WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE ASSEMBLY

Thursday, 12 June 1997

Legislative Assembly

Thursday, 12 June 1997

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

TREASURER'S ADVANCE AUTHORIZATION BILL

Message - Appropriations

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

THE SPEAKER (Mr Strickland): I advise members that at the time the Treasurer's Advance Authorization Bill received its third reading yesterday, a Governor's message recommending that appropriations be made for the purposes of the Bill had not been received, as the message that was prepared was not worded correctly. This was discovered after the Bill had been read a third time, but before the Bill had been delivered by Assembly message to the Legislative Council. As the Assembly message had not been delivered to the Legislative Council, I directed that the Bill not be forwarded to the Legislative Council until a recommending message had been received from His Excellency the Governor. As that message has how been received, the Bill should be endorsed accordingly and forwarded to the Legislative Council.

PETITION - TRANSPORT

Concessional Fares

MR McGOWAN (Rockingham) [10.02 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned, wish to register a complaint that the all day tickets can not be purchased prior to 9.00 for travel on the buses. The majority of students must be at school by 9.00 - only those TAFE or University students whose classes are scheduled later in the day will be able to take advantage of the all day pass. This will mean that students will be penalised for wanting to or having to attend educational institutions. In some cases this will result in a 100% increase in the fares students are forced to pay.
>
> Education is our future - don't try to make money out of it.
>
> 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 242 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 56.]

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Reports - Tabling

MR MINSON (Greenough) [10.04 am]: I present for tabling two reports from the Standing Committee on Uniform Legislation and Intergovernmental Agreements: Report No 19 on Ministerial Councils, and report No 20 on the Bank Mergers Bill. I move -

> That report No 19 do lie upon the Table and be printed.

It is with some pleasure that I submit this report for printing. Over the years, ministerial councils have become a feature of the Australian landscape, and over the past decade they have increased considerably in number. As someone who has had the experience of being a Minister during the past four years, I have a somewhat mixed view about ministerial councils. They can be a very useful tool, but because of the issues they address and because of the infrequency of their meetings, they can also be quite complex. Therefore, Ministers often find themselves discussing and voting on issues that perhaps they are not prepared to discuss and to vote on.

The first ministerial council that I attended was the Ministerial Council on the Environment, which was held in Canberra. Three days before I was due to attend that meeting, I received papers from the Department of

Environmental Protection, which were about 10 centimetres thick, and I also received papers from the Department of Conservation and Land Management, which were roughly of the same thickness.

When I arrived at the ministerial council, I found three or four representatives from each State, and because some States had different Ministers for the Environment and for Land Management, often there were two or three Ministers from each State, and each of those Ministers had two or three advisers. However, that paled into insignificance when the Federal Minister arrived with her brilliant retinue of 30 or 40 advisers, all of whom sat with their hands folded for the entire proceedings, ready to jump up and give advice. I understand that my predecessor, who is not in the Chamber at the moment but who is still a member of this House, was so frustrated about the speed of discussions at a similar meeting that he got up and went for a walk. It was obvious that some Ministers had not done their research and the gravity of the council's decisions, while they were not necessarily legally binding on any State or the Commonwealth, were such that they required far more debate.

Over the two years I was Minister for the Environment I started to get a feel for the way in which one can use these ministerial councils. However, as every state Minister knows, in taking advice and dealing with the bureaucracy, one must be careful and get to the point where one trusts the advisers because the workload makes it impossible to cover all the issues that must be dealt with. That is magnified when one goes to a ministerial council. It concerns me that sometimes ministerial councils make decisions that Ministers are not well prepared to make. The result is that the decisions are generally driven by the bureaucracy, and bureaucracies tend to span Governments at a state and commonwealth level. I suspect that if we are not careful, ministerial councils, while they can be extremely useful, will also be a huge problem. It is possible that more and more we could find ourselves being driven by the bureaucracy.

I am pleased to table this report today because I have found among members, and even among Ministers, a general lack of knowledge of what a ministerial council does and its powers. I know that when I became a minister I did not understand what a ministerial council was. This report is not highly technical; it does not delve deeply into ministerial councils and their role. However, it does give a very good, readable overview of where ministerial councils sit in the spectrum, their role and how they operate. To that end, I believe the committee has put together a very good report.

As we inevitably begin discussing whether Australia will become a republic, ministerial councils and their deliberations will become more and more important. If Australia becomes a republic, there is no doubt that much of the work done by ministerial councils will form its basis. It will also be important in formulating a new constitution and common legislation. It is very important that this Parliament and every other Parliament in Australia become au fait with the way ministerial councils are set up, the way they operate, their powers and their proper roles and what brakes, checks and balances should be put in place.

It is very easy for weighty decisions to slip through without proper debate. For example, the final decision of another ministerial meeting I attended was that each State would consult its own Executive Government and if a State had not reported back within a certain time, it was assumed that that it had agreed. That meeting was considering a very important matter. It is possible that, if a Minister were particularly busy and neglected to consult the Executive Government, a decision would be made almost by default; in other words, a State would agree by default.

The conclusion of this report states -

> The need for proper accountability cannot be overstated. Parliament needs to be able to exercise constant and effective scrutiny over government, and this can only be done by improving its access to information about executive activities. At the same time, the reality of a Federal System requires governments to liaise and develop common policies and laws. Intergovernmental relations depend on consultation, negotiation, bargaining and conflict resolution in such forums as Ministerial Councils. Often this will be done behind closed doors, where the participants can speak freely and openly. The challenge lies in balancing the requirements of accountability with the efficient functioning of intergovernmental relations.

That sums it up very well.

I stress that my own experience is such that I have some concerns at times about the number of checks and balances in the system and whether the consultation is real. It is particularly important that we as a Parliament continue to develop our knowledge of ministerial councils and that Executive Government itself recognise their importance and the gravity of their decisions. Those decisions will be very important in the formation of nationally agreed legislation and as we debate whether we will become a republic. There is no doubt that what now exists must be the foundation for moving forward. If we are not very careful, we will have something that is not in the best interests of Western Australia. We must monitor, properly use and recognise the importance of ministerial councils.

This is the committee's first report of this Parliament. I thank the deputy chairman - the member for Burrup - and the members for Mitchell, Girrawheen and Southern Rivers and also the committee staff - the clerk and research officer, Mr Keith Kendrick, and the research officer, particularly in legal matters, Melina Newnan, who was largely responsible for constructing this report. I also thank Kirsten Robinson, Tamara Fischer and Patricia Roach for the work they have done.

MR RIEBELING (Burrup) [10.19 am]: This report will be of most benefit to new members of this House. It sets out clearly the scope and importance of ministerial councils to this Parliament and I urge all new members to read it. There are 31 ministerial councils, each of which can bring in uniform legislation by agreement. If one looks at the scope of the areas covered by the ministerial councils, one can imagine the importance of making sure this House has proper scrutiny of the uniform legislation which the Ministers agree to in their meetings around Australia. This is the core information upon which our committee is based. I urge members in this House who have been here no longer than three or four months and who have not bothered to read any previous reports to read this report, which gives the magnitude of the issue we are endeavouring to look at on behalf of this Parliament. The committee is not overly controversial but if members use the information correctly, they can benefit from it.

I am disappointed with the Government's response to previous reports because the rhetoric of the Government is that it is fiercely pro-Western Australia, yet the measures we have continually requested be put in place to ensure that this House has proper scrutiny of those uniform pieces of legislation have been continually ignored. It is a disappointment, to say the least. The recommendations contained in the various reports we have made have assisted this House in its business. If the recommendations contained in the twentieth report, which will be presented shortly, are adhered to, we will ensure a proper scrutiny of legislation will take place. I am sure every member who has witnessed uniform legislation going through the House is somewhat concerned at the impact we are able to have on such legislation. I thank my fellow members of the committee, Melina and Keith for their assistance, and Tamara for the work she did prior to starting this year's work. As I have said, if new members read only one report, this is the one they should read.

Several members interjected.

Mr RIEBELING: Old members should have read previous reports and be up to speed.

Question put and passed.

[See paper No 458.]

MR MINSON (Greenough) [10.27 am]: I move -

> That report No 20 do lie upon the Table and be printed.

I will make a few brief comments because the debate on the Bank Mergers Bill will still be fairly fresh in members minds. I want to quote from the report's foreword, which was written by me, because it pretty well sums up the position. It reads -

> The Standing Committee accepts the principles to be achieved by the legislation are exclusively commercial in nature, but nevertheless, believes that the principle of full parliamentary scrutiny should be preserved wherever possible. To this end the Committee is of the opinion that this should be borne in mind by executive government.
>
> The opportunity for parliamentary scrutiny of legislation is optimal when a Bill is introduced but this is diminished when regulations or orders are used to adopt legislation of another jurisdiction.
>
> The adoption of legislation of another jurisdiction is not itself a problem if the Western Australian Parliament can scrutinise the legislation as a Bill to ensure that all Members are aware of what they are adopting.
>
> This Report provides background to the Bill and discusses the advantages and disadvantages of the current legislation and provides alternatives for this and other legislation.

The matter that brought the standing committee into being was the adopting of uniform legislation across Australia by simply adopting another Parliament's legislation. I will not retrace the debate on the Bank Mergers Bill, but it was pointed out that there are some important differences between the Bank Mergers Bill and the legislation that brought the standing committee into being. These are very important. For example, Western Australia does not have to go to another State to seek redress in the courts, it does not have to ask another State to modify the Bill if we want it modified, and our law will not be modified if another State decides to change its legislation. To that end there are

significant differences. Nevertheless, one of the main reasons the committee decided to bring down this report is the principle of adopting by regulation or order another jurisdiction's legislation.

There was a certain amount of controversy over this legislation, not because of what it does, but because of what it does not do. Bearing in mind our standing orders in respect of disallowance motions, it does not really give this Parliament the opportunity to properly scrutinise. Having said that, it does not affect materially any Western Australian; it really assisted a commercial transaction, which in any case was beyond our control. It made it a lot simpler. However, this Parliament should come to grips with the principle of adopting another jurisdiction's legislation. In the debates that were held here and in the other place, it was stated that it was of paramount importance for the Parliament of Western Australia to be able to scrutinise legislation that it was enacting of its own volition or that it would adopt in some way. The report is a very short and readable report. To that end I thank Melina Newnan, the research officer, and the clerk, Keith Kendrick. It points out the advantages and disadvantages in a clear and concise way. I suggest that those who have an interest in this matter and who cannot remember the debate that took place here two or three weeks ago read it.

In tabling the report I want to refer briefly to the three recommendations. They are specific and general in nature. The first recommendation is a general one in the event that the Government continues to use bank mergers legislation as a means for allowing the merger of banks or for tidying up following the merger of two banking organisations. It recommends a change to standing orders to allow our standing orders to come into line with those that exist in the other place. In other words, a motion for disallowance must be debated, because, if the Government wants to continue to use the bank mergers legislation, the only opportunity for members of this Parliament to have their say and scrutinise it at all is by way of a disallowance motion. In that sense, the committee strongly urges that we change our standing orders so that disallowance motions on delegated legislation are debated within a certain time frame. It recommends one or two important changes to standing orders in this place compared with the other place. However, there is no need for me to go into that. I refer to recommendation two because I believe that would probably be the better way for the Government to proceed. Recommendation one refers to changing the standing order so that we have the guarantee of a debate in the event of a disallowance motion. Recommendation two states -

> Notwithstanding Recommendation One, consideration be given in any future bank merger to the introduction of specific legislation as being the most efficient in terms of time and scrutiny.

We had a debate in this place which took some hours. When the legislation moved to the other place, there was some debate, which culminated in its being referred to the Standing Committee on Legislation. The history of bank mergers Bills is that the debate takes a maximum of an hour. They are usually dealt with some time after midnight because they are procedural and everybody knows they do not affect the outcome of a merger. Nevertheless, they give people the opportunity to have a say on a merger and, with the latitude that is allowed with debates in this place, they provide a certain amount of latitude for people to make general comments about mergers or about a specific bank. Because we do not have that many opportunities for general debate in this place, bank mergers Bills provide that opportunity. My experience in this place in eight and a half years is that there have been no general debates; they have been specific and the Bills have generally slipped through without either the Press or most members taking any notice of them.

I refer to efficiency and time simply because this Bill would have gone through two weeks ago and would have taken less time in this place and the other place had it been a specific Bill. I said during the debate on this Bill that there may be more mergers in the future. However, having seen the process that has taken place and the time consumed here and in the other place, I believe it would have been simpler for the Government to take the trouble of drafting a Bill and introducing it. The parliamentary draftsman gave a briefing to the committee a couple of days ago. He said that, from his point of view, the adoption method would not save any time because he had to go through the other jurisdictions' legislation, check it was all okay, and then fix it up, or make regulations to fix it up. He said that it would be no problem, therefore, to simply substitute "Western Australia" for the name of the other States in that legislation and to introduce it into this place as a Bill. In introducing our own Bill, we would have to draft regulations. Of course, the parliamentary draftsman would have to go through not only the legislation that we are adopting, but also the regulations that go with it, make sure they suit our conditions, and bring them into line with that which Western Australia wants. From the parliamentary draftsman's point of view, there is no material difference in time and effort and, having observed what happened here, there is no efficiency in time. Therefore, I suspect that in future, unless we see a plethora of bank mergers, it will be in the Government's best interest to proceed by way of introduction of specific Bills.

Scrutiny is obviously more efficient if we have the complete Bill. Historically, people do not engage in a wide debate. Generally the Opposition's spokesperson on financial matters comments on that legislation, usually by way of a 10 minute speech, we do not go into Committee, and it slips straight through. The committee understands that the merger will not be affected in any material way. That is outside the jurisdiction of Western Australia and it does

not affect any individual in Western Australia. It makes it a lot simpler for the transfer to take place and allows the State to collect its moneys in a more simple way than it did before. I think recommendation two is probably the preferred option of the committee. In saying that, we acknowledge that this legislation is specific to a transaction and will not materially affect anybody. If the Government wishes to continue to use the bank mergers legislation as the vehicle to facilitate bank mergers, at the very least recommendation one should be undertaken.

The third recommendation is also a general one. It recommends the adoption of the first interim report of the Select Committee on Procedure 1995. People who have an interest in this matter will be familiar with it and if they are not, it is recorded in this report. As I understand it, the Government has not responded to recommendation three, despite the request by the select committee that it should do so within 120 days. The final clause on page 13 of this report requests the responsible Minister - in other words, the Leader of the House - to respond to Parliament within 120 days and say what will be done about these recommendations. I sincerely hope the Government will respond. There was a certain amount of ill feeling and angst with respect to the Bank Mergers Bill, not because of what it did, but rather the principle behind it. That is the same principle that led to the establishment of this committee. It behoves the Executive to respond to this report and, in doing so, to respond also to the Select Committee on Procedure.

I thank the members of the committee, the deputy chairman, the research officer and the clerk who assisted us in our task.

MR RIEBELING (Burrup) [10.44 am]: If we go back to why the Standing Committee on Uniform Legislation and Intergovernmental Agreements exists, we will ascertain why this report is important. Having been on the committee since its inception, it is my view that the committee's role is to ensure that the maximum amount of scrutiny is given to every piece of uniform legislation that comes into this place. My concern and that of others about the way in which the Bank Mergers Bill was brought into this place is that not only will a specific bank merger avoid the scrutiny of this place, but also a process will be set up under which all future bank mergers will avoid the scrutiny of this House.

At the briefing on Tuesday the parliamentary draftsman spoke about why there is a likelihood of this process being put in place, although he was not commenting on policy. The only reason for putting in a process by which bank mergers can be achieved through regulation or order is to avoid the scrutiny of Parliament. That is why the committee quickly provided a report on the process that is used and made recommendations about what it thought should happen in the future about the Bank Mergers Bill and other pieces of legislation. I agreed with the wording of recommendation two, but felt that it should be given priority over recommendation one.

I urge the Government to recognise the importance of not using the process the committee has put in place, and to go to the trouble of bringing legislation before the House every time a bank merger comes about. As the Chairman has stated, these bank mergers Bills are not time consuming. Because of the method chosen by the Government to bring this Bill into the House, the time we have taken to deal with this Bill has trebled. It is with some regret that I saw the process by which the Bank Mergers Bill was put through the House. That happened for one reason only - to avoid scrutiny.

During the passage of the non-bank financial institutions Bill, we interviewed people within the industry about the process that was used in Western Australia. Those in the industry were very keen to make sure that Parliament had as little to do with that legislation as possible. The Bank Mergers Bill guarantees that we will have very little to do with bank mergers in the future. Some say that it has very little impact on Western Australians. I do not think that is accurate. People who are in District Courts and Supreme Courts fighting banks will be very keen to see that a bank is put to the inconvenience, at least, of making sure the title on the writ is altered individually because those people would end up fighting a different animal than the one they had originally taken to court.

I do not propose to go through recommendation three because I know that you, Mr Speaker, will know full well what it contains as it is a direct take from the committee that you chaired in the last Parliament. I suppose it is a slightly watered-down version of recommendations that committee made, based on information it gained from the House of Lords. If accepted by the Government, recommendation three would strengthen the ability of this House to scrutinise this legislation properly. If the Government does not act in accordance with that recommendation, we must ask this question: If we are not in this House to scrutinise legislation, what are we here for? If the House takes up to an hour to look at important pieces of legislation, such as that covering bank mergers, that time is well spent.

To avoid proper scrutiny of legislation is a backward step and one that I hope the Government, after the extended time taken to get the Bank Mergers Bill through, may look at seriously. If the process that has been put in place is not used and a problem arises out of the bank merger, the Government will not have the ability to say that Parliament properly considered that particular piece of legislation. I hope the Government looks at this committee's recommendations, especially recommendation two which will avoid any future problems. As the draftsperson said, the drafting of the legislation would have been a very simple matter and taken a very short time because the

legislation would have been almost exactly the same as that used in other places. It would have taken 15 or 20 minutes to prepare it and about an hour to go through this House, and we would not be speaking on this matter now.

I urge the Government to consider recommendation two and in future to prepare a Bill for each bank merger. I doubt we will see a huge volume of bank mergers, as Australia does not have that many banks. Once again I thank the staff who assisted the committee with this document. I recommend that all members take note of the report.

MR PENDAL (South Perth) [10.50 am]: The new members of the Standing Committee on Uniform Legislation and Intergovernmental Agreements have brought down a significant report. I congratulate the committee, firstly, on its observations and, secondly, on its recommendations. The member for Burrup is probably correct when he says that the House will not be inundated with bank merger legislation at any given time. However, the real significance of the committee's recommendations and the Government's response to those recommendations will be in the changes to standing orders, which will end our days of producing Clayton's disallowance procedures. We will not have to apply rewritten standing orders to bank legislation. The ramification of the committee's recommendations is that the changes to the standing orders will apply to every other piece of legislation where one chooses to move a disallowance motion.

The standing committee has reservations about the principle of adopting another Parliament's legislation and not introducing specific primary legislation. That is a very important observation for the committee to have made. However, the committee made an exception. It says that Parliament has the right to amend regulations and, under the legislation, orders applying legislation of other States will be treated like regulations; therefore, Parliament has the right to amend the regulations or the orders. If one takes that in isolation, it is the Clayton's power about which we have complained. That was the sole reason that the Parliament spent almost a day in March discussing the bank mergers legislation. The member for Burrup has said, and I suspect the member for Greenough will say, that we need not have spent almost an entire day talking about the bank mergers legislation. However, the change in the standing orders would have meant that it might have gone through the House in 10 minutes, because the scrutiny would have been applied by a rigorous and serious form of regulation disallowance. Mr Speaker, I know that you played a part in that in your report of last year. It is another example where a committee of the House has brought home the bacon.

My final comment relates to the recommendations. In some respects this is an even more important observation. Notwithstanding recommendation one that standing orders be changed so we get rid of the Clayton's disallowance procedure, the committee recommends that consideration be given in any future bank merger to the introduction of specific legislation. That was the subject of that full day's debate in March.

Mr Minson: The report says that regulations are more efficient in terms of time and scrutiny. Someone commented that we could have put through six bank merger Bills in the time that we wasted debating the general Bill. That is three times the number of mergers that have taken place since I have been in Parliament in eight and a half years.

Mr PENDAL: The only exception I take to the remarks of the member for Greenough is that it was not time wasted at all, because it drew attention to a serious deficiency in the standing orders about which not many people knew. Certainly the Premier did not appear to be aware of it and most members were not aware that we had a Clayton's disallowance procedure. To the Premier's credit, once he saw the point that was being made he gave a personal commitment that the Government would sponsor a change in the standing orders. I hope that the chairman and other members of the Standing Committee on Uniform Legislation and Intergovernmental Agreements bear that in mind, because they are in the box seat in waiting not only for the response to what they have triggered at page 13 of the report, but also of being in the glorious position of referring to the debates in March where the Premier has, in advance of this report, given his commitment that there should be changes to the standing orders so that the regulation disallowance procedures are something other than of a Clayton's nature.

All in all it is one of the most significant committee reports in a long time. Coupled with your work last year, Mr Speaker, and the undertaking given by the Premier, at last there is a recognition that the procedures in this House are inadequate and we are on the verge of doing something about it, so I congratulate everyone involved.

Question put and passed.

[See paper No 459.]

RESTRAINING ORDERS BILL

Second Reading

Resumed from 8 April.

MR RIEBELING (Burrup) [10.57 am]: I congratulate the Government on introducing stand alone legislation for restraining orders. That should have happened 20 years ago.

I acknowledge that 90 per cent of the legislation is highly desirable and will improve the situation, especially for the victims of domestic violence in Western Australia. However, some improvements can be made in important areas. I hope that during this debate and in Committee that the Parliamentary Secretary representing the Minister for Justice will agree to amendments which will improve what is a good piece of legislation. That will at least reassure the victims of domestic violence that the Parliament is attuned to some of the specific problems that I and others in the community have witnessed. One of the disappointing features of the restraining orders legislation, not just in the recent past but over many years, has been the reluctance of the Police Service to respond in domestic violence situations. That is due to a number of reasons, primarily that within a couple of days of a person laying a complaint in a case of domestic violence, the complainant withdraws the allegation and the prosecution collapses. That occurred regularly and the need arose to develop a method to protect people against violent situations. Over the past 40 years a system of restraining orders developed, but it did not work very well and that is the reason this Bill is before the House.

One of the good aspects of the legislation is that for the first time there will be two different types of restraining orders. These are, firstly, a violence restraining order, which is the highest degree of restraining and protection order, and, secondly, a misconduct restraining order which is a lower form of restraining order. The latter will apply to people who play up a little and who need a lower level of restraint so they do not create civil unrest. That provision alone is good reason for this legislation. Courts have had their hands tied somewhat because there has not been a staggering of the two levels of restraining orders. Previously magistrates had only one choice and that was whether to issue a restraining order. In some cases where the degree of aggravation outlined in the application did not come up to the level demanded, it would fail. Under this legislation the misconduct restraining order will mean that many applications which have failed in the past may succeed.

In the last few months a number of lawyers have spoken to me about this legislation. They are concerned about the propensity for corporations to take out restraining orders against individuals. As much as possible, applications for restraining orders should be made by individuals rather than corporations. To that end I have an amendment on the Notice Paper which, if passed, will mean that only individuals can have access to the restraining order legislation.

The primary purpose of this Bill is to deal with all domestic violence situations. The more we allow that purpose to be clouded, the less effective the legislation will be. It is a mistake that only 24 hours is given to serve a 72 hour restraining order. If a period in which to serve the order were set by the court, it would have a positive effect on more people than does the provision in the Bill.

An interesting innovation in the Bill is that magistrates will be available on the telephone 24 hours a day. If the department can convince magistrates they should be on a 24 hour roster system, I will congratulate them. I have met a lot of magistrates over the years and they will not be overjoyed to hear that under this legislation they will have to make themselves available on the phone 24 hours a day.

I was led to believe there would be a centralised phone number, presumably in the metropolitan area, and at all times a magistrate would be available on that number. I am interested in the amendments on the Notice Paper under the name of the Minister for Health which indicate that is probably not the case. They indicate that if a phone order is made, it will be registered in the court nearest to where the magistrate resides. The member assisting the Attorney General will, no doubt, be able to advise the House, but that indicates to me that those orders will be made throughout the State. In other words, every magistrate in the State will be on call 24 hours a day. I do not know how much that will cost the State, but magistrates, quite rightly, will want some sort of remuneration for offering that service.

Ms Anwyl: I wonder whether they have asked the magistrates?

Mr RIEBELING: They have told them. There are varying views about how that will operate.

Mrs van de Klashorst: A manual is being prepared and it will illustrate how it will be handled. It includes justices of the peace as well.

Mr RIEBELING: The phone applications can be handled only by magistrates. Under the Government's legislation, justices of the peace will not have the authority to do that. A manual may well be produced, but it is a different matter to get the magistrates to be on call 24 hours a day.

One of the major problems with the Bill is clause 14 which deals with a firearms order. One of the real problems I have with the structure of this Bill is that it outlines quite clearly what a court must consider when imposing a violence restraining order. A court must have those considerations clearly in mind when it decides to issue a violence restraining order. It is important to put those considerations on the record. Clause 11, which is well worded, states that unless restrained the respondent is likely to commit a violent personal offence against the applicant or behave in a manner that could reasonably be expected to cause the applicant to fear that the respondent will commit such an offence. It also states that granting a violence restraining order is appropriate in the circumstance. The two main

reasons for issuing a restraining order are relevant to actual violence; firstly, that it is likely a person will commit an offence, and, secondly, the applicant is in real fear that an offence is likely to occur. The court must bear in mind these two reasons when considering an application for a restraining order. A good provision of the legislation is that a person who holds a firearm will automatically lose that firearm if he is subject to a violence restraining order. That provision is reinforced in the Firearms Act.

Clause 14 goes slightly further and provides that if a person is subject to a violence restraining order and uses a firearm for his employment, he will get it back. That is a bad provision to include in this legislation. If a court believes the respondent is likely to act violently towards the applicant, regardless of whether that person is a kangaroo shooter, a farmer, a police officer or a security guard, under no circumstances should he be given access to a firearm. Clause 14 weakens the Bill considerably.

Mr McGowan: It makes a mockery of it.

Mr RIEBELING: In coming to the conclusion that a person is so violent a violence restraining order is needed, a court would not then conclude that he would not use his firearm against the applicant. I hope the Government, through the Attorney General's representative in this place, will see the sense in amending the legislation so that the misconduct restraining order provisions will allow for the return of a firearm. In the case of misconduct the court is required to have less certainty that the person has a propensity for violence. To leave the Bill in its present form will not only weaken its operation but also cause people in those circumstances to lose confidence in it.

One of the extreme difficulties women have with domestic violence is the continuing threats of violence towards them. One of the worst scenarios for a domestic violence victim is when the perpetrator has a gun. In a sane society people would not threaten to use weapons against their wives, partners or children and the like. Unfortunately we do not live in such a community. We live in a society where if a person has a propensity for violence, he will exercise power over his victim by using every device to reinforce his dominance. I hope that provision can be adjusted so that the strength of the legislation is reinforced.

Clause 38(1) sets out who can apply for a misconduct restraining order. I hope the Parliamentary Secretary will give us an explanation during Committee of why 38(1)(e) is included in the legislation. The Bill provides very broad powers to the Police Force to issue restraining orders. The police can apply for a restraining order even if, in the mind of the police, no particular person is to be protected. It is a power the police can apply on behalf of the public generally.

[Leave granted for the member's time to be extended.]

Mr RIEBELING: My fear about this clause, as with section 55(4)(b) of the Police Act, is that it could be subject to some abuse. I would appreciate hearing from the Parliamentary Secretary the Attorney General's explanation of it. My fear is that places such as the union embassy in the car park over the road from Parliament House could be subjected to misconduct restraining orders.

In spreading the effects of provisions in the Restraining Orders Bill to areas other than domestic violence we lose the plot and the primary focus of the restraining order. I can think of situations in which the police may wish to issue a restraining order. However, other Acts contain provisions which allow restraint of someone's activities, so there is no need for this.

Amendments are on the Notice Paper in relation to clause 61 which provides for penalties for breach of a restraining order. I am concerned that two penalties are included. The first, of $2 000 or six months' imprisonment, relates to breaching a 72 hour restraining order. The second is for breaching a longer term restraining order. Why is there a differentiation between the two restraining orders? Surely if a person were punched in the mouth and lost two teeth, it would be just as serious irrespective of whether it occurred within 72 hours or six months after a restraining order was imposed. I do not see how there can be any difference between the two breaches. I could understand if this clause dealt with the difference between a breach of a violence restraining order and a breach of a misconduct restraining order, but it does not. It covers the penalty provisions for people who breach a violence restraining order. It is somewhat nonsensical that two penalties are provided for a breach of the same order. The only difference between the two breaches is the duration of the orders. Both penalties could be included for reasons not obvious to me. Why is there a heavier penalty for a longer term restraining order? It might be included to cover Aboriginal communities, which prefer 72 hour rather than longer term orders. However, an assault in an Aboriginal community that causes injury to the victim is just as serious as an assault in Nedlands or Karratha.

Clause 62 of the Bill sets out a defence of consent for the breach of a restraining order. I can understand that under the rules of natural justice there must be an ability to defend an action if there is a genuine reason for breaching a restraining order. As the member for Rockingham pointed out, a defence to the breach of a restraining order may be that a child is sick and the mother or protective person cannot get the child to hospital and the husband is required

to go onto the property. The defence to breaching an order would involve other types of defence also. Those types of defence can occur now and do not require the setting of a consent as a defence. The problem I have with leaving clause 62 as it stands is that one of the main reasons the current system is not working is that respondents - those who are restrained from visiting domestic premises - have a position of power over the applicant. That power is why the police refuse to act in many cases. If clause 62 is allowed to remain in the restraining orders legislation, that activity will be reinforced rather than diminished.

The provisions in the legislation for the variation and revocation of restraining orders is simple and proper. An applicant goes to the time and trouble to get a restraining order. It is much simpler to revoke a restraining order than to get such an order. If genuine reconciliation occurs that is not caused by threats of violence, it is a simple matter for the applicant to have the order revoked so the respondent can legally go back into the matrimonial home, if that is desired.

The need for this sort of defence to be included in the legislation enhances the status of a person who is using intimidation to get back into the home. The legislation provides for a restraining order and provides the penalties and what can and cannot be done, but clause 62 states that if the wife consents to the husband going back into the home, that is fine. The Parliamentary Secretary is probably aware of one of the main reasons women do not proceed with prosecution. It is not because the assault did not happen, but because of their financial situation and also their fear of repercussions. Most domestic violence situations are a dominance game in which the male, as the stronger party, dominates the female and is prepared to use that dominance in a violent way. This clause will weaken the position of the woman.

Already under the rules of natural justice there is access for defendants to use the entrapment defence, and there is also a defence for the breach of a restraining order in an emergency. That is a general rule of justice. It need not be spelt out in this legislation.

I have an amendment on the Notice Paper to deal with my concerns about clause 65. I understand the reason for this clause; namely, that commonwealth legislation overrides state legislation. However, the reverse should be the situation. We will not solve this problem in this debate. However, it is important that members in this place have the opportunity to express their concern that when the Family Court considers a number of matters when determining orders, such as access to children, the welfare of those children in the long term, and the rights of both husband and wife to property and the like, those considerations relate to an isolated incident. Restraining orders will be made as a consequence of clause 65 after a Family Court order is made. After that order is made a woman will go to a magistrate to get a violence restraining order. When considering whether a violence restraining order should be issued, the court must have a mind to protecting the applicant, whether or not there is a fear of violence being perpetrated on the applicant.

Members in this place should reinforce their desire that the protection of the person be paramount and should override orders made in the Family Court. Restraining orders are issued in cases of actual violence. The Family Court considers situations that existed at the time, but because restraining orders are always issued after the Family Court hearing, the situation of violence may change. Restraining orders should override Family Court orders. However, I understand that constitutionally that is not possible.

MS ANWYL (Kalgoorlie) [11.27 am]: I support the legislation by and large, but with some important qualifications. The member for Burrup commented on many of the amendments that have been put forward. I will make general comments about the Bill, but will turn specifically to certain clauses that cause me concern. I make it clear from the outset that I rise in my capacity as the member representing the shadow Minister for Women's Interests, Hon Cheryl Davenport in the other place. I am a little perturbed that the Minister for Women's Interests has not been present during the debate so far.

Mrs van de Klashorst: She is coming.

Ms ANWYL: I hope she will contribute to this debate. I will focus on domestic violence rather than misconduct orders. My principal concern is that the issue of domestic violence is slotted into the Office of Women's Interests. The whole community has a real interest in dealing with domestic violence. Although on the one hand this legislation will streamline the procedure for obtaining restraining orders in domestic violence situations, on the other hand there is a devaluing of the importance of domestic violence by the fact that it is slotted into the Office of Women's Interests, as opposed to, for example, the Attorney General's department.

I was heartened recently to see that the Prime Minister's newly appointed adviser on women's interests, Prue Goward, detailed domestic violence as one of the key issues in which she hoped to achieve some results. I would like the Prime Minister and the Premier to take up the issue of domestic violence as one of principal importance to Australians generally. Certainly, if the Prime Minister took up this issue and its effect on women, children and

families generally, in a similar vein to the way he took up the guns issue, there could be some serious debate about it in the community rather than its being slotted into lesser portfolio areas.

On the question of cost to the community, murder and serious injury are quite frequent within the family. Psychological damage to children is caused on an ongoing basis as a result of their witnessing, and sometimes experiencing, violence between the spouses. There can be no doubt, on the basis of the criminological research, that witnessing such behaviour has long-lasting effects on children. When they become adults in many cases they become involved in the criminal justice system themselves or they continue to display that sort of behaviour when they are in relationships. As a family lawyer over many years, I have been involved with countless custody cases and other child welfare cases where children displayed extreme violence towards not only their siblings but also other children. The explanation is often that the behaviour is of a mimicking nature or is regarded by the child as acceptable simply because it has been observed on so many occasions.

There is tremendous lack of understanding in the community of the power structures involved in the domestic violence situation. The most common question people ask when I talk about these issues in my electorate is: Why do the women not leave? Asking that question displays a complete lack of understanding of the dynamics of the situation. One of the most distressing aspects of my legal practice was encountering women on many occasions who were so fearful when discussing legal issues associated with leaving their spouses, that they were often shaking in my office notwithstanding that at that moment they were in a safe environment. The fear and total lack of confidence experienced by women after a period in an abusive relationship has yet to sink into society generally and, I suspect, many members of Parliament in this place.

I note the existing regime under the Justices Act has been in its present form for some years. It is reasonably good law insofar as it provides a foundation, and the provisions for onus of proof and the criteria for obtaining orders are not too bad. The principal difficulties are the practical ones. I think I speak for members on this side of the House when I say the main concerns about this legislation are what other changes will be introduced to ensure a smooth implementation of the restraining orders process, that those needing restraining orders are able to obtain them easily, and that their introduction to the court system is facilitated by those employed by agencies that come into contact with people suffering from spousal abuse. The principal agencies are the police and various health professionals. I will revert to a brief discussion on the way that is, or is not, working at present.

Some of the other practical difficulties I have mentioned relate to the long delays between the making of orders and the service of them, and the long period physically sitting in the court, often for many hours, waiting for the court list to be determined. In my electorate of Kalgoorlie it is unlikely that a person seeking an order would obtain it before 2.00 in the afternoon. However, that person must arrive at the courthouse at 9.30 am and wait for completion of the court business. I understand the process is better streamlined in the Central Law Courts, but members can understand how extremely off-putting it is for a person in distress to have to wait several hours. There is lack of access to child care at the courts, and I note a government announcement has been made in that area. There is a lack of encouragement from police or other professionals to seek an order in the first place. This goes to the heart of police culture and, although I note some changes are mooted in that regard, it comes back to basic police training in the first place. Often charges are not laid for serious breaches of restraining orders. As a lawyer, many times I have found it necessary as an officer of the court to contact police and ask why charges were not laid when there were obvious and glaring examples of breaches being perpetrated time after time. Often I received an unsatisfactory response. Women in remote areas lack access to orders. Many complex issues are involved. In many country areas justices of the peace deal out the orders and often one or both parties - frequently the husband against whom the order is sought - is a family friend or a drinking partner of the person from whom the order is sought. There is lack of access to an order where there is joint tenancy or tenancy in common; that is, where the parties are joint proprietors of a property. There is lack of safety when seeking orders or secure waiting areas. I imagine that is exacerbated in country areas. There are often no police in attendance when the order is sought. Often only a police orderly is present when the order is obtained. I note reference in the second reading speech to the need for police to lodge charges when evidence arises from these hearings. In reality, the police prosecutor will make those decisions and that person is usually long gone from the court by the time applications for restraining orders are heard, because they are usually the last matter dealt with in the day, as for contested hearings.

A complete rethink is needed of the position of domestic violence in the portfolios. I recently asked the Minister for Women's Interests a question on notice about the location of responsibility for the area of domestic violence. I asked what was the rationale behind the changes. Of course, the domestic violence prevention unit was initially the responsibility of the Attorney General, because at that time Cheryl Edwardes was Attorney General and Minister for Women's Interests. I was told that domestic violence remained with the Office of Women's Interests because without reducing the Government's commitment to treating domestic violence as a crime, domestic violence and women's interests both affect a range of agencies across government. That is probably true of every agency, and it is a fairly weak explanation for the present siting of that unit and indeed the whole issue of domestic violence. Another

observation I make about the lack of importance of that portfolio - I do not criticise the existence of the Women's Interests portfolio because I am glad it exists - is that during the Estimates Committees only 20 minutes was devoted to that item. Three hours were devoted to Fisheries and Primary Industry, and I think domestic violence is worth at least one-third of the time devoted to those items. We have a commitment from Government to treat domestic violence as a crime, and this legislation comes under the auspices the Attorney General. However, funding for prevention programs is an issue. Many groups are crying out for extra funding in that area and that issue is not comprehensively addressed.

Some worthy initiatives have commenced. However, it concerns me that the domestic violence prevention unit has now been funded for two years but there appears to be a lack of planning about how funds will be spent. It was not possible to obtain that detail during the Estimates Committees. A large amount of money has been allocated for the prevention of Aboriginal domestic violence, but $250 000 has been carried over from the current Budget. Given that Aboriginal women are 53 times more likely than non-Aboriginal women to suffer from domestic violence, that is not good enough.

About half of all complaints lodged relate to country women. If one looks at the population breakdown, one sees that, of course, most women live in the metropolitan area. So, the victims of domestic violence in the country are exposed to much greater risk and incidence of domestic violence than their metropolitan counterparts, but the bulk of the money is spent in the metropolitan area.

I said at the outset that I supported the legislation. It is long overdue. Like my colleagues, I acknowledge the contribution of the former member for Kenwick, Judyth Watson, and the importance she continually placed on this legislation. I am sure she would be gratified to know it is finally being debated. She introduced a private member's Bill to address some of these issues.

I previously mentioned the service of orders, which is referred to in clause 10 of the Bill. In the past long delays have been experienced and I do not know how the legislation will change that situation. I hope the Government will detail the extra resources that will be made available to police to ensure the service of orders.

Concern has been raised by the member for Burrup and others about the emphasis placed on the 72 hour order, which is an innovation. The existing legislation provides that continuation of those orders will be granted only if they are served within 24 hours. I do not understand the logic of that. My practical experience as a lawyer is that it often takes weeks for orders to be served. I thought the 72 hour orders could be served any time during the 72 hours and still have effect. Perhaps there should be a short cutoff period for practical reasons, but to expect an order to be served in 72 hours, when in many cases there is an evasive party, is not practical. I do not understand the rationale for that.

I applaud the measure allowing telephone or oral service of orders. I note that it exists in section 176 of the Justices Act, but in 10 years of practice I have never heard of its being used. Again, it is all very well in theory, but I seek some detail as to how it will be given priority and whether police officers will be encouraged to use that type of provision.

Clause 65 refers to the example of family court orders. In my experience they are the most vexed and complicated issue when it comes to the making of restraining orders. The court does not have jurisdiction to adjust a family court order. If there is no jurisdiction, then the court is not about to make a restraining order that conflicts with that family court order. What is the definition of "conflict"? The old system involved a standard form relating to section 172 orders in the Justices Act. One of the conditions of those orders was that, except for the purposes of arranging lawful access and so on, a person shall not contact another or have any proximity to that other person. We no longer talk about "access" in the Family Court; it is referred to as "contact". Essentially we are providing for parents to have contact with their children. In many cases there will be an existing family court order at the time a person is seeking a restraining order. It is difficult to know how a person can pursue a restraining order when there is an existing contact order. Most family court contact orders simply say that Mr X shall have access to the children on certain days of the week. They do not contain any provisions for how the children will be picked up or dropped off or how contact is to be made. It is a very vexed area.

Mr Bloffwitch: That is in the Family Law Act.

Ms ANWYL: As a family lawyer, I can tell the member that it is not.

Mr Bloffwitch: When they award custody they say where the access will be.

Ms ANWYL: If the member were to practice family law for a few years perhaps we could carry on this conversation; otherwise I do not see the point.

Mr Bloffwitch: Many people have come to me with orders that are impractical and they have had to go back and do them again.

Ms ANWYL: They have to go back to the Family Court, which involves a lot of expense, as the member is well aware.

Mr Bloffwitch: That is why they do not want to go back.

Ms ANWYL: That is one issue. However, the issue that concerns me is that if there is an order like that on file, the mother of the children probably will not be able to get a restraining order to protect herself from violence, which is the whole point.

Mr Bloffwitch: All I am saying is that most of the things the member is talking about would be specified in the original order to see the children.

Ms ANWYL: They are not.

It is difficult to see how a violence order will be made if the person against whom it is made argues that it will conflict with another order. The definition of "conflict" is very important. It is a practical problem that will need to be addressed.

The changing culture in the Family Court has lead to acknowledgment in recent years that domestic violence is a very real issue. Court procedures have been modified. Previously parties were required to attend conferences together, notwithstanding that the woman might have been the subject of many years of physical, verbal and psychological abuse. I referred earlier to clients who shook with fear in my office with me. It is hard to imagine how they would conduct themselves in these conferences. Property worth hundreds of thousands of dollars might be the subject of the conference. In terms of power imbalance, it is good to see that the Family Court is acknowledging that issue.

One very positive way of addressing these issues - if we are serious about domestic violence, that must be done - would be to establish many more facilities for the involvement of either the Department for Family and Children's Services or some other agency. Funding could be made available to establish centres for supervised access, which is often specified in a court order. Such centres could also operate as the handover and contact point for access.

Mrs van de Klashorst interjected.

Ms ANWYL: Not to my knowledge. This is part of the whole problem with the domestic violence prevention units. Not much information flows between the 16 regional committees. That may be the case. I think some limited funding has been made available for that purpose. It must be acknowledged that when we are talking about domestic violence, in many cases children are involved. It seems that we are taking a very fragmented approach on this issue alone.

I refer to clause 11. I am concerned about how the onus of proof mechanism will work. Section 172 in the existing Act refers to the court being satisfied on the balance of probability, and it gives a number of options where an order can be granted. This Bill says that if the court is satisfied, an order can be granted. The theory is all very well, and I have no difficulty with it; however, having appeared on behalf of clients in front of many magistrates over many years and often been horrified when no order has been granted because the magistrate was not satisfied that some violence or some threat of violence had occurred, and by his comments - inevitably the magistrate was male - he indicated he had no understanding of the dynamics of the situation, I am concerned that a fairly subjective test is being put in place. I wonder whether the concept of the balance of probability is still implied in this clause.

In the past it has been easiest to obtain an order by relying on the section dealing with offensive or provocative conduct. In the section of the Act dealing with misconduct that would still be applicable. Under clause 11, which sets out the grounds for a violence restraining order, the magistrate must be satisfied that the respondent is likely to either commit a violent personal offence or behave in a manner that could cause fear. It almost appears to be a subjective test because the magistrate must be satisfied that such an act would cause the person applying for the order to fear. One wonders how the magistrate will weigh all that up in his - the magistrate is usually male - or her mind. I seek some clarification of how that is meant to work.

Under the present system, if the man swears at the women, for example - I use those examples because it is usually the man, rather than the woman; it can be the other way round - that is offensive or provocative conduct and, therefore, it would come under the general ambit of this clause. Now that there is a distinction between violence and misconduct, it might make it more difficult. That must be addressed. I commend the breadth of the matters in clause 12.

The question of likelihood of fear is subjective. Orders are obtained initially on an interim basis; therefore, presently, they are usually obtained ex parte. We should not lose sight of that fact. The initial obtaining of the order is for a limited time only. In this case there may be 72 hour orders, but in many cases if they are not, they will still be for a short time. Given that it is only an interim order, the provisions enable the 21 day mechanism to be used, under which the person who is the subject of the order can invoke the further process. In my view we can afford to be less stringent about the application of clause 11 than would otherwise be the case, if it were a final order that lasted for up to two years.

Of course, legislators must continually balance the rights of people against other interests. In this case, given that we are balancing the rights of an individual, as opposed to the risks that might be faced - it is commonly by the wife and/or children in these situations - some latitude can be provided, and we are keen to see how that will be enforced.

Clause 62 covers consent as a defence. This is a very vexed and difficult area of law. A consent is usually raised as a defence in the sexual assault arena. In my view this clause should not be in this legislation. It does not address the power imbalance that occurs. I note the Domestic Violence Council of Western Australia has made some representations in that regard, and I support the amendment of the member for Burrup. The existing common law position is important. However, it is also important to recognise that couples can abuse violence orders. It was interesting to note the comments of Family Court Judge Moss and New South Wales magistrate Pat O'Shane. I can pass the article containing those comments to the Parliamentary Secretary a little later. There are cases where the holder of a restraining order does entice the estranged party back to the matrimonial home for purposes of revenge or matters associated with family law orders.

We must see an important shift, such that revocation is the only ground on which there can be a proper conciliation; otherwise the whole legal status of the restraining order is demeaned. As it stands, existing section 62 does not do that. I seek further definition of "authorized person" in clause 3.

Because of the extremely complicated human situation that this Bill seeks to redress - I have not touched on misconduct orders; in some cases in which I have been involved, where a series of neighbours is involved in a variety of disputes, they are the most complex of all - there is a definite need for a review clause, especially given the establishment of the 72 hour provision and the ability to obtain orders 24 hours a day. I do not know how country magistrates will be able to deal with that. In any event, a number of practical problems must be addressed. The only way that can be done properly is to build in a review clause. The whole issue must be fully canvassed in terms of the existing support services that are available; otherwise there is very little practical importance in the legislation.

DR CONSTABLE (Churchlands) [11.57 am]: Like other speakers, I welcome this legislation which I believe is well overdue. This area has been the subject of a number of reviews and inquiries in recent years. We have heard plenty of evidence during the debate, and I will very briefly mention some evidence, about the background of this Bill relating to domestic violence.

The Australian Bureau of Statistics recently showed that one in four women are assaulted some time during their lives, either by a partner or a former partner. Further ABS statistics show that last year about one in 14 women over the age of 18 years were subject to violent attacks - a huge number of women in our community.

Mr Johnson: Does that show how many males were attacked by women?

Dr CONSTABLE: I am dealing with statistics from a particular report. I agree that there are instances where males are assaulted by women, but I suspect the number is not nearly as high as those covering attacks on women. The figures for the attacks on one in 14 women relate to violent attacks and not other forms of abuse. The Medical Journal of Australia has also studied this area. In an article in the journal in late 1995 it suggested that one in four women are physically or emotionally abused by their partners each year; that is a very high number. Its numbers show that about 10 per cent of women suffer severe physical violence. It is really interesting that the MJA has taken up this issue of domestic violence, which suggests that the medical profession sees it as a medical issue as well as one that falls into other areas within the community. I am sure all members could relate examples of women within our electorates who have been bashed by their partners.

At least three or four women have come to my office as their first port of call, because they had nowhere else to go and they felt that they were unable to return to their homes. I found that in those cases the women had been violently attacked by their husbands and the first thing they needed was medical attention.

Unless we get the underlying funding issues right the effectiveness of this legislation will be limited. The first area that needs to be addressed is the legal aid crisis. That has received a lot of publicity in recent times, particularly the changes in the funding from the federal sphere.

Mr Acting Speaker, it is very difficult to speak from this part of the House, and I know it is difficult for Hansard to hear; it is certainly difficult for me when there is so much noise.

The ACTING SPEAKER (Mr Baker): Order! The background noise is too high.

Dr CONSTABLE: One of the big issues that we must face is the legal aid crisis in funding. With the changes in federal funding this State will lose something like $3.3m to legal aid and without the Legal Aid Commission's domestic violence unit many women will not have access to the procedures to obtain a restraining order. The Commonwealth Attorney General has stated that legal aid funds cannot be used to fund restraining order applications because they come under state law. He has said that commonwealth funds can be used for non-molestation orders; however, they are not seen to be as effective as restraining orders. This leaves a huge gap in funding to women, particularly those women seeking restraining orders because of domestic violence.

If we need any evidence of the importance of this we need look only at the increasing number of applications for restraining orders in the past years. In the 1991-92 financial year 5 389 applications were sought for restraining orders, and in the 1995-96 financial year there were 7 097. The domestic violence unit of the Legal Aid Commission in 1995-96 received 1 679 applications for assistance from women seeking domestic violence orders; and 25 per cent of those women were represented by a duty lawyer. This unit has only two solicitors at its disposal, so they must work extremely hard to keep up with the demand. The Legal Aid Commission's domestic violence unit found that they were helping women in a number of areas, mainly in seeking restraining orders or where there were breaches of restraining orders; threats to kill; assault; offensive behaviour; child abduction; and stalking and damage to property. These are crucial and very important areas where we hope that women are able to seek legal aid easily. If the funds are cut - as they will be from 1 July - many women will be left to their own devices in these dreadful situations. For many women it is a daunting and difficult task to seek their own restraining order without the help of legal assistance. The Legal Aid Commission's domestic violence unit plays a vital role in the protection of these women and the resources that it requires are essential resources. It is an essential service; it is not just an extra that is provided in the community.

I fully endorse the comment in the second reading speech of the Parliamentary Secretary that we need a coordinated and comprehensive approach to domestic violence in our community. A multifaceted response is required, and restraining orders are only one part of that response. We need to spend funds on prevention, offender management, counselling, practical help, crisis care, legal advice, refuges and so on. It must be a multifaceted response if we are going to combat the incidence and to see a decline in the incidence of domestic violence in our community. One of the issues raised by the member for Kalgoorlie that I endorse is that it is difficult to get a grasp of just how those funds are being spent in our community. I would like to see that laid out for us so we can see how much is being spent and on what, and whether those programs are effective and whether the spending of limited resources is effective in this community.

I was interested yesterday to receive an answer to question on notice 1313 to the Minister for Health. I asked what budgets were allocated and spent on programs related to domestic violence for 1997-98 and in each of the past three years. The answer is staggering given that the first port of call for many women who are subject to domestic violence is medical attention. The answer was that in 1994-95 no money was spent or allocated. In 1995-96 the allocation was a measly $26 000 and none of it was spent. The answer was -

> Nil - due to lack of specific initiatives.

The Health Department could not think of one initiative on which to spend that $26 000 -

> Moneys were reallocated to other services.

That is absolutely disgusting. In 1996-97, $115 000 was allocated, and 47 per cent - less than half; that is, $55 000 - was spent. In the coming financial year the amount has been cut back by 13 per cent to $100 000. The Health Department should be able to use its imagination just a little bit and implement some programs - perhaps an education program for health workers dealing with women who come to them having been bashed by their partners and who have suffered in such a way that they need medical attention. Out of the huge Health budget $100 000 is a very small amount. I hope that in the coming financial year the Health Department will find a sensible way to spend that money.

We have seen in the past few years some evidence of cuts in certain areas, particularly in the area of women's refuge groups. We want to see what the plans of this Government are for the coming year and where we are going with women's refuges and overall in the area of prevention. We are dealing with a complex social problem and the legislation before us deals with one aspect of that problem - that is, restraining orders. Of course, restraining orders are not preventive. For many they are a stop gap measure. Until we get to the point where we are dealing with the substantial issues of domestic violence as well we will not see a great deal of change in this area.

I also drew attention to the fact that there is no review clause in the Bill. The Ministry of Justice's own report on the review of the restraining orders legislation stated -

> There should be a detailed review, based on comprehensive data, of the proposed new restraining order procedures in around three years from their introduction.

Unless we conduct such a review we will not know how well this legislation is working. Without the systematic collection of data we will not know the funding need for women who are applying for restraining orders and for others who are applying for restraining orders because of domestic violence and other causes. We would not be able to draw proper conclusions about the effectiveness of the legislation.

I support the legislation and look forward to the Committee stage when the detail of the legislation will be debated.

MS McHALE (Thornlie) [12.11 pm]: I am pleased to support the Bill, but with some qualification, the details of which shall be developed during the Committee stage.

The Bill represents years of discussion and lobbying and marks a shift in social and attitudinal change, which the Opposition welcomes. Although restraining orders are a central part of the response to domestic violence, they are not always the solution. This significant Bill provides the framework for the management of restraining orders and essentially affords legal protection for victims of domestic violence or violence in the home and victims of other forms of harassment. The Bill also gives effect to the recommendations of the review of restraining orders conducted a couple of years ago by the Ministry of Justice.

The Bill reflects the change in society's perception of domestic violence over the past 15 years. Since the 1970s legal reforms and other campaigns have changed society's view of domestic violence. My remarks will focus on restraining orders in the context of violence in the home, the effect of domestic violence on children, and domestic violence committed against Aboriginal women. I will then turn to a number of other issues the Opposition will address in the Committee stage.

In the past decade the focus has been on ensuring that domestic violence is treated as a criminal matter, to encourage the reporting of violence in the family and to alter police and judicial perceptions of violent incidents in the home. Another trend in the work on domestic violence has been the move to address gender stereotypes and gender-based myths surrounding the offence of violence in the home. Not so many years ago domestic violence was considered to be a private matter and not a criminal offence. There was also myth that women provoked attacks and that it was not the fault of the men. Although those attitudes have dissipated to a large extent because of the work done in the past 15 years, they unfortunately still prevail among a minority.

This Bill is not a solution to violence in the home because restraining orders are a response to actual violence or threats of violence and do not deal with the problems or causes of violence. Police attitudes to domestic violence are critically important. Assault charges are infrequently laid in matters of domestic violence; the police take out fewer than one per cent of restraining orders. Women to some extent still believe they will not be protected by the police and seek restraining orders as a substitute to laying charges.

The Bill is the result of a number of reports released in the past decade which studied domestic violence and the effectiveness of restraining orders. The report "Break the Silence" was released in 1986, and I had the pleasure of implementing its recommendations and setting up a domestic violence unit. Dr Alan Ralph's critical report "The Effectiveness of Restraining Orders on Protecting Women from Domestic Violence" was released in 1992; "The Report of the Chief Justice's Task Force on Gender Bias" was released in 1994; and Dr Judyth Watson's paper entitled "He is Capable of Anything" and the report "Estimating the Incidence and Prevalence of Domestic Violence in Western Australia", a report to the then Minister for Community Development, were released in 1995 .

All of those reports have laid the foundation for this Bill and all of them championed the cause of reform of the restraining order process, from obtaining an order through to enforcing it. Like the member for Kalgoorlie, I would like to mention the work done by Dr Judyth Watson who lobbied for a stand-alone piece of legislation on restraining orders, which is what we now have in this Bill.

The numerous concerns about restraining orders include the application fees for the orders; the process for revoking orders; police reluctance to initiate orders; particular difficulties experienced by Aboriginal women and non-English speaking women in obtaining orders; the intimidating environment of the court in which orders must be sought; and the lack of out-of-hours access.

This Bill is welcome to the extent that it provides more opportunities to access restraining orders in a less formidable environment and when the violence is perpetrated, not between 9.00 am and 5.00 pm, when violence is not usually perpetrated, but at weekends, at night, and so on.

The Bill is a good response and foundation for dealing with those several reports, all of which have raised the difficulties of the process of obtaining restraining orders. However, we must not lose sight of the many underlying causes of domestic violence, including things such as the economic pressures that men and women face, the attitude of men towards women and women towards men, a lack of community networks for the management of conflict in the home and also, ultimately, women's self-esteem.

Between 1991 and 1994 there were 187 homicides in Western Australia, one-quarter of which were the result of domestic violence. Exactly 50 per cent of all female homicides were a result of domestic violence, while only 5.7 per cent of male homicides were the result of domestic violence. Of 1253 spousal violence cases reported in 1994, 91 per cent were women victims. For women, incidents of spousal violence against them account for one in five reported cases, compared with less than one in 50 against men. In statistical terms and practical terms when we talk about violence in the home, we are talking about violence against women.

The effects of domestic violence on children should not go unmentioned. A child living in a domestic violence environment is an abused child. Children can become fearful, withdrawn, anxious and confused, often because they are not sure of the messages being given to them. They suffer from physical reactions and disturbed sleep, and that impacts on their school performance. They have difficulties at school and typically have difficulties making friends. Children feel caught in the middle of the parental conflict and abuse. In that context they find it difficult to talk to either parent. Again, this alienation leads to other social difficulties. Adolescents can act out anti-social behaviour or exhibit risk-taking behaviour such as alcohol and drug abuse, or run away from the violent situation. Young men may try to protect their mothers or become abusive to their mothers. These are all consequences of violence in the home and how it affects children. It is possible for children to become physically hurt because they might intervene in the violence or try to protect either parent. I urge members to focus not only on restraining orders but also where they fit in the wider social environment related to violence and its consequences.

For Aboriginal women domestic violence is a very significant social issue. From the figures I have seen, Aboriginal women are something like 37 times more likely than non-Aboriginal women to be victims of spousal abuse and 14 times more likely than non-Aboriginal women to be victims of spousal homicide. Aboriginal children are something like 12 times more likely to be victims of violence than are non-Aboriginal children. Therefore one can see why the reports over the past decade or so have spoken about the importance of special strategies and attention being paid to Aboriginal and non-English speaking women. Earlier I spoke about the 1994 report of the Chief Justice's Task Force on Gender Bias. This task force formed a subcommittee to look at the special needs of Aboriginal women. I would like to cite what the subcommittee on Aboriginal women had to say regarding restraining orders. I quote from the Aboriginal Law Bulletin of December 1994, which reads -

> A number of problems were identified with the application and enforcement of restraining orders. The Sub-Committee recommended that the application process needs to be made much easier, recommended a better method of serving restraining orders on Aboriginal men, and that the Police Department make more serious efforts to enforce them. The Taskforce Sub-Committee on restraining orders also recommended such measures, with specific suggestions for a separate unit within the court system to explain to all parties what a restraining order means.

Clearly the work of the Chief Justice focused explicitly on the difficulties Aboriginal women were having, and made recommendations. It is interesting to note that the 72 hour restraining order is seen to be a response to that. There are difficulties with that and we will canvass those during Committee. Aboriginal women wanted counselling and healing services - the culturally specific services which are entirely consistent with the way Aboriginal communities deal with conflict and violence.

Having an effective, proactive system to support victims of violence in the home is essential to deal with not just problems of domestic violence but also the consequential problems which emanate from violent homes. I refer here to the difficulties children are experiencing in violent homes.

Although we support the Bill and commend it as a great step forward, as one that stands alone to deal with restraining orders, a number of concerns have been raised. I want to reflect on a number of those. The first one may be seen as semantics but it goes beyond that, because the Bill still talks about restraining orders. I recognise and welcome that we have two different restraining orders - the violence restraining order to deal with violence against the person and the misconduct restraining order which deals with property. However, in the review of restraining orders there was a general recognition that the terminology should move away from restraining orders to protection orders. I may be wrong, but I understand from that review that Cabinet endorsed the term "protection order". Given that the report talked about protection orders, and that is a shift away from the concept of restraining the perpetrator towards providing an environment where the woman is protected, I would like to hear from the Parliamentary Secretary why that recommendation has not been adopted, and why we are talking about restraining orders and not protection orders.

The definition of an authorised person is another concern. It is not defined by legislation but I understand will be defined by regulation. We think that is unfortunate. Perhaps there may be some comment during Committee on the definition of an authorised person. The Government should be consulting widely on who would be appointed as an authorised person.

In previous debates we have canvassed the 72 hour restraining orders. That is a contentious issue. Some people in the community believe that 72 hour restraining orders are a backward step and are not necessary. One argument is that women would be better off getting an interim restraining order, and if they do not want it to continue it can lapse, rather than having a 72 hour order which will expire after that time whether or not the violent situation has dissipated. I understand that the 72 hour restraining order provides a cooling off period. As I said earlier, I understand that Aboriginal women particularly see the importance of 72 hours as a cooling off period. That matter may be debated further in Committee.

There is a problem with interim orders lapsing or not being confirmed by the woman. While that may be a mechanism for managing a short term violent situation, in general, those situations are in the minority. Women come to a restraining order after a long period of living in a violent situation, and that violent situation is likely to continue, but if a future restraining order is sought when an earlier interim order is not confirmed that may work against the woman. She may be penalised if she seeks a restraining order some time in the future. Arguments can be made for and against 72 hour restraining orders but, on balance, I support their maintenance in the legislation. However, the 72 hour restraining order should not become the main restraining order. They may be useful but their usefulness will be limited and they should not be forced on women either overtly or subtly.

A clause which causes me great concern has already been canvassed. That is clause 62 which sets consent as a defence. The clause works against the objectives of the legislation. It is also a huge loophole in what is otherwise very sound and well-constructed legislation. In all sorts of conflict situations the parties are not conducive to being familiar with each other. They are in a state of extreme anxiety, and the reality of domestic violence is that the women are often intimidated by the spouse. This clause says in effect that if the person whom a restraining order is designed to protect consents to allow her husband to come around, even though the restraining order states that the husband may not visit the matrimonial home, the consent the women provided will be regarded as a defence; therefore, the husband will not breach the legislation.

Women are often intimidated by their spouses. In cases with such history, a woman might acquiesce: The man might be charming and say, "I love you. I married you; you are my wife so let me in." The woman may let the violent spouse into the home, and violent action may occur against her. That consent may be seen as a defence because she allowed him into the home and the restraining order will not be breached. The Labor Party would like to see the entire clause deleted because of the difficulties it will create in the real environment in which women find themselves; that is, a woman may be convinced by a violent spouse that he has changed, he is not drinking any more and he really loves her. The woman is then placed in a violent situation. That is not right. The provision lets the legislation down.

If consent is used as a defence, the court under clause 62(3) can revoke the restraining order, which is very wrong. Not only is the restraining order breached, but the situation is made worse in that the woman will lose legal protection because of the apparent consent. The Opposition believes a prosecution for a breach of a restraining order may never be achieved when consent can be used as a defence. This flaw does not do justice to an otherwise sound piece of legislation. It is up to the women to revoke the restraining order, not the court.

The legislation will come into operation on a day fixed by proclamation, but the Opposition argues that the legislation should be enacted and come into operation as soon as possible after its passage: To have it fixed by proclamation is not necessary. We have been waiting over a decade for this legislation, so there should be no delay in its enactment and operation.

The member for Churchlands stated that the Bill did not contain a review clause. Given it is such a significant piece of legislation in the management of restraining orders and domestic violence more generally, the legislation should contain a review clause. Many other pieces of legislation have such clauses. The Select Committee on the Human Reproductive Technology Act 1991 was established as a result of a review clause, and the Heritage Act and many other pieces of legislation as a matter of form contain review clauses. As a number of serious and contentious issues are involved, and as a review of police activity is needed, we will move an amendment in Committee to insert a review clause. The Opposition would prefer a two year period before review, but a five year operation may be accepted. A built-in mechanism should be inserted.

In summary, the ALP welcomes the move to independent legislation which will provide an important distinction between violence against the person and violence against property. Also, it will allow for that issue to be managed in a sound way. It will be possible to obtain restraining orders out of hours as violence is more likely to occur on weekends and at night. Also, it explicitly will allow for the removal of a violent spouse from the matrimonial home.

Therefore, women will need not flee the violent home for refuge as they will have the right to stay in the home and the violent person will move out.

The Bill has some deficiencies we would like corrected during Committee; therefore, rather than being a sound Bill, it will be a very good piece of social justice legislation. I am pleased to support the measure, and I look forward to trying to convince government members that our amendments will improve the lot of women and the legislation.

MR BRIDGE (Kimberley) [12.36 pm]: This is an important debate on significant legislation because it is evident that effective restraining orders must be available to members of our society. Of course, I refer mainly here to the victims of violence. In lengthy public debate over a number of years calls have been made for Parliament to acknowledge the extent of the problem and to hear the appeals of the victims. The community has sought such a legislative measure for some time. I support and welcome the introduction of the Restraining Orders Bill.

As is often the case, the fundamental cause of this problem is lost in our parliamentary debate as the issue debated today is the end product of the socioeconomic ills of our nation. Often the economic problems which members of our society face lead to a high degree of tension, trauma and agitation. Therefore, Australia must take such problems as a clear message about the serious picture which confronts this nation. We need direction and a clear economic program to develop a satisfactory social environment in which people can survive. If that is not done, the agitation, division, anxiety and confusion which leads to personal attacks will continue to manifest in our delicate social environment as a result of a lack of socioeconomic progress. The trends that are invariably increasing in this country, whether they be of criminal offences, family violence or other matters of concern to us, graph clearly what is happening; that is, things are, in the main, very bad. It is not uncommon when travelling around inland Australia to hear well established families say that their lives are just about stuffed and they see ahead of them nothing but a hopeless pursuit. When people say that on a regular basis, they create an environment that leads to the problems that we are debating in this legislation. That is not the sole cause of the problem, but it is one of the causes. The reality of life in the community is that many Australians feel enormous despair and uncertainty. Many of those people are the ones who are targeted by this legislation, yet in an environment where they felt comfortable, secure and pretty good about themselves, they probably would not want to inflict harm upon others, least of all family members.

When we deal with measures such as this in this Parliament, we deal with only one aspect of the problem. We do not address the bigger picture. We do not address the fact that our nation no longer has manufacturing industries. Where in Australia today can we find manufacturing industries that are working for our country? We cannot find them; they have gone. We should bear in mind that when those industries are lost to our nation, that has an adverse and serious impact upon many people and, somewhere along the line, those people may inflict their pain upon others.

Mrs van de Klashorst: Just because people are in pain does not give them the right to inflict pain upon someone else. There is no excuse for that.

Mr BRIDGE: In my opinion, there is an excuse. If we continue to introduce these sorts of measures solely as advocates of the need for harmony in our country, we will not bring about the solutions that are required. We must enshrine within our thinking that that is only the symptom of the problem. The problem is that many Australians are hard up.

Mrs van de Klashorst: That is agreed, but that does not give them the right to bash someone else. They can take out their anger in other ways.

Mr BRIDGE: That may be so. This Parliament has an obligation not only to deal with the actions of those individuals but also to take an overall approach to the social ills of our society, which are not necessarily dealt with in legislation such as this. When we enact laws such as this, we should not finish there and say that we have done a good job with restraining orders and now the whole scene in the community will change. It will not change. Let me use this comparison. A sheep farmer who identified a sheep that had been stricken with footrot and who took that sheep out of the paddock to deal with that problem would not put that sheep back into that same infested paddock unless he had treated that paddock. Is that right, member for Geraldton?

Mr Bloffwitch: That is absolutely right, member for Kimberley.

Mr BRIDGE: Although this legislation deals with a statistical group whom we have identified through reports, studies and the like, the nature of the socioeconomic problems in this country now is such that another person will come off the manufacturing ranks tomorrow, the next day and the day after. It is an ongoing factor that we must deal with.

We should enact legislation such as this because it is important, proper and justifiable, and there is no question that it will benefit people in the community, but we should also reflect upon why this kind of behaviour is taking place.

We often say, "He is a decent sort of fellow; I cannot understand why he did that." The reason is a lot deeper than anything that will come out of this legislative process.

Another good example of what I am saying is the increase in gambling within our society. Huge amounts of money are being spent on gambling at the Totalisator Agency Board and the Burswood Casino. That money is generally lost by individuals in pursuit of gain. They go to the casino or the TAB because they think they will win a lot of money. They do not go there to lose money. This is all part of the socioeconomic problems in this country.

How can we as Australians feel proud about this country today when we think about the assets of this nation that are being sold off? We cannot. We are seeing a real massacre of the integrity of our nation - the things that drive us to be responsible, law abiding citizens who are proud to do a hard day's work for this country's future. That commitment to a hard day's work does not exist in the minds of many people these days. Where is the motivation, where is the inspiration, where is the environment that leads people to go home feeling good and proud to care for those around them, when they are subjected to the circumstances that we in this country are dishing out to our citizens? Until such time as we are prepared to recognise that problem, we will deal only marginally, at best, with the social problems of our country.

Let us accept this piece of legislation as meaningful legislation, but let it be a reminder to us that it is only one small part of a big picture that has deeply enshrined within it a very sad socioeconomic situation in this country, and from that sad and trying socioeconomic picture will follow, sadly, the unfavourable and unacceptable conduct that we now attribute to many of our citizens. I hope we will not allow a moment to go by in our debate of this legislation when we do not recognise and address the major problems confronting our country.

Debate adjourned, on motion by Mrs Parker (Minister for Women's Interests).

[Continued on page 4013.]

STATEMENT - MEMBER FOR PERTH

Child Migrants

MS WARNOCK (Perth) [12.48 pm]: At a time when the issue of stolen children is very much in the public eye, I want to speak on behalf of a constituent of mine, Mr Geoffrey Gray of Mt Lawley, who is one of the lost children of the Empire, as they are sometimes called. He was sent out to Australia as a child migrant - an involuntary immigrant, like the first white Australians. Like many others he is now asking the British and Australian Governments, which separated them from their families, to set up an inquiry, compensate them and apologise for the wrongs done. He believes such children were robbed of their childhood by being taken from their families and sent to a strange land. On his behalf and on behalf of many others in his difficult position, I have written to the Premier asking that the recommendations of the Select Committee into Child Migration 1996 interim report be followed, that the issue be urgently revisited and that an honorary royal commission be set up as soon as possible.

As with the Human Rights and Equal Opportunity Commission report into the stolen generation, this is not a matter of apportioning guilt but simply a responsibility to truth and justice. This issue deserves bipartisan support and I ask the Premier to act on this important matter.

STATEMENT - MEMBER FOR CARINE

Fishing Facilities for the Disabled and Seniors

MRS HODSON-THOMAS (Carine) [12.50 pm]: This is an issue of concern to many of the disabled and elderly anglers in the northern suburbs. The matter was raised with me by a member of the Extremely Disabled War Veterans Association of WA Inc and recreational anglers in the northern suburbs. It has been brought to my attention that very limited facilities are available to disabled anglers and those in their senior years. I believe that there is currently only one area that disabled anglers are able to access in the northern suburbs so that they can participate in this most enjoyable leisure activity. That area is at Hillarys Boat Harbour along the north wall. An opportunity exists to do something with the North Beach jetty, which many years ago was a lengthy jetty which was seen as a valuable asset to all of the community. Unfortunately as it fell into disrepair as a result of repeated storm damage, the shire ordered it be demolished in 1965. Later, a shorter jetty was erected at North Beach. This occurred because the deceased widow of a keen angler in the area bequeathed an amount of money to have the new jetty built for the benefit of the community. It would be prudent to provide wheelchair access to North Beach jetty as well as a fishing platform for the disabled or those in their senior years. Having said that, it is important to note that at low tide there is no water at the base of the jetty, so it would also be prudent to consider lengthening the jetty. This would be an enormous asset to the community, the elderly and, in particular, the disabled. Given the Government's commitment to provide access for the disabled, I seek the support of the Premier and the relevant Ministers for this proposal.

STATEMENT - MEMBER FOR COCKBURN

Planning - FRIARS Report

MR THOMAS (Cockburn) [12.52 pm]: I wish to address some matters which I hope will be taken up by the Minister for Planning. They relate to the report as a result of the Fremantle Rockingham Industrial Area Regional Strategy, which is being undertaken at the moment by consultants. Public meetings have been held throughout my electorate in order to discuss this matter. Two requests have emerged, which I hope the Minister for Planning might act on. One is to provide greater representation for the local authorities on the steering committee. At present there is only one person to represent the local authorities of Fremantle, Cockburn, Kwinana and Rockingham. Obviously those local authorities can have divergent views. There must be separate representation for them.

The second matter relates to the buffer zone for the Kwinana industrial area. Under the relevant legislation the zone has to be reviewed in 1999. The FRIARS report is due prior to that. It will mean that the report will have to be equivocal because the ultimate fate of the Kwinana buffer zone will not be known. I request that the review of the buffer zone be brought forward and be undertaken this year, so the results will be known by the people receiving the FRIARS report and can be incorporated in it. Without that review being brought forward the report and its conclusions will be equivocal.

In conclusion, my requests are that the representation on the steering committee be widened to include all the local authorities involved and that the Kwinana air shed or buffer zone be reviewed immediately.

STATEMENT - MEMBER FOR SOUTHERN RIVER

Rail Freight Facility - Canning Vale

MRS HOLMES (Southern River) [12.54 pm]: The proposal to allow a rail freight terminal to be located in Canning Vale adjacent to a residential area in my electorate is causing a great deal of concern in the electorate. Residents in the newly developed area of Canning Vale take great pride in their homes and environment. If any members cared to look they would not fail to be impressed at the way these people maintain their homes. The area has developed a great community spirit. It is a shining example of people working and living together in harmony. It is totally understandable that they are alarmed at the prospect of having their lives changed and raising their children next to a marshalling yard. As intelligent individuals they are fully aware that the land they occupy is adjacent to land which is zoned general industrial. However, they never contemplated this type of activity would even be considered as being compatible with a residential development. I see the proposal as an opportunity for logic to apply for the benefit of not only the people but also the company. It does not augur well for the company's public image to seek to build a marshalling yard next to a residential area. I commend the Minister for the Environment for deciding to conduct a full environmental assessment of the proposal. I hope that at the conclusion of that assessment commonsense will prevail and the outcome will be satisfactory to all concerned.

STATEMENT - MEMBER FOR ARMADALE

Heroin Crisis

MS MacTIERNAN (Armadale) [12.56 pm]: Last Sunday as the WA convener of the Australian Parliamentary Drug Law Reform Committee I chaired a public meeting on the heroin crisis facing Perth. Over 150 members of the public attended that meeting, including many parents and family members of heroin users and many current and ex-heroin users. At that meeting it became apparent that the scale of the crisis was being grossly underestimated and that far from adequate resources were being directed to deal with the problem. From the amount of information that came forward, it was of great concern to people that the Government was reducing funds in crucial areas relating to injecting drug use.

The Perth injecting users group - a voluntary, drug users' support group - is trying to keep people alive by peer education on safe practices. This is the only group of its type in Australia that is not supported by the Government. The Government is even cutting funds in its own agency, the Alcohol and Drug Authority. Funds for the authority's injecting drug users peer education program have been cut from $170 000 to $140 000 this year, and it is anticipated there will be a further cut of 2 per cent for next year. This is a disgrace. We have an obligation to keep our young people alive.

STATEMENT - MEMBER FOR JOONDALUP

North West Metro Business Association

MR BAKER (Joondalup) [12.58 pm]: It is with great pleasure that I advise of yet another milestone in the ongoing development of Joondalup as a regional city centre. Later this month the two high profile business groups in the

area - the Wanneroo Chamber of Commerce and the Joondalup Business Association - will amalgamate to form a new body to be known as the North West Metro Business Association.

This new body will represent all the business interests in the north west metropolitan region. The group's primary object will be to promote economic development and tourism in the northern suburbs. This is a very important milestone for the region, because when these two groups amalgamate they will form a new body with a membership base of in excess of 1 000 business people. It is hoped that through amalgamation the new body will act as an effective lobby group of the State and Federal Governments for various grants to assist in the economic development of Joondalup as a regional city centre. It also reflects the rapid, ongoing development of Joondalup as a regional city centre and makes it clear that city centres require a great deal of attention from Governments, even at the expense of ignoring other concerns and requests for demands for infrastructure in other areas.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

RESTRAINING ORDERS BILL

Second Reading

Resumed from an earlier stage of the sitting.

MR BAKER (Joondalup) [2.38 pm]: I rise to speak in support of the Bill, and specifically to address one concern aired by members opposite about the application or operation of clause 62. That provision is under the heading "Consent as a defence", and it provides in certain circumstances that when a person is charged with breaching a restraining order he may be able to successfully raise the defence of consent. This provision became necessary because in the past when the consent defence was raised, the presiding magistrate would disregard that defence and rely upon the fact that a valid order was in existence and only the court that issued the order could vary, discharge or revoke that order. I commend the draftsman for inserting that defence per se. I will deal with concerns raised by members opposite about the application of that defence.

Clause 62(1) refers to the word "consent" and makes clear that the term is defined in section 319(2)(a) of the Criminal Code. I will read from the Criminal Code to indicate that "consent" has a specific definition insofar as it will apply to clause 62 of this Bill -

> (a) **"Consent"** means a consent freely and voluntarily given and, without in any way affecting the meaning attributable to those words, a consent is not freely and voluntarily given if it is obtained by force, threat, intimidation, deceit, or any fraudulent means;

Immediately we can see that the concerns and fears raised by members opposite in relation to a breach of a restraining order are taken into account where the consent has been obtained by threats, inducements, fraud or deceit. That negates most of the concerns raised by members opposite.

Mr Riebeling: Is that used in relation to domestic violence?

Mr BAKER: It certainly is.

Mr Riebeling: Is it effective?

Mr BAKER: No; that is why this legislation is required.

Mr Riebeling: I thought you were saying that it has not changed and the defence is there.

Mr BAKER: Yes.

Mr Riebeling: Why do we need that clause?

Mr BAKER: In many circumstances a respondent to a restraining order might seek to reconcile with his spouse, in the event that the order arose as a result of domestic violence leading up to or involving marital breakdown. In those circumstances, the respondent would be prevented, in view of the terms of the restraining order, from effecting contact with the applicant to discuss or negotiate a reconciliation. In these circumstances, from time to time the wife might seek contact with the respondent to talk about reconciling and matters relating to the children -

Mr Riebeling interjected.

Mr BAKER: That is a possibility. However, under section 172, if the wife sought contact and the respondent contacted her, he would be in breach of the restraining order. Under this provision that would not be the case. The respondent could raise the defence of consent - not only consent per se, but also the statutory consent as defined in

section 319 of the Criminal Code. In certain circumstances, the defence of consent will arise where the parties have tried to or wish to negotiate a reconciliation or discuss something else arising out of the marital breakdown. In view of the time delays often experienced, it might not be appropriate to say to a respondent, "Yes, I will discuss reconciling with you, but you will have to get the restraining order revoked." Those words alone could cause a breach of the restraining order if they were said directly to the respondent. It would be impractical for the respondent in those circumstances to say, "I cannot talk to you" - by uttering those words the respondent would have breached the restraining order - and then to go back to the court to get a revocation to allow them to speak. That is ludicrous. The person should have the opportunity to talk if that is what the complainant wants to do.

Ms Anwyl interjected.

Mr BAKER: In the real world, applicants who have obtained restraining orders from time to time and for whatever reason want to speak to the respondent, be it an estranged spouse -

Ms Anwyl: There must be a complaint, and in this situation there would be no complaint. The difficulty with sending a message in terms of consent is that it will lead -

Mr Riebeling interjected.

Mr BAKER: Yes, that is the case. I am simply saying that it stands to reason that there should be a consent defence because the existing provision - section 172 - does not provide consent defences. If it is an order of the court, only the court can vary that order. In these circumstances, is it not inequitable that a complainant who has sought to contact the respondent to a restraining order cannot have contact? I understand the concerns; I have no gripe with that. However, we must remember that we are dealing with consent as defined in section 319 of the Criminal Code, and that is a very broad definition that ensures the consent must be given freely and voluntarily.

The other concern raised is that in the event that a defence of consent is successfully raised in a hearing in respect of a breach of a restraining order, the court can then cancel the order. Of course, that is not the case. Clause 62(3) provides that the court hearing the charge may cancel the order. The word "may" indicates that the presiding magistrate or judge has the discretion to cancel the order. It stands to reason that, in deciding whether to exercise his discretion, he will take into account the various matters one would expect to be taken into account, including the matters raised in section 319(2) of the Criminal Code. In other words, does the applicant still require the restraining order or is it an isolated instance of consent where the parties have not reconciled? The presiding magistrate would obviously exercise a great deal of caution when deciding whether to cancel the order, even if he finds the defence of consent has been made out. I hope that will allay some of the concerns raised by members opposite in respect of the application of clause 62.

MRS PARKER (Ballajura - Minister for Women's Interests) [2.49 pm]: I support the Parliamentary Secretary in the introduction of this Bill and its debate in this Chamber, and the Attorney's leadership on this matter in the other place. I am pleased with the timing of this legislation. All those involved in discussions on this issue know that it is overdue. It is good to hear the support for this legislation in this place and the other place.

As Minister for Women's Interests, I am pleased to inform the House that the integrated domestic violence action plan is about to be implemented. This legislation will be very important to the working of that plan and to addressing the very pressing problems of women throughout this State who must deal with domestic or family violence. I will use the term "family violence" in my contribution because it is a term used by Aboriginal women and communities when referring to this behaviour. It is a reflection of their different kinship systems and the different responses they have to the problems facing them. During consultations we have found that they have a different response to the problem and accordingly have asked for different mechanisms and services.

A 1995 review of the restraining orders legislation shows that, of the 532 applications lodged by women against male partners - at least 90 per cent of all reports of domestic violence are made by women - 56 per cent were lodged by married women and 26 per cent by those in a defacto relationship; 60 per cent had children below school age; and only 14 per cent were childless. Applications were evenly distributed across age groups up to 45 years of age, after which there was a significant decline. That was a clear indication of the group affected and the issues that needed to be addressed in a review of this legislation.

Ms Anwyl interjected.

Mrs PARKER: No, it was across the State.

Ms Anwyl: What period was that? That is not a full year.

Mrs PARKER: No, it was a sample group and it was referred to in the report of the review of restraining orders. Statistics were gained from that group.

Ms Anwyl: What year are you talking about?

Mrs PARKER: 1995. Is the member looking for a breakdown of what happens between city and country?

Ms Anwyl: No. You know that at least half of the reports are made in the country. A sample group of 532 is a very low number. How many would there be in an average year?

Mrs PARKER: I cannot give the member that number now.

Ms Anwyl interjected.

Mrs PARKER: Absolutely; that is right. It appeared in the review of what were the present circumstances, what were the needs to which the Attorney was looking to respond, and what improvements had to be made. The picture from that group gave an indication of the types of people being affected and the needs. Needs have been addressed in the legislation, particularly the needs of people in remote areas because the review revealed that over 50 per cent of reports came from country areas. The sample group also gave us an indication of the accommodation needs of women with young children.

One of those needs will be satisfied by the provision of a 24 hour telephone service to obtain restraining orders. That will be of significant benefit to city women who do not have transport; however, the biggest beneficiaries will be women in country areas who will be able to access support and obtain assistance urgently. That will be provided in response to the sample group because 50 per cent of requests for support came from country people.

The 72 hour orders are an innovation that were sought specifically by Aboriginal women who were part of the consultation process for the writing and drafting of this legislation and also as we consulted the communities to put in place our domestic violence action plan. Many women said specifically that they did not want their men to be incarcerated, although they wanted to be protected from violent behaviour. Therefore, the 72 hour order allows for a cooling-off period. It will allow for immediate support for these women and that can be followed up by an application for a longer term order if the threatened or actual violence has not been resolved or reconciliation has not occurred.

The other important facility in this legislation is the grounds for obtaining retraining orders. It has been made simpler and easier for people to obtain an order in circumstances of violence. The present legislation requires the applicant to prove that an assault or threatened assault took place and prove also that it will happen again. The Bill recognises that sometimes it is difficult to establish that with the authorities. Therefore, the court will now have to satisfy itself only that the respondent is likely to commit such an offence or behave in such a manner as could reasonably be expected to cause the applicant to fear that such an offence would take place. That is a significant difference. It should not be difficult, complicated or onerous for a woman to receive the protection that she and her children need and deserve.

Violence restraining orders and misconduct restraining orders will require a prioritised response from the police. That will improve the way police respond to need. It will allow the police to prioritise cases involving violence or threatened violence against a person over a case of misconduct resulting in damage to property. It is important that cases are prioritised so that when a case involves threats of violence or violence, the response time is short. The 24 hour telephone facility will be very important in providing support for women who find themselves in that awful situation. We have been able to separate child abuse reports in the Department of Family and Children's Services in a similar way. The department separates cases involving children at risk from cases involving parent management issues. As a result, we get to the children at risk more quickly and more effectively and we are better able to substantiate the abuse more effectively. I suspect that, under this legislation, the violence restraining order group will be responded to much more quickly than is the average case now.

Ms Anwyl: You have referred to the need for the 72 hour orders. Under this legislation orders must be served within 24 hours. Have you had discussions with the Minister for Police about how that will be achieved? Presently it takes a lot longer than 24 hours for the average order to be served. Have you investigated that with him?

Mrs PARKER: That is an issue. That is the reason the 72 hour cooling off period and the telephone orders will be reviewed in 12 months. We will need to review them.

Ms Anwyl: There is no review clause in this legislation.

Mrs PARKER: I will let the Parliamentary Secretary respond to that because she is managing the detail of this Bill.

Ms Anwyl: I am curious. You say there will be a review. What prompts you to say that?

Mrs PARKER: That is my advice today. Again, I will let the Parliamentary Secretary deal with that. I will get to the integrated action plan in a moment. In establishing a new organisational approach, it is always important to assess

how effective things are. I am not suggesting that we will have it right from the beginning of the integrated domestic violence plan action plan being put into place. We have made a very significant commitment to consultation through community groups, of which the member for Kalgoorlie is a member in her region, in an attempt to ensure not only that we have the organisation right at the top by having the Justice Coordinating Council approve and endorse the plan, but also that the plan is integrated properly through agencies and departments and through to the grassroots. All of those people must cooperate. At every stage we have tried to have integration, cooperation and communication across all agencies to make sure we are getting it as right as possible and according to the priorities that the community set for itself as it identified needs and requirements for services. However, that does not mean that everything will work like clockwork, that it will be all we want it to be or that we have not excluded some matters that in discussions and consultations were not prioritised.

I will be interested to see how the action plan works in practice with the resources that have been made available in the Budget. I am sure there will be teething problems in certain pockets and that we will need to refine the programs which will be put in place. I will be interested to see how the serving of the notices works in reality. I am sure the member for Kalgoorlie acknowledges that sometimes the police response time depends on the personnel who happen to be in a place at a certain time. Certainly, some of the community groups and committees have developed very good links with the police. However, in some communities those links are not as good. It is something that needs to be worked through.

Ms Anwyl: My principal concern is service. The police do not have the resources to ensure a 24 hour service and the police standing orders do not contain any direction on the priority of the domestic violence issue. It is meaningless to have a piece of legislation that requires orders to be served quickly unless there are sufficient police resources to do that and a direction from the Minister or the commissioner that that must take priority.

Mr Prince: Standing orders can come at any time.

Ms Anwyl: I am asking them to come at the same time as the legislation.

Mrs PARKER: I will let the Parliamentary Secretary deal with that detail. Both the Minister for Police and the Commissioner of Police are on the Justice Coordinating Council which has been involved in the development of this legislation. Obviously, those discussions are taking place.

Mr Wiese: There is a 24 hour access to police services.

Ms Anwyl: It is okay in theory. Now that the Minister for Police is present he may be able to shed some light on whether there is an intention to amend the standing orders or the Act.

Mrs PARKER: The Parliamentary Secretary who is acting on behalf of the Attorney General on this Bill will explain the situation. The timing of the passage of this legislation and its fairly broad support is appreciated as we go into the domestic violence action plan, which is well advanced. This year the Government has committed approximately $7m for a range of initiatives across agencies, particularly the domestic violence prevention unit. The initiatives include both perpetrator and victim counselling services. It is interesting that in the priorities set by the communities, the perpetrator programs received a lot of attention and were given high priority. We will be interested to see how it goes.

In addition there will be statewide training for the full range of service deliverers who provide services to victims and perpetrators. It is a priority for me as Minister. It is very important that the service providers are well trained to provide a quality of care. By no means is that a reflection on the people who have provided an excellent service. The training will support them as well as the people they care for.

Funding will be made available to the regional coordinators in the 16 regions. Funding will also be provided to the women's outreach support, crisis support and advocacy centres. The funding cuts to legal aid by the Commonwealth will have an effect, and it is something with which we will have to deal. It is recognised that in a number of cases support - both legal and paralegal - is required for women who take out a restraining order. It is something we will deal with as we cope with the changes to the federal government funding.

I support the Bill and its partnership with the action plan which is part of the State's response to domestic violence. We will be interested to see how a couple of provisions work in practice and we will ascertain whether there is a need to modify the legislation. There are women and families around the State who will welcome this Bill because it will increase the security and safety of women in the State.

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [3.05 pm]: I thank the members who have contributed to the debate. Many of them referred to particular clauses in the Bill and their concerns will be addressed in Committee.

Before I deal with violence restraining orders I will refer to the provision of misconduct restraining orders. It is a really important part of the Bill and, unless I missed what members said, it was not canvassed during the second reading debate. A misconduct restraining order allows people to take out a restraining order against a person who they believe is behaving in an intimidating or offensive way but not in a violent way. This is very important when one considers the problem in the community with paedophiles and people hanging around schools and looking at children. The fact that this type of order can be taken out while someone is investigated is a very important part of the Bill. Quite often people get angry and damage other people's property and it is extremely important to be able to have one's property protected by a misconduct restraining order. This type of order can also be used against a person who disturbs the peace. Members have constituents speak to them about people who are not breaking the law, but are disturbing the peace and upsetting other people in the community.

It is important that this Bill provide for a misconduct restraining order. One of the main thrusts of the Bill is the violence restraining order and every speaker today has referred to that issue. I agree with the members' comments.

One of the dangers of an application for a restraining order being granted is that people think it protects them fully. Members know from experience that the restraining order is only as good as the assistance which is forthcoming from other agencies and departments. It is difficult when a person intends to commit violence and breaches a restraining order, even though the penalties are high. It is up to the person on whom the restraining order has been served not to breach it. It is up to the police and other people to be on hand when a restraining order is issued or when a victim rings to say it has been breached.

Ms Anwyl: It does not work like that.

Mrs van de KLASHORST: We need to have the police and other people working in this area explain to the victim how to make sure the restraining order is not breached. Once it is breached that piece of paper will not save the person. It simply means that by law action can be taken against the person who breached it. Restraining orders must be used correctly and should not leave victims with the impression that they offer 100 per cent protection, because they do not. Restraining orders are only part of a whole process.

I agree with members' calls for all government agencies and departments to address the problem of violence in the home because it is not only a matter for the courts or the police. As the member for Kimberley said, everyone must take some responsibility for the incidence of violence in the community. It is a shame that when people witness assaults today they simply walk away and call the police rather than help. I understand the reasons for that, but it is a shame society has moved down that road.

Ms Anwyl: That is the whole point about domestic violence: The community has one view about violence generally and a totally different view about the level of acceptability of domestic violence.

Mrs van de KLASHORST: That was true several years ago, but that perception is changing. One of the things the Family and Domestic Task Force found when it conducted interviews around the State was that people were beginning to realise that violence in the home is a crime. As a matter of fact, the program the Minister for Family and Children's Services referred to talks about domestic violence as a crime. Members will know that the statistics show that women are safer on the streets than they are in their homes.

As the member for Kimberley said, we must tackle the underlying causes of domestic violence. The Justice Coordinating Council meets regularly to do some of that work across the whole of Government so that all the factors which lead to violence are addressed. Education programs should teach people that it is not okay to hit someone else just because they themselves are hurting. People must learn to manage their anger rather than take it out on others. Domestic violence anger programs are available to try to help perpetrators of domestic violence manage their anger.

Clause 62 has been included at the request of Aboriginal women the task force spoke to because they wanted a mechanism to remove a drunk partner from their homes during acts of violence. When the task force visited places such as Warburton and when it met Aboriginal women in Perth, Aboriginal women made it very clear that they did not want to charge their men. One Aboriginal woman in the Warburton community told me how she had taken out a restraining order against her husband and had applied to the Magistrate's Court to have it extended to have him charged. As a result the entire Warburton community of less than 300 people turned against her and she became an outcast. She wished that she had never requested the restraining order in the first place. All Aboriginal women want, are restraining orders to keep them safe until their partners are sober again. Clause 62 has been included in the Bill to try to strike that balance for Aboriginal women, who are 40 times more likely to be subjected to domestic violence than other women.

The Opposition is concerned about clause 62. It has been included in the Bill because at present there is no defence for breaching a restraining order. Present legislation does not allow a couple to come together for emergencies such as funerals, family weddings or a child's operation. Clause 62 will allow that to happen but is still aimed at protecting

the victim from violence. The Government has tried to build into the Bill a way to cover those situations, yet not make it too loose so that people can abuse it.

It also allows those couples who want to work at getting back together again to discuss their problems in, say, a lawyer's office or a marriage guidance counsellor's office without being charged for breaking the terms of the restraining order. People must freely consent to those meetings and it will be up to the police and a magistrate to decide whether people are coerced or intimidated into changing their minds to consent to seeing their partner. That is an important point. If a person became violent and tried to convince his partner to do certain things without consent, that would be a breach of this provision.

I have been advised that the Ministry of Justice will review various aspects of the Bill in six months, such as telephone orders and the 24 hour access to 72 hour restraining orders. The Attorney General has indicated that the entire legislation will be reviewed within five years to see whether it is working. I assure members that I will remind both the Attorney General and the Ministry of Justice of the need for that review.

The 72 hour restraining order must be served within 24 hours and will meet the needs of people who wish to remove their partners for 24 hours, perhaps for sobering up purposes. The 24 hour provision will allow the respondent to be held while an order is being made out and served. If a respondent is being held the woman will have the opportunity to move away from the situation. The woman will be protected while the order is being made out and served. If the order cannot be served within 24 hours it may be that the respondent has moved away and cannot be found. Therefore, it would not be commonsense to serve that order 10 days or a fortnight down the track when the matter has blown over, and the woman would not want an order served at that time. This very important legislation will address domestic violence problems. We must ensure that it is put in place and that it works. We must also ensure that a review is undertaken.

We need to address the training of people who will enforce the legislation. The Attorney General has advised that officers of the ministry staff involved will be trained in all aspects of the legislation before its proclamation. The member for Kalgoorlie queried the proclamation date. It is the intention of the Attorney General to proclaim the Bill as soon as practicable. The training manuals for court staff and the police will be completed by the end of the month. Subject to Parliamentary Counsel the regulations will be drafted by mid-July. Training of court staff and police will commence in early July, and the regulations will go to the Joint Standing Committee on Delegated Legislation around the end of July; therefore, those aspects will be addressed within a month. Brochures and posters will be prepared for distribution to courts, police stations and community agencies by early August. The training of staff at community agencies, such as women's refuges, will be completed prior to proclamation of the legislation. We have plans to train court staff, and the first round of training for police officers will be completed by 5 September, although that will be ongoing. I have a son at the Maylands Police Academy at the moment, and I believe the cadets undertake a unit on domestic violence training as part of their general training.

The necessary advertisements and forms, and the restraining order hotline will be available in September. I commend the Bill as a positive step forward in addressing the domestic violence problem in Western Australia.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mrs van de Klashorst (Parliamentary Secretary) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation -

Ms WARNOCK: I am interested in the phrase "authorised person" which is defined as a "police officer or a person who is, or who is in a class of persons that is, prescribed for purposes of this definition". Will an authorised person only be a police officer or will it also be a person who is likely to work with someone who has suffered violence; that is, the person from whom someone seeks assistance to make an application? I am thinking of someone who takes shelter in a refuge and calls on the assistance of a refuge worker, or someone else who assists people in such situation, to make application. Is there any extension on the definition of authorised person?

Mrs van de KLASHORST: The member for Perth has raised a matter which is under review at the moment. Initially, the police will be the only authorised people to get the process going and any extension will be considered under review. If extension is regarded as necessary, regulations could possibly be promulgated for that purpose, but we

need to set the procedure in place first. The idea of telephone applications is brand new, so we must see how it goes and then see whether it should be extended.

Ms WARNOCK: I understand that telephone applications are a new procedure, and I am pleased to hear that the matters to which I alluded are being considered. How many months away is this review?

Mrs van de Klashorst: It will be held within six months.

Ms WARNOCK: I am pleased to hear that. I am that sure that in the circumstances I have heard about the authorised person definition could well extend to people in domestic violence teams or refuge workers who assist people in difficult times.

Ms McHALE: I do not accept the Parliamentary Secretary's answer; it is not good enough. Bearing in mind that less than 1 per cent of restraining orders are handled by police, it is not good enough to make the authorised person only police officers for the first six months of the legislation's operation. Will the Parliamentary Secretary give some commitment that people such as domestic violence support workers will be defined as authorised persons at a later stage? The Attorney General confirmed that the further definition would be achieved by way of regulation, and the ALP indicated in the other place that this definition was not acceptable. We need assurance that a broader definition than only police officers will apply as this is a great concern.

Mrs van de KLASHORST: A problem, of course, will be the necessary training and the installation of the infrastructure for this procedure. The magistrates and people who serve the orders must have the necessary paperwork and structure set in place, and verification is involved. If the procedure is not in place until these matters are considered, the support offered by the Bill could be delayed. Once the process is running smoothly, training can be provided and other people can be included in the authorised person definition. That situation will be reviewed in six months, but we need to smooth out any hitches beforehand.

Mr RIEBELING: I understand that training is necessary for people who will receive the telephone calls in application, that certain criteria must be met, particularly in how they will proceed to draft the order; however, the "authorised person" mentioned by the members for Thornlie and Perth is the contact person from whom the victim of the assault would seek assistance. Minimal training of that person would be required in relation to the information needed. Presumably the most confidential aspect would be the phone number of magistrates, who will not like everybody knowing that information, but it will be a necessary part of the process.

Mrs van de KLASHORST: The authorised person is not the person making the application as that person is only moving on behalf of the applicant. The police will be much more willing to deal with orders than is currently the case because they must make the application under the proposed system. It is another way of training them for this purpose. Also, the person making the application on behalf of the applicant must be familiar with the Act and the procedures involved. Therefore, the procedure must be in place for a while -

Mr Riebeling: Why.

Mrs van de KLASHORST: Because of the complex procedures involved in making the application.

Mr Riebeling: The complex matter would be in the making of the order.

Mrs van de KLASHORST: They need to know whether the order is to be allowed. One issue involved will be identification. If a person rings up on someone else's behalf, the magistrate must be satisfied that the application is genuine. Of course, the police will be putting the call through, especially in the initial stages, to ensure nothing vexatious happens. This will iron out any problems which may arise. The Attorney General has decided that it is better to have the police play this role. Once that process is in place, we will establish necessary procedures, protocols and training.

Mr RIEBELING: I am somewhat concerned about what the Parliamentary Secretary half-said; that is, that the authorised officer must determine whether the complaint was required. Will the authorised person quiz the person seeking protection? Will the authorised officer make a decision on whether a restraining order is required, thus assuming a vetting position? I hope the answer to my question is no. If a person approaches a police officer with a broken arm asking for a restraining order, will the police officer quiz the person? Must an applicant satisfy two people that a restraining order is necessary - the authorised person and the magistrate?

Mrs van de KLASHORST: The authorised person must ensure that the case is genuine by using commonsense on the spot. He or she would determine whether the circumstances warranted a restraining order. If that person was not trained in this area and did not know what he or she was handling, it would make it difficult to obtain a restraining order immediately. It would be done by using commonsense. If a woman went to the police and said she had been bashed, it could be ascertained by one or two questions whether a restraining order was necessary.

Ms ANWYL: While I acknowledge that there will be a review within six months, and that is laudable, the point made by the Domestic Violence Council of Western Australia is that in many cases victims of violence do not report that violence to the police. We are talking about widening the net of people who apply for domestic violence orders, and about the role of an authorised person. The reality is that either people will not make an application, because the women, or possibly the men, will not get to the court, which is my concern, or if people do make an application, which may be by telephone, they will receive no assistance. The reason the Opposition wants to widen the definition of authorised person is to ensure that a greater number of people make an application in the first place, and that people are trained to assist those people. The people whom we are seeking to include in that widened definition are already well trained in advising people how to obtain a restraining order. That matter should be addressed, because time is of the essence in this legislation.

Mrs van de KLASHORST: It will depend upon the circumstances of the case, but if the person who was seeking the restraining order was in a refuge or was being helped by another person, it would be just as easy for that person to contact the police to obtain a restraining order on that person's behalf. We must build up the credibility of this system within the justice area. Magistrates will be rostered so that they are on call for 24 hours a day, as needed. We are starting off with fairly tight, set protocols and procedures to ensure that it will work. Nothing succeeds like success. Once the system is in place and we have ironed out any of the problems, these other matters can be considered.

Ms Anwyl: Some women will not go to the police.

Mrs van de KLASHORST: They might go to a mentor or the domestic violence manager of a refuge, or a friend, who would know, through the packages that will be sent to people who are involved in the domestic violence area, how to contact the police on their behalf. It is perhaps one extra step at the beginning to ensure that the process is correct.

Ms Anwyl: They must still cooperate with the police in order to invoke clause 18. Many women will not take that step.

Mrs van de KLASHORST: If the woman spoke to a person in a refuge or a person who was guiding her, that person might say that the way to get the best result was to ring the police. That in-between person could help that woman. One way or the other, the woman must get to the police or the court in the end. The reason that people are working in the domestic violence area is to help these frightened women to do what is best for these victims.

Ms ANWYL: We should empower the female support workers and thereby alleviate the need for the police to be involved, because many women will not pursue a restraining order through the police.

What is the reason for the Government's proposed amendment to the definition of firearms licence?

Mrs van de KLASHORST: The amendment seeks to expand the definition of firearms licence. Some members of the community have an extract of licence which entitles them to possess a firearm, and that was not included in the original clause of the Bill. I move -

Page 2, after line 23 - To insert the following -

(d) made under section 63(2);

Amendment put and passed.

Mrs van de KLASHORST: I move -

Page 3, lines 5 to 7 - To delete the lines and substitute the following -

"firearms licence" means -

(a) a licence issued, permit granted or approval given, under the *Firearms Act 1973*, entitling a person to be in possession of a firearm; and

(b) a Firearms Act Extract of Licence issued under the *Firearms Act 1973*;

Mr RIEBELING: Does an extract of licence refer to the situation where two people hold a licence and the person who is not the primary holder of the licence also has access to the firearm?

Mrs van de KLASHORST: My advisers believe that is one of the cases.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4: Making a restraining order -

Mr RIEBELING: Paragraph (c) refers to "an authorized magistrate hearing a telephone application". I am concerned about the ability to have magistrates available 24 hours a day. It appears that for violence restraining orders that are issued in response to incidents of violence, the magistrates' involvement is vital. The information I have been given is that most of the applications for violence restraining orders are made after office hours

I understand there will be an 1800 number in the metropolitan area. However, as I said during the second reading debate, the amendment under the name of the Minister for Health is that an order be registered in the court nearest to where the magistrate resides. That would indicate to me that in country areas, such as Port Hedland, Broome, Albany, Geraldton and Kalgoorlie, magistrates will also be on call for 24 hours. Has there been an agreement with the magistrates to operate on a 24 hour basis and, if not, how will the system work, especially in country areas?

Mrs van de KLASHORST: The magistrates were widely consulted over this. As the member rightly says, having someone on duty for 24 hours is a problem. The police officers will telephone central police communications which will take responsibility for receiving the call. It will then call the magistrate and the magistrate will call back. In that way we minimise the cost to the person wanting the restraining order. A person working at the central Magistrates' Court will handle the applications. The roster will work from the metropolitan area during the interim six months. We will then look at extending it into country areas. It is starting in that way so that we can set it up correctly.

Mr RIEBELING: Is the applicant responsible for the cost of phone calls?

Mrs van de KLASHORST: If the police are attending an advanced situation in a home and they ring from the home the call may take some time. It may take a quarter of an hour or 20 minutes to get the details. Every 12 seconds must be paid for. The cost of the call will be borne by the magistrate who will phone back. That will help the person in the violent situation in the home.

Mr RIEBELING: Will there be a statewide roster?

Mrs van de KLASHORST: Yes, involving all of the magistrates around the State.

Mr RIEBELING: I do not understand the amendment that the Parliamentary Secretary will be moving later, which is for the order to be registered in the place nearest to where the magistrate resides. If the duty magistrate lives in Broome, it would be farcical for a person living in Bassendean to have an order registered in the Broome court. There may be a reason it should happen that way, but it appears unwise, to say the very least, unless we are talking about two rosters with one for the country.

Mrs van de KLASHORST: Can we address the second part of the question when we move the amendment? In answer to the first part of the question, the roster is statewide for all magistrates. They have been widely consulted and agreed to it. It is the way it is worked out at the moment.

Mr RIEBELING: Has the Parliamentary Secretary been involved in those wide negotiations?

Mrs van de KLASHORST: No.

Mr RIEBELING: Did the idea go to the magistrates for discussion on whether they will gladly do this service or did the Attorney General write saying, "This will be the new legislation and therefore you will do it as part of your duties as a magistrate"? Do magistrates have their telephone calls paid for by the State?

Mrs van de Klashorst: Yes.

Mr RIEBELING: Will a magistrate on duty have to stay at home or will he be a given mobile phone?

Mrs van de KLASHORST: They will use mobile phones.

Mr RIEBELING: What sort of consultation was involved? Was it more of a directive?

Mrs van de KLASHORST: The Chief Stipendiary Magistrate reviewed the situation and made a decision in conjunction with the other magistrates.

Clause put and passed.

Clause 5: Meaning of "family order" -

Mr RIEBELING: Access orders under the Family Court Act are mentioned. Have approaches been made to the Commonwealth to allow restraining orders, which are designed to protect the wife and/or children from violence, to override the powers of the Commonwealth?

Mrs van de KLASHORST: The Bill was sent to the Family Law Court for its information. That was the extent of the consultation.

Mr RIEBELING: The Bill may have some impact on the Family Court. Was it sent with a request that it look at allowing violence restraining orders to have some protection, even if a Family Court order has previously been made? Acknowledging that that sort of clash may be a major problem, the protection of someone's safety must override all other concerns. What sort of response did the ministry receive from the Family Court? Did it say, "Do not touch our area; we are not prepared to shift" or was there some other response?

Mrs van de KLASHORST: The Standing Committee of Attorneys General is concerned about this issue. The Family Court Act of Western Australia will be reviewed. I do not know when the new Act will be in place, but when that happens some of these issues will be attended to.

Ms ANWYL: The definition of family order is wide. The present wording of the restraining order which issues from a court refers to "except for the purpose of arranging access". Has consideration been given to the wording of the order that will be issued pursuant to this Bill? Will there be any reference to contact in the order?

Mrs van de KLASHORST: The form of the order will be taken into consideration as part of the review of the restraining orders regulations, which will be available in mid-July.

Clause put and passed.

Clause 6: Meaning of application "on behalf of" -

Mr RIEBELING: This clause refers to applications made for the protection of other people. Does it affect clause 38(1)(e), which refers to where "there is no particular person to be protected". I am concerned that clause 38(1)(e) is so broad that it will be abused, and its impact weakened. Would this clause be used like section 54B of the Police Act, for instance, against unionists in the workers' embassy on the hill?

Mrs van de KLASHORST: Clause 38 could be used by the police to protect school children from someone loitering around a school. Another example is somebody annoying people getting on and off trains at a railway station. However, they must meet the criteria in clause 34 before a misconduct restraining order can be taken out.

Mr RIEBELING: Could the police take out a misconduct restraining order against unionists on the hill?

Mrs van de KLASHORST: Only if the magistrate were convinced that they were intimidating or offensive, or had caused damage to property. I do not think it can be done frivolously.

Mr McGinty: No doubt the workers' embassy ball would have been regarded as a breach of the peace by some. Could a restraining order have been taken out to prevent people from enjoying themselves during the ball? The answer is yes.

Mrs van de KLASHORST: Yes. However, the magistrate would have the commonsense to take all matters into consideration. That would happen with any restraining order anywhere.

Clause put and passed.

Clause 7 put and passed.

Clause 8: Meaning of "person to be protected" and "person protected" -

Mr RIEBELING: I move -

Page 7, line 4 - To insert after "**protected"** the words "means a natural person".

There has been a dramatic increase in restraining orders taken out by corporations against individuals. The intent of this Bill is to protect women and children against violence and allowing non-natural people - companies or corporations - to take out applications weakens the legislation. This simple amendment will retain the integrity of the legislation. The broad definitions that we debated briefly during consideration of clause 6 weaken the legislation for the same reason. I ask the Parliamentary Secretary to respond quickly to my amendment.

Mrs van de KLASHORST: I approached the Attorney General on behalf of the Opposition to seek his guidance on this amendment. There are examples where shop owners - I can give some examples in Midland, which I will not go into now - might wish to take out a misconduct restraining order against someone who is loitering in their shop with the intent, in the shop owners' view, to steal or even to intimidate. That happened in Midland recently. It could be taken out by the owners of the business, the partners of a business or several people. A misconduct restraining order can be taken out by not just one person, but by a group of people who own the business.

Mr Riebeling: It is a group of different individuals.

Mrs van de KLASHORST: Application for these orders cannot be made frivolously. The criterion of intimidation must be fulfilled, as must the other criteria we discussed earlier, before the magistrate will grant the order. The Attorney General has advised that there may be some circumstances in which a legal person, other than a natural person - for example, a shop owner - wishes to make application for a misconduct restraining order. The Attorney General wishes that to remain as part of the Bill.

Mr RIEBELING: With respect, I think the advice from the Attorney General is wrong. If the people running a shop owned by a corporation were having problems, under this legislation nothing would prevent them from taking out an application in relation to any offensive behaviour they believed would ground a restraining order. The fact that a non-natural person is allowed to go before a court, I respectfully suggest, normally means that a lawyer would represent that corporate body.

That is not what this legislation is all about. A person representing the applicant should give information about the problem. Some corporations may lodge an application for an order restraining a shop steward from entering the premises based on the fact that every time that person enters the premises, a strike ensues. I do not know what would ground an application being made for a misconduct restraining order. The legislation should define what must be proved. The misconduct restraining order applicants do not need to prove that there is likely to be violence. They have only to prove that there is some sort of offensive behaviour. Who determines what is offensive? An application could be made -

Mrs van de Klashorst: The magistrate.

Mr RIEBELING: Let us just look at the example over the road. What members on the other side of the Chamber may think is offensive behaviour, may not offend anyone on this side of the Chamber. It is all in the eye of the beholder.

Mrs van de Klashorst: People apply for restraining orders and it is up to the magistrate to grant them. Therefore, the magistrate will look at the law, read the criteria and make a decision. That is why we have magistrates.

Mr RIEBELING: He would make a decision based on the grounds that are in the legislation for granting a misconduct restraining order.

Mrs van de Klashorst: That is right.

Mr RIEBELING: The grounds for a misconduct restraining order are not what could be called onerous. It says that the person must behave in a manner that could reasonably be expected to intimidate or offend. Some forms of behaviour are not necessarily offensive. It may be that a person who goes into a shop - I doubt whether the offence of stealing would ground the order -

Mrs van de Klashorst: It could be threatening.

Mr RIEBELING: Basically it is a breach of the peace. I do not think a corporation - my advice from those in the legal fraternity is that they think this is the case - or a non-natural person should be in a position to take out a restraining order which basically is to deal with breaches of the peace and violence between individuals.

Mrs van de Klashorst: Not violence; you are talking about a misconduct restraining order.

Mr RIEBELING: This Bill deals with violence and offensive behaviour between individuals. This Bill is about individuals.

Mrs van de Klashorst: No, it is not; it has two parts - misconduct, and violence in the community.

Mr RIEBELING: Offensive behaviour falls into the second part. Restraining orders relate to violence, and misconduct restraining orders deal with offensive behaviour. That offensive behaviour is in the eyes of the beholder; that is, an actual person. The Parliamentary Secretary might not like to say that is the case, but it is. A natural person will always determine whether the behaviour is offensive. A corporate structure cannot say whether behaviour is offensive, because it is not a natural person. The offensiveness is always about an individual, not a corporate body.

Mrs van de Klashorst: It could be a group of individuals.

Mr RIEBELING: A group of individuals is comprised of natural people. That is not a problem.

Mr McGINTY: I will ask a question of the advisers through the Parliamentary Secretary which might help to throw some light on this question of the natural person. What sorts of situations currently do corporations or non-natural

persons obtain restraining orders for? That might be the best guide to what we can expect this provision to be used for in the future.

Mrs van de KLASHORST: One example is Westrail, which has taken out restraining orders to prevent some problems at railway stations or on trains. Another example relates to some of the major shopping centres that may seek restraining orders to keep people who they feel are upsetting their customers - that is, provided the criteria were satisfied - out of the shops. In my locality one chain of hotels has taken out restraining orders against a group of people who were terrorising its clientele; hanging around the hotel and annoying people who were walking in and out. These orders were granted to not one natural person, but people working on behalf of the Target shopping centres or this chain of hotels in Midland, for example.

Mr Baker: The term "person" is defined in the Interpretation Act.

Mr McGinty: This amendment has been moved to exclude that.

Amendment put and a division taken with the following result -

Ayes (15)

Ms Anwyl	Ms MacTiernan	Mr Ripper
Mr Brown	Mr McGinty	Mrs Roberts
Dr Edwards	Mr McGowan	Mr Thomas
Dr Gallop	Ms McHale	Ms Warnock
Mr Kobelke	Mr Riebeling	Mr Cunningham *(Teller)*

Noes (29)

Mr Ainsworth	Mr Kierath	Mr Prince
Mr Baker	Mr MacLean	Mr Shave
Mr Barron-Sullivan	Mr Marshall	Mr Sweetman
Dr Constable	Mr Masters	Mr Trenorden
Mr Court	Mr McNee	Mr Tubby
Mr Cowan	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Hodson-Thomas	Mr Omodei	Mr Wiese
Mrs Holmes	Mrs Parker	Mr Osborne *(Teller)*
Mr Johnson	Mr Pendal	

Pairs

Mr Grill	Mrs Edwardes
Mr Carpenter	Mr House
Mr Marlborough	Mr Barnett
Mr Graham	Mr Board

Amendment thus negatived.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Preparation and service of orders -

Mrs van de KLASHORST: I move -

> Page 9, lines 5 and 6 - To delete the lines and substitute "where the magistrate who made the order is based."

This will ensure that the court at which the magistrate is based becomes the court at which a telephone order is registered. This will ensure the Ministry of Justice courts have administrative control of restraining orders.

Mr RIEBELING: I do not disagree with the amendment. I understand from explanations regarding an earlier clause a roster system will operate for the initial six month period. Will it be on a statewide basis?

Mrs van de Klashorst: Yes.

Mr RIEBELING: That means when the Broome magistrate is on the roster, orders made through that magistrate will be registered in the Broome Court of Petty Sessions. Will people be able to make applications for variation in courts

other than those where the orders are registered? How will the magistrates' roster system work? Will the 40 or so magistrates be rostered for, say, a week or one night every month?

I understand the process will involve the police attending the home of a domestic violence situation. They will ascertain whether the applicant wishes to make a violence restraining order application. The police officer, being an authorised person, will then telephone a central point in the metropolitan area which will then contact the magistrate. The magistrate will then contact the applicant's home by phone. The authorised officer will then explain the situation to the magistrate. The magistrate will then authorise the issuing of a restraining order.

Mrs van de Klashorst: The magistrate must speak to the applicant first. The applicant would be introduced by the police.

Mr RIEBELING: The magistrate would authorise the authorised officer to issue a 72 hour, or whatever, restraining order. The following day it would be registered in the nearest court.

Mrs van de Klashorst: The magistrate is the authorising officer, not the police. The police can only apply for the restraining order on behalf of the applicant.

Mr RIEBELING: The authorising officer is the police officer.

Mrs van de Klashorst: The magistrate makes the order and the policeman writes it down.

Mr RIEBELING: The physical making out of the order is done by the authorised officer, the police officer, who would instantly serve the person. If the situation is sufficiently violent, the police officer is authorised to take the male into custody for up to two hours while the application is determined. Then the authorised officer will serve the respondent with the restraining order.

Mrs van de Klashorst: Yes.

Mr RIEBELING: The only part of the process that will cause difficulty is the first part. I suppose the answer to whether a variation or revocation of a restraining order application could be made will answer many of my queries.

Mrs van de KLASHORST: Variation applications can be made at any court. It does not have to be at the court of registration.

Mr RIEBELING: What clause does that come under?

Mrs van de KLASHORST: It is in clause 45(2), which refers to a Court of Petty Sessions, not the Court of Petty Sessions.

Mr RIEBELING: I understand that when an order is made or registered in the Court of Petty Sessions under this process, it will be registered in various places. Are all Courts of Petty Sessions linked with a computer system that enables that to occur?

Mrs van de KLASHORST: There will not be a central register. The Magistrate's Court will be responsible for the restraining orders that a magistrate issues.

Mr RIEBELING: If an order is made through the Broome Court of Petty Sessions, for example, and one wants to lodge an application for variation in the Albany Court of Petty Sessions, presumably the Albany court will not be aware of that order. When a restraining order is made in court A, will court B or C be notified of it for future applications for variation or for disputes or the enforcement of the order?

Mrs van de KLASHORST: The application for variation can be made at any court. People applying for a variation would have a copy of the restraining order and they can advise where the order was originally given. I believe that is what happens now. In the future all courts may be computer linked, but that is not the case at the moment.

Mr RIEBELING: Does the Parliamentary Secretary know how far away that is?

Mrs van de KLASHORST: No, I cannot answer that question. The information passed across my desk at some time.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 11: Grounds for a violence restraining order -

Mr RIEBELING: I do not understand why paragraph (b) has been included in this clause. A court must be satisfied that under paragraph (a) the respondent is likely to commit a violent personal offence against the applicant, which is what everyone knows, or behaves in a manner that could reasonably be expected to cause the applicant to fear that

the respondent will commit such an offence. That paragraph is clear about what the court should look at when issuing a violence restraining order. However, paragraph (b) states that granting a violence restraining order is appropriate in the circumstances. If the applicant makes out a case that the respondent is likely to be violent towards the applicant or is in fear of violence, there is no case when a violence restraining order would not be appropriate. The provision appears to be included so lawyers can work their way around issuing a restraining order. It is not needed and it should not be there. If somebody thinks a provision in an Act should not be there, one can bet London to a brick that the legal fraternity will find a way to avoid that provision.

Mrs van de KLASHORST: Lawyers do not issue restraining orders; orders are issued by magistrates.

Mr Riebeling: Defendants get lawyers to defend them.

Mrs van de KLASHORST: They do not issue the orders. The magistrate could feel a criminal offence has occurred and he might want to recommend prosecution. The legislation must be flexible to allow that.

Mr Riebeling: That should not stop a restraining order being issued.

Mrs van de KLASHORST: Clause 63(2) states that a court before which a person charged with an offence is appearing may make a restraining order against that person. The clause covers instances where a magistrate may consider that a person charged with a criminal offence should have a restraining order against him.

Mr RIEBELING: My reading of clause 11(b) is that both elements must exist, because "and" is included at the end of paragraph (a). I thought the member said that if a magistrate is of the view that the offence for which the person appears before a court constitutes grounds for fear and there is an appropriateness behind it, he or she can make an order. However, he would first have to cast his mind to the provisions of paragraph (a) and then go to paragraph (b). The fact that a person may have committed an assault occasioning bodily harm against his wife would be sufficient ground to satisfy the magistrate that paragraph (a) was satisfied. There would then be nothing wrong with the magistrate making a violence restraining order. I cannot see the reasoning behind paragraph (b).

Mrs van de KLASHORST: The first three must be made in the hearing.

Mr Riebeling: The first two.

Mrs van de KLASHORST: It could be that another charge is being heard and the magistrate must decide whether granting a restraining order is the right thing to do in that circumstance. There may be another related charge and it may not be appropriate at that time to issue a restraining order.

Mr Riebeling: Can you give an example?

Mrs van de KLASHORST: If that person is charged with an assault and it meets the criteria in the first part, the magistrate may decide to grant a restraining order at that time.

Mr Riebeling: I am not worried about "may"; I am worried about "may not".

Mrs van de KLASHORST: He might be intending to imprison the person for assault and, therefore, not issue a restraining order at the time. It gives the magistrate the flexibility in each case.

Mr RIEBELING: My understanding is that a person makes application for a restraining order or another person takes it out on their behalf. That person appears in court and the magistrate must decide whether the respondent is likely to commit a violent offence or cause fear of that violent offence. The magistrate is disposing of the application for the restraining order, and that is his task at the time. Is the Parliamentary Secretary saying that the condition in paragraph (b) will be answered in the negative only when a person is to be incarcerated for a period longer than the duration of the restraining order?

Mrs van de KLASHORST: An example might be if a person planned to leave the State. In that case the restraining order might not be issued at the time. The person may also have left the State. This clause gives the magistrate the flexibility to take the circumstances in each case into consideration. It may not be appropriate at that time to issue a restraining order because of the circumstances.

Mr RIEBELING: I do not think a court considering the issue of a restraining order could satisfy itself on the provisions in paragraph (a)(i) and (ii) in the circumstances the Parliamentary Secretary is describing. In order to satisfy the conditions in paragraphs (a) and (b) the magistrate must think the respondent is likely to commit a violent personal offence against the applicant. In the circumstances of the person against whom the order is sought being in another State, the court could not satisfy itself on the condition in paragraph (a). I hope the Parliamentary Secretary is not suggesting that if a defendant said he was going to Sydney, a restraining order would not be issued.

Many people in Australia are very mobile and the fear of a violent offence could be transferred across borders. Of course, I understand that restraining orders can be registered in other States.

Mrs van de Klashorst: It may well be that the applicant is planning to leave within 24 hours.

Mr RIEBELING: Then that person would not make application. A person applying for a restraining order in a court is unlikely to say that she wants it only for today because she plans to go to New Zealand or somewhere else the following day.

I recognise that some orders of court operate only when a person has been released from incarceration. In the case of suspension of a driver's licence, if the defendant is in prison the suspension comes into force after the person has been released. If the court knew a person had been sentenced to prison for two years for aggravated assault and did not issue a restraining order on that basis, I would be most concerned, as I am sure the applicant would be, if the person gained early release from prison. That would leave the applicant vulnerable to further attack or abuse because the restraining order had not been issued. There are not many offences for which people spend two years in prison. Many sentences are for two or more years but that head sentence does not always result in two years' incarceration. I am amazed that paragraph (b) is included, because it appears to be pointless.

Mrs van de KLASHORST: The magistrate can choose to make a restraining order for as long as he likes. If no period is specified, it will be for two years, but it could be for 10 years.

Mr Riebeling: Where is the provision to extend the restraining order beyond two years?

Mrs van de KLASHORST: Clause 16(5)(a)(i) states that subject to part 5, a final violence restraining order remains in force for the period specified in the order or, if no period is specified, for two years from the date on which the final order came into force. If no period is specified it will be two years.

Ms McHale: That is an amendment from the Minister for Health that we have not yet dealt with.

Mrs van de KLASHORST: The amendment will be dealt with when we reach that clause.

Clause put and passed.

Clauses 12 and 13 put and passed.

Clause 14: Firearms order -

Mrs van de KLASHORST: I move -

> Page 13, line 9 - To insert after "give up possession," the words "to the prescribed person and".
>
> Page 13, lines 12 and 13 - To delete "delivered to the Commissioner of Police, and dealt with," and substitute "dealt with".

Mr RIEBELING: The Opposition does not have any objection to this amendment. However, who is a prescribed person?

Mrs van de KLASHORST: That is stipulated in the regulations. It could be the police officer in charge of the local police station, and down the track it could be an Aboriginal warden under the Aboriginal communities legislation.

Amendments put and passed.

Mr RIEBELING: I move -

> Page 13, line 23 to page 14, line 5 - To delete the lines and substitute the following -
>
> (5) When making a violence restraining order the court will not make an order under section 14(6).
>
> (6) When making a misconduct restraining order a court may permit the respondent having possession of a firearm and if necessary a firearms licence relating to it, on such conditions as the court thinks fit, if the court is satisfied that -
>
> (a) the respondent reasonably needs possession of a firearm in order to carry on the respondent's usual occupation;
>
> (b) the behaviour in relation to which the order was sought did not involve the use, or threatened use, of a firearm; and

(c) the safety of any person is not likely to be adversely affected by the respondent's possession of a firearm.

This is one of the most important areas addressed in this Bill. When considering a violence restraining order - not a misconduct restraining order - a court must be of a mind that, unless restrained, the respondent is likely to commit a violent personal offence against the applicant. That involves a real danger. In addition, the court must be of a mind that the respondent will behave in a manner that could reasonably be expected to cause the applicant to fear that the respondent is likely to commit such an offence. The court must come to the view that one of those two things is likely to occur.

This legislation then provides that the court can say that the respondent needs a firearm for his work or that the firearm will not be used against the applicant and was not used as a threat. No court in the land would come to the view that a violence restraining order is grounded and then return the respondent's firearms licence. However, it is incumbent upon this Parliament to ensure that never occurs.

If a person is of such a violent nature that a violence restraining order is issued against them, they forfeit the right to have a firearm. The Firearms Act provides that if a violence restraining order is issued against a person, that person must forfeit his firearms licence and firearms to the State. This provision waters down those provisions by saying that the court has come to the decision that this person is so violent that a violence restraining order must be issued, but he can have the firearm. That is crazy. If allowed to remain as it is, this legislation will very quickly be seen to be incorrect. Unfortunately, people will be hurt because we have not prevented those with a violent nature from possessing a firearm.

Ms WARNOCK: I support my colleague on this issue. I feel most strongly about this section of the legislation. The conditions for imposing violence restraining orders, as opposed to nuisance restraining orders, are so serious that in no circumstance should the person the subject of the restraining order be able to have a firearms licence. We are talking about a person who it is generally believed will carry out a violent activity; in other words, he is likely to be a danger to the person making the application. This person may not have used a firearm against anybody or may have committed physical violence only of another kind. My view is that anybody who is violent and is seen to be violent to the extent that the partner is so frightened he or she takes out a violence restraining order for protection should not be allowed anywhere near a firearm, notwithstanding the fact that that firearm is part of the person's work. That person has abrogated any entitlement to a firearm. It is too dangerous to allow this clause of the Bill to remain as it is. I support my colleague's amendment.

Ms McHALE: If we are to do something about domestic violence - this Bill is the mechanism for managing and dealing with domestic violence - we must change social attitudes and behaviours. This clause deals with one very critical area about which we should be more forceful. The amendment is a good example of trying to deal with the issue. The use of violence in domestic violence varies. Sometimes no weapons are used. In its report, "Measuring the extent of domestic violence" commissioned by this Government, the University of Western Australia said that in incidents of domestic violence reported to police, female perpetrators are armed more often than men; however, when male perpetrators use weapons to attack their partners, a greater assortment of weapons is used, including lethal weapons such as firearms. Therefore, men are more likely to use firearms than are women. Eleven per cent of instances involving female victims involve firearms. Therefore, it is a significant issue in the management of domestic violence. I call upon the Government to consider this amendment if it is serious about the management of domestic violence.

Mr RIEBELING: The fact that a person has a weapon and that a court has found that person is violent reinforces the second part of what the court is to determine. In many domestic violence situations, part of the power the perpetrator has over the victim is the intimidation. Getting a violence restraining order against a person who is violent or likely to cause violence knowing that the respondent still has a firearm would place the applicant for the restraining order in a position of great fear. If we are serious about limiting the damage that domestic violence causes and giving relief to those victims of domestic violence through the violence restraining orders, we should not allow a firearm to be used as intimidation against the applicant for that violence restraining order.

Ms ANWYL: Under the federal guns initiative, firearms were confiscated from people who had done nothing to deserve having their guns taken from them. Here we are dealing with violent people being allowed to keep their guns. It is also more likely that this exemption will be put into effect in country areas. Women in country areas are in a more difficult position than are city women because of their remoteness. They usually have far less access to courts and/or magistrates or justices of the peace and very little access to legal representation. They never have access to legal aid for the purposes of obtaining restraining orders. They are available only through the Perth domestic violence unit. It is important that we acknowledge that this provision will have a greater effect on women in country areas of this State. Police are reluctant to get involved in "domestics" because of the very real dangers they experience. Fatalities and injuries to police are significant in these cases. Because police are placed in an invidious

position by having to confiscate firearms in the first place, it is important that police, when investigating a breach of a restraining order, are satisfied that the respondent to the restraining order is not in possession of a firearm.

Mrs van de KLASHORST: As with the other amendments I also took this one to the Attorney General. The member for Kalgoorlie said that country people were in more danger because of the lack of facilities in country areas. However, the telephone orders provisions in this Bill will address some of those concerns. I hope they will make it safer for women in country areas. Paragraphs (a), (b) and (c) of clause 14(5) give the magistrate discretion to decide whether firearms should be removed from the respondent. The problem is that the magistrate must take a number of real life circumstances into consideration when making his decision. Some people, such as police officers, need firearms to do their jobs. Therefore, the legislation will give the magistrate a discretion to decide whether a person meets the criteria laid down in clause 14. The Attorney General has advised that paragraphs (a), (b) and (c) of clause 14(5) should be read conjunctively. A complete ban on the possession of a firearm in any circumstance is extreme and could provoke a very angry response from the respondent, since the person's livelihood could be placed in jeopardy.

Ms Anwyl: Why not make it mandatory? The gender bias task force report refers to changing magistrates' attitudes. That is why it should be mandatory to remove guns. Magistrates cannot be relied on.

Mrs van de KLASHORST: We hope that magistrates will undergo training. About four weeks ago I spoke to magistrates in the central law courts about these issues. Magistrates' attitudes on these matters are changing from those which existed several years ago.

Mr McGINTY: I am disappointed at the Parliamentary Secretary's response to this issue. The Chief Justice's Task Force on Gender Bias was crystal clear; that is, that this provision should be mandatory. No exceptions were envisaged in the report of that task force, which in many ways is reflected in other clauses of the Bill. The loud and clear message that needs to go out to the community from this legislation is that if one has a gun and is the subject of a violence restraining order one loses the gun. There are no ifs or buts and no questions asked.

It brought a smile to my face when I heard the Parliamentary Secretary say that taking a gun from someone might provoke a violent response. That is the very reason this is a bad law. If such action provokes a violent response from a person, that person should not have a gun. The response by the Parliamentary Secretary is a betrayal of a lot of the interests involved in this question. The Opposition will divide on this clause because it thinks the Parliamentary Secretary has got it fundamentally wrong.

This clause is a crucial part of the legislation. This should be the best legislation in the country but, because of the Parliamentary Secretary's adherence to the view that people who are violent and bash their spouses should be allowed to keep their gun, this will be second rate legislation as a result.

Mr RIEBELING: I am also disappointed at the response to the Opposition's comments. The person representing the Minister for Justice has different views from what the Minister has instructed her to say.

If a farmer, police officer or security guard behave in such a manner that a violence restraining order is issued against them they will, under this legislation, be allowed to keep their guns. In the community a lot of farmers and police officers and myriad businesses hold firearm licences. However, a plumber is not allowed to keep his gun because he does not need to shoot anything as part of his living.

It is an interesting concept that a person should not be ordered to lose his firearm licence because he might get angry. If we use that logic, all the people who are convicted of drink driving and get angry, because they use their licence for their work, should have their licences returned to them. If a taxi driver is convicted of drink driving, should he be able to retain his licence because we do not want to interfere with that process?

This legislation is about protecting people who are in real danger. If a person is a real threat to people we should go the extra step, no matter what that person thinks about it, of taking the firearm from him. I am positive that a Court of Petty Sessions will not issue a violence restraining order lightly. The beauty of having a split level order system is that the worst offenders will get the violence restraining order and others who are a nuisance will get the misconduct restraining order. The Opposition's amendment is simply saying that if a person is so bad that they are likely to be violent to their spouse they will forfeit their firearm if they have one. People who have a firearms licence and wish to protect them like drink drivers wish to protect their licences should know that if they are violent towards another party the people of this State would not expect them to hold a licence.

The Parliamentary Secretary is aware of the support for the national firearm scheme. In that debate the majority of people thought that most gun owners were not violent people and that the imposition of the rules relating to law abiding citizens was somewhat excessive. No-one in that debate suggested that people who are issued with a restraining order should be allowed to keep their gun licence. The debate in this place was the opposite. Members

who had doubts about the national scheme - and I was one of them - said that if a person is issued with a restraining order or has a conviction for violence they should not hold a firearms licence. I perceived that to be the broad consensus of opinion in this place; however, five months later, this Chamber has before it a piece of legislation that says that if a court hearing determines a person is violent by nature they will allowed to have a firearms licence. It does not make sense.

The people of Western Australia will not support this clause. They will not believe the Government intends to allow violent people to have firearms in their possession, but that is what the Parliamentary Secretary is saying. That decision should not be left to a magistrate. It should be a decision of this place. The Parliamentary Secretary should bite the bullet and amend the Bill so that people who are subject to a violence restraining order cannot have a firearm in their possession.

Mr McGOWAN: I feel very strongly about the issues of firearms and domestic violence. When I was serving as a Navy legal officer I had cause to deal with a woman and her family who were torn apart because her husband, a serviceman in the Navy, obtained a firearm and shot the woman and then shot himself. Over a number of years I had to deal with the consequences of that action. At the time I remember thinking that people who have some sort of predisposition towards violence should not be permitted to have a firearm, irrespective of the circumstances. Having dealt with the woman and the children involved I believe there should be no exceptions and no ifs and buts.

I am sure that in my parliamentary career there will be a case where a court gives a gun back to someone who is the subject of a restraining order, and that person will commit some act of violence with that weapon. In response to that this Parliament will amend the legislation in the way outlined by the Opposition today. This Parliament should have vision in the area of gun laws. It should not simply react to tragic situations, which has been the case in the past. If the Government persists with its idea on this issue, that is what will happen and we will have to fix it in the future.

Mrs van de KLASHORST: I reiterate the comments made to me by the Minister for Justice. Subclause (5) outlines three aspects with which the court must be satisfied, and one is that the safety of any person is not likely to be adversely affected by the respondent's possession of a firearm. The magistrate must also look at the behaviour for which the order was sought and decide that it did not involve the threatened use of firearms. The respondent will be allowed to keep firearms only if the magistrate is satisfied that the safety of any person will not be at risk. The onus is on the respondent to prove that. As I have said, the Minister for Justice has advised that he will not accept this amendment.

Mr RIEBELING: I am somewhat disappointed, once again, with the response. I will tackle this issue from another angle: Can the Parliamentary Secretary advise under what circumstances it is envisaged a gun licence will be given back to a person, given the provisions that ground a violence restraining order. Under this provision the court is asked to say that a person is likely to commit a violent personal offence against the applicant. If the court comes to that mind, in my view, paragraphs (b) and (c) would not be appropriate. The provisions also relate to behaviour of such a manner that causes fear to people. If the magistrate grounded the restraining order on the basis of fear, even if the grounding did not involve the firearm, surely the safety of any person as set out in paragraph (c) is sufficient ground to give back the firearm.

In looking at what the court must do to decide the grounding of a restraining order and then at the reason for giving back the firearm, I can see absolutely no circumstance where the court would give back the gun. However, in drafting this legislation, it is clear that at least the draftsperson and, it now appears, the Minister for Justice, has had in mind a situation where the grounding of both the violence restraining order and of giving back the firearm can be justified. In the notes of the Minister for Justice to the Parliamentary Secretary, I wonder whether he has set out some situation where this Chamber can believe both can occur.

Mrs van de KLASHORST: Once again, I can only reiterate the advice provided by the Minister for Justice. The fact is that it would be a very rare case - this is my observation - where firearms would be left with violent persons.

Mr Riebeling: In including that clause, the Minister for Justice clearly was of a mind that it will be used by someone. He would not put it into legislation and then say it will not be used by anyone.

Mrs van de KLASHORST: On rare occasions, yes. Perhaps a police officer or a member of the armed forces might need their firearm as part of their job.

Mr McGowan: You cannot use a state law to take away someone's right to carry a firearm which has been given to that person under a commonwealth law. It is not to deal with a situation like that.

Mrs van de KLASHORST: Police officers are covered by state legislation, and so are farmers.

Mr McGowan: Police officers would have a right to bear a firearm under the Police Act as well.

Mrs van de KLASHORST: Farmers come into this category as well. All I can say is that I have approached the Minister for Justice with the amendment and he has given me the information I have provided.

Mr Riebeling: Perhaps you can give us your view.

Mrs van de KLASHORST: I am here to represent the Minister for Justice.

Mr RIEBELING: It is frustrating for members on this side of the Chamber when we know the Government is putting into law a flawed provision. Let us look at the prospects of this Restraining Orders Bill and its value in the battle against domestic violence. It makes people who are involved in trying to get the best solution very sad that one of the primary causes of domestic violence is the power that perpetrators have over their victims. People have told me that when a firearm is also involved, their fear is intensified greatly. The firearm may never be used; but the fact that the offender has it in his possession is of great fear to those who have a violent partner, especially one the subject of a violence restraining order.

I am sure the member for Rockingham is right when he said that in his parliamentary career - it will probably be only about 30 years - he expects this clause will come back to haunt the Government. The unfortunate thing is that when that happens the Government will come back into this place with an amendment which will do exactly what we are trying to convince the Government to do now. Sadly we will be faced with another death as a result of domestic violence before we get the correct solution. It is the same as putting up stop signs and traffic lights at an intersection in the metropolitan area: A death usually must occur at that location before the authorities take the action that should have been taken earlier. We are trying to convince the Government to take some positive step, to say that people who are violent - even police officers - will not have access to a firearm and be able to use it in a domestic violence situation.

The Parliamentary Secretary has mentioned farmers several times. How farmers can justify having a gun in a domestic violence situation is absolutely beyond me. They are not trained in the use of firearms; they do not carry guns around in their trucks as they drive around the paddocks in case they are savaged by kangaroos. Farmers are given a firearm licence to enable them to kill vermin.

Mr Masters: They use them to put down injured animals.

Mr RIEBELING: What else?

Mrs van de Klashorst: People such as council workers and security workers will have guns.

Mr RIEBELING: Absolutely. If a court has come to the conclusion that a person has a violent disposition - I do not care what that person's occupation is - why would we as a society give that person a firearm? We are asking for trouble. In one breath we are saying that we believe the person is violent and in the other that as soon as that person puts on a uniform or takes up his or her occupation, that person is okay and can have the gun back because when it is given back, the person is no longer violent! It just does not make sense. I am sure this clause will come back for amendment, and the sooner the better. I hope it is done in the very near future.

Mr WIESE: Listening to some comments during the debate indicates to me that some members have very short memories. I am sure members will remember that the firearms legislation, by agreement with me when I was the Minister for Police, was amended substantially to take account of this whole question of domestic violence and restraining orders.

I refer the Chamber to section 11 of the Firearms Act which we included at the behest of and with the cooperation of the Opposition when the Act was amended. It reads -

> (1) The commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that . . .
>
> (c) The person is not a fit and proper person to hold the approval, permit, or licence. . . .
>
> (3) The Commissioner has a sufficient ground for forming an opinion that a person is not a fit and proper person to hold an approval, permit or licence under this Act, if the Commissioner is satisfied that -
>
> (a) at any time within the period of 5 years before the person applies for the approval, permit, or licence -
>
> (i) the person was convicted of an offence involving an assault with a weapon;
>
> (ii) the person was convicted of an offence involving violence;

(iii) the person was convicted of any offence against this Act; or

(iv) a violence restraining order was made against the person,

whether in this State or any other place;

Mr Riebeling: Do you agree with us?

Mr WIESE: I am telling the member for Burrup that the matter is already dealt with. The Firearms Act provides that the Police Commissioner may not issue or renew a licence in that case. The firearm is removed from the person in a domestic violence situation immediately it occurs, or the person must hand it in and the commissioner will then deal with that matter from there on. Obviously when a restraining order is issued, the commissioner, in addition to the court, will be brought into the matter. It was the intention when we amended the Act that the commissioner would have to exercise that ability. We should bear in mind that the Firearms Act provides that the commissioner cannot grant approval if someone has previously had a violence restraining order.

Mr McGINTY: In the light of what the erstwhile Minister said, is there a conflict between the two pieces of legislation? If not why not?

Mrs van de KLASHORST: A licence cannot be renewed if a person has had a violence restraining order in the previous five years. Under this clause the magistrate has the right to decide whether to take the firearm. I will have to seek legal advice on what would be the situation if the magistrate did not withdraw the firearms licences.

Ms Anwyl: The two Bills are inconsistent.

Mrs van de KLASHORST: If the member for Wagin is right the problem will be solved, because the next time the respondent went to renew his licence he would not be able to.

Mr Wiese: The Act does not refer to the renewal. It says "grant an approval or permit or issue a licence". That will take account of when the commissioner is dealing with the matter.

Mr Baker interjected.

The DEPUTY CHAIRMAN (Mr Sweetman): Hansard is having great difficulty documenting questions put to the Parliamentary Secretary. Members should seek the call so that we can formalise proceedings and Hansard will find the job of recording the debate a little easier.

Mrs van de KLASHORST: This Bill will be reviewed.

Mr McGinty: That is not an excuse for passing bad laws.

Mrs van de KLASHORST: I will take this up again with the Minister for Justice and ask that this clause be considered in the light of the information we have received here today.

Mr RIEBELING: I thank the member for Wagin for his contribution. Did he read from section 27A of the Firearms Act, "Disqualification by court imposing restraining order"?

Mr Wiese: I read from section 11.

Mr RIEBELING: Section 27A of the Firearms Act reads -

> (1) A court making a violence restraining order against a person may order that, for a term set by the court or until a court orders to the contrary, the person be disqualified from holding or obtaining any licence, permit, or approval, or any particular licence, permit or approval, under this Act.

Unfortunately, that still allows the respondent to hold a firearms licences because it says "may". I remember the debate; I spoke on the clause at some length. We were very concerned to ensure that people with a violent history did not have access to firearms. The Parliamentary Secretary will recall that I thought the national scheme would not work too well. However, in relation to violence I thought we were moving in the right direction.

One would expect the provisions of the Restraining Orders Bill to be tougher than the provisions of the firearms legislation. This Bill is specifically designed to deal with situations of violence. We should not meekly fall in line just because the Minister for Justice in the other place thinks it is a good idea. We should be saying to the Minister for Justice that he has got it wrong, and that the amendment allowing return of a firearm to a respondent under a misconduct restraining order is far more appropriate than allowing return under the violence restraining order. Surely the member for Wagin agrees with our amendment. If it is a misconduct restraining order and does not involve violence, the firearms licence should be retained.

Progress

Progress reported.

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Council's Message

Message from the Council received and read acquainting the Assembly that the Council had agreed to Assembly Message No 3 subject to amendment, in which it seeks the Assembly's concurrence; and advising Council membership of the committee.

BANK MERGERS (TAXING) BILL

Returned

Bill returned from the Council with requested amendments.

House adjourned at 5.48 pm

QUESTIONS ON NOTICE

MINISTERIAL OFFICES - MINISTER FOR RESOURCES DEVELOPMENT

Staff

274. Mr RIPPER to the Minister for Resources Development; Energy; Education:

(1) What are the names of each staff person working in the Minister's office as at 1 December, 1996?

(2) What are the names of each staff person working in the Minister's office as at 11 March 1997?

(3) What are the names and levels of each staff member?

(4) Which staff members are -

(a) full time public servants;

(b) part time employees;

(c) term of government employees;

(d) other; and

(e) if other, what type of employment?

(5) How many of these have a government motor vehicle allocated for their use?

(6) How many of these have a mobile phone allocated for their use?

(7) Which of these staff members have a government credit card allocated for their use?

Mr BARNETT replied:

(1) As at December 1996, the following staff were employed:

Mr J Hammond
Mr R Ellis
Ms N Cant
Ms J Whittome
Ms A Paterson
Mr R Torrens
Ms C Dove
Ms D Summers
Ms G Burmaz
Ms J Contessi
Ms N Huggins
Ms K Goodwin
Ms L Kalbus
Ms K King
Mr S McCarthy

(2)-(7) As at 11 March 1997, the following staff were employed:

Mr J Hammond	Level 8	permanent public servant
Mr R Ellis	Level 8	term of government contract
Ms N Cant	Level 6	term of government contract
Ms J Whittome	Level 6	term of government contract
Mr R Torrens	Level 5	permanent public servant
Ms A Paterson	A/Level 5	permanent public servant
Ms C Dove	A/Level 5	permanent public servant
Mr B McGlew	Level 4	term of government contract
Ms D Summers	A/Level 3	permanent public servant
Ms A Bulich	A/Level 2	permanent public servant
Ms G Burmaz	A/Level 3	permanent public servant
Ms K King	A/Level 2	permanent public servant
Ms K Goodwin	A/Level 2	permanent public servant
Ms L Kalbus	A/Level 2	fixed term contract
Ms J Steer	Level 2	fixed term contract
Mr S McCarthy	Ministerial Chauffeurs Agreement	

Four vehicles are allocated to the ministerial office. Two vehicles are used by officers who are members of the Executive Vehicle Scheme and the remaining two government plated vehicles are home garaged.

Five (one spare analogue) have mobile phones and the following staff have a government credit card for business purposes:

Mr J Hammond, Mr R Ellis and Ms C Dove.

MINISTERIAL OFFICES - ATTORNEY GENERAL

Staff

289. Mr RIPPER to the Minister representing the Attorney General:

(1) What are the names of each staff person working in the Minister's office as at 1 December, 1996?

(2) What are the names of each staff person working in the Minister's office as at 11 March 1997?

(3) What are the names and levels of each staff member?

(4) Which staff members are -

(a) full time public servants;

(b) part time employees;

(c) term of government employees;

(d) other; and

(e) if other, what type of employment?

(4) How many of these have a government motor vehicle allocated for their use?

(5) How many of these have a mobile phone allocated for their use?

(6) Which of these staff members have a government credit card allocated for their use?

Mr PRINCE replied:

The Attorney General has provided the following reply -

(1)-(6) This question is a multiplication with variations on the same point which will require considerable expenditure in research. I do not believe an answer beyond this is justified. In any event it duplicates question 287 which I have already answered.

MINISTERIAL OFFICES - MINISTER FOR JUSTICE

Staff

291. Mr RIPPER to the Parliamentary Secretary to the Minister for Justice:

(1) What are the names of each staff person working in the Minister's office as at 1 December, 1996?

(2) What are the names of each staff person working in the Minister's office as at 11 March 1997?

(3) What are the names and levels of each staff member?

(4) Which staff members are -

(a) full time public servants;

(b) part time employees;

(c) term of government employees;

(d) other; and

(e) if other, what type of employment?

(4) How many of these have a government motor vehicle allocated for their use?

(5) How many of these have a mobile phone allocated for their use?

(6) Which of these staff members have a government credit card allocated for their use?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following answer.

(1)-(6) This question is a multiplication with variations on the same point which will require considerable expenditure in research. I do not believe an answer beyond this is justified. In any event it duplicates question 289 which I have already answered.

GOVERNMENT ADVERTISING - DEPARTMENTS AND AGENCIES

Expenditure

854. Mr BROWN to the Minister representing the Minister for the Arts:

(1) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

between 1 July 1996 and 30 March 1997?

(2) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

between 1 April 1997 and 30 June 1997?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

Arts WA

(1) (a)-(b) Nil.
(c) $14,070.32

(2) (a)-(b) Nil.
(c) $4,000

Library and Information Service of WA

(1) The Library and Information Service of Western Australia spent:

(a) Nil on television advertising;
(b) $5242.25 on radio advertising; and
(c) $28,554.93 between 1 July 1996 and 30 March 1997.

(2) The Library and Information Service of Western Australia plans to spend:

(a) Nil on television advertising;
(b) $16,366 on radio advertising; and
(c) $22,347 on newspaper advertising between 1 April 1997 and 30 June 1997.

Western Australian Museum

(1) (a) $13591
(b) $1580
(c) $74016

(2) (a)-(b) Nil.
(c) $2000

Perth Theatre Trust

(1) (a)-(b) Nil.
(c) $20,500

(2) (a)-(b) Nil.
(c) $2000

Art Gallery of Western Australia

(1) The Art Gallery of Western Australia has spent -

(a) $5,575 on television advertising

(b) $20,915 on radio advertising

(c) $105,227.20 on newspaper advertising between 1 July 1996 and 30 March 1997.

(2) The Art Gallery of Western Australia will spend approximately -

(a) Nil on television advertising

(b) $2,200 on radio advertising

(c) $30,000 on newspaper advertising between April 1 1997 and June 30 1997.

Screen West

(1) (a)-(b) Nil.
(c) $2699.63

(2) (a)-(b) Nil.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1199. Ms WARNOCK to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) Is the Premier aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Premier's portfolio area have members from such backgrounds?

Mr COURT replied:

(1) The "WA ONE" multicultural policy released in 1995 includes a pledge to: "Encourage all Western Australians to contribute to, and participate in, all levels of public life and the decisions which directly affect them".

(2) The Register of Boards and Committees does not include information on ethnic background.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1205. Ms WARNOCK to the Minister for Labour Relations; Planning; Heritage:

(1) Is the Minister aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Minister's portfolio area have members from such backgrounds?

Mr KIERATH replied:

(1) The "WA ONE" multicultural policy released in 1995 includes a pledge to: "Encourage all Western Australians to contribute to, and participate in, all levels of public life and the decisions which directly affect them".

(2) The Register of Boards and Committees does not include information on ethnic background.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1210. Ms WARNOCK to the Minister representing the Minister for Finance:

(1) Is the Minister aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Minister's portfolio area have members from such backgrounds?

Mr COURT replied:

The Minister for Finance has provided the following response:

(1) The "WA ONE" multicultural policy released in 1995 includes a pledge to: "Encourage all Western Australians to contribute to, and participate in, all levels of public life and the decisions which directly affect them".

(2) The Register of Boards and Committees does not include information on ethnic background.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1212. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

(1) Is the Minister aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Minister's portfolio area have members from such backgrounds?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response:

(1) The "WA ONE" multicultural policy released in 1995 includes a pledge to: "Encourage all Western Australians to contribute to, and participate in, all levels of public life and the decisions which directly affect them".

(2) The Register of Boards and Committees does not include information on ethnic background.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1214. Ms WARNOCK to the Minister representing the Minister for the Arts:

(1) Is the Minister aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Minister's portfolio area have members from such backgrounds?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

Arts WA

(1) No. Arts Investment encourages a diversity of skills on its panels and advisory boards. This includes understanding or knowledge of the arts practice of ethnic groups.

(2) The new Arts Assessment Panels are in the process of being appointed. The Arts Venture Capital Advisory Board has three people of non-English speaking background. The Theatre Industry Panel has 1 person of non-English speaking background.

Library and Information Service of WA

(1) The Library and Information Service of Western Australia is not aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees.

(2) The composition of the Library Board of Western Australia is made up from specific organisations not specific ethnic backgrounds. The Board consists of 13 members, five of whom are nominated by the Minister; six of whom are nominated by specific organisations; the Director General of Education and the Executive Director Department for the Arts.

Western Australian Museum

(1) The Western Australian Museum has had an unwritten policy encouraging such membership for many years and has drafted a formal policy which should be adopted by the end of the year.

(2) There are seven boards and committee members within the Western Australian Museum who have these backgrounds.

Perth Theatre Trust

(1) The Board of the Perth Theatre Trust is appointed by the Minister; as such, the process of appointment is not subject to the Perth Theatre Trust's internal equal opportunity policies which would cover this issue.

(2) The Perth Theatre Trust does not have access to this information in regard to the members of its Board of Trustees.

Art Gallery of Western Australia

(1) No.

(2) The Art Gallery Board does have members from migrant or "ethnic" backgrounds.

Screen West

(1)-(2) Nil.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1216. Ms WARNOCK to the Minister representing the Attorney General:

(1) Is the Attorney General aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Attorney General's portfolio area have members from such backgrounds?

Mr PRINCE replied:

The Attorney General has provided the following reply -

(1) No. There is no formal government policy encouraging people of migrant or ethnic background to serve on government boards and committees.

(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1218. Ms WARNOCK to the Parliamentary Secretary to the Minister for Justice:

(1) Is the Minister aware of any government policy encouraging people of migrant or "ethnic" background to serve on government boards and committees?

(2) How many boards and committees within the Minister's portfolio area have members from such backgrounds?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply -

(1) No. There is no formal government policy encouraging people of migrant or ethnic background to serve on government boards and committees.

(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose.

CONSUMER AFFAIRS - CONSUMER CREDIT LEGAL SERVICE

Government Funding

1250. Mr BROWN to the Minister for Fair Trading:

(1) Further to question on notice 598 of 1997, can the Minister advise if a decision has been made by the Government to provide financial support to the Consumer Credit Legal Service (WA) Inc.?

(2) When is a decision likely to be made?

(3) Is the Government giving favourable consideration to providing financial assistance for the Agency?

Mr SHAVE replied:

(1) There was no specific allocation for the financial support of the Consumer Credit Legal Service in the 1997/98 budget and alternative funding options are currently being explored.

(2) Departmental officers will be meeting with the Consumer Credit Legal Service to discuss the options for the future funding of the Agency.

(3) The Government is committed to providing appropriate services to consumers in Western Australia. The feasibility of other agencies delivering these services will be considered if agreement cannot be reached with the Consumer Credit Legal Service on the level of service it should provide in the future and funding required to do so.

GRACETOWN TRAGEDY - CORONIAL INQUEST

1254. Mr BROWN to the Minister representing the Attorney General:

(1) Is the Minister aware of the coronial inquest into the deaths of the Gracetown tragedy?

(2) What is the name of the Coroner who carried out the inquest?

(3) Is the Coroner an employee of the Ministry of Justice and/or State Government?

(4) Did matters raised at the inquest call into question the conduct and/or actions, or inactions of any Government departments or agencies?

(5) If the Coroner is a State Government employee, does any conflict of interest arise from a Government employee investigating the action or inaction of Government departments and agencies?

(6) If not, why not?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1) Yes.

(2) Mr Alastair Hope, State Coroner.

(3) The State Coroner is not an employee. He is a judicial officer appointed by the Governor on the recommendation of the Attorney General. He is entitled to hold office on the same terms as a Stipendiary Magistrate (section 6 Coroners Act 1996).

(4) The coronial inquiry raised a number of issues relating to the operations of some government agencies.

(5)-(6) Not applicable.

REAL ESTATE - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Complaints

1295. Ms MacTIERNAN to the Minister for Fair Trading:

(1) How many complaints have been made to the Real Estate and Business Agents Supervisory Board in 1992-93, 1993-94, 1994-95 and 1995-96?

(2) How many of these were complaints by consumers and how many were complaints for underpayment of representatives by agents?

(3) How many prosecutions were initiated for each of those years by the Board or the department?

Mr SHAVE replied:

(1) Complaints to Real Estate and Business Agents Supervisory Board

1992-1993	884	Real Estate and accommodation*
1993-1994	1066	Real Estate and accommodation*
1994-1995	427	Real Estate
1995-1996	471	Real Estate

* Statistics from the Ministry of Fair Trading annual report; In 1992/93 and 1993/94 complaints relating to Real Estate matters were counted in groupings of statistics which also included residential tenancy complaints. The Board commenced reporting its own complaint statistics from 1994/95.

(2) Neither the ministry nor the board record information in the format requested. The investigation of complaints about underpayment of representatives is not within the jurisdiction of the board or the Ministry of Fair Trading.

(3) Prosecutions[1] by Real Estate and Business Agents Supervisory Board or Ministry of Fair Trading

1992-1993	23
1993-1994	6
1994-1995	39
1995-1996	111[2]

[1]Prosecutions includes both inquiries held before the Supervisory Board and action in a Court of Petty Sessions.

[2]The 1995/96 figures are much higher because of a special investigation project which related to the bona fide control of real estate agencies. Included in these figures are 43 cautions issued by the Board after inquiry.

REAL ESTATE - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Interest on Trust Accounts

1296. Ms MacTIERNAN to the Minister for Fair Trading:

(1) How much was collected by the Real Estate and Business Agents Supervisory Board from interest on agents' trust accounts in 1994-95 and 1995-96?

(2) How much was spent on first home buyers scheme?

(3) Where did the remainder of the funds go?

Mr SHAVE replied:

(1)

1994-1995	$438,251.00
1995-1996	$1,490,148.00

(2)

1994-1995	$534,348.00 allocated to grants - (this amount is allocated from the Home Buyers Assistance Fund)
1995-1996	$589,154.35 allocated to grants

(3) Disbursement of interest from trust accounts

1994-1995	
Payment of Administrative Costs	$65,966.00
25% of the balance paid to Fidelity Guarantee Fund	$93,071.00
25% of the balance paid to the Education and General Purpose Fund	$93,071.00
50% of the balance paid to the Home Buyers Assistance Fund	$186,142.00
TOTAL	$438,251.00
1995-1996	
Payment of Administrative Costs	$141,984.00
25% of the balance paid to Fidelity Guarantee Fund	$337,041.00
25% of the balance paid to the Education and General Purpose Fund	$337,041.00
50% of the balance paid to the Home Buyers Assistance Fund	$674,082.00
TOTAL	$1,490,148.00

REAL ESTATE - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Members

1297. Ms MacTIERNAN to the Minister for Fair Trading:

Who are the members of the Real Estate and Business Agents Supervisory Board and, in respect to each person, which agency, company or firm are they engaged by or are principals of?

Mr SHAVE replied:

Member	Occupation	Firm
David Charles Miller (Chairman)	Legal Practitioner	Kott Gunning Barristers and Solicitors Level 11 Australia Place 15 William Street, PERTH
Lyn Pugh	Certified Practising Accountant	Retired
Gordon Bragg	Legal Practitioner	Godfrey Virtue Barristers and Solicitors
Jeremy Hughes	Licensed Agent	J R Hughes & Co 367 Canning Highway COMO
William Goddard	Licensed Agent	Goddard & Goddard 59 Napier Street NEDLANDS

REAL ESTATE - REAL ESTATE INSTITUTE OF WA

Grants

1298. Ms MacTIERNAN to the Minister for Fair Trading:

How much money is directed through the Real Estate Institute of Western Australia each year through grants or other payments from -

(a) the Real Estate and Business Agents Supervisory Board or the Department of Fair Trading; and
(b) what is the purpose of each of these grants?

Mr SHAVE replied:

(a) $310,982.00 for 1996/97

(b) The Board subsidises the establishment and conduct of professional development training programs in agency practice. The subsidy is 50% of the total cost of a course in the city and 75% in the country. The Real Estate Institute of Western Australia, TAFE, Curtin University and the Ministry of Fair Trading are institutions prescribed under the Act to undertake professional development activities. In addition, the Board will consider applications from these institutions for a subsidy to prepare and/or acquire course presentation materials and equipment.

REAL ESTATE - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Elections

1299. Ms MacTIERNAN to the Minister for Fair Trading:

(1) Who conducts the ballots for the representative of the real estate agents on the Real Estate and Business Agents Supervisory Board?

(2) How many persons are eligible to vote and how many voted in the last election?

(3) How is the ballot conducted?

(4) How many licensed real estate agents are there in Western Australia?

(5) How many prospective representatives undertook the various representative courses -

(a) in 1995; and
(b) in 1996?

Mr SHAVE replied:

(1) Western Australian Electoral Commission.

(2) 2853 licensed real estate agents were eligible to vote; 1333 actually voted.

(3) Secret ballot and preferential voting system.

(4) 2878 as at 30.5.97.

(5) (a) 1994/1995 701
(b) 1995/1996 784

FAIR TRADING - MINISTRY

Real Estate Business Unit

1300. Ms MacTIERNAN to the Minister for Fair Trading:

(1) In November 1996, the Government commissioned a report into the function of the Real Estate Business Unit of the department. Has this report been completed?

(2) If yes, will the Minister table the report?

(3) If no, when will the report be completed?

Mr SHAVE replied:

(1) The consultant has presented a draft report to the Acting Executive Director of the Ministry of Fair Trading.

(2) When the Acting Executive Director provides me with a copy of the final report, I would be pleased to table it in the House.

(3) Not applicable

GOVERNMENT EMPLOYEES SUPERANNUATION SCHEME - DE FACTO SPOUSES

Recognition

1317. Dr CONSTABLE to the Minister representing the Minister for Finance:

(1) Were any actuarial calculations conducted to estimate the cost of the 1993 amendments to the Government Employees Superannuation Scheme which recognised de facto spouses?

(2) If yes to (1) above, what was the estimated cost?

(3) If no to (1) above, why not?

(4) What is the actual cost to date of recognising de facto spouses under the Scheme?

Mr COURT replied:

The Minister for Finance has provided the following response:

(1)-(2) No specific estimates of the cost of recognising de facto spouses were calculated prior to the 1993 amendments. At that time, the Board's then consultant Actuary advised that any cost would be negligible given the actuarial assumptions of the Pension Scheme. In March 1997, the Board's current consultant Actuary confirmed that advice.

(3) Not applicable

(4) To 30 May 1997, the total additional cost of recognising de facto spouses was $22,458.

LEGISLATION - REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES

Muslim Families

1319. Mr GRAHAM to the Minister representing the Attorney General:

(1) Has drafting commenced for legislation affecting the registration of births, deaths and marriages, particularly to allow children of Muslim families to name their children in accordance with their religious beliefs?

(2) If so, when will the legislation be introduced into Parliament?

(3) If no to (1) above -

(a) why not;
(b) when will drafting commence?

Mr PRINCE replied:

The Attorney General has provided the following reply

(1) Yes.

(2) Spring session.

(3) Not applicable.

ENVIRONMENT - WITTENOOM

Access to Asbestos Tailings Dumps

1322. Mr GRAHAM to the Minister for Commerce and Trade:

(1) Is public access to the asbestos tailings dumps in the Wittenoom area restricted?

(2) If not, why not?

(3) If yes to (1) above -

(a) what form of restriction/s is/are in place;
(b) when was/were the restriction/s put in place;
(c) what was the cost of putting the restriction/s in place;
(d) do the restriction/s prevent access to all asbestos tailings;
(e) which areas are still accessible to the public?

Mr COWAN replied:

(1) Yes.

(2) Vehicular access on the public road to this area is restricted by a lockable gate at the Hancock Group of Companies' general purpose leases. Replacement warning signs are to be erected within the next two weeks. In addition, brochures have been widely circulated warning the public of the risks in visiting this area. I have asked the Inter-departmental Committee on Wittenoom to consider further access restrictions for vehicles and pedestrians to the asbestos tailings dumps in the area.

(3) Not applicable.

QUESTIONS WITHOUT NOTICE

POLICE - CORRUPTION

Open Hearings

419. Dr GALLOP to the Premier:

(1) How is the public interest served by conducting police corruption inquiries behind closed doors?

(2) Does the Premier agree that open hearings encourage whistleblowers to come forward, deter others from corrupt and criminal behaviour and help restore public confidence in the Police Force by ensuring justice is seen to be done, as has been demonstrated in other parts of Australia?

Mr COURT replied:

(1)-(2) When we came into Government in 1993 the Police Force in Western Australia was an under-resourced, appalling mess. The then Minister for Police, the member for Wagin, and I had some discussions early in our term in government, particularly after the so-called Sinatra's affair. We were not at all happy with what we saw as a cover-up that had taken place in that matter.

The Cabinet had lengthy discussions about the concerns coming through. Putting it simply - I have said this previously - we did not have confidence in the then Police Force. We put in place a strategy which involved

major changes in the upper echelons of the Police Force. It involved making sure we put a financial commitment into that area and we quite deliberately brought in - this was criticised by the Opposition - an outsider from Victoria to head the Police Force. We were criticised for not having promoted someone from within the Western Australian Police Force to that position; however, we believed there was a need for a break.

The new Police Commissioner, Bob Falconer, said that in his five year term he wanted to bring about a major cultural change within the Police Force, to turn it into a professional police service. He said that at the end of five years we would have a choice of Western Australian police officers who could take over his position. We then put in place the resources. We have fully supported the change that has taken place, to which members opposite referred last night as a managerial approach. Interestingly the results have been coming through.

Several members interjected.

Mr COURT: The member for Pilbara, in congratulating -

The SPEAKER: Order! I believe we have been having reasonable question times. In my view question time yesterday was ratty. One of the reasons for that was that many people wanted to get into the action at the same time. From the Chair, I am allowing a degree of interjection from the person who has asked the question, who wants to pursue it, and the Leader of the Opposition on occasions. A reasonable latitude is being allowed. However, the problem is that if members from both sides of the House want to get into the act, it creates a situation that is not acceptable. I will give the Premier the call again and ask members to restrict their interjections.

Mr COURT: In congratulating John Standing on his honours recently, the member for Pilbara agreed that the changes which have taken place have led to the devolution of power and have been a great success in the north of the State. It is typical of the changes that have been made within the Police Service.

In answer to the question, during the four years in which he had responsibility for this portfolio, the former Police Minister, the member for Wagin, laid the foundations for a major change to the Police Service. We have come up with a strategy designed to fix the mess that those opposite left us. The current Minister for Police is continuing that strategy. This is a very important question. In the first four years of our term in office we established the Anti-Corruption Commission.

Mr Marlborough: You put someone with rigor mortis in charge of it.

The SPEAKER: Order! I caution the member for Peel.

Mr COURT: This enables an independent body to carry out these investigations. In 10 years in government the Labor Party never allowed an independent body with such powers to investigate allegations of police corruption. We have done that.

Those opposite did absolutely nothing. They can sit in this House and run down the Police Commissioner and the Police Service, but we have put in place a strategy. I am not saying we have all the answers. I am very disappointed about allegations that are made; but I fully support going through the process where an independent body established by this Parliament is involved, and it is quite appropriate that it be allowed to carry out those investigations. We now have a Police Commissioner in this State who quite willingly and openly wants those allegations examined by an independent body - something that never happened under a Labor Government.

EMPLOYMENT AND TRAINING - UNEMPLOYMENT

Figures

420. Mr MARSHALL to the Premier:

The Australian Bureau of Statistics has today released the national unemployment figures for May 1997. Can the Premier please inform the House of the latest unemployment rate for Western Australia and compare it to the results in other States?

Mr COURT replied:

I am very pleased that the unemployment rate has come down to 7 per cent. I am concerned that the national rate has gone up to 8.8 per cent. This State again has the lowest unemployment rate in Australia. This is still not good enough. It is important that we continue the drive to attract higher levels of new investment in the private sector across a wide diversity of industries so that those unemployment levels can be brought down further. I am

particularly pleased to see that the unemployment rate for 15 year olds to 19 year olds has fallen to 17.3 per cent, 11 per cent below the national average, and continues to be the lowest youth unemployment rate in this country.

Several members interjected.

Mr COURT: Members opposite can interject, they seem to want to put a negative slant on everything. However, they should be pleased with the continuing trend in Western Australia.

Mr Kobelke: What is the trend with job creation?

Mr COURT: The trend in four years is from 0 to about 106 000 new jobs. However one draws it on the graph, it goes up pretty high.

POLICE - CORRUPTION

Tomlinson Committee Evidence

421. Mrs ROBERTS to the Premier:

On Tuesday during a matter of public interest and again during question time yesterday, the Premier asserted that the Anti-Corruption Commission had been asking the Legislative Council since September last year for all of the Tomlinson inquiry evidence; yet Hon Derrick Tomlinson has reaffirmed that was not the case.

(1) Will the Premier now admit that the only evidence requested by the ACC was that relating to the Stephen Wardle case, as his letter to Hon Derrick Tomlinson dated 10 March demonstrates?

(2) Will he now table all the correspondence from the ACC to him, including the letter that Mr Mann claims to have written requesting his assistance in having all the Tomlinson evidence released?

Mr COURT replied:

In September last year the Attorney General said in Parliament that he believed all that information should go to the ACC. It is correct that the ACC asked for the Stephen Wardle information to be released and that a motion was moved in the Legislative Council. It has not gone through. Yesterday that committee met again.

Mr Kobelke: The committee does not exist.

Mr COURT: The members of the committee met and they believe that information should not go from the Legislative Council.

Mrs Roberts: Has the ACC asked for all the information or not? The Premier should answer that question, because he has misled the House.

Mr COURT: It will be a matter on which the Legislative Council will decide. It is my view that information should go to the ACC with the necessary safeguards.

POLICE - CORRUPTION

Tomlinson Committee Evidence

422. Mrs ROBERTS to the Premier:

The Premier has misled the House. He said the ACC asked for all the evidence since September -

The SPEAKER: Order! The member for Midland knows full well that with supplementary questions members are not allowed to give a preamble. The supplementary question is ruled out of order. The member for Joondalup.

Point of Order

Mrs ROBERTS: Mr Speaker -

The SPEAKER: There is no point of order. The member for Midland was given the call to ask a supplementary question. She then went on to make a statement. I am trying to get the House to understand that in supplementary questions members must not make run-in statements; they must ask the question. It is totally within my discretion and I have ruled it out of order.

Mrs ROBERTS: My point of order please, Mr Speaker.

The SPEAKER: Order! There is no point of order.

Questions without Notice Resumed

POLICE - WATER POLICE DEPOT

Mullaloo-Quinns Rock

423. Mr BAKER to the Minister for Police:

Will the Minister consider supporting the construction of a second water police depot facility in the northern suburbs between Mullaloo and Quinns Rocks; for example, Ocean Reef?

Mrs Roberts: You are protecting the Premier, Mr Speaker.

The SPEAKER: Order! I could interpret the interjections by the member for Midland as a reflection on a statement from the Chair. If she wants to ask questions at a later stage during this question time, I will give her the call; she should relax.

Mr DAY replied:

I thank the member for some notice of this question.

There are no plans to construct an additional water police depot between Mullaloo and Quinns Rock. The cost of establishing a facility would be substantial and it is considered that the best economies of scale at present can be achieved by maintaining the existing facility at North Fremantle. However, this does not mean the northern coastal suburbs do not receive attention from the water police as they can and do operate in that area.

PRISONS - BUNBURY REGIONAL

Visitors' Centre

424. Mr OSBORNE to the Parliamentary Secretary representing the Minister for Justice:

(1) Is the Parliamentary Secretary aware of the longstanding community pressure for the establishment of a visitors' centre at Bunbury Regional Prison?

(2) Does the Government intend to agree to this community call; if not, why not?

Mrs van de KLASHORST replied:

I thank the member for some notice of this question. The Minister has provided the following reply:

(1)-(2) The initiative to establish prison visitor centres is well supported by the Government with a number of centres already operating across the State. With due regard to the number of sections within the Ministry of Justice seeking additional resources, priority is being given to opening a centre at Bunbury Regional Prison as soon as it is practicable.

POLICE - CORRUPTION

Former Police Officers - Investigation

425. Mrs ROBERTS to the Minister for Police:

Some notice of this question has been given.

Yesterday I asked the Minister whether the alleged corrupt activities of former police officers Colin Pace and Wayne Barnes had been referred to the ACC. Not only was he unable to answer the question, but also he revealed that he had not even read the AFP report on the Argyle Diamonds affair.

(1) Have the issues relating to Pace and Barnes been referred to the ACC?

(2) Has the Minister now read the AFP report; if not, does he intend to read it?

Mr DAY replied:

I find it very interesting that the Opposition chooses to raise the AFP report once again. The investigation into the Argyle Diamonds matter was of considerable interest and still is. It is interesting to see who was in government when effective action was taken.

Several members interjected.

Mr Marlborough: Eight senior officers' careers have been put on hold. Go and speak to Argyle Diamonds; they will tell you who were the heroes.

Mr DAY: The member does not want the answer to this question.

Mr Marlborough: Those officers' careers were put in jeopardy for no reason.

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

Mr DAY: It is interesting to look at the record regarding who was in government when -

Mr Marlborough interjected.

Mr DAY: The member does not want the answer to this question.

Mrs Roberts: We want the answer to the question.

Mr DAY: The member for Midland should listen and she will hear it. The original complaint into the Argyle Diamonds matter was made in November 1989. Following that complaint a total of three investigations were undertaken. The first commenced in January 1990, the second in February 1992 and the third in January 1993. The comments by the AFP on the Argyle Diamonds matter are interesting and read -

> Police attention to the serious issues raised by Argyle Diamond Sales Limited -

Point ofOrder

Dr GALLOP: On a number of occasions it has been obvious that Ministers are not addressing the specific questions. Mr Speaker, legitimately according to your interpretation, you ruled a supplementary question out of order on the grounds that preliminary comment prefaced it. We respect that. However, a series of Ministers are not addressing the questions asked of them. The question the member asked was specifically about the allegations relating to two former police officers. I ask you, Mr Speaker, to bring the Minister to order so that he answers that question.

The SPEAKER: There is no point of order. Members are entitled to ask their questions. The way in which Ministers answer those questions is totally up to them. That may include a detailed answer, an abbreviated answer or what some people perceive to be a non-answer. Everyone who sits in this place will make their own judgment about the quality of the answers.

Questions without Notice Resumed

Mr DAY: I will get to the specific points. However, it is important that the House has a little background. The report states -

> Police attention to the serious issues raised by Argyle Diamond Sales Limited . . . over the period 1989-1994 -

Members can reflect on who was in government for most of that time.

> - was an unfortunate chapter in the history of the Western Australia Police Service . . .
>
> For a variety of reasons . . . each of the three previous inquiries failed to resolve all of the issues . . .
>
> It is also apparent that since the appointment of Commissioner Falconer much has been done to correct the inadequacies and lack of focus experienced in the past.

This action has been taken in the term of the current Commissioner of Police and in the term of the current Government. On the allegations of corruption the report states -

> On the available evidence WAPOLINV -

That is the name of the investigation.

> - considers that there is insufficient evidence to commence criminal proceedings alleging 'corruption' against any serving or former member of WAPOL.

That is, the Western Australia Police Service.

Mr Marlborough: What a joke!

Mr DAY: That is what the report the member for Midland asked about states.

Mr Marlborough interjected.

The SPEAKER: Order! I sometimes allow interjections when Ministers hesitate and listen and appear to want to answer the interjection. If Ministers want to accept interjections, I will allow a degree of them. However, if people

persist in making interjections and the Minister is obviously not going to respond, I will take action to ensure the Minister can be heard.

Mr DAY: The report goes on to say that disciplinary action and counselling should be undertaken for a number of officers. That report was tabled in Parliament last year.

I am advised that Colin Pace refuses to answer questions. However, members should observe that under the legislation that was introduced in this Parliament by this Government, the Anti-Corruption Commission has established a special investigator with the powers of a royal commission and coercive powers to require answers to be given can be used. That action has been taken by this Government. I understand that Wayne Barnes is in Queensland at present.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Australian Federal Police Report

426. Mrs ROBERTS to the Minister for Police:

(1) Is the Minister aware that the Commissioner of Police gave a commitment last year that matters referred to in the Australian Federal Police report would be referred to the Anti-Corruption Commission?

(2) Will the Minister approach the commissioner to establish whether that commitment has been honoured and report back to the House immediately?

Mr DAY replied:

(1)-(2) Yes.

ARTS AND CULTURE - PERFORMING ARTS CENTRE

Mandurah

427. Mr NICHOLLS to the Premier:

For 20 years the Mandurah community has had a critical need for a facility in which community, civic and a variety of cultural activities could be suitably staged. For over a decade concepts and plans were promoted, without success, until this Government took on the challenge. What is the progress of this important project?

Mr COURT replied:

In 1993 when the coalition came to government there was a stalemate on whether a new performing arts or cultural facility would be constructed in Mandurah. An attempt was made to put together a proposal involving the Mandurah City Council, the private sector and the State Government; however, that proved difficult. The Government gave a commitment to build a performing arts centre. The Government entered into an arrangement to provide the majority of funding to build the centre. The project has cost $16.5m in total, of which the State has contributed just over $14m. The council agreed to accept the ongoing running costs associated with the centre. There have been difficulties, as the member for Kalgoorlie will know, with some of the regional centres about who pays the ongoing running costs of such centres. However, the Government has come to a good arrangement with the Mandurah City Council.

The project will provide an 800 seat theatre and a smaller 150 seat theatre, which is called the Fishtrap Theatre. The main theatre is called the Boardwalk Theatre. The centre contains also an art gallery, dance studios, music rooms and large reception areas. If members travel through Mandurah, I ask them to divert and look at this magnificent new performing arts centre. It has been built to blend in with the character of Mandurah. It is located on the estuary and people will be able to arrive at the theatre by boat. Already in the next week the centre will be holding a number of sellout performances. It is interesting to look at the calendar of events at the centre from now until December and to note that an area that did not have the opportunity to stage cultural events will host a diverse list of events. The John Williamson show tomorrow night is a sellout as is the James Morrison show on Sunday. Elvis to the Max has been a sellout also and an extra concert is scheduled.

Mr McGowan: Have they got Ernie Bridge? If not, they don't have the big stars.

Mr COURT: I cannot see Ernie Bridge.

Mr Shave: We can't either!

Mr COURT: The Mandurah Choral Society is performing there. I thought the member for Dawesville's wife was performing in that, but that is not the case. The West Australian Symphony Orchestra, the West Australian Ballet

Company, and the Australian Chamber Orchestra are now able to perform at Mandurah. It is terrific that major performing arts centres are now located in Mandurah, Bunbury, Esperance, Kalgoorlie, Geraldton and Karratha. The Government is pleased the centre in Mandurah will open this weekend and will bring a much needed performing arts facility to that area.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Witness Protection Programs

428. Dr GALLOP to the Premier:

The Anti-Corruption Commission's chief executive, Wayne Mann, yesterday warned that the lives of people involved in some of its investigations could be in danger. Given the serious nature of this warning, what witness protection programs are in place to protect witnesses who give evidence to the ACC and how much money has been allocated by the Government for that purpose?

Mr COURT replied:

I cannot answer that now, but I am only too willing to make inquiries with the appropriate parties and to provide the information if it is the practice to provide that sort of information.

Dr Gallop: What is the Government's position on that program?

Mr COURT: I said that whatever resources the ACC required to carry out properly its investigations would be provided by the Government. I thought if witness protection was a part of its activities, it would be funded for it.

HEALTH - SMOKING

Quit Campaign

429. Mr SWEETMAN to the Minister for Health:

Smokers are again being encouraged to quit smoking. What initiatives, new or otherwise, are contained in the 1997 Quit campaign to encourage people to quit this unhealthy habit?

A member: Are you still smoking?

Mr PRINCE replied:

No, I have quit and I urge everybody to quit. The Quit campaign was launched today. Quit campaigns have been a regular feature in this State since 1984. The campaign today contains a number of special features. It is the first time there has been a nationally coordinated campaign involving all States and the Commonwealth. I commend Dr Wooldridge for finding another $7.2m over two years to help with antismoking advertisements and education and so on. Today is the first time we have been able to have a national launch of the Quit campaign. In that sense, the education message, which is the principal part of the Quit campaign, will be heard across all media in all States from today until next January in a variety of ways.

The second thing that is a first today is that all health and medical specialists in Australia and internationally, particularly from America, say with one voice that it is crystal clear that research shows that every cigarette causes harm: The first cigarette people have when they start smoking is as harmful as the cigarettes smoked by someone who has been smoking for many years. This morning at the launch graphic footage was available of the two advertisements that will be shown on television from today. Professor Musk, who is an expert in respiratory medicine, was there with examples of two lungs; one a healthy lung taken from a person who died of another ailment, and the other a lung of a person who died from emphysema. He was able to show those present the difference between the two lungs. It is quite horrifying. Also, Dr Woollard, the National President of the Australian Medical Association and a well known cardiologist, was able to demonstrate what accumulation of matter arises in the main arteries of the body as a result of smoking. He provided a demonstration of products taken from the body of a 32 year old male who died as a result of a smoking related illness. It was a horrifying sight. That is part of the second advertisement.

The advertisements are gruesome, but they are true and accurate. They are extremely hard hitting and are part of a campaign to reduce the number of people who die in this State as a result of smoking. Across the nation approximately 19 000 people die each year from smoking related illnesses, and 1 400 in Western Australia. That level must be reduced. We have done well in the past 20 years to reduce the level of smoking from 38 per cent to 24 per cent. The level of drop off is not as high as it was in the past. More than 80 per cent of people who smoke want to give up. The campaign, particularly in this advertising, is targeted at people between the ages of 18 and 40 years. It is an attempt to prevent young people taking up smoking and to persuade those moving into middle age who

are smokers to stop. I hope it is successful and if it succeeds by only one per cent, that will mean 10 000 people across Australia will not die from smoking related illnesses in the next 12 months.

POLICE - CORRUPTION

Prostitution

430. Mrs ROBERTS to the Minister for Police:

In 1995 senior police officers admitted the prostitution containment policy had collapsed. In April last year, the chairman of the upper House select committee on police, Hon Derrick Tomlinson, warned there was a direct link between prostitution and police corruption. Two months later the Minister's predecessor revealed Cabinet had given him the green light to legalise prostitution.

After promising urgent action in February, the Minister has now indicated legislation may not be introduced until the middle of next year. Is this another example of the Government being soft on corruption?

Mr DAY replied:

What an utterly preposterous suggestion, considering members opposite were in government for 10 years and did nothing with the exception of getting a report on this matter in 1991. When the previous Labor Government was close to the 1993 election, it decided this matter was too hard to deal with and put it in the bottom drawer. That is exactly what members opposite did at that time. This Government is taking action. The member for Wagin can speak for himself, but I am sure he did not make any statement that Cabinet had given the green light for prostitution to be legalised. Cabinet has endorsed a ministerial working group to be established, comprising me, the Minister for Health, the Minister for Family and Children's Services, the Minister for Local Government and the Attorney General. That group will come back to Cabinet with recommendations on what should be included in legislation. The group has met and is working through this issue at the moment. It is expected to report to Cabinet by the end of August.

ROADS - PICTON INDUSTRIAL AREA

Bypass

431. Mr BARRON-SULLIVAN to the Minister representing the Minister for Transport:

I refer to the longstanding proposal to construct a bypass road around the Picton industrial area, a matter of considerable concern to local business proprietors, and ask -

(1) Have Westrail and Main Roads WA completed their assessment of an alternative route incorporating existing rail reserve land in Picton?

(2) If so, what conclusions have been reached?

Mr OMODEI replied:

I thank the member for some notice of this question.

(1)-(2) The Minister for Transport is pleased to say that a joint examination by Main Roads and Westrail has been successful. Certainly, the active involvement of local business owners, especially Mr Terry Manning, and the member for Mitchell have helped to bring about a positive result. Although the upgrading of South Western Highway is a long term project, the road alignment will be on the road reserve and Main Roads will now progress planning for the future road on this new alignment.

POLICE - CORRUPTION

Former Police Officers - Resignation from Service

432. Mrs ROBERTS to the Minister for Police:

Notice of this question was given at 10.00 am yesterday.

(1) How many police officers charged with internal offences have left the Police Service in the past four years before the charges were dealt with?

(2) How many of those officers were allowed to leave the Police Service with their full superannuation entitlements?

(3) How many of those officers are still claiming police pensions?

Mr DAY replied:

I thank the member for some notice of this question, and I am sorry the answer was not available for question time yesterday.

(1) The number of officers who left the Police Service prior to the finalisation of disciplinary matters is: In 1993-94, six; 1994-95, 12; 1995-96, 14; and 1996-97, seven. In addition, the following number of police officers were dismissed from the Police Service during the same period: In 1993-94, one; 1994-95, five; 1995-96, three; and 1996-97, six.

(2) Officers resigning from the Police Service, for any reason, are entitled to full superannuation payments on reaching the age of 55 years.

(3) These statistics are not known in detail. However, in 1986 a lump sum superannuation scheme was introduced and most officers transferred from the pension scheme to the new scheme. Therefore, the number of former members in this category who are still receiving a pension is small. If there are allegations of criminality on the part of former or current police officers, their departure makes no difference to the investigation of those allegations and the possibility of charges being laid. In other words, they are treated in the same way as any other member of the public.

The SPEAKER: Question time is concluded.

Point of Order

Dr GALLOP: As you know, Mr Speaker, question time is a very important part of the parliamentary process. For a large part of question time today five Ministers were absent, and for a small part of question time four Ministers were absent. I request you, as Speaker, to take up this matter with the Government so that when Parliament is sitting Ministers are not absent from the Parliament.

The SPEAKER: It was not a point of order. However, everyone in the Parliament has heard it and I am sure the Premier will take note.