WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE ASSEMBLY

Tuesday, 17 June 1997

Legislative Assembly

Tuesday, 17 June 1997

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

PETITION - TRANSPORT

Concessional Fares

DR GALLOP (Victoria Park - Leader of the Opposition) [2.02 pm]: I present the following petition -

> To The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned call on the State Government to reverse their increases in public transport fares, in particular the changes to concession fares and time constraints on transfers in that they will impact most severely on pensioners, the unemployed and other low income earners.
>
> 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 99 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 57.]

A similar petition was presented by Mr Brown (65 signatures).

[See petition No 58.]

STATEMENT - SPEAKER

Annual Reports - Amendment

THE SPEAKER (Mr Strickland): I have received a request from the Minister for Fair Trading to amend appendix 5 on compliance activities on pages 91 to 94 of the annual report of the Ministry of Fair Trading for 1995-96, which was tabled in the House on 15 October 1996. The Minister also requested that section 3.11 - Complaints Against Agents - of the annual report of the Real Estate and Business Agents Supervisory Board for 1995-96 be replaced. This report was tabled in the House on 11 March 1997. Accordingly, under the provisions of Standing Order No 233, I advise the House that I have authorised the necessary amendment and replacement to the records.

STATEMENT - MINISTER FOR EDUCATION

Overseas Students' Dependants - Access to Government Schools

MR BARNETT (Cottesloe - Minister for Education) [2.08 pm]: I wish to inform the House of a change to the schooling arrangements for dependent children of higher degree fee-paying overseas students in Western Australia. Currently in this State, these children cannot attend a government school and must enrol in a non-government school. Every other State and Territory in Australia allows dependants of overseas students access to government schools, with some charging fees for these places. As a result, universities in Western Australia are disadvantaged in competition for these overseas students compared with those in other States and Territories.

To remove this significant disincentive for higher degree international students with school-age children to enrol in a university in Western Australia, the Government will now allow a limited number of dependants of overseas students access to government schools. These students will not pay fees. This policy change provides greater leverage for Western Australian universities to attract these students who may otherwise have looked interstate or overseas for their education. This is vital in an increasingly competitive higher education marketplace, which is estimated to be worth at least $200m annually to Western Australia.

The benefits are not restricted to the universities, which themselves make an enormous contribution to the State's export earnings and job creation. Overseas students will be advantaged by this policy for they will now be able to bring their families with them, when previously they would have left them at home or, where they could afford to do so, paid for their attendance at a non-government school.

As a consequence of increased numbers of overseas students, Western Australia will also benefit in a number of ways: Through the general living expenditure by these students and their families; through their intellectual contribution in research and the advancement of knowledge; and through the international linkages that the students will foster.

The new policy will also radiate a positive message to the international community, especially our Asian neighbours, on whom our international education industry relies heavily. I believe it is crucial, particularly in the current climate, that these countries recognise Western Australia's commitment to international education.

Mr Speaker, you will be pleased to note that the Government has incorporated various safeguards to ensure that the state school system does not bear an unreasonable burden from this policy change. Firstly, no additional teacher resources will be required for the implementation of the policy. These children will be placed only in government schools that have excess capacity. Secondly, a maximum quota of 200 children may utilise this opportunity at any given time. The quota will be distributed by agreement between the universities.

Thirdly, universities will be responsible for ensuring that the cost of any supplementary education support required by these children, including English as a second language provision and disability support, is paid for in full. In addition, this policy will be independently reviewed in mid-1999 to examine its effect on the State.

In conclusion, I am pleased to announce this policy change by the Government, which stands to benefit not only the university sector and overseas students, but also the State as a whole in educational advancement, international relations and flow-on effects to the economy at large.

STATEMENT - MINISTER FOR YOUTH

Ministerial Council of Education, Employment and Training and Youth Affairs - Resolution

MR BOARD (Murdoch - Minister for Youth) [2.12 pm]: I inform the House that Western Australia will lead a national push to promote the image and achievements of, and educational opportunities for, young people across Australia. The proposal which I had the great pleasure of presenting to a meeting of all Federal, State and Territory Youth Ministers in Darwin last week was unanimously accepted, and its development will now be coordinated by the Western Australian Government.

All Ministers attending the youth forum of the Ministerial Council of Education, Employment and Training and Youth Affairs agreed that it was certainly time to adopt a statement of national priorities for youth. The statement identified two key areas: First, the promotion of positive achievements and positive images of young Australians; and, second, the encouragement of an understanding of the importance of education and training that can lead to a far greater range of opportunities and ultimately to a more secure future for all young Australians.

Both these areas have been consistently identified by young people as major issues of concern during my consultations with youth throughout Western Australia. Many of my fellow Youth Ministers around the nation have also noted similar concerns expressed by young people in their respective States and Territories. I am delighted that despite differences between jurisdictions, all Youth Ministers have agreed to work together on these two priorities. It is vital that we address this issue on a national basis and move to promote the positive achievements and images of our youth.

This State will coordinate the national campaign through the WA Office of Youth Affairs by providing details of our various successful youth programs and initiatives to other States and Territory agencies, and by obtaining similar information from them and developing joint programs. We will also be highlighting the achievements of our youth and encouraging all young people to promote their positive actions.

The Youth Ministers also agreed that the same two priority areas would be the primary area focus of research undertaken by the national youth affairs research scheme in the immediate future. This scheme will now be chaired by Western Australia.

The Government welcomes MCEETYA's resolution to adopt a statement of national priorities for youth. It gives further recognition to the majority of Australia's young people, who contribute very strongly to not only their own future but also the overall development of the community.

The vast majority of young people across Western Australia and Australia are doing great and constructive things with their lives, but the message of these positive aspects is simply not reaching the wider community. We must support our young people and recognise their many achievements and great potential. They present us with much to praise, encourage and develop, and this Government will now be leading a national push to do all it can in this direction.

[Questions without notice taken.]

SESSIONAL ORDERS - TIME MANAGEMENT

MR BARNETT (Cottesloe - Leader of the House) [2.50 pm]: In accordance with the sessional order for time management, I move -

> That the following items of business be completed up to and including the stages specified at 5.30 pm on Thursday, 19 June 1997 -
>
> 1. Restraining Orders Bill - all remaining stages;
>
> 2. Professional Standards Bill - all remaining stages;
>
> 3. Hairdressers Registration Repeal Bill - all remaining stages;
>
> 4. Gender Reassignment Bill (No 2) - all remaining stages.

I am sure that each of those four items of legislation in its own way will attract several speakers from both sides of the House. I do not believe there are major philosophical or policy divisions across the House on those Bills; therefore, we should be able to deal with them in an orderly manner this week. As I alerted the leader of opposition business before question time, I hope that if we can complete this program and deal with one or two other minor matters and some committee matters, it may be possible that this House will not need to sit on Tuesday and Wednesday next week. However, if that is the case, I suggest we return on Thursday next week to deal with other matters, including Bills that will be returned from the upper House, some of which may have minor amendments which must be passed.

MRS ROBERTS (Midland) [2.51 pm]: It seems strange to me that a guillotine motion must be brought into this place when it looks like there is a proposition to knock off early in this session. Last week the guillotine was not moved.

Mr Barnett: We had the budget Bills last week.

Mrs ROBERTS: We progressed through some budget Bills, which were very well debated. The Deputy Premier concurred that those Bills had been thoroughly debated. Along with the budget Bills, we dealt with other legislation without the need for a guillotine.

Traditionally at the beginning of each week the Government moves this guillotine motion. I am not aware of any need for it this year at all. At the beginning of the session, given this was a new Parliament, I suggested to the Leader of the House that he give us an opportunity to work constructively and without the heavy-handed approach of the guillotine. He has refused to do that. Despite that, in the weeks he has not been here and a guillotine motion has not been moved, there has been no difficulty in getting through the program.

This week it is particularly inappropriate that the guillotine motion be moved because the Government has not made us aware of any pressure to get legislation through this House. If there is no pressure on the legislative program this week or next week, I suggest that rather than trying to knock a couple of days off the parliamentary program, perhaps we should try sitting some sensible hours for a change and conclude our business by six o'clock each evening so that people can go home to their families after being here for what is considered to be a normal working day. There is not a lot of logic to some of the suggestions that some backbenchers in the Government have made. There is no sense in people working, or spending, 12 or 14 hour days in this place when they could work more regular hours. This is an opportunity to trial some sensible sitting hours and to see how Parliament functions if we go home at six o'clock. My preference is that we sit until six o'clock each evening, rather than trying to knock whole days off the timetable.

Two new pieces of legislation that are subject to this guillotine motion are the Hairdressers Registration Repeal Bill and the Gender Reassignment Bill (No 2) - in other words, both are due for the cut! This just shows the cold-heartedness of the Government.

MR BROWN (Bassendean) [2.54 pm]: I join with the leader of opposition business to oppose this guillotine motion, for similar reasons. It is pertinent to point out the state of the Notice Paper. There are only eight items of government business on the Notice Paper, of which two - that is; item No 7 relating to the Joint Standing Committee on the Anti-Corruption Commission and item No 8 relating to the Bank Mergers (Taxing) Bill - are merely consideration of Legislative Council messages. Potentially those two items could be dealt with in not an enormous amount of time. That leaves six Bills on the Notice Paper. Despite the fact that some Ministers have given notice today of their intention to introduce Bills later this week, it is the convention of the House, which as I understand it has not generally been breached, that once a Bill is read a second time, it rests on the Table for at least a week. These six Bills are the only pieces of legislation we will be debating in the next two weeks.

The schedule sent out by the Leader of the House to members earlier this year indicated that we would be sitting this week and next week. I am sure members have geared themselves to sit in both of those weeks. We now have two weeks in which to debate six Bills. I could understand if one of those Bills was the labour relations Bill and, needless to say, we would need the whole week to debate it. We might even need two weeks to do that. However, here there is not one iota of a suggestion that we cannot deal with those six Bills in the time available this session. No other government Bills are available for this Parliament to debate - not one.

Why must we have a guillotine motion today? In the past the arguments expressed by the Government for the guillotine motion included, firstly, that the Government has had a big program, and that it must push it through because certain pieces of legislation must be passed. That big, expansive program currently is six Bills. The argument does not wash. It is simply not a fact today.

Another argument sometimes put is that debate must be limited on certain issues; that there is some good reason for haste. The Government wanted to get the labour relations Bill through this place is before the numbers changed in the other place. That was never a valid reason, but we all understood what the reason was. From memory, the Hairdressers Registration Repeal Bill was introduced in the last Parliament and the Attorney General indicated that he would push ahead with the Gender Reassignment Bill also while the last Parliament was sitting. It cannot be said that there is any urgency with these Bills. None is urgent. Indeed, there is probably insufficient government legislation to keep the House going for the next six sitting days. This guillotine motion is an absolute abuse of the Parliament, and should be rejected.

MR KOBELKE (Nollamara) [2.59 pm]: In responding to the Opposition's comments on the motion the Leader of the House might explain why we need it. As previous opposition speakers have indicated, members on this side of the House cannot see why we need it. In introducing the motion the Leader of the House did not explain why these four Bills have been placed under the guillotine.

In the first place, none of the Bills before the House is urgent. As my colleague, the member for Bassendean explained, there is clearly no requirement to rush through these measures. The Hairdressers Registration Appeal Bill has been around for some time. In 1991 or 1992 moves were made by the Labor Government to do something about it and the possibility of repeal was discussed as part of a national agenda. When the Court Government came to power, the same Bill was introduced and passed through the Legislative Council during the previous Parliament. No urgency whatsoever has been expressed regarding the passage of this legislation.

People in the industry have shown considerable interest in this Bill and have made contact with members, certainly on this side, and I assume on the other side of the House, to indicate their concerns about the repeal Bill. We must therefore address those issues fully and properly. Even that should not require us to sit beyond this week, given the four Bills are matters which the Leader of the House has placed within the guillotine motion. Quite full and proper debate can take place on these Bills. They will complete their passage through the House by the end of the week and we will have no need for a guillotine.

In the second place, why have the device? As was indicated by the leader of business on this side, we have been able to proceed efficiently with legislation without the need for the guillotine. It seems to be a bit of a Linus blanket. If the Leader of the House worked with the leader of business on this side, we could come to a more flexible arrangement, rather than have this device placed on us. We do not need such an artificial and all-controlling device to ensure that these Bills are passed by a given time on Thursday. The same goal could be easily reached by good management.

This motion was referred to as a time management device. It is not a time management device; it is a guillotine, a device to truncate debate if the Government needs that to happen. It is being put in place this week when there is clearly no need for it. That is why it is like a Linus blanket.

The Leader of the House does not want to negotiate with the Opposition about the management of the business of the House so that agreement can be reached and matters can proceed. We should use the standing orders and forms of this Chamber to ensure that legislation is properly, fully and efficiently debated and that the business of the Government proceeds through the House. Members on this side have every confidence that that could be easily accomplished in this week, of all weeks. Why take up the time of the House by putting in place a device that will serve no purpose other than apparently to be a crutch for the Leader of the House who perceives the need for it?

In principle the Opposition has problems with the guillotine. It is an absolute nonsense to have it in place this week because there is no demonstrated need for it in this week's proceedings.

Question put and a division taken with the following result -

Ayes (29)

Mr Ainsworth	Dr Hames	Mr Prince
Mr Baker	Mr House	Mr Shave
Mr Barnett	Mr Johnson	Mr Sweetman
Mr Bloffwitch	Mr Kierath	Mr Trenorden
Mr Board	Mr MacLean	Mr Tubby
Mr Bradshaw	Mr Marshall	Dr Turnbull
Mr Court	Mr Masters	Mrs van de Klashorst
Mr Cowan	Mr McNee	Mr Wiese
Mr Day	Mr Nicholls	Mr Osborne *(Teller)*
Mrs Edwardes	Mr Omodei	

Noes (17)

Ms Anwyl	Mr Grill	Mr Pendal
Mr Brown	Mr Kobelke	Mr Ripper
Mr Carpenter	Ms MacTiernan	Mrs Roberts
Dr Constable	Mr McGinty	Ms Warnock
Dr Edwards	Mr McGowan	Mr Cunningham *(Teller)*
Dr Gallop	Ms McHale	

Pairs

Mrs Parker	Mr Marlborough
Mrs Holmes	Mr Graham
Mr Barron-Sullivan	Mr Riebeling
Mrs Hodson-Thomas	Mr Thomas

Question thus passed.

BANK MERGERS (TAXING) BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Court (Treasurer) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

Clause 3, page 2, line 15 - To insert after the word "would" the following -

, but for the merger being provided for under the *Bank Mergers Act 1997*,

No 2

Clause 3, page 2, line 18 - To delete the words "proper in the circumstances" and substitute "equal to the amount of those duties, taxes, charges, rates or other imposts".

Mr COURT: I move -

That the amendments made by the Council be agreed to.

The amendments tighten up the provision relating to discretion by the Treasurer. As a result, consequential amendments will flow from the Bank Mergers Bill which we expect to receive and handle in this place today or tomorrow.

Mr RIPPER: The Opposition supports the amendments. This Bill provides for bulk taxation of transfers of accounts required when banks merge. The original Bill required a payment which in the opinion of the Treasurer was proper in the circumstances. The Council has amended the Bill to provide that the amount to be paid in the case of such a merger is to be equal to the amount of the duties, taxes, charges, rates or other imposts which would have been paid had each transfer of accounts been taxed on a case by case basis. The amendments need to be seen as protecting the revenue of the State and limiting the discretion of the Treasurer to provide a concessional rate of taxation on the bulk transfer of accounts when banks merge. These are not significant amendments, because the spirit of the original

legislation was that the Treasurer would determine an amount equivalent to that collected on a case by case taxation basis. However, the amendments indicate that Parliament does not intend that there be any taxation concessions when banks merge. The Opposition is pleased to support both amendments.

Question put and passed; the Council's amendments agreed to.

Report

Resolution reported, and the report adopted.

Message to the Council

MR COURT (Nedlands - Treasurer) [3.16 pm]: I move -

That the Council be acquainted accordingly.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [3.17 pm]: I ask the Treasurer whether this is a historic occasion. Does this formality mark the first occasion on which a Liberal Government has had to accept amendments imposed on it by the Opposition in the upper House?

Mr Court: I do not think it does; but I am not happy with the amendments!

Question put and passed, and a message accordingly returned to the Council.

RESTRAINING ORDERS BILL

Committee

Resumed from 12 June. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mrs van de Klashorst (Parliamentary Secretary) in charge of the Bill.

Clause 14: Firearms order -

Progress was reported on the clause after the following amendment had been moved -

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.

Mr RIEBELING: I do not believe that the proposed amendments on this clause go far enough. I understand that the Minister for Justice believes the changes he has approved will mean that the respondent who seeks protection will need to consent to an order being made. I understand also that the Minister for Justice stated this morning on radio that he expected that no court would issue a violence restraining order and then make an order for the return of a firearm. That was our argument last week. It does not make sense to state the grounds on which a court must be satisfied before imposing a violence restraining order, and then make it possible for the same court to say that although it considered a person to be violent it did not consider that the person would use a firearm or threaten to use a firearm in an act of violence against the respondent. It does not make sense to suggest that the court would do it. It also does not make sense to give a court the option of doing it. As night follows day, if something is included in legislation like this, somewhere in the State, perhaps in the not too distant future, a magistrate will see that it is possible to give back guns under a violence restraining order. The magistrate will consider the requirements that must be proven. The respondent to a violence restraining order may fear that the applicant, who is usually the wife, will state in court that she does not want him to have a gun licence. It is easy to say in legislation that the person should not be in a state of fear when making a decision, but we are talking about domestic violence, which always involves an element of fear. When guns and violent people are involved, that fear is enhanced greatly. To leave the possibility

of people who are subject to the new violence restraining orders having access to guns is stupidity at its worst, and it will cost the victims of domestic violence dearly.

The unfortunate thing about this legislation is that within a year or so, when someone is killed because a firearm has not been seized, this legislation will be returned to this place for amendment so that people with violence restraining orders cannot hold firearm licences. Last week the member for Wagin said that my main concern, and that of the majority of people in this place, when framing the gun legislation was to ensure that violent people and guns did not mix. We see in the Restraining Orders Bill the hypocrisy of that situation. This legislation is designed to protect people from violence. However, it indicates that those who have been found to be violent and who need the highest degree of protection can have their guns. It is a bizarre situation and one the Government should rethink, not in a superficial way, but in a real way. The Government should concede to the Opposition's amendments.

Ms ANWYL: The Government's proposed amendment does nothing to illustrate that the Government has an understanding of the dynamics of domestic violence. Particularly in rural and remote areas, there is no access to legal aid for the purposes of getting a lawyer when applying for a restraining order. In many courts there is no access to legal representation, even if people can afford it, because there are few lawyers in the country. Under this legislation the court can provide a possession order for a firearm, and the onus will be on the victim of domestic violence to set terms and conditions, which the magistrate or justice of the peace may or may not consider reasonable. At least 90 per cent of domestic violence occurs against women and most applications are made by women, who are often fearful. Following a violence restraining order being made by the court, under this legislation, which will no doubt be carried by the Government, women must convince the magistrate of the terms and conditions that should be imposed on the possession of a firearm. Although I welcome the fact that the Government has at least proposed some amendment - at least we are moving towards a workable situation - I implore the Government to look at the amendment proposed by the member for Burrup. It is not conscionable to suggest that there could be any situation when it is appropriate for a person on whom a violence order is imposed to have a firearm. To put the onus on the victim to set the terms and conditions of what that possession order should entail is ludicrous because in such situations there will be a power imbalance, if not fear. There is often a lot of volatility in such situations.

Last week the Parliamentary Secretary to the Minister for Justice said it might make a respondent angry if his firearm were taken away. Considering the sorts of emotions that occur in the courtroom, it is worth bearing in mind that in rural courts, where most of these applications will be dealt with, only one police officer acting as an orderly may be present and there is little backup to the magistrate or justice of the peace. At least half the complaints of domestic violence are made in remote and rural areas. Considering the huge population imbalance, we know that the bulk of these applications dealing with firearms will be dealt with in rural courts. In many cases justices of the peace preside over the matter. In a small town it is likely that the justice of the peace will be on intimate terms with either the applicant or the respondent, or both.

Mr Wiese: That is a slur on JPs.

Ms ANWYL: I do not believe it is. I was commissioned to conduct research statewide on behalf of the Domestic Violence Action Group. One of the main concerns raised in rural areas, specifically in the Roe electorate, was that women will not apply for restraining orders because the justice of the peace is an intimate acquaintance of the respondent or of both parties.

Mr Baker: The JPs should disqualify themselves.

Ms ANWYL: That may be the case, but it does not happen. I am relating what was conveyed to me through my research. It is important to understand the dynamics in these situations. In clause 14 the Government is asking the victim of domestic violence, who has been successful in obtaining a violence order and, therefore, has satisfied the court that an order should be made, to justify what sorts of terms and conditions should be imposed. That is not realistic, particularly given that no representation will be made available.

Ms McHALE: It seems that in this legislation women are taking one step forward and are then being pushed two steps backwards by the Minister for Justice. The unwillingness of the Government to accept the Opposition's amendment is inherently unreasonable. I accept that the Government's amendments seek to tighten the clause. However, I fail to see why the Government will not accept the argument that there must be a strong deterrent to the perpetrators of domestic violence.

On the face of it, this amendment seems quite logical, but the difficulty is that domestic violence situations are irrational, and people lose control. To suggest that the person should retain his firearm in cases in which the behaviour for which the order was sought did not involve the use of a firearm indicates that the Government misunderstands the nature of domestic violence. The Government's provision will place the occupation and livelihood of the perpetrator ahead of the protection of the woman, when the safety of the woman should be

paramount. The perpetrator must be shown to be violent for the order to be granted, so the woman's safety will be placed at risk if the firearm is retained, notwithstanding that it may place the perpetrator's livelihood at risk. The Opposition's amendment recommends the safest option for women notwithstanding its effect on the perpetrator's occupation. Again, I urge the Government to look at the intent behind our amendment, which I hope it sees fit to accept.

Mrs van de KLASHORST: I reiterate that the Minister for Justice has advised that he will not accept this amendment and that he has provided other amendments in its place. The fact that a person could be angry was raised by members opposite.

Ms Anwyl: You said that last week.

Mrs van de KLASHORST: Yes, I did. I said that they would be more angry about, and be more likely to seek revenge when, losing their job than their gun.

Ms Anwyl: It put the onus on the applicant.

Mrs van de KLASHORST: It does not work that way. I will explain the Government's amendments in a moment.

The Government understands the dynamics of domestic violence and the operation of country magistrates, as telephone application for orders will cater for that situation. It will overcome anomalies which arise for people some distance from a local court or magistrate.

Ms Anwyl: Most of them must go to court.

Mrs van de KLASHORST: They must do so in due course. However, under such application, people can obtain an order to place them in a safe position at the time of stress following a confrontation. They will go to court when they have had time to consider the matter and to seek assistance. As members know, many people are assisted by people other than lawyers in court, be it by a domestic violence action group, mediators or other people.

I reiterate that the Minister for Justice will not accept the amendment. We need to move on, otherwise we will hold up the Bill further.

The CHAIRMAN: I advise members that this is a test vote. The deletion of line 23 would prevent the Parliamentary Secretary from moving her amendment.

Amendment (words to be deleted) put and division taken with the following result -

Ayes (16)

Ms Anwyl	Mr Grill	Ms McHale
Mr Brown	Mr Kobelke	Mr Riebeling
Mr Carpenter	Ms MacTiernan	Mr Ripper
Dr Constable	Mr Marlborough	Ms Warnock
Dr Edwards	Mr McGinty	Mr Cunningham *(Teller)*
Dr Gallop		

Noes (29)

Mr Ainsworth	Mr House	Mr Prince
Mr Baker	Mr Johnson	Mr Shave
Mr Barnett	Mr Kierath	Mr Sweetman
Mr Board	Mr MacLean	Mr Trenorden
Mr Bradshaw	Mr Marshall	Mr Tubby
Mr Court	Mr Masters	Dr Turnbull
Mr Cowan	Mr McNee	Mrs van de Klashorst
Mr Day	Mr Nicholls	Mr Wiese
Mrs Edwardes	Mr Omodei	Mr Osborne *(Teller)*
Dr Hames	Mr Pendal	

Pairs

Mr Thomas	Mrs Hodson-Thomas
Mr Graham	Mrs Parker
Mrs Roberts	Mrs Holmes
Mr McGowan	Mr Barron-Sullivan

Amendment thus negatived.

Mrs van de KLASHORST: I move -

Page 13, line 24 - To delete the words "retain possession of a firearm, and the" and substitute "have possession of a firearm, and, if necessary, a".

Amendment put and passed.

Mrs van de KLASHORST: I move -

Page 13, lines 27 and 28 - To delete the lines and substitute the following -

(a) the respondent cannot carry on the respondent's usual occupation unless the respondent is permitted to have possession of a firearm;

Page 14, line 4 - To insert after the words "safety of any person" the words ", or their perception of their safety,".

Page 14, after line 5 - To insert the following -

(6) If, under subsection (5), a court permits a respondent to have possession of a firearm, the court must make that possession subject to such conditions (in addition to any conditions imposed under that subsection) as the applicant or person to be protected requests unless the court considers the requested conditions to be unreasonable.

In response to the debate last Thursday, I discussed with the Minister for Justice whether this clause could be tightened up, and he agreed that it could be tightened up and asked parliamentary counsel to draft these new amendments. Respondents to applications for violence restraining orders must meet the criteria set out in paragraphs (a) to (c) of proposed subsection (5), but magistrates can also impose other conditions upon respondents with regard to firearms. Respondents can retain their firearms only if they cannot carry out their occupation without a firearm. Magistrates will have the right to ask applicants for restraining orders whether they wish to suggest any conditions that should be imposed if the respondent were permitted to have possession of a firearm. This amendment tightens up the clause quite strongly, and I hope it meets the concerns raised by members of the Opposition and others.

Mr RIEBELING: I thank the Parliamentary Secretary for the effort that she has made to convince the Minister for Justice. This amendment tightens up the clause to a certain extent, but it puts an onus on the respondent, which is again counterproductive. I presume that proposed subsection (6) of the Bill will become subsection (7) as a result of this amendment. Proposed subsection (6) will put applicants in a position where they must make a decision. I have witnessed many applications for restraining orders. In a situation of domestic violence, many applicants go to the court to seek a restraining order as a last resort, and the last thing that those applicants want is to have to decide whether Bill, Jim or Harry would lose his job. Respondents who lost their job might blame the coppers or the court, but if this provision prevailed, they would also blame the person whom they were alleged to have beaten up. I cannot see any reason to include the words "as the applicant or person to be protected requests". Presumably it will be an open court. The magistrate will say, "What about this bloke's gun? He needs it because he shoots rabbits."

Mrs van de Klashorst: It must be essential to his livelihood.

Mr RIEBELING: He could be a roo shooter or a police officer. The court would then ask the applicant whether she thought that the person against whom she had applied for a violence restraining order should retain his gun. If the applicant said that the respondent should retain his gun, the respondent would probably feel kindly towards the applicant, but if the applicant said the respondent scared her and the fact that he had a gun would make it worse, the anger that the respondent had directed towards the applicant would be heightened considerably. In any event, even if the applicant made that request, the court could consider "the requested conditions to be unreasonable". What do those words mean?

Mr Wiese: To use the practical example of a roo shooter, the court might impose the condition that the roo shooter must hand his firearm into the nearest police station immediately he returned from work shooting roos.

Mrs van de Klashorst: Or a policeman might be in possession of his firearm while on the job but have to hand it in when he finished work. He could not take the firearm home.

Mr RIEBELING: Has the member for Wagin been converted to thinking that they should get their gun licence back?

Mr Wiese: I am trying to explain the commonsense of it.

Mrs van de Klashorst: It refers to the conditions that will be imposed upon that person.

Mr RIEBELING: This amendment asks applicants to put up their hand and say they do not want the respondent to have a gun.

Mrs van de Klashorst: That is not the case.

Mr RIEBELING: What do the words "the applicant or person to be protected requests" mean?

Mrs van de KLASHORST: Proposed subsection (2) states -

> A person who is bound by a violence restraining order must give up possession, in the prescribed manner, of all firearms and firearms licences held by the person.

We agree on that prime subclause. Where in certain circumstances it is absolutely essential for a person to have a gun, the magistrate will impose such conditions as the magistrate thinks fit. It may be as the member said: Somebody may go to the police station and pick up his gun, if he is a roo shooter, shoot for the day and take it back and drop it off at night. It may be that a policeman in similar circumstances might need a gun for a couple of hours. A magistrate would look at individual circumstances when imposing conditions. The magistrate also has the right to ask the applicant to suggest conditions, if the applicant knows of other circumstances that perhaps have not been raised. If the applicant says nothing, the magistrate may impose whatever conditions the magistrate thinks fit.

Mr Riebeling: You tell me where I am wrong.

Mrs van de KLASHORST: The person taking out the restraining order is not imposing the conditions but will be asked if she knows of other circumstances.

Mr Riebeling: The applicant always requests an order.

Mrs van de KLASHORST: That is right. The magistrate imposes the conditions. Clause 14(2) applies to very exceptional circumstances in which it is essential for a person to have a gun as part of his job.

Ms ANWYL: How will this be enforced? We are talking about extremely volatile situations. What police resources will be available? Nothing is spelt out in the clause which provides for any action, if the so-called reasonable conditions are breached. There was talk last week of some inconsistency with the firearms legislation. Has the Parliamentary Secretary looked at that and is she in a position to answer the specific queries?

Mrs van de KLASHORST: Yes, I have made inquiries. I will refer to the notes that answer the question. Drawing attention to section 11 of the Firearms Act during the course of debate gave the impression that it was mandatory for the Commissioner of Police to refuse to issue a firearms licence, if a person had a restraining order taken out against them in the preceding five years. More careful examination of section 11 clearly establishes that a discretion can be exercised by the Commissioner of Police, similar to the discretion proposed to be exercised by magistrates under clause 14(5) of the Restraining Orders Bill. In any event, section 11 of the Firearms Act deals with only the issuing of a licence as against the seizure of an existing licence or permit under the Restraining Orders Bill. The information I was given is that it is considered that there is no conflict with the legislation. We believe that clause 14(5) is still appropriate in the circumstances to provide the necessary flexibility to deal with the broad range of circumstances that come before a court.

Ms Anwyl: How will it be enforced?

Mrs van de KLASHORST: It will be enforced by the police. Irrespective of whether a gun was involved, the police would still need very many resources. It would not make a lot of difference. Every restraining order has different aspects that require resources.

Mr RIEBELING: I read section 27A of the Firearms Act into the transcript last week. It clearly says that the court may order.

Mrs van de Klashorst: I still felt that we should check it up.

Mr RIEBELING: However, subclause (6) is the primary concession, other than the tightening up of the wording in relation to a person's working conditions. It still gives me some concern with regard to the onus on the applicant. The Parliamentary Secretary said that the applicant only requests, but that is the job of the applicant. The applicant makes an application, the respondent responds, and the magistrate makes the order.

Mrs van de KLASHORST: I went down to Perth central court to see how restraining orders are carried out because I had never been to a court before. One of the things that happens regularly is that magistrates have a considerable conversation with persons taking out restraining orders and the respondents. This would be a normal part of any restraining order.

Mr RIEBELING: I beg to differ. This question will go to the very core of the respondent's livelihood. The Parliamentary Secretary said last week, probably by mistake, "We do not want to make the person angry." If that is the thinking, the court will be putting back on the applicant to say whether conditions should be imposed that would stop the person from working. I notice the adviser shaking her head. I do not know why. My understanding of this provision is that the magistrate must be of the view that a gun is vital for the respondent's normal work.

Mrs van de Klashorst: That is right; it must be essential.

Mr RIEBELING: After the magistrate comes to that conclusion, he moves on to subclause (6) which says quite clearly that if the court permits the respondent to have possession of a firearm, the court must make that possession subject to such conditions as the applicant or person to be protected requests. The court puts its mind to whether a person requires a gun for his job. If the magistrate decides yes, he needs it, the magistrate then moves to the respondent and says, "I have decided that you should have a gun." The magistrate then asks the applicant whether the respondent should have a gun and what conditions should be imposed to remove her fear.

Mrs van de KLASHORST: I do not believe that it would be done in that order. The magistrate would decide in the first place whether a person would be allowed to retain a firearm and then he would discuss it. If it were essential to his job, the magistrate would impose conditions.

Mr RIEBELING: Subclause (6) says that the magistrate must impose the conditions requested by the applicant.

Mrs van de KLASHORST: Yes it does.

Mr Riebeling: It says that a court -

Mrs van de KLASHORST: If the member goes back to subclause (5) -

Mr Riebeling: The order I have spelled out is exactly accurate. The clause provides that the magistrate must impose the conditions an applicant requests. Where a magistrate imposes conditions, it may be on the basis of what is requested.

Mrs van de KLASHORST: Under subclause (5), which refers to a violence restraining order, the court may permit a respondent to possess a firearm if it is necessary for his work. Those are the operative words. The magistrate may impose conditions the court thinks fit. The court has to make those conditions.

Mr RIEBELING: Of course it does.

Mr WIESE: I know now is not the appropriate time to do this, but I wade into this debate on the basis of the opinion provided by the Parliamentary Secretary in the matter the Committee is discussing now. It was said that the Commissioner of Police has a discretion in these matters. Given that I had a bit to do with the drafting of the Firearms Act, I point out that the commissioner does not have a discretion. The reality of section 11(1)(c) of that Act is this -

> The commissioner cannot grant an approval or permit or issue a licence . . . if the Commissioner is of the opinion that the person is not a fit and proper person to hold an approval, permit or licence.

It is clear that if the commissioner believes that person is not a fit and proper person, he cannot grant a licence. It is not that he may not; he cannot. The misinterpretation comes from the reading of section 11(2) of the Firearms Act, which contains the word "may". That subsection refers only to where a person has a history of or a tendency towards violent behaviour. In that case the commissioner "may" take that into account.

Mr Riebeling: You do not think the commissioner will comply with the court order?

Mr WIESE: Wait until I refer to section 11(3) of the Firearms Act. Bearing in mind what I said about the "Commissioner cannot grant", the Firearms Act then goes on to say in subsection (3) -

> Where 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 -

Members should leave aside paragraphs (a)(i), (a)(ii) and (a)(iii) and go on to paragraph (a)(iv), which reads -

> a violence restraining order was made against the person,

It is very simple. The commissioner cannot grant approval - and we will see how the courts interpret this - if the person is not a fit and proper person. Subsection (3) of the same section says that the commissioner has sufficient ground for forming an opinion that the person is not a fit and proper person if a violence restraining order has been issued. Contrary to the opinion that has been read out, the commissioner has no ability under these circumstances

to deal with it. He must abide by the clear, laid-out requirement in the Firearms Act; if a person has a violence restraining order against him, the commissioner cannot issue that person a licence, permit or approval for a firearm.

Mr Riebeling: What about section 27A.

Mr WIESE: It is really a follow-on from all of those matters. Section 27 of the Firearms Act picked up the inference from what at that stage was the draft violence restraining legislation. That was done specifically to deal with this particular area.

The only doubt relates to the renewal of a licence. Once a person has had the firearm or the licence removed - members should bear in mind that this clause addresses the removal of a licence - anything subsequent must be the renewal of a licence or the issuing of a licence because the licence has, by virtue of this clause, been withdrawn. The Act is clear: If a violence restraining order has been issued against a person in the previous five years, the commissioner cannot issue him with a licence. If that is wrong, I got it wrong when drafting the firearms legislation; I do not believe I got it wrong.

Mr RIEBELING: I thank the member for Wagin. I agree with his comments about the intention of the firearms legislation when it went through this Chamber. However when one looks at the legislation, one sees the Minister for Justice probably is right; there is the ability for the commissioner to do that. This legislation, which deals with violent people, and which was the primary focus of much debate in the firearms legislation, is unfortunately weaker than the firearms legislation.

However, I want to refer again to the problems of clause 6. The Parliamentary Secretary said that the applicant will be able either to request certain conditions so that the respondent does not have a gun licence or, if that gun is given back to the respondent, that the conditions should operate. In putting the applicant to that test, presumably in open court, the process that I outlined will be the case and the magistrate will go through three steps - I am also interested to know whether that provision implies some secrecy. The first step is to declare, by issuing a violence restraining order, that a person is either likely to be violent or capable of being violent.

The next step the magistrate will have to determine is whether a person who is likely to be violent should have a gun licence. Under this legislation a person who has a restraining order imposed on him and is refused a gun licence can make an application through the council for special consideration to be given his gun back if he is a police officer, a professional shooter or is a member of various specified occupations. The court will then presumably consider evidence from the respondent saying how vital his gun is to his occupation. The magistrate will then come to the point - the Parliamentary Secretary may say, "No, he will come to that point earlier" - of asking what conditions the applicant wants, because the new section says that he must consider that. So at some stage the applicant is given the power of veto on the application.

Mrs van de Klashorst: That is no different from what you were asking for.

Mr RIEBELING: I am saying that in the mind of the respondent, the applicant will be given the power of veto.

Mrs van de Klashorst: That is up to the magistrate.

Mr RIEBELING: Of course it is. I am talking about what happens in the mind of the respondent in a restraining order situation.

Mr Baker: That happens already under existing section 172. The magistrate asks what his intentions are and may ask the applicant if there are any other conditions she would like imposed. She will say yes or no. I know what you are saying. It gives the applicant the opportunity to have some input into the raising of the documents.

Mr RIEBELING: I hope that this Bill will create a better situation than that which exists under the current system. That is the purpose of the legislation. The wording and phrasing of subclause (6) puts undue pressure on the applicant. The applicant may reach a certain point of the approval process but may then say, "I am petrified of this bloke", and that will be the end of it.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 15 put and passed.

Clause 16: Duration of a violence restraining order -

Mr RIEBELING: I move -

Page 15, lines 3 and 4 - To delete all words from "24 hours" and substitute "the time specified in the order".

I move this amendment primarily to make this clause more adaptable to what the magistrate knows about the situation and to allow the maximum protection under a 72 hour order. I do not know why 24 hours has been selected as the optimum time for effecting service. Even if service of the order takes 71 hours - it is pointless serving a 72 hour order at the moment it expires - and it allows some form of protection, but for some reason the respondent avoids service during that 24 hours, the applicant should, at least, know that for the total 72 hours she has a modicum of protection.

I am aware the restraining order does not come into operation until it has been served. Currently in some situations women falsely think the respondent has been served with the restraining order by the police for some weeks. If a 72 hour order were made, presumably the applicant would have some security in the knowledge that she was protected for that time. If the 24 hour specification is left in the clause, is there some notification process to the applicant that that time has expired and the police have not been able to find the respondent? I have not seen that in the legislation. If the Government persists with the 24 hour limit, there should be a process by which the applicant is informed of the non-service of the restraining order. I am not happy when applicants wander around thinking the restraining order has been served when it has not; thinking it is in force when it is not.

We should change the wording to allow greater flexibility for the courts so that if a magistrate thinks the restraining order can be served instantly, he can allow only an hour for it to be served. Of course, in that case, the police officers may say, "This bloke won't be back until tomorrow at noon and we will not be able to locate him until then." Then there will be a real problem in serving the order within 24 hours. What will the court do then? Presumably, it will tell the applicant to come back at that time. All that is required is greater flexibility for the court to specify service within 24 hours. Perhaps the time for service of the order should be changed to whatever the magistrate deems to be reasonable in the circumstances.

Ms ANWYL: My concern relates to service. For that reason I sought to move an amendment to insert a review clause with power to look at, among other things, the question of service of restraining orders. There is no doubt whatsoever that the present system falls down in a very big way simply because orders are not served in a short time, and in some cases are never served. Although there is provision for oral service in this Bill, and there was in the Justices Act, in my 10 years of practice I have never found a case where that has been effective. I request some explanation of the 24 hour specification. I also ask what provision has been made for police resources to be deployed to ensure service of restraining orders becomes a priority. It is certainly not a priority now, in my view.

I draw the attention of the Parliamentary Secretary to the submission of the Domestic Violence Council of Western Australia, in which it suggested delays in service are the cause of great concern. No doubt the Parliamentary Secretary will have noted the concern of the Domestic Violence Council about the existence of 72 hour orders, let alone what I submit is a further devaluing of them by the restriction of 24 hour service. Of course, if these orders are not served within that time, they lapse.

In that context I raise another issue. It is quite possible within this restraining order process that the respondent will never come anywhere near a court. In many ways that is desirable; however, if an order were not served, the respondent might never be aware that the application had been made. Given the Government's stated rhetoric of ensuring domestic violence is treated as a crime, it seems to me to be prudent to make sure orders can be served during that 72 hours, or as close as practicable to it, if for no other reason than to ensure a respondent is made aware that his behaviour is deemed by a court to be unacceptable, at least for the purposes of the obtaining of the ex parte order. I seek an explanation for the 24 hour limit. I also want to know what steps have been taken to ensure police resources will be available to change the present situation and whether it is intended to amend standing orders so that this sort of police duty receives the priority it deserves.

Mrs van de KLASHORST: It is anticipated that if a magistrate issued a 72 hour restraining order, that person, in most cases, would presume the respondent was present and/or was being held while the application was being made. Therefore, the magistrate could issue the restraining order immediately.

Ms Anwyl: That is rarely the case. That is why they are almost inevitably ex parte hearings.

Mrs van de KLASHORST: With a 72 hour order invariably it would be the case because it would be an immediate restraining order on something that had just happened. That is especially so for telephone restraining orders for violence. That is why the telephone order is included. If the respondent is held, the order can be served immediately. It is no use issuing a 72 hour restraining order unless it can be served within that 72 hour period; therefore, 24 hours is considered a reasonable time for the police to serve it. The magistrate does not have to issue a 72 hour order; he or she can issue an order for a longer period. This provision covers an emergency order for violence that has just occurred.

Mr RIEBELING: If the police have a bloke in a room and they telephone the magistrate to get a restraining order, I imagine not more than an hour would be required to serve the order and the provision of 24 hours would be ample

time. However, in more than half the cases that probably will not be the case. Before the police arrive to bash down the door, the husband will have nicked off, and he will not want to be found by the police. This clause provides that the person can be looked for for 24 hours and after that period he can come out of hiding and go home and bash his wife. A restraining order that gives 24 hours' protection is good for only the 24 hours for which it is activated. If there is such a creature as a 72 hour restraining order, I can see no reason the Government would restrict to 24 hours the operation of that order.

It is onerous to have the service component of a 72 hour restraining order for the full life of the restraining order. The person will have gone to the trouble of applying to a magistrate, who considers the facts and who is persuaded that there is a need to protect, presumably a woman and/or children, for 72 hours. Under this clause, even if a magistrate said a 72 hour order was required, it would be cut to 24 hours if the respondent could not be found. It is a nonsensical situation. If this provision is to allow for a cooling off period of two hours and to allow the service of a restraining order, 24 hours is far in excess of what is required. Someone has plucked 24 hours out of the air as a good period to have. A better suggestion is the entire duration of the order.

Mrs van de KLASHORST: It is unlikely that a magistrate would issue a 72 hour restraining order unless there was a likelihood of its being served. If the magistrate felt the order could not be served within a reasonable time - that is, the 24 hours - obviously he would issue a longer restraining order. The Opposition is detracting from the commonsense of the magistrate who knows the circumstances surrounding the order. That part of the Bill will be reviewed within six months to see how it is working. If it is not working, there will be an opportunity to make changes.

Ms ANWYL: According to the Government's rhetoric, the inclusion of a 72 hour provision was a response to work that was done on behalf of Aboriginal women. It is not right to say there will always be police involvement. It does not work that way, and it will not work that way. The reason members on this side have placed so much emphasis on having amended the definition of an authorised person in clause 3 is that in many cases there will be no police involvement. The magistrate will not be in a position to know whether the respondent will be easily found. Magistrates have extremely large workloads.

The Parliamentary Secretary suggests that 72 hour orders will not be made unless the respondent is easily served with the order. That is being far too academic about the real world. The 72 hour orders are included in this legislation largely as an incentive for Aboriginal women to obtain these orders. In many cases those Aboriginal women will not have contact with police and they will be encouraged by other professionals, such as domestic violence support workers and members of their own communities, who are the most likely to assist them, to obtain those orders. The Government must get its rhetoric straight. If the aim of the 72 hour orders is to encourage people who otherwise would not apply for an order to get one, there is little point in having such a short time for service. Why can a 48 hour provision not be inserted? Why is there an emphasis on 24 hours? I am yet to receive an answer to those questions.

Mr RIEBELING: Clause 29 refers to ex parte applications. My reading of the legislation is that the 72 hour orders normally relate to telephone orders.

Mrs van de Klashorst: Yes, telephone orders or emergency orders.

Mr RIEBELING: They do not necessarily have to be.

Mrs van de Klashorst: No, but the majority will be.

Mr RIEBELING: There is no guarantee with telephone orders that the perpetrator will be there.

Mrs van de Klashorst: Only the police can initiate the phone orders, therefore it would stand to reason that the police would have attended a domestic violence situation and would be holding the respondent or at least would know where the respondent was. We talked about phone calls from homes last week. The 72 hour orders may not be telephone orders 100 per cent of the time, but the majority would be.

Mr RIEBELING: Subclause (2) is designed for a majority of, but not all, cases.

Mrs van de Klashorst: It will apply to all cases.

Mr RIEBELING: Let us talk about the ones to which it does not apply.

Mrs van de Klashorst: When the police ring to facilitate a restraining order in a domestic violence situation, the police will be there to serve the order.

Mr RIEBELING: If the person is still there. A person who has committed an assault and who has heard the police car coming will be long gone before the police get there. That happens in most situations, and I do not think domestic violence will be any different.

Mrs van de Klashorst: That is right.

Mr RIEBELING: If that were not the case, more people would be instantly locked up in assault cases. The Parliamentary Secretary is suggesting that if the person were not there, the police would not issue a 72 hour restraining order.

Mrs van de Klashorst: They may or may not; it would be up to the magistrate.

Mr RIEBELING: If the police cannot find that person and the magistrate issues a 72 hour order, it will lapse if they do not find him within 24 hours. If the person were still there when the police arrived, the order could be served on him within 10 minutes.

Mrs van de Klashorst: The life of the restraining order does not start until it is served. Therefore, if the police waited 72 hours, they would put the person in danger. The quicker it is served, the better it is for the victim.

Mr RIEBELING: That is not the argument. The argument is that this process gives 72 hours' protection only if the person against whom the order is sought is found within 24 hours. If that person is found after 24 hours, the order will give no protection because it will have expired. The only people adversely affected by that time limit are the applicants who think they have 72 hours' protection, but that may not be the case. The Parliamentary Secretary may be surprised to find that the people who perpetrate acts of violence will soon realise that if they hide for 25 hours, they will not be subject to one of these restraining orders.

Amendment put and negatived.

Mrs van de KLASHORST: I move -

Page 15, line 5 - To insert after "Subject to" the passage "subsection (2) and".

Page 15, line 14 - To insert after "cancelled" the words "or expires".

These are procedural amendments.

Amendments put and passed.

Mrs van de KLASHORST: I move -

Page 15, lines 18 and 19 - To delete all words after "remains in" and substitute the following -

force for -

(a) in the case of an order made at a final order hearing -

(i) the period specified in the order; or

(ii) if no period is specified, 2 years,

from the date on which the final order came into force;

(b) in the case of a telephone order which became a final order under section 32 - 3 months from when the telephone order came into force or such shorter period as is specified in that order; and

(c) in the case of any other interim order which becomes a final order under section 32 -

(i) the period specified in it; or

(ii) if no period is specified, 2 years,

from the date on which the interim order came into force.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 17: Authorized magistrates -

Mr RIEBELING: I once again reiterate the point I made in the second reading debate about the availability of magistrates. This clause will require the Chief Stipendiary Magistrate to ensure, as far as practicable - I do not know what that means - that at least one such authorised magistrate is available at all times. A statewide roster will apply for the first six months, and one can understand the need for that. However, I recall from the second reading debate that it is intended to have magistrates in country areas available via mobile phone systems and the like.

Mr Wiese: They would want better access to mobile telephones than we have.

Mr RIEBELING: Magistrates do not go to the rough places to which the Minister and I go. I assume that if it is envisaged that all the magistrates in the country areas will hand down restraining orders - presumably the chief will keep an eye on how many restraining orders are required by phone - if that becomes burdensome, something will happen.

Mrs van de KLASHORST: Monitoring and evaluation will take place throughout the process.

Mr RIEBELING: Port Hedland, Roebourne and the like might have more restraining orders issued at night than one might think. The problem with the current system is that the police are reluctant to operate it and as a result it is failing. The Opposition hopes that this legislation will overcome this police reluctance. My knowledge of domestic violence in Aboriginal communities in my area is that most assaults occur at night, well after the magistrate has gone home. Whoever is put on the roster for the first shift on a Thursday or Friday night will be very busy. I thank the Parliamentary Secretary for the indication she has given.

Clause put and passed.

Clause 18: Who can apply -

Mr RIEBELING: Clauses 18 to 22 all relate to the process for obtaining a telephone order. I do not have any great problems with this. If the police operate within the guidelines, I am sure the magistrates and authorised officers will all play a role. The Opposition hopes that the net result will be a workable restraining order system that it will be of benefit to victims of domestic violence.

Clause put and passed.

Clauses 19 to 22 put and passed.

Clause 23: Orders at telephone hearing -

Mr RIEBELING: The only problem I see with this clause is the 72 hour order and how it will protect victims of domestic violence. This is a positive step, and if simple amendments had been made it would have served the State very well. I do not wish to be critical as this is a large step forward enabling more rapid relief in an emergency situation and the Government should be congratulated for it.

Mrs van de Klashorst: I concur.

Clause put and passed.

Clauses 24 to 31 put and passed.

Clause 32: If respondent does not object to final order being made -

Mrs van de KLASHORST: I move -

> Page 23, lines 14 to 16 - To delete the lines from "order (except" to the end of line 16 and substitute "order."
>
> Page 23, lines 20 to 22 - To delete the lines from "order (except" to the end of line 22 and substitute "order."
>
> Page 23, lines 23 to 27 - To delete the lines and substitute the following -
>
> (3) A final order under this section comes into force -
>
> (a) in the case of an order under subsection (1), on the day on which the clerk receives the returned copy of the order; and
>
> (b) in the case of an order under subsection (2), at the end of the 21 day period referred to in section 31.

(4) The clerk is to notify the respondent, the applicant and the Commissioner of Police when an order becomes a final order under this section.

Amendments put and passed.

Mr RIEBELING: Allowing a plea of guilt by endorsement to be lodged is good. The procedure is also sensible and enhances the legislation.

Clause, as amended, put and passed.

Clause 33: If respondent objects to final order being made -

Mr RIEBELING: What is the time frame for the final order hearing?

Mrs van de Klashorst: It will be at the discretion of the court. It will depend on the circumstances, and the location of the court.

Mr RIEBELING: Is there a problem with an extended period before the confirmation?

Mrs van de Klashorst: It will be done in the shortest possible time.

Clause put and passed.

Clause 34: Grounds for a misconduct restraining order -

Mr RIEBELING: This is similar to clause 11 which deals with a misconduct restraining order. It is a relatively broad provision, presumably because of the lower level of danger involved. A second tier of restraining order is a good concept. During the second reading debate I referred to the possibility of clause 38(1)(e) being applied to unionists at the workers' embassy who wished to march to Parliament House or hold a ball. The Parliamentary Secretary said that a court must be convinced that the order was appropriate. However, when one links the causal base in clause 34 with the application base in clause 38(1)(e), one sees it is possible for the police to use this clause for reasons other than those envisaged by the Parliamentary Secretary, and I am not sure that some members of the Government do not envisage using this clause in that way.

Mrs van de KLASHORST: We went over some of these issues in clause 11 in relation to a violence restraining order. A misconduct restraining order will be granted only when certain criteria are met. An order must be "appropriate in the circumstances". Clause 38 sets out who can apply for an order. The magistrate must consider whether an order is appropriate. A misconduct restraining order cannot be applied to a group of people, and I cannot see a magistrate granting an order for each of the people at the workers' embassy unless there were extenuating circumstances. Every situation is different; however, someone must behave in a manner that was intimidating, would cause damage to property or was in breach of the peace before a magistrate would grant a misconduct order. The word "appropriate" in paragraph (b) should cover the member's concerns.

Mr RIEBELING: I do not think it does. The Parliamentary Secretary is partially correct, restraining orders are made on an individual basis. However, if the police knew there would be a demonstration against some legislation and the Government thought it was not appropriate, they could obtain restraining orders against those people because of the broadness of the definition in clause 38(1)(e). Sir Charles Court's Government provided a similar power in section 54B of the Police Act. A breach of the peace is likely in any rally, and although 99.9 per cent of magistrates may think it inappropriate to grant an order, that is a subjective decision. Clause 38(e) gives the police the power to apply for an order on behalf of the public generally; that is very broad. If one links that provision with clause 34(a)(iii), one sees the police can take out a restraining order against anyone. It applies to anyone they consider will breach the peace.

Mrs van de Klashorst: The Justices Act includes a provision pertaining to a breach of the peace, and this clause reflects that.

Mr RIEBELING: Exactly. My argument is that this piece of legislation should not lose any gloss by attaching to it actions which are covered by other legislation. This legislation's primary focus should be on stopping violence between people, especially domestic violence.

Mrs van de Klashorst: This clause applies to a misconduct restraining order, not a violence restraining order.

Mr RIEBELING: That is correct. This catch-all type clause allows the police to deal with people who normally would be dealt with under the provisions of the Mental Health Act and the Police Act. It should not be part of legislation which deals specifically with misconduct. I understand this clause applies to misconduct restraining orders, which are at the lower end of the scale, but I cannot recall the difference in the penalties between a breach

of a violence restraining order and breach of a misconduct restraining order. Presumably the penalties would be markedly different.

Mrs van de Klashorst: I think they are $2 000 and $6 000.

Mr RIEBELING: That refers to a breach of a short term and a long term restraining order. It amazed me, but I do not recall seeing the penalty provisions for a breach of a misconduct restraining order.

Mrs van de Klashorst: Clause 62 provides for a penalty of $1 000 for a breach of a misconduct restraining order and $6 000 for a breach of a violence restraining order.

Clause put and passed.

Clause 35: Matters to be considered by court -

Mr RIEBELING: A list of matters must be considered by the court to determine whether an application for a misconduct restraining order should be granted. That is appropriate because it is not as cut and dried as an application for a violence restraining order. I refer to the information which must be provided in an application for a misconduct restraining order. Under subclause (1)(g) the criminal record of the respondent is required to be produced. Why is the applicant's criminal record not required to be produced when a misconduct restraining order is sought? Throughout the legislation the respondent must be the person who responds, and I agree with that. However, when a court is considering the granting of a misconduct restraining order, the applicant for a misconduct restraining order may have breached the law. The court should be made aware of the applicant's criminal convictions as well as those of the respondent.

Mrs van de KLASHORST: If the member reads the clause, he will see it says, "have regard to", which means consider. I take as an example a restraining order against a person who has been caught loitering around a school several times or a person who continually annoys people in a shopping centre. The fact they have offended in that way several times must be taken into consideration. Subclause (1)(i) refers to "other matters the court considers relevant". In other words, the court could take the criminal record of the applicant into consideration.

Mr RIEBELING: Presumably the Parliamentary Secretary is talking about a corporate body.

Mrs van de Klashorst: It could be the owner of a shop. I referred earlier to a business in Midland which is owned by an individual. That person has taken out a restraining order against someone who continually loiters in their shop and upsets their clients. That person has had several restraining orders taken out against him. I understand there is now a category of restraining order where the respondent must stay away forever from the applicant.

Mr RIEBELING: Many people who are subject to restraining orders are subject to the provisions of other legislation, particularly the Mental Health Act. I understand that under this clause the court can consider whatever is relevant. It may be that the applicant has taken out a number of restraining orders. Perhaps the applicant has been convicted of misleading police. The magistrate will request that information only if he has an inkling of it. A magistrate would not ask for it if there was no provision to do so.

In situations where violence is not a reason for issuing a restraining order and a person is restricted in what he can lawfully do, the order must be carefully considered. The legislation would be stronger if the criminal records of the respondent and applicant were required. I understand there is provision in the legislation for a restraining order to be taken out by people other than the applicant. In the vast majority of cases it is Joe versus Jim or Harry versus Bill, but being the applicant is not like being the police. It does not have the same sort of aura about it. Some people will take out restraining orders for the purpose of damaging the respondent.

When dealing with a misconduct restraining order, the urgency is not as great and an applicant's criminal record may be as important as the respondent's criminal record. If it is considered important for the criminal record of the respondent to be produced, it is equally important for the applicant's criminal record to be presented to the court.

Mrs van de Klashorst: Subclause (1)(i) covers that. I went to the court and saw someone contesting a restraining order. Many of these issues were brought out by both parties and the magistrate was listening to both parties. It would cover the areas the member is concerned about.

The DEPUTY CHAIRMAN (Mr Ainsworth): Order! Hansard cannot hear the cross-Chamber discussion.

Mrs van de Klashorst: The respondent has the right to raise the applicant's criminal record. It would arise as part of the court proceedings.

Clause put and passed.

Clause 36: Restraints on respondent -

Mr RIEBELING: The wording in paragraphs (1)(a), (b) and (c) appears on numerous occasions throughout the preceding pages. Presumably this legislation is meant for the public to be able to read. Some of the wording in this clause is as follows -

(a) behaving in a manner that could reasonably be expected to be intimidating or offensive to the applicant and that would, in fact, intimidate or offend the applicant;

(b) causing damage to property owned by, or in the possession of, the applicant; or

(c) behaving in a manner that is, or is likely to lead to, a breach of the peace;

It is the same as the wording in clause 34(a)(i), (ii) and (iii). How many times must the same thing be said to achieve a result? One of the problems with legislation is repetition of wording for whatever minor reason.

Mrs van de Klashorst: Doesn't repetition make things more clear?

Mr RIEBELING: It makes the Bill thicker. Clause 36(2) and (3) both contain the words, "Without limiting the restraints that may be imposed for the purposes of subsection . . . a court may restrain the respondent from doing all or any of the following -". Perhaps the adviser can explain why words are repeated so often in this legislation.

Mrs van de KLASHORST: The member must seek advice from Parliamentary Counsel outside of this Committee. I do not question how and why they draft the legislation. The Parliamentary Counsel has taken notice of what he said.

The DEPUTY CHAIRMAN: I ask members to take notice of the fact that we have a problem with the microphones. They should either cease their conversations or keep them to a very low level.

Mr RIEBELING: Why is the word "absolutely" used in subclause (4)? My understanding of the restraining order is that the court will draft a restraining order saying that is what it thinks is appropriate. However, this clause then goes on to say "a restraint may be imposed on the respondent absolutely . . ." Presumably it is seeking to provide that not all the aforementioned nasties must be imposed. Surely that is self-evident. The legislation does not say "the court will impose the following conditions". It says "all or any". The Bill provides that the magistrate does not have to impose all the conditions that follow. However, subclause (4) says the same thing.

Mrs van de KLASHORST: My understanding is that "absolutely" refers to the fact that an order could be imposed preventing a respondent from going into a shopping centre or a house or from going into a place between, say, working hours or after hours. It allows a little more flexibility and distinguishes between what is absolute and what recommendations the magistrate makes on where a respondent can and cannot go.

Mr RIEBELING: Subclause (3) reads -

(a) being on or near specified premises or in a specified locality or place;

(b) engaging in behaviour of a specified kind, either at all or in a specified place at a specified time or in a specified manner;

The provision allows a magistrate to approve an order in specific terms; that is, that a person will not be at a certain house between, say, 10 pm and 11 pm.

Mrs van de Klashorst: Under subclause (2) it is as the court considers appropriate. A magistrate may say that a person can never be at a certain house. That is in absolute terms.

Mr RIEBELING: A court may make an order which will apply absolutely at all times.

Mrs van de Klashorst: This is for clarity.

Mr RIEBELING: It appears to be clouding the waters. It will allow flexibility when absolute flexibility already is allowed. It is strange.

Clause put and passed.

Clause 37 put and passed.

Clause 38: Who can apply -

Mr RIEBELING: This clause weakens the legislation. I have said many times that the power provided under subclause (1)(e) is excessive, and that it will allow abuse. Such abuse will weaken the main focus of the Bill,

which is to restrain violent people in domestic situations. The Minister for Justice has indicated there is nothing wrong with this clause, but I consider it to be a mistake. In time we will end up amending this provision. If that does not happen in the next three years, it will certainly happen in the next four years.

Mrs van de Klashorst: We have canvassed that matter many times.

Clause put and passed.

Clauses 39 and 40 put and passed.

Clause 41: Consent order or final order hearing to be fixed -

Mr RIEBELING: My concern is that this clause will allow a magistrate to issue a restraining order by consent, even if he considers there are no grounds to do so. A consent order will be made without considering the grounds for the order. I acknowledge that it may be desirable to issue consent orders to save time. The Minister has directed that consent orders are made often for the Family Court because they work well. Unfortunately, in Family Courts they do not always work well. My worry is that when dealing with the restraint of a person's legal ability to move, we allow another provision where the court need not be satisfied that grounds exist for an order; and the mere consent of the parties permits the issue of a restraining order, especially in domestic situations where there is an element of coercion or intimidation.

Sitting suspended from 5.25 to 5.42 pm

Mr RIEBELING: Consent orders are a part of life in the courts. However, consent with regard to restraining orders has the propensity to be grounded in fear rather than true consent. This legislation may provide that it is an offence to intimidate, but from my knowledge of domestic violence situations, a great degree of intimidation is used. A consent order may be weakened to put the respondent in a better light. A respondent may not consent to a strong order being made but will usually consent to a weaker order being made. Sometimes a respondent will say, "I want this relationship to finish, and I will consent to any order". However, in cases where intimidation is used, I fear this clause will allow that intimidation to continue by a weaker order being made.

Clause put and passed.

Clause 42: Attendance at final order hearing -

Mrs van de KLASHORST: I move-

Page 32, after line 17 - To insert the following subclause -

(3) At a hearing under subsection (2), the court may receive as evidence any record of evidence given (including any affidavit filed) at a prior hearing in relation to the matter.

Mr RIEBELING: This amendment will allow the court to accept affidavit evidence. That is a positive step and will put some commonsense into the process. I congratulate the Minister for including that provision.

Amendment put and passed.

Mr RIEBELING: Clause 41(3) states that the clerk is to prepare and serve a final order made by consent. I assume that should be read literally. Is that a normal service provision?

Mrs van de KLASHORST: Yes.

Clause, as amended, put and passed.

Clauses 43 to 47 put and passed.

Clause 48: Attendance at hearing -

Mrs van de KLASHORST: I move -

Page 36, after line 31 - To insert the following subclause -

(3) At a hearing under subsection (2) on an application by the person who is bound by the order, the court may receive as evidence any record of evidence given (including any affidavit filed) at the hearing under section 46 in relation to the matter.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 49: Variation or cancellation -

Mrs van de KLASHORST: I move -

Page 37, after line 12 - To insert the following -

(a) if the person protected by the order was not present at the hearing, is to notify that person;

Amendment put and passed.

Clause, as amended, put and passed.

Clause 50: No restraining orders against children under 10 -

Mrs van de KLASHORST: I move -

Page 38, line 5 - To delete "old" and substitute "of age".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 51 to 59 put and passed.

Clause 60: Deliberate avoidance of service -

Mr RIEBELING: Substituted service is mentioned in this clause. Will the Minister explain what procedure it likely to be set out to allow for substituted service where a respondent is avoiding being located? It is clear that there is some process in mind.

Mrs van de KLASHORST: An order could be given to a bailiff, who could take it around to the person, if the bailiff knew exactly where he lived. The order could be pinned on the door. This gives an opportunity for another way of serving the order.

Mr RIEBELING: I thought that bailiff service and the like would be a personal service. I am interested in the substituted service process. Clause 60(1) refers to "substituted service of the document". That usually refers to a method of service other than by a person or by post and usually means by advertisement in a newspaper.

Mrs van de Klashorst: It could be service by pinning the order on the door, advertising or any other way.

Mr RIEBELING: Will regulation lay down what it is?

Mrs van de Klashorst: I believe the court will have a process, according to the circumstances.

Mr RIEBELING: Restraining orders do not take effect unless they are served.

Mrs van de Klashorst: That is correct.

Mr RIEBELING: The normal substitute service process in a local court is somewhat involved. I hope there will be a simple process.

Mrs van de KLASHORST: As soon as it is practicable for the order to be served means as quickly as possible after the order is granted.

Clause put and passed.

Clause 61: Breach of a restraining order -

Mr RIEBELING: I move -

Page 43, lines 24 to 26 - To delete the lines and substitute "$6 000 or imprisonment for 18 months.".

This clause refers to two different penalties for breaches of short term and long term restraining orders. If exactly the same kind of assault is committed by two different people - one the subject of a 72 hour restraining order and the other the subject of a longer term restraining order - for some reason the court is to take a more serious view of the breach of the longer term restraining order than a breach of a 72 hour restraining order. If the victim loses two teeth, or whatever, I cannot see why the penalty should be three times as much as for a breach of the longer term restraining order. I understand the difference between a violence restraining order and a misconduct restraining order. This amendment would get rid of the penalty prescribed for short term restraining orders and the clause would then provide that breaches of restraining orders were to be dealt with in the same manner. The

maximum penalty in the clause is $6 000 or 18 months' imprisonment. Therefore, it is open to the magistrate to impose a penalty between nought and 18 months' imprisonment. Why the ministry wants to put in a penalty of $2 000 or six months' imprisonment is beyond me. Will the Parliamentary Secretary explain the justification for it?

Mrs van de KLASHORST: If the case has not come to court and the respondent has not had an opportunity to be heard, a penalty of $2 000 rather than $6 000 would be more applicable to the short term restraining order. It also makes the penalty for breach of the longer term order have more impact.

Mr RIEBELING: I thought that the hope of this legislation was that restraining orders per se would have a greater impact on our society. There would be a greater chance of a breach of an order within 72 hours than there would be with a longer term order, because tempers would be closer to the boiling point which led to the restraining order. Restraining orders will be processed that will not involve the 72 hour order. There is still a process by which a person can apply in a normal situation. To say that a breach of a restraining order before a person goes to court is less important than a breach after he has gone to court is an interesting concept in sentencing. I thought that the order, if it were confirmed, would be exactly the same order as during the 72 hours. After confirmation at the final hearing it may be exactly the same order except for the duration. The restraint may be exactly the same.

Mrs van de Klashorst: It is not confirmed after the 72 hours -

Mr RIEBELING: It is served and is in force on a person.

Mrs van de Klashorst: For the 72 hours.

Mr RIEBELING: They may not agree. It may be that no one agrees with it. The fact is that a court has imposed a restraint on someone. Will the Parliamentary Secretary explain the difference to the victim between a breach of a 72 hour order and breach of one in existence for three months? I thought that in the mind of the victim or the applicant, the assault, whatever the breach, would have the same consequences, whether it was a 72 hour restraining order or a longer term restraining order. If it does not, the legislation is weakened somewhat. I could understand if some minimum were set. I may not understand fully the sentencing implications for a person who breaches a 72 hour restraining order, but my amendments do not remove the court's right to impose a lower penalty. In fact, a higher penalty, not the minimum, would be imposed. The Government's provisions do not allow for a minimum penalty either.

The courts have an absolute discretion about what the penalty should be. The legislation will be stronger if all breaches of restraining orders are not acceptable. The Opposition is not saying that if a person breaches a particular restraining order it is three times worse than breaching another restraining order, because all restraining orders should be designed to do the same thing: that is, protect the applicant from the respondent.

Sitting suspended from 6.01 to 7.30 pm

The CHAIRMAN: Before we start I inform members that the bells are not working and the audio is working only intermittently. The electrician is about five minutes away from putting in a fuse and getting the Chamber back to full working order. I ask members to speak louder so everyone can hear. If a division is called, an extra minute will be allowed for the bells to be rung by hand.

Ms ANWYL: The penalties for breaches of 72 hour orders and any other interim orders should be the same, because many interim orders will be made on an ex parte basis and will be subject to the provisions of this clause. Paragraph (a) will be applied to the bulk of them. A distinction between the penalties for breaches of different restraining orders will further devalue the status of 72 hour orders. Notwithstanding the argument earlier about whether the bulk of 72 hour orders will be by telephone, the reality is that they are interim orders and will be subject to triple the fines of any other interim orders; that is, $6 000 and not $2 000. I fail to see the need for that distinction.

Mrs van de KLASHORST: I repeat: It is a matter of natural justice. Many people who take out 72 hour orders are not able to go to court. Giving breaches of those orders a different penalty from that applying to someone with a longer order fits in with the natural justice implications of the Bill.

Ms ANWYL: The difference is that a person has 21 days to contest an interim order, which results in many interim orders being breached because in most cases the respondents will not have been heard when those interim orders were granted. I fail to see the distinction between a 72 hour order and an interim order because a final hearing will not be needed in either case.

If we use natural justice as a reason for a lesser penalty for a breach of a 72 hour order, we must also remember that in the bulk of interim orders the respondents will not have been heard. How can the Government make that distinction?

Mr RIEBELING: Changing the penalty gives the public the impression that we do not consider that all breaches of restraining orders should be dealt with severely. It is open to the court to impose a lesser penalty for a 72 hour breach. We should not fix a minimum penalty because a court may decide to fine a person $1 under this proposed section. The Opposition is not saying that the court should do anything other than say a breach is a breach, no matter which of the orders a person is breaching. A victim of a breach of an order will consider the breaching of a 72 hour order to be the same as the breach of an interim order or a confirmed order. If this Bill is supposed to respond to domestic violence, it is important the breaching of orders, which are supposed to protect, is taken as seriously as possible. We must give the clear message to perpetrators of violence that we will not accept violence and that, if they breach orders, they will suffer the consequences; that is, a maximum of 18 months imprisonment.

Mrs van de KLASHORST: I take on board what the member has said. This matter was brought up with the Attorney General when we looked at the Opposition's amendments. It is policy that it not be changed. I am afraid that is just the way it is.

Amendment put and negatived.

Clause put and passed.

Clause 62: Consent as a defence -

Mr RIEBELING: It is my firm belief that one of the big problems in our system faced by the victims of domestic violence relates to the place in which the victim and the perpetrator reside. The perpetrator of the violence is always in a position of power over the victim. That has been the case in the system we are trying to replace and it is one of the worst parts of the Bill; it is one we hope the Government will tackle. If it did that, this would be better legislation. If this clause is passed, we will have the same situation where a restraining order can be issued against a male - usually - who can coerce or convince the applicant or the protected person to allow the restrained person back into the matrimonial home or the abode of the applicant. At that point the restrained person has a defence to any part of that order.

I am sure the Parliamentary Secretary will say that in certain circumstances in normal life a protected person may wish the respondent to breach the order by going into the matrimonial home to take the kids to hospital, or do various things of that nature. However, those defences are already available to defendants; they do not have to highlight or reinforce the defence of consent in this way. A defence of consent can be accessed under the Criminal Code. In my view this provision allows intimidation, which is part of domestic violence, to continue to flourish. It is a backward move to allow this provision to remain in this clause.

If the person who is protected under a restraining order wishes the order to be varied, a simple process has been set out in the good provisions for variation and cancellation of restraining orders which have been passed without debate. It is not a difficult task to vary or cancel a restraining order. The applicant has only to lodge the application and the variation flows from there. If the applicant were genuine about asking a restrained person to come into the home from which that person was prohibited by a restraining order, there would not be a complaint and, therefore, no need for a defence of consent. In my experience, if there is a breach, the lawyer and the respondent think of a defence and this is the one they grab; for example, the respondent was asked to come back into the matrimonial home and that is where the breach occurred.

Ms McHALE: I oppose this clause. Like the member for Burrup, I am most concerned about the potential loophole it provides. A number of women who work within the domestic violence environment have expressed grave concern to me about this clause. They feel it will allow perpetrators of the domestic violence to access the spouse indirectly. On the surface, the Criminal Code focuses on consent being given freely and willingly. If there is intimidation, threat or whatever, that is not consent. The issue here is that the husband and wife are operating in a very vulnerable and fragile relationship. The Opposition and the women who work within the domestic violence area are concerned that women will be threatened by their spouse, who will appear to be quite charming and will coerce the spouse to allow him to re-enter the matrimonial home, and there could well be further acts of violence.

We do not believe this clause is necessary. We have grave concerns about subclause (3), which provides that if consent is a defence, the court hearing the charge of the breach may cancel the order. We view that as a serious flaw in the legislation. If the order is breached, the person whom the order was taken out to protect should seek its revocation. I raise two issues within clause 62: First, the defence of consent; and, second, the consequences

of consent as a defence being found. We have grave concern about subclause (3). For those reasons, we believe the clause should be removed without any detriment whatsoever to the objectives of this Bill.

Ms ANWYL: I, too, oppose this clause in its present form. The principal reason for that is that the notion of consent as a defence in its present form displays a lack of understanding of the dynamics of abuse in the context of domestic violence. Often a variety of tactics is employed by a perpetrator over time in what is generally acknowledged by sociological experts to be a situation of power of one partner over another; hence, there are all sorts of examples of abuse, such as stalking, which can go on long beyond the end of the relationship. Having been a practising lawyer, I think this is a difficult area to come to terms with. It is Parliament's wish that insofar as couples wish to reconcile, no impediment should be put in their way. The Family Law Act provides that a reconciliation of less than three months does not affect the degree of separation of 12 months that is required for a divorce. That is just one example of where Parliament wants to assist parties to reconcile. However, it must be remembered that this legislation is principally designed to protect the safety of those who require restraining orders.

Consent is a difficult legal concept. Although the restraining orders review endorsed the adoption of the consent definition as set out in the Criminal Code as it applies to sexual assault, many sexual assault cases that go to trial do so on the basis of the defendant's raising the issue of consent. The most notorious case in that regard was the so-called 11-second rapist, although I believe he has now been exonerated completely. Nevertheless, it provides an interesting hypothetical. Women and men will often have children and therefore must have some form of contact. Although a mother may consent to the father's attending the home to pick up the children, she does not consent to being abused or to being the victim of violence. It becomes a difficult area.

The Domestic Violence Council of Western Australia raised the principal concern of a lack of understanding of the dynamics of abuse. It is well accepted that there is a phase of abuse. There is a so-called honeymoon phase involving remorse immediately after the violence occurs when things seem to be all right. The power imbalance then builds up and all sorts of problems lead to another outburst of violence. It is difficult to treat the issue of consent as one that should be set out in such a statutory form. Cases go to court in which it is mentioned that an invitation has been made by an applicant. I have appeared in cases for which there has been a finding of not guilty of breach under the existing legislation. I fail to see how this provision will advance the legal position of defendants.

Mr BAKER: In my view the provision in clause 62 should remain. There are many reasons for this. It stands to reason in circumstances that normally give rise to orders of this kind that the possibility of consent to a breach should be made available. In that regard, we are not talking about consent per se or the *Concise Oxford Dictionary* definition of consent, but about the specific statutory definition of consent that was adopted from section 319(2) of the Criminal Code. The phraseology used in the definition of consent in that Act indicates that the draftsperson of the Restraining Orders Bill has a good insight into the dynamics of domestic violence and that sometimes consent may not be given freely or voluntarily and may be obtained by force or threat. The definition of consent in that provision of the Criminal Code excludes any consent that is not freely and voluntarily given.

Section 36 of the Criminal Code would apply also to a breach of clause 61, the offence provision in the Restraining Orders Bill. Section 36 of the Criminal Code states that provisions of chapter 5 of the code apply to all persons charged with any offence against the law of Western Australia. Chapter 5 contains a provision commonly known as the mistake of fact defence. Section 24 states that a person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been as he believed to exist. That indicates that not only is consent as a defence available, but also that the defence of mistake of fact is available.

There are two scenarios: First, where there is as a fact consent as defined in section 319(2) of the Criminal Code; and, second, where consent as a fact did not exist and did not apply at the time, however, the defendant charged with a breach under clause 61 of the Bill can argue that he honestly and reasonably believed that the complainant was consenting to the contact or breach of the restraining order. Indirectly, and perhaps unwittingly, there is an express statutory defence of clause 62, known as the consent defence, but also due to the application of sections 24 and 36 of the Criminal Code there is the extended application of that defence, incorporating the mistake of fact defence. It is important that a consent defence apply to breaches.

Earlier members opposite acknowledged that in certain cases applicants do not tell the truth and that their criminal records should be relevant when determining an application for a restraining order. It was also said that the respondents' criminal record may be relevant. In the real world applicants and respondents tell lies on oath. In certain circumstances the only way to bring that issue to a head is for the defendant to plead not guilty to a breach

or to defend the application for a restraining order and have a fully blown hearing and test the evidence of the applicant. I support the inclusion of clause 62, specifically subclause (1), in the Bill.

Mrs van de KLASHORST: I also refer to the Criminal Code and the statutory definition of consent, which refers to consent freely and voluntarily given. If consent is not freely and voluntarily given but is obtained by force, threat, intimidation, deceit, or fraudulent means, it is not consent. In clause 62(2) consent is not a defence if the person protected by the order is a child or a person for whom a guardian has been appointed. It must be ensured that we balance the human factors in the situation. There will be times when consent as a defence can be used; for instance, if the couple have a child who has an accident and they both must attend hospital, at a family wedding or a funeral, or when a problem arises at school for which both parents need to be present to support the child. The restraining orders review involved people from many groups, such as the victims' advisory council, the Domestic Violence Council, Legal Aid Western Australia, and Family and Children's Services, who discussed the matter at length and decided that it was not appropriate for this provision not to protect those people. If these people are kept completely apart, without this provision a reconciliation would not be easy. I reject the suggestion because I believe this should remain in the Bill.

Mr RIEBELING: The current position will be maintained by this clause. I understand one of the weaknesses of the current legislation, at least in the eyes of the Police Force, is that after a complaint has been made, the husband visits the wife who then withdraws her complaint. The offence then occurs again. This defence provision allows that to continue. Some applicants, who would become complainants no doubt in the defence of consent, might not tell the truth. A defence of entrapment is available to defendants already in relation to breaches. In a real consent situation, no complaint would be made. If it were genuine consent, the person protected would not ring the police and say somebody had breached the restraining order, to which they had consented. The current position empowers the perpetrator of domestic violence, and this consent defence weakens the position of the victim. Despite what the Minister for Justice and others have said, this is one of the key areas that should be changed. If entrapment is used as a defence and also an honest belief - I do not know how that would be - genuine consent is already a defence. This provision considerably weakens the position of the applicant for a restraining order. It is sad that this legislation, which is capable of improving the situation, contains a provision that allows violent people to retain their guns and allows for intimidation to breed consent. Whether or not it is an offence under the legislation, that does not stop it occurring. In country areas applicants for restraining orders are under great stress. They do not need extra pressure placed upon them. It is a simpler matter once a restraining order has been issued to have it varied or cancelled, than it is to impose a restraining order. That is as it should be. However, if an applicant takes the serious step of restraining a person, that applicant should know the consequences of any breach of that order, and how that order may be varied or cancelled. The penalties for breaching restraining orders can be up to 18 months' imprisonment. People who take out restraining orders should not be told there is a consent defence in that order. If the applicant wishes to vary or cancel the restraining order, that person should apply to do so. It will not happen overnight, but the draftspersons have provided in this legislation for cancellation or variation of a restraining order.

Clause put and passed.

Clause 63: Making restraining orders during other proceedings -

Mrs van de KLASHORST: I move -

Page 45, lines 10 and 11 - To delete the lines and substitute the following -

(5) If a restraining order has been, or is about to be, made under subsection (2), the court may, in order to facilitate service of the restraining order, order the person against whom the order has been, or is about to be, made to remain in a place designated by the court for a period of not more than one hour until the order is served on that person.

Page 45, lines 15 to 17 - To delete the lines and substitute the following -

(7) A restraining order made under subsection (2) is to be prepared and served -

(a) by the clerk in accordance with section 10(1); or

(b) if the clerk is not available at the time the order is made, by the person making that order in accordance with section 10(1) as if that person were the clerk.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 64 put and passed.

New clause 65 -

Mr RIEBELING: I move -

Page 46 after line 22 - To insert the following new clause -

Orders that conflict with certain family orders

65. In relation to violence restraining orders the restraining order overrides all other orders.

I am aware that this amendment will not be agreed to, but I want to place on the record my concerns about Family Court orders overriding restraining orders. I understand that Family Court orders override those of the State, and that is not likely to change. However, I think it should change and the Family Court should relinquish the power it protects so well and give it to the state authorities. When the Family Court makes an order, it considers the situation at a particular time and takes into consideration the welfare of the family and the disposal of goods. It determines its order at a specific moment in the history of that family.

Violence restraining orders must necessarily be issued after the Family Court order is issued. The magistrate determining such an order has different facts from those that were available to the Family Court when it made the order that overrides the Court of Petty Sessions order. However, when the Court of Petty Sessions determines a restraining order, its primary focus is the protection of people in the family, normally the wife or children. Because of its timing and the nature of the matters being considered, that order should take priority in the legal system. The fact that it does not is an indictment of the various jurisdictions. Any judge considering the family's welfare, long term future or its protection from violence would say that the violence issues should override the longer term interests, at least for the duration of a restraining order.

This amendment is moved not in any hope that the Commonwealth will collapse and allow us to do it but to put my genuine concerns on the record.

Ms ANWYL: Thankfully in some cases a Court of Petty Sessions will have the power to amend an order. Again, in the country it is common for magistrates of the Court of Petty Sessions to sit as magistrates in the Court of Petty Sessions Family Court. Therefore, they might be intimately acquainted with the facts of a case, so there will be some relief. My concern is more for the metropolitan cases, where Family Court orders are made more frequently and where we will face this jurisdictional problem.

It is very rare that non-molestation orders are taken out. Perhaps that area should be looked at in respect of encouraging the Family Court to consider those issues at the time orders are being made and when there is some likelihood of this type of situation arising.

My principal concern is that we are yet to receive any detail from the Government about the wording of the orders. Section 172 of the Justices Act contains a standard form for restraining orders specifying that, except for the purpose of arranging lawful access, the respondent must not contact the applicant, and there is also a number of exclusionary provisions. The reality in Western Australia is that very few facilities exist at which access handover and pickup can occur. Therefore, once a violence restraining order is made, it is often necessary to have a third person involved in arranging access, being the contact point for communication about details of picking up and dropping off children, to provide supervised access or simply to be a point where the handover of children can occur. Once again, in its present form, the Bill is an improvement. However, unless resources are made available for an agency such as the Department for Family and Children's Services to facilitate that access handover, the provisions of the Bill might make things more difficult.

When the Family Court recognises that violence has been occurring, it protects the subject of that violence from having to attend compulsory mediation and conciliation conferences and so on. However, compulsory counselling sessions could be required, perhaps as a result of the obtaining of a violence restraining order. Again, it is very difficult because more contact will occur between the parties while they are trying to resolve the access dispute. Without access facilitation centres, that contact in itself becomes vexed. Has any thought been given to providing resources to the relevant agency, which I suggest is most appropriately the Department for Family and Children's Services, to establish points where access handover can occur?

Mrs van de KLASHORST: I concur with some of the member's comments; difficulties exist between the commonwealth legislation and this legislation. However, the Attorneys General have met and discussed this subject, and they are looking at ways to overcome the problem. A Western Australian Family Court Bill will be introduced to deal with some of the issues.

This Bill goes as far as is constitutionally possible towards ensuring that restraining orders will take precedence over Family Court orders. There is not much further we can go with it because of the family court legislation.

Mr Riebeling: What is proposed by the Attorneys General?

Mrs van de KLASHORST: They have met once and are discussing it, but I am not privy to those discussions. They are generally looking to see whether they can overcome the problem.

Mr Riebeling: Is there similar legislation in other States?

Mrs van de KLASHORST: There are some similar pieces of legislation, but I am not aware of all of them.

Mr RIEBELING: I thank the Parliamentary Secretary for that information. Where are those discussions heading and is some uniform legislation being considered? Uniform legislation should prevail in this area, especially in relation to conflict with Family Court orders, which is a federal issue. Most States would have the same sorts of problems, but perhaps are tackling them in different ways.

Mrs van de KLASHORST: I will refer that question to the Minister for Justice.

New clause put and negatived.

Clause 65: Orders not to conflict with certain family orders -

Mr RIEBELING: I appreciate that this Bill goes as far as is constitutionally possible. I will be interested in more information if and when it is available.

Clause put and passed.

Clause 66: Notification of family orders -

Mr RIEBELING: I understand the reasons for subclause (3)(a); however, if an applicant knows that an order exists but knows almost nothing about it, because it occurred a fair while ago, will this provision delay the process or will an interim order be put in place and at a later date any contravention of the family order can be looked at?

Mrs van de KLASHORST: Subclause (6) states that a restraining order is not invalid merely because the applicant does not comply with this clause. The magistrate can adjourn the matter as he or she decides.

Mr RIEBELING: That is a good provision. However, I asked whether a restraining order would be granted if information that was required under subclauses 3(a) and (b) was not known, or whether the order would be halted until that information was provided. Will an interim order be made subject to obtaining information from the Family Court? I understand that once the order is made it is valid and remains in force.

Ms ANWYL: If often surprises me that people have no idea what their family order says. There can be real difficulties in obtaining those quickly, especially given so many people move around the country and many States do not have readily accessible family orders. It is not a matter of simply telephoning a registrar of the Family Court in Melbourne and asking them to fax an order over. If one is represented by a solicitor, the legal procedure is to fax a notice of address of service, which is a particular document, and one receives something by return fax. It seems that there would be many cases where family orders are in existence, and for a variety of reasons people do not always know their content. As this is one area of law where there can be a fair degree of acrimony between parties, I would hate to see, through simple ignorance of the terms of an order, that an applicant was found to be misleading the court. Bearing in mind that the initial onus will be at an interim hearing, which is often ex parte, the transcript of that interim hearing pursuant to this Bill is then able to be tendered as evidence at a final hearing, if one exists. Those are practical problems. What steps can be taken to clarify the situation for applicants, perhaps on an administrative level, to facilitate the easy accessing of family orders, particularly where they are made by interstate courts?

Mrs van de KLASHORST: I refer the member for Kalgoorlie to clause 12(1)(f), where any family order must be considered when making a restraining order. I agree that often people forget what has happened in the past. The magistrate will then make a decision on whether to hold the hearing over. A magistrate can also make a restraining order if he or she wishes. It will be depend on the circumstances in the case.

Mr Riebeling: Do you see it holding up the process?

Mrs van de KLASHORST: Not if there was an urgency, and especially not nowadays with telecommunications; it is easy to find out the information that is needed.

Mr RIEBELING: Is it intended that this provision does not apply to 72 hour orders?

Mrs van de Klashorst: It will apply to all orders.

Mr RIEBELING: I see a problem with 72 hour telephone orders not being able to comply with subclause 3(a) and (b). It might be that the woman has a broken jaw, or she has been stabbed. I understand that provision would not hold up protection of that person.

Mrs van de Klashorst: Not as far as I understand. The police would take out an order out in those examples.

Mr RIEBELING: The police officer would be an authorised officer, and would not be aware of the existence of an order even if one existed.

Mrs van de Klashorst: That is possible.

Clause put and passed.

Clause 67: Adjournments -

Mr RIEBELING: Subclause (1) states the court can adjourn a hearing when it considers it appropriate. Earlier I referred to a substituted service which is utilised to proceed a restraining order and to a court determining, for whatever reason, to adjourn that hearing. Would a substituted service apply if they have to again go through the process of an adjourned hearing?

Mrs van de Klashorst: Subclause (2) states that the clerk is to notify each party. That should not hold up the procedure. Clause 56 states that notification of a matter is to be given in writing to the person to be notified personally or by ordinary prepaid post. That should answer the member's query.

Mr RIEBELING: It does not, because a substituted service indicates that a notification personally or by post has been unsuccessful. I would be happy if an amendment were made to a substituted service at a later stage. It is not a simple process because it involves advertising. If a person avoids service to that extent and for some reason there is an adjournment it appears onerous to put the State to the expense of having to go through that process again.

Mrs van de KLASHORST: This clause states that the court must be satisfied that the substituted service has been effective and the notice cannot be served in any other way.

Clause put and passed.

Clause 68: Orders may be extended to apply to other people -

Mr RIEBELING: This clause allows for a person who is not the person named in an order to be named as a protected person in that order. Presumably, in the course of a restraining order application, the court will reach the view that more than one person needs to be protected under a restraining order and ties that person or persons to the order. It is interesting that that power is given. I understand it may be easier for all concerned to have that happen, but it may well be that the additional person or persons who are named in the order may not wish to be protected by the restraining order. What does the parliamentary draftsman say about the extension of protection to a person who has not made the effort to actually go through the restraining order process? The court may include in the order the son or daughter of the person who is protected by the restraining order, but they may not want that protection. The Bill does not provide for the court to hear evidence from the additional person to be protected. It is a relatively broad clause that allows the court to make up its mind in the process of hearing other evidence rather than evidence from the additional protected person. I am interested to know whether the scenario I have put is wrong so that I know why the clause has been included.

Mrs van de KLASHORST: The member is correct. It could be used where a mother adds her children or an elderly person to the order. It could include someone who has been knifed or has had his jaw broken and needs to be protected. A person who does not want to be named in a restraining order has the right to go back to the court and have the order varied. Parliamentary counsel said this provision is mainly for children. It stops several orders being taken out at the same time. It may apply to a person who is ill and needs someone to name him as a person to be protected.

Mr RIEBELING: Is it envisaged that a parent will take out a restraining order for their benefit and at a later stage will add the children? Will the application contain the names of the children?

Mrs van de Klashorst: It can name them at the same time.

Mr RIEBELING: Do they have to?

Mrs van de Klashorst: No, it allows for that.

Mr RIEBELING: In the rules of natural justice, if Jim Bloggs is served with a summons to appear in a court because Jane Bloggs needs protection from him, he may not worry about turning up to a restraining order hearing that will protect his wife from assault, but he may be very concerned if, after hearing evidence relating to a restraining order, he finds that the court is of the mind that their children should also be named in the restraining order. If he does not appear, will he be able to object to that part of the order at the confirmation hearing of the restraining order? In the period between the interim order and the confirmation, will the respondent be restrained under the order from people who may not wish that protection and whom the respondent may wish to visit, while not being concerned about seeing or contacting the original applicant? Does the Bill not provide that an application be taken out by a guardian or parent? A parent, as an authorised person, can apply to protect a child.

Mrs van de KLASHORST: The clause refers to "when making a restraining order". Therefore, the other names would be put on the order at the same time. The matter would have to be dealt with at one time.

Mr RIEBELING: My reading of this clause is that it extends beyond the person who originally applied for protection. It says "may extend an order to operate for the benefit of a person named in an order in addition to the person protected by the order."

Mrs van de Klashorst: Subclause (1) says "when making a restraining order". A mother may ask to have a restraining order but want to add her children or other relations.

Mr RIEBELING: I cannot understand why the clause is in the Bill. Is it a process to link numerous restraining orders?

Mrs van de KLASHORST: It seeks to provide for one restraining order containing five names rather than five restraining orders. It will speed up the process and allow for protection under one restraining order of, say, a family or family members.

Clause put and passed.

Clause 69: Costs -

Mr RIEBELING: What is the magnitude of vexatious applications under the restraining order?

Mrs van de KLASHORST: There is obviously a percentage. This clause is to try to discourage vexatious or frivolous applications. I do not have the figure, nor do my advisers.

Clause put and passed.

Clause 70: Protection of person protected by order -

Mr RIEBELING: Why is this clause necessary? I presume it is designed for someone who is in hiding and fearful of being identified by an applicant. I suppose a court would find it difficult to conclude that a person was in real danger if a respondent did not know the whereabouts of the applicant. I understand the necessity of not advising those who are in hiding because of their great fear. I think the ability to impose a restraining order when an applicant is successfully hiding should be provided for in the legislation. However, how would a court be of a mind that an offence would be likely to occur if the respondent were not restrained or that he would behave in an offensive manner likely to cause fear when it was obvious that the respondent was not aware of the address?

Is clause 70 a general provision which will apply to all restraining order applications? Is it the case that under no circumstances will the address of the applicant be included on any restraining orders?

Mrs van de KLASHORST: Some people who take out restraining orders could be in fear of their lives. This protection is frequently used in restraining orders now but it is not part of any legislation. A shop owner could take out a restraining order to stop a person from entering his shop but might not want him to know where he lives. A person taking out a restraining order against a stalker might not want her residential address to be known. This can be applied any time the magistrate feels it is necessary.

Clause put and passed.

Clause 71: Notification when firearms order made -

Mrs van de KLASHORST: I move -

Page 50, after line 16 - To insert the following -

(iii) whether the person and another person (**"the co-licensee"**) hold firearms licences in respect of the same firearm; and

(iv) if so, the name and address of the co-licensee;

Page 51, line 1 - To insert after "usual occupation" the following -

or holds a firearms licence in respect of a firearm for which a co-licensee also holds a firearms licence

Page 51, line 3 - To insert after "person" the words "or co-licensee, as the case requires".

Page 51, line 13 - To insert after "person" the words "or co-licensee".

Page 51, line 20 - To insert after "person" the words "or co-licensee".

Page 51, line 21 - To delete "subregulation" and substitute "subsection".

Page 51, line 23 - To insert after "person" the words "or co-licensee".

Page 51, line 24 - To insert after "person" the words "or co-licensee".

Page 51, line 28 - To delete the line and substitute the following -

Penalty: In the case of a responsible person - $4 000. In the case of a co-licensee - $4 000 or imprisonment for 12 months.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 72: Practice and procedure generally -

Mr RIEBELING: I may have missed something here. Why is there no provision for imprisonment?

Mrs van de Klashorst: It may be that the Commissioner of Police is the licensee and the co-licensee is the person who uses the gun; or it may be a gunshop owner who has the guns.

Clause put and passed.

Clause 73: Regulation making power -

Mrs van de KLASHORST: I move -

Page 52, lines 27 and 28 - To delete "the Commissioner of Police" and substitute "a prescribed person".

Page 52, after line 28 - To insert the following -

(c) facilitating the effective operation of restraining orders which prohibit or restrict a person from being in possession of a firearm;

Amendments put and passed.

Clause, as amended, put and passed.

New clause 74 -

Ms ANWYL: I move -

Page 53, after line 6 - To insert the following new clause -

Review of Act

74. The Attorney General shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 18 months from its commencement and in the course of that review the Attorney General shall consider practical issues such as service of orders by Police.

It is important that the legislation contain a review provision. I noted the Parliamentary Secretary's comments at the second reading stage to the effect that two reviews would be undertaken on an informal basis. I do not doubt the veracity of those comments, or her goodwill. My concern is that Ministers change and the composition of bureaucracies within ministries changes, and unless it is spelt out in the Act, a review may not occur. By and large, the recommendations of the 1995 report of the review of restraining orders have been followed closely in this legislation, except with regard to a review provision.

Paragraph 2.27 and onwards in that report clearly indicates a need for a review. The time frame suggested was three years subsequent to the implementation of the new legislation. In my submission, three years is too long. It will be vital to have early monitoring of the effectiveness of the 72 hour provision and the very real practical problems that will ensue, especially if various government agencies - most notably the police and the Ministry of Justice - do not provide additional resources. The other important agencies involved are Family and Children's Services and the domestic violence prevention unit. The 1995 report identified the need to collect better data. Therefore it is vital that data collection begin immediately.

I seek the Parliamentary Secretary's advice as to whether that has been put in train. The report identified particularly the need to collect information about the demographics of the parties to restraining orders. It appears that currently research contained in the book by Ferrante and others measuring the extent of domestic violence indicates that about one-half of all orders taken out on an ex parte basis are not confirmed. Therefore, a great deal of data collection will be necessary to work out whether the changes in this legislation are effective.

This new clause will provide that a review be undertaken within 18 months of the commencement of the legislation and that the Minister must consider practical issues in that review, such as the service of orders by police, which has been identified as a key issue. Undoubtedly, the Parliamentary Secretary could think of a number of other issues which could cause a number of practical concerns. Has some data collection process been implemented? Also, can the Government support this proposed new clause review and if not, why not?

Mrs van de KLASHORST: As I mentioned previously, the Minister for Justice intends to look at the telephone order system within six months, and that review will include some of the matters the member raised. We need to get the system in place and running as smoothly as possible before an evaluation is conducted. In that way, we will know whether it is beginning to work.

The Minister for Justice has suggested that a minimum of two years is needed before any evaluation can occur. If an evaluation were conducted within 18 months, as suggested in the new clause, one will consider only one year's data. Therefore, the telephone orders will be considered in six months, and the overall data will be looked at -

Mr Riebeling: Would you be prepared to extend it to two years?

Mrs van de KLASHORST: The Opposition in the upper House proposed a five year period, which the Minister proposed to reduce.

Ms Anwyl: The report says three years.

Mrs van de KLASHORST: Yes. The member also asked about the evaluation of data collection. I previously read out a list outlining some of the data collection procedures we are starting to put in place. Importantly, standardised data is needed. The Family and Domestic Violence Task Force discovered the anomaly of unreliable data on domestic violence which was not comparable from year to year. We need a proper, computerised system, and that is being developed. I spoke to the Minister a little while ago, and I was told it is being worked through and set in place. I will not accept the amendment.

Ms Anwyl: Would it be acceptable to the Minister if the timing of the inquiry is changed?

Mr Riebeling: I think you indicated that the Minister said he would be happy with two years.

Mrs van de KLASHORST: I will need to check with him or re-read the *Hansard* on that matter. We discussed generally that we did not want this review as outlined, and it is not necessary to place the measure in the legislation. It can be done outside the Act by the Minister and the Ministry of Justice.

Mr RIEBELING: This amendment supports the Government's rhetoric; that is, it will ensure that the legislation is not only timely, but also reviewed on a regular basis so it properly reflects the needs of the community. I applaud the concept of separate legislation. It is a new way of dealing with restraining orders to protect people from domestic violence. However, the last thing we want is to continue the system if it is not working. I do not know why the Minister for Justice would say that data collected over 18 months is insufficient to determine whether the system is working. I thought that the Minister would know that fact within 18 months.

Mrs van de Klashorst: One would know within a few months.

Mr RIEBELING: The Parliamentary Secretary will hear about the system very quickly if the magistrates are up all night answering the telephone - she will find out then whether it is working!

Mrs van de Klashorst: You must know the magistrates better than I do.

Mr RIEBELING: I know some of them. The incorporation of reviews in modern legislation assists in ensuring that the measure is appropriate to the times and the people it seeks to protect and restrain. I hope the Minister for Justice - I hear the Parliamentary Secretary's words in this regard - thinks about the timing of the review, and that a proper review is established within two years as suggested by the Opposition. Following that review, the operation of the restraining orders, especially in the area of guns and other matters we have raised, can be amended to better meet the needs of people in unfortunate circumstances in this State.

Mrs van de KLASHORST: I am sure the Opposition will ensure that that happens. I will the draw the Minister's attention to the members' comments in *Hansard*.

New clause put and negatived.

Clauses 74 to 79 put and passed.

Clause 80: *Justices Act 1902* amended -

Mrs van de KLASHORST: I move -

Page 58, line 4 - To insert the following -

(1) Section 42 of the *Justices Act 1902** is amended by deleting "Proceedings" and substituting "Unless otherwise provided, proceedings".

Mr RIEBELING: I presume that that means that the current subclause (1) will automatically become subclause (2).

Mrs van de KLASHORST: Yes.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 81 put and passed.

Clause 82: *Sentencing Act 1995* amended -

Mrs van de KLASHORST: I move -

Page 59, line 5 - To delete "**Orders**" and substitute "**orders**".

This amends a typographical error.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 83 put and passed.

New clause 84 -

Mrs van de KLASHORST: I move -

Page 59, after line 27 - To insert the following new clause -

***Firearms Act 1973* amended**

84. (1) Section 27A(1) of the *Firearms Act 1973* is amended by deleting "or obtaining".

New clause put and passed.

Clauses 84 to 89 put and passed.

Title put and passed.

Report

Bill reported, with amendments.

STATE TRADING CONCERNS AMENDMENT BILL

Returned

Bill returned from the Council with an amendment.

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Council's Amendments

Amendments made by the Council now considered.

The amendments made by the Council were as follows -

(a) paragraph (3), line 1 - by deleting the figure "6" and substituting the figure "8";

(b) paragraph (3), line 3 - by deleting the figure "3" and substituting the figure "4";

(c) paragraph (3), line 4 - by deleting the figure "3" and substituting the figure "4"; and

(d) paragraph (5), line 1 - by deleting the figure "3" and substituting the figure "5",

MR COURT (Nedlands - Premier) [9.16 pm]: I move -

That the Council's amendments be agreed to.

This House agreed during the debate on this matter that three members of the committee shall be members of the Legislative Assembly and three shall be members of the Legislative Council. The other House has proposed that four members shall be from the Legislative Assembly and four members shall be from the Legislative Council We are not fussed either way; therefore, we accept the changes that have been proposed to expand the number of members of the committee. We are keen for the committee to get under way.

MR KOBELKE (Nollamara) [9.17 pm]: I thank the Premier for those comments. We support the amendments and the motion as it will be amended to establish a Joint Standing Committee on the Anti-Corruption Commission. I will make some brief comments on the nature of corruption and the need for this committee to assist in the fight against corruption in this State; the nature of the motion to establish this joint standing committee; and a little of the history of these amendments, which have come before this House after a fairly long and tortuous path towards the establishment of this joint standing committee.

The nature of corruption is that it is generally kept secret and people do not become aware that corruption has occurred. In fact, the victims of corrupt activity are often not aware of it. If the loser is the State or a company, the beneficiaries of programs that are run by the State or that company may not be aware that the loss is the result of some form of corruption. Corruption can involve threats and various forms of coercion. However, the reason that corruption is generally kept secret is not just because there is potential for threats and coercion but also because corruption usually occurs between two consenting parties. It may be that in some instances a person is lured into corrupt activity and becomes entrapped in it. Whatever the means by which corrupt activities arise, it is usually in the interests of those involved to ensure that whatever they have been about is kept secret. We must keep in mind that we are dealing with an activity which has the potential to undermine good government and justice in this State, and that it takes place largely in secret. Therefore, if we are to get convictions, it is necessary to have the right mechanisms in place and to ensure that they are adequately resourced and effective in pursuing that corruption. It is also important that there be the right form of publicity regarding corruption because the light of day shone on corruption is a very powerful tool to ensure that it is rooted out and does not continue.

I understand the misgivings of government members and many of the members on our side regarding the potential to damage innocent bystanders by the various assertions that may be made about corrupt activities. It may be that such assertions are malicious and that people deliberately set out to injure the reputations of certain individuals by making unfounded allegations. People may find they are adversely affected simply by association because they were caught up indirectly with players who were involved in corrupt activity. A very real concern is that we must protect the good name of innocent parties. However, when corruption gets to a certain level, those concerns become minor in comparison with rooting out the very deep corruption that may exist in some parts of a society or community. There is clear evidence today in Western Australia that we have more than just a little corruption. It is time that quite forthright and proactive steps were taken to combat corruption in Western Australia. The problem with having all these matters tied up in secrecy is that there is no accountability. I am not suggesting that in Western Australia today any corruption exists among the corruption fighter in the Anti-Corruption Commission, but how can we know that the Anti-Corruption Commission is effective, that it has the resources it needs, and that its prosecution of corruption is effective and efficient, if it is done in secret? We have some real problems about accountability when the whole process is kept under a veil of secrecy.

This motion makes it very clear that the committee, when established, is not to get involved in operational matters of the Anti-Corruption Commission. There has been never any suggestion of that. I will comment in a moment

about the difficulties that arise in getting a balance between the accountability of our corruption fighting organisations and the need to ensure that operational matters are kept in confidence and not displayed publicly because of the damage that could do to innocent parties. It could also undermine the effectiveness of the corruption fighting organisations. Therefore, balance is important.

I turn now to the details of the motion which seeks to establish this joint standing committee and how it came about. I with other members of this Chamber served on a select committee in 1992 that reviewed what was then the Official Corruption Commission to see how it could be improved. The report of the first committee to this Chamber was referred to a second committee established with the same members to bring forth detailed recommendations to the Legislative Assembly. The select committee made four recommendations on the Official Corruption Commission. The first three have already been taken up in legislation. I will come in a moment to the timing of how that happened. In brief summary, they related to drafting amendments to the Official Corruption Commission Act; to looking at the remuneration of members of the Official Corruption Commission; and to allowing in the legislation procedures for the relaying of information between the Official Corruption Commission and other agencies, such as the Police Force and the Ombudsman. The matter before the House tonight was the fourth recommendation; that is, the establishment of a joint standing committee on official corruption. The report was tabled in this Parliament on 24 September, 1992. When I refer to the history of the matters I will mention some dates, and we will see that things really have been drawn out. The report was put into this Parliament nearly five years ago, yet only tonight are we likely to see the final steps in the establishment of that joint standing committee, as recommended in the report of September 1992.

The ACTING SPEAKER (Ms McHale): I am sure I do not have to remind the member for Nollamara that the matter before the House tonight is the amendments to paragraphs 3 and 5.

Mr KOBELKE: Thank you, Madam Acting Speaker. I am covering these areas so that people may understand the import of those amendments which go to changing certain numbers. Although that may seem to be a rather minor matter, I hope to convince the House that it is of some considerable consequence, because in changing those numbers we look to the political control of the committee which we are establishing, through its numbers, the numbers between the two Houses and the numbers required for a quorum. To understand the consequences of what seem to be minor amendments. we must understand what the committee is expected to do and what are the hopes for the committee.

What is contained in the terms of reference for the committee and why is it important that we support these amendments which will change the number of members who are to go onto the committee? The report of the select committee looks very similar to the message on the Notice Paper. It differs in a couple of ways, which bear on the amendments before the House tonight. Without going through the detail, because that is not necessary for the purpose of understanding the amendments, we find that most of the clauses have the same meaning. They have been redrafted slightly but they relate to the same issues which the committee is to cover, except there have been a couple of changes. The original recommendation (d) of the select committee was to consider and report to Parliament on the effectiveness or otherwise of the systems for dealing with complaints against members of the Police Force.

The Government, for its own good reasons, has seen fit to take that out. It is not appropriate to debate that tonight. At another time we could look into why that is not to be one of the committee's objectives. In its place as a new paragraph (g) is the requirement "to report to Parliament as to whether any changes should be made to relevant legislation". That power was in the original recommendation made by the select committee back in 1992. It is now there in a more specific way. That tidying up is to be supported. It relates to the amendments that we have. If the committee is to make recommendations to this Parliament with respect to legislation, clearly the Government will decide whether to take that up. If the composition of the committee is such that it is seen to have equal numbers of government and non-government members and equal numbers from both Houses, as this amendment requires, the power of the recommendations is all the more likely to convince the Government of the day that it should heed the recommendations and, hopefully, carry legislation through the Parliament to ensure the recommendations are taken up.

Paragraph (2), however, is different from what was contained in the recommendation of the select committee because it specifies three things the joint standing committee shall not do. While one of those is that it will not have access to detailed operational information or become involved in operational matters, it has always been assumed that that is something the committee would not be able to do and, if not specific, was implied in the terms of reference. This is now made quite clear, so no-one should have any problems with that. However, the other two subparagraphs which limit the operation of the committee are of some concern. Given that the change in membership numbers will lead to a political balance in the composition of the committee, this matter will have to be taken up. Paragraph (2) states -

The Joint Standing Committee shall not -

(a) investigate a matter relating to particular information received by the Anti-Corruption Commission or particular conduct or involvement considered by the Anti-Corruption Commission;

(b) reconsider a decision made or action taken by the Anti-Corruption Commission in the performance of its function in relation to particular information received or particular conduct or involvement considered by the Anti-Corruption Commission;

That is correctly a restriction on the work of the committee to look at operational matters; that is, attempts to pry into information which the Anti-Corruption Commission may have obtained in its pursuit of corrupt activities or people. However, that wording could mean that the actual role of monitoring and reviewing the functioning of the Anti-Corruption Commission is so severely curtailed that it simply could not take place. I hope that the amendments which will lead to equal numbers will also ensure the committee is not party political and, therefore, would be able to find a way around what I consider to be major problems in the terms which establish the committee. If goodwill is established on both sides of the Parliament and among the members of the committee, I am hopeful it will work. However, considering the wording and the restrictions placed on it, there is reason to be concerned about how effective that will be, and the committee will have to address that tension between the stated objectives and the specific exclusions.

The amendments relate to subsection (3) of message No 13; that is, that the joint standing committee was to consist of six members. It was intended that there would be three members from the Legislative Assembly and three from the Legislative Council, and that there be a quorum of three. That was the recommendation of the select committee in 1992.

The amendments before us now state that there are to be eight members in total, four of whom shall be members of the Legislative Assembly and four of whom shall be members of the Legislative Council, and the quorum has been increased from three to five. We should fully support that intention because it means that members of neither House can hold a meeting of the Joint Standing Committee on the Anti-Corruption Commission unless at least one member from the other place is present; therefore, the members of one House cannot overlook the interests of members of the other place.

I hope the move to increase the number of members on the committee from each House will mean that the Government will accept the need for equal numbers of government and non-government members on the committee. The Government has yet to state its position, but that is clearly the hope of the Opposition and the stated intention of members who moved these amendments in the other place. If this committee is to have any credibility it must be seen to be bipartisan.

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

Mr KOBELKE: The Opposition hopes that the Government will accept that this committee has an important role to play. If this committee is to play an important role it must have an equal number of government and non-government members on it, so when it comes forward with resolutions or messages to this Chamber and in the other place they will be seen to have been formed in a cross-party way, or, if agreement cannot be reached, two reports may indicate that there is a political difference on the matters being reported.

I would like to quickly go through the history of these amendments and why it is important that the amendments increasing the numbers, and, we hope, reflecting the party and House composition, will be accepted by the Government and lead to the establishment of this committee.

The select committee that suggested the establishment of this committee reported in 1992. At about the same time, the Royal Commission into Commercial Activities of Government and Other Matters recommended the establishment of an organisation to fight corruption. In February 1993 the Court Government was elected and there was a high expectation that the Government would implement the recommendations of the royal commission which in part meant establishing a Commission on Government and in part meant the establishment of a revamped organisation which could be seen to be fighting corruption.

The Government was under great pressure because it did not take up those recommendations. But in September 1993, under that pressure and the pressure of the Wayde Smith fiasco and what was happening in Wanneroo, the Government brought forward the amendments contained in the report to which I alluded briefly at the beginning of my comments. They were introduced in September 1993, completed their passage through the Parliament and were assented to on 22 April 1994. It took seven months to get that legislation through the Parliament, which was probably a reaction to political pressure and not about taking up a real fight against corruption. When the then

Attorney General was speaking to and debating the amendments she showed that she really had not read the Acts Amendment (Official Corruption Commission) Bill, because the Bill alluded to the establishment of this joint standing committee. At that stage the Government had no intention of setting up the committee, but if it had read its own Bill it could have removed those sections which alluded to the select committee. So, the fact it had not considered the establishment of the committee indicated clearly that key Ministers had not read their own legislation. The Government was not interested in fighting corruption, it was interested only in face saving and to look as if it was doing something about corruption.

As the Opposition continued to push the Government, it would not undertake to establish the committee, which is now being established. It was equivocal in its statements. To get the Government to make a decision and to establish this committee, Hon Alanna McTiernan, moved a motion in the Legislative Council on 16 September 1994 recommending the implementation of the recommendations of the 1992 report. Again the Government showed that it was not willing to take that up.

On 3 May 1995 the member for Cockburn moved the same motion for the establishment of this joint standing committee. The Government voted it down. Given that we are speaking to this amendment, I cannot go through that debate. However, it appears on page 1962 of *Hansard* of 3 May 1995 and shows the government members who voted against the motion which we are now amending and which I hope will be passed. At that stage in 1995 the Government did not believe in the establishment of this joint standing committee. It did not say that it had any specific difficulties with it. What we will put through the Parliament now is substantially the same as what was moved by the member for Cockburn then. The Government could easily have accepted that motion; however, it had no interest in establishing this committee in May 1995.

Government members have not given an explanation about why they did not want to support the establishment of this committee. I do not know whether it was based on incompetence or whether it was party political. Perhaps they thought that if they let the Labor Party establish something that was good, it would create a positive effect for us within the community and they simply could not allow the Labor Party to do that. Those opposite may have opposed it for that petty reason. Perhaps the Government voted down the motion establishing a standing committee because it did not believe in doing anything effective about corruption.

At the end of 1995 the Government had given no undertaking to establish this committee. It was not because corruption was no longer on the agenda. In 1995 the Select Committee on the Western Australia Police Service, chaired by Hon Derrick Tomlinson, was established. All sorts of leaks appeared in the Press about the level of corruption and there were real concerns about the issues of corruption. We had the high profile Argyle Diamond case. On 5 September Hon Derrick Tomlinson commented about the evidence before his committee being "stunning".

On 23 November the chairman of the Commission on Government, Mr Jack Gregor, commented on the lack of powers of the then Official Corruption Commission and the lack of any visible signs that it was effective in tackling corruption. At the time the Premier and Ministers were going on about how the Official Corruption Commission was effective and doing an excellent job, and there was no need to do anything further. That went right through from the end of 1995 and into 1996. Story after story appeared in the media about the problems in our society relating to corruption. Knowing the Tomlinson committee was to report in mid-1996, the Premier's spin doctors decided the Government had to do something. The Premier made a major statement on corruption in a press release issued on 12 March 1996. It is a four page statement and in part, it said -

> Premier Richard Court today announced the strongest package of anti-corruption measures in the history of Western Australia.

Among other things, the package involved the establishment of a joint parliamentary standing committee on official corruption. I cannot go into some matters in the statement because they do not relate to this debate; however, it went on -

> Mr Court said a joint standing committee of Parliament would also be established to monitor and review the performance of the Official Corruption Commission.
>
> The committee would also report to Parliament on issues affecting the prevention and detection of official corruption in all public sector offices, agencies and authorities.

Those words about the introduction of the strongest package of anticorruption measures in Western Australia must be embarrassing to the Premier now. It clearly has not been very effective. Although it may have been a step forward at that stage, it did not go far enough.

On 4 April 1996 the Premier introduced a motion in basically the same form as the one before us, which we are amending, to establish this committee. In doing that nearly four years later the Premier said that was occurring because it was recommended in the report of the select committee in 1992. The Premier even voted against the motion in that form earlier; yet suddenly something had to be done. There is not much credibility in the Premier's actions in tackling corruption: They are simply all about creating a front; making it look as though he is doing something.

On 1 May a message in this form was sent to the Legislative Council. The Premier was a little apprehensive then because the report of the Tomlinson committee was getting close to release. However, no action was taken to ensure the passage of this motion, with or without amendment, effectively and efficiently to establish a joint standing committee of what was then the Official Corruption Commission, later to become the Anti-Corruption Commission. The Premier used the excuse that he did not have the numbers in the other place. We know that is a total excuse; there is no substance to it. When it came to the industrial relations legislation, the Government had no trouble in getting its numbers in the other place to use the guillotine to ram legislation through; however, when it came to fighting corruption, the establishment of this committee was allowed to languish in the other place.

It came back to the Legislative Assembly on 13 November 1996 as a motion substantially the same as that which is before us, which we are amending. That was the last day on which this Parliament sat in the term of the last Parliament. The very next day, 14 November, the Premier called an early election. How cynical can he get? The Premier, in trying to create a front about tackling corruption, put a motion in this House for the establishment of this committee, knowing that on the next day he would prorogue the Parliament, call an election and the committee would never be established.

Here we are in June 1997 taking up the issue again, to ensure we have a joint standing committee to try to bring corruption in this State under some form of control. The role of the committee will be quite minor in the whole scheme of things; however, it is important. The whole issue of corruption in Western Australia is not going away. Throughout the life of the coalition Government, since 1993, we have seen the corruption issues snowball. Corruption is being eked out of our crime fighting organisations and our justice system. There is a need for a standing committee of this Parliament to see how well those officers and organisations are coordinated and that they are effective in working together to tackle corruption in Western Australia.

I hope the committee, with the passage of these amendments, will provide that political balance, both between the parties and the Houses to ensure it can be an effective part of the apparatus. It will be a minor part in the scheme of things, but an effective part in ensuring the agencies, which have the primary role of fighting corruption, can do so. Given the history of the establishment of this committee and the way in which the Government has simply used it as a media focus when the pressure goes on, one would have to be a bit cynical about how effective this committee will be.

It will certainly be a very big step forward if the Government not only supports these amendments, as the Premier has indicated it will, but also ensures the names of two government members and two non-government members go forward from the Legislative Assembly to be on the committee, as has already been done in the other place. Those names are contained within the message so members can see the composition from the Legislative Council.

I have a sincere hope that we can overcome what has been a drawn out history of cynicism by this Government which has no conviction about fighting corruption. It is showing that it is now willing to take up a very serious issue and that in establishing this committee, we will have a balance between the political parties and government and non-government members so that the committee can be effective in working with the Government and the organisations set up in Western Australia to tackle a very serious and worrying problem without any further delay.

Debate adjourned, on motion by Mr Osborne.

House adjourned at 9.50 pm

QUESTIONS ON NOTICE

TOURISM - ELLE CAMPAIGN

Statistics

18. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Tourism:

(1) In relation to each expenditure made in relation to the "Elle Macpherson" tourism campaign -

(a) what is the amount;

(b) who was the recipient;

(c) when was the payment made; and

(d) what was the purpose of the payment?

(2) In relation to each estimated expenditure yet to be made in relation to the "Elle Macpherson" tourism campaign -

(a) what is the amount;

(b) who is the recipient;

(c) when will the payment be made; and

(d) what is the purpose of the payment?

Mr BRADSHAW replied:

The Minister for Tourism has provided the following response -

(1)-(2) See tabled paper No 468 for the Summary of expenditure incurred in relation to the production and placement of Brand WA tourism commercials. It will be noticed that this initiative is a complex one involving a planned strategic approach over a five year period and hence is not easily summarised. This strategy includes a series of commercials designed for a three year period including -

8 commercials for the national marketplace
3 commercials for UK/Europe
1 commercial for Indonesia
1 commercial for Singapore

The commercials are designed to achieve longevity by having the ability for new commercials to be added to the series, depending on the market response to the commercials and research conducted on their effectiveness. The total cost as listed fall over two financial years - 1995/96 and 1998/99.

Considerable research and preparatory work was conducted prior to the production of the campaign, the cost of which was incurred in the 1995/96 and 1996/97 financial years. The primary recipient of this money was Marketforce. This research showed that for Western Australia to increase its tourism benefits, it needed to, first and foremost, advertise to the consumer direct. Hence the WATC has refocused its resources to advertise WA to the consumer for the first time in many years. In addition, the research showed that we needed a simple strong message, hence Brand WA, and finally that our advertisements should have a "cut through" value, hence the use of Elle Macpherson.

The 1996/97 and 1997/98 expenditure is set but the 1998/99 expenditure is still subject to performance reviews of the 1996/97 and 1997/98 results. The 1998/99 plans have not been included as there will likely be considerable modification as a result of the research results. In addition, the majority of the production costs are borne in the 1996/97 financial year but will be estimated to be minimised in the 1997/98 and 1998/99 financial years.

It should also be noted that under the contract with Elle Racing, which covers both the use of Elle Macpherson for the television commercials and the home porting of the yacht in Fremantle for the Whitbread Round the World Race, $440 000 has been paid to Elle Racing with a further $60 000 in local services to be provided during the race and $500 000 to be paid on 31 July. These figures are not included in the summary attached due to the dual purpose of the contract. Similarly, Brand WA is a major initiative of the WATC and impacts on almost every aspect of its work in addition to the Brand WA commercials. Hence it is not possible to include every cost that will have aspects of Brand WA

included. For example, over the next period, posters, printed collateral, travel agent merchandise, travel show material etc, will be produced which may utilise aspects of the Brand WA campaign. These are not included in the list attached, but are costs which would normally be incurred by the WATC as part of delivering its outputs.

RAILWAYS - TOURISM

Kevin Pearce

183. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is the Minister aware of a decision taken by the Minister for Transport and/or Westrail concerning trains no longer being made available to tour operator Kevin Pearce?

(2) Is the Minister aware that as a result of this decision Esperance stands to lose an estimated 100 000 tourist dollars a year?

(3) Did the Minister make any representations to the Minister for Transport and/or Westrail about this matter?

(4) Does the Government take a whole of government approach to the promotion of the tourist industry?

(5) If not, why not?

(6) If so, what assessment was made on the impact on the tourist industry of this decision?

(7) Does the Minister know if this matter was taken into account by the Minister for Transport and/or Westrail when the decision was made to stop these tour operations?

(8) Will the Minister ask the Minister for Transport and/or Westrail to review the decision?

(9) If not, why not?

Mr BRADSHAW replied:

The Minister for Tourism has provided the following response -

(1) Yes. The carriages were used by Westrail for Regular Passenger Transport, and where it could be accommodated, they were made available for charter. However, because of the need for carriages for RPT services, it is no longer possible to accommodate charters.

(2)-(3) No.

(4) The Government does take an across the board approach for tourism promotion and provides funding into the marketplace to promote both the metropolitan and regional areas of the State.

(5) Not applicable.

(6) The Western Australian Tourism Commission was not involved in any consultation to withdraw the service.

(7)-(9) The *Prospector* train was introduced over 25 years ago to provide scheduled passenger services between Perth and Kalgoorlie. Over the years it has been possible for Westrail to -

(a) accommodate large group bookings,
(b) charter railcars to private tour operators.

However, in recent years there has been a steady increase in the number of passengers using the regular *Prospector* services resulting in a greater demand being placed on the available rolling stock. With that demand, and the additional demand created by the introduction of the *AvonLink* service between Perth and Northam, there are now no surplus railcars available for private charter. Also, it has been necessary to restrict group bookings to twenty people.

As stated earlier, the purpose of the *Prospector* train is to provide scheduled passenger transport services between Perth and Kalgoorlie and the Government is committed to maintaining the quality of those services. It would not be appropriate for Westrail to acquire additional rolling stock for the sole purpose of catering to the occasional needs of tour operators at charter rates which would fall far short of the actual cost of acquiring and operating that rolling stock. The cost to the State would result in taxpayers heavily subsidising (most likely to be in the region of hundreds of thousands of dollars per year) private

enterprise tourist operators such as Mr Pearce, which, I am sure the member will agree, would be unacceptable.

MINISTERIAL OFFICES - MINISTER FOR MINES

Staff

286. Mr RIPPER to the Minister representing the Minister for Mines:

(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:

The Minister for Mines has provided the following response -

(1) Ms M Hurn
Ms M Miller
Ms J Blyth
Ms A Gomez
Ms D Weighell
Ms N La Touche
Ms P Iaschi
Ms R Towers
Ms E Crichton-Browne
Mr J Thom
Mr H Pereira
Mr J Buxton (part time)

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

Mr H Pereira	A/Level 7	permanent public servant
Mr R Laming	A/Level 7	permanent public servant
Mr R Stevens	A/Level 7	permanent public servant
Mr J Buxton	Level 7 (pt)	Term of Government contract
Mr H Joynt	Level 6	Term of Government contract
Ms E Crichton-Browne	Level 5	Term of Government contract
Mr L Radis	A/Level 3	permanent public servant
Ms N La Touche	A/Level 3	permanent public servant
Ms D Weighell	A/Level 3	permanent public servant
Ms L Evans	A/Level 2	permanent public servant

Four of the above have government motor vehicles allocated to them, 5 have mobile phones and none has government credit cards.

MINISTERIAL OFFICES - MINISTER FOR TOURISM

Staff

290. Mr RIPPER to the Parliamentary Secretary to the Minister for Tourism:

(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 BRADSHAW replied:

The Minister for Tourism has provided the following response -

(1)-(7) See answer to question 286.

MINISTERIAL OFFICES - MINISTER FOR SPORT AND RECREATION

Staff

292. Mr RIPPER to the Parliamentary Secretary to the Minister for Sport and Recreation:

(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 MARSHALL replied:

The Minister for Sport and Recreation has provided the following response -

(1)-(7) See answer to question 286.

POLICE - OFFICERS

Sick Leave - Extended

565. Mrs ROBERTS to the Minister for Police:

(1) How many police officers are on extended sick leave?

(2) What level are each of the officers on extended sick leave?

(3) How does the number of police officers on extended sick leave compare with -

(a) 1994;
(b) 1995; and
(c) 1996?

Mr DAY replied:

The Commissioner of Police has provided the following advice:

(1) The number of police officers on sick leave of 30 days or more as at 8 April 1997 is 62.

(2) The levels of police officers on sick leave of 30 days or more is -

Rank	Number of Police Officers on sick leave of 30 days or more
Recruit	1
Probationary Constable	1
Constable	2
First Class Constable	10
Senior Constable	10
Sergeant	11
First Class Sergeant	13
Senior Sergeant	11
Inspector	2
Superintendent	1
Total	62

(3) A comparison of this type is unable to be provided. However, the average sick leave period for police officers in the Western Australia Police Service in the 1993/94 financial year was 6.41 days per year and 5.34 days per year for the financial year 1994/95. The average sick leave period for officers in the Western Australia Police Service in 1995/96 was 6.5 days per year.

POLICE - SERVICE

Occupational Health and Safety

568. Mrs ROBERTS to the Minister for Police:

(1) What changes, if any, have occurred in the Western Australia Police Service to enhance occupational health and safety in the service since 30 June 1996?

(2) What principles of risk management have been implemented and how has adopting those principles assisted in providing a safer work environment for police officers?

(3) Have any workplace incidents been investigated by WorkSafe (formerly DOHSWA) since 1 January 1996 and if so -

(a) What were those incidents;
(b) when did each incident occur;
(c) what was the nature of the investigation; and
(d) have any workplace changes occurred as a result?

Mr DAY replied:

The Commissioner of Police has provided me with the following advice:

(1) The Western Australia Police Service is currently developing a model for the implementation of safety and health representatives and committees. Training packages, to be accredited with WorkSafe for representatives and managers and supervision, are currently being developed. Training for managers and supervisors in occupational health and safety will then be implemented. Recruits are also briefed on issues of occupational health, safety and welfare.

(2) The basic principles of risk management - that is, hazard identification, risk assessment and risk control - are practised by police daily. The implementation of safety and health representatives and committees will formalise this procedure.

(3) One incident has occurred since January 1996 in which WorkSafe conducted an investigation.

(a) This incident involved a machine used for the destruction of firearms.

(b) The incident occurred on Tuesday 26 November 1996.

(c) The investigation identified a deficit in the provision of machinery guarding, however, the machine has been modified to preclude recurrence of this.

(d) Yes.

POLICE - SERVICE

1996 Programs - Cost

585. Mrs ROBERTS to the Minister for Police:

(1) What did the Western Australia Police Service do during 1996 to -

(a) extend domestic violence intervention programs;
(b) increase community awareness of the need for firearm security; and
(c) develop practices and procedures that promote the responsible consumption of alcohol?

(2) What was the cost of all of the above programs?

Mr DAY replied:

(1) (a) In 1996, 16 regional domestic violence committees were set up throughout the State. Each committee has presented a comprehensive domestic violence plan for its region to the Government.

(b) Firearm security/theft is a community problem which is addressed by the WA Police Service through its crime prevention officers by providing local solutions to local issues. The emphasis on firearm security forms part of the home security lecture presented to community groups. This Service has no formal awareness program on the issue of firearm security.

(c) To promote the responsible consumption of alcohol and address other drug related issues the WA Police Service formed the Alcohol and Drug Coordination Unit.

(2) The costs of these programs were -

(a)-(b) In the 1995/96 fiscal year specific funding was not made available but costs were absorbed in the areas concerned. During the course of the 1996/97 financial year $15 000 has been allocated to meet the cost of domestic violence intervention programs, staff costs are met from operation sources.

(c)

1.	Training for alcohol and related issues	$74 000
2.	Community Police Drug Information Kit	150 000
3.	Police Harm Reduction Module	3 000
4.	Perth Hospitality Accord	60 000

The costs of items 1,2 and 3 are met from commonwealth funding provided to the Police Drug and Alcohol Funding Coordination Committee. The costs of item 4 were met from funds provided by Health Promotion Services, Health Department of WA and community donations. The Police Service provided the required officers to achieve success.

HOMESWEST - KARAWARA BUSHLAND

Land Rights Claim

716. Ms McHALE to the Minister for Housing:

(1) Is there an Aboriginal land rights claim over the Gillon Street, Karawara bushland (Lot 690)?

(2) If yes, what is the impact if any of this on the Homeswest redevelopment program?

Dr HAMES replied:

(1)-(2) The subject land is owned in fee simple by Homeswest and is not affected by any Aboriginal land rights claim.

GOVERNMENT ADVERTISING - DEPARTMENTS AND AGENCIES

Expenditure

874. Mr BROWN to the Minister representing the Minister for Mines:

(1) How much did each department and agency under the Minister's control spend on advertising in the 1995-96 financial year?

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

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

in the 1995-96 financial year?

Mr BARNETT replied:

The Minister for Mines has provided the following response -

(1) (a) $631 124.26.

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

(c) $631 124.26, being spent on -

Native Title advertising	$499 479.95
Staff Vacancies	$ 39 214.23
Mineral Titles, Tenders and miscellaneous	$ 92 430.08

GOVERNMENT INSTRUMENTALITIES - POLLING AND MARKET RESEARCH

Statistics

908. Mr BROWN to the Minister for Labour Relations; Planning; Heritage:

(1) How much has been allocated by each department and agency under the Minister's control for -

(a) public opinion polling;
(b) market research;
(c) customer research; and
(d) stakeholder research,

in the 1997-98 financial year?

(2) What is the precise nature of the polling and/or research that will be undertaken by each department and agency?

Mr KIERATH replied:

Department of Productivity and Labour Relations -

(1) (a)-(b) Nil.
(c) $4 860.
(d) Nil.

(2) Fair Workplaces Program: Wageline monthly client telephone survey of 100 callers a month at an annual cost of approximately $1 200.
Fair Workplaces Progam: Workplace Liaison Officers quarterly written survey mailed to clients at an annual cost of approximately $880.
Fair Workplaces Program: Employment Entitlement Protection annual written survey mailed to complainants at an annual cost of approximately $1 500.
Fair Workplaces Program: Education services written survey included in select editions of Departmental publications at an annual cost of approximately $1 500.
Labour Relations Services Program and Policy and Legislation Program: Public Sector Clients annual written survey mailed to all public sector agencies at an annual cost of approximately $1 000.

Commissioner of Workplace Agreements -

(1) (a)-(b) Nil.
(c) $4 000
(d) Nil.

(2) Evaluation of performance indicators.

WorkSafe Western Australia -

(1) (a)-(b) Nil.
(c) $10 000
(d) Nil.

(2) Researching the impact on the ThinkSafe advertising on "customers", namely the target group of employers, employees and young people about to enter the work force. The research aims to ensure the campaign remains effective in raising awareness in the target group and achieving the ThinkSafe cultural change necessary to reduce injuries and fatalities.

Western Australian Industrial Relations Commission - Department of the Registrar -

(1) (a)-(b) Nil.

(c) $500
(d) Nil.

(2) In-house staff resources and stationery costs in surveying customer needs and satisfaction.

WorkCover WA -

(1) (a)-(c) Nil.
(d) $65,000

(2) Benefits and return to work regarding injured workers.

Ministry for Planning/Western Australian Planning Commission -

(1) (a)-(d) No specific amount has been allocated in the 1997-98 financial year as these activities are undertaken as part of specific projects and are therefore included in the overall project costs, hence no allocation in the budget.

(2) Extensive public consultation (public meetings, advertising, forums, focus groups) is undertaken as part of its regional planning exercises. These are more in the way of community participation activities rather than polling. Market research questionnaires are conducted on an ad hoc basis with some of the ministry's publications. The Ministry for Planning undertakes a client survey to ascertain the agency's performance in relation to its customers.

Office of the Minister for Planning (Appeals Office) -

(1) (a)-(d) Nil.

(2) Not applicable.

Heritage Council of Western Australia -

(1) (a)-(b) Nil.

(c)-(d) $7 000

(2) Requirement as part of the Heritage Council of Western Australia's performance indicators for annual reporting for the Office of the Auditor General to undertake a customer survey each financial year. This survey provides qualitative and quantitative feedback on a range of Heritage Council services.

East Perth Redevelopment Authority -

(1) (a)-(c) Nil.
(d) $25 000

(2) Evaluation of performance indicators.

Subiaco Redevelopment Authority -

(1) (a)-(b) Nil.
(c) $1 000
(d) Nil.

(2) Survey of customer perceptions of services provided.

GOVERNMENT ADVERTISING - CAR THIEF

Payment

1101. Dr GALLOP to the Minister for Police:

(1) In relation to the television advertisement which features a self-confessed car thief advocating the benefits of car immobilisers, can the Minister confirm if the young man, whose face has been electronically distorted to hide his identity, is in actual fact a car thief?

(2) If yes, how much has the young car thief been paid by the State Government?

(3) If not -

(a) how much has the young actor been paid by the State Government;

(b) for what reason/s was this style of advertising, that imitates a particular new reporting style, used?

Mr DAY replied:

(1)-(2) The young person is an actor.

(3) (a) $600.

(b) There is nothing new about using the blurred vision technique to prevent identification. It is used regularly in news and current affairs programs. In this particular advertisement, it was used to hide the identity of the young actor and to further dramatise and place emphasis on what is one of our community's most disturbing concerns, car theft, which is the worst in Australia. What the young actor says is based on known facts. Cars without immobilisers are easy to steal. Furthermore, the majority of vehicles are stolen by young people, as young as 13 years old.

POLICE - STATIONS

Cottesloe - Number of Officers

1109. Mr McGOWAN to the Minister for Police:

(1) How many police officers are based at the Cottesloe police station?

(2) In which operational categories are they and in what numbers?

Mr DAY replied:

(1) Twenty-one.

(2) All carry out general duties and traffic control.

WORKERS' COMPENSATION - COMPENSATION (INDUSTRIAL DISEASES) FUND

Administration

1189. Mr GRAHAM to the Premier:

(1) Which Government Department/agency/instrumentality has responsibility for the Compensation (Industrial Diseases) Fund?

(2) Which Minister has responsibility for the Compensation (Industrial Diseases) Fund?

Mr COURT replied:

(1) State Government Insurance Commission.

(2) Minister for Finance.

MIGRANTS - COMMITTEES AND BOARDS

Membership

1201. Ms WARNOCK to the Minister for Resources Development; Energy; Education:

(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 BARNETT 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

1209. Ms WARNOCK to the Minister for Health:

(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 PRINCE 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.

HOMESWEST - MANIANA ROAD NORTH

Demolition of Houses

1221. Mr RIPPER to the Minister for Housing:

(1) Does Homeswest intend to demolish housing on the eastern side of Maniana Road North in Queens Park to make way for a new development?

(2) If yes -

(a) when is it proposed to commence demolition;

(b) why have tenants not yet been told about Homeswest plans for the future of their residences?

Dr HAMES replied:

(1)-(2) Homeswest holdings in Queens Park are earmarked for an estate improvement program in the future.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL - MEETING WITH CHURCHES

1262. Mr BROWN to the Minister for Labour Relations:

(1) Did the Minister issue a media statement on 28 April 1997 concerning his intention to organise a meeting with the churches who complained about the Government's Labour Relations Legislation Amendment Bill 1997?

(2) Is it true the Minister said in a media statement that these changes, introduced by the Labour Relations Legislation Amendment Bill 1997, had nothing to do with the level of industrial disputes but everything to do with making unions more accountable to their members?

(3) Prior to the Minister introducing the Labour Relations Legislation Amendment Bill 1997, did the Government receive submissions from union members calling for the changes outlined in the Bill?

(4) How many submissions were received?

(5) When were the submissions received?

Mr KIERATH replied:

(1) The media statement indicated that I would seek an urgent meeting with churches.

(2) Yes, but it is also designed to ensure that industrial disputes do not escalate in the future.

(3) Over a period of more than eight years, both as opposition spokesman and then as Minister for Labour Relations, I consulted extensively with unions, union members and members of the community. Many of the changes in the Bill were part of the coalition’s policy prior to the February 1993 election.

(4)-(5) Much of this information is not accessible or only accessible with considerable expenditure of time and resources which I am not prepared to commit.

PUBLIC SERVICE - EMPLOYEES

Full Time and Permanent

1275. Dr GALLOP to the Minister for Public Sector Management:

(1) What percentage of public servants were employed on a permanent basis in 1996-97 compared to 1995-96?

(2) What percentage of public servants will be employed on a permanent basis in 1997-98?

(3) What percentage of public servants were employed on a full time basis in 1996-97 compared to 1995-96?

(4) What percentage of public servants will be employed on a full time basis in 1997-98?

Mr COURT replied:

(1) Information on public servants is not available.

Percentage of WA Public Sector employees employed on a permanent basis in -

1995/96	76 per cent
1996/97	data not available before September 1997

(2) Information on public servants is not available. Information on WA Public Sector employees not available before September 1998.

(3) Information on public servants is not available.

Percentage of WA Public Sector employees employed on a full-time basis in:

1995/96	70 per cent
1996/97	data not available before September 1997

(4) Information on public servants is not available. Information on WA Public Sector employees not available before September 1998.

COMMITTEES AND BOARDS - KEMERTON ADVISORY BOARD

Membership

1307. Dr CONSTABLE to the Minister for Resources Development:

Further to your answer to question on notice 28 of 1997, who are the members of the Kemerton Advisory Board, when and for what period were the members appointed, what remuneration is paid to each member and, where appropriate, who are the Government appointees?

Mr BARNETT replied:

Members -

Mr Bob Chandler
Department of Conservation and Land Management - nominated by CALM

Mr Larry Guise
Ministry for Planning - nominated by Ministry for Planning

Mr Stuart Morgan
Chairman
Ministerial Appointment

Mr Peter O'Shaughnessy
Millennium Inorganic Chemicals - nominated by Industry

Mr Morgan Smith
Community Representative - nominated by Kemerton Community Committee

Mr Jim Brosnan
Simcoa Operations Pty Ltd - nominated by Industry

Mr Patrick Dick
Department of Resources Development - nominated by DRD

Mr Paul Jacobs
Western Power, South Country Branch - nominated by Western Power

Mr Stan Liaros
Miscellaneous Workers Union - nominated by TLC

Cr Jim Offer
Shire of Harvey - nominated by Shire of Harvey

Mr John Sabourne, JP
Shire of Harvey - nominated by Shire of Harvey

Mr Steve Wiencke
LandCorp - nominated by LandCorp

Mr Dominique Van Gent
South West Development Commission - nominated by SWDC

There is no set period of appointment to the Board

There is no remuneration for any member of the Board

The Kemerton Advisory Board is not a statutory Board. It is an Advisory Board on Kemerton which meets every three months and reports to the Minister for Resources Development through the Department of Resources Development.

PLANNING - MODEL SCHEME TEXT

Consultancies

1342. Dr EDWARDS to the Minister for Planning:

(1) Has the Ministry for Planning engaged four planning consultancies to assist with the review of the Model Scheme Text?

(2) If no, how many consultancies are involved?

(3) What is the cost of these consultancies?

(4) Why was it considered consultants were needed?

(5) What input is being sought from local government?

Mr KIERATH replied:

(1) Yes.

(2) Not applicable.

(3) $21 150.

(4) To provide research support and independent advice.

(5) Representation by the Western Australian Planning Commission's metropolitan local government representative on the Model Scheme Text Review Group. Press advertisements and a workshop including local governments arranged in consultation with the Western Australian Municipal Association. A full program of consultation with local government will be undertaken when the draft Model Scheme Text is available. Advice from WAMA has been sought on the consultation process.

HEALTH - FLY-ASH

Burswood Island

1344. Dr EDWARDS to the Minister for Health:

(1) Has the Health Department authorised any investigations into the potential for human hazard arising from the containment of fly ash on Burswood Island?

(2) If so, what reports have been prepared in relation to the investigations?

(3) Were the results of these investigations provided to the Department of Environmental Protection?

(4) What comments were received from the DEP?

Mr PRINCE replied:

(1) Yes.

(2) A report was prepared by the Health Department of Western Australia into the radiological aspects of the fly-ash. The report was dated April 1996 and was entitled 'Preliminary assessment of the radiological aspects associated with coal ash disposed of near Belmont Park'. This was presented to the Radiological Council in 1996. In addition, the Waste Management Section, then of the Health Department (now transferred to the Department of Environmental Protection), examined a proposal to dispose of fly-ash from the site into landfill in 1993. This required an assessment of the constituents of the fly-ash, provided in a consultant's report. The fly-ash contained low levels of heavy metals but high levels of leachable nutrients.

(3) The Department of Environmental Protection was consulted about the radiological aspects of the fly-ash prior to preparation of the radiological report.

(4) No comments have been received from the Department of Environmental Protection.

PLANNING - WHITEMAN PARK

Farming, Forestry and Mining Attractions

1398. Dr EDWARDS to the Minister for Planning:

(1) Is the Minister aware that the Whiteman Park Board of Management proposes -

(a) to build attractions within Whiteman Park highlighting forestry, mining and farming activities;

(b) that sponsorship be sought from companies in each of those sectors to provide cash, equipment and expertise?

(2) If these proposals are approved, what provisions will the Minister have in place to ensure -

(a) these public attractions at Whiteman Park do not merely become another avenue for corporate advertising and promotion of resource exploitation;

(b) community groups are genuinely consulted in the formulation and construction of these attractions so that they reflect a balanced and accurate portrayal of forestry, mining and farming heritage and practices?

(3) How much land is it proposed will be sold as part of the development?

Mr KIERATH replied:

(1) (a) Yes. The activities are included as potential attractions in the Whiteman Park Draft Concept Plan. The Draft Plan has been released for public comment. The Whiteman Park Board of Management will consider the potential for these and other attractions in conjunction with the assessment of responses received from the public consultation process.

(b) Yes. The Draft Concept Plan includes the option of funding activities through private sponsorship.

(2) (a) Any new attractions introduced at Whiteman Park will be in accordance with the principles established in the Final Concept Plan.

(b) The Whiteman Park Board of Management will ensure that any new attractions of this nature are introduced in conjunction with community consultation.

(3) The Draft Concept Plan identifies two areas which may become physically separated from the Park. No decision has been made to sell these or any other areas of Whiteman Park.

INDUSTRIAL DEVELOPMENT - CLOUGH RESOURCES

Wundowie Foundry - Subsidy

1401. Dr EDWARDS to the Minister for Energy:

(1) Is Clough Resources currently receiving any subsidy for their operations at the Wundowie Foundry in Wundowie?

(2) If so, what is the nature of that subsidy?

Mr BARNETT replied:

(1) No.

(2) Not applicable.

INDUSTRIAL RELATIONS - FAMILY FRIENDLY WORKPLACES

Guides

1424. Mr BROWN to the Minister for Labour Relations:

(1) Did the Minister issue a media statement on 11 May 1997 in which the Minister referred to a new guide on Family Friendly Flexible Workplace Practices and Parental Leave Kit?

(2) Has the Government previously released guides or kits on family friendly workplaces, flexible work hours and so on?

(3) What guides or kits have previously been released by the Government?

(4) When was each guide or kit released?

(5) Has the Government assessed the degree to which the practices/recommendations/ideas contained in previous kits and guides have been adopted by Government and private sector employers?

(6) To what extent have the ideas been adopted?

(7) How has this assessment been made?

Mr KIERATH replied:

(1)-(2) Yes.

(3) Work and Family Makes Cents and How to Set up a Family Room.

(4) Work and Family Makes Cents was released in June 1996. The guide on how to set up a Family Room was released in October 1996 to coincide with the opening of the Family Room at the Department of Productivity and Labour Relations.

(5) The Department of Productivity and Labour Relations is currently working with the Department of Industrial Relations to establish an Australia wide computer database of work and family initiatives. This database will allow easy access to information about the family friendly initiatives being utilised by organisations in Australia. The database will also enable the Government to accurately assess the degree to which practices/ recommendations/ideas have been adopted by employers.

(6) Not clear at this stage. Anecdotal evidence suggests that there is a high level of interest in the family friendly practices, recommendations and ideas promoted by the Government.

(7) The Department has received many inquiries from organisations in relation to work and family issues and initiatives. Seminars and forums organised by the Department are always well attended and requests are still being received for copies of the Work and Family Makes Cents booklets.

HOSPITALS - WAITING LISTS

Reduction

1443. Mr BROWN to the Minister for Health:

(1) What additional funds have been provided to the hospital system to shorten waiting lists?

(2) Have waiting lists been shortened in the last twelve months?

(3) What analysis has been carried out to show that waiting lists have been shortened?

Mr PRINCE replied:

(1) $15m 1996-97.

(2) Wait list has not decreased; however, there has been increased activity from the wait list as a result of funding.

(3) Ongoing analysis conducted to assess impact of targeted wait list activity.

HEALTH - DENTAL

Non-school - Budget Allocation

1444. Mr BROWN to the Minister for Health:

(1) How much has been provided in the State Budget for non-school dental care?

(2) What amount was provided in the 1996-97 Budget for this purpose?

(3) How were the funds allocated for dental care to be used?

Mr PRINCE replied:

(1) The Health Department is finalising its budgetary allocation for all health services and the exact amount for various aspects of dental care in 1997/98 will be known shortly.

(2) The non-school dental care budget for 1996/97 was as follows -

$25 085 000 made up of -

$17 538 700	State funds
$ 7 546 300	Commonwealth initiatives which ceased on 31/12/96

(3) The funds for other than school dental care are allocated between two programs -

Dental Care Equity which has three components -

(a) Remote and rural care to ensure that persons in remote and rural areas have access to general dental services.

(b) Dental care for financially disadvantaged persons to ensure they have access to affordable general dental services.

(c) Dental care for special groups which include -

institutionalised and handicapped
aged in nursing homes or homebound

Specialist Dental Care - to ensure adequate and appropriate specialist dental services are available and provided for disadvantaged persons.

INDUSTRIAL RELATIONS - WORKPLACE AGREEMENTS

Wearne Hostel for the Aged

1456. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister aware of an article that appeared in *The West Australian* of 21 May 1997 under the heading of "Pay cut too hard to swallow" which reported five kitchen workers will lose their jobs at Wearne Hostel for the Aged because they refused to sign a federal workplace agreement and take pay cuts?

(2) Is the Minister aware that SHRM Australia which took over the catering contract of the hostel, offered jobs to six of the eight employees on the basis that they sign a workplace agreement?

(3) Is the Minister also aware of claims in the article that SHRM Australia was entitled to offer lower wages than the other company because it was trying to improve efficiency?

(4) What action has the Minister taken to try and prevent the wages of the six workers being reduced?

Mr KIERATH replied:

(1)-(3) Yes.

(4) None. The employees were covered by a federal award. It is understood the employment offer was subject to an Australian workplace agreement being signed. All Australian workplace agreements are approved by the Federal Employment Advocate.

INDUSTRIAL RELATIONS - UNFAIR DISMISSAL LAWS

1458. Mr BROWN to the Minister for Labour Relations:

(1) Has the Prime Minister or the Federal Government written to the State Government to request the State Government amend its unfair dismissal laws in line with Commonwealth proposals which involve exempting businesses with fewer than fifteen employees from those laws?

(2) If not, have any representations been made by the Federal Government to the State Government to change its unfair dismissal laws in any way?

(3) If so, what has the Commonwealth Government requested?

(4) Has the State Government responded to the Commonwealth's request?

(5) Does the State Government intend to amend the unfair dismissal laws to reflect or partially reflect the changes promoted by the Prime Minister and the Federal Coalition Government?

Mr KIERATH replied:

(1) Yes.

(2)-(3) Not applicable.

(4) Yes.

(5) Yet to be determined.

INDUSTRIAL RELATIONS - CHILD CARE

Workplace Arrangements

1468. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister aware of an article that appeared in *The Australian* on 14 February 1997 which revealed fewer than 7 per cent of parents with young children received help from their employer with child care arrangements?

(2) Is the Minister aware the report, prepared by the Australian Bureau of Statistics, shows that whilst enterprise bargaining is spreading the proportion of parents using flexible hours, job sharing and working from home has stagnated in the last three years?

(3) Does the Minister intend to ask the Australian Bureau of Statistics, or another reputable agency, to carry out a more comprehensive study on the degree to which workplace arrangements are being made to assist parents with young children?

(4) If so, when?

(5) If not, why not?

Mr KIERATH replied:

(1)-(2) Yes.

(3) No.

(4) Not applicable.

(5) The Department of Productivity and Labour Relations is currently working with the Department of Industrial Relations to establish an Australia-wide computer database of work and family initiatives. This database will allow easy access to information about the family friendly initiatives being utilised by organisations in Australia.

DEPARTMENT OF PRODUCTIVITY AND LABOUR RELATIONS - CHIEF EXECUTIVE OFFICERS

1505. Mr KOBELKE to the Minister for Labour Relations:

Who have been the Chief Executive Officers or acting Chief Executive Officers of the Department of Productivity and Labour Relations since the start of 1993 and for what periods was each person in that position?

Mr KIERATH replied:

Current departmental records indicate that the following people have been appointed permanently or in an acting capacity to the position of Chief Executive Officer in the Department of Productivity and Labour Relations -

Noel Whitehead	Permanent	28/8/1990-13/1/1995
Stephen Home	Acting	16/9/1993-24/1/1994*
		7/6/1994-5/9/1994*
		16/1/1995-13/10/1995
Colin Thatcher	Permanent	16/10/1995-2/4/1996
John Spurling	Acting	29/5/1995-14/6/1995#
		3/4/1996-5/11/1996
John Lloyd	Permanent	6/11/96 to present

* Indicates acting while substantive on annual leave
\# Position was temporarily vacant

QUESTIONS WITHOUT NOTICE

GOVERNMENT ADVERTISING - EXPENDITURE

433. Dr GALLOP to the Premier:

I refer to *Business Review Weekly*'s revelation that this Government was the twenty-fourth biggest advertiser in the country, spending more on advertising than such corporate giants as Ford and Qantas. How does the Premier justify spending $33.6m on advertising last year when the South Australian Government, in a State with a population roughly equal to that of Western Australia, spent only half that amount?

Mr COURT replied:

I think this question was asked in March this year -

Dr Gallop: And we will keep asking it on behalf of taxpayers!

Mr COURT: I do not have any problem in giving the Leader of the Opposition the information about when he was in Government, as it involved a similar amount of money.

Dr Gallop: It was not, Premier!

Mr COURT: It certainly was. The major departmental spending in the $30m to which the Leader of the Opposition referred was by the Lotteries Commission, which was the largest spender on advertising as a result of its business, and the Traffic Board of WA, the next biggest spender, basically on advertising for the road safety programs.

Mr Ripper: Does the South Australian Government not have such bodies?

Mr COURT: Hang on. The advertising also covers local government, universities and all corporatised government trading enterprises which purchase under the same contract.

Dr Gallop: Look at the figures and see how much is for responsible government.

Mr COURT: I have all the figures here. A big slab of the $30m comes from advertising in three areas: The Lotteries Commission; the Traffic Board; and that associated with local government, academic institutions and corporatised government bodies.

GOVERNMENT ADVERTISING - EXPENDITURE

434. Dr GALLOP to the Premier:

As a supplementary question, was the 50 per cent increase in advertising spending by the Government last year due to the fact that an election was held in December, and that the Government shamelessly used publicly money to help re-elect the Liberal Party Government?

Mr COURT replied:

It is absolute nonsense. The Leader of the Opposition did not listen to what I said.

Dr Gallop: There was a 50 per cent increase. We have the answers to questions.

Mr COURT: No, there was not a 50 per cent increase. I will give a breakup of the advertising expenditure. It could hardly be said that expenditure on the Lotteries Commission or the road safety program is advertising for political purposes. After those two items, the order of expenditure is: Homeswest, Health Department, Totalisator Agency Board, Western Australian Tourism Commission, LandCorp, TAFE, Western Australian Electoral Commission, Dairy Industry Authority, Potato Marketing Corporation, Family and Children's Services, WorkSafe Western Australia, Transport, Perth Theatre Trust, St John Ambulance, Main Roads, and the last on the list is the Department of Productivity and Labour Relations.

MUNDARING WEIR - WALKWAY

435. Mrs van de KLASHORST to the Minister for Water Resources:

Will the Minister please advise when the work on the walkway across Mundaring Dam is to be completed? It is anticipated that the weir will overflow in approximately six weeks time, and it will then be impossible for any work to be done.

Dr HAMES replied:

I thank the member for some notice of this question. Work is being done today on replacing the footbridge at the Mundaring Weir, which was built in 1903 and is the original walkway associated with the weir. Although the bridge is not required for the normal functioning of the weir, it has been decided by the Water Corporation that it is an integral part of the weir and it is important to maintain it in reasonable condition. Work was under way today using a 200 tonne crane with a 72 metre boom, which is one of the biggest mobile cranes in Western Australia, to hoist five of the new sections on top of the 40m dam. The Water Corporation will spend $590 000 on refurbishing the footbridge and for associated structures. It is also spending a further $60 000 on upgrading public facilities, such as picnic areas and conveniences, in preparation for the influx of visitors this winter. In addition, $90 000 has been spent on resurfacing the entry road and car parking area.

This Government is very committed to the weir and, given that 1998 marks the centenary of the beginning of the construction of the weir, it is determined that every effort will be made to ensure the public has good access to the weir and that it is in the best possible condition.

POLICE - OFFICERS

Conditions of Employment

436. Mrs ROBERTS to the Minister for Police:

(1) Is it not a nonsense to claim that police officers are better off when blunt memos have gone out to police officers that severely restrict meal allowances and overtime, stop remote patrols in the Narrogin, Geraldton and Kimberley regions, indicate the vehicle crime unit is out of funds, and put a hold on stationery orders?

(2) Does this indicate a management problem or a funding problem?

Mr DAY replied:

(1)-(2) It is a nonsense to suggest that the Western Australia Police Service is broke! The Western Australia Police Service has never been better off than it is under this Government. When we came into government, the annual budget for the Police Service was $240m; in the Budget that was announced recently, it was increased to nearly $400m. That is a substantial increase, way above the rate of inflation. The Police Service and police officers are being extremely well resourced and looked after by this Government. Police officers are clearly better off under this Government. Police officers recently received a 17 per cent pay increase under an enterprise bargaining agreement, which is good for them and also for the public, because that enterprise bargaining agreement has resulted in an effective increase of 260 in the full time employee strength of the Police Service. In other words, the public is getting a better service.

As the end of the financial year approaches, the Police Service, like every other government agency in this State and every other responsible financial organisation, must balance its books to ensure that it operates within the allocation of funds that it has received from the Government. The Police Service is acting entirely responsibly. The bottom line is that if an operational need arises, police will be there to do the job.

POLICE - SERVICE

Crisis

437. Mrs ROBERTS to the Minister for Police:

Does the Minister understand that police officers do not leak memos lightly and that he is facing a crisis?

Several members interjected.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Order! All members know that it is highly disorderly to keep interjecting when I am on my feet. The Minister for Police is trying to get the call to answer the question.

Mr DAY replied:

Thank you, Mr Speaker. The Western Australia Police Service is certainly not facing a crisis in respect of financial resources or any other matter. The Western Australia Police Service is in an extremely healthy condition and is able to meet the community needs and expectations that are justifiably placed upon it.

Dr Gallop: Yes Minister!

Mr DAY: I am delighted to know that the Labor Party is finally taking some interest in responsible budgeting issues, because had it done that when it was in government, it might not have squandered $1.5b of taxpayers' funds on its mates.

Several members interjected.

The SPEAKER: Order! Leader of the Opposition, I indicated last week that I would allow you, of all people, some latitude with your interjections, but when you repeat the same interjection seven or eight times, we have heard it enough.

Mr DAY: Had the Labor Party been more responsible when it was in government, it might have been able to find the money to put petrol in police cars so that the police could operate in the community.

PUBLIC SERVICE - EMPLOYEES

Participation in Conferences

438. Mr MASTERS to the Minister for Regional Development:

Some notice of this question has been given. At a recent "WA Minerals" conference held at Burswood Resort, a number of senior government employees were key speakers. Considering that the registration fee for the two day conference was $1 695 and that the conference was organised by a private company with the intention of making a profit -

(1) What is the Government's policy on public servant involvement in conferences such as these?

(2) Does the Government receive a payment for the speaking commitments of public servants and/or a financial return from such conferences?

Mr COWAN replied:

I thank the member for some notice of this question. Guidelines developed by the Government in 1993 were aimed at avoiding unnecessary costs as a result of participation by public servants at conferences organised by private sector companies targeting public sector audiences. Chief executive officers of government agencies are given discretion to make decisions on the participation of staff, either as presenters or registrants. The guidelines also contain a recommended schedule of fees for those public servants invited to speak, ranging up to $2 500.

INDUSTRIAL RELATIONS - MINISTER

Chamber of Commerce and Industry of WA Letter

439. Mr KOBELKE to the Minister for Labour Relations:

Has the Western Australian Chamber of Commerce and Industry written to the Minister cautioning him about his inflammatory statements regarding the strength of union opposition to the Labour Relations Legislation Amendment Act because of the harm it is causing to business in this State?

Mr KIERATH replied:

I receive many letters from many people. However, I recently received a very interesting letter from the Chamber of Commerce and Industry. I am disappointed at its tone, but I will get around to replying.

SCHOOLS - PRIMARY

Burekup - New School

440. Dr TURNBULL to the Minister for Education:

As the Minister will be well aware, uncertainty exists over the future of the Burekup Primary School since extensive white ant damage was discovered earlier this year. The Minister suggested to the parents and citizens organisations at both Burekup Primary School and the neighbouring Roelands Primary School that a new school could be built in the area if both agreed to a merger. As both schools have indicated that willingness to the Minister, will a new school be built in the area?

Mr BARNETT replied:

I thank the member for some notice of this question, and for her assistance and that of the member for Murray-Wellington, who has also been involved. Burekup Primary School is in the member for Collie's electorate and Roelands Primary School is in the member for Murray-Wellington's electorate and they are only 3 kilometres apart. It is unfortunate that Burekup Primary School has suffered severe white ant damage and is no longer safe, but it was not realistic simply to replace it. Although the issue has been discussed for several years, I am delighted that both school communities looked to the future of their children and education and agreed that they would cooperate in a combined school. They have now formally advised me of that and the Government will build a new school, most likely on the Burekup site. Its construction will cost $1.5m and it will consist of classrooms, a preprimary facility and a small library-administration block. It is anticipated that the school will have 105 primary school students and 22 preprimary students. Construction will commence immediately following consultation with the two school communities and I hope the school will be completed by mid-1998, but it will certainly be up and running before the beginning of the 1999 school year. It is a good result and I sincerely congratulate the members and the school communities for having the ability to look to the future.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Allegations

441. Mrs ROBERTS to the Minister for Police:

(1) What assurance can the Minister give that allegations of police corruption referred to the Anti-Corruption Commission will not continue to be referred back to the Police Service for investigation?

(2) How many allegations of police corruption have already been referred back to the Police Service for investigation in the first nine months of the ACC's operations?

Mr DAY replied:

(1)-(2) It is about time the member for Midland took time out to read the Anti-Corruption Commission Act and, in particular, section 54, in which it states that no person shall divulge details about investigations being undertaken by the ACC. There is a memorandum of understanding and a cooperative relationship between the ACC and the Western Australia Police Service. I do not have details of the number of allegations the Police Service may be requested to assist the ACC in investigating. That is a matter for the ACC to answer.

Several members interjected.

The SPEAKER: Order!

HEALTH - SOUTH WEST HEALTH CAMPUS

Completion

442. Mr OSBORNE to the Minister for Works; Services:

The Minister recently visited Bunbury to inspect several major works projects being undertaken, particularly the new south west health campus, which is expected to open towards the end of next year.

(1) Is the project running on schedule?

(2) Is it running to budget?

(3) To what extent will the $70m worth of work benefit local business operators, particularly small business operators in the Bunbury and greater south west area?

Mr BOARD replied:

(1)-(3) I thank the member for Bunbury for the question and particularly for his recognition of the fact that the Works portfolio, through the Department of Contract and Management Services, plays a major role in the construction of public buildings, which these days are contracted out to the private sector and are producing great under-budget returns to the taxpayer. I have consulted the Minister for Health, who will be delighted to hear some specifics of what is happening. The psychiatric building is almost 50 per cent complete. The public ward's in-ground services are complete. The ground floor columns have been poured and pouring of the first floor concrete slab has commenced. The contract which was let for $250m last year is on schedule. Bunbury will have a first class hospital and facility. With some delight I can report that some 80 per cent of the work in Bunbury is being done by the small business sector. Although Devaugh Pty Ltd has won the contract, it is common knowledge these days that many of the major contractors do not employ day labour; much of it is done locally. From that point of view, the Bunbury community is sharing greatly in the construction with some $35m of the work probably going to small contractors. Everybody has benefited from the fact that the private sector is involved in building that hospital.

HEALTH - BREAST CANCER

Screening Service

443. Mr McGINTY to the Minister for Health:

I refer to the report by the WA Cancer Registry, which warns that the number of breast cancer diagnoses in Western Australia will increase by 41 per cent by the year 2001.

(1) Will the Minister now direct the Commissioner of Health to proceed forthwith with the breast assessment centre, which he stopped last month, and drop plans to privatise this service?

(2) Will he guarantee matched state funding this year to enable the 60 000 women to partake in the breast screening program as proposed by the women's cancer screening service?

(3) Will he guarantee to reverse the reduction in funding for the women's breast cancer screening service?

Mr PRINCE replied:

(1)-(3) I have the report to which the member for Fremantle alludes. Unfortunately I have only one copy. If he is really interested in the figures, I will make sure that he obtains a copy. The report is quite long and detailed, and is a considerable body of work by some very good statisticians and others. With respect to the figures to which the member referred, I will quote from part of the report, which reads -

> Known influences on cancer rates include genetic and environmental factors (such as genetic predispositions and smoking prevalence) and these in turn may vary as a result of deliberate interventions such as genetic counselling and anti-smoking education campaigns, or unplanned changes such as fashionable trends in diet or clothing.
>
> . . . The cancer data in this report are based on cancers notified to the West Australian Cancer Registry and those recorded on death certificates and it is recognized that the degree of completeness of notification may have varied over time.

Mr Threlfall goes on to say -

It also relies on the fact that all projections are subject to so much in the way of unknown influences that they should not be taken out of context and used in the absence of other knowledge about trends in the health care of the population.

It is a predictive document. The Cancer Foundation of WA (Inc) has congratulated the Health Department on releasing this important information, which is the first Australian data of this nature to be released. Western Australia is leading the way again. It is a predictive document that is part of a planning process; it is not the complete process.

Mr McGinty: My question is what you are going to do about it.

Mr PRINCE: It is the beginning. It is extremely good information and the only document of its type in Australia. There must now be a process that takes advantage of it and works out what services are required, where and when. This is part of predictive planning, which did not exist in this health service before we came to government. It is something I have been keen to press since I became Minister.

We all know that the assessment centres in this State could not get national accreditation. A process has been ongoing since 1995 to work out what we have by way of breast assessment centres, and where.

Mr McGinty: Last month your Minister put a stop to the breast assessment centre.

Mr PRINCE: The member for Fremantle knows that the commissioner said that all options must be examined. One option is to contract with private organisations. One of the reasons is that the Mercy Hospital run by the Sisters of Charity already operates a breast assessment centre. I have just launched Breast Screen WA's campaign for this year. The campaign is aimed at trying to get women to come back for more screenings after the first screening.

Mr McGinty: How many more screenings?

Mr PRINCE: The estimate is that 53 per cent of the target group are screened.

Mr McGinty: Last year they said they needed money for 60 000 screenings.

Mr PRINCE: We are trying to increase that number and we are spending advertising dollars to do it.

Mr McGinty: Will you provide matching money?

Mr PRINCE: It is a matched program with the Commonwealth, so of course we provide the money. The misinformation from the member for Fremantle about a reduction in funding is not true; the member is totally and completely wrong.

HEALTH - BREAST CANCER

Screening Service

444. Mrs van de KLASHORST to the Minister for Health:

My question is fortuitous, as I have just attended the launch of the new mammography initiatives in Western Australia. What positive steps have been taken to increase the number of women being screened for breast cancer?

Mr PRINCE replied:

I am pleased to comment further on this matter. At present the rate of screening is about 53 per cent of women in the target group of 50 to 69 years of age. The technology does not exist yet to have much of an effect upon the incidence of cancer in younger women. However, all women between the ages of 50 and 69 should have a breast x-ray and thereafter one every two years. The campaign launched today is aimed not only at increasing the number from 53 per cent but also at persuading women who have had one screening to come back not more than two years later. Many women who say they will come back, do not. It is a very important initiative. The Commonwealth Department of Health and Family Services has contributed about $300 000 to Breast Screen WA; it is a matched program.

I hope that all members of this House, irrespective of political persuasion, will do everything they can to encourage women of this age group to have a breast x-ray. It takes 20 minutes once every two years. Women can telephone freecall 13 20 50 to obtain an appointment for an x-ray. If something shows up the chances of their dying are reduced by at least 50 per cent - because they are able to be treated as early as possible.

ENVIRONMENTAL PROTECTION AUTHORITY - CHAIRMAN

Resignation

445. Dr EDWARDS to the Minister for the Environment:

Some notice of this question has been given. It was reported on Saturday, 8 June in *The West Australian* that the Chairman of the Environmental Protection Authority, Ray Steedman, spoke to the Minister a month ago about resigning from his position. On what date or dates did Dr Steedman speak to the Minister about resigning?

Mrs EDWARDES replied:

Dr Steedman kept my office informed at various stages of his negotiations with a company, but there is no record of those dates at my office; therefore, I cannot provide the member with that information.

ENVIRONMENTAL PROTECTION AUTHORITY - CHAIRMAN

Resignation

446. Dr EDWARDS to the Minister for the Environment:

Given the Minister's answer to the previous question, why did she tell the Estimates Committee hearing on 21 May that during her time as Minister, Dr Ray Steedman had not raised with her his intention to resign?

Mrs EDWARDES replied:

The question that was asked at the Estimates Committee on Wednesday, 21 May by the member for Fremantle was: At any stage over the past 12 months did he ever threaten to resign or indicate he would not be available to have his contract renewed unless certain undertakings or assurances were given about the structural difficulties between the EPA and department? My answer was, "Not to my knowledge, and not during my time as Minister." There is a clear difference between taking up the opportunity to negotiate for a position in the private sector and threatening to resign unless assurances were given about the structural differences between the EPA and the department.

HEALTH - COMMONWEALTH RURAL HEALTH TRAINING SERVICE

Geraldton

447. Mr BLOFFWITCH to the Minister for Health:

Geraldton has been chosen as the site for the new commonwealth rural health training service. What will be the benefits to the mid west from this very fortuitous grant?

Mr PRINCE replied:

The establishment of this training facility in this State, which is not before time, is testimony to the excellence of the development of policy for the delivery of health services into the rural area of this State. The state Health Department's rural health policy unit has been located in Geraldton for the past five years. The quality of its policy development work, particularly from the point of view of doctors, nurses and others in rural areas being located and maintained there, with training updated on a continuing basis, is recognised throughout Australia to such an extent that officers from that unit are often asked to present seminars on their work in other States, most notably in recent times in Queensland and New South Wales. I am delighted the Commonwealth Government has recognised that this State has a centre of excellence and will locate the commonwealth training facility for rural health adjacent to the state facility in Geraldton. It will enhance the expertise in that area and will enable the work done by the rural health policy unit to continue at a much more enhanced standard.

TOURISM - ELLE RACING

Premier's Involvement

448. Mr BROWN to the Premier:

I refer to the Government's $1m deal with Elle Racing Pty Ltd.

(1) Was the Premier involved in any of the discussions about this deal?

(2) If yes, how many meetings did he attend and who was involved in the meetings?

Mr COURT replied:

I thank the member for some notice of this question. There must be some urgency associated with it because I have had notice of it for about a month!

(1) Yes.

(2) A presentation was made on 23 August 1996. Those present were the Minister for Tourism and the Chairman and Chief Executive Officer of the Western Australian Tourism Commission. On 6 September a luncheon was held for the crew and officials and on 8 October a presentation was given by the Minister and the CEO of the Tourism Commission.

FISHERIES - SHARK BAY

Fish Stocks

449. Mr SWEETMAN to the Minister for Fisheries:

In light of the newly amended bag and catch limits in the Shark Bay area, what further management and consultation measures will be implemented to monitor fish stocks in that area?

Mr HOUSE replied:

As the member for Ningaloo knows, the scientific advice about the Shark Bay snapper fishery revealed that the fishery was in a bit of trouble and that it had been fished down quickly. The biggest problems now facing recreational fishing is the ability for increased effort, because of things such as echo sounders and the global positioning system, resulting in recreational fishing becoming more efficient; we have not been able to monitor that catch in the past.

Shark Bay is a popular but small area and 100 tonnes of snapper were coming out of the eastern gulf annually. I acted quickly to put a moratorium on all snapper fishing in Shark Bay while we were able to look closely at what was happening, consult with local people and determine what might be done. As a result of that consultation and of the breathing space provided by a total moratorium, we were able to come up with a package that is not only acceptable to all people in the region but also scientifically acceptable to those people at the Fisheries Department who advise me.

The Government believes it can leave that package in place over the next 12 months because it has more money for research and ongoing monitoring of that fishery, and that will continue. However, because of the increased pressure on the fishery further bag limits or restrictions may have to be imposed.

REAL ESTATE - FRANCES MARY CHAN

Claims - Resolution

450. Ms MacTIERNAN to the Minister for Fair Trading:

(1) Given that the clients of Frances Mary Chan lodged notice of claims against the real estate fidelity guarantee fund as early as August 1995, why are those claims still unresolved?

(2) Why is the best estimate of completion of those claims still another three or four months away?

(3) Does the Minister accept that the advanced age and infirmity of many of Mrs Chan's victims make these delays grossly unfair and will he now instruct his staff to make the resolution of these claims the highest priority?

Mr SHAVE replied:

I thank the member for some notice of this question.

(1)-(2) The answer that has been provided to me is this -

Ms MacTiernan: What's the real answer?

Mr SHAVE: It is the correct answer.

Ms MacTiernan: Are you taking responsibility for it?

Mr SHAVE: You are being totally unfair; I thought we were friends.

Ms MacTiernan: I was told on Friday night that it was satisfactorily resolved.

Mr SHAVE: The Premier thinks I have a special place in my heart for the member.

To establish a claim against the real estate fidelity guarantee fund evidence must be presented to the board and it must be clearly demonstrated that a defalsification has occurred. The previous practice of the board was to await the prosecution against the accused in the courts before proceeding. As a result of the Chan matter and in recognition of the circumstances of the claimants, the board sought legal advice on whether it could consider claims before the trial of Mrs Chan. That legal advice has suggested a procedure by which claims can be processed before a criminal conviction of the accused is obtained, and this procedure is now being adopted. While the particular claims referred to by the member have taken longer than would be hoped, as a result of changes these claims will be processed faster than under the previous policy. In addition, any other claims made against the fidelity fund will be resolved faster.

(3) I am pleased to advise the member that this investigation and settlement is the first priority of the fidelity fund investigators at this time.

REAL ESTATE - FRANCES MARY CHAN

Claims - Resolution

451. Ms MacTIERNAN to the Minister for Fair Trading:

Will the Minister now gives us an estimate of the amount of time that will elapse before these matters are resolved?

Mr SHAVE replied:

I have not been provided with an estimate from the department, but I will give that information to the member within the next 24 hours.

The SPEAKER: Order! That completes question time. Including supplementary questions, 19 questions were dealt with in 36 minutes.
