QUESTIONS ON NOTICE - 1385, PENALTIES

1966. Mr BROWN to the Minister representing the Minister for Transport:

(1) Further to question on notice 1385 of 1996, have any of the penalties referred to actually been imposed?

(2) What companies have had a penalty imposed on them?

(3) What was the reason for the penalty being imposed?

(4) Was a penalty imposed on the contractor with whom discussions were held about the prospect of cancellation?

(5) What penalty was imposed?

(6) If no penalty was imposed, why not?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2) MetroBus.

(3) Failure to run services.

(4) No.

(5) Not applicable.

(6) All matters were resolved to the satisfaction of the Department of Transport.

JUSTICE, MINISTRY OF - 15 YEAR OLD BOY UNDER INTENSIVE SUPERVISION ORDER

1967. Mr BROWN to the Minister assisting the Minister for Justice:

I refer the Minister to an article that appeared in *The West Australian* newspaper on Thursday, 1 August 1996 concerning an armed 15 year old boy, under an intensive supervision order, surrendering to police after a 24 hour siege and ask -

(a) was the boy under an intensive supervision order;

(b) what was the precise nature of the order;

(c) was anyone from the Ministry of Justice overseeing compliance with the order;

(d) when was the last time anyone from the Ministry of Justice contacted the boy or the person or persons who control he was under, prior to the siege taking place;

(e) how long had the boy been on the intensive supervision order at the time of the siege;

(f) is the Government reviewing or does the Government intend to review the intensive supervision order process;

(g) if so, when; and

(h) in what way did the intensive supervision order, imposed on the boy, differ from the lesser order available under the Young Offenders Act 1994?

Mr MINSON replied:

(a) Yes.

(b) The conditions of the intensive youth supervision order - without detention - are as follows -
Term of supervision: Four months.

Conditions of supervision: To report initially to the Juvenile Justice Officer after court and then for regular supervision to be provided by Jumbo Giggle from Bellary Community.

General conditions: To not commit another offence and to be of good behaviour. To comply with any reasonable direction given by the supervising officer. To notify the supervising officer of any change of address within 48 hours.

(c) Yes.

(d) The boy was contacted by his officer on the telephone approximately two hours before the siege.

(e) Six weeks.

(f) The intensive supervision order process will be reviewed during a review of the Young Offenders Act 1994.

(g) The terms of reference for the review of the Young Offenders Act 1994 are in the final stages of drafting.

(h) An intensive youth supervision order may be made with or without a sentence of detention in default. The boy in question was placed on an intensive youth supervision order - without detention.

WATER CORPORATION - COBBERS CONTRACTING SERVICES, WORK ON C.Y. O'CONNOR PIPELINE

1972. Mr BROWN to the Minister for Water Resources:

(1) Has the Water Corporation used the services of Cobbers Contracting Services on the C.Y. O'Connor pipeline?

(2) How long have the services of Cobbers Contracting Services been used?

(3) Have Cobbers Contracting Services been informed by the Water Corporation that they will finish at the end of August 1996?

(4) Has the work performed by Cobbers Contracting Services been put out to tender?

(5) Does the Water Corporation intend to put the work out to tender?

(6) If so, when?

(7) Has the Water Corporation made a decision on who will carry out the work performed by Cobbers Contracting Services after August 1996?

(8) Who will be given that work?

(9) What arrangements has the Water Corporation entered into with that company or individual?

(10) What were the reasons the Water Corporation decided to terminate the services of Cobbers Contracting Services?

Mr NICHOLLS replied:

(1) Yes.

(2) Twelve months.

(3) Yes.

(4) No.

(5)-(6) Not yet determined.

(7) No.

(8) Not yet determined.

(9) Not applicable.

(10) Annual review of welding requirements for 1996-97 indicated more in-house resources would be available for maintenance welding.

GOVERNMENT EMPLOYEES - NUMBERS; WORKPLACE AGREEMENTS

1983. Mr BROWN to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) How many employees are employed in each agency and department under the Minister's control?

(2) How many of these employees are employed under the terms of a workplace agreement?

Mr OMODEI replied:

Department of Local Government -

(1) Forty eight.
(2) None.

Office of Multicultural Interests -

(1) Seven.
(2) None.

Keep Australia Beautiful Council -

(1) Eight - including one casual employee and one employee on a six months' contract until October 1996.

(2) None.

In addition, a number of cemetery boards throughout Western Australia employ staff. It is not known how many employees are engaged by each board.

WORKPLACE AGREEMENTS - AND AWARDS, DIFFERENCES ASSESSMENT

1996. Mr BROWN to the Minister for Labour Relations:

(1) When the Commissioner of Workplace Agreements receives an application to register a workplace agreement does he or one of his officers carry out a preliminary assessment of the differences between the workplace agreement and the relevant award?

(2) Is such a preliminary assessment carried out with every workplace agreement lodged for registration?

(3) If not, what criteria does the commissioner use to determine if such an assessment should be carried out on an application for registration?

(4) Does the commissioner ascertain, or endeavour to ascertain, whether the proposed workplace agreement -

(a) provides a total level of remuneration equivalent to that which would be available under the relevant award;

(b) contains a total level of remuneration equal to or greater than the level of remuneration being received by the employee at the time the employee enters into the workplace agreement?

(5) Does the Commissioner of Workplace Agreements endeavour to ascertain if the proposed workplace agreement will lead to the take-home pay of the employee -
(a) increasing;
(b) decreasing;
(c) staying the same
for the same number of hours the employee was working prior to signing the workplace agreement?

(6) Does the Commissioner of Workplace Agreements endeavour to ascertain if the workplace agreement will involve the employee working longer hours?

(7) Does the Commissioner of Workplace Agreements endeavour to ascertain if the employee's hourly rate is -
(a) increased;
(b) decreased
by the workplace agreement?

(8) Where a workplace agreement lodged for registration reduces or eliminates penalty rates for work on weekends, nights, public holidays, shift work and overtime, does the Commissioner of Workplace Agreements endeavour to ascertain if the workplace agreement will lead to the employee receiving an -
(a) increase;
(b) decrease
in take-home pay, if the employee continues to work the same number of hours the employee was working prior to the registration of the workplace agreement?

(9) Does the Commissioner of Workplace Agreements assess whether any wage increase the employee receives under a workplace agreement is due to -
(a) the terms and conditions of the workplace agreement; or
(b) the employee working longer hours?

(10) Does the Commissioner of Workplace Agreements carry out a thorough assessment of the differences between the proposed workplace agreement and the relevant award where a preliminary assessment tends to indicate the employee will be worse off under the workplace agreement?

(11) If not, why not?

(12) If so, what is the precise nature of the assessment that is carried out?

(13) When the Commissioner of Workplace Agreements carries out an assessment and determines an employee is worse off under a workplace agreement, does the commissioner advise the employee of that finding?

(14) If not, why not?

Mr KIERATH replied:

(1)-(14)
A preliminary assessment on the differences between the workplace agreement and the relevant award is carried out to the extent that it is relevant in determining whether parties genuinely wish the agreement to be registered. Information is collected and questions asked for the purpose of satisfying whether parties appear to understand their rights and obligations under the agreement, and that they genuinely wish to have the agreement registered. In order to ascertain the genuineness of the agreement, discussions are often held with parties in respect of the overall outcomes under the workplace agreement and relevant award, and as to other factors parties take into account.

WORKPLACE AGREEMENTS - REGISTRATIONS; DISCUSSIONS WITH EMPLOYEES

1997. Mr BROWN to the Minister for Labour Relations:

(1) Does the Commissioner of Workplace Agreements, or one of his staff, speak to employee parties to the workplace agreement before the agreement is registered?

(2) How many workplace agreements were registered in the month of July 1996?

(3) How many employee parties to those workplace agreements were spoken to by the Commissioner of Workplace Agreements, or one of his staff, in July 1996?

(4) Are employee parties to workplace agreements asked by the commissioner if they understand the nature of the agreement they have entered into?

(5) What are the nature of the questions asked to determine if the employee parties understand the agreement?

(6) Has the commissioner, or any of his staff, found employee parties to not understand the agreement?

(7) Has the commissioner refused to register a workplace agreement where employees do not understand the agreement?

(8) On how many occasions has this occurred?

(9) Does the Commissioner of Workplace Agreements ask employee parties to those agreements if they were involved in developing the agreement?

(10) Has the Commissioner of Workplace Agreements found any occasion where employees were not involved in the development of the agreement?

(11) Has the Commissioner of Workplace Agreements rejected the registration of any workplace agreement where employees were not involved in the development of the agreement?

(12) On how many occasions has that occurred?

(13) Does the Commissioner of Workplace Agreements speak to employee parties to such agreements to ascertain if they consider themselves to be better off under the workplace agreement rather than the relevant award?

(14) Does the Commissioner of Workplace Agreements only take this step with employees who were employed prior to signing the workplace agreements?

(15) Has the Commissioner of Workplace Agreements refused to register a workplace agreement on the grounds that it had inferior terms and conditions to those contained in the award?

(16) Does the Commissioner of Workplace Agreements, when speaking to employee parties to workplace agreements, look for reasons that satisfy him that the employee party to the agreement generally wants the agreement registered?

(17) What tests and techniques does the Commissioner of Workplace Agreements use to determine this fact?

(18) Has the Commissioner of Workplace Agreements refused to register a workplace agreement when he has come to the view that the employee party to that agreement does not generally want the agreement registered?

(19) Has the Commissioner of Workplace Agreements registered workplace agreements where such agreements do not provide -

(a) wage rates;
(b) employment conditions;
(c) wage rates and employment conditions;
(d) wages and conditions,

equivalent to or better than the relevant award?

(20) Have some workplace agreements, registered by the Commissioner of Workplace Agreements, resulted in employees being worse off compared to -

(a) the wages they would have received under the relevant award;

(b) the conditions they would have received under the relevant award;
(c) the wages and conditions they would have received under the relevant award;
(d) the total value of the wages and conditions they would have received under the relevant award;
(e) the wages and conditions they received prior to entering into the workplace agreement?

(21) What percentage of the workplace agreements registered to date have resulted in employees being worse off?

(22) Has the Commissioner of Workplace Agreements refused to register a workplace agreement because the employee did not believe he/she had a choice of entering into that agreement?

(23) Has the Commissioner of Workplace Agreements refused to register a workplace agreement where an employee party appeared to be intimidated in some way?

(24) How many workplace agreements has the Commissioner of Workplace Agreements refused to register because of the situation described in (22) and (23) above?

Mr KIERATH replied:

(1) The commissioner and his staff have contact with parties to workplace agreements in a variety of ways for the purposes of registration. Parties are contacted by letter, and are spoken to in person and over the telephone. Under Section 30 (3) of the Workplace Agreements Act the commissioner may meet with parties to an agreement, and must meet with any party who requests a meeting.

(2) 2 331.

(3) These details are not recorded.

(4)-(6) The commissioner and his staff must be satisfied prior to registration that the parties appear to understand their rights and obligations under the agreement. Information is gathered for the purposes of registration in a variety of ways, including discussions held with employers and employees on the contents of their agreements and the process undertaken to introduce the agreements, written communications gathered from employees, and data gathered on information sheets. The nature of the discussions held with parties varies depending on the particular circumstances of the case.

(7) Yes.

(8) Statistical data is not available.

(9)-(12) Inquiries are made with employers and employees to ascertain whether employees were involved in the development of a workplace agreement as part of the process of determining whether the parties appear to understand their rights and obligations under the agreement and that they genuinely wish to have the agreement registered. Agreements are not refused solely on the basis that an employee was not involved in the development of the agreement. If inquiries reveal that the employee does not appear to understand their rights and obligations under the agreement, it is refused registration.

(13) Refer to my answer to question 1996.

(14) On occasions where new employees are given the choice of an award or a workplace agreement, and where it is relevant to the registration process, the same processes as described in my answer to question 1996 are applied.

(15) Yes, where the requirements for registration under Section 30 of the Workplace Agreements Act are not met.

(16)-(17) Refer to my answer to question 1996.

(18) Yes, where the requirements for registration under Section 30 of the Workplace Agreements Act are not met.

(19)-(21)
Refer to my answer to question 1996.

(22)-(23)
Yes.

(24) Information is not readily available in this form. On occasions, more than one factor is taken into account when making a decision to refuse the registration of a workplace agreement, and I am not prepared to request the commissioner to allocate resources to provide this information.

WORKPLACE AGREEMENTS - REGISTRATIONS, INFERIOR TO MINIMUM CONDITIONS OF EMPLOYMENT ACT WAGES AND CONDITIONS

1998. Mr BROWN to the Minister for Labour Relations:

Has the Commissioner of Workplace Agreements registered workplace agreements which contain -
(a) wage rates;
(b) employment conditions,
which are inferior to the minimum wage or employment conditions contained in the Minimum Conditions of Employment Act 1993?

Mr KIERATH replied:

Where workplace agreements are lodged that contain conditions less than the minimum, the parties are encouraged to amend the agreement to ensure that all parties fully understand their rights and obligations. In almost all cases, the agreement is amended to include the correct entitlements. In only a very small number of cases are agreements not changed where conditions are less than the minimum. In such cases, the parties are contacted to ensure that they understand their correct entitlements and they are formally advised of their statutory rights in the registration letters. Where any confusion exists over what the correct entitlements are, the agreement is not registered.

WORKPLACE AGREEMENTS - EMPLOYEE PARTIES VISITED BY COMMISSIONER

1999. Mr BROWN to the Minister for Labour Relations:

(1) In the month of July 1996, did the Commissioner of Workplace Agreements or any of his staff visit workplaces to discuss with employee parties to workplace agreements the content of such agreements?

(2) How many workplaces were visited?

(3) In the month of July 1996, did the Commissioner of Workplace Agreements or any of his staff visit employee parties to proposed workplace agreements at their home or elsewhere other than the workplace?

(4) How many such visits were carried out?

Mr KIERATH replied:

(1),(3) Yes.

(2),(4) These details are not recorded.

WORKPLACE AGREEMENTS - PAY RATE SURVEY

2000. Mr BROWN to the Minister for Labour Relations:

(1) Has a recent survey undertaken by the Commissioner of Workplace Agreements shown that 83 per cent of employees have had an increase in their rate of pay under workplace agreements?

(2) Is it true to say the survey does not disclose or record whether the same employees had an actual increase in their take-home pay?

(3) Is it true that a certain percentage of the 83 per cent receive a lower take-home pay than they would have received previously?

(4) If not, why not?

Mr KIERATH replied:

(1) The commissioner recently published data in volume 2 of a section 86 publication that showed that 83.05 per cent of workplace agreements have higher ordinary rates of pay when compared to classifications in the relevant award.

(2) The information published was collected from an examination of agreements and discussions with the parties in respect of outcomes between agreements and relevant awards. While the data showed that 83.05 per cent of agreements had higher ordinary rates of pay than relevant awards, it also showed reductions in other conditions such as penalty rates and annual leave loading. However, given that employees genuinely wished their agreements to be registered, it is reasonable to assume that the vast majority had an increase in their take-home pay. In other cases, particularly for casuals in some industries, the outcomes in respect of take-home pay have been improved because of the availability of more hours of work. Outcomes other than take-home pay are considered important by other employees.

WORKPLACE AGREEMENTS - INTERPRETER SERVICES EXPENDITURE

2001. Mr BROWN to the Minister for Labour Relations:

(1) In the -

(a) 1993-94 financial year;
(b) 1994-95 financial year;
(c) 1995-96 financial year,

what amount was expended by the office of the Commissioner of Workplace Agreements on interpreter services?

(2) How many different interpreter services were used?

(3) What was the cost of each service?

Mr KIERATH replied:

(1) (a)-(b) This information is not readily available.

(c) $2 125.00.

(2) The Department of Ethnic Affairs, Translating and Interpreting Service, is the one paid service used by this office. However, this office receives significant support from friends, family members and others from the community to assist in interpreting matters.

(3) This information is not readily available; however, the cost is determined by the hour.

MOTOR VEHICLE REGISTRATIONS - $50 LEVY

2004. Mr KOBELKE to the Minister representing the Minister for Finance:

(1) On what date was the $50 levy removed from car registrations?

(2) Will the balance of the $50 levy be reimbursed to those who have renewed their licence and have paid the $50 levy, for a period of time, after the levy has been removed?

Mr COURT replied:

The Minister for Finance has provided the following response -

(1) 1 August 1996 for all Western Australian registered vehicles whose renewal notice for the combined motor vehicle licence and compulsory third party policy expired at midnight on 31 July 1996. Exceptions are those owners who were exempted from the $50 increase effective 1 August 1993.

(2) No. As the $50 premium increase was introduced on 1 August 1993, it was in force exactly three years. This means that all Western Australian motorists paid the increased premium for the same amount of time and no reimbursement is warranted. Motorists whose renewals fell due on 1 August 1993 were the first to pay the increase. Motorists whose renewals fell due prior to 1 August 1993 did not have to pay the increase until the date of the next renewal, which could have been up to 12 months after it was introduced - for example, July1993 to July 1994.

ASSET SALES - OVER $100 000

2006. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr COWAN replied:

Department of Commerce and Trade

(1) Yes.

(2)-(3) Land Sales at Technology Park, Bentley

		$
(a)	Lot 18 Diag 88800	272 005
(b)	Lot 30 Cnr Sarich Way/Parker Place	345 002
(c)	108 Watts Place	119 596
(d)	Lot 20 Technology Park	1 000 000
(e)	Enterprise Unit 1 Technology Park	1 323 539
(f)	Lot 62 Technology Park	213 468

Equity Investment - Formulab Unit Trust

Equity investment in the form of units held in the Formulab Unit Trust. On 14 May 1984 Cabinet approved an advance of $375 000 to enable the then Technology Development Authority - now superseded by the Department of Commerce and Trade - to take an equity investment in Formulab Technologies Australia Pty Ltd. The investment in the Formulab Unit Trust enabled the development of artificial intelligence

technology, research and development and manufacture of electronic products by the company. Formulab and the Department of Commerce and Trade entered into a deed of redemption in July 1989 for the sale of the Government's equity investment back to the company. The sale was for the original amount invested of $375 000 in three instalments to be completed in December 1990. Only the first instalment of $40 714 occurred in August 1989 as the company ceased operations in Australia and moved overseas. Debt recovery action was undertaken to recover the remaining amount. Investigations revealed the company re-established in Western Australia in 1994. A default notice was issued on 19 August 1994 demanding that the remaining amount outstanding on the unit redemption be paid in 21 days. The department recovered its original investment when Formulab paid the remaining amount - $334 286 - on 9 September 1994.

(4) The proceeds from all assets sold were used for funding the ongoing operations of the Department of Commerce and Trade. The department is primarily funded from the consolidated fund. However, revenue received is also used to offset against the drawdown of CRF appropriation of funds.

Mid West Development Commission

(1) Yes.

(2) The previous Geraldton Mid-West Development Authority sold parcels of land within the Batavia Coast Marina Development.

(3) $1.829m.

(4) A total of $1.825m was used to repay the outstanding debt held in the general loan and capital works fund.

South West Development Commission

(1) Yes.

(2)-(3) Three properties have been sold by the South West Development Commission; these were -

		$
(a)	Part lot 5 Newton Road, Glen Iris	98 152.86
(b)	Part lot 6 Newton Road, Glen Iris	101 847.14
(c)	Lot 13 Wittenoom Street, Bunbury	500 000.00

(4) The proceeds from the sale of these properties were used to fund the South West Development Authority and South West Development Commission's approved capital works program.

Other Agencies

All other agencies in my portfolio responsibility advise that they have not sold any assets over the value of $100 000 since February 1993.

ASSET SALES - OVER $100 000

2009. Mr BROWN to the Minister for Family and Children's Services; Seniors; Fair Trading; Women's Interests:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mrs EDWARDES replied:

Family and Children's Services

(1) Yes.

(2) 180 Lawley Street, Yokine
Lot 8182 Villers Street, Yokine
Lot 687 Waxham Place, North Beach
11 Vale Road, Mt Lawley.

(3) $220 000 was received for 180 Lawley Street, Yokine
$173 000 was received for Lot 8182 Villers Street, Yokine
$201 000 was received for Lot 687 Waxham Place, North Beach
$370 000 was received for 11 Vale Road, Mt Lawley

(4) The proceeds are being used to offset the cost of the department's proposed adolescent and child support centre.

Women's Policy Development Office -

(1) No.

(2)-(4) Not applicable.

Ministry of Fair Trading -

(1) No.

(2)-(4) Not applicable.

Office of Seniors Interests -

(1) No.

(2)-(4) Not applicable.

ASSET SALES - OVER $100 000

2011. Mr BROWN to the Minister for Water Resources:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr NICHOLLS replied:

(1) Yes.

(2) The Water Corporation, or Water Authority, has sold the following assets over the value of $100 000 since February 1993 -

Property

1. Property A2885 - Lot 4 Gunn Road, Albany.
2. Property A0390 - Lot 4 and Pt Lot 406 Kew Street, Welshpool.
3. Property A0390 - Lots 21, 403, 404 Kew Street, Welshpool.
4. Properties A0386 and A0404 - Lots 9 to 14 Acton Avenue, Kewdale.
5. Property A7493 - Pt Lot 11 Beach Road, Bunbury.
6. Property A5607 - Victoria Location 11254 Matthew Street, Geraldton.
7. Bitumen paving shed and fencing - improvement to portion of Lemnos Street site, Shenton Park.

Plant

1. 1989 Ranger all terrain 14.9 tonne mobile crane D/380
2. 20 tonne truck mounted penetrometer rig
3. Computer hardware contract No AS53012B
4. 1992 Volvo FL10F 6 x 6 prime mover turbo 4/96
5. 4WD 12 Linmac crane item 8 D3/96
6. 4WD 12 Linmac crane item 1 3/96
7. 4WD 12 Franna crane serial No 1179 item 5
8. 4WD 12 Franna crane item 3 D3/96
9. 4WD 12 Franna crane item 2 D3/96
10. 4WD 12 Franna crane item 4 D3/96
11. Linmac 4WD 12 tonne Bigfoot crane item 6 D3/96
12. Linmac 4WD 12 tonne Bigfoot crane item 8 D3/96
13. Linmac 4WD 12 tonne Bigfoot crane item 9 D3/96
14. Mainframe assets.

(3) Individual transaction information is commercially confidential.

(4) All proceeds become part of the general review of the Water Corporation, or Water Authority.

ASSET SALES - OVER $100 000

2013. Mr BROWN to the Minister for Planning; Heritage:

(1) Has any department or agency under the Minister's control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr LEWIS replied:

(1) Yes.

(2)-(3) [See over.]

(4) Western Australian Planning Commission asset sales proceeds were applied toward acquisition of further land holdings required in connection with the Metropolitan Region Town Planning Scheme. All proceeds from the sale of assets by the East Perth Redevelopment Authority have been used as defined in section 18(a) of the East Perth Redevelopment Act 1991.

ASSET SALES - OVER $100 000

2015. Mr BROWN to the Minister for Local Government; Multicultural and Ethnic Affairs:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr OMODEI replied:

Department of Local Government and Office of Multicultural Interests -

(1) No.

(2)-(4) Not applicable.

ASSET SALES - OVER $100 000

2017. Mr BROWN to the Minister representing the Minister for Finance:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr COURT replied:

The Minister for Finance has provided the following reply -←

State Revenue Department
(1) No.

(2)-(4) Not applicable.

Valuer General's Office
(1) No.

(2)-(4) Not applicable.

State Government Insurance Commission

In providing details of the commission's selling of assets over the value of $100 000 since February 1993, the sale of investment related assets, which includes property, has been excluded as these assets can be subject to high turnover when a particular asset is bought and sold several times during the financial year.

(1) No.

(2)-(4) Not applicable.

Government Employees Superannuation Board

It is not practical to provide an answer to the above question in respect of the GESB. As a financial institution, the board is trading investment assets valued in excess of $100 000 on a continuous basis. The bulk of these assets includes equities and fixed interest securities, which are traded by both the board's investment division and its external managers. It would not be feasible to extract the information required in the question from all sources, covering transactions over the past three and a half years.

ASSET SALES - OVER $100 000

2018. Mr BROWN to the Minister representing the Minister for Racing and Gaming:

(1) Has any department or agency under your control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following reply -←

Office of Racing, Gaming and Liquor; Burswood Park Board; WA Greyhound Racing -

(1) No.

(2)-(4) Not applicable.

Lotteries Commission -

(1) No.

(2)-(4) Not applicable.

Totalisator Agency Board -

(1) Yes.

(2)-(4)

Assets Sold (2)	Sale Proceeds (3) $	Use of Proceeds (4)
Ex agency properties -		
Margaret River	178 997	TABistro development
Coolbellup	102 790	TABistro development
Karratha	111 649	TABistro development
Carlisle	146 898	TABistro development
Hilton	183 012	TABistro development
Pinjarra	137 048	TABistro development
Kununurra	100 854	TABistro development
Geraldton	198 358	TABistro development
Busselton	219 720	TABistro development
Kalgoorlie	138 880	TABistro development
Scarborough	296 170	TABistro development
Victoria Park	225 120	TABistro development

Bunbury	293 700	TABistro development
Bullcreek	260 000	TABistro development
Gosnells	176 555	TABistro development

Shareholding in Lewara Pty Ltd, holding company of Western Broadcasting Services Pty Ltd - 6PR	5 253 000	Terminal replacement	$1 000 000
		Debt repayment	$533 000
		Capital grant to metropolitan racing clubs for terminal replacement	$2 420 000
		General reserve	$1 300 000

ASSET SALES - OVER $100 000

2022. Mr BROWN to the Minister representing the Minister for Transport:

(1) Has any department or agency under the Minister's control sold any assets over the value of $100 000 since February 1993?

(2) What assets were sold?

(3) How much was received for each asset?

(4) How were the proceeds of each asset sale used?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

(1)-(4) Provision of this information would require considerable research which would divert staff away from their normal duties and the Minister for Transport is not prepared to allocate the State's resources to provide a response. If the member has a specific inquiry about a particular asset which has been sold, the Minister for Transport will endeavour to provide a reply.

QUESTIONS ON NOTICE - 841, UNANSWERED

2026. Mr PENDAL to the Minister representing the Minister for Transport:

I refer to question on notice 841 dated 1 May 1996 and ask why, after 13 weeks, no answer has been provided?

Mr LEWIS replied:

The Minister for Transport has provided the following response -

The answer has now been submitted.

WORKPLACE AGREEMENTS - REGISTRATIONS

2028. Mr BROWN to the Minister for Labour Relations:

(1) As of 31 July 1996 how many workplace agreements were registered with the Commissioner of Workplace Agreements?

(2) What percentage of the Western Australian work force is covered by workplace agreements?

Mr KIERATH replied:

(1) Under the Workplace Agreements Act, 50 244 agreements were registered in the period 1 December 1993 to 31 July 1996.

(2) It is not possible to establish this figure for the following reasons -

(a) workplace agreements cease to have effect when the employment relationship ends. Parties to agreements are not required to report this to the commissioner's office.

(b) Some workplace agreements which have been registered have expired.

(c) Some parties have lodged more than one workplace agreement.

HERITAGE COUNCIL - GREAT FINGALL MINE OFFICE

2034. Dr EDWARDS to the Minister for Heritage:

(1) When will the Heritage Council make a decision on the Great Fingall mine office?

(2) What general advice has the Heritage Council provided to the interested parties?

Mr LEWIS replied:

(1) I have directed that the Great Fingall mine office be entered in the Register of Heritage places.

(2) The Heritage Council's initial advice was that it does not favour relocation of the building as it is contrary to the principles of the Burra Charter, but that it would not oppose such a proposal if there was no prudent or feasible alternative. Further investigation of this matter revealed an opportunity to conserve the Great Fingall mine office in situ. The Heritage Council subsequently confirmed that it supports the conservation of the building in its original location.

HERITAGE COUNCIL - NATIONAL TRUST, IMPACT OF COMMONWEALTH BUDGET CUTS TO AUSTRALIAN HERITAGE COMMISSION

2035. Dr EDWARDS to the Minister for Heritage:

(1) What will be the impact on the Western Australian Heritage Council from the Federal Government budget cuts to the Australian Heritage Commission?

(2) What will be the impact on the Western Australian National Trust from the Federal Government budget cuts to the Australian Heritage Commission?

Mr LEWIS replied:

(1) The Heritage Council of Western Australia received some $670 000 each year from the Australian Heritage Commission to administer the state component of the National Estate Grants Program. Heritage projects under the three environments of natural, indigenous and cultural/historic were funded by the program. That component has been discontinued. As a consequence, the provision of grant aid to community groups and government bodies by the Heritage Council for projects to identify and conserve culturally significant buildings and landmarks will end, and it will now only be able to provide minimal assistance for urgent works. However, new commonwealth initiatives are expected to replace funding for projects in the natural environment. The national component of the National Estate Grants Program is to continue, although reduced in scope and refocussed on projects of national significance. The council will remain in an advisory role to the commission in respect of the selection of projects in Western Australia.

(2) The impact of these cuts on the National Trust of Australia (WA) will be a reduction of $3 500 in its federal grant of $66 500, a cutback to the trust of 3 per cent in real terms.

WATER CORPORATION - HERBICIDES USE; FROG NUMBERS, CONCERNS

2038. Dr EDWARDS to the Minister for Water Resources:

(1) What herbicides are used by the Water Corporation?

(2) Have the manufacturers made any changes to surfactants or other non-herbicide ingredients following concerns about declining frog numbers?

Mr NICHOLLS replied:

(1) For metropolitan main drains, principally Glyphosate 360 mg/l, sprayed on banks and along fence lines. Where spraying over water is required - for example, spraying of emergent Hydrocotyle, at the request of the Swan River Trust - Roundup Biactive herbicide is used.

(2) Monsanto's Roundup Biactive is a new formulation Glyphosate herbicide, registered for control of riparian and aquatic weeds, which requires no added surfactant and has an improved - 50 times - safety margin for common indicator aquatic species, including leopard frog tadpoles.

WORKERS' COMPENSATION AND REHABILITATION COMMISSION - MEDICAL PRACTITIONERS ACCREDITATION SYSTEM

2062. Ms WARNOCK to the Minister for Labour Relations:

(1) Is the Workers' Compensation and Rehabilitation Commission promoting discussion of an accreditation system for medical practitioners?

(2) Will the accreditation process lead to -

(a) increased costs and charges for those needing medical attention;

(b) further delay of access to medical treatment and reports; and

(c) reduced injured workers' freedom to choose their own doctors?

Mr KIERATH replied:

(1) The Workers' Compensation and Rehabilitation Commission, along with all other workers' compensation jurisdictions, is promoting discussion on the findings of the interim report "Promoting Excellence: National Consistency in Australian Workers' Compensation" prepared by the heads of workers' compensation authorities. These findings include systems of accreditation for providers of professional services such as medical practitioners and rehabilitation providers.

(2) Not applicable.

CONCRETE BATCHING PLANT - EAST PERTH, PROPOSAL

2063. Ms WARNOCK to the Minister for Planning:

(1) In view of the fact that a proposed concrete batching plant at 100 Summers Street, East Perth has been rejected by both the Perth City Council and the Town of Vincent, will the Minister reject any attempt to set up this heavy industry in a residential area?

(2) If not, why not?

(3) Does the Minister acknowledge that on environmental and traffic congestion grounds this facility is unacceptable in an inner city area?

Mr LEWIS replied:

(1)-(3) The East Perth Redevelopment Authority has received an application from Boral for a concrete batching plant on the old Public Works Department site to replace its existing Claisebrook Road plant. The board of the authority has yet to consider the application and refer it to me for determination, together with its advice and recommendation. I will consider all relevant environmental and planning issues in coming to a decision.

QUESTIONS WITHOUT NOTICE

POLICE SERVICE - MEETING 1994 BETWEEN COMMISSIONER FALCONER, RICHARD ELLIOTT, DAVID GRANT OVER WANNEROO INC INQUIRIES

478. Mr McGINTY to the Minister for Police:

I refer to the October 1994 meeting between Commissioner Bob Falconer, former Justice Ministry chief David Grant and the Premier's adviser Richard Elliott. On 21 March this year the Minister twice denied any prior knowledge of the meeting, claiming -

> . . . I was not aware of the meeting that took place, . . .

He later stated -

> No, I did not know about the meeting coming up, . . .

However, on 5 September he told this House -

> . . . I indicated to Commissioner Falconer - I think it was on that day . . . - that the meeting he proposed was very appropriate.

He also conceded that he had told Commissioner Falconer that the Director of Public Prosecutions should be invited to the meeting. I ask -

(1) Is it not clear from his contradictory answers that the Minister deliberately deceived the Parliament over his role in this meeting?

(2) Which of his answers to this House was the truth?

Mr WIESE replied:

I have answered this question; I answered it last week and I answered it again on notice in the other House. The meeting was certainly discussed by me and Commissioner Falconer. I was not aware of the date or the arrangements for the meeting.

Mr Ripper: You said, "I did not know about the meeting coming up." You misled the House.

Mr WIESE: I did not know that the commissioner was intending to have a meeting on that afternoon and I totally agreed with his role and intention to raise the issue because a matter needed to be clarified and cleaned up.

Mr McGinty: You said, "I was not aware of the meeting that took place."

Mr WIESE: I was not aware -

Mr McGinty: Yes you were.

Mr WIESE: - that the Director of Public Prosecutions was to be invited to the meeting and ultimately, of course, he did not attend because I understand that he was in Bunbury.

I believe I have answered that question as carefully and as well as I can in this Parliament. I have certainly never intended to deceive this Parliament, nor do I believe that I have.

Mr McGinty: You have so.

Mr WIESE: I wish that the Leader of the Opposition could say the same.

Several members interjected.

The SPEAKER: Order! The Leader of the Opposition.

TRAFFIC LIGHTS - FARRALL ROAD-MORRISON ROAD, MIDVALE, INSTALLATION

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

(1) Will the Minister advise if and when Main Roads WA has any plans to erect traffic lights at the junction of Farrall and Morrison Roads, Midvale? Constituents in the area are becoming alarmed by the increase in serious accidents at this junction.

(2) What priority is given to this work?

Mr LEWIS replied:

(1)-(2) I thank the member for some notice of this question. The Minister for Transport has provided me with some advice on this matter. I am pleased to inform the House that Main Roads WA has programmed the installation of these traffic lights for December 1996.

HOSPITALS - EARLY DISCHARGE INQUIRY

480. Dr GALLOP to the Minister for Health:

I remind the Minister of my call in April for an immediate inquiry into early discharge in Western Australian public hospitals, when I pointed to the case of 75 year old Heather Haynes, who was discharged from Fremantle Hospital just 36 hours after major artery surgery; and, of course, tragically she died several days later. Is it now standard practice to discharge, at midnight, 79 year old women from public hospitals and send them home 40 kilometres by taxi?

Mr PRINCE replied:

The answer is obviously no, it is not standard practice; it cannot be standard practice. I would appreciate the Deputy Leader of the Opposition's giving me the details of the case to which he is apparently alluding. To return to the case of the lady whom the Deputy Leader of the Opposition raised previously, I have said before and I say again that it is deplorable that he would again debate the health of that woman in public. She had a number of medical conditions. There was a great deal of debate between her and her specialist about whether she could even survive an operation because of the nature of her ill health. She had a shunt put into an artery which led to her brain. The operation was a complete success, and she was properly discharged from Fremantle Hospital. She died later in Sir Charles Gairdner Hospital from another condition, which had nothing to do with her operation. The Deputy Leader of the Opposition raised the matter again on Sunday, and it was a re-run for political purposes of what he had done previously, and he has been condemned by the media.

HOSPITALS - EARLY DISCHARGE INQUIRY

481. Dr GALLOP to the Minister for Health:

I refer the Minister to a letter that I have received from Mr Ross Herbert, the son of a 79 year old widow pensioner who, after an electrocardiogram for chest pains, was sent to Royal Perth Hospital and at midnight, some four hours later, was sent home to Karragullen. Her son writes that Mrs Herbert was told by the registrar who sent her home that if she continued to have pain, she should "take a Panadol every half hour". Will the Minister take responsibility for what is happening in our public hospital system; and will he now follow the advice that I gave to him in April to establish an immediate inquiry into early discharge in Western Australia's public hospitals?

Mr PRINCE replied:

I will certainly have the details that the Deputy Leader of the Opposition has now given to me inquired into and investigated, and I will revert to him when I have -

Dr Gallop: What about an inquiry into early discharge? You are too frightened, are you not, because it will come back to you and your budget strategy?

Mr PRINCE: Not in the least. The question of whether a patient is discharged today, tomorrow or next week is a clinical matter; it has always been a clinical matter; and it will remain a clinical matter. The Deputy Leader of the Opposition knows as well as I do that we do not push doctors around like that, because they put the interests of the patients first, as does this Government, and they do not discharge people unless they are clinically required to do so.

Dr Gallop interjected.

The SPEAKER: Order! I formally call to order the Deputy Leader of the Opposition.

POLICE SERVICE - RURAL WATCH, NEIGHBOURHOOD WATCH, AVON VALLEY

482. Mr TRENORDEN to the Minister for Police:

(1) Is the Minister aware of the increased focus on Neighbourhood Watch and Rural Watch in the Avon Valley?

(2) Will the Minister comment on the resourcing of this effort?

(3) Does the Minister support my request to encourage commercial travellers in rural areas to have their presence used as a deterrent to crime?

Mr WISE replied:

(1)-(3) I am aware of what is happening with regard to Neighbourhood Watch and Rural Watch in the Avon area, and that is happening also right across Western Australia as part of the initiatives of the Delta program, about which the opposition spokesman for the Police Service refuses to get a briefing so that he will know and understand what it is all about. The reality is that it has been happening and it has been given substantial impetus from the initiatives announced about a month ago. In the Northam district it is being driven by the district superintendent and funded from the resources appropriated to the Police Service in that district. It is an additional initiative and is not adversely impacting upon other policing commitments.

The member for Avon suggested that to revitalise Rural Watch greater use should be made of the commercial and stock agents who travel throughout the district. It is an excellent suggestion and it has been done in the past. This suggestion will be put to police officers not only in the Avon Valley, but around the State. The commercial and stock agents know the area they travel through and they are very well positioned to become aware of things which should not be occurring and to report to the Police Service. It is a top suggestion and it is being acted upon.

TRAFFIC ACCIDENTS - KWINANA FREEWAY, CRASH BARRIERS

483. Mrs ROBERTS to the Minister for Police:

Some notice of this question has been given. I refer to the traffic crash on the Kwinana Freeway last year, which claimed the life of a police officer, and the subsequent report by the coroner.

(1) Is he aware that a police officer who investigated last year's accident warned the coroner that the lack of a safety barrier on the Kwinana Freeway, on the city side of the Mt Henry Bridge, was a recipe for disaster?

(2) Is he also aware that the police officer told the coroner that Main Roads Western Australia should bear some responsibility for the fatal accident because of its failure to provide a crash barrier on the median strip?

(3) Is he aware that on Father's Day earlier this month another head-on collision occurred on the same section of the Kwinana Freeway, killing a woman and seriously injuring her husband?

(4) Will he advise whether police alerted Main Roads to their concerns about the lack of a crash barrier and, if so, when that advice was passed on?

Mr WIESE replied:

(1)-(4) I am not in a position to verify whether the coroner's comments, as reported by the member for Glendalough, are correct. I will certainly follow that through. If it were the case, one would think the coroner would have brought the matter to the notice of Main Roads Western Australia, and it would have acted upon it. I am not in a position to comment on that. I have not received an answer from the Police Service. I will provide the member with a response to her question as soon as the information is to hand. The verbal information I have been given - not by police sources - is that work is currently taking place to install crash barriers.

Mrs Roberts: The work is being done today.

Mr WIESE: I will follow that up to make sure the information I have is correct. It is a section of road in which a crash barrier could be effective. The record of accidents in that area clearly indicates that to be the case. The fact that the complaints are being acted upon verifies my judgment of that section of road, which I travel on frequently.

HOME OWNERSHIP - OPPOSITION'S STRATEGY

484. Mr BOARD to the Minister for Housing:

(1) Is the Minister aware of the Opposition's stated strategy to assist families to own their home?

(2) If so, will the Minister comment on this strategy?

Mr KIERATH replied:

(1)-(2) I congratulate the Opposition for accepting the fact that home ownership is extremely desirable for most Western Australians - it is better late than never. It has been the Government's strategy since it was elected in 1993. I acknowledge that the previous Labor Government tried a number of home ownership schemes, most of which were a disaster.

Mr Brown: You must have invented the wheel.

The SPEAKER: Order!

Mr Brown: Where did you come out from? Under a rock?

The SPEAKER: Order! I could formally call to order the member for Morley because he continued to interject after I called him to order. However, I will not do that. I ask the member to desist from using the language he used. Even though it is not the worst language in the world, it is preferable that it is not used in this Parliament.

Mr KIERATH: We have been left to clean up the mess the Labor Party made when it was in government. This year we announced an $80m scheme to help 800 families, including Aborigines and the disabled. Altogether 3 500 Western Australian families will be helped to own their own homes - the great Australian dream.

Several members interjected.

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

Mr KIERATH: Listen to them. They have been opposed to home ownership for most Western Australians. At least we know where they stand. Recently, we announced that we had made $45m out of the Keystart loans and the member opposite accused us of reaping a profit. For the benefit of members opposite, $45m is the 8 per cent capital adequacy ratio, which is required by the Reserve Bank for any responsible lender of housing loans. Of course, members opposite would not know anything about responsible financial management. That should be compared with New South Wales, which lost $250m in similar schemes; Victoria which lost $100m; and Queensland which lost $60m, all under Labor Governments. Unfortunately the worst one, which I refer to as the policy blunder of the century, involved the member for Ashburton putting out a document in which he said he would float Keystart loans. As the rationale for doing that, he said people would experience the lowest rates. However, at the other end they will

experience the highest rates when they have gone up to 19 per cent. They were the people who got hurt and on whom we had to spend $13m to rescue just recently. The former Government had a floating scheme. Members opposite do not understand the financial market. It is fascinating that they should expose the most financially vulnerable people in our community to a scheme such as this. The ALP stands for a scheme that would hurt those low income people who cannot afford to be exposed to the vagaries of the money market.

EDUCATION DEPARTMENT - TRUANCY MONITORING

485. Mr KOBELKE to the Minister for Education:

(1) Is there a legal requirement for the Education Department to force school age children to attend school?

(2) How many Education Department district offices currently do not have a full time officer employed to monitor and pursue truants?

(3) What, if anything, does the Minister propose to do to combat truancy in those education districts that do not have a truancy officer?

The SPEAKER: Order! I understand the first part of the question sought a legal opinion. The member is not able to do that.

Mr Kobelke: No.

The SPEAKER: I am advised it did. If the member asked for a legal requirement, that is asking for legal opinion. I will allow the member to correct that part of the question immediately, or he may prefer to do it later.

Mr KOBELKE: In order to meet your request, Mr Speaker, I will rephrase the first question. Is it a requirement of the Education Act that the Education Department force school age children to attend school?

Mr C.J. BARNETT replied:

(1) Yes, it is a requirement. School is compulsory in Western Australia as it is in all States and Territories of Australia.

(2) I am unable to answer this question off the top of my head; but, I will provide that information.

Mr Ripper: Some districts have only one.

Mr C.J. BARNETT: I will find out the exact details for the member.

Mr Kobelke: Do you know how many?

Mr C.J. BARNETT: Not off the top of my head. However, I will provide the details of how many officers are involved in that role.

(3) Truancy is a problem. It varies from school to school. Some of the comments in the newspaper have been a little unfortunate. Nevertheless, truancy is a significant problem for education in Western Australia. I recognise the problem. My approach to truancy and any other issue in education is to confront it head on. I hope all members support the efforts of schools, district education officers and community groups to reduce truancy. Many of the children not attending school are often getting up to mischief in their local communities. There is nothing more important in education than having children attend school.

EDUCATION DEPARTMENT - TRUANCY MONITORING

Aboriginal Children

486. Mr KOBELKE to the Minister for Education:

Given the Minister's response to my questions, is it true that he raised the very serious concerns about Aboriginal children not attending schools without even talking to his department to find out how it was monitoring truancy? Is

it true that letters informed him that Aboriginal children were not attending school in districts which do not have a truancy officer, and yet he said he would get tough on them and ensure they attend school, when his Government has failed to maintain an adequate system to ensure children attend school?

Mr C.J. BARNETT replied:

I am not entirely sure what the question is; it is more a comment. The Education Department does monitor truancy.

Mr Kobelke: No central records are kept. You cannot tell us how many kids are truant on any month of the year.

Mr C.J. BARNETT: The Education Department does monitor truancy. If the member for Nollamara wants that information, I will be happy to provide it. The member for Nollamara is wrong about Aboriginal children. The Education Department gave me a detailed briefing on children at risk within the education system, in particular Aboriginal children. I do not resile from the sad reality that on any given day 15 to 20 per cent of Aboriginal children do not attend school or that the truancy rate for Aboriginal children is around six times that of the school age population in general. We can do a number of things. Although I speak in a figurative sense, we need to get those children and make sure that they go to school. I do not resile from that. That may not be universally popular. Hostels are part of that solution. In Kalgoorlie, teachers pick up the children and give them breakfast before they go to school.

Mr Grill: The teacher does a great job.

Mr C.J. BARNETT: Yes, I thank the member for Eyre. In Wyndham the local police officers, in cooperation with the school and the Aboriginal community, collect the kids for school; that works. There are some big problems. Hostels have attracted a fair bit of attention recently. In this State four or five hostels are run by the Aboriginal and Torres Strait Islander Commission. The Department of Family and Children's Services also operates hostels for Aboriginal children in Perth. The Government education system does not operate hostels within the Pilbara and Kimberley regions, and they are possibly needed there. The Catholic education system operates hostels successfully. That is only one of a number of things that can be done. It is no good the community's ducking this issue. We have a collective responsibility to those Aboriginal children of today. Many things can be done for the future; however, at present 15 to 20 per cent of Aboriginal kids do not go to school.

HOSPITALS - MANDURAH

Staff, Future Employment

487. Mr MARSHALL to the Minister for Health:

Following the announcement by the Peel Health Service of the new hospital contract for Mandurah, what is the position on continued employment for the hospital staff?

Dr Gallop: Have you signed the agreement?

Mr PRINCE replied:

Not yet. It was with great delight, with the member for Murray and the Minister for Water Resources, that I was able to address the staff of Mandurah Hospital and tell them there had been substantive agreement on all matters to do with the new hospital at Mandurah. The heads of agreement will be completed tomorrow. The documents are in the preparation stage with the lawyers right now. I expect to have them within the next 14 days.

Mr Ripper: Will you table them?

Mr PRINCE: As I have tabled the other documents.

Mr Ripper: Will you table every last clause?

Mr PRINCE: We will see. Part of the concern of the staff, on whose behalf the member for Murray raised the question, is what will happen to them when Health Solutions takes over the management of the hospital in early 1997. The new hospital will take 100 weeks to build and will be completed in 1998. Health Solutions will manage the hospital from early 1997. A number of the staff were interested in the transition arrangement. Everybody who is

employed at the moment whether permanent, full time or part time - even if part of their time is spent at Mandurah and part in Pinjarra - will transfer to Health Solutions, unless they do not wish to. People will have a fixed term contract. The term of the contract will be honoured. Those who do not wish to transfer will be redeployed either in the health system or the Public Service generally. If there is a lack of positions in any respect, other people employed in the health services region will be next offered the jobs. For example, those in the Pinjarra-Murray District Hospital may be offered a job in Mandurah Hospital.

Mr Brown: Will that be at the same rate and conditions of employment?

Mr PRINCE: That is what Health Solutions has told them. Inevitably there will be an increase in the number of people employed at the new hospital because the number of beds will increase from 32 to 110 public beds and 20 private beds. It is a significant increase. The whole structure will be almost rebuilt, and many more people will be required to run the hospital. It will result in a great deal more employment in the hospital in Mandurah in a first class facility that should have been provided some time ago and will be provided by this Government.

GOLD ROYALTY - PLANS

488. Ms ANWYL to the Premier:

Given the comments by the Deputy Premier and the Minister for Resources Development that a gold royalty is inevitable, and given the Australian Labor Party's unequivocal guarantee that it will not introduce a gold royalty when it wins the next state election, will the Premier be honest with the people and -

(1) Give a clear commitment that no royalty will be imposed if the Government wins the next election?

(2) If not, will the Premier come clean and reveal the precise details of the planned royalty?

Mr COURT replied:

(1)-(2) Before the last election the Government gave a commitment that it would not introduce a gold royalty in this term of government and it has met that commitment. In relation to taxation policy after the next election, the Government has not made any commitment as far as tax levels are concerned. I was asked before the last election whether a commitment would be made that taxes would not be increased and I said that I would not give such a commitment. However, Carmen Lawrence said she would. The gold royalty will be worked through by the Government. It has always been open and responsible to the industry in relation to the matter. However, the position of the Leader of the Opposition on this matter last year is different from his position today. Last year he said the gold tax was an historical anomaly and there was no good reason that the gold industry should not be subject to the same taxes as other industries. Members opposite cannot have it both ways. This Government is prepared to sit down with the industry and work its way through these issues. It has done more for the gold industry in the past four years than the Labor Government did for it in the previous 10 years. The federal Labor Party introduced a gold tax, and it did nothing about energy prices in the goldfields region. However, on 4 October this year this Government will officially open the Pilbara to goldfields gas pipeline. I hope members opposite will be there because that pipeline will save the industry hundreds of millions of dollars in energy costs. This Government is totally committed to the industry.

It is no secret that considerable debate has taken place within the industry and with the industry about a gold royalty. This Government is being completely open in its discussions. It said it would not introduce a gold tax in its first term and it did not do so. With regard to the next four years, the Government is currently working through this matter with the industry and will be up-front about its intentions. Last year the Leader of the Opposition said there should be a gold tax and this year, in the lead up to an election, he has said there should not be. He cannot tell it straight.

GOLD ROYALTY - GOVERNMENT POLICY POSITION

489. Ms ANWYL to the Premier:

When will the Premier make the Government's policy position clear on this matter, and will it be prior to the next election?

Mr COURT replied:

The Government's taxation policies will be made clear prior to the next election, which is what it did before the last election.

RABBIT CALICIVIRUS - FOXES, CATS CONTROL

490. Mr TRENORDEN to the Minister representing the Minister for the Environment:

Mr Speaker -

Mr McGinty interjected.

The SPEAKER: Order!

Mr McGinty interjected.

The SPEAKER: Order! I formally call to order the Leader of the Opposition.

Mr TRENORDEN: The calicivirus will take a key source of food from foxes and cats. Native animals and birds will bear the brunt of fox and cat attention. Has the Western Australian Government done enough to protect these creatures by reducing cat and fox numbers?

Mr MINSON replied:

I thank the member for some notice of this important question. The total fox and cat population is proportional to the total number of prey available for food, not a particular type of prey. Therefore as foxes and cats decrease -

Several members interjected.

Mr MINSON: As rabbits decrease, so will total prey.

Several members interjected.

The SPEAKER: Order!

Mr Ripper: I think you are in trouble.

Mr MINSON: I am not in trouble; I do not like reading long departmental answers. The fox and cat populations will vary widely in response to rabbit numbers, as the calicivirus works. The Western Shield program of baiting for foxes, and to a lesser extent cats - it is less effective against cats - will reduce predator numbers. The fully funded Western Shield program is extensive and will eventually involve approximately 5 million hectares. An amount of $97 000 has been contributed by the Australian Nature Conservation Agency and an additional $200 000 has been made available for research into feral cat control over the next two years. Feral cat control is proving to be much more difficult than feral fox control. However, the Department of Conservation and Land Management believes that in two years the techniques of control of feral cats will be at such a level that it will be able to use the same process that it now uses for fox control.

I stress again that as the total prey decreases, so does the total number of foxes and cats. That is important. It seems that foxes and cats do not necessarily switch from preying on rabbits to preying on native animals.

Dr Gallop: What ones are they?

Mr MINSON: There have been many interjections in the past few minutes. For the benefit of members opposite I remind them that foxes, cats and rabbits are not native to Western Australia.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: Although it has been feared -

Mr Cunningham interjected.

The SPEAKER: Order, member for Marangaroo! I ask the Minister to begin concluding his answer.

Mr MINSON: I would like to do that, Mr Speaker. Although it is feared that, as rabbit numbers decrease, foxes and cats will attack native animals, statistics indicate that this will not happen. In conjunction with adequate research, adequate planning is being done for the release of the calicivirus.

QUESTIONS ON NOTICE - UNANSWERED

149

491. Ms WARNOCK to the Minister representing the Attorney General:

Under Standing Order 110, for the third time I seek a response to a question asked on 19 March. When will the Government make public its response to the Chief Justice's task force on gender bias? When can I expect an answer?

Mr PRINCE replied:

I simply do not know the answer to that question. I shall convey the member's concern to the Attorney General this afternoon because the matter has been outstanding for a long time.

QUESTIONS ON NOTICE - UNANSWERED

830

492. Dr WATSON to the Minister representing the Minister for the Environment:

Under Standing Order 110 I remind the Minister that question 830 on notice, first asked on 1 May, has not been answered.

Mr MINSON replied:

I have no control over the office of the Minister for the Environment. It has been notified and I will notify it again.

QUESTIONS ON NOTICE - UNANSWERED

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

On 16 May I asked the Minister representing the Attorney General a detailed question concerning meetings between the Minister and the Acting Director General of the Ministry of Justice about a range of important matters. When will an answer to that question be forthcoming?

Mr PRINCE replied:

Again, I do not have the information from the Attorney General that would enable me to answer the question. However, I shall bring this matter, as well as the matter raised by the member for Perth, to the attention of the Attorney this afternoon.

QUESTIONS ON NOTICE - UNANSWERED

1186, 1187

494. Dr GALLOP to the Treasurer:

Under Standing Order 110 I refer to questions on notice 1186 and 1187, which dealt with the total collection of taxes, fees and fines over a number of years and comparisons of rates of economic growth between the States. When will those fairly straightforward questions be answered?

Mr COURT replied:

I think they will be given to me today. I will get them after question time.

QUESTIONS ON NOTICE - UNANSWERED

969

495. Dr EDWARDS to the Minister representing the Minister for Transport:

I seek a response to question on notice 969 asked on 7 May this year concerning an advertisement on a MetroBus at that time.

Mr LEWIS replied:

I can only apologise that the question has not been answered. Obviously it is not within my control and again I will communicate with the Minister for Transport to establish an answer for the member.

QUESTIONS ON NOTICE - UNANSWERED

496. Dr EDWARDS to the Minister representing the Minister for the Environment:

I have two more items under Standing Order No 110. On 13 June I asked, first, a detailed question relating to national parks that followed up a previous question. My second question related to a comment in the media by a member of CALM about an inquiry into allegations of censorship within CALM. When will those answers be tabled?

Mr MINSON replied:

I again undertake to seek responses to the member's questions from the Minister's office. I reiterate that I have no control over the office of the Minister for the Environment.

QUESTIONS ON NOTICE - UNANSWERED

1256

497. Mr BROWN to the Minister assisting the Minister for Justice:

When may I expect a response to question 1256 asked on 12 June concerning promotional selection processes within the Ministry of Justice?

Mr MINSON replied:

I have some control over my office and will therefore get that answer for the member as soon as possible.