WESTERN AUSTRALIA

# Parliamentary Debates

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 17 September 1998

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

## ARMADALE-KELMSCOTT MEMORIAL HOSPITAL

*Petition*

Ms MacTiernan presented the following petition bearing the signatures of 1 677 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned residents of the South East Metropolitan area demand that the Government immediately abandons both its plans to sell the Armadale Kelmscott Memorial Hospital and to privatise the management of the Armadale Health Service. We demand the Government recognises these facilities belong to our community and that they have no mandate to sell them. We call on the Government to allocate the money necessary to redevelop our hospital as a publicly owned and operated centre providing for the people and not for profit.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 51.]

## CRIME RATES

*Petition*

Mr Kobelke presented the following petition bearing the signatures of 24 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned are totally disgusted with the present Government as they are not bothering to address the crime rates in our suburbs. We now pay more rates and taxes, but still do NOT get any positive results from our Liberal Government.
>
> We want some action, not the useless promises that we get now.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 52.]

## MILK, POTATOES AND EGGS MARKETING

*Petition*

**DR TURNBULL** (Collie) [10.04 am]: I present the following petition which follows a petition I presented a few weeks ago -

> 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 Treasurer, Richard Court, and the Minister for Primary Industry, Monty House, to present to the Australian Competition and Consumer Council a united case for the retention of the legislative powers for the orderly marketing of milk, potatoes and eggs in Western Australia.
>
> We make this call on the grounds that the "public benefit" will be best served if
>
> > consumers can purchase good quality milk potatoes and eggs at stable prices
> >
> > primary producers and their families can maintain a viable income
> >
> > and so support the education, health services, employment and contract services of their country communities.
>
> 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 20 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 53.]

## COMMON LAW DAMAGE CLAIMS

*Petition*

Mr Kobelke presented the following petition bearing the signatures of 15 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned express our total opposition to the move by the Court Government to deny injured workers the right to make claims for common law damaged for negligence through the "second gateway" in section 93D of the Workers' Compensation and Rehabilitation Act.
>
> To abolish "second gateway" claims would:
>
> 1. deny many seriously injured workers the legal right to seek recompense through the common law, when they have suffered a loss due to the negligence of their employer.
>
> 2. remove an incentive for employers to improve health and safety in the workplace and thus lead to more accidents and injuries to Western Australian workers and
>
> 3. deny injured workers fair compensation for their loss and suffering so that insurance companies can make bigger profits.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 54.]

## WESTRAIL, SALE

*Standing Orders Suspension*

**MS MacTIERNAN** (Armadale) [10.07 am]: I move -

> That so much of the standing orders be suspended as is necessary to enable consideration forthwith of the following motion -
>
> > That this House censures the Deputy Premier for misleading this House in claiming that the Government had not yet made a decision whether to sell all or part of Westrail's operation and accordingly calls upon the Deputy Premier to apologise.

Government members interjected.

Dr Gallop: This is very important. We had him yesterday and we have you today.

Several members interjected.

The SPEAKER: Order!

Ms MacTIERNAN: I note that this motion has been met with some frivolity by the Deputy Premier and his little henchmen on the other side of the Chamber.

Mr Cowan: It is a joke.

Several members interjected.

Ms MacTIERNAN: It is interesting that the Government members have commented that we are two weeks away from a federal election and asked why are we concentrating on an issue like this? The federal election is germane to this issue. Members know that the National Party has aspirations to win the seat of Kalgoorlie.

*Points of Order*

Mr BARNETT: The motion before the House is that standing orders be suspended. I ask the member for Armadale to address the motion.

Mrs ROBERTS: Further to the comments by the Leader of the House, I point out that that is exactly what the member for Armadale was addressing until she took an interjection from the Deputy Premier who is the subject of her motion.

The SPEAKER: There is a point of order. The practice of the House since I have been here is that members who move a motion to suspend standing orders, while they are not supposed to go into the detail of the debate which they hope to bring on, have a reasonable opportunity to explain to the House the reason that the suspension should be allowed. A little bit of latitude is given, but the member for Armadale has wandered off into the federal election, which is a long way from the point at issue.

*Debate Resumed*

Ms MacTIERNAN: I appreciate your concern, Mr Speaker, but it goes very much to the question of intent. The federal election is not irrelevant to the discussion; it goes to the Deputy Premier's motivation for making the statements which lead us to conclude that this has not been just an exercise, a result of incompetence or a failure to concentrate at various Cabinet meetings, but a direct and deliberate attempt to mislead this place. A federal election will be held shortly and the National Party has aspirations for the seat of Kalgoorlie. The National Party is taking a hammering in the bush over its support for the proposal to sell Westrail. The Western Australian Farmers Federation -

*Point of Order*

Mr BARNETT: Mr Speaker -

Dr Gallop: You are trying to stifle the debate.

Mr BARNETT: I am not trying to stop the debate.

Dr Gallop: Why don't you give us the half hour and be done with it?

Mr BARNETT: This is a motion to suspend standing orders for the purpose of censuring the Deputy Premier of this State. It is up to the member opposite to make the case for supporting this motion to suspend standing orders. That is a fair request.

Mr Ripper: He misled the House.

Mr BARNETT: Not one thing has been said yet about why the motion will be moved, nor about why we should suspend standing orders. Let us hear that argument and the Government will consider it.

The SPEAKER: The Leader of the House is correct. There should be a focus at this point on the reasons standing orders should be suspended. If in doing that, a member occasionally alludes to very good reasons, I will give a small amount of latitude as is the practice of the House. The motion before the House is to suspend standing orders. I am sure the member for Armadale will provide some reasons for members to support the motion to suspend standing orders.

*Debate Resumed*

Ms MacTIERNAN: I was not going to lecture the Parliament on the gravity of a member deliberately misleading this House. I presumed it was self-evident that if we believed in the dignity of this place and we wanted Parliament to have some authority and preserve this as a linchpin of our democratic system, we should understand the importance of a member, particularly a member of the Executive - a minister - not misleading this House and the public about the Government's intentions and actions.

A fortnight ago, the Deputy Premier informed this House that the Government was still considering whether it would sell Westrail and whether or not any sale should be for all or part of the operation. In fact, that decision to sell Westrail and nominate the specific components of Westrail had already been made by the Government and had already been subject to numerous announcements.

Mr House: When?

Ms MacTIERNAN: At a Cabinet decision in late July.

Mr House: That is nonsense.

Ms MacTIERNAN: Because the Government is not prepared to table the precise text of the cabinet decision, we must make inferences from the very public statements.

Mr House: Now we will censure a Deputy Premier on inferences.

Ms MacTIERNAN: Inferences from the verbal and written statements. Maybe the minister does not understand what is an inference.

Mr House: I understand what nonsense is. I have been listening to you.

Dr Gallop: There is a big difference between deliberately deceiving people and nonsense.

The SPEAKER: Order, members!

Ms MacTIERNAN: The Government has not entered into a contract to sell it. It has not decided to which person it will sell Westrail. We know it is talking to Wisconsin and Wyoming and a range of American rail companies. However, it is very clear from the statements that have been made in public and in Parliament by both the Minister for Transport and the Acting Commissioner of Railways that this decision has been made.

Mr Barnett: What statement by the Acting Commissioner of Railways?

Ms MacTIERNAN: We will go through those statements in detail if the Government will give us a moment.

Mr Ripper: That is the reason we need the suspension.

Ms MacTIERNAN: If the Government agrees to the suspension of standing orders -

Mr Barnett: I want to hear the reason.

Ms MacTIERNAN: - we will have ample time to do that. First of all I will outline the statements that have been made by the Deputy Premier so the House can contrast those statements with those that have been made by other players; that is, the Minister for Transport and the Acting Commissioner of Railways.

Mr Ripper: Yesterday.

Ms MacTIERNAN: The Deputy Premier said that the Government should identify whether the government trading entity should be retained in whole or in part by the State or whether it should be sold in whole or in part. When he said "in part", he meant will the Government retain track rights and certain aspects of Westrail's freight operations. He said that the Government will investigate it and that it will be a very public process. In the same debate, he said that he made it clear to the member for Armadale that approval had been given for the establishment of a task force to examine the prospect of the sale of Westrail. He also said that the assumption had been made that the Government will sell Westrail. It has been reported accordingly. A task force has been established and it will go through the consultative process necessary to give -

*Point of Order*

Mr OMODEI: The member is arguing the case rather than the motion before the House.

The SPEAKER: The Minister for Local Government is correct. The member for Armadale is debating the substance of the motion which she wants to bring on by suspending standing orders. I remind the member of that. She may have other reasons to bring to the attention of the House in support of the motion to suspend standing orders.

*Debate Resumed*

Ms MacTIERNAN: It is getting very difficult.

The SPEAKER: It always is difficult.

Ms MacTIERNAN: The Leader of the House is saying to us, "Tell us what he said and explain to us why that is misleading." Having heard that, the Government will then make a decision on whether to suspend standing orders. When we seek to set out the reasons, one of his comrades says, "We do not want to hear this." Members opposite have asked about the urgency and why this matter has been raised today.

Mr Barnett: The point I make is that the member for Armadale could have a substantive motion. If she wants to suspend standing orders she must demonstrate the urgency of the matter.

Ms MacTIERNAN: The urgency of the matter is that the Deputy Premier has committed a very grave offence by misleading the House and has caused a great deal of confusion and concern in the community. This will be our last opportunity to deal with this matter before Parliament goes into recess for three weeks. We have been waiting for an opportunity to deal with this. We wanted to check the evidence and ensure that our material is absolutely corroborated. Yesterday we became aware that the Legislative Council Standing Committee on Estimates and Financial Operations was also concerned about these misleading statements and had called the Acting Commissioner for Westrail to a public hearing so that this issue could be examined.

*Points of Order*

Mr BARNETT: Mr Speaker, this is the essential point and one that I would appreciate your ruling on. I refer to Standing Order No 127, which states -

> No member shall allude to any debate, during the current session, in the other House of Parliament.

The member is clearly referring to matters under discussion in the upper House.

Dr Gallop: It is not discussion, it is just evidence given.

Mr BARNETT: It is an important point.

Mr KOBELKE: It is my understanding that the committee in the other place held its public hearing yesterday. Journalists and possibly members of the public were present. They were able to make their own judgment and listen to the evidence given by the Acting Commissioner for Westrail. It is that evidence which is new and is part of the reason that the standing orders should be suspended today. The standing order alluded to by the Leader of the House has no bearing on what is now public knowledge arising out of the committee in the other place.

The SPEAKER: The thrust of that standing order is to prevent arguments between the Houses on debates that may be occurring at the time. It is not meant to frustrate information being brought into this House. On this occasion, I believe that the member for Armadale is making an important point and she may continue.

*Debate Resumed*

Ms MacTIERNAN: We were prepared to wait to move this suspension of standing orders until we had the opportunity to hear what Mr James said. Much of the evidence to support our contention that a decision has been made comes from the statements made during the past month and a half by Mr James, and much of the action that has been taken by Westrail.

Mr Barnett: Given that the speaker has now ruled, which I think is important, the Government will agree to a suspension on the basis that the debate is contained to no more than one hour.

Question put and passed with an absolute majority.

*Deputy Premier - Censure Motion*

**MS MacTIERNAN** (Armadale) [10.24 am]: I move -

> That this House censures the Deputy Premier for misleading the House in claiming that the Government had not yet made a decision whether to sell all or part of Westrail's operation and accordingly calls upon the Deputy Premier to apologise.

When seeking leave to suspend standing orders, I outlined some of the issues. However, I will begin this debate by referring to the debate that occurred in this House less than a fortnight ago. We were debating an amendment to the Address-in-Reply, and were expressing concerns about the Government's proposal to sell a significant part of Westrail's operations; that is, the Westrail freight business and, more alarmingly, the Westrail's track and rolling stock infrastructure in a single integrated operation. In that debate the Deputy Premier said that that decision had not been made and that we were all operating under some major misunderstanding about what the Government had decided. I now want to take my time to set out the statements made by the Deputy Premier.

Mr House: Can you tell us from where you are quoting? Tell us from which page of *Hansard* you are quoting.

Ms MacTIERNAN: Yes, I will if the minister would like me to do that. I will find the reference.

A member interjected.

Ms MacTIERNAN: That is right, Mr Monty Monty, who is so worried about his profile that he has demanded that Fisheries WA reprint all its information brochures with his picture on it. There is a bit of a problem. It might be confusing him with some of the subject matter.

On page 75 of *Hansard* of Wednesday, 19 August 1998, the Deputy Premier is reported as saying -

> We need to identify whether the government trading entity of Westrail should be retained in whole or in part by this State or whether it should be sold in whole or in part. When I say "in part", do we retain the track rights or certain aspects of Westrail's freight operations? We will investigate that. That will be a very public process.

He then goes on to say -

> I make it very clear to the member for Armadale that approval has been given for the establishment of a task force to examine the prospect of the sale of Westrail.

He said further -

> The assumption has been made that the Government will sell Westrail. It has been reported accordingly. A task force has been established and it will certainly go through the consultative process necessary to give advice to the Government about whether there is merit in the sale of all, or parts, of Westrail.

I would like now to contrast that with the statements in the other place, in particular, by the Minister for Transport. It is important to understand that the Deputy Premier said that a task force is still operating, and it will see whether there is any merit in selling all or part of Westrail. He said that the Government has made no decision to sell it or any bits of it. However, a media statement put out by the Minister for Transport on 30 July stated -

> Transport Minister Murray Criddle today announced that State Cabinet -

*Point of Order*

Mr HOUSE: Mr Speaker, I seek your ruling on a member quoting from an uncorrected proof. I am not sure myself whether that is allowable, but my understanding from the page number that the member has given is that that is what she is doing and I seek your ruling.

Mrs ROBERTS: It is interesting that it is the Minister who goaded the member for Armadale for the page numbers of the material to which she is referring. From my understanding, a member can paraphrase from whatever source a member likes. I do not believe the member for Armadale is quoting directly from an uncorrected version of *Hansard*.

The SPEAKER: Order! It is easy and very clear: Members are not entitled to quote from uncorrected versions of *Hansard*. However, they can refer to what people have said in debate.

*Debate Resumed*

Ms MacTIERNAN: Thank you, Mr Speaker. The Minister for Primary Industry has mounted a pretty interesting defence!

I am quoting from a media statement, if that is acceptable to the Minister for Primary Industry, which states that -

> Transport Minister Murray Criddle today announced that State Cabinet had approved the sale of the freight business of Westrail.
>
> Mr Criddle said there would be no job losses as a result of the sale of the freight business and that Westrail's urban and country services would remain with Government.

It states also -

> "Today's sale announcement follows a Government investigation which set out in November 1997 to identify all the options for Westrail, which will for the first time in its 117-year-history face open competition from the private sector in all aspects of its freight business." . . .
>
> "The time is right to sell Westrail and there is a unique opportunity for a private sector buyer to create a viable national rail freight company based in WA." . . .
>
> The Minister said Westrail's freight business would be -

Not might be, after we had had a long discussion about it, but would be -

> - disposed of as a vertically-integrated operation, meaning inclusion of rolling stock and the track network."
>
> "The Government will retain ownership of the existing right-of-way and under the tracks but may sell plots of land . . .

The media statement states also that a sale task force will be established to ensure a number of conditions and safeguards are met, including guarantees of service to users.

A press release also went out from the Acting Commissioner of Railways, Wayne James. It is interesting that when we raised with the Deputy Premier the fact that the Minister for Transport in the other place had issued that press release, his words were to the effect - I cannot quote his words directly - that, "I have learnt in my long career never to believe anything that is written in the paper, or in press releases, even if they are government press releases." That gives us a lot of confidence in the competence of the Government in the administration of the Transport portfolio! Obviously, Mr Wayne James, the Acting Commissioner of Railways, had taken very much the same view that we had, because on 30 July, the same day, he made the following statement to his staff -

> The new Minister for Transport, the Hon Murray Criddle MLC, announced today that, following a decision by State Cabinet -

I do not know whether the Minister for Primary Industry was away at the time exploring his portfolio matters -

> - the Government will sell Westrail's freight business. The Government will retain ownership of the urban and country passenger services.

> It is proposed to sell Westrail's freight business as a complete operating unit and while there will be a change in ownership, for employees and customers, it will be a case of 'business as usual'. The new owner will be required to honour all existing freight contracts . . .

He also assures people that there will be no job losses. That is a rather bizarre statement when we consider some of his other statements.

The next statement was made on 25 August, when the acting commissioner said that he "advised of the formation of two internal task forces set up to look at staff transfer and redundancy proposals, and the terms and conditions to be placed on a new owner regarding employees' benefits and employment conditions."

Dr Gallop: The new owner?

Ms MacTIERNAN: Yes. He said also that a hotline had been set up to provide information on the value of redundancy and transfer packages. The sale is going ahead. The Acting Commissioner of Railways thinks it is going ahead. A media statement from the acting commissioner dated 7 September states -

> The work of Westrail's internal Taskforce looking at employment benefits and conditions for employees affected by the sale is gathering pace with a contract let last week for the appointment of a Project Management Team from the legal company Freehill, Hollingdale and Page.
>
> Appointment of the Project Management Team will provide the Taskforce with proven expertise available within the company in the areas of employee relations, human resources . . .
>
> The focus of the Taskforce is to put together an attractive employment and transfer package for employees . . .

That does not sound like a decision has not been made. The minister says, "It has been to Cabinet, we have made a decision, and we will sell it. We have not decided who will be the buyer, but these are the bids." The Acting Commissioner of Railways then tells all the staff, "This is what we are doing. This will affect your jobs. We have set up these task forces to look at what your redundancy and transfer packages may be. We have gone down the road. We have employed our old mates Freehill Hollingdale and Page and got them on the gravy train again."

The matter is not confined to that, because shortly after the Deputy Premier had declared that Westrail was not for sale, an advertisement appeared in *The West Australian* from a company called Gerard Daniels Australia. That advertisement is very interesting. It does not mention Westrail, but I will give members a clue as to what it is talking about. The advertisement, which appeared in the recruitment pages, is for a project director for a $1b asset sale. It states that the job will suit a senior corporate or finance executive, who will be Perth-based for approximately one year, and that it is looking -

> For a senior executive with experience managing and negotiating significant business/asset sales, this appointment undoubtedly represents one of the most exciting and challenging major asset sale projects available. The role is to project manage the sale process of an operating business which has an estimated value in the vicinity of $1 Billion.

The advertisement states also that it is looking for someone with -

> Superior team leadership skills, the ability to operate in what will become a highly demanding and politically sensitive environment . . .

That is very instructive, and perhaps gives us a clue as to why we have had this misleading conduct by the Deputy Premier. The Government is saying that it does not intend to sell Westrail and it has not made a decision, yet it has set up a task force, it has all the staff applying for redundancy packages, and it has advertised for a senior corporate executive! When we pointed out these things to the Deputy Premier, his explanation was, "Do not believe what you read. Do not believe our press statements. Do not believe the messages that the staff are getting from the Acting Commissioner of Railways. Do not believe that we are paying Gerard Daniels Australia to engage in an executive search." That is a nonsense!

Yesterday at the public hearing with Mr Wayne James, questions were asked of him about where the budget would come from for these various hotlines, for the employment of Freehill Hollingdale and Page and of other companies that have been involved in putting together the redundancy packages, for the payment of Gerard Daniels Australia, and for the payment of the senior executive who will be taken on board to oversee this sale that will not happen. He said, "We have not made a budget for that because we have been assured that all of that will be recouped from the sale of the asset." He is saying that although Westrail is engaging in substantial expenditure, it has not bothered to budget for any of that because it has been assured by the Transport ministry that it will be reimbursed for all of its expenses from the sale - not from the possible sale, but from the actual sale - that will take place.

He was asked whether it had ever been communicated to him that the Westrail freight business, infrastructure and rolling stock sale would not go ahead. He said that nothing had ever been communicated to him that would suggest anything other than the fact that they were to be sold. The Government has obviously proceeded in this process on that basis.

The Deputy Premier could put all of this beyond doubt if he tabled for us the text of the cabinet decision. We have invited him to do that on several occasions but he has refused to do so. The Deputy Premier is trying to pretend, because of the political sensitivity of this issue, that he is back in November 1997, because in November 1997 the Government set up a task force to do the sorts of things that the minister was claiming just a few weeks ago. The task force or scoping study was set up to do what the Deputy Premier was talking about. I am indebted to my comrade, the member for Nollamara, who drew out John Langoulant, the Under Treasurer, on this matter.

Mr Barnett: The word "comrade" just slipped out.

Ms MacTIERNAN: It did not slip out; it was quite conscious. I have no difficulty with it at all. Just as the Leader of the House had no difficulty in pouring $72m into Peppermint Grove et al to put in underground power lines, I have no difficulty in calling my mates comrades.

Mr Langoulant said -

> We are looking at whether there is overall merit in the total sale or a partial sale.

Those words are very reminiscent of those used by the Deputy Premier.

Mr House: What are you quoting from?

Ms MacTIERNAN: I am quoting from the corrected version of *Hansard* of the estimates committee of Wednesday, 27 May when Mr Langoulant was being asked by the member for Nollamara about what the scoping study was doing. Mr Langoulant said -

> We are looking at whether there is overall merit in a total sale or a partial sale. One of the issues, for instance, is whether to sell the operation with or without track. The issue of land is not a major point. We think the land should stay with the State. We are looking at a range of options including a full or a partial sale, and we will provide the Government with a full cost benefit analysis of the different options.

The member for Nollamara asked, "Will that be finalised and ready to hand to the Treasury within the next two months?" Mr Langoulant said, "Yes." He went on to say that a cabinet decision would be made when that scoping study reported. That happened. Mr Langoulant was correct; he was not misleading us. That was the process the Government put in place. The scoping study, which had been commissioned at vast expense, was finalised and presented to Cabinet. Cabinet accepted the recommendation to sell the Westrail freight operation, the tracks and the rolling stock as a vertically integrated business. There is no doubt about that. The questions which then remain are how to go about setting up tender documents, what guarantees are to be put in place and how to get the final purchaser.

It is an absolute nonsense to pretend, as the Deputy Premier has, that we are back in November 1997 when the Government was thinking about the matter. That decision has been made. The Deputy Premier was part of the Cabinet that made that decision. He is trying to resile from that because the people from the bush and those in the Western Australian Farmers Federation, whom he has tried to dismiss as being unrepresentative - the Farmers Federation represents only 80 per cent of grain growers in the State - have spoken. The Deputy Premier has realised that this is a highly unpopular decision and he is trying to weasel out of it with weasel words. It will not work because people know that he is a hypocrite on this matter. The Deputy Premier has gone out there and spoken of his concerns about the loss of services in the bush, but what does he do? He comes in here and plays footsy with his Liberal Party mates and he sells his constituents down the drain.

**MR RIPPER** (Belmont - Deputy Leader of the Opposition) [10.47 am]: I formally second the motion.

Dr Gallop: Deputy Premier, are you going to respond?

Mr Barnett: Normally you have a couple of speakers.

**MR COWAN** (Merredin - Deputy Premier) [10.48 am]: I guess the lack of substance behind the motion is demonstrated by the reluctance of the Opposition to have anyone supporting the member for Armadale in her claims and allegations. It is a clear demonstration of the paucity of issues which the Opposition seems to be able to bring before this Parliament.

Mr Wiese: It is extraordinary that a person has to defend himself when the arguments have not been put up in front of him.

Mr COWAN: I think we have heard all we could possibly hear from the Opposition on this matter, which is very little indeed.

Mr Ripper: There is a straight conflict between what you told the House and the cabinet decision as reported by the minister.

Mr COWAN: There is no conflict whatsoever.

Dr Gallop: Table the cabinet minute, then.

Mr COWAN: How many cabinet minutes did the Leader of the Opposition table?

Dr Gallop: Table it.

Mr COWAN: How many cabinet minutes did the Leader of the Opposition table?

Several members interjected.

The SPEAKER: Order! Perhaps we might hear from the Deputy Premier.

Mr Carpenter interjected.

The SPEAKER: Order, member for Willagee.

Mr COWAN: We need to examine the issue as it really occurred and not worry too much about the poor record of performance when they were in Cabinet of the Leader of the Opposition and anyone else who was a survivor of the Cabinet of those years. Their performance is on the public record, which is why they are sitting over there. We need to understand that, as with any of these debates, the Opposition picks up on matters of fact. The first matter of fact is that in November 1997 a scoping study was initiated by the Government to investigate the prospects of the sale of Westrail's freight business. That is not in dispute. Members of the scoping study made a recommendation to the Cabinet about Westrail's freight business. There is no denial, and never has been, that the members of the scoping study made a recommendation to Cabinet that Westrail's freight business should be disposed of.

Ms MacTiernan: Did Cabinet accept it?

Mr COWAN: Mr Speaker -

Dr Gallop: Why will you not answer the question?

Mr COWAN: I am about to answer the question. If the decision has been made, as the Opposition claims, why would we in Cabinet establish a task force?

Dr Gallop: You established one for the sale of the Bunbury to Dampier pipeline.

Ms MacTiernan: It is to oversee the sale process; it is simple.

Mr COWAN: If we have agreed that we will dispose of the freight or sell Westrail, why would we establish a task force?

Dr Gallop: We are going to keep on this issue. You are compounding your lack of integrity on this question. You're going in deeper.

Mr COWAN: I sincerely hope that the Leader of the Opposition keeps up on this issue. As I said, there is no issue.

Dr Gallop: Why not table the decision then? It is dead easy. Do it now.

Mr Ripper: Do not table the cabinet minutes, just the cabinet decision sheet.

Mr COWAN: I repeat my response to the Leader of the Opposition and his deputy: How many cabinet minutes and decisions did the previous Labor Government table? The answer is none.

Several members interjected.

The SPEAKER: Order! There are far too many members interjecting. I am trying to hear the Deputy Premier, not the member for Cockburn.

Dr Gallop: Do you recall the Easton royal commission?

Mr COWAN: I would like the opportunity to make my speech.

Dr Gallop: Do you recall the Easton royal commission?

Mr COWAN: I do.

Dr Gallop: Just reflect upon it.

Dr Turnbull: It reflected far worse on you!

Dr Gallop: Is it not interesting the double standards you have set? When the integrity of the Labor Party is at stake, you have a multi-million dollar royal commission. When your integrity is at stake, you cover up in Parliament.

Mr COWAN: It seems that the Leader of the Opposition is about to burst into tears. I offer my handkerchief.

Several members interjected.

The SPEAKER: Order! The member for Cockburn need not get into the act. The member for Collie will be formally called to order in quick time as well if she persists.

Mr COWAN: We have reached the stage at which it is agreed by both sides of the House that we have had a scoping study into the sale of Westrail's freight business. We have also reached the stage of agreeing that the report from the scoping study has been presented to Cabinet, which has agreed to establish a task force to identify options. These options must come back to Cabinet before it makes a final decision on whether to sell Westrail. I assume that after three to four months, the task force will make a recommendation to Cabinet, which will make a final decision. It is at that time that we will be at the point which the Opposition assumes we have already reached; namely, Cabinet will make a decision on whether to sell Westrail's freight line.

Several members interjected.

Mr COWAN: Normally I would be able to shout these people down; unfortunately, I cannot do so today. When we get the report from the task force, and Cabinet considers the recommendation of the task force, we will have reached the point the Opposition assumes has already been reached.

Mr Ripper: And by the commissioner and the minister.

Mr COWAN: It is the not the acting commissioner's role to determine whether Westrail's freight business will be sold - that is a decision for Cabinet. He can make any statement he likes. He knows that we must investigate the issues associated with the sale. As I have said repeatedly, and what the Opposition does not want to believe, the final decision has not been made. For the Opposition to assume that we have reached that position is nonsensical.

Mr Carpenter: Then why are you advertising the position in the paper? Is the ad misleading?

Mr COWAN: That interjection deserves a response. Clearly, the Government has a duty to the users of Westrail. I make an exemption of the member for Eyre in my comments about opposition members on this matter. He recognised, when he was Minister for Transport, that some efficiencies had to be introduced into Westrail's operation. He put those into place. He did not get many thanks from people in Westrail, but he received a lot of support from Westrail users.

Mr Ripper: He was a very popular Transport minister.

Mr COWAN: I thought I just reinforced that view. In that sense, the Opposition is not doing any service by trying to mislead people over our position on Westrail.

In response to the member for Willagee, we have a duty to Westrail clients. Already some clients have made decisions about probably the largest product moved by Westrail; namely, the 10 million tonnes of grain produced in this State annually. I venture to suggest that 75 or 80 per cent of that grain is transported by Westrail. Co-operative Bulk Handling Ltd, which is responsible for the storage and handling of grain, has made it clear that it does not have the capital necessary to upgrade every siding around country Western Australia in the wheat growing regions. Therefore, it has developed a policy of establishing strategic bins. This will have some impact on Westrail regarding which lines might be closed. Many people want to see the bulk of our grain transported by rail. Therefore, we have a responsibility to the client base in the main to guarantee that roughly the same percentage of grain will be transported and hauled by rail.

Mr Carpenter: You're advertising so you can flog it off - come on!

Mr COWAN: Even if we were, to use the term of the member for Willagee, to "flog it off", we must identify some of the conditions of the sale. That too will be the responsibility of the task force. I remind members that the final decision rests with Cabinet, which has not yet made that decision.

Let us deal with some of those issues. If one has a facility possibly worth $700m or $800m, and if a disposal of that business is to take place, decisions must be made.

Mr Ripper: Is the house on the market or not?

Mr COWAN: The claim in this censure motion is that I said we are not selling Westrail when we are. The Deputy Leader of the Opposition asked me whether it is on the market. There is a difference. When one puts a house on the market, one has not sold it. That is the truth. One can reserve the right to determine whether one is in a position at the end of the task force report process whether enough rules and conditions are applied that would make that commodity, to use the words of the Deputy Leader of the Opposition, marketable, and whether one will achieve value for money.

Dr Gallop: Can I ask you a question?

Mr COWAN: It had better be better than any of the others asked by the Leader of the Opposition so far.

Dr Gallop: If you put it on the market, do you have plans to sell it?

Mr COWAN: Again, the answer is obviously yes.

Mr Ripper: You said, at page 566 of *Hansard,* "In that sense we do not have any plans to sell Westrail's freight business."

Mr COWAN: Those plans will be consummated only if there should be -

Dr Gallop: You denied you had plans.

Mr COWAN: I worry about the Leader of the Opposition and where he is taking the Opposition. I think we will get it too easy in 2001.

Dr Gallop: I am glad you have that arrogance.

Mr COWAN: I cannot believe that the Opposition cannot distinguish between the Government deciding that there is merit in taking on board the recommendations of the scoping study and establishing a task force to identify the best options for the State, and saying, "We will put it on the market but we reserve the right to make the final decision." Until we have made the final decision, I do not think there is anything to quibble about. If we had just -

Several members interjected.

The SPEAKER: Order! There is far too much interjection. The Deputy Premier wants to continue his speech.

Mr COWAN: An old Chinese proverb says that if we say something 1 000 times, we might catch two ears once. One must try. I doubt that will occur.

Mr Brown: You must be consistent.

Mr COWAN: I am being consistent. I was dealing with the issue of what will be the role of the task force. For the benefit of the member for Bassendean, a task force was established in November 1997. It made a recommendation to the then Minister for Transport who brought a cabinet minute to the Government. The Government agreed with the recommendations of the scoping study to the extent that it established a task force to identify the best options for the State. We must now await the report from the task force which will deal with the important principles that are associated with the operation of the narrow-gauge track, the staff of Westrail, the delivery of cost savings and efficiency for the users of Westrail. We must bear in mind that during the time that the former minister was responsible for Westrail we have seen -

Several members interjected.

The SPEAKER: Order! The member for Pilbara is leading the member for Collie astray. If she gets led astray again I will formally call her to order.

Mr COWAN: A number of issues have been raised by the customers of Westrail over the transport of grain. The Government takes them seriously. It must be borne in mind that other implications will affect Westrail's operations, I am sure the member for Armadale will agree. Third parties are already using Westrail's track under the national competition policy. When the debate began and I made some comments which allowed members opposite to indulge in this exercise in semantics, all members opposite were dead keen to have National Rail Corporation established and for not only access to be granted, but also the standard gauge railway line between Kalgoorlie and Perth to be leased. I therefore question their sudden sense of protectiveness towards Westrail and its operations.

Ms MacTiernan: As we have said all along, we have no difficulty with third party access. That is different from flogging it off. It is very different from lying about whether you are flogging it off. That is the issue.

*Withdrawal of Remark*

Mr COWAN: I distinctly heard people talk about lying. I would like that remark to be withdrawn.

Mr HOUSE: The Deputy Premier heard, as I did, the member for Armadale accuse him of lying. That is unparliamentary and he asked for a withdrawal.

Ms MacTIERNAN: I did not say anyone was lying. I said there was a difference between selling Westrail and lying about it. If he takes that as a personal reflection on himself, I withdraw it.

*Debate Resumed*

Mr COWAN: I reiterate that we have gone through due process with Cabinet which has implemented the mechanism which will allow the Government, should there be sufficient incentive and a reasonable price offered for Westrail's freight system -

Dr Gallop: So you have made a decision?

Mr COWAN: No. Should we be offered enough safeguards for the users of Westrail, the processes have been put in place for us to be given information on all those issues. When the information is received, those conditions are set and it can be guaranteed those conditions can be delivered, we will make the judgment.

In that sense I am correct when I say that Westrail has not been sold, as has been claimed by the Opposition. It is correct

to say that the Government is seeking to identify the best possible deal for the State of Western Australia and for the clients of Westrail. It will not be sold unless we can get the best possible deal. However, one thing the Government will not do is sit on its hands and do nothing and allow, through national competition policy, or third party access, Westrail's major clients to be taken away from Westrail so that it is left with nothing but a shell which is likely to cost taxpayers an awful lot of money.

In that sense we must identify what is in the best interests of the Government, Westrail and above all else the people who use Westrail's freight business.

I conclude by making this point: It is very easy for people to stand up and say, "I am opposed to the sale of Westrail" without looking at the consequences. It is similar to the Telstra sell-off; opponents say, "I am opposed to the sale of Telstra." They cannot wait to complete that remark for the simple reason that they then want to complain about all of the inadequacies of our telecommunications system in Western Australia and point out that they would like to see us fix it up. The only way it will ever be fixed up is with a significant investment in new telecommunications infrastructure. I ask the question: Where do members think that will come from? There can only be one answer to that: From the realisation of the assets we already have. There is another debate about the proportion of Telstra which should be sold; that is the issue to be dealt with.

We cannot have a bald statement that people are opposed to the sale of Westrail. The economic situation dictates that we cannot be opposed to that when third parties have access to our track and are already negotiating contracts with some major freight users in Western Australia. The Government has done the right thing. It has initiated a very detailed scoping study and that has been reported to the Government. The responsible minister took the recommendations of that report to the Cabinet. The Cabinet agreed that a task force should be established to identify all of those issues about which I have spoken; and the Cabinet will decide whether or not Westrail's freight business will be sold off when the task force reports to Cabinet.

Mr Acting Speaker (Mr Sweetman), I have nothing to defend.

**MR PENDAL** (South Perth) [11.12 am]: It is a serious matter, as we are often reminded, when someone's veracity is at stake. I began listening to the debate earlier today with an assumption that the Opposition was wrong. I have been led to a view that the Opposition is right. A simple request could clarify what is the truth or, more particularly, what is the accuracy of the claims that have been made. Firstly, it is not unreasonable that the Government in its defence should produce, at the very least, the cabinet document showing the cabinet decision made on or prior to 30 July which led the Minister for Transport to announce that the Government would sell Westrail. Secondly, the production of that cabinet document would either confirm the Minister for Transport's announcement or dispel what the Acting Commissioner of Railways said about the matter on the same day.

I do not want members to rush to judgment; however, in this case there are two things only to be drawn from the Deputy Premier's position; firstly, that he is being untruthful or, secondly, that he is mistaken. I do not think he is an untruthful person and I have never seen any evidence of that in my time here. However, the most charitable interpretation of the evidence in front of me is that he is mistaken. The press release issued on 30 July by Hon Murray Criddle did not say the things that the Deputy Premier has been saying in his defence. It did not say, "We are thinking about doing something" or "We are exploring the prospects." It said -

> Transport Minister Murray Criddle today announced that State Cabinet had approved the sale of the freight business of Westrail.

On page 2 the minister said -

> Westrail's freight business would be disposed of as a vertically-integrated operation, meaning inclusion of rolling stock and the track network.

There is no ambiguity about that. It says that Hon Murray Criddle announced on that day that the State Cabinet had approved the sale of the freight business of Westrail. One assumes that on the same day the only reason for the acting commissioner, Mr Wayne James, issuing "A message from the acting commissioner" was that he relied on advice from the minister. Presumably, ministers do not transmit information of that kind by word of mouth. Mr Wayne James' message had the heading, "Decision on the sale of Westrail". That does not tell us whether or not it is to sell. The lead paragraph said this -

> The new Minister for Transport, the Hon Murray Criddle MLC, announced today that, following a decision by State Cabinet, the Government will sell Westrail's freight business.

There is no ambiguity there. The acting commissioner reports the minister as saying that it is not just a decision of the minister; it is, "following a decision by State Cabinet".

One of the difficulties I have had in the period I have been an independent member, in seeking to determine whether I support or oppose Opposition's motions, is that sometimes those motions include emotive words that I cannot support. The value in the current motion makes it easier for me to support because it says this -

That this House censures the Deputy Premier for misleading the House . . .

On other occasions I have seen motions include the words "for deliberately misleading" or "unconscionably misleading". In other words, that makes a judgment that I am not prepared to endorse. On this occasion the Opposition seeks to censure the Deputy Premier in its belief that he has misled the House. I repeat what I said earlier because I intend to sit down. It is a serious matter. The words speak for themselves. The documents speak for themselves. However, if Hon Murray Criddle is wrong because he may have misunderstood and if the acting commissioner is wrong because he may have misunderstood, it is open to the Government to table the cabinet document, or whatever instrument it was, that led the Minister for Transport and his acting commissioner to believe that Cabinet had in fact decided to sell the freight business.

I intend to support the motion. I desperately hope that the Deputy Premier is mistaken. Some weeks ago I was involved in arranging legal representation for an elderly constituent. In the end, that constituent's case was dismissed because if a person fails to do a certain thing under the Road Traffic Act, the Justices Act allows the case against that person to be dismissed if an offence was committed in a mistaken and honest belief to the contrary. I can only say that, at the very least, the Deputy Premier is in that position today. Every piece of evidence before the House strongly suggests, and if that evidence were put before a court of law it would have to find, that the Government had decided to sell Westrail. I am in no other position and other members are in the same boat. They must look at the evidence presented to them, and the plain meaning of the words contained in that evidence, and that indicates to me that the Government - not just the minister and certainly not the acting commissioner - through the Cabinet in this State decided to sell Westrail.

If I am wrong in making that assumption based on the documents in front of me, in the meantime, before this debate reaches a conclusion, the Government can produce the cabinet documents and the other instruments that led to the Minister for Transport making that announcement. If he is wrong, the record should be corrected. Based on the information before the House, there is no room for ambiguity. Based on the evidence of Hon Murray Criddle himself, State Cabinet has made a firm decision to sell Westrail.

**DR GALLOP** (Victoria Park - Leader of the Opposition) [11.22 am]: I will add one more point to the argument of the member for South Perth to perhaps convince him that it is not only a least case scenario, but is a clear case of misleading the Parliament. On 19 August 1998, members debated an amendment to the Address-in-Reply as follows -

That the following words be added to the motion, as amended -

> but regrets to inform Your Excellency that the Government has no mandate to proceed with its plans to sell Westrail's freight business and rail network and that such a sale will adversely affect the grain producers of this State and the rural shires of grain growing areas.

The State Opposition came into this Parliament and advocated that privatisation was not the way to go, and that the Government had no mandate to proceed with its plans to sell. The Deputy Premier and Leader of the National Party said in the Parliament that evening, as recorded at page 566 of *Hansard* -

In that sense we do not have any plans to sell Westrail's freight business.

He contested the motion by denying its content. No other interpretation could be placed on the words of the Deputy Premier, but that he denied there were any plans to sell Westrail. It has been clearly established by the member for Armadale that there were plans to sell Westrail; they were announced by the Minister for Transport, Hon Murray Criddle, in a press release and they were clearly stated by the Acting Commissioner of Railways, Mr Wayne James, in memos and in statements made to the Legislative Council committee. That takes us back to the reasons the Deputy Premier has misled this Parliament.

He wanted to create the impression with his constituency that there were no plans to sell Westrail. He was trying to cover a decision made by his Government because, to quote from the advertisement in the newspaper, it is a politically sensitive decision. However, the decision has been made. If the decision has not been made, all the Government must do is produce the decision of Cabinet and table it in this Parliament. That would settle the matter once and for all. The Opposition is not asking that all the material accompanying the decision be tabled, but just the decision sheet which would prove once and for all whether a decision to proceed with the sale of Westrail had been made. The Government will not do that. If the Government will not do that, only one conclusion can be reached; that is, the Deputy Premier misled the Parliament.

Why is that important? It is important for a number of reasons. First, ministers are accountable to this Parliament and should tell the truth about what is going on. It is also important because many people, presumably, are considering buying the Westrail freight business. They are spending money on this process and they need to know whether a decision has been made. They need some certainty about their dealings with the Government of Western Australia. On the basis of the performance of the Deputy Premier today and the performance of the Government in this issue, how can they be certain that any decision has been made that would have substance in their dealings with the Government? A cabinet decision has been made, and the Deputy Premier is trying to conceal that from his rural constituency. The Deputy Premier taunted the Opposition when it asked for the decision of Cabinet to be tabled. He asked when the Labor Government had ever done that. I remind the Deputy Premier that a royal commission was established by his Government to determine whether a member

of the Australian Labor Party had been truthful or otherwise in relation to certain matters. This Government spent $5m on that royal commission. Members of the former Labor Cabinet at that time had to appear before that royal commission and break their oath about cabinet proceedings.

Mr House: They volunteered.

Dr GALLOP: No, they did not volunteer. They had to break their oath and proceed to give evidence about what had happened at a particular cabinet meeting. An amount of $5m of taxpayers' funds was spent on that process.

The current situation is a test for the coalition Government and its Deputy Premier. What does accountability mean for this Government? What does telling the truth in this Parliament mean for this Government? Most importantly, what do those things mean for the Premier, who has overall responsibility for the performance of his ministers? The member for Armadale has proved her case beyond any doubt in this court, which is the Parliament today. It is now incumbent on this Parliament to call upon the Deputy Premier to apologise for misleading the Parliament on 19 August 1998.

If the Government continues to cover up this misleading of the Parliament and continues to support the Deputy Premier, despite the evidence brought to this Parliament, members can conclude only two things: Firstly, the standards of accountability that this Government claims it set are non-existent. Secondly, this Government has double standards in what it expects of former Labor Premiers of this State and what it expects of its Deputy Premier today.

**MR COURT** (Nedlands - Premier)[11.29 am]: The Opposition does not understand the processes associated with selling an asset. If members considered the processes in relation to the sale of BankWest and the Dampier to Bunbury gas pipeline, they would have some understanding of how complex it is and what must be done when selling an asset of this nature.

The Leader of the Opposition said that people who might want to buy Westrail have no certainty about the situation. Of course, they cannot be certain of the situation because the process has not reached the stage at which they have been told whether the asset is to be sold, what is to be sold and in what format. There is a long path to go down before Cabinet will make a final decision on the sale of an asset such as Westrail. Cabinet will make a number of decisions.

The Deputy Premier has said, quite rightly, a scoping study was done. A proposal has been put to Cabinet.

Ms MacTiernan: What is the difference between a scoping study and the task force?

Mr COURT: A task force has been established and will report to the Cabinet to ensure a number -

Ms MacTiernan: Can you explain that? You can't explain it.

Mr COURT: It is very hard to debate when there are constant interjections. I listened to the member in silence. As I was saying, a task force has been established and will report to Cabinet to ensure a number of conditions and safeguards are met, including guarantees of service to regional and rural users. That group is made up of Dr Chris Whitaker, John Langoulant, Stephen Wood, Graeme Harman and Tim Sharp from the Crown Solicitor's office. As part of their job, they will come back to Cabinet no doubt on many occasions. At one stage they will come back to Cabinet in relation to the decision on the sale of Westrail. Cabinet must decide what will be sold.

Cabinet has debated, at some length, as happens with all asset sales, just what will be sold in this case. No decision has been made in that regard on questions such as access to rail, as was outlined as a result of the competition policy. All of the issues are complex. The Government is looking at this Westrail issue in some detail mainly because of changes that are occurring as a result of competition policy. As members opposite know, with the competition policy, it will be possible for third, fourth or fifth parties to compete directly against the Government. We must ensure we protect the value of the asset owned by the taxpayers in this State.

The Deputy Premier said, quite categorically, that the proposed sale of Westrail will be stopped if farmers' safeguards cannot be protected. This motion states that this House censures the Deputy Premier for misleading the House in claiming that the Government had not yet made a decision whether to sell all or part of Westrail's operation, and accordingly calls upon the Deputy Premier to apologise. It is no secret - it has been public - that the Government has started a process to look at the freight operations of Westrail, but no final decision had been made. As I said, Cabinet must make a number of decisions on that. The good news is that Westrail is in a position to be sold. It is actually worth something.

Westrail, which not that long ago was a cot case, is now handling a transport task 30 per cent greater than at the beginning of the decade, and with 45 per cent less rolling stock and 70 per cent fewer staff; in other words, it is handling record tonnages with considerably fewer resources. The other good news is that Westrail has been able to pass on freight savings to the main customers. There is no better example -

Ms MacTiernan: CBH says in its annual report that the Government's cost cutting and rationalisation has cost it money and cost its staff and their families a great deal of suffering.

Mr COURT: The member has not said that grain freight rates have gone down 25 per cent since we came into office; in

other words, at a time when wheat prices internationally have not been strong, we have been able to help reduce costs, passing on those efficiency savings.

Dr Gallop: That's not part of the issue we are debating.

Mr COURT: The fact is that the Government has an entity it can consider selling. I do not know why members opposite have gone to this length in Parliament. They know only too well the Government has started a very public process and many decisions will be made. The Cabinet has made a decision to continue the process.

Mr Kobelke: It has made an in-principle decision to sell Westrail.

Mr COURT: That is a big deal!

Mr Ripper: "The Government has every intention of dealing with the Westrail issue in a way which allows for full public consultation. In that sense we do not have any plans to sell Westrail's freight business." That is what he said.

Mr COURT: A number of decisions that will have to come back to Cabinet -

Mr Kobelke: You have made an in-principle decision to sell, haven't you?

Mr COURT: No wonder those opposite had difficulty running the State's finances. They seem to think Cabinet makes a single decision on the sale of a major asset.

Dr Gallop: We know all that, Premier.

Mr COURT: Those opposite do not. The Leader of the Opposition publicly gets up in here and runs a scare campaign on the sale of Western Power. Members opposite say that we cannot have private ownership of Western Power.

Dr Gallop: We are against the sale of the asset of Western Power.

Mr COURT: Who tried to get the private sector to build the Collie power station? Who is ideologically opposed to the government involvement in this issue? It has not even been considered by the Government. What is the difference? Can we sell the Collie power station?

Dr Gallop: You are asking me a lot of questions these days. Let me make a suggestion: Perhaps I should go over to that side and sit where you are.

Mr COURT: No. We know the answers. The Leader of the Opposition cannot say that he does not support the sale of the Collie power station, because when in government he tried to get the private sector to build it.

Mr Kobelke: You cannot answer a simple question. That's the problem. Did Cabinet make an in-principle decision to sell Westrail?

Mr COURT: Cabinet has made a decision to continue a process that may well end up with the sale of Westrail's freight operations. The sale of Westrail's freight business is a very complex decision and the Cabinet will have to make a number of decisions before it gets to the stage of going to the public calling for expressions of interest. A decision must be made about what will be sold and in what format. We went through a similar process for the pipeline sale. These are complex issues. If we were to proceed with an AlintaGas sale, we would have similar complex issues to address. I repeat: The good news is that Westrail is now a profitable entity, a freight rail system Western Australians can be proud of, and it is in a position to face up to the competition that will come into the rail market.

Question put and a division taken with the following result -

Ayes (18)

| | | | |
|---|---|---|---|
| Ms Anwyl | Dr Gallop | Mr Marlborough | Mrs Roberts |
| Mr Brown | Mr Graham | Mr Pendal | Mr Thomas |
| Mr Carpenter | Mr Grill | Mr Riebeling | Ms Warnock |
| Dr Constable | Mr Kobelke | Mr Ripper | Mr Cunningham *(Teller)* |
| Dr Edwards | Ms MacTiernan | | |

Noes (29)

| | | | |
|---|---|---|---|
| Mr Ainsworth | Mrs Edwardes | Mr Marshall | Mr Shave |
| Mr Barnett | Dr Hames | Mr Masters | Mr Trenorden |
| Mr Barron-Sullivan | Mrs Hodson-Thomas | Mr McNee | Mr Tubby |
| Mr Bloffwitch | Mrs Holmes | Mr Nicholls | Dr Turnbull |
| Mr Board | Mr House | Mr Omodei | Mrs van de Klashorst |
| Mr Bradshaw | Mr Johnson | Mrs Parker | Mr Wiese |
| Mr Court | Mr MacLean | Mr Prince | Mr Osborne *(Teller)* |
| Mr Cowan | | | |

Pairs

| | |
|---|---|
| Mr McGowan | Mr Baker |
| Mr McGinty | Mr Day |
| Ms McHale | Mr Minson |

Question thus negatived.

## OCCUPATIONAL SAFETY AND HEALTH (VALIDATION) BILL

*Second Reading*

**MRS EDWARDES** (Kingsley - Minister for Labour Relations) [11.42 am]: I move -

That the Bill be now read a second time.

This Bill is required to ensure the proper administration of occupational safety and health law in Western Australia. The Bill validates past actions of the WorkSafe Western Australia Commissioner at a time when there was a hiatus in his appointment. It removes legal uncertainties surrounding a number of prosecutions initiated under a delegation made by the commissioner when there was a deficiency in his appointment prior to 8 October 1996.

Under section 52 of the Occupational Safety and Health Act, the WorkSafe Western Australia Commissioner may issue a delegation in respect of prosecutions. As a consequence of the hiatus in the commissioner's appointment, the legal status of a number of prosecutions under the relevant authority of delegation has been brought into question. In a recent decision, the "doctrine of de facto officers" has been accepted, by which the orders and decisions of an officer suffering some defect in his or her appointment will be valid where the officer acts with "colourable authority". However, it is not at all clear whether this principle will be accepted in other cases or applied consistently.

I trust the House will accept that it is untenable to leave this matter unclear for any further length of time. I am sure the proper administration and enforcement of occupational safety and health law is a matter of utmost concern to us all. The State Government is committed to firm but fair enforcement of the Occupational Safety and Health Act as an important component of its WorkSafe WA 2000 vision and plan for achieving the safest workplaces in the world by 2000.

The Occupational Safety and Health (Validation) Bill validates Acts, matters or things done by the commissioner under the Occupational Safety and Health Act where there was a hiatus in his appointment. I commend this Bill to the House.

Debate adjourned, on motion by Mr Ripper (Deputy Leader of the Opposition).

## BOTANIC GARDENS AND PARKS AUTHORITY BILL

*Report*

Report of Committee adopted.

*Third Reading*

**MRS EDWARDES** (Kingsley - Minister for the Environment) [11.45 am]: I move -

That the Bill be now read a third time.

**DR EDWARDS** (Maylands) [11.46 am]: I wish to make a few comments about what will happen when we pass this Bill. I congratulate the Kings Park Board and staff for their fine achievements: They received a gold medal the first time they entered an international exhibition; they do extremely valuable research work; they are able to publish every year at least 11 scientific papers; and they attract nearly half a million dollars in private sponsorship.

As many members who spoke on the issue yesterday said, Kings Park is a state icon that belongs to us all. However, it needs to be moved into the modern era; and this Bill that will be proclaimed shortly will move Kings Park into this modern era. The Opposition supports this Bill and is pleased that it has finally arrived in this place. We are disappointed that it has taken so long, but we look forward to its implementation and the formation of the new botanic gardens and parks authority.

Question put and passed.

Bill read a third time and transmitted to the Council.

## GAS PIPELINES ACCESS (WESTERN AUSTRALIA) BILL

*Report*

Report of Committee adopted.

*Third Reading*

**MR BARNETT** (Cottesloe - Minister for Energy) [11.47 am]: I move -

That the Bill be now read a third time.

**MR THOMAS** (Cockburn) [11.48 am]: Last night during the committee stage of this Bill, I drew attention to what I thought was a typographical error in the Bill. The minister said he would have that checked out, because it did not make a lot of sense to me, and would inform me whether it was a typographical error, in which case it would need to be corrected or perhaps explained. Can the minister now give the House the results of that inquiry?

Mr Barnett: It is not a typographical error. However, I agree that it appears to be repetitive. The reason is that we want to keep the schedules as close to the structure of the access code as is possible. Therefore, some aspects of the schedule are effectively redundant within this State. I table correspondence to me from the Office of Energy which clarifies this point.

[See paper No 173.]

Mr THOMAS: Those members who were here for the Committee stage of the debate yesterday would have noted that we have seen what I described at the beginning of the second reading stage of the debate as a minister who has run out of steam, who has dropped the ball, and who is not going anywhere.

Mr Bloffwitch: How did you work that out? We got the Bill through, and you say he has run out of steam!

Mr Prince: He is more gassed up than I have seen him in years!

Mr THOMAS: The problem is that by the objective performance indicators, he is a dismal failure.

When the Carnegie Energy Board of Review report was commissioned by my colleague the Leader of the Opposition, as Minister for Fuel and Energy in 1992, the objective was to reduce energy costs in Western Australia to make them more competitive with those in other States. It was pointed out at that time that we had the most expensive energy costs in Australia. The report was released in 1993, and six years later we still have the most expensive electricity in Australia and the relativity between Western Australia and the other States has widened. Some competition needs to be introduced into the energy sector.

This minister has been dragged kicking and screaming into a national agreement. Instead of properly participating in this process, he wants to set up some Micky Mouse outfit in Western Australia to be the regulator. It is most important to not only have the national code, but also ensure that it is properly regulated. Last night the Opposition proposed some well-thought out amendments.

Mr Osborne: Is that like the water pipeline from the Kimberley?

Mr THOMAS: It is nothing like that proposal.

Mr Osborne: Is it like one of the mastermind schemes you blokes raise?

Mr THOMAS: It has no similarity at all. We put forward a proposition through well-drafted amendments to have a well-established and reputable regulator with experience regulating the energy industry in Western Australia. The minister dismissed it in a cavalier manner. Why? He was worried about his own job, his little dung heap and his own importance in the scheme of things. That in itself might not be a bad thing if we could be confident that he will do the right thing. Sadly, the minister talks about a regulator having regard for the "unique circumstances of Western Australia" -

Mr Bloffwitch: So it should.

Mr THOMAS: Perhaps it should. However, it depends upon what is meant. That is like stating that it is likely to be less rigorous in enforcing the code to ensure we have a competitive energy sector -

Mr Bloffwitch: How can it be less rigorous when it uses the same guideline as the federal body will use?

Mr THOMAS: As often is the case, the member for Geraldton asks a good question. How will the Micky Mouse outfit in Western Australia the minister wants to establish lead to -

Mr Barnett: State public servants will be appreciative of your comments.

Mr THOMAS: I am talking about the minister, not them. How could we end up with a situation somewhat different in Western Australia, with its Micky Mouse body?

Mr Bloffwitch: I thought the minister explained that there will be no difference. Every State will look at internal lines for access. The state regulator will do that.

Mr THOMAS: I am about to answer the member's good question. The code is not totally prescriptive. It sets up more than

guidelines as it creates law. The detail must be fleshed out. The regulator in approving access regimes will create law. It is not a judicial body interpreting the code, as it will add to it. It can do that in different ways. A 1956 High Court case, known as the Boilermakers case, arose when the Industrial Court was divided and the Conciliation and Arbitration Commission was created. The High Court ruled on the difference between arbitration bodies and judicial bodies. The distinction depended upon whether they create or interpret rights. These regulators will be legislators as they will be creating rights rather than interpreting them. Therefore, they have a lot of scope. If they are to have regard for the "unique circumstances of Western Australia", we could have a body less rigorous in implementing the competition principles than -

Mr Bloffwitch: The member has no confidence in who will be put into the position.

Mr THOMAS: I have a lot of confidence in many people, not one of whom is the Minister for Energy. One reason for that view is his track record.

Mr Bloffwitch: It is very good.

Mr THOMAS: It is not. He does not practise competition, and in Western Australia he introduced the practice of "light-handed regulation", which in many cases resulted in non-competitive outcomes. In his administration of the main utility, he has certainly not supported competition between competing supplies of energy.

Mr Barnett: But you oppose the privatisation of power stations, do you not?

Mr THOMAS: Absolutely. Is the minister in favour of them?

Mr Barnett: Read this morning's *The West Australian*. I thought the account in this morning's newspaper was the most balanced and detailed assessment of what I have been saying about energy reform. It was an article by Roger Martin. It is well-written and fair.

Mr THOMAS: As *The West Australian* is not incorporated in *Hansard*, is the minister in favour of privatisation?

Mr Barnett: I said last night read it in this morning's paper.

Mr THOMAS: For the purpose of the record, will the minister tell us whether he is in favour of the privatisation of power stations? Hark! I listen but nothing is forthcoming.

Mr Barnett: Read *Hansard* of last night, and read today's *The West Australian*. You bore me to tears - I will not go through it.

The ACTING SPEAKER (Mr Sweetman): The member for Cockburn will make his comments through the Chair.

Mr THOMAS: I am sorry that I bore the minister to tears. He seems to be a slow learner so I must be repetitive.

Mr Barnett: You excel at tedious repetition.

Mr THOMAS: That is a matter of opinion. The minister is welcome to leave the Chamber, as he walked out last night.

Mr Barnett: If I did not have the responsibilities of Leader of the House, I would walk out. The only reason anyone is here is that we want to get through the legislative program.

Mr THOMAS: The minister brings no credit to himself with that comment.

The Opposition put forward a series of amendments to improve the scheme. We have not had yet in Western Australia a competitive environment like those which exist in other States. The minister sits in a pompous manner and suggests that in some sense the Labor Party is inconsistent in advocating a competitive environment in the energy sector because it opposes privatisation. The minister does not realise that no inconsistency arises in opposing privatisation and supporting competition in the energy sector. The reason is simple. It is possible to have a mixed economy with a mixture of private and public sector organisations competing. Many models of that exist throughout the world, and not only in the energy sector.

The Opposition is in favour of private companies participating in the energy sector. It welcomes the construction and operation of power stations by private companies and their competing in the energy sector. However, it is not in favour of selling off public assets. Those public assets can compete and prosper. AlintaGas is a good example of that within the minister's portfolio. AlintaGas competed for and won the tender to provide the distribution of gas in the Kalgoorlie-Boulder area. It competed against AGL and other experienced companies which are well established in the gas distribution industry. AlintaGas is a publicly-owned organisation; it is owned by the people of Western Australia. We should be proud of it and of the fact that it is able to compete successfully against major private sector participants in the gas industry.

Not only should we be proud of it; we should also seek to retain it in public ownership. The Opposition will seek to do that. I give the minister notice that the Opposition will use all possible measures in this Parliament to oppose the privatisation of AlintaGas. If legislation is required for that privatisation, the Opposition hopes that when the Bill reaches the Upper

House, the other parties will support it in that move and that the minister's endeavours to privatise AlintaGas will be defeated by this Parliament exercising its democratic powers. That is as it should be because this minister does not have a mandate. His underhanded attempts to dispose of public assets are contrary to all democratic principles. He actively misled the people of Western Australia at the last election because he did not tell them that the Government intended to privatise AlintaGas. It is a major public asset in Western Australia. The people value and appreciate infrastructure such as AlintaGas and they resent governments which seek to dispose of those assets. I have made this point a number of times and no doubt I will make it many more times before this Parliament rises. I challenge the minister to hold off on his intentions to privatise AlintaGas and to put the proposition to the people. If he gets a mandate, he can do it. If he does not, the Opposition will have been vindicated. I am sure the minister will be punished politically if he proceeds with this move. The Opposition will use every available endeavour in this Parliament to oppose legislation introduced to privatise AlintaGas. I hope that we will succeed in blocking those moves if the minister goes ahead with them. That will mean he must take the issue to an election in 2000 or 2001 and the people will pass judgment on it. I am sure he will receive his comeuppance when they do.

That is by the by. This Bill seeks to introduce competition into the third party access to the gas transmission and distribution sectors. The Opposition put forward amendments to make the Australian Competition and Consumer Commission the regulator of gas transmission in Western Australia. The minister sought to characterise that as being a bad thing in many ways. He was abusive of me and others who supported that proposition last night. He demeans himself when he resorts to such histrionics. If the minister were to sit back coolly and reflect on this, he would consider it to be at least an arguable proposition. The merits of the proposition are quite persuasive. The minister must objectively admit that but he resorted to histrionics, characterised it in a most unfortunate manner and demeaned himself in so doing.

What the Opposition is proposing is not beyond the pale of reasonableness. That is indicated by the fact that what we are proposing is the case in South Australia, Victoria, New South Wales and Queensland. If that which the Opposition is suggesting should be done in Western Australia is so wrong compared with what the minister is proposing, how is it that it is done in four other States? The bottom line is, how do those four States have lower energy costs than Western Australia? This State has the highest energy costs in Australia. The gap between Western Australia and the other States has widened since the Carnegie report was commissioned in 1992 by the then Minister for Fuel and Energy, now the Leader of the Opposition. Those States have adopted practices consistent with what the Opposition has advocated. It was a reasonable proposition but, sadly, the Government and the minister are not open to reason or argument and not open to considering constructive suggestions put to them in the Parliament. It is up to others to decide. However, when the Bill reaches the other place, I hope that the Government will be forced to consider these eminently reasonable suggestions. I hope the minor parties in the Upper House will consider favourably the amendments proposed by the Opposition and the Bill will be amended. However, that is for other people to decide.

In addition to proposing that the regulator for transmission should be the ACCC, the Opposition moved to have certain people precluded from being appointed to the role of regulator. The Opposition did not want public servants or company executives involved in the gas industry in one way or another to be appointed to this role. It had a form of words to define those people. I would like to clarify the Opposition's position on that. It is a critically important position given that the regulator has a quasi legislative role and may make decisions which can make or break companies and will affect Western Australian energy prices. It is vital that there is confidence in the regulator. The regulator should be a person who is detached from the participants in the industry. That way he is unlikely to be able to be subjected to pressure. More to the point, he is not able to be perceived to be subject to pressure from past associations. When making a judicial appointment in a certain area, one would not appoint somebody with a risk of an association with the participants. Even though such a person might be the most open, honest and credible person in the world, one would not want the perception that, because of past associations, he could be influenced or sympathetic to a particular point of view.

The Western Australian gas industry is big and comprises 52 per cent of the Australian gas industry. However, it is still a small town. One only needs to have some role in the industry to soon know everyone else in the industry. Similarly, the government departments which regulate, administer and assist that industry soon associate with all the people in that industry. The Opposition is not for one second reflecting on the credibility or integrity of the people it seeks to preclude from the position of regulator; far from it. The executives in the industry and the people in the government departments, such as the Department of Resources Development and the Office of Energy, for the most part are people of the greatest ability and integrity. Some of the most worthy people who work in the public sector have worked in some of the minister's departments. As I have said on many occasions, I have the greatest respect for them. Nonetheless, that does not mean that they should be appointed to the position of regulator. Indeed, because of past associations, they should be precluded and someone else should be appointed, probably someone from outside the State or someone from inside the State but from academia or the law.

To press on, another amendment that we moved required the ring-fencing provisions of the code to be held in abeyance until the minister was satisfied that they would not force participants to be subject to commonwealth capital gains tax. Again, when the Commonwealth and the States agreed on the code, it was agreed that there would be no capital gains tax liability coming out of transactions which were required in order to meet the ring-fencing requirements, but, sadly, the

Commonwealth did not get around to amending the Income Tax Assessment Act. In order to satisfy that obligation, last month, on the last day that the Commonwealth Parliament sat before the election, the minister, Senator Warwick Parer, read into the Senate *Hansard* an explanatory memorandum which is supposed to be used as an aid to construe the Income Tax Assessment Act.

That was supposed to give participants in the industry some comfort that they will not have to pay capital gains tax in making transactions. I hope that that is right, but, if I were liable for capital gains tax, I would like the Act to be amended to say so. So far, the commonwealth taxation commissioner has said that it will probably mean that those people will not have to pay tax. We need something better than probable; we need something certain. My amendment stated that the ring-fencing requirement would be held in abeyance until the state minister, who is imposing such a requirement on the industry, could go about his business and satisfy himself that there is no liability, in which case he could make a declaration. But so pompous and up himself is the minister that he was not prepared to consider that amendment, and in rebuttal he asked how he could be expected to check the tax liability of every person involved in the industry. He obviously had not even read the amendment, because we were not talking about something that would require individual assessments; it would require a single consideration of a situation, because what applied to one would apply to all. Again, there was a reasonable, well-thought-out amendment which was sought by the industry and which would have added to the legislation.

Mr Bloffwitch: I thought that we had been through all that argument before.

Mr THOMAS: This is called a third reading stage. It is when we reconsider the Bill.

Mr Bloffwitch: You are not supposed to say what you said in committee; you are supposed to give a broad, expansive view.

Mr THOMAS: Indeed. I have a broad, expansive view not only of the Bill but also of the Opposition's alternative view.

Question put and passed.

Bill read a third time and transmitted to the Council.

## TAXI AMENDMENT BILL

*Second Reading*

Resumed from 10 September.

**MS MacTIERNAN** (Armadale) [12.15 pm]: I support the Bill. When it was introduced, I indicated to the Minister for Local Government, who represents the Minister for Transport, that I would be happy to expedite the passage of the legislation because it is long overdue. Indeed, that is what we propose to do today. I will take some time to make some general observations on issues in the Bill and perhaps some more general issues about the state of the taxi industry in Western Australia. I will focus on the Perth metropolitan area, obviously, but many issues will apply to major regional areas as well. The thrust of the Bill is to provide better access by taxi drivers to the recovery of evaded fares. Fare evasion is the bane of a taxi driver's existence.

Mr Bloffwitch: Why don't we make that a criminal offence, too? I am serious. Small business thinks that many things should be criminal offences.

Ms MacTIERNAN: If the member for Geraldton will bear with us, we will explain that we are not making it a criminal offence; we are more interested in amending the legislation to make it more practical and easier for taxi drivers to recover evaded fares.

At the moment, a taxi driver can seek to recover from fare evasion using the provisions of the Criminal Code that relate to fraud, but the difficulty with that is that intent is one element of the offence that one must establish when one is taking an action of fraud. Of course, all sorts of stories are dreamt up that make the establishment of intent somewhat problematic but not impossible. Before the Government introduced the Taxi Act there were several successful prosecutions, but the process was time consuming and there was always the problem of establishing intent. It is proposed that, rather than require taxi drivers who have been cheated of their fares to rely on the Criminal Code, the Bill would enable a regulation prescribed under the Taxi Act which would make non-payment of a fare an offence per se. Strictly, it takes it out of the Criminal Code, although it is possible still to use the provisions in the Criminal Code, but it provides an alternative to the Criminal Code, so that the element of the offence of intention does not need to be established. That, of course, will make the process much simpler. Unfortunately, the regulations have not been drawn up, but I understand from Rob Leicester of the taxi unit that it is intended that the regulations will provide that the process can be initiated not only in the Magistrate's Court but also by way of infringement.

At the end of the day, we have a much simpler procedure, which can be initiated by way of an infringement notice and which only then can go to court either at the election of the person served the notice or if the person served the notice does not respond. That should make the process far quicker and it will be more suited to the level of infringement and evasion to which we are referring, rather than bringing to bear the full force of the criminal law and all the protections and elements in the Criminal Code. That is a very positive aspect of the Bill.

The other aspect of the Bill before us will allow the accumulated interest on the taxi industry development fund to be added to the fund. Since the fund was established, the money has gone into consolidated revenue. It is important to understand that the fund is entirely financed by the industry. The proceeds from the sale of plates and the 2.5 per cent government levy on the transfer of plates goes to the fund. Substantial moneys have accumulated and additional moneys could have been added as interest. There is no reason that these funds should go to consolidated revenue. The fund is financed by the industry and is used for its development.

I believe that the fund currently has about $600 000. It had millions of dollars until recently, when it was decided that the introduction of security cameras in taxis, which was an important safety measure, should be financed by the fund. Kevin Foley, the chairman of the Taxi Industry Board, complimented the Government for subsidising the security cameras. That lead to a few representations to me from taxi drivers who were puzzled because they understood no government money had been provided for the purchase of the cameras - it had come from the fund. I was able to confirm that Mr Foley's representations were misleading and that the industry rather than the Government had distributed the largesse.

Some concern was also expressed about various senior members of the industry dipping into the fund to finance overseas travel. Mr Croxon and Mr Gargano from the Taxi Industry Board used moneys from the fund to finance a trip to New Zealand this year. That in itself would not normally attract much comment, but the irony in this case was that they were going to New Zealand to examine the virtues of and potential for deregulation. It stuck in the craw of many taxi drivers who operate under this regulated system and who have spent money buying plates to find that the money they had contributed was being spent by senior members of the industry to explore the possibility of deregulation and further reduction of protections and conditions for which they had paid. The Opposition will monitor who else is dipping their paw into the honey jar that is the taxi industry development fund, and it will ensure there is general knowledge in the industry about who is receiving the proceeds of the fund.

I refer again to enforcement and fare evasion. The Government has been very tardy in this regard. As the problem has become more acute over the years, there has been a demand for action. In 1995, Kay Hallahan, the former shadow Minister for Transport, introduced a private member's Bill to progress this matter. It was not taken up by government then, and it is sad that what is a simple piece of legislation has had to wait three years to be addressed.

Mr Omodei: I understand from officers of the taxi section of the Department of Transport that that Bill would have been unenforceable, so it was not proceeded with. This Bill has the correct words.

Ms MacTIERNAN: That may be so. The point remains that it was a live issue in 1995. The department had the resources to scrutinise the Hallahan Bill. It is unfortunate that, in doing that, it did not come up with a form of words to deal with the question of fare evasion. This Bill is a one pager. Given that the officers' minds were turned to analysing the Hallahan Bill, it is regrettable that it has taken so long for this issue to reach this place.

I will move an amendment, not to the regulatory power as proposed, but to provide a further power. The Opposition wants the Bill to provide that an authorised officer can issue the infringement notice or take up the matter in a court of summary jurisdiction. Members on this side recognise that the Police Service has an enormous backlog of work. The prospect of getting police officers to prosecute fare defalcations of between $5 and $40 speedily is optimistic. I know the industry has spoken to senior police officers and that they have indicated they will ensure it is done. However, the practice is somewhat different from the theory. I know a 91-year-old gentleman who has been defrauded by a real estate agent for in excess of $1.75m, and he cannot get the fraud squad to look at that in the next 18 months. The Police Service has enormous burdens and the prospect that officers will be able to give priority to the recovery of evaded taxi fares in any timely fashion is somewhat naive.

I was drawing on earlier experience. Prior to the Government's introduction of the Taxi Act 1995, we had another piece of legislation - the Taxi-car Control Act, which was enacted by the Labor Government in 1985. That legislation empowered inspectors employed by the old board to take proceedings against fare evaders. The Opposition wants to bring back that provision. When the Government rewrote the 1985 legislation and passed the current Act in 1995, the inspectors stayed on in the taxi unit. However, they no longer have a role to protect the interests of taxi drivers. Their role is to scrutinise taxi drivers. They can no longer take action to protect the legitimate interests of taxi drivers to ensure they are paid. The role of inspectors is now to ensure that drivers wear hats and uniforms and shirts with the company's logo, and their cars are nice and clean. That is an important part of their job. However, it sends a strong message to the ordinary taxi operator about the Government's view of taxi operators.

An important part of the taxi industry is ensuring standards and maintaining taxis as an attractive, affordable form of transport for the general public. At the same time, there is also an obligation to recognise the need to protect the interests of taxi drivers, particularly against those who seek to rip them off by not paying their fares. It was a great pity that when the Government introduced this legislation in 1995, the broader role of inspectors ceased, and their focus became one of policing the drivers and not the defaulting passengers.

My proposed amendment will bring the Bill back into line with the 1985 Act in which regulations dealing with fare evasions

could be dealt with by either police officers or inspectors. That will provide greater flexibility to ensure that fare evasion is acted upon and there is a real deterrent. If prosecutions are made, the word will get around and there will be a deterrent effect. At the moment virtually no prosecutions are occurring and fare evasion is rife. It is not only the economic loss that is suffered by the taxi divers from fare evasion; it is a major precursor for cases of assault. Often assault of taxi drivers commences with a taxi driver attempting to persuade a fare evader to pay a fare, and the matter ends up with a serious assault.

It is the view of some people within the taxi unit that the inspectors under the old Act were not much good as prosecutors. I do not know where they got that idea from. The view of people in the industry pre-1995 was that they were far more likely to get a result from an inspector than a police officer. A number of people to whom I have spoken have given me case studies of incidents in which they were involved. They had reported fare evasion to the police and basically because of the sheer burden of workload and the need to prioritise matters, the police had not acted, whereas the matter had been taken up by the inspectors and the prosecution brought to a conclusion. I know that we have an infringement system in place. This will not detract from the role of the police; it will provide an added avenue. It will be an important signal to taxi drivers that the taxi unit and the Taxi Industry Board is not just there to rip them off. Concern within the industry is that the humble taxi driver, the operator, the bloke who leases his taxi or his plates is not getting a fair go under the current regime.

I acknowledged to the taxi industry that the Labor Government made some mistakes in the way that it managed the taxi industry when it allowed investors into the industry at the time of the America's Cup. It was thought that the industry needed a massive injection of capital. I understand the motives for doing that, but the result has been to create a much greater separation between taxi owners and drivers, which is unfortunate. Many people in the industry now have never driven a taxi. They simply own banks of taxis which are managed in pool situations and the taxi drivers have been reduced to being poorly paid contract labourers. The effect of allowing investors into the industry, who are not also driving taxis, has caused the price of plates to escalate. At one stage the price reached $230 000, but has dropped to around $218 000. That is a huge price and is an impost on the industry.

If one were to set out to rationally organise the taxi industry, the last thing one would ever want to happen would be for value to accumulate in the plate because the person buying the plate must amortise the cost of the plate in the fares. That will mean a dual process. We will have pressure to increase the price of fares which affects demand and the accessibility of taxis; and pressure to drive returns to the drivers down. I have conducted a number of surveys and many taxi drivers who work at night are lucky to make $5 an hour on a good night. If it were not for the good runs that drivers can make driving on Friday and Saturday nights, their rates of return on some other nights would be $1 or $2 an hour. The hourly rate that taxi drivers are expected to drive for these days is poor, particularly out of peak hours. At the same time, we are constantly making greater demands on taxi drivers. We want them to wear uniforms and to be polite. We are upping the standard of driver for the public, yet the way in which we have structured this industry is such that the rate of return that is offered is so low it will only attract people who use taxi driving as a job of last resort.

I do not know whether many members use taxis. I often use taxis at night in order to comply with the Traffic Code. Often the drivers have limited knowledge of English and an even more limited knowledge of the geography of Perth. We cannot expect that there will be any change to that until such time that we make taxi driving a job which has reasonable conditions and financial return. That is not the case currently. The only reason that taxi drivers can make money is by working phenomenally long hours, and by working 12 hour stints at difficult times. At the same time more and more expectations are being put on them in terms of customer service. We have a real dysfunction in the way we are organising the industry.

Some drivers who own their own vehicles and plates are doing okay. They bought their plates at a time when the costs were nowhere near as high as they are now. However, those who have come into the industry recently, and those who are lease drivers or are leasing their plates are finding it tough.

Of course, the pressure is then on them. The investors want the lease payments to increase and the only way that the drivers can do that and still keep eating and paying their rent - probably a lot of them cannot pay a mortgage - is to increase the fares. Every time the fares are increased, it has an effect on demand. There is not much elasticity in the demand for taxis. It is an industry that is under a great deal of pressure. It has become far worse with the changes made by this Government.

If there is one general industry to which the Minister for Transport has done a big disservice, it is the taxi industry. The Government gave us a partial deregulation. The concept of the charter vehicle was introduced which could compete for much of the business that taxis have done. A lot of the bread-and-butter work formerly done by taxis has been taken over by charter cars, the operators of which do not have to pay $219 000 for their plates. They are not paying over $1 000 a year for their taxi licences; they are paying $4.75 per passenger per year.

We are talking about deregulation, yet this extraordinarily uneven playing field has been created whereby the taxi drivers are on one side with huge overheads and requirements in the form of the $219 000 to $230 000 worth of plates, the $1000-plus licence fees, and in many instances compulsory conscription to a taxi dispatch service, and charter car operators are on the other. On the other side, charter cars have been able to take out large sections of the regular work of the taxi

industry. For example, mining companies which have fly in, fly out staff who previously used taxis, now use charter cars. It was a great business for the taxi drivers to pick up the returning workers who were travelling from the northern mining camps to their homes and vice versa, but that has all gone now because the work has been contracted out to charter car operators.

Charter car operators can charge cheaper rates because they do not have the huge overheads that have been imposed by the State Government on taxi operators. Some restrictions were placed on charter car operators; they were not able to use taxi ranks at the airport, and they must have a minimum rate of $37 per hour. I gave evidence to the previous Minister for Transport of documented cases of charter companies which are systematically breaking that condition. Charter companies have produced tables which they distribute to inbound tourist operators and which show they are flagrantly breaching the law in this regard. Not only are they reaping the benefits of a very generous legislative package which has been given, but also they have systematically ignored the minimum conditions that have been placed upon them.

What do we get from the Government when we ask it what it is doing about charter cars? It says no problem exists and it has not been able to find any evidence of charter car operators breaching the conditions. It has become a great scandal within the taxi industry. Having created and introduced this very uneven playing field, the Government's failure to take any action on charter car operators has confirmed to the taxi industry the little concern it has for the welfare of that industry.

I understand from papers delivered by Mr Whittaker, the Director General of Transport, that the Government is considering total deregulation of the industry. An argument may exist for total deregulation, but we now have the worst of all possible worlds. We have half the industry hamstrung by a gigantic cost infrastructure trying to provide a public service while at the same time competing with the other half of the industry which has just been given the red carpet to pick the eyes out of the business. It is the old selectors and squatters argument from the early days of Australian history and something will need to be done about it. I suspect the Government is trying to get away with deregulating the taxi industry without having to take the responsibility for the payment of compensation.

At the end of the day, if we are to deregulate the industry, and if that is what the Government wants to happen, we must give serious consideration to providing financial compensation to those people who have invested enormous sums in it, particularly the owner-operators who have invested large sums of money buying or leasing plates. I am very concerned that the Government is trying to deregulate by stealth and avoid the demands for compensation that would follow an overt deregulation.

This industry needs a major review. We know the Government will review it again next year and let us hope it makes a better fist of it than it did in 1995. However, having said that, I am pleased that these small amendments which have come forward are beginning to turn the tide and for the first time the Government is introducing legislation that will benefit the ordinary, on-the-road taxi driver who, after all, has an immensely difficult job battling financially and also dealing with some tricky customers while ensuring we have a decent public transport system in this State.

**MR MARSHALL** (Dawesville - Parliamentary Secretary) [12.46 pm]: I fully endorse the Taxi Amendment Bill 1998 and I am pleased that this Government has not only recognised the excellent service that the taxi industry has given to Western Australia, but also its concern for fare evasion. I support the comments of the member for Armadale about how hard the taxi drivers in our State work for so little. Taxi drivers play a vital role in our community in Western Australia. For instance, in my electorate of Mandurah, 33 per cent of the population are seniors and taxi drivers are seen at their best in the way they assist the older members of the community. Taxi drivers take the elderly people into the shopping forums, assist them with their choices while shopping, carry their items out to the car, deliver them safely back to their destinations, carry all the shopping into the house for them, and then leave for their next fare.

Taxi drivers also play an important role in the community in observing crime. They are on the road 24 hours a day and some times see offences about to be committed. They report their suspicions straightaway using their two-way radios, and the police are on target almost immediately. Taxi drivers have a tremendous responsibility in this area.

Some people criticise taxi drivers, saying they have not been educated properly. If that is the case, people should bear in mind a taxi driver's responsibilities. He must pick up a businessman at 5.00 am in the morning who may be going interstate or overseas to secure a deal that will bring lots of money into Western Australia. The taxi driver is there and he is punctual. When a person phones for a taxi and books an early fare, he sleeps confident in the knowledge that the taxi will be on time to pick him up and get him to the airport safely.

Taxi drivers are invaluable as tourism promoters. Members know when they go interstate or overseas, particularly if they are travelling in an English speaking country, that the first thing they ask the taxi driver is, "How has the weather been? What rate will my Australian dollar bring me? What is happening in this city of yours? What is the best hotel I should be staying at? What should I go to see while I am here?"

Ms MacTiernan: He says, "Come in, spinner."

Mr MARSHALL: Members should ask their taxi drivers in the next month, "What is happening in Perth?" From a tourism

point of view, members will be educated. I have been supportive of the member for Armadale, but her little knowledge of the taxi industry concerns me. She has never been an owner or a driver and all she has done is pick up her knowledge from reading books and talking to a few people. She must become more intimately involved in the industry.

Ms MacTiernan: So Hon Murray Criddle and Hon Eric Charlton drove taxis?

Mr MARSHALL: No, they did not. However, they go to the grassroots and meet the people.

Several members interjected.

The ACTING SPEAKER: Order!

Mr MARSHALL: Taxi drivers work under difficult circumstances. We are inclined to take them for granted. They pick up passengers under the influence of alcohol and they never know whether such passengers will be sick on their back seats.

Mr Riebeling: Some are politicians.

Mr MARSHALL: Yes, the northern politicians have been known to do that. Taxi drivers pick up people who are very sick or in danger of having a heart attack on the way to the hospital. Pregnant women give birth in taxis, and often they miscarry.

The ACTING SPEAKER (Ms McHale): I alert the member to the time and suggest that perhaps he seek leave to continue his remarks.

Mr MARSHALL: I will seek leave. I thought the member for Armadale would leave me eight minutes but she carried on.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on page 1654.]

## YOUNG PEOPLE

*Statement by Member for Collie*

**DR TURNBULL** (Collie) [12.51 pm]: I inform the House today of a very important fact that has come to my attention in my electorate in particular, and I am sure it is reflected in electorates all over Western Australia. Unfortunately, the media talks a lot about the failings and ills of modern day youth. The stories of terrible behaviour and criminal acts by young people dominate the headlines. I want to tell the House today and everyone else in Western Australia that those actions are perpetrated by a very small number of youth. During the parliamentary break, I had the privilege of attending a number of wind-ups and presentation nights for girls and boys age 10 to 17 years in junior sporting bodies in my electorate. At all those events the behaviour of the young people was excellent. The coaches, families and club members are to be congratulated for helping to develop fine young people and assisting them in developing their characters. Those young people have a very good attitude towards themselves, their team mates and their healthy competition with rival teams. I have very great confidence in the future of our State and nation when so many decent young people are involved in schools and sporting bodies throughout our nation.

## GOODS AND SERVICE TAX, DISABILITY PENSIONERS

*Statement by Member for Willagee*

**MR CARPENTER** (Willagee) [12.53 pm]: I am concerned about the impact that a goods and services tax will have on people with a disability and people who are on a disability pension. We had the unfortunate occurrence in the Parliament yesterday of the Minister for Disability Services attacking the integrity and credibility of the National Council on Intellectual Disability for having the temerity to suggest that the impact of a GST on people with disabilities would be twice as severe as that being predicted by the Howard-Costello Government. This morning I spoke by telephone to Mr Mark Pattison, the Executive Officer of the National Council on Intellectual Disability. We discussed the events of yesterday. Mr Pattison said that his organisation stands by the figures it has produced; that it has absolute faith and confidence in the process by which those figures were brought together. He pointed me to similar results produced by the Physical Disability Council of New South Wales Inc that also predicted that the impact of a GST on people with physical disabilities will be much greater than is being predicted by the Howard-Costello Government. It was also interesting to note last night that Dr Neil Warren, the economist who worked with John Hewson on the Fightback package, has publicly stated that the Howard-Costello Government's statement has severely underestimated the impact that a GST will have on people with low incomes. I ask the Minister for Disability Services for Western Australia to apologise to the National Council on Intellectual Disability for his comments.

## RESTRAINING ORDER

*Statement by Member for Geraldton*

**MR BLOFFWITCH** (Geraldton) [12.54 pm]: I will complain on behalf of one of my constituents who has had a restraining order served on him. The restraining order was served by the police who had received a telephone call at the police station. The police went to the magistrate and had the restraining order awarded. The man who had the restraining order served on him sought to have it removed. Some eight months later he finally got a day in court. Despite very little substantiation of whether the restraining order was warranted, he had no opportunity for eight months to plead his case in court.

Mr Riebeling: You should check your facts; it must be converted in 21 days under your legislation.

Mr BLOFFWITCH: The magistrate issues the order on behalf of the person serving it whom he then asks to present a case. The time of hearing is subject to the place on the list on which it is put by the magistrate. The other problem is that for the first three hearings at which there were adjournments, the police were acting as the prosecutor.

## ROCKINGHAM-KWINANA DISTRICT HOSPITAL

*Statement by Member for Rockingham*

**MR McGOWAN** (Rockingham) [12.55 pm]: The downgrading of the Rockingham-Kwinana District Hospital by this Government is of great concern to that community. On Tuesday night, a public meeting was held at the Rockingham City Council attended by 150 local people and four members of the state and federal Opposition. Not one government politician could make time to attend the meeting.

The Government is removing surgical and specialty surgical services from the hospital. It is making a mockery of health services in the Rockingham-Kwinana area. It must stop. The federal Minister for Health has endorsed this decision. He said on Mandurah radio the other morning that the Western Australian Government had made the right decision because people in Rockingham have other options; the population is an older one and therefore has greater need of health services.

It is about time we worked together to sort out this issue, rather than favouring one area or one region over another on health issues. We must put the interests and health services of the people of Rockingham-Kwinana first. Only through a Labor Prime Minister, Kim Beazley, will this happen.

## REYNOLDS, MS JAYE

*Statement by Member for Southern River*

**MRS HOLMES** (Southern River) [12.56 pm]: I publicly congratulate Jaye Reynolds of Gosnells for her magnificent performance when she represented Australia at the 1998 under 23-year-olds Nations Cup held in Greece in July this year. She is an attractive, talented young woman who started her rowing career in October 1994 after she was recognised by the WA Institute of Sport rowing talent identification program as having the qualities to become a champion rower. In 1996 she represented Australia at the Australia-New Zealand junior trans-Tasman challenge. She has been on the Western Australian team for the past three years.

She has also gained national senior B ranking. When Jaye returned from Greece, she came to thank me for sponsoring her and to let me know that she had come fourth in her race against the world's best in her class. She is a shining example of youth in Western Australia and I sincerely hope she is chosen to represent Australia at the Sydney 2000 Olympics. Meanwhile, I am sure the Parliament will join me in congratulating the WA Institute of Sport for its part in identifying successful rowers such as Jaye and in congratulating her on her magnificent achievement so far and wishing her well in her future endeavours.

## ATTACKS ON THE ELDERLY

*Statement by Member for Peel*

**MR MARLBOROUGH** (Peel) [12.58 pm]: I bring to the attention of the Parliament the state of law and order, particularly as it impacts on people in their homes. Of particular concern are elderly people. I have been in Parliament for 12 years and unfortunately I am becoming increasingly less tolerant of the behaviour of predominantly young people in my electorate. I am sick of seeing elderly people frightened to open their front doors, and being afraid to go to a shopping centre, because they will be knocked over and attacked for their handbags.

We should reconsider something that has been a privilege for far too long; that is, the non-naming of offenders when they go before a court. To not have one's name mentioned in a court is a privilege. That privilege should be removed for 14 and 15 year olds who are before the court for having beaten senseless aged people. I no longer see any valid reason for the courts not naming a 14 year old who beats up a 70 year old woman.

*Sitting suspended from 1.00 to 2.00 pm*

## DISTINGUISHED VISITORS

*Statement by the Speaker*

**THE SPEAKER** (Mr Strickland): I take this opportunity to acknowledge the presence in the Speaker's gallery of some distinguished guests: Hon John Oswald, who is the Speaker of the South Australian Parliament, and the Clerk, Mr Geoff Mitchell. They are here to see our television system and a few other things, so perhaps we could extend a welcome to them.

[Applause.]

**[Questions without notice taken.]**

## TAXI AMENDMENT BILL

*Second Reading*

Resumed from an earlier stage of the sitting.

**MR MARSHALL** (Dawesville - Parliamentary Secretary) [2.40 pm]: Further to my comments endorsing the Bill, I wish to continue acknowledging the excellent service of the taxi industry.

The SPEAKER: Order, members! I want to hear what the member for Dawesville has to say.

Mr MARSHALL: Thank you, Mr Speaker. I acknowledge the excellent service of the taxi industry and also the competence of the drivers. I indicated how Western Australian taxi drivers work under extreme difficulties. I mentioned how they had to deal with drunken passengers, with people who suddenly became sick, with pregnancies and with miscarriages. They also have to endure slippery roads, congested traffic and dealing with road hogs. It seems that youngsters in particular, the speedsters in our city, love cutting across in front of taxi drivers who stick to the speed limit.

Taxi drivers work extremely long hours. If a driver leases a taxi, he will work a 12-hour shift. The day shift of 6.00 am to 6.00 pm, as the member for Armadale said, is a better and easier shift than the night shift, but it is not as profitable. Taxi drivers must be alert on the night shift from 6.00 pm to 6.00 am; they must stay awake and get passengers to their destinations safely. Taxi drivers might make a little more money on the night shift but they work under extreme difficulties. Some taxi drivers are more or less like self-employed people. They do not make a lot of money, yet they must take out insurance for sickness. They also must work very long hours for very little return.

A taxi driver never knows what to expect from a passenger. Although 95 per cent of passengers are ordinary, good types of people, taxi drivers must always be on their guard for the 5 per cent who are not. They never know what will arise. A taxi driver asks himself if the passenger will be abusive, make threats or put a knife to his throat. However, a continual scenario and the one taxi drivers dislike most is the passenger who does a runner.

Unfortunately fare evasion, which is actually stealing, has been accepted by the community as something that happens. The Taxi Act did not make fare evasion an offence; therefore, obtaining a conviction has been difficult. This Bill will provide for the control of fare evasion in the taxi industry. It provides a deterrent to the would-be offenders. I have heard many stories about passengers who do a runner. Such a passenger gets to his destination, appears as though he is about to pay the taxi driver and then takes off. The best story I heard was about a young driver who had passed all of his exams. The exams are stringent. How many members of this House would know every street in the metropolitan area and how to get there? Would they know the short cuts, the one-way traffic systems, the position of traffic lights and the quickest way to arrive somewhere?

People under-estimate taxi drivers. I mentioned earlier in my speech that some taxi drivers are thought not to have a high education. I throw down the gauntlet to any members who think like that. The taxi drivers I have met are among the best read people I know. They listen to talk-back shows all day and every day of the week when they are in their cabs. When they are at the airport waiting sometimes for two hours to pick up fares to take back to Perth - they are worth about $30 - they buy magazines at the airport, read them and exchange them on the rank. When one discusses general knowledge with taxi drivers, they know it all. Some of them did not stay on at school to pass their tertiary entrance examination, unlike some members in this House. Taxi drivers are worldly in their education because they mix with people from many walks of life.

Mr Marlborough: Are they East Fremantle supporters?

Mr MARSHALL: The member for Peel will be frightened to say that after the premiership grand final weekend. He is trying to divert me into sport. At lunchtime I met and had a good conversation with one of the most talented, skilled and alert sportsmen of the future for Australia. When I thought that I had to leave him and come to listen to some of the interjections I get from members like the member for Peel, I wondered what I was returning to. Incidentally, that talented sportsperson is my 9 months old grandchild, Thomas Dylan Marshall, a champion of the future. I think he is smarter than the interjector. However, I will return to the taxi industry.

The young taxi driver to whom I referred earlier had his first job which was to Wyalkatchem. Never having had a fare like it, he rang in to Swan Taxis. He was told not to charge the passenger by the meter but that a fare of $300 would be appropriate and to make sure that he put the gentleman's case in his boot. The young taxi driver did not ask why and off he went to Wyalkatchem. The Deputy Premier will be able to tell me where this intersection is, but I think it is somewhere near Nungarin. The passenger said, "Excuse me. I am not feeling well. Would you stop the car? I need something out of my suitcase because I get car sick." The young taxi driver did just that. As soon as he got the case out and the chap went to the side of the intersection, a car came swinging around the corner, picked him up and disappeared into the darkness. The young driver on his first job thought that he would make $300. He had to drive for four hours there and back. He had lost not only his money but also the cost of the fuel and all of the other expenses of driving a car. He went back to Perth very dejected. It may have been only $300, but if somebody breaks into a house and takes a watch, which may be valued at $200, that is a crime. Therefore, I applaud this Bill and fully endorse the provisions which make the failure to pay a taxi driver an offence with a prescribed penalty not exceeding $1 000. I would make it $2 000. I congratulate the Police Service which will now investigate and prosecute passengers who evade fares. The provision is not before its time. I happily and wholeheartedly support the Bill.

**MS WARNOCK** (Perth) [2.49 pm]: I will speak briefly on the matter. The Opposition supports any attempt to assist taxi drivers to claim fares which they are owed from people who are refusing to pay. I support the view of the previous speaker that this is a form of theft. We certainly owe it to taxi drivers to assist them to sort out this unfortunately frequent problem. It is not only patently unfair that anybody should not be paid for a service which he or she has already provided but it is also true that attempts to secure fares from runners - that is fare evaders - frequently lead to the kind of violence that has all too often been visited on taxi drivers in Perth. That is a very unfortunate recent activity.

Taxis are a very important component of our public transport system. It is proper that we should do everything possible to protect drivers from attack. I have always thought that drivers are far too vulnerable to attack in our open and unprotected cabs, unlike drivers of those famous London black cabs with the glass security screens. However, I understand very well that we in Australia have a very different view of these matters. Our customs are different, and there has always been resistance to a similar arrangement in the taxis in Australia. For that reason I supported the use of video cameras to assist in apprehending wrongdoers in an effort to protect taxi drivers. Theirs is a very difficult job and not one I would want to do myself, nor, I suspect, would most other people. It must be extraordinarily difficult to deal with people who have taken taxis because they are too drunk to drive. Although they are being responsible, unfortunately it is not easy dealing with people who are in a mood to cause trouble.

There is also an obligation on taxi drivers to behave impeccably towards their passengers. Any measures we put in place to check the background and bona fides of drivers is essential. They should be clearly identified by well displayed photographs in their cabs.

This Bill seeks to make it easier to prosecute fare evaders. Although the Opposition supports the Bill we wonder why it took so long for the Bill to come before the House. Two or three years ago, as I recall, an opposition private member's Bill was aimed at assisting the tracking down of fare evaders.

The Opposition's amendment referred to by my colleague, the member for Armadale, seeks to make the prosecution of fare evaders simpler by allowing "authorised officers" who are referred to in the Bill, to recover those fares by infringement notice. We certainly support that.

I frequently travel in taxis, as I suspect do many of my colleagues in this House. I used them frequently as a journalist, as a member of Parliament and as a private citizen. I have used them extensively over most of my adult life, in my home town, interstate and overseas. I regard their service as essential to the smooth running of the city's transport system. I am also aware that of late taxi drivers have faced violence against them and bad behaviour by passengers leading to unwillingness of some drivers to drive at night, especially on weekend nights.

The shadow that fell over the community generally when three young women were tragically taken off the streets of Claremont briefly cast suspicion on taxi drivers in general. Hundreds of taxi drivers offered themselves for DNA testing to put themselves beyond suspicion, for which I applaud them. That episode in itself must have been very unsettling for the industry. As I say, that is one of a number of difficulties taxi drivers have had to deal with in the past several years.

I have seen other matters mentioned in literature about taxi drivers so I know the industry is concerned about them. As I said, obviously anyone operating face to face with the public as frequently as taxi drivers has an obligation to be above board. However, as I am sure frequent taxi users will agree, they must also address smaller matters such as honouring pre-bookings and long waiting times on the phone. There is also the annoying matter of some taxi companies being unable to give approximate arrival times.

Those are matters that should be addressed by someone running a public business such as a taxi company. It is obviously good public relations for a company that deals with the public every day to take care of those important matters. However, as I said, I am a frequent taxi user. They offer an important service to the community. In the light of the difficulties they

have had of late, such as the violence to which I referred, general bad behaviour of some passengers and fare evasion, we should do everything we can as members of Parliament to help them carry out their tasks in the best possible way they can. For that reason the Opposition supports this Bill. I also support the amendment proposed by my colleague, the member for Armadale.

**MRS van de KLASHORST** (Swan Hills - Parliamentary Secretary) [2.55 pm]: I agree that this Bill is important and I applaud the minister for expediting it. The taxi organisation helps everybody in the metropolitan area and the larger country towns. Taxis provide a living for many people. In fact in the past, one of my relatives drove a taxi for a number of years. Taxi drivers are entitled to receive a wage for the services they perform.

However, I am concerned about the penalty for someone evading the fare. I want to ensure that the courts know that the $1 000 penalty exists. To deter people from taxi fare evasion they must come down strongly initially by imposing the maximum penalty. A minor fine will not bring home to the people who intend to evade fares the fact that it is seen as a serious crime.

We all know that many people caught up in the criminal justice system, especially young criminals, start with small crimes. To some people, taxi fare evasion may seem to be a small thing. However, people who commit small crimes or crimes involving what appear to be minor issues end up in the criminal justice system and often become criminals for life.

We must examine matters that are considered to be small to ensure the penalties are sufficient to deter people from progressing further in the criminal system because they think they can get away with what they consider to be minor crimes. I agree with the member for Perth that the safety of drivers is extremely important.

I noticed when I went to China for the World Women's Conference that all the taxis had plastic or glass screens separating the drivers from the passengers. The same applies in London where the behaviour of taxi drivers is an example to the rest of the world. I would love to see an Australian taxi similar to those in London but in our colours. Although our Perth drivers offer a great service, the London cabbies are a good example to the rest of the world.

Mr Thomas: Do you know what is not good about them?

Mrs van de KLASHORST: What is that?

Mr Thomas: It cost me $100 to catch a taxi from Kensington to Heathrow.

Mrs van de KLASHORST: I experienced something similar. That is not so much as a result of the taxi fare, but more due to the lower Australian dollar. The English pound is strong as is the job market; the country is booming.

Mr Thomas: It has a Labor Government.

Mr Kierath: They give credit for that to Maggie Thatcher.

Mrs van de KLASHORST: That is right. Everyone to whom one speaks in London thanks Maggie Thatcher for that.

Mr Thomas: I know a few people who do not thank Maggie Thatcher.

Mrs van de KLASHORST: When travelling overseas members of the Select Committee on Crime Prevention had what one would call some hairy and scary episodes with taxis. Many places do not have the same standard as we have in Perth. Many taxis were not kept clean and on one occasion we got into a cab and straight out again because it was filthy. Often drivers are not trained properly - many did not know their way around.

The standard in Perth is very high, the industry is controlled and drivers are courteous.

Ms MacTiernan: You would have fun in Africa.

Mrs van de KLASHORST: We caught a taxi in Washington and I do not know how we managed to survive because we had so many narrow escapes, almost driving up on kerbs to make our way around. It is nice to return to Perth where the taxis are clean and the drivers are considerate and know where they are going. Unlike the member for Perth, we do not have a lot of taxis in Swan Hills. If we call a taxi, the driver very often wants the fare both ways because to drive all the way out and back again is not viable. It is comforting to know that when one must catch a plane, or is in an emergency, taxis will come to the backblocks of Gidgegannup and places like that. They must drive for a long time.

We must also recognise the families of taxi drivers. One of my relatives has driven a taxi for a long time. Taxi drivers leave their families at times when other families are enjoying themselves - weekends, public holidays and Sunday lunches; times which people think are family times. They work extra hours into the wee small hours of the morning and late at night. Western Australia has changed since I was a young person. My brothers used to go out for a few drinks and then drive home. Fortunately now, because of the taxi industry, young people know they can find their way home safely if they have been drinking.

I commend the minister for bringing this Bill to the House. I support it. The taxi industry is owed a vote of thanks from the whole community of Western Australia for the wonderful job it does.

**MR OMODEI** (Warren-Blackwood - Minister for Local Government) [3.02 pm]: I thank members for their support of the Taxi Amendment Bill. The previous power in the Taxi-car Control Act for fare evasion was limited and did not work. There was a problem with proof of intent, which was the failure to pay a taxi fare. It could not sustain a prosecution. The new legislation will require only proof that the journey was undertaken, the fare was not paid and the passenger had no lawful excuse for not paying. The reverse onus of proof situation will apply.

The Opposition had a Bill in the Parliament on this subject a couple of years ago. The taxi unit told me that that Bill would have been unenforceable as well. It is time that the Bill was brought into the Parliament and carried. There is also the issue of the taxi industry development fund and the interest not being credited to that fund. This Bill will tidy up that situation so that the funds that are derived from the tendering of taxi plates and other funds will be credited to the fund for research and industry development purposes; that anomaly will be corrected.

The member for Armadale referred to the taxi industry development fund and pursued that issue and wanted assurances that the funds were spent appropriately. She then talked about the Taxi-car Control Act. Prior to the 1995 legislation, inspectors were stopped by that Act. Those inspectors had the power to pursue taxi fares and commence proceedings in a court. That will be discussed further during the debate. I found some of the member's general observations surprising. She referred to the America's Cup and the then Labor Government's introducing changes to taxi legislation which allowed investors to come in. She quite rightly pointed out that it diminished the value of taxi plates from the current value of $230 000 to $218 000.

Ms MacTiernan: It massively escalated the value.

Mr OMODEI: It has just decreased a bit.

Ms MacTiernan: When we make a mistake, we must acknowledge it. However, you did not fix it, you made it worse; that is the problem.

Mr OMODEI: Hopefully we are fixing it now. The member also talked about charter cars and the effect that they have had on the taxi industry. The member for Dawesville expressed his passionate support for the taxi industry. The member for Perth expressed some concerns about the need to check the bona fides of drivers and ensure that their behaviour towards patrons is appropriate. She also referred to the Hallahan Bill. The member for Swan Hills also supported the taxi industry.

I agree with her - Gidgegannup is a long way away and the fact that the industry services her electorate is worth pursuing. I understand that the member for Armadale will propose an amendment to this legislation which will be discussed during the committee stage of the Bill. I understand the first drafting of her Bill was not appropriate and over the lunch break, through some very good cooperation, parliamentary counsel has managed to draft the amendment so that it is workable. I have no problem with allowing the member for Armadale to move that amendment during the committee stage.

I thank members for their support of the Bill. It is a worthwhile Bill, but probably not before time. It will improve confidence in the taxi industry.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 40 amended** -

Ms MacTIERNAN: I move -

> Page 2, after line 23 - To insert the following lines -
>
> (kb) providing for -
>
> (i) there to be added to the amount that would otherwise be payable as the modified penalty under an infringement notice given under section 39 for an offence referred to in paragraph (ka), the amount of the fare that the hirer failed to pay;
>
> (ii) the payment to the person entitled to the fare that the hirer failed to pay, towards the discharge of that entitlement, of so much of the amount added as is recovered through payment of the modified penalty;

I provide the background to this. My concern has been that since the introduction of the Taxi Act in 1994 it has not been possible for inspectors of the taxi unit to prosecute for fare evasion. Prior to that, under the Taxi-car Control Act, there was a specific power which enabled inspectors to take action in a court of summary jurisdiction to recover unpaid fares. The proposed legislation provides an alternate route to the Criminal Code to allow for the making of regulations under the Taxi Act that could then be used to penalise fare evasion. However, it is important to ensure that authorised officers including inspectors are able to take that action and in doing so they can also recover the fare. They would not just be imposing a penalty for the infringement.

Therefore, there are two aspects to this amendment. Firstly, in the old action under the Criminal Code there was a recovery element. We must ensure that there is a recovery element as well as a punishment element in this legislative proceeding. The parliamentary counsel has assured me that he believes that the Act as it currently stands with the amendment proposed by the Government will give power to an inspector of the taxi unit to issue an infringement notice. That has been demonstrated quite clearly. He also takes the view which he says reflects the Government's view that inherent in the Act is the power for authorised officers to take court proceedings in the event that an infringement notice is not paid. I will ask the minister to confirm that.

We want to ensure that the authorised officers have the powers that they had beforehand under the old Act to ensure that the penalties for infringement are in place and to draft the provision in such a way as to make it clear that we are not only punishing the evading passenger but also including a provision for recovery of the fare because, obviously, that is very important to the driver. Therefore, this amendment before us focuses on ensuring entitlement to recovery of the fare in addition to the penalty element.

Mr OMODEI: The Government agrees to the amendment as proposed by the member for Armadale and agrees to the addition of the fare to the penalty. I confirm that authorised officers will have the power to commence court proceedings as inspectors did under the old legislation.

I am sure the community must perceive from time to time that members of Parliament spend most of their time attacking each other. This is an example of where, with some cooperation, we can work through an amendment. As I mentioned in the second reading debate, rather than defeating the amendment to be proposed by the member for Armadale, we worked together to draft an amendment acceptable to the Government and which enhances the legislation. Therefore, I thank the member for Armadale for her cooperation.

Ms MacTiernan: Likewise, I would like to thank the minister, the staff of the Department of Transport and the parliamentary counsel for their assistance in resolving this matter.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 5 put and passed.**

**Title put and passed.**

**Bill reported, with an amendment.**

## CHILD WELFARE AMENDMENT BILL

*Second Reading*

Resumed from 10 September.

**MRS PARKER** (Ballajura - Minister for Family and Children's Services) [3.16 pm]: In making my response to the second reading debate today, I acknowledge the Opposition's support for the intention of the Bill as outlined by its spokesperson, the member for Kalgoorlie. The intention is to ensure greater cooperation and coordination between the government agencies in this State in delivering services to children who have been maltreated. I hope that in the course of the committee stage we are able to work through some of the issues raised and achieve bipartisan support for this legislation.

During the committee stage I will propose a number of amendments relating to the definition of a reporting agency in relation to section 120A of the Act; to clarify the intent of the Bill in respect of section 120J; in relation to whether a judge should be responsible for the decision to remove an offender under the age of 18 from the register; and on the penalties for any breach of confidentiality and the misuse of information.

At the outset I will deal with some of the major issues related to the register. Firstly, we need to understand the intended purpose of the register so that we can, hopefully, agree on it. The purpose of the child protection services register, is to meet the needs of children who are abused and are receiving or require services from a number of different government agencies. A recurrent theme in both international and national child protection practice and literature is a stated need for far better cooperation and coordination between agencies managing child abuse and neglect.

Western Australia has already established reciprocal child protection procedures endorsed by the relevant chief executive officers of all the major agencies that have a responsibility in responding to the issues and providing services in the area of child abuse and neglect. However, the Government has decided that a more powerful mechanism is required to further enhance that service delivery and ensure cooperation and improve the coordination between the agencies.

The case of Daniel Valerio has been raised. That was a tragic case of a four year old in Victoria who died after sustained maltreatment over a period of time by his mother's partner. As I have said previously, and as has been mentioned by the member for Mandurah, although numerous agencies had contact with the family, no one agency had access to all the information nor did they take overall responsibility for the case.

I have discovered that the Victorian department at that time had a child-at-risk register which recorded all allegations of abuse. However, this mechanism proved inadequate in alerting sufficient attention to his case. If that case were to occur in Western Australia and if the register proposed in this Bill were in operation, with recorded, sustained, substantiated allegations of abuse, the situation would have been different. A number of things would have happened. The Police Service, the hospital, the child welfare agency and the counselling service would all have registered the child. The manager of the register would have determined and delegated a lead agency with overall responsibility for the management of the case, and the manager, on the basis of the composite picture of information available to him, would have been able to make a decision to involve other government agencies. If there were not the skills, resources and mandate to ensure the child was adequately protected, then more appropriate services would have been provided.

The register will assist government agencies by providing a number of alerts. For example, when there is multiple-agency involvement, including previous registrations of child assault and mistreatment, the register will provide an alert. Where services have not been delivered or completed, the register will provide an alert. In the case of identity of a person convicted of maltreatment against a child, whose name is registered, then an alert will be raised. The register is designed to do a range of things. Firstly, it will coordinate the involvement of multiple government agencies. Also, it will inform contributing agencies of previous child maltreatment incidents, and confirm the names of individuals who have been convicted of criminal offences against children.

It will also encourage and reinforce the use of those reciprocal child protection procedures by requiring the agencies, upon registration, to certify that they have complied with those procedures. It will strengthen the use of those reciprocal procedures. The register will also provide agencies, upon registration, and at the determination of the manager, with the names of other agencies having current or prior involvement with the child. It will provide advice on whether the person suspected of being responsible in the case had previously been registered as a convicted offender. It will ensure, where a lead or coordinating agency is not apparent, that one agency assumes that responsibility. It will provide a formal mechanism to assure the minister responsible for the administration of the Child Welfare Act that child maltreatment in Western Australia is responded to by government agencies in an accountable manner. It will make government agencies accountable for the ongoing services they provide, and will provide the minister with across-government child maltreatment data.

As members are aware, the register was launched in July 1996 on a pilot basis. As outlined in my second reading speech, registrations from agencies other than Family and Children's Services has been minimal, primarily due to legal barriers. This proposed amendment to the Child Welfare Act is required to allow for the full implementation of the register, to the extent that it allows the Police Service and the Disability Services Commission to provide comprehensive information, and to allow the register to operate in a legal, rather than an administrative, framework. With this Bill the Government seeks endorsement from the Parliament for the register to operate with statutory authority as a proper and approved child protection mechanism of government.

In the second reading debate the member for Bassendean asked whether this Bill will introduce mandatory reporting of child abuse. The response is that it will not, and I will explain the reason. Mandatory reporting, as a concept, was developed in the United States in the 1960s to ensure notification of all child abuse allegations for investigation. Most of the States in the United States and the western world have embraced various concepts of mandatory reporting. In Australia, Victoria did so as recently as 1994. Mandatory reporting requires professionals - usually doctors, nurses, schoolteachers and the like - to report allegations of child abuse to an appropriate child welfare agency for investigation. Mandatory reporting refers to a process prior to the substantiation of the abuse, and enabling legislation generally incorporates some punitive element to enforce compliance. An unintended consequence of mandatory reporting is that the rate of reporting from professionals stays at the same level and, in some instances, the reporting rate even decreases. However, there is a significant increase in reports from the community, most of which, research again indicates, relate to environmental conditions such as poverty. It also results in very low rates of substantiation.

Western Australia on two occasions has held an investigation into the issue of mandatory reporting, and has resisted going down that path. Notwithstanding significant increases in notifications, substantiation rates remain relatively constant. The increased rates of investigation lead to transfer of resources from treatment programs to the investigation process. The provision of services to all children who have been the subject of notification, but not necessarily abuse, diminishes the quality of response to more serious cases. The whole purpose of the new directions policy of Family and Children's Services

was to identify and better target those children who had been abused and were at risk of abuse, and to separate them during that process when there was concern about a child's parenting, and support needed to be provided to the family.

Mandatory reporting has resulted in frequent and unnecessary investigation and often has fuelled alienation of the child welfare agency as coercive and intrusive. In Western Australia the reporting rate by education, health and welfare professionals is either equal to, or higher than, those in other States that have mandatory reporting. Those are interesting comparisons. No evidence is available to support the presumption that mandatory reporting reduces the incidence of child maltreatment. This is a very serious debate which should be considered in great detail.

Ms Anwyl: In terms of the mandatory nature, we are having mandatory reports of substantiated allegations.

Mrs PARKER: That is where the difference is, and in a moment I will refer -

Ms Anwyl: We are listing the names of the children but not the names of the adults.

Mrs PARKER: I will come to that. There is an argument about whether we should go down the mandatory reporting path. It has been documented on two occasions in Western Australia. One was the child sexual abuse task force, commissioned by the former Labor Government in 1987, chaired by Dr Carmen Lawrence, and the now member for Thornlie was the executive officer to that task force. It recommended against the introduction of mandatory reporting. In 1994 the family task force also considered the evidence for and against mandatory reporting and it also recommended against it. As I said, there is no current evidence that the conclusions of both those task forces should be overturned.

Mr Nicholls: No-one is arguing that they should be.

Mrs PARKER: I am answering the questions raised and am seeking to do that in my response to the second reading debate. The member for Bassendean asked whether this was mandatory reporting and what other States were doing. I am not aware of any significant changes being contemplated to the mandatory reporting provisions in other States, although the Wood Royal Commission into the New South Wales Police Service made some recommendations regarding those provisions.

Ms Anwyl: They all have them. We are the only State that does not have them.

Mrs PARKER: That is right.

Ms Anwyl: You cannot change them if you do not have them.

Mrs PARKER: The Wood royal commission made some recommendations regarding how that process might be changed. It made some comments about the downside of mandatory reporting. The member for Bassendean asked what was happening in the other States that have gone down that path. In contrast to mandatory reporting, the child protection services register requires nominated government agencies to report, firstly, the substantiated child maltreatment or, secondly, where there is a genuine belief that maltreatment will occur; that is, where there are historical precursors to that. The reporting mechanism focuses on proven maltreatment, as against allegations - that is the dividing line - or where the risk of harm to the child is of such a level that intervention is warranted and not to do so would almost certainly lead to harm.

The member for Bassendean made the comment that there is a very fine line between what is an allegation and where a child is at serious risk of maltreatment. He was quite right and he raised some valid points; however, the test will be where there are historical reasons relating to where a child or children within the family previously have suffered maltreatment and the evidence strongly indicates the child in question will also be maltreated. As such, the child will be registered as being at serious risk of maltreatment.

I will illustrate this point by providing a sad example of this historical indicator. A certain Mrs X had had a great number of children over the years and all of them had been apprehended for neglect. When another child was born that child was apprehended at two weeks after birth at King Edward Memorial Hospital after the staff decided that, following many attempts to ensure the mother was able to care for the baby that the child was at risk. A subsequent child was born and was apprehended at birth. Although the child had not been harmed, registration would be based on an established history of neglect. The member for Bassendean is quite right. There is a fine line and those historical indicators will be taken into account.

Mr Nicholls: What would happen in this example: If a mother had given birth to children in King Edward Memorial Hospital and then went to Port Hedland and again gave birth, how would the relevant people know that the mother was deemed to be at risk with the child if only the child's name is on the register?

Mrs PARKER: In the case in my earlier example, the second-last child to be born to this woman was apprehended two weeks after birth, after the nursing staff had determined the mother was unable to care for the child.

Mr Nicholls: I understand that. However, if the mother had left after the birth of the last baby and gone to Port Hedland, the mother's name would not be recorded on the register. How would the agency or the hospital in Port Hedland know the child should be apprehended at birth?

Mrs PARKER: We could make the assumption in relation to that question that the staff at the King Edward Memorial Hospital did not have notification that the mother was not able to provide the care for the child; that they made that professional consideration.

Mr Nicholls: What about where the child was taken at birth because of the history? Who then keeps the history and how does the Port Hedland hospital know the history of the mother?

Mrs PARKER: In the process, if the hospital did not have access to a notification, it would be similar probably to what happens now. In the previous example at King Edward Memorial Hospital, the members of staff in their professional duty raised concerns about the mother's ability and the process was repeated. They were concerned and would have telephoned the child welfare agency, Family and Children's Services, in application of the protocols and procedures. They would have gone through the process.

Mr Nicholls: I do not understand how Port Hedland hospital, having no idea of the previous history or having nothing on file at the hospital or the Port Hedland office of Family and Children's Services, not having any detail at all of the lady's name, would know what the situation was. Theoretically they would have waited until the child was born. They would not have had the history or the knowledge to know to apprehend the child at birth. The child could have remained at risk because of a lack of information about the history of the family. If these authorities went to the register because they had some concerns about whether the parent was behaving correctly or about the way in which the person may be parenting, nothing would be on the register about the parent. The alleged offender would not be recorded on the register. We would have to wait until either the child was placed at risk or somebody stumbled over the history of the parent before someone could take some action.

Mrs PARKER: The circumstances would be the same as occurred with the child at King Edward Memorial Hospital in the previous example.

Mr Nicholls: King Edward Memorial Hospital would have had files containing detail about this person.

Mrs PARKER: Not necessarily. The member is making an assumption.

Mr Nicholls: The minister said that, first of all, when the child was born the nurses at King Edward Memorial Hospital saw that the child was at risk. Family and Children's Services then removed the child. When the mother went back to King Edward Memorial Hospital to give birth the next time, the chid was removed.

Mrs PARKER: I repeat: After the birth of the second-last child - all the other children had been apprehended by Family and Children's Services and another child was born at King Edward Memorial Hospital - the staff members had concerns about the mother's ability to care for the child. Two weeks after the birth Family and Children's Services proceeded to intervene. When the next child was born, the department moved to intervene at birth. It was simply based on the fact that the information was held at the hospital.

Mr Nicholls: Where did they get the information from? How did they know to intervene at birth? Was it based on the fact that they had knowledge that the mother previously had a history of neglecting and not caring for her children?

Mrs PARKER: In the example a large number of children were in the family and were on record with Family and Children's Services. The established protocols, as I mentioned before, are such that we have reciprocal child protection procedures established. Those protocols require that interagency contact.

Mr Nicholls: How does Family and Children's Services know that this lady is going to King Edward Memorial Hospital to give birth?

Mrs PARKER: There are many other children apprehended in this family.

Mr Nicholls: How did they know that she was about to give birth again?

Mrs PARKER: Those people remain in contact with the department. The member will be aware of that.

Mr Nicholls: I am. The point I am trying to illustrate is that if there is not a central database of information and the department is not in contact with the mother, the people in these agencies do not have that knowledge. When these people move somewhere else where the department is not familiar with the history, how do the agencies or the hospital know the situation? Perhaps the person may have moved away from Perth to Karratha or to Kununurra overnight and had no involvement with the department. There would be no history to trace when the mother went into a hospital and gave birth previously. The hospital in Kununurra will be totally ignorant of the history regarding the mother.

Mrs PARKER: The member is raising the issue of putting the names of alleged offenders on the register, and we will get to that principle in a moment.

Mr Nicholls: We are raising it now because it is important.

Mrs PARKER: Another issue raised by the member for Mandurah during the second reading debate was why the Government had opted for a register on which only substantiated allegations of abuse would be recorded. Experience has shown that where concerns or unsubstantiated allegations are recorded, serious cases can be overlooked by sheer volume. As I said, with the case of Daniel Valerio, that is presumably what happened. The department had an at-risk register where Daniel's name was recorded among all the other allegations of abuse, but no comprehensive mechanism was in place to coordinate service delivery to abused children amongst the agencies involved.

Further, the reciprocal child protection procedures which exist between government agencies which have contact with children, are designed to ensure allegations of child maltreatment are referred to and fully investigated by the appropriate agency. The purpose of the register, therefore, is not to replace those procedures, but to make sure the appropriate services are provided in a coordinated way.

I turn now to why the register will record only convicted offenders of child abuse.

Mr Nicholls: I do not support recording on the register only substantiated allegations. I am asking that all allegations be recorded so that they can be checked against the data before they are simply dismissed, and so that we will provide a safety net for the children who are the subject of those allegations.

Mrs PARKER: I am happy to deal with that matter during committee. The member is splitting hairs about putting people into what he refers to as a pending file. He is saying that all allegations should be recorded, and that if an allegation is not substantiated, it will not be put onto the file.

Mr Nicholls: I am saying that under this Bill, if a judgment is made about whether an allegation is substantiated or unsubstantiated based on a window of opportunity and on limited information, and if that allegation is not substantiated, it will not go onto the register. I am suggesting that all allegations of harm to children or of risk of harm to children should go onto the register and should be checked through the database in order to provide a safety net by finding out whether other agencies have received substantiated allegations; and if they have not, the allegations can be dismissed.

Mrs PARKER: That goes to the issue of whether we should record allegations, which then goes to the issue of mandatory reporting.

Mr Nicholls: That is not true.

Mrs PARKER: That is where our opinions differ. Members would be aware that complex legal issues are raised by recording on the register the names of paedophiles or of people who have been convicted of child abuse. A number of natural justice principles also come into play. We cannot underestimate those issues. While some members may wish the Bill to go further on this issue - the member for Mandurah is clearly one - the Government has decided at this time not to put the primary intent of the register at risk. That intent is to promote coordination of service delivery across government to children who have been abused.

The recording on the register of the names of persons who have been convicted of crimes against children is the first step in establishing what in the long-term may become a more extensive list. The purpose of the register is not to record paedophiles per se. The purpose of registering the names of persons who have been convicted is to allow data correlation to take place - that is, to cross-reference children to abusers - in order to provide enhanced protection to those children. Quite a lot of work on this matter has been done at a national level, and Western Australia is chairing a relevant working party that is dealing with the issue of exchange of information. Members may be aware that the Howard Government has proposed to establish a national data base of paedophiles. It makes a lot of sense to do this nationally, because as we all know - and a series of child protection groups have again raised this issue over the past few weeks - paedophiles move from State to State, and it is important to establish an effective national tracking system. The issue of retrospectivity that was raised by the member for Kalgoorlie has merit and would be appropriately addressed at the national level in discussions about the national database that was announced recently by the Prime Minister.

Both the member for Kalgoorlie and the member for Thornlie said that we have natural justice concerns for offenders but not for the victims of child abuse. The register records all substantiated child maltreatment. That information is held for the benefit of only the child. Of course, for the child, the issues of natural justice and duty of care are closely linked. The primary purpose of the register is to ensure that the child is protected and appropriate services are provided. If we are talking about what is fair and just for a child who has already suffered a tragic circumstance, the least we should ensure is the delivery of the best possible support services.

Mr Nicholls: You are talking about natural justice and about not putting onto the register the names of people who have not been convicted. The police regularly give the media the names of people who are alleged to have committed a crime and have been charged, but subsequently they are not convicted, and there is no argument about natural justice in those cases. However, when we are talking about allegations of maltreatment of children, we are saying that we should protect those people and not register their names because it may infringe their right to natural justice. The crux of the debate about naming the alleged offender as well as the alleged victim is the need to protect children.

Mrs PARKER: I agree to disagree with the member about that matter.

Another issue that was raised is the security of the register. The register is extremely secure. Only the manager of the register and two support staff can access the information, and only the manager can authorise the release of the information. The Bill sets out the conditions under which the information is provided to the register, and also the conditions under which the manager can provide information to relevant approved persons in specified government agencies.

With regard to the location of the register and the independence of the manager, while the manager will meet existing public service administrative requirements with regard to financial and management accountability through the department, he will report directly to the minister. I will expect regular updates on how departments and agencies are reporting to and using the register and whether there are any gaps in services that need to be addressed.

The member for Bassendean said that he did not want the register to be part of the departmental process. It will not be any more a part of the process of Family and Children's Services than it will be of Police, Health, Princess Margaret Hospital for Children, the Disability Services Commission, or the Education Department. Although on a purely administrative level it is located within Family and Children's Services, it operates independently of that organisation.

The manager of the register will be appointed to maintain the data and generate reports required by the responsible minister. A major responsibility of the manager will be to ensure confidentiality by maintaining that only authorised persons are provided with relevant information, and then only for the purpose of promoting the best interests of a child. The register is a stand alone information system, with information available only through the functions and duties of the manager. The computer that hosts the register stands alone in a secure area in the department, and all information is encrypted and protected by passwords. The latest technology has been employed to ensure that this confidential information is protected. Under the legislation, only the manager will have access to the register. Approved persons will have access to the information only when they are themselves involved in a case with a child who has been registered. However, the manager may advise other approved persons when in his or her judgment it is in the child's best interests to do so.

An illustration of this case is where agency A registered a child and referred it to agency B as prescribed in the reciprocal child protection procedures. However, agency B, on the basis of the amount of information provided, did not register the child, as it did not substantiate the abuse, while agency A did register the child. The manager queried the decision by agency B, and suggested a review. A common response is that agency A failed to provide adequate information for a full assessment. Once that information was received, a proper assessment of the case could be made. This led to an upgrade in the classification of risk to the child, with appropriate services being provided; and in one case, it led to protective intervention.

In that context, I advise that the Government has decided to take up the suggestion by the member for Mandurah to increase the penalties applicable to an offence of breach of confidence. I have sought parliamentary counsel's advice and am happy to negotiate with the member for Mandurah during committee about increasing those penalties.

I was concerned about the question of a children's commissioner. The final report on paedophilia of the New South Wales royal commission stated that it was necessary to establish a new commission - that is, a children's commission - with appropriate powers and capacity to oversee and coordinate the delivery of services for the protection of children from abuse, including sexual, physical and emotional abuse and neglect. The report said it should be set up in the context of a rationalisation of the roles of existing agencies and it should have more than a mere advisory role. That is exactly the register's function. Through this legislation, the register will have the appropriate powers and capacity to oversee and coordinate the delivery of services for the protection of children from abuse. It certainly has more than an advisory role.

The Government's package of initiatives in recent times represents a practical and constructive approach to the necessary improvement in cross-government coordination, which is critical to develop an appropriate and comprehensive response in fulfilling our duty of care to our children. These initiatives include the reciprocal child protection procedures; the register; the Family and Children's Policy Office, which is being developed; the Child Protection Council; and the Family and Children's Advisory Council, which has been established for some time. This approach has been practical in placing the coordination role with not a single person, but a mechanical procedure within government which is more important and effective than the establishment of another watchdog.

As I said in the second reading speech, the Family and Children's Policy Office will be responsible for the development and coordination of whole-of-government family and children's policy. From the Government's point of view, the interests of children in general should not, and cannot, be considered in isolation from the interests of their family, particularly parents. The development and implementation of policy is the prerogative of government.

The member for Kalgoorlie spoke about people mistrusting the department in her argument for the establishment of a children's commissioner. She raised the issue of resources. The Western Australian department, irrespective of whether we have a Labor or coalition Government, exhibits a high level of professionalism in a very difficulty area. On a national comparison - I hope the member for Kalgoorlie agrees - the department functions well in fulfilling its mandate.

Ms Anwyl: How do you account for the requests from the unions representing social workers and the commissioner of the Midland inquiry that it needs a further inquiry?

Mrs PARKER: I am happy to go through that debate again. The Midland report clearly stated that the breakdown could not be attributed to a problem of resources.

Ms Anwyl: Recommendation 9 asked for a further inquiry into the whole issue of resources across the department.

Mrs PARKER: I am happy to have that resourcing debate. Over the course of a year, the department has over 30 000 client contacts, often involving complex and emotional human issues. If the issues were not complex, we would not need a department for family and children's services. It is not an easy situation.

The department's budget has increased by 38 per cent under this Government. The number of staff involved in direct service delivery has increased by 170 FTEs. Interestingly, under the previous Labor Government, staff were reduced by 200 FTEs, which put a strain on the professional life of people in the department. New policy directions have ensured that the available increased resources are targeted to those who need them most.

I was asked when the regulations would be available. The regulations setting out the class of approved persons will be tabled in this House within two or three months from the Bill becoming law.

Ms Anwyl: It will be next year effectively.

Mrs PARKER: It depends when the Bill passes.

Ms Anwyl: It would be the case even if it went through today.

Mrs PARKER: I have not delayed it.

The establishment of a standing committee representing reporting agencies is almost complete. This will formulate guidelines based on existing protocols in the near future. The question about the discretion to remove the name of a child from the register until aged 18 years was raised by the member for Kalgoorlie. She argued that young people should have the opportunity to have their names removed from the register. This will automatically occur when the person attains the age of 18 years. Experience indicates that many young people seek counselling late in their adolescence. To remove their names prematurely might reduce the information available to them. As the information is kept in a secure and confidential manner, I assure young people that they need not be concerned that any information held on the register would be misused. With the duty of care and commitment to young persons, we do not intend to allow records to be removed.

Mr Nicholls: What information will be held? That is one of the key factors. Misunderstanding is evident. What detail will the register contain? That is the crux of a lot of concern raised.

Mrs PARKER: Nothing will be held on the register which is not held in another agency elsewhere. There is great concern in the community about the information to be held and its security.

Mr Nicholls: Could you outline that?

Mrs PARKER: It is outlined in the Bill. It refers to the child's name and the services delivered to the child, along with identifying information. I would prefer to go through that at the clause-by-clause stage.

People rang my office expressing concern. I spent time talking to parents who telephoned and were anxious about reports made through one media outlet about information being passing out to any number of public servants. I reiterate that the information held on the register is not new information. It is information held by at least one other department. With the security of the register, I can almost guarantee that the security of information on the register is probably much greater than that from the agency which contributed the information in the first instance. The security issue last week was based around the confusion about who can access that information. I thought I had clarified it.

Mr Nicholls: Are we talking about the detail of what harm has happened to the child, his or her address or personal details, age, and such matters?

Mrs PARKER: If a parent has a child who has suffered abuse, a great deal of trauma is already involved. I take that issue seriously. No liberty exists to play games with such issues and its surrounding anxiety.

Last week the issues that people brought to me and the staff in my office when they called in were not so much about what information is held on the register, but about how secure it would be under the manager. A comment by the media was that just about any public servant could have access to the information. I reiterate that only approved persons - they will be described in committee - can nominate who should go onto the register. There will be sanctions in regard to that.

It will be the function and responsibility of the manager to determine whether to give access to information on the register would be in the best interests of the child. By alerting a secondary agency the child will benefit by having that agency

respond. Concern was expressed about the approved persons in the departments, who will be nominated and who will be able to put information onto the register. However, whether any of that information is passed on will be only at the manager's discretion.

People were alarmed about the spread of information. No information that is held on the register is not held anywhere else. I have a great deal of sympathy for people's anxiety and spent some time with people who wanted to speak with me about that. It is also interesting to note that yesterday, one of my staff had a call from a mother of a child who had suffered abuse. She rang to say that she strongly supported the register and if anything could be done to better coordinate the Government's response in providing care to children, she would be very grateful for it.

The issue of the security of information has been outlined. The critical issue was how easy it would be to access that information. It will not be easy. It will be the function and responsibility of the manager to make the decision, with the overrider that access is in the best interests of the child.

The member for Mandurah expressed concern about the provision to remove the name of an offender under the age of 18 at the time he or she offended. Sadly, young people are responsible for a proportion of sexual offences. A number of them may have recorded a conviction for a sexual offence that was not necessarily abusive in the usual term. For example, registration may not be appropriate if a young male has been charged with carnal knowledge of a girl of a similar age when they were in a consenting relationship.

Mr Nicholls: Are we talking about their both being under 16?

Mrs PARKER: No; the Bill refers to under 18-year-olds. On the other hand, some young people have serious records for sexual offences that will clearly remain on the register. Under the initial draft of the Bill the manager was provided with discretionary powers to exclude a person with such a record; that is, where consent was involved among people of like age. The member for Mandurah said the discretionary power should reside with a judge or magistrate. The Government has taken up that suggestion and I have drafted an amendment to achieve that.

Another question was about the conditions under which the manager can defer notification under proposed section 120G. During the pilot stage of the register the Health Department raised the issue that a child may be withdrawn from a service if a parent felt threatened by notification of registration. It was decided that under those circumstances notification could be delayed until a service had been delivered. Other cases have arisen where the worker, for example, in consultation with the manager of the register, felt the child might bear the brunt of the parent's frustration and suffer further if the parent were notified.

Other cases have arisen in which the parent, for a range of reasons, one being psychiatric disorders, would react negatively to registration. Provision was made for the manager to defer notification. However, I am advised that deferring of notification whereby it is either delayed or dispensed with, occurs in less than two per cent of current registrations.

Another question was whether the manager should have the authority to order a case conference involving other agencies. The role of the register is to ensure that services are provided and coordinated; it is not to manage case work. Where it is apparent that a child is not receiving an appropriate service, whether it be protection or therapeutic, the manager has a responsibility to ensure that the agencies involved coordinate and cooperate and are held accountable for their actions.

The guidelines developed by the standing committee will spell out those procedures. This Bill provides for the manager to determine a lead agency as required. That has been critical. It will be the responsibility of this lead agency to call a case conference or a meeting with relevant representatives of the appropriate agencies if that were considered to be in the best interests of the child. Certainly there is provision in the Bill for an agency nominated to have that responsibility, but it is not the responsibility of the manager to case-manage.

At the beginning of my speech I said I would propose a number of amendments, which I circulated earlier today to the interested parties. Those amendments relate to the definition of the reporting agencies in proposed section 120A. Another amendment clarifies the intent of proposed section 120J. Another relates to whether a judge would be responsible for the decision to remove an offender under the age of 18 from the register and one relates to penalties. Two earlier amendments were placed on the Notice Paper last week relating to a minor grammatical error and to the exemption requirement from the general penalties provisions of the Child Welfare Act for the purposes of the register. The intention of the registration to provide coordinated service delivery to children who have been harmed or injured should not be jeopardised.

The Government will not move to amend the definition of "approved persons", because the regulations will identify approved persons from within reporting agencies. These people will be senior officers; for example, school principals. However, due to frequent changes in the titles, the advice from parliamentary counsel was that it would not be appropriate to put the names of those people into legislation. As titles change we would have to change the legislation. That would be cumbersome and not something that would normally happen. It should be noted that the regulations will be published in the *Government Gazette* and tabled in the Parliament to give some opportunity for parliamentary scrutiny. The regulations will be subject to disallowance in the normal way.

This is an important Bill. The register has been piloted and there are many examples of how it enhances the service delivery to children who require our help more than most. None of us would want to compromise the care of children and families who have suffered from something as awful as child abuse. I trust my comments have satisfied members' concerns. I look forward to the committee stage in which we can deal with some of the outstanding matters on which we disagree.

Clearly, the intent of the Bill is supported by the Opposition and we have been able to accommodate some of the minor matters by amendment; other amendments we have not accommodated.

I close my remarks by saying that this is an important Bill which we should take seriously and treat with great honesty. I look forward to cooperation during the committee stage and to bipartisan support to ensure that we further improve what we have and the way we use it for the benefit of the children of this State.

Question put and passed.

Bill read a second time.

## SESSIONAL ORDERS - TIME MANAGEMENT

**MR BARNETT** (Cottesloe - Leader of the House) [4.10 pm]: I move -

That the Taxi Amendment Bill and the Surveillance Devices Bill be no longer subject to an allocation of time.

I will briefly explain. The Taxi Amendment Bill has an amendment moved by the Opposition which the Government accepted which means it will be necessary to have the third reading of that Bill on the next day of sitting. Although I had intended that we would finish the Surveillance Devices Bill today, I realise that as the time is already past 4.00 pm it will not be reasonable to do so. I hope in the next few hours we will be able to make reasonable progress on it.

**MRS ROBERTS** (Midland) [4.11 pm]: I support the motion put forward by the Leader of the House. In doing so, I note that we had nearly 20 minutes' debate on the use of time management by the Government when it was moved earlier in the week. At that time I suggested that it was unreasonable -

Mr Barnett: Perhaps we will gag time management next week.

Mrs ROBERTS: That would be the ultimate guillotine of the guillotines.

I said on Tuesday during that debate that it was unreasonable to use the guillotine for a significant and detailed Bill like the Surveillance Devices Bill. Likewise, there was never any reason to expect that there would be difficulty in progressing with the smaller pieces of legislation on which there was general agreement; that is, the fire and emergency services legislation, the Taxi Amendment Bill and the Botanic Gardens and Parks Authority Bill.

Given the way matters have worked out during this week of Parliament, I hope when we next sit that the Leader of the House will not act so hasty to move a time management motion on legislation at the start of the week.

Question put and passed.

## CRIMINAL LAW AMENDMENT BILL (No 1)

*Council's Message*

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

## SURVEILLANCE DEVICES BILL

*Committee*

Resumed from 15 September. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

**Clause 6: Regulation of use, installation and maintenance of optical surveillance devices -**

Progress was reported after the clause had been partly considered.

Mrs ROBERTS: Clause 6 deals with the regulation of use, installation and maintenance of optical surveillance devices. I note that clause 7 deals with the regulation of use, installation and maintenance of tracking devices. Since the previous debate on the Bill, I have looked at both the discussion paper and the proposed Surveillance Devices Bill of the Department of Justice in Victoria. I noted that it covered an area of surveillance which appears to be missing from our legislation. This Bill seeks to regulate the use of optical surveillance and tracking devices but it does not contain a provision to cover data surveillance devices.

Last year during the course of debate on surveillance devices mention was made of computer crime; the data surveillance

that can be done on computers and how that can assist in solving crimes such as fraud and a whole range of other crimes. Clause 8 of the Victorian legislation refers to the regulation of installation, use and maintenance of data surveillance devices. It reads -

> (1) Subject to sub-section (2), a member of the police force must not install, use or maintain a data surveillance device to record or monitor the input of information into a computer without the express or implied consent of the person on whose behalf that information is being input.
>
> Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum) or both.

It then goes on to say in sub-section (2) of section 8 -

> Sub-section (1) does not apply to -
>
> (a) the installation, use or maintenance of a data surveillance device in accordance with a warrant or an emergency authorisation; or
>
> (b) the installation, use or maintenance of a data surveillance device in accordance with a law of the Commonwealth.

In the discussion paper it makes this point rather well -

> These devices are attached to part of a computer and permit a person to monitor the input of information as it is typed into a computer. The ability to monitor the input of information as it is typed into the computer allows the police to record the information before it is encrypted. Encryption software is readily available and very difficult for the police to overcome.
>
> Criminals use computers to communicate, store and obtain information and conduct transactions. For example, paedophiles are using computers to exchange information about their activities through the internet as well as to transfer pictures. Computers are also used extensively in white collar crime to transfer funds and by companies engaging in commercial espionage.
>
> Currently the police can only obtain access to data stored on a computer by obtaining a warrant to search and seize. This allows the police to examine whatever information is stored on the hard disk. It is not unusual for criminals to remove hard disks from computers and store them separately to ensure that any back up copies that a computer may make automatically are not accessible. Furthermore, search and seizure does not allow the police to monitor data entered into or received by a computer on an ongoing basis. Without legislative protection the installation of these devices can involve unlawful entry and their use can constitute theft of information. As a consequence, any evidence obtained using a data surveillance device may be ruled inadmissible by the court on the ground that it was unlawfully obtained.
>
> The full extent of the use of these devices in the community is unknown. They may be used for legitimate purposes other than covert surveillance. Consequently, it is not intended to regulate these devices in the same manner as other surveillance devices at this time. It is intended that the Bill merely regulate the use of these devices by the police.

That raises a number of concerning factors as to whether the Western Australian police should use data surveillance devices. The benefits of using them are eloquently explained in this paper. Are we concerned here in Western Australia that evidence obtained in that way could be inadmissible in court on the ground that it is unlawfully obtained?

Obviously, a few other pointers are raised. The minister will have gathered from those notes from the discussion paper that it is a worthwhile matter to include.

Mr Prince: Which page?

Mrs ROBERTS: I am referring to page 6 of the Victorian discussion paper. It states that in Victoria the police can obtain access to data stored on a computer only by obtaining a warrant to search and seize. That presents obvious difficulties. These data surveillance devices would be a useful asset for the police in appropriate circumstances.

Mr PRINCE: The member for Midland raises an interesting point, of which I am aware. Perhaps in the break before Parliament resumes, the matter can be looked at further. I make the following comments with respect to computers and gaining information from them: If a computer is stand-alone, and is connected via modem to the telephone lines, the monitoring of it comes under commonwealth law because of the telecommunications exercise. Of course, one has the difficulty, if the information is encrypted, of breaking the code. That is not necessarily easy unless commercially available encryption software is being used for which the anodyne exists.

In the instances of the use of that sort of equipment, for example, to move money, clearly the computer does not move the

money; it is the instruction to the bank or other financial institution that causes the money to be moved. The movement of the money can be searched and the information can be found by executing the appropriate warrant on the bank or financial institution, and searching the individual's and the bank's records for the movement of fairly large sums, which usually involve white collar crimes or proceeds from drug transactions. It is already possible, and has been for a long time, to track the movement of money at the bank or financial institution end. That, in a sense, is probably as good as, if not better than, the evidence from plugging into the computer. If a computer is connected by modem to the Internet - I am thinking of the paedophilia exercise - that is covered by specific legislation dealing with the subject of the activity, rather than the activity itself. Without going into any detail, the police were successful in a recent case in Perth when a person was charged.

Is it of benefit to police investigations to have, by means of radio broadcasts, the input before it gets to the hard disk? That is debatable. Certainly the Victorians think it is. Section 440A of the Criminal Code deals with computer hacking. Victoria is not a code State and it does not have that provision. Where is this of use? If a computer is part of a local area network, within an office or factory surrounding, it is a system set up and owned by the employer, whoever that might be. The employer has the right to ensure that what is going on within the network system is appropriate, and that it is not being used for some purpose of which the employer would not approve. In that sense, the employer can listen in.

I can see there is an advantage, potentially, to having the ability to put a device inside the computer where the cord from the keyboard enters the computer before the information is transcribed to dots and dashes which go on the disk. The Government will perhaps look at that in the intervening time, with a view to amending it.

The Victorian proposed legislation is modelled on the Western Australian legislation.

Mrs Roberts: I know that. They looked at ours, thought it was good and improved it. If they have improved an area we might have omitted, we should consider it.

Mr PRINCE: I am happy to look at it in the next few weeks and, if appropriate, introduce an amendment to this Surveillance Devices Bill. It means the officers concerned and others must look at the use to which it will be put, whether it is justified and how the provision will be worded.

**Clause put and passed.**

**Clause 7: Regulation of use, installation and maintenance of tracking devices -**

Mrs ROBERTS: I refer to clause 7(2)(a) which states that -

> the attachment, installation or maintenance by a law enforcement officer of a tracking device on a vehicle that is situated in a public place nor the use of a tracking device that has been so attached or installed where the attachment, installation, maintenance, or use is carried out by a person in the course of that person's duty as a law enforcement officer;

The reference to law enforcement officer leads me to believe that the only person who can place the tracking device is a law enforcement officer. I seek the minister's clarification.

Mr Prince: Clause 8 also applies because it deals with technical assistance.

Mrs ROBERTS: Could a law enforcement officer instruct someone with appropriate expertise to carry out the work in place of the law enforcement officer rather than in conjunction with him?

Mr PRINCE: Clause 8 provides for the law enforcement officer, who is authorised, and so on. That authorisation extends to any person who provides practical assistance or technical expertise. For example, the authority of the officer to put a tracking device on a certain vehicle extends to his telling the technical person concerned to do it. Whether the inspector is physically with the individual or otherwise is supervising, rather than being physically on the ground with the technical person, is a matter for the circumstances in which these devices are attached. Those circumstances will vary. The law enforcement officer has the authority, and that authority extends to cover the technical assistant who places the device.

Mrs Roberts: How long would it take on average to place a tracking device on a vehicle?

Mr PRINCE: It depends entirely on how it is wired. If it is simply attached, it takes a couple of seconds. If it is in some way wired into the electrical components of the vehicle, which it must be if it is to last for a long time, rather than be battery operated, it would take a minute or so.

Mrs Roberts: Is there no prospect of it taking hours?

Mr PRINCE: If someone wanted to be really good, it could. The inspector does not want to give away secrets, but it depends on the nature of the device. Some may take minutes and some may take longer.

Mrs Roberts: They could take hours and you are not saying?

Mr PRINCE: It is possible.

Mr KOBELKE: I seek some explanation from the minister from the perspective, to some extent, of devil's advocate.

Mr Prince: You do not have any horns or a tail.

Mr KOBELKE: I am working on that! The intent of this clause seems to be relatively clear. In these matters, when a situation is contested it will come down to the exact interpretation of the words before us. For that reason it is worth teasing out the intent of clause 7 and how it might work. Subclause (1) states that a person shall not attach these tracking devices without the consent of the person except where it is allowed under subclauses (2) and (3). Subclause (2) states that the attachment can be made by a law enforcement officer to a vehicle situated in a public place. I am not sure why an exemption is given to allow a law enforcement officer to do that, separate from the provisions in paragraphs (b), (c) and (d), which lay down specific requirements. That initial exemption seems to be very general and wide-ranging from my reading of it.

The second part of subclause (2)(a) states that it can be used or carried out by a person in the course of that person's duty as a law enforcement officer, and I have no problems with that. Subclause (3) sets out the other exception to this prohibition, and I find this slightly strange. The prohibition in subclause (1) does not apply to the use of a tracking device by a person in the course of that person's duty as a law enforcement officer, where the device has not been attached or installed or caused to be attached or installed by that person or by a person acting on behalf of that person. I am not sure to which category of cases that will apply.

Mr PRINCE: I will deal with subclause (3) first. It may apply to a shift change. If I am an authorised officer and I attach a device to a vehicle, for example, someone else may take over on a shift change. I had the authority to install the device. Someone else is there using it who does not have the authority to put it on.

Mr Kobelke: Surely he is acting on behalf of the person when he is taking over from the officer who put it on.

Mr PRINCE: That is debatable. This makes it absolutely clear. My adviser also says that probably the main use of this exemption of subclause (1) referred to in subclause (3) is where a mobile phone is used and a person who is carrying that mobile phone is tracked. It is not a device that any authorised person has attached to someone else or even a vehicle, but is used to track the person. It applies both where a device is attached or where something that a person has on him is used to track him.

The first part of the question is more general. It relates to the style and the construction of the way in which this clause has been put together. First, there is a prohibition: Thou shalt not. Then there is the exemption such that if a law enforcement officer is putting a tracking device on a vehicle, the prohibition does not apply. We have warrants and maintenance and so on and the commonwealth law comes in as well. The best way I can explain the answer to the first part of the question is to say that it is the way in which the clause has been structured. It could have been written as enabling legislation, but it was not. The style of this Bill is prohibition exemption.

Mr Kobelke: I am just happy to get the clear intent of the minister.

Mr PRINCE: The clear intent is that people will not put tracking devices on objects without consent.

Mr Kobelke: Consent will be given under paragraph (a).

Mr PRINCE: I will give some examples. A firm may have a fairly significant fleet of vehicles and may very well have tracking devices on them, and a very good thing it would be, too. The firm would be able to know where the vehicles are, particularly in cases where people are picking up and delivering different commodities. As we get better global position systems, GPS, networks and better management of the fleet, it will be in the interests of the company and the drivers to do that. Someone who is moving a fairly valuable commodity around the place may well put a tracking device on it to ensure it does not go missing. Tobacco is a classic example of a relatively light commodity, not too voluminous and of high value. Of course, some consignments are even more valuable; for example, bank notes or bonds. In those cases tracking devices can be placed on whatever the container may be that encloses these things so their location can be quickly determined. They are legitimate uses and are being used now and have been for some time. The prohibition provides that people will not affix a tracking device other than with consent. Now let us deal with the law investigation side of things by police officers and other law enforcement officers. They can put a tracking device on a vehicle in a public place. They are exempt from the prohibition in that sense.

Mr KOBELKE: I will raise some further points based on the explanations the minister has already given to my questions. First, obviously there will be a need for clarification with respect to the obligations and responsibilities under this piece of legislation when it is in place. In part, that may be by regulation, and I have already alluded to that. We dealt with the use of the term "law enforcement officer" in debate on the definition clause. I think there may be a problem there. People may be on the periphery of what we commonly would accept as law enforcement officers who may feel that they are acting in that capacity. There must be ongoing monitoring and careful observance of people in those security guard roles on public transport employed by private companies, where some may feel they are to work as law enforcement officers.

Mr Prince: I accept what the member is saying. They must justify that they have a legitimate reason, for instance, for sticking a tracking device on something. It could be in relation to fisheries matters.

Mr KOBELKE: I do not want to delay the Chamber unnecessarily, but that is one problem and we must keep monitoring it. Another similar problem arises in subclause (1), where the express or implied consent of a person is required. Let us take the case of a private company with a vehicle fleet where the company wishes to place on those vehicles a device which either, as a secondary or primary objective, is a tracking device. That company could be caught out if there were not a clear understanding that the express or implied consent had been given. It may be part of the advertising that companies must take account of that and ensure that people who sign on as a courier-drivers, for example, understand that that is part of their contract of employment and they accept the obligation in conformity with the legislation. I am sure parliamentary counsel has already thought of those issues. We must ensure companies are aware that they may find themselves under additional obligations, as are their employees because of that.

Subclause (3) also raises the issue of the law enforcement officer in the definition, and I will say no more about that. Two other matters could arise from this subclause. One is the use of the tracking device not put there by the officer, but installed by another government agency, remote from and totally unknown - it may be a commonwealth matter - and some state police just happen upon it and wish to make use of it. It could be used in that case, even though there was no intended authorisation.

Mr Prince: I suppose so.

Mr KOBELKE: I do not see a problem with that. However, there could be a legal problem if that became part of the evidence and it had not been approved but had been placed there by some other law enforcement agency. I am working on the assumption that this clause will cover that matter.

My second point is that this subclause has the potential to be abused in that it opens up a ready excuse. A law enforcement officer who did not want to go through the requirements of subclause (2)(b), (c), (d) or (e) and wished to have carte blanche to place a tracking device on a person's vehicle, and who was perhaps skirting close to the edge of what was acceptable behaviour, could have someone else do it and deny that he had anything to do with it, and thereby have an out. Also, if in the course of an investigation a person happened to come upon a vehicle that had a tracking device installed, and he made use of it, he could cover himself by saying, "I had a lucky day. I did not know that device was there, but I was able to make good use of it." Therefore, this subclause could be used to get around the provisions in this clause.

Mr PRINCE: The first point that the member for Nollamara made is interesting. I suspect that we are being fed the notion that the world is far more complex than it is by some of the spy films, television programs and books that have come out over the past 30 years. The thought that the suspension of a vehicle may be weighed down by a number of tracking devices that have been stuck underneath it by multifarious agencies is a bit like something out of "Get Smart".

Mr Kobelke: I thought it was too, until listening devices were found in a house in Wanneroo!

Mr PRINCE: It was just one. It was not half a dozen from half a dozen different agencies.

Mr Kobelke: W heard about only one!

Mrs Roberts: How do we know it was only one?

Mr PRINCE: As far as I am aware, it was only one.

I understand what the member is saying. It is highly unlikely, although it is conceivable. However, if, for example, a commonwealth agency had an interest in a particular person and put a tracking device on that person's vehicle, we would expect that unless there was some reason not to tell the local police, the normal liaison that exists between law enforcement agencies, state and commonwealth, would ensure that the information was passed across, and that sort of problem would not arise, otherwise it would be a ridiculous duplication of resources; and if it did happen, I am sure we would find out about it through "Inside Cover", if in no other way, and we would deal with it then.

With regard to the second point, the situation the member is talking about may be that of a jealous police officer and his spouse - I do not intend to cast any slur on police officers; it may be someone else - who unlawfully, and arguably illegally, puts a device which belongs to the State on his spouse's vehicle to find out where she is going. However, that will require a significant number of other people to be involved in the tracking, because it cannot be done by just one person, and that implies a conspiracy of a number of officers from the law enforcement agency, whatever it may be.

Mr Kobelke: Given present technology.

Mr PRINCE: Yes, but it is almost inconceivable that a person will be able to do it himself and not have at least one or two other people involved. I understand what the member is saying. I suppose technically it is possible, and I can think of one or two films that have come out of Hollywood in the past four or five years where this sort of thing has been done.

Mr McGowan: Which ones?

Mr PRINCE: Arnold Shwarzenegger comes to mind. I cannot remember the name of the film, but he put a bug on his wife's car. It was the film with the wonderful sequence with the Harrier jet. To some extent, we get a bit caught up in fiction rather than fact. However, the point the member makes is not unreasonable.

Mr McGowan: The film was *True Lies*.

Mr PRINCE: I thank the member. That is right. Someone who did act in that way would be committing an offence, because a person can do that only if he is a law enforcement officer acting in the course of his duty; and furthermore, he would be using state property, and more than one person would be involved. That is a huge risk to run, and for what purpose? Under those circumstances, it is unlikely that he would do that. He would be far more likely to take some time off work and follow his spouse.

Mr Kobelke: That is one of the circumstances that I was trying to raise, because it does not apply to the use of a listening device by a person in the course of that person's duties.

Mr PRINCE: Yes, but the point is that the person is using the tracking device other than in the course of his duties. That is not a lawful use of the tracking system, and that would bring that person undone.

**Clause put and passed.**

**Clause 8: Technical assistance -**

Mr KOBELKE: The intent of this clause is to allow a law enforcement officer who is authorised to install or attach a surveillance device to extend that authorisation to any person who provides practical assistance or technical expertise. What form of authorisation may flow from that? If the clause is taken at face value, it is not a problem, but if someone contended that his intent was to provide technical assistance or expertise as required, and there was a question as to his authorisation, because there was a dispute between those two persons, would any formal linkage provide that authorisation, or would it be simply a matter of testing the facts of the matter in a given case?

Mr PRINCE: We need to look also at clauses 5, 6 and 7. For example, a law enforcement officer may be authorised under clause 7(2)(a), or under subclause 2(b) with a warrant, or under subclause 2(c) with an emergency authorisation. The law enforcement officer is the person who is authorised. His authority may be implicit in the written law, or it may be in the form of a document signed by a magistrate, for example. If that law enforcement officer then employed a motor mechanic to physically attach the device to a truck or car, that motor mechanic's right to do that lawfully would be dependent upon the lawful authorisation of the law enforcement officer. The motor mechanic would have no authority to act per se; his authority to do that - to commit a trespass to goods - would arise from the law enforcement officer's authorisation. That is what clause 8 is saying as a matter of law.

Mr Kobelke: The law enforcement officer is authorised to extend those powers to another person?

Mr PRINCE: Yes. Clause 8 extends the authority, but the law enforcement officer's authority in a global sense encompasses the technical expertise.

Mr Kobelke: I understand that. However, if the motor mechanic fitted the device to the wrong car, or if he fitted it to the car without due authorisation but claimed that he was authorised verbally, what would be the connection between the law enforcement officer, who is clearly authorised, and that person who was assisting under clause 8?

Mr PRINCE: Clause 42 deals with exemption from personal liability. One then has the general sections of the Criminal Code, particularly section 24, which outlines that a person may act under an honest and reasonable but mistaken belief. If the authorised law enforcement officer identifies a yellow Commodore of certain registration number, and I pick up the wrong yellow Commodore, it is an honest and reasonable mistaken belief. Therefore, I would not be culpable legally, or in any civil way, for any honest mistake. I was acting under authority to do a certain act.

Mr Kobelke: I take it that the minister's answer to my more general question is that if any contest arose as to whether the second party is able to act in the position of the authorised officer, it would be a matter tested by the facts of the case rather than any requirement under legislation for sub-authorisation, or with any regulations envisaged.

Mr PRINCE: Yes. The technical assistance person is not in place of the authorised officer; as a matter of reasoning, that would not be correct. The law enforcement officer has the authority, which encompasses the technical expertise. One cannot replace the law enforcement officer with the mechanic. The officer has the authority and the responsibility; he cannot delegate the responsibility, or even in some way pass it over to the mechanic, who is indemnified by the authority. The responsibility stays with the law enforcement officer.

Mr KOBELKE: It covers more than the mechanic; it is any person providing assistance to install, attach, use, maintain or retrieve a surveillance device.

Mr Prince: Whoever it may be.

Mr KOBELKE: It is pretty wide ranging. There may be cases in which, in providing that assistance, that person is caught up in the middle of a matter which involves some responsibility. I realise one cannot take responsibility away from the authorised officer. Through that interjection it seems that in the hard cases things can go wrong, and someone can look to apportion blame. He may have done something wrong and seeks to establish an excuse, or a false justification that he was acting on behalf of an authorised officer. In that case, one will need to establish whether the authorisation was legally extended to the person providing the practical assistance or technical expertise. Is it the minister's view that that is to be left to be tested on the facts of a particular case, or is it a matter which perhaps needs to be defined, either through regulation or through the operational procedures established by some of the major agencies using the legislation?

Mr PRINCE: The member makes good points. If someone makes an honest and reasonable mistake, the Criminal Code exempts that person. In regard to the person who, for want of competence, makes a mess of an operation, he or she is not likely to get a job again. That is the simple answer. If the law enforcement officer with the authority, which extends to encompass the person with the technical expertise, says, "Please do this", and that person makes a mess of it, the law enforcement officer remains responsible for the act. I doubt one could shift blame, other than in an internal sense within the Police Service or whatever authority engaged in the activity. The responsibility still lies with the law enforcement officer with the authority. The law enforcement officer with the authority has the responsibility, which cannot be delegated. However, the performance of the act can be delegated to a person with a particular technical expertise.

I agree entirely with the member for Nollamara that some factual circumstances may arise which we cannot envisage and which will test this provision. However, reasoning it out using the best intellects available, it should cover everything - it certainly covers everything being done now.

**Clause put and passed.**

**Clause 9: Prohibition of publication or communication of private conversations or activities -**

Mr McGOWAN: This clause relates to the penalty applicable when someone communicates a private conservation or a record of a private activity which has come to that person's knowledge. It outlines a number of extensions and situations which may arise in a lengthy provision. When a record of private activity or conversation comes into someone's hands, and that person communicates that information not knowing that it was private when it came to hand, what is the situation? Let us say that a media outlet published information which came to its attention through an envelope landing on a desk containing a transcript or tape of a conversation or a videotape. It is published without realising that the information was potentially obtained illegally under the Bill. Is that outlet then liable for the $5 000 or $50 000 fine or 12 months' imprisonment?

Mr PRINCE: Possibly. It would depend on the facts of the case. The first line of clause 9(1) outlines that a person shall not knowingly act in this way. The key word is "knowingly". If someone has recorded a private conversation which is passed to me, and I am told it is a record of a private conversation and I publish, it is a blatant breach of the clause. However, if someone recorded a private conversation and sent it in the mail anonymously to a media outlet, the outlet would surely be on notice to inquire whether the transcript of conversation was a private activity within the terms of this law. The media outlet would be put on notice to make inquiries.

In a sense, it will depend on the content of the conversation, and what circumstances one can divine through reading the transcript or listening to the tape. It is a difficult point to answer. If a person does not knowingly publish, he is all right. If the circumstances of delivery to the media outlet are such to put it on notice that it may be a private activity within the meaning of this legislation, it is up to the outlet to satisfy itself that it was not a private activity. Otherwise, arguably it would commit an offence as it would knowingly communicate.

Mr McGOWAN: Would the outlet need to seek an order of the court to publish these things?

Mr Prince: It can go to the court if it is in the public interest, but I am advised that that is the case only if the recording was made in accordance with clause 5.

Mr McGOWAN: Suppose a videotape lobs onto the desk of an editor of a newspaper. He does not obtain a court order on that tape and it is published without his making extensive inquiries about where the tape came from, because it is newsworthy and so forth; is he potentially liable for prosecution?

Mr Prince: It will depend on the facts. I am not trying to avoid the member's question, but it will depend on the facts.

Mr McGOWAN: I will clarify it: If they cannot knowingly find out who did it, should they obtain a court order? I was not clear on the minister's response. Should they go to the Supreme Court and obtain an order that it is in the public interest? For example, let us say that something lobs on the desk of a member of Parliament, and that member walks in here and reads out a transcript of a private conversation under parliamentary privilege. Are we, as members of Parliament, having done this in what we think is the public interest, then liable for what we say in this place to prosecution under this provision?

Mr PRINCE: Regarding the first question, if the transcript relates to a telephone conversation between two individuals about the payment of a sum of money from one to another for the delivery of a quantity of heroin, that is a fairly blatant example of criminal activity; there can be no doubt about it. It is reasonable to presume that the transcript, however it has arrived on the media's desk, may have been obtained by a law enforcement agency because it involves criminal activity, and should not be disclosed; otherwise an ongoing investigation may be prejudiced. If the media outlet does not contact the police and ask, "Are you monitoring Mr and Mrs X, because we have just received this through the mail" and publishes it, the media will wear it. So it should, because what it may have done is prejudice a law enforcement operation on drug running, whether it be done by the police or the National Crime Authority.

A few years ago, I had a private telephone conversation with another lawyer about legislation that was before this place. That conversation was recorded, transcribed and one of the Opposition members read it into *Hansard* in this place.

Mr McGowan: Who recorded it?

Mr PRINCE: Because it was then protected by privilege, it could be published.

Mr McGowan: This Act was not in place then.

Mr PRINCE: No, it was not.

Mr McGowan: So no offence was committed.

Mrs Roberts: That happened to John Hewson and Andrew Peacock.

Mr PRINCE: That is probably a better example of someone with a listening device on an old analogue telephone recording a telephone conversation between mobile telephones which was then directly published. Returning to the member's example, the recording of the conversation which I had with another lawyer was made without my consent.

Mr McGowan: Who recorded it?

Mr PRINCE: It was recorded by the other person. The rules of privilege in this place are far more complex than most members understand. The question then is whether the disclosure of that sort of thing is within the privileges of this place. That is perhaps a debate about privilege rather than about disclosure. If a member were to come into possession of a transcript of a telephone recording - it does not matter what the nature of it is - that is clearly a private conversation and if, in the member's view, it is of some political significance, and then he reads it out thinking he is covered by privilege, he might not be. That is a separate exercise. However, that member is not committing an offence under this Act if it is done in here and he is covered by privilege. Of course, then the media can report the lot because the privilege of Parliament extends to a fair and accurate report of what goes on in this Chamber.

Mr McGowan: You are saying there is an easy way around this Act.

Mr PRINCE: No, it is not easy at all. There is a mistaken impression in most members' minds that they have an absolute privilege for what goes on in this Chamber and the other place and that is not true. It is a privilege which has limits and bounds. We very rarely, if ever, test them but it is not an absolute privilege.

Mr McGOWAN: It is difficult to work out what would happen if one of those radio hams recorded a conversation between Andrew Peacock and Jeff Kennett, gave it to me and I read it out in this place in breach of this Act under parliamentary privilege. The minister is saying that he is not sure whether I would be exempted from these rules. He is saying that I might not be exempted by these rules, but the media can report what I say without any fear of repercussions.

Mr PRINCE: The answer to that will depend far less upon the construction of this legislation than on a construction of what is the privilege of debate in this Chamber.

Mr McGowan: The privilege of debate does not make you liable to criminal charges.

Mr PRINCE: However, the member has then breached the privilege of Parliament. He may then have committed an offence; perhaps he has not. That can only be answered once the extent and nature of the privilege that applies to members of this Chamber when they are engaged in debate has been determined. Not, for example, during the calling of a division; it is an interesting place in which to be in that sense. Not only am I not an expert, but also I know very little about this.

Mrs Roberts: Very few people do.

Mr PRINCE: As the member for Midland quite rightly said, very few of us know much about this. It is an area in which we should be better educated.

Mr McGowan: Should there not be some provision in here that sets out what would happen in that situation?

Mr PRINCE: No. It is incumbent upon us, as parliamentarians - there are only 90 of us - to be better informed about the privileges that we claim within this Chamber and the other place, rather than spelling something out in a piece of legislation that is intended to regulate the use of surveillance devices.

Mr McGOWAN: If I recorded a conversation on a mobile telephone between two opposition political people discussing another political person and then revealed it to *The West Australian* and it published that conversation, I could be charged and it could be charged.

Mr PRINCE: Yes, if it is a private conversation. If the private conversation of two people takes place across a table inside a house and they are talking about the politics of an election, which is of little interest to most people - we are talking about two members of a political party - and a person manages to record that conversation, transcribe it and give it to a media outlet, it is clearly a breach of the Surveillance Devices Act, as it would then be it would probably also be a breach of the current Listening Devices Act. It is a private activity in which two individuals are engaged. That person has eavesdropped, recorded the conversation unlawfully and then communicated it and the media has then published it, all of which are illegal activities.

Mr McGOWAN: To clarify this point for the last time, the minister's legal colleague who recorded the conversation with you would potentially have been able to be charged under this provision.

Mr PRINCE: Possibly, had this been law at the time. There was some debate about the Listening Devices Act. Subsequently, he apologised and we remain friends.

Mr McGowan: The Labor politician who read it out in here -

Mr PRINCE: Was the member for Peel.

Mr McGowan: - would have been potentially subject to some sort of privileges action.

Mr PRINCE: But that depends upon what is the proper construction of the privilege of this place in regard to debate, and I cannot answer that question. Perhaps the Clerks can answer it; I cannot.

Mrs Roberts: If somebody records the Minister for Fair Trading and another minister talking about the Premier, publication of that is illegal, but if they pick it up on a radio device at home -

Mr PRINCE: No. That is eavesdropping on a private conversation by telephone. I will give an example that would probably be perfectly all right. Say the member was sitting down across a table in a coffee shop which is heavily populated by people - one of those pavement cafe-type things - chatting away in a similar volume to that which I am using now, and somebody sitting at the next door table notes the substance of the conversation and gives it to a newspaper or another media outlet. I do not think that would be a problem because the circumstances in which the conversation took place, between those two figures over a cup of coffee in a pavement cafe, were such that one could reasonably expect to overhear it.

Mrs Roberts: What if I have a powerful directional microphone to record the conversation and they are in a public place?

Mr PRINCE: If they are the middle of Forrest Place and they are standing almost nose-to-nose - perhaps mouth-to-ear - obviously having what is intended to be a very private conversation and the member has got hold of a bit of technology that enables her to overhear it, she will have committed an offence under clause 5.

Mr McGOWAN: The Bill refers to an optical surveillance device. What if someone can read lips, as many people can, and he observes a conversation through a set of binoculars? That person watches the minister and someone else discuss a political matter and he records what is said and then gives it to *The West Australian*, which subsequently publishes it. Would that person then be able to be charged?

Mr Prince: Absolutely.

Mr McGOWAN: Would the editor of *The West Australian* also be able to be charged, even though the minister was moving his lips in public and he should be able to realise that he would be easily recorded, being in a public place?

Mr PRINCE: I suppose that we all have a certain ability to read someone's lips, particularly if we are relatively familiar with the way in which that person speaks. Page 6 of the Bill states -

> **"private activity"** means any activity carried on in circumstances that may reasonably be taken to indicate that any of the parties to the activity desires it to be observed only by themselves . . .

If the member and I were sitting in a pavement cafe having a cup of coffee, talking, and the member for Willagee, some distance down the road, is observing us through a pair of binoculars and reading our lips, what we are doing is not a private activity because we are in a populated place, speaking in such a way that we could be overheard by anybody sitting next door. He might as well come and sit next to us; it would be much easier. The definition of "private activity" goes on to state -

> . . . but does not include an activity carried on in any circumstances in which the parties to the activity ought reasonably to expect that the activity may be observed.

If we go inside so that there is only us and we are talking and he observes with a pair of binoculars, perhaps through an open window, and he reads our lips, he commits an offence, and so he should. We intend what we are doing to be a private activity. Sitting down and chatting over a cappuccino in a pavement cafe with people all over the place would not be considered to be a private activity.

Mr KOBELKE: I want to refer to a matter that flows directly from that point. Under clause 9(2)(a)(v), the prohibition does not apply if it is done in the course of the duty of the person making the publication or communication. There is no definition of who the person is. The word "duty" seems to be very wide. Will the minister clarify the breadth of interpretation to be placed on it?

Mr PRINCE: The classic example is law enforcement organisations engaged, perhaps, in a drugs operation, one of which has a form of surveillance on an individual from which it gains information which all those organisations share. The sharing of the information is exempt because it is in the course of the duty of the person making the publication. For example, one might be with the Australian Customs Service and one might communicate to the Federal Police, or a police officer might communicate to the National Crime Authority. It is simply in order to enable that to occur, which is sensible and logical.

Mr KOBELKE: I understand what the minister is saying. That might be the intent; however, my reading of the words is that they are far broader than that. The person does not need to be an officer. He does not need to be a person in the employ of any form of government agency - perhaps not even an agency; it might be street workers working with young people who were aware of something going on and thought, "If we get some evidence using surveillance devices, we can cooperate with the police." They might be in communication with the police over a range of matters but not related to the specific surveillance, and they take it on themselves to pass on that information by communicating or publishing it, which is prohibited under clause 9(1).

Mr Prince: Subparagraph (v) is a subparagraph of a paragraph of a subclause. Consequently, the rules of interpretation are that we must read it in its context. The exemption applies to a party to the conversation - someone who, with express or implied consent, has been given authority - for example, the Commissioner of Police, a law enforcement officer and so on. Any court considering that would interpret subparagraph (v) to be read in its context, which deals with either the people involved in the conversation or law enforcement agencies. The expression "person" must relate to one or the other.

Mr KOBELKE: I accept that and thank the minister. I conclude with the example which follows what the member for Rockingham raised in respect of hypothetical cases. As members of Parliament, we could see it as our duty to publicise or communicate information which is in the public interest. We have not alluded to the fact that in order for subclause (2) to give an exemption from the prohibition one also needs to meet the requirements of subclause (3). Assuming that we can make a case that it is in the public interest and that we are doing no more than is reasonably necessary, a member of Parliament could argue that to publicise a private conversation within the terms of the Act is within the course of duty of a member of Parliament, because we need to inform the community of important matters in terms of judgments that might be made in the community. That might not stand up in a court of law, but I think that it would be an arguable case.

Mr PRINCE: We then have the classic reason for having privilege in this place.

Mr Kobelke: Leaving that duty aside.

Mr PRINCE: Whether or not it is a duty is debatable. Whether or not we think that we have a duty is highly debatable, frankly. We have a privilege in this Chamber to raise matters of public importance. Often we could debate whether they are matters of public importance; what is important to one side is not important to the other. However, if the member considers that something is in the public interest and is in relation to a matter that Parliament should have disclosed to it, he can make use of the privilege of this place.

As I said in the debate with the member for Rockingham, how far that privilege extends is something about which we should all be better informed. That is the special position of a member of Parliament.

Mr KOBELKE: I am referring to evidence made available to me of a private conversation that I judge, according to this legislation, should not be published or communicated. However, I might also decide that the content of that conversation is of considerable public importance; it might overturn public perception in respect of an issue of great import in the community. I could argue a case - it might not stand up - that in the course of my duty I should seek to communicate or publish that private information.

Mr PRINCE: The member has the privilege of being able to do so in this House. However, before so doing he should seek the advice of the Clerk.

Mr Kobelke: If I am bold enough to do it outside this place -

Mr PRINCE: The member then runs a risk.

Mr Kobelke: What is your interpretation of this legislation, which you are asking us to support?

Mr PRINCE: If what the member is then communicating is a private activity, as defined in this Bill, he commits an offence. That is his risk. The question arises whether anyone will listen to him, because they will also commit an offence. Whether the media will publish is debatable. The principle is that people should be able to have private conversations about things that are private to them, no matter who they are. That is the essential principle: There should be some privacy in life. Where that should be able to be overcome is when that private activity is criminal. I do not think anyone would query that.

The member is now addressing the activities of a public authority. He might believe that the reason behind the doing of a certain thing by a public authority - be it a local, State or Federal Government - is not what it seems. As the supreme organ of government, and having some degree of control over the Executive, the Public Service, the judiciary and, to some extent, the media - that being my view of the various arms of government in this society - this Parliament has the supreme role of being able to determine that it is an issue that should be debated in this place. It is a matter of judgment; it will depend on the facts and the content whether the member can use the privilege of this place to overturn an implicit right to privacy.

Mr McGOWAN: The Bill provides that a person shall not knowingly publish or communicate a private conversation. Let us say that a videotape or tape recording of a conversation comes into my possession and I divulge not the tape recording, the videotape or the transcript to *The West Australian,* but a summary of the content -

Mr Prince: That is a report of a private conversation.

Mr McGOWAN: What if I disclose what is on a videotape?

Mr Prince: It is a report.

Mr McGOWAN: Does the Bill allow for that?

Mr PRINCE: The clear intent of the use of the words "report or record of a private conversation" or "record of a private activity" is that one is not producing the evidence of what took place, whether it be a video or voice recording. The person involved is saying "this is what they said", or "this is what I saw". That is caught by the words "record of" or "report of". It does not need to be the primary source; it can be the secondary source.

Mr McGOWAN: If I saw something private but did not record it and then revealed that, would that breach this provision?

Mr PRINCE: That is using the human eyeball and seeing something that is a private activity.

Mr McGowan: I have not recorded it.

Mr PRINCE: The definition of "record" in relation to private conversations includes a statement prepared, and "record" includes visual and sound recordings. A report includes a report of the substance.

Mr McGOWAN: I have seen something; I have not listened to a conversation that was a private activity and then I revealed that I saw it.

Mr PRINCE: If the member, not using any device, sees something that was or was not a private activity, it is not regulated by this law.

Mr McGOWAN: Am I free to do that?

Mr PRINCE: It would be difficult. The peeping Tom is the classic case. If a person is standing on a public roadway looking into someone else's bedroom, arguably that is loitering and the Police Act comes into play. If that person steps onto the private property, he is there without lawful excuse and is committing an offence. That has been the classic method of dealing with this. If the curtains are open and the light is on, so that anyone can see people engaging in sexual intercourse, one could argue that it was not a private activity because of the way in which those people were behaving. If they had the curtains pulled, how would the member see what they were doing? Therein lies the problem. If the activity is not private, there is no problem.

Mr McGowan interjected.

Mr PRINCE: In which case the member has probably used an optical device and he would be caught by this legislation. If he were using the human eyeball with the aid of spectacles, he would be okay.

Mr McGowan interjected.

Mr PRINCE: When the member is charged, for a modest fee of $250 an hour, I will defend him.

Mrs ROBERTS: Subclause (2) relates to the publication and communication of private conversations and activities and lists the circumstances in which subclause (1) does not apply. Subclause (2)(a)(iii) makes a key difference between that which applies to the Commissioner of Police and the Chairperson of the National Crime Authority. Why is the Chairperson of the National Crime Authority not given the same flexibility that is provided to the Commissioner of Police?

Mr PRINCE: I imagine the Commissioner of Police will have a cohort of persons who are authorised - it may be the deputy commissioner, assistant commissioners, and heads of particular squads - the head of the drug squad is a classic example that comes to mind. The same will apply to the Chairperson of the National Crime Authority.

Mrs Roberts: That is my view, but I do not think that is what subparagraph (iii) says.

Mr PRINCE: It does; that is the intent. Subclause (2) should be read disjunctively, pursuant to the provisions of section 17 of the Interpretation Act. That subclause should read any person or persons who is authorised by either the Commissioner of Police, or the chairperson, or two members, or the Chairperson of the National Crime Authority. The rules of the Interpretation Act make it mean what we want it to.

Mr Kobelke: Is the minister saying that it is anyone authorised by the Chairperson of the National Crime Authority?

Mr PRINCE: That is correct.

**Clause put and passed.**

**Progress reported.**

## ADJOURNMENT OF THE HOUSE

On motion by Mr Barnett (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 13 October at 2.00 pm.

*House adjourned at 5.34 pm*

## QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

### FREMANTLE PORT AUTHORITY'S INNER HARBOUR

7. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) How much of the total area of the Fremantle Port Authority's Inner Harbour has been or will be converted from reserve land to freehold?

(2) Why does the Minister feel it is necessary to change the land tenure within the Port of Fremantle?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) All the Rous Head and North Quay land previously vested in the Port Authority has been converted to freehold title. Possible conversion of Victoria Quay land to freehold is also likely to be considered at some future time.

(2) Much of the land in question was previously paid for or reclaimed land created by the Fremantle Port Authority at its own cost and the conversion to freehold recognises that this land is an asset of the Fremantle Port Authority and has been paid for by port users.

### *AUSTRALIND* TIMETABLE

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

(1) Did the Minister write to the Member for Bassendean concerning the timetable for the *Australind* train service?

(2) If so, in that letter did the Minister say the main market for the train is commuter travel and notwithstanding that there is some scope for tourism travel, the needs of the majority of travellers must remain a priority?

(3) How many commuter passes for the *Australind* were issued in the 1996-97 financial year (i.e. - how many commuters regularly travelled between Bunbury and Perth)?

(4) What proportion of *Australind* passengers are considered to be residents of the South West/Peel Region as opposed to tourist/day trippers?

(5) Did the Minister say in his letter that change to the *Australind* timetables were introduced following extensive consultation with local communities and organisations?

(6) When did the consultations take place?

(7) What organisations were consulted?

(8) Who (the name of the person) was consulted within each organisation?

(9) What was the official response from each organisation in relation to the timetable?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)-(2) Yes, I did write to the member and, as it appears the letter may have been misplaced, the text was as follows:

> The changes to the Australind timetable were introduced following extensive consultation with local communities and orgnisations, including those at locations beyond Bunbury serviced by connecting road coach services. Consultation with the Bunbury Tourism Board was undertaken as part of that process.
>
> Suggested timetable changes proposed by the Bunbury Tourism Board, which principally applied to Sunday services, were seriously considered but could not be adopted without ignoring the needs of the broader community serviced by the train.
>
> While I appreciate the views of the Bunbury Tourism Board, the main market for the train is commuter travel and notwithstanding that there is some scope for tourist travel, the needs of the majority of travellers must remain the priority.

I should point out that apart from Sundays, there has not been any reduction to the 2 hours 55 minutes available between services to day trippers in Bunbury. I understand that some years ago a tourist operator offered a short sightseeing tour during this time; however, there are not any operators currently offering such service.

The new timetable for the Australind, which has been operating since March 15, is being well received by travellers and has resulted in increased patronage for the train.

In the circumstances I do not believe a meeting as you suggest would serve any useful purpose.

In addition, the results of consultation with local communities and surveys undertaken by Westrail indicate that the majority of passengers who use the Australind and connecting South West services are not tourists, but people who regularly travel between the rural areas of the South West and Perth to attend to business and other activities during business hours. Accordingly, the timetable reflects those market requirements.

As advised in the letter to the member, the new timetable for the Australind, which has been operating since March 15, is being well received by travellers and has resulted in increased patronage for the train. This is a clear indication that Westrail's community consultative process accurately determined the wishes of the majority of users.

(3) 121 commuter tickets were sold during the financial year 1996/1997 for travel on Australind services, resulting in approximately 13 000 journeys. Generally, these tickets are only purchased by passengers who travel on a daily basis. Most regular travellers use the train less frequently and do not purchase commuter tickets because of the higher initial cost.

(4) This information is not recorded by Westrail. Specific tickets are not available for tourist travel on Australind services. However, I can advise that 155 380 passenger journeys were undertaken on Australind services during the 1996/1997 financial year.

(5) Yes.

(6) During November, December 1997 and January 1998.

(7) Westrail's ticket agents, regional tourist bureaux and local authorities.

(8)-(9) Initially, Westrail wrote to the organisations listed hereunder, providing a draft copy of a proposed timetable and inviting feedback. Not all of the organisations written to responded, but any suggestions received from those that did were considered and accommodated where possible. A follow up telephone call was made to the organisations which did not respond to ensure they were provided with the opportunity to participate in the consultative process. With the exception of the Bunbury Tourist Board, the new timetable has been well received by the organisations consulted. It is not possible to accurately name every person Westrail held discussions with during the consultative process. However, for the Member's information, the organisations written to were:

City of Bunbury;
Shire of Capel;
Shire of Donnybrook - Balingup;
Shire of Bridgetown - Greenbushes;
Shire of Manjimup;
Shire of Waroona;
Shire of Harvey;
Shire of Serpentine - Jarrahdale;
Shire of Busselton;
Shire of Augusta - Margaret River;
Shire of Boyup Brook;
City of Armadale;
Shire of Collie;
Shire of Dardanup;
Shire of Murray;
Shire of Nannup;
Bunbury Tourist Bureau, Bunbury;
Merilyn's Garden Centre, Bridgetown;
Creative Collectables Gallery Cafe, Manjimup;
Old Bakery Cafe and Restaurant, Balingup;
Walpole Tourist Bureau, Walpole;
Northcliffe Tourist Bureau, Northcliffe;
Donnybrook - Balingup Tourist Bureau, Donnybrook;
Pemberton Tourist Bureau, Pemberton;
Collie Tourist Bureau, Collie;
Serpentine General Store, Serpentine;
Harvey Around The Corner Newsagency, Harvey;
Waroona Handyfoods, Waroona;
Brunswick News Agency, Brunswick;

Yarloop Australia Post Agency, Yarloop;
Nannup Tourist Bureau, Nannup;
Rockingham Tourist Bureau, Rockingham;
Community Travel, Shoalwater;
Jetset, Margaret River;
Margaret River Travel Centre, Margaret River;
Busselton Tourist Bureau, Busselton;
Dunsborough Tourist Bureau, Dunsborough;
Australind Village Travel, Australind;
Pinjarra Tourist Bureau, Pinjarra;
Dwellingup Tourist Bureau, Dwellingup.

## BUS SERVICE, LANCELIN-PERTH

*Impact of Closure on Tourism*

267. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) Why did the Department of Transport refuse to subsidise the Catch-A-Bus service that carries tourists and residents between Lancelin and Perth?

(2) What impact will the closure of the service have on the Lancelin tourist industry?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) When Catch-A-Bus Charters was first licensed in January 1997 to conduct a regular passenger transport service, it was made clear to the proprietors that the service would have to run on a commercial basis as government financial assistance would not be available to subsidise any shortfall in revenue. However, the proprietors went ahead knowing full well that an earlier bus service to Lancelin had failed and that government funding would not be forthcoming if they got into difficulties. The service was essentially to transfer visiting backpackers and windsurfers.

While there was no other public transport service operating between Lancelin and Perth, there was also very little evidence of demand for such a service. Since 1997, the numbers travelling during the peak months of December - February have averaged between three and four passengers per trip, and down to one and two passengers per trip for the balance of the year. Of this, transport undertaken by local persons represents less than one passenger per trip.

When the proprietors of Catch-A-Bus Charters applied to Transport for financial assistance, a number of options were explored but they were not prepared to operate a seasonal service. Catch-A-Bus Charters ceased to trade on Friday, 12 June 1998 for commercial reasons.

(2) It is suggested the closure of the service will have very little impact on the Lancelin tourist industry because of the minimal level of demand as evidenced from (1). The proprietor of the Lancelin Backpackers Lodge has now been given approval to operate a transfer service to/from Perth for resident guests on an 'as required basis'.

## TRANSPERTH'S TICKET VENDING MACHINES

268. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) Is the Minister aware of the problem confronted by Transperth customers when automatic ticket vending machines run out of change?

(2) How often are machines checked for this condition and in particular how often is the ticket vending machine in Armadale checked?

(3) What are the rights of passengers who have been unable to get change and so have had to pay more than the scheduled fee or travel without tickets?

(4) Will the Minister instruct Transperth staff to attach a notice to the ticket vending machine explaining that the flashing orange light means the machine is out of change?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) When automatic ticket vending machines run out of change, the machine's orange light flashes in warning, and customers are required to provide the correct change for the purchase of a ticket from that machine.

(2) Once a machine runs out of change, requiring the acceptance of correct money, the process of receiving correct money automatically replenishes the machine's change drums. To minimise inconvenience in these circumstances, on locations with high numbers of passengers, multiple vending machines are installed. It is extremely rare that all machines run out of change simultaneously at the one location.

(3) When a vending machine runs out of change, this situation is recorded on the central computer. In the event that a passenger claims to Transperth personnel that a ticket could not be purchased, due to the machine only accepting correct change, the matter is easily verified and if found to be true, the passenger is asked to purchase a ticket at their destination.

(4) Though passengers are aware of the significance of the flashing orange light, Transperth has been asked to examine the prospect of attaching an explanatory notice to all vending machines explaining the significance of the flashing light.

## BUS DRIVERS

*Pay and Conditions*

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

(1) Is the Minister aware of a letter that appeared in *The West Australian* on Tuesday 14 July 1998 from H. Turner of Palmyra concerning the rates of pay of metro bus drivers and drivers employed by contractors who have taken over the metro bus routes?

(2) Is the Minister aware H. Turner claimed the rates of pay of private contractors are one hundred dollars a week less than the metro bus award rate?

(3) Is it true that employees of private contractors are paid less than metro bus drivers' award rate for working -

(a) 38 hours a week; and
(b) 40 hours a week?

(4) Is it also true that employment conditions of private contractors' employees are, in some cases, worse than the employment conditions of metro bus drivers?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)-(4) In all undertakings, the rates of payment and conditions of employment are the sole preserve of the employer and employee concerned. It is not appropriate for Government to comment upon those arrangements.

## LIVE SHEEP EXPORT, BUNBURY

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

(1) Has the Minister had any discussions with the member for Bunbury and the member for Mitchell about the live sheep export trade operating out of Bunbury?

(2) Has the Minister been advised by either member that they do not support the permanent live sheep export trade going out of Bunbury?

(3) What action does the Minister intend to take in relation to the permanent live sheep export trade going out of Bunbury?

(4) Does the Minister intend to act on the concerns of the two local members of Parliament?

(5) If so, what action does the Minister intend to take?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) No.

(2) Not directly.

(3) None until I am briefed on the matter.

(4) I will meet with the Members and discuss issues of concern.

(5) Not applicable.

## RAILWAYS

*New Rail Carriages*

341. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) How many rail carriages have been ordered by the Government for the urban passenger rail network since March 1993?

(2) When were each of these ordered?

(3) How many of these have been received?

(4) How many of the carriages received are actually in operation?

(5) If any are not in operation, what are the reasons for that?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) Ten railcars (five two-car trains).

(2) A single order for five two-car trains was placed in April 1997.

(3) None.

(4) Not applicable.

(5) The railcars are currently under construction and will be progressively introduced into service from December 1998 to March 1999.

## PORT OF FREMANTLE

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

(1) Is the Minister aware of concerns that have been raised by the Chamber of Commerce and Industry about the developments in and around the Port of Fremantle?

(2) Does the Minister maintain the planning process to date will not inhibit or interfere in any way with the Port of Fremantle remaining a working port?

(3) If so, on what basis does the Minister hold that belief?

(4) Does the Government intend to review the planning arrangements around the Port of Fremantle to ensure they do not inhibit its operations?

(5) If not, why not?

(6) If so, what will be the nature of that review?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) Yes.

(2)-(3) The Premier has given his undertaking that the efficient operation of the Port of Fremantle will be given first priority in the planning of the Fremantle Waterfront Project. The Fremantle Port Authority is on the Steering Committee and Project Management Group for the Project to provide the input necessary to ensure that the port's needs are understood.

(4)-(6) Such a review is not seen as necessary at the current time.

## NARROWS BRIDGE WIDENING

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

I refer to the Government's change of mind over the widening of the Narrows Bridge and ask -

(a) on whose advice was the original decision made by which the Narrows Bridge would, according to the April 1998 announcement, be widened;

(b) what discussions were held with the Minister, or his predecessor, subsequent to the April announcement suggesting that the earlier advice might be flawed;

(c) when did the Minister, or his predecessor, first learn that a widening of the Narrows might lead to a subsidence of the modified structure;

(d) when did the Minister and/or Cabinet make the decision to change the plan from a widening to a separate new structure;

(e) what explanation did the Main Roads Department engineers give to the Government that a widening might lead to subsidence;

(f) in what form was the new advice made available to the Government;

(g) will the Minister table that advice; and

(h) if not, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(h) The original proposal to widen the Narrows Bridge comprised constructing a new bridge structure with a connection at the road pavement level. Modification to the original proposal is that instead of the new structure abutting the existing one, the two structures will be separated by a six metre gap. The decision to separate the structures was made by Main Roads on engineering grounds and followed exhaustive investigations between March and July this year.

The attachment of a new structure to the existing one and connecting the new and old road approaches would have caused structural compatibility and settlement problems. Separating the structures not only mitigates these problems but also minimises traffic disruption. The factors considered by Main Roads in making its engineering decision on the proposed method of construction are complex and technical. However, if the member wishes, I can arrange for him to visit Main Roads and be briefed on the matter.

## HILTON POLICE STATION

572. Mr CARPENTER to the Minister for Police:

(1) What are the current operating hours of the Hilton police station?

(2) What were the normal operating hours of Hilton police station in the first three months of this calendar year?

(3) If there has been a change to the normal operating hours of the Hilton police station, when did that occur?

(4) What are the current staffing levels at the Hilton police station?

(5) How many of the staff currently operating out of the Hilton police station were based at the station six months ago?

(6) What is the nature of the staff operating out of Hilton police station i.e. police or civilian, full-time or part-time?

(7) What was the operational district covered by staff based at the Hilton police station in the first quarter of this calendar year?

(8) What is the current operational district, if any, of the Hilton police station?

(9) How many offences were reported in the suburbs covered by the Hilton police station in the last financial year, or calendar year (whichever is simplest to collate)?

(10) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(11) Can those figures be provided on a suburb by suburb basis?

(12) If yes, what are those suburb by suburb figures?

(13) How do those figures compare with figures for the five previous years?

Mr PRINCE replied:

(1) 0800-1600 Monday to Friday.

(2) 0800-0600 7 days per week.

(3) May 4, 1998.

(4) Nil. No approved strength in Hilton Station, however, one constable attends from Fremantle Station and works out of Hilton from 0800-1600 Monday to Friday, day station only - for counter business. Patrols of the Hilton sub-district operate 24 hours per day by Fremantle and Murdoch Police.

(5) Nil. Officer is from Fremantle Station and may or may not have been previously stationed at Hilton.

(6) 1 x full time sworn.

(7) North Lake, Samson, Coolbellup, Hilton, O'Connor, Kardinya.

(8) Nil. Hilton Police District no longer exists - suburbs divested to Fremantle, Murdoch and Cockburn Stations.

(9)-(13) See paper No 174.

BRENTWOOD POLICE STATION

573. Mr CARPENTER to the Minister for Police:

(1) What are the current operating hours of the Brentwood police station?

(2) What were the normal operating hours of Brentwood police station in the first three months of this calendar year?

(3) If there has been a change to the normal operating hours of the Brentwood police station, when did that occur?

(4) What are the current staffing levels at the Brentwood police station?

(5) How many of the staff currently operating out of the Brentwood police station were based at the station six months ago?

(6) What is the nature of the staff operating out of Brentwood police station i.e. police or civilian, full-time or part-time?

(7) What was the operational district covered by staff based at the Brentwood police station in the first quarter of this calendar year?

(8) What is the current operational district, if any, of the Brentwood police station?

(9) How many offences were reported in the suburbs covered by the Brentwood police station in the last financial year, or calendar year (whichever is simplest to collate)?

(10) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(11) Can those figures be provided on a suburb by suburb basis?

(12) If yes, what are those suburb by suburb figures?

Mr PRINCE replied:

(1) 0800-1600 Monday to Friday.

(2) 0700-0600 7 days per week.

(3) Yes, May 4, 1998.

(4) Nil. No approved strength in Brentwood Station, however, 1 constable attends from Murdoch Station and works out of Brentwood Station from 0800-1600 Monday to Friday, day station only - for counter business. Patrols of the Brentwood sub-district operate 24 hours per day by Fremantle and Murdoch Police.

(5) Nil. Officer is from Murdoch Station and may or may not have been previously stationed at Brentwood.

(6) 1 x full time sworn.

(7) Applecross, Ardross, Mt Pleasant, Booragoon, Brentwood, Winthrop, Murdoch, Bateman, Bullcreek, Willetton, Rossmoyne, Shelley, Riverton, Leeming.

(8) Suburbs divested to Palmyra, Murdoch and Fremantle Policing District. Other suburbs in City of Canning will be transferred to Cannington Policing District on September 1, 1998.

(9)-(12) See paper No 175.

PALMYRA POLICE STATION

574. Mr CARPENTER to the Minister for Police:

(1) What are the current operating hours of the Palmyra police station?

(2) What were the normal operating hours of Palmyra police station in the first three months of this calendar year?

(3) If there has been a change to the normal operating hours of the Palmyra police station since the first quarter of 1998, when did that occur?

(4) What are the current staffing levels at the Palmyra police station?

(5) How many of the staff currently operating out of the Palmyra police station were based at the station six months ago?

(6) What is the nature of the staff operating out of Palmyra police station i.e. police or civilian, full-time or part-time?

(7) What was the operational district covered by staff based at the Palmyra police station in the first quarter of this calendar year?

(8) What is the current operational district, if any, of the Palmyra police station?

(9) How many offences were reported in the suburbs covered by the Palmyra police station in the last financial year, or calendar year (whichever is simplest to collate)?

(10) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(11) Can those figures be provided on a suburb by suburb basis?

(12) If yes, what are those suburb by suburb figures?

(13) How do those figures compare with figures for the five previous years?

Mr PRINCE replied:

(1)-(2) 0800-0600, 7 days per week.

(3) No change.

(4) Approved 13 sworn, 1 unsworn.

(5) Same approved strength as question 4 but some officers transferred out and some in.

(6) All full time.

(7) Palmyra, Attadale, Bicton, Myaree, Melville, Alfred Cove, Willagee.

(8) Same as question 7, plus Applecross.

(9)-(13) See paper No 176.

COCKBURN POLICE STATION

575. Mr CARPENTER to the Minister for Police:

(1) What are the current operating hours of the Cockburn police station?

(2) What were the normal operating hours of Cockburn police station in the first three months of this calendar year?

(3) If there has been a change to the normal operating hours of the Cockburn police station since the first quarter of 1998, when did that occur?

(4) What are the current staffing levels at the Cockburn police station?

(5) How many of the staff currently operating out of the Cockburn police station were based at the station six months ago?

(6) What is the nature of the staff operating out of Cockburn police station i.e. police or civilian, full-time or part-time?

(7) What was the operational district covered by staff based at the Cockburn police station in the first quarter of this calendar year?

(8) What is the current operational district, if any, of the Cockburn police station?

(9) How many offences were reported in the suburbs covered by the Cockburn police station in the last financial year, or calendar year (whichever is simplest to collate)?

(10) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(11) Can those figures be provided on a suburb by suburb basis?

(12) If yes, what are those suburb by suburb figures?

(13) How do those figures compare with figures for the five previous years?

Mr PRINCE replied:

(1)-(2) 0800-0600, 7 days per week.

(3) No change.

(4)-(5) 13 sworn and 1 unsworn.

(6) 13 sworn full time and 1 unsworn full time.

(7) South Lake, Bibra Lake, Yangebup, Spearwood, Munster, Coogee, Wattleup, Banjup, Beeliar, Henderson, Jandakot, Woodman Point.

(8) Yangebup, Beeliar, Stanford Gardens, Munster, Coogee, Wattleup, Spearwood, Hamilton Hill, Henderson.

(9)-(13) See paper No 177.

FREMANTLE POLICE STATION

576. Mr CARPENTER to the Minister for Police:

(1) What are the current operating hours of the Fremantle police station?

(2) What were the normal operating hours of Fremantle police station in the first three months of this calendar year?

(3) If there has been a change to the normal operating hours of the Fremantle police station since the first quarter of 1998, when did that occur?

(4) What are the current staffing levels at the Fremantle police station?

(5) How many of the staff currently operating out of the Fremantle police station were based at the station six months ago?

(6) What is the nature of the staff operating out of Fremantle police station i.e. police or civilian, full-time or part-time?

(7) What was the operational district covered by staff based at the Fremantle police station in the first quarter of this calendar year?

(8) What is the current operational district, if any, of the Fremantle police station?

(9) How many offences were reported in the suburbs covered by the Fremantle police station in the last financial year, or calendar year (whichever is simplest to collate)?

(10) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(11) Can those figures be provided on a suburb by suburb basis?

(12) If yes, what are those suburb by suburb figures?

(13) How do those figures compare with figures for the five previous years?

Mr PRINCE replied:

(1)-(2) 24 hours, 7 days per week.

(3) No change.

(4) Approved 75 sworn, 10 unsworn.

(5) Approved 78 sworn, 10 unsworn.

(6) 77 full time sworn, 2 x part time sworn, 10 full time unsworn.

(7) Fremantle, East Fremantle, Beaconsfield, North Fremantle, South Fremantle, White gum Valley, Hamilton Hill.

(8) Fremantle, East Fremantle, Beaconsfield, North Fremantle, South Fremantle, White gum Valley, Hilton, O'Connor, Samson.

(9)-(13) See paper No 178.

MURDOCH POLICE STATION

577. Mr CARPENTER to the Minister for Police:

(1) On what date did the Murdoch police station begin operations?

(2) What are the current operating hours of the Murdoch police station?

(3) What were the normal operating hours of Murdoch police station in the first three weeks of its operations?

(4) If there has been a change to the operating hours of the Murdoch police station since the first three weeks of its operations, why and when did that occur?

(5) What are the current staffing levels at the Murdoch police station?

(6) How many of the staff currently operating out of the Murdoch police station were previously based in the Fremantle police district?

(7) What is the nature of the staff operating out of Murdoch police station i.e. police or civilian, full-time or part-time?

(8) What is the operational district covered by staff based at the Murdoch police station?

(9) Have the boundaries of that operational district been altered since Murdoch opened?

(10) If yes, when and why?

(11) How many offences were reported in the suburbs covered by the Murdoch police station in the first two months of its operations?

(12) What were the nature of those offences, ie how many break and enters, how many assaults etc?

(13) Can those figures be provided on a suburb by suburb basis?

(14) If yes, what are those suburb by suburb figures?

Mr PRINCE replied:

(1) May 4, 1998.

(2)-(3) 0700-0600 7 days per week.

(4) No change.

(5) Approved, 35 sworn and 2.5 unsworn. As of September 1, 1998, eight full time sworn officers will be transferred from the approved Murdoch strength to the Cannington Policing District, with the suburbs of: Willetton, Rossmoyne, Riverton, Shelley.

(6) Majority from Fremantle District - approved strength unchanged. Some transfers in and out.

(7) 1 x full time unsworn, 3 part time unsworn, 35 full time sworn.

Ardross, Atwell, Banjup, Bateman, Bibra Lake, Booragoon, Brentwood, Bull Creek, Coolbellup, Jandakot, Kardinya, Leeming, Mt Pleasant, Murdoch, North Lake, Riverton, Rossmoyne, Shelley, South Lake, Willetton, Winthrop.

(9) No. See question (5).

10 No.

(11)-(14) See paper No 179.

SCHOOLS

*Drug Searches*

599. Dr CONSTABLE to the Minister for Police:

In the last three years, how many random drug searches have been conducted in schools in Western Australia and in each case -

(a) was the search requested by the school;

(b) was a search warrant issued;

(c) was there a reasonable suspicion that students were in possession of narcotics;

(d) what, if any, drugs were found, and in what amount; and

(e) what, if any, charges were laid, and what were the charges?

Mr PRINCE replied:

SOUTHERN POLICE REGION

In the Southern Police Region eighteen random drug searches have been conducted in schools in the last three years -

(a) In all cases searches were requested by the schools;

(b) Search warrants were obtained on five occasions;

(c) On six cases there was reasonable suspicion that students were in possession of narcotics;

On 12 cases there was a reasonable suspicion that students were in possession of cannabis and smoking implements.

(d) On fifteen occasions small quantities of cannabis were found;

(e) 18 charges of possession of cannabis
5 charges of possession of smoking implements.

Breakdown

| | |
|---|---|
| Albany | Nil. |
| Bunbury | Nil |
| Geraldton | Nil. |
| Narrogin | Nil |
| Northam | 23 |

CENTRAL POLICE REGION

(1) One for Central Police Station Region

(a)-(b) Yes.
(d)-(e) Nil.

NORTHERN POLICE REGION

In the previous three years two Search Warrants under the Misuse of Drug Act were executed on schools in the Northern Police Region.

(a) The search was not requested by the school principal in either case.

(b) A search warrant was issued and executed on both schools.

(c) Yes, the search warrant was obtained on information from parents of children attending the two schools that information being that children were obtaining cannabis on the school grounds.

(d) No drugs were seized in either case but there was an indication of cannabis having been in several school bags.

(e) Two students, one from each school were dealt with by way of juvenile caution for being in possession of a smoking implement.

METROPOLITAN REGION

(a) Yes. It is normal practise that the Principal of the school would request local police to conduct a search of the school acting on information gathered by teachers and/or students.

In the event of police initiating the search as a result of police enquiries, the Principal is consulted and approval obtained to conduct a random drug search.

(b) Yes. A drug search warrant would be sworn before a Justice of the Peace prior to each search of a school in an effort to discover drugs.

(c) Yes. In order to satisfy a Justice of the Peace that there is sufficient grounds to issue a drugs search warrant, (as in b).

(d-e) The question is too broad to answer. Should a specific search on a specific school in the Metropolitan Region be requested, then the information can be provided.

CRIME SUPPORT

The Drug Squad has not been involved in any operations of this nature in the past five (5) years, if at all. Traditionally, the searching of schools and other educational institutions for illicit drugs has been considered to be a localised problem and as such, has been instigated and controlled by the local people.

In any event, the Drug Squad would only become involved in an operation of this nature if there was intelligence to suggest substantial trafficking offences. By inference, this would necessarily preclude primary and secondary schools.

In qualifying this response, I point out that up until January 1996, local detective offices were under the command of the Crime Portfolio. If a local detectives office was involved in such an operation prior to that date, then, by virtue of the chain of command, the Crime Portfolio would be implicated.

## PERTH-FREMANTLE RAILWAY LINE

612. Mr McGOWAN to the Minister representing the Minister for Transport:

I refer to the Government's $35 million Fremantle Victoria Quay Project and ask -

(a) what impact will the decision to terminate the Perth-Fremantle railway line have on the line running further south;

(b) will the existing Fremantle Station be closed; and

(c) what will be the impact of this plan upon any proposed passenger rail link south from Fremantle Station?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a) There has been no discussion of, nor any decision to terminate the Perth-Fremantle railway line.

(b) The existing Fremantle Station is a busy and viable train station. Plans are currently being developed to ensure that the station operates more effectively as a bus train interchange. This is in keeping with the development of the Fremantle to Rockingham Transitway Project which is currently being developed.

(c) I am not aware of any specific impact which the Victoria Quay Project will have on any proposed future passenger rail link south from Fremantle Station. The Fremantle to Rockingham Transitway is being developed with scope for conversion to light rail in the future should this be required and justified.

## NARROWS BRIDGE

*Effect on South Perth*

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

I refer to the Government's decision to duplicate the Narrows Bridge and ask if the Government has taken into account the effect that introduced traffic flows will have on the municipality of South Perth with specific reference to -

(a) the need to eliminate the bottleneck at the Millpoint Road/Labouchere Road, Judd Street intersections;

(b) the need to widen the current overpass at Judd Street;

(c) the need for an extra on/off ramp at either South Terrace or Henley Street in order to reduce pressure at Judd Street;

(d) the need to build a direct "off ramp" at Manning Road for traffic wishing to go southwards on Kwinana Freeway;

(e) the desirability of lowering the freeway surface through South Perth/Como/Manning as a means of further reducing freeway noise;

(f) the need to guard against the reclamation of any of the Swan river; and

(g) the need to maintain full protection of the important Milyu Nature Reserve alongside the Freeway?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(d) The project is not expected to result in "introduced traffic flows" in South Perth. The recently announced project to duplicate the Narrows Bridge is directed at addressing the severe congestion encountered on the existing Bridge and its approaches and to improve public transport through the incorporation of a dedicated transit way in the new design. I am advised that there is no justification from a traffic management point of view to provide additional on/off ramp capacity on the section of Freeway between the Narrows and Mt Henry in the foreseeable future.

(e) The option of lowering the Freeway has previously been looked at, but it was found that the cost would be prohibitive. It is estimated the cost would be in the order of $150 million per kilometre of Freeway lowered.

(f)-(g) The project does not involved any reclamation of the River or impact on the Milyu Nature Reserve.

## NARROWS BRIDGE

### *Impact on Traffic Flow*

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

I refer to the Government's decision to duplicate the Narrows Bridge and ask -

(a) will the Minister table a copy of a plan showing the Kwinana Freeway Reserve and the existing Narrows Bridge;

(b) is the proposed duplication of the bridge and associated freeway approaches intended to impinge on areas outside the present freeway reserve;

(c) will the Minister give an absolute guarantee that no river reclamation is involved;

(d) will the Minister confirm that in past years -

(i) a new bridge was once planned across the river in the alignment of Berwick Street and Ellam Street, Victoria Park; and

(ii) a new bridge was intended to cross the river in the alignment of Stock Road, Melville, on to the foreshore at Dalkeith; and

(e) if yes to (d) (i) and (d) (ii) above, will the Minister advise why those plans were abandoned?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a) Yes. [See paper No 180.]

(b) No.

(c) No river reclamation is proposed.

(d)-(e) Various river crossing proposals, such as one linking Melville and Dalkeith via Point Walter, have been raised from time to time.

In the case of Point Walter, the width of river needed to be crossed and the absence of an appropriate supporting arterial road system either side of the crossing point would require significant expenditure with little real gain in overall traffic efficiency.

Similarly, a crossing of Perth Water on an alignment with Berwick Street, would merely be a duplication of the Causeway, again at great expense and for no positive gain. Completion of the Graham Farmer Freeway in 2000 will see a significant reduction in cross river traffic at the Causeway and remove through traffic from the City centre. Construction of a new bridge on Berwick Street alignment would defeat this aim and result in increased congestion.

## TRANSPORT

### *Concessional Fares*

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

(1) Is the Minister aware of changes that were made to the pensioner concession arrangements on or around 1 July 1998?

(2) Was the amount of time pensioners are entitled to travel on a concession ticket reduced from two hours to one and a half hours?

(3) If not, what was the nature of the change?

(4) Why was it necessary to introduce such a change?

(5) Did the Government understand the change would disadvantage some pensioners?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) No changes were made to pensioner concession arrangements on or around 1 July 1998.

(2) With effect from 12 May 1997, the time allowed for transfers on a forward journey within one to four zones was reduced from two hours to one and a half hours for all Transperth passengers. The transfer time for travel within five to eight zones remained unchanged at two hours.

(3) Not applicable.

(4) A zonal Transperth ticket is sold for a single forward journey and is not intended to be used for return trips. However, some passengers, mainly those travelling short distances in the off-peak, were able to make a forward trip, complete their business and return on the same ticket. This gave them a 50 per cent discount which was not available to other Transperth patrons and was, therefore, inequitable. It was to address this anomaly that the transfer time for journeys within one to four zones was reduced to one and a half hours. Transfers can be made during this period for all journeys within one to four zones.

(5) Only passengers who made a return trip on a single ticket within the two-hour transfer time previously available for travel within one to four zones have been disadvantaged by the change in the transfer time.

## FLETCHER INTERNATIONAL EXPORTS PTY LTD

*Government Assistance*

633. Mr CARPENTER to the Minister for Primary Industry:

(1) What level of State Government assistance has been provided to Fletcher International Exports Pty Ltd and/or labour hire firm Skill Hire Pty Ltd?

(2) What is the nature of that assistance?

(3) How many of the people employed by Fletcher International Exports Pty Ltd or its hire firm Skill Hire Pty Ltd are receiving any form of Government subsidy?

(4) From whom did Fletcher International Exports Pty Ltd purchase the land now the site of its Nattikup Abattoir?

(5) Was any form of Government assistance a part of that purchase?

(6) Has the Minister ever had any pecuniary interests or commercial deals, either directly or through a family trust, with Fletcher International Exports Pty Ltd and/or the labour hire firm Skill Hire Pty Ltd?

(7) Has Fletcher International Exports Pty Ltd been granted any loans or assisted in any way with any loans from the State Government?

Mr HOUSE replied:

(1) Fletcher International Exports Pty Ltd has not received any direct financial assistance under schemes operated by the Department of Commerce and Trade. A related company Benale Pty Ltd is the beneficiary of assistance for the abattoir developed at Narrikup by Fletcher International Exports Pty Ltd and operated by Benale Pty Ltd. Assistance provided to Benale Pty Ltd is in the form of a grant for infrastructure and an interest free loan converting to a grant subject to performance requirements. The levels of assistance offered to Benale Pty Ltd are:-

$2.5m loan converting a grant, paid in July 1998; and

$2.7m grant for infrastructure, of which approximately $1.007m was paid in July 1998 and the remainder to be claimed based on infrastructure capital costs incurred during the development of the project.

(2) See (1) above. The assistance has been provided in recognition of the regional development impact of the facility and in recognition of high infrastructure costs incurred by regional development projects.

(3) The Department of Commerce and Trade has no information about whether employees of either company are recipients of subsidies from Government.

(4) The Department of Commerce and Trade has no information about the previous owners of the land in question.

(5) The assistance offered to Benale is not directly related to the purchase of the land. However, in the project performance requirements under the loan converting to a grant component of the assistance, the value of the land is part of the assessed investment performance milestone and stamp duty paid on the land transaction contributes to the formula for conversion of the loan to a grant.

(6) No.

(7) See (1) above.

## FORMER MINISTER FOR TRANSPORT

*Trip to USA and Canada*

652. Mr RIEBELING to the Minister representing the Minister for Transport:

(1) Will the Minister table the report of a trip taken by the former Minister for Transport to the United States of America and Canada in July last year?

(2) If no, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)-(2) I understand that my predecessor tabled the report in the Legislative Council on 19 September 1997.

## WORKPLACE AGREEMENTS

713. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements was reference made to the Commissioner introducing procedures to improve the communication of information between the parties to workplace agreements and the Commissioner?

(2) Exactly what additional information is now provided under the improved communication process?

(3) Have any new forms or arrangements been introduced under which information is collected?

(4) What procedures has the Commissioner implemented to verify the accuracy and integrity of the information provided?

Mrs EDWARDES replied:

(1)-(3) Reference was made to improvements to the process for registering agreements, which for some applications includes the submission of written information on a standard form. A revision of standard correspondence was also referred to. The information on the form supplements other information obtained during the registration process and a copy of the form is attached to correspondence provided in relation to Question 716.

(4) Employees are encouraged in communications to contact the Commissioner's Office. Conflicting or doubtful responses are checked and followed up where necessary, if they impact on the requirements for registration.

## WORKPLACE AGREEMENTS

716. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements was reference made to all standard correspondence being revised by the Office?

(2) What standard correspondence exists (please list by heading)?

(3) Is a copy of the standard correspondence publicly available?

(4) If so, will the Minister provide a copy with the answer to this question?

(5) What was the purpose in having the standard correspondence revised?

(6) Were any changes made to the previous existing standard correspondence?

(7) What was the reason for those changes?

Mrs EDWARDES replied:

(1) Yes.

(2) Standard correspondence comprises letters relating to:

Lodgement of agreements: individual, collective, agreement under s23(1), agreement to cancel.
Registration of agreements: as above.
Refusal of agreements: as above.
Partial registration of collective agreements.
Outcome of Reviews.

(3) Yes.

(4) See paper No 181.

(5)-(7) Revising correspondence is part of the Office's continuous improvement program for processes and procedures. The content of correspondence was revised to ensure that the letters contain clear, accurate and up to date information.

## WORKPLACE AGREEMENTS

720. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister aware that the 1996-97 Annual Report of the Commissioner for Workplace Agreements refers to a general assessment "often" being made between the relevant award and the proposed workplace agreement?

(2) Will the Minister advise how that general assessment is made?

(3) What criteria do staff and/or the Commissioner use in making that general assessment?

(4) As the general assessment is often made but not always made, will the Minister advise the circumstances where it is not made?

(5) Will the Minister advise as to the criteria the Commissioner and/or his staff use in arriving at a preliminary view as to whether the parties might generally want the agreement registered?

(6) Where the Commissioner and/or his staff ascertain that a workplace agreement contains wage rates lower than the relevant award, does the Commissioner and/or his staff inform the employee that the workplace agreement contains wage rates less than the award?

(7) If not, why not?

(8) Where the Commissioner and/or his staff ascertain the workplace agreement contains conditions lower than the relevant award, does the Commissioner and/or his staff advise the employee that such conditions in the workplace agreement are lower than the relevant award?

(9) If not, why not?

(10) Is this general assessment made with respect to employees/persons who -

(a) are employed under an award at the time of entering into a workplace agreement; and

(b) are seeking employment but are informed the job offer is contingent on the person signing a workplace agreement?

Mrs EDWARDES replied:

(1) Yes.

(2)-(10) See previous answers to Parliamentary Questions 1450 (October 1994), 1826 (November 1994), 3625 (September 1995), 1307 (June 1996), 1996 and 1997 (September 1996), 2347 (September 1996)

WORKPLACE AGREEMENTS

721. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements is reference made to differences between workplace agreements and awards being discussed with employees where it is relevant?

(2) Will the Minister advise the criteria used by the Commissioner to determine where it is relevant?

(3) Of the total number of workplace agreements registered during the course of the 1996-97 financial year, on how many occasions did the Commissioner and/or the Commissioner's staff discuss with employees differences between proposed workplace agreements and awards?

Mrs EDWARDES replied:

(1) Yes.

(2) See previous answer to Parliamentary Question 1996 (1-3) (September 1996).

(3) This information is not available.

WORKPLACE AGREEMENTS

722. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements is reference made to the positive feature of workplace agreements, including -

(a) changing work culture;

(b) flexibility;

(c) customer service; and

(d) stability?

(2) What analysis was carried out to determine the effect of workplace agreements on changing work culture?

(3) What percentage of employers have been able to change the work culture by utilising workplace agreements?

(4) What independent research did the Commissioner have carried out during the course of the year that concluded workplace agreements changed work culture?

(5) Is that independent research publicly available?

(6) Of all the agreements registered during the course of the 1996-97 financial year, what percentage have recorded a change of work culture?

(7) Has the change in work culture been positive from -

(a) the employers perspective;

(b) the employees perspective; or

(c) both the employer and employees perspectives?

(8) Exactly how has that judgement been made?

Mrs EDWARDES replied:

(1) Yes.

(2),(4),(7)-(8)
References made in the 1996/97 Annual Report on changing work culture were based on feedback from both employers and employees to the Commissioner’s staff during the registration process. This information was provided as examples of some of the outcomes of agreements being registered by the Commissioner’s office.

(3) Unknown.

(5) Not applicable.

(6) Unknown.

WORKPLACE AGREEMENTS

723. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements is reference made to businesses using workplace agreements to overcome difficulties in achieving production targets because of their inability to pay overtime and shift penalties?

(2) Of all the businesses that entered into workplace agreements in the 1996-97 financial year, how many or what percentage of businesses reported difficulties in achieving production targets because of this inability?

(3) What percentage of the businesses sought to overcome this inability by lowering the hourly rate for weekend work or shift work?

Mrs EDWARDES replied:

(1) Yes.

(2)-(3) Unknown.

WORKPLACE AGREEMENTS

724. Mr BROWN to the Minister for Labour Relations:

(1) In the 1996-97 Annual Report of the Commissioner for Workplace Agreements is reference made to the flexibility that workplace agreements provide?

(2) In that Annual Report does the Commissioner give an example of flexibility by referring to a business redesigning work hours, by implementing a four day on, four day off rolling cycle with ten hour shifts allowing the business to operate continuously?

(3) Is the Commissioner aware of similar arrangements under enterprise agreements?

Mrs EDWARDES replied:

(1)-(2) Yes.

(3) The Commissioner is only required to report on information in respect to workplace agreements.

WORKPLACE AGREEMENTS

726. Mr BROWN to the Minister for Labour Relations:

(1) Is it true that a number of employers now require new employees to sign workplace agreements in order to obtain a job?

(2) Is it true that a number of employers have developed a standard workplace agreement which prospective employees must sign to be employed?

(3) Is it true that a number of employers have developed standard workplace agreements and have not involved employees or prospective employees in the process of formulating the agreement or in negotiating any of the terms of the agreement save the rate of pay?

(4) Given the experience of the Workplace Agreements Act 1993 and the Commissioner and his staff, is the Minister able to say that under the Act employers and employees have equal bargaining strengths?

(5) Does the Minister concede that under the Act some prospective employees have no choice other than to sign a workplace agreement if they wish to obtain employment?

Mrs EDWARDES replied:

(1)-(2) Yes.

(3) See previous answers to Parliamentary Question 1997 (Q2 9-12) (September 1996).

(4)-(5) Relative bargaining strengths can vary depending on the circumstances and the influence of market forces. The Workplace Agreements Act enables parties to appoint a bargaining agent and no party can be forced into a workplace agreement. See also previous answers to Parliamentary Questions 1450 (Qs 3-5) (October 1994) and 1827 (Q2) (November 1994).

## QUESTIONS WITHOUT NOTICE

GOODS AND SERVICES TAX, GOVERNMENT SCHOOL FEES

**171. Mr RIPPER to the Minister for Education:**

I refer to the proposed imposition of the goods and services tax on government school fees and the minister's discussion with the federal Minister for Schools, Senator Chris Ellison, on the issue. On Thursday 20 August, the minister said -

> I have raised the issue with the Federal Minister for Schools. It is my view that the GST should not apply to charges.

Is it not the case that Senator Ellison has not been able to assure the minister that government school fees will be exempt from the GST?

**Mr BARNETT replied:**

That is not the case. As I said when the member originally asked the question, because education is GST-free, there will be a redistribution of income within the community, which will be very much to the betterment of education. Fees levied for tuition in the non-government sector are GST-free.

Mr Ripper: Government school charges are not GST-free.

Mr BARNETT: Let me come to that point. I make a clear distinction: School fees are fees for tuition. In the government school system, under the new Education Act, there is no fee for tuition, but we propose to have mandatory charges. Charges for primary school have been set at $9 since 1972. Had inflation applied, the figure would have been $60 today. We propose to make those charges mandatory. The interesting point is that if a charge or fee for education is compulsory or mandatory, it is GST-free. If, however, it is voluntary, it may attract the GST. The member will now need to support us. It is an important point. School charges which we propose to have as mandatory and set at around $50, if they are mandatory and if the member supports the legislation, will be GST-free. However, if the member continues his current policy and replies that they are voluntary, they will attract the GST. If a GST applies to charges in this State, it will be because of the Opposition.

GOODS AND SERVICES TAX, GOVERNMENT SCHOOL FEES

**172. Mr RIPPER to the Minister for Education:**

As a supplementary question, what is the basis for the minister's assertion, which so far is unreported anywhere else that government school charges will not be subject to the goods and services tax?

**Mr BARNETT replied:**

The basis is discussions with the federal Minister for Schools, Senator Chris Ellison. It has not been made public because I knew that the member would not be able to resist asking the question.

CAPITAL GAINS TAX

**173. Mr MASTERS to the Premier:**

The Australian Labor Party proposes to make previously exempt capital assets subject to a capital gains tax should it win government at the forthcoming election. Many of my constituents are farmers and they are genuinely worried that the reintroduction of that tax will impact significantly upon their future plans. How will Labor's capital gains tax plans impact upon farming families in my electorate?

**Mr COURT replied:**

The former Labor Government gave a commitment that there would be no capital gains tax applied to assets owned prior to 20 September 1985. Of course, that has all gone now, and under its proposals that tax will affect millions of Australians, and it will not be just the farming community in the member's electorate. It will affect retirees, farmers and small businesses to name a few. But the capital gains tax does not apply just to the farm; it also includes shares, investment properties, holiday homes, collectibles, jewellery and antiques. All those assets will need to be properly valued at 1 January next year, and that is only a few months away. The federal shadow Treasurer, Gareth Evans, who seems to have gone into hiding in recent days, has suggested that a cheap, low-quality, low-cost valuation be done on 1 January. Of course, that would prove to be absolutely disastrous and it has been denounced by accountants, valuers and others who will be directly affected.

On 1 January, valuations must be carried out on all those assets, including the collectables in people's homes, so that a proper measure can be made of the capital gains to be paid. I shall quote the Labor Party's policy. It states -

> Accordingly, Labor will discontinue the exemption for these pre-CGT assets. All gains made up until 1 January 1999 will be exempt from tax. All pre-CGT assets must be valued as at 1 January 1999. All real gains made from the valuation date will be subject to CGT.
>
> It is not possible to provide a rigorous costing estimate for this change, Nevertheless, there are billions of dollars of pre-CGT assets, whose future increases in value after 1 January 1999 will become taxable. Over time significant revenue will be generated from this initiative.

That is a death duty. It does not matter how members want to interpret it, that is what it is.

Dr Gallop: You are desperate.

Mr COURT: It is not a matter of my being desperate. That is Labor's policy and it can go to the polls on it.

AUSTRALIAN FEDERAL POLICE, NATIONAL CRIME AUTHORITY, AUSTRALIAN CUSTOMS SERVICE

**174. Mrs ROBERTS to the Premier:**

Last year, the Premier talked tough when the Howard Government ripped the heart out of the Australian Federal Police funding in Western Australia.

(1) Does the Premier now have any commitment from John Howard to restore federal funding to the AFP, the National Crime Authority and the Australian Customs Service to their pre-1996 levels?

(2) If so, what commitment does he have?

(3) Will he join me in pointing out to the Prime Minister the damage that has been done to the fight against drugs in this State by his gutting of those federal agencies or is he going to play Liberal Party politics, go soft on drugs and play pussycat to the Prime Minister?

**Mr COURT replied:**

(1)-(2) I am informed by the Minister for Police that those funding levels have been restored, but today the Prime Minister announced that a second drug strike team from the Federal Police based in Western Australia. The Prime Minister gave a commitment at a Premiers Conference last year that one of those drug strike teams would be based in Western Australia. Today we have announced that two out of the 10 teams across the nation will be based out of Western Australia. I would have thought that the member would be very supportive of that proposal.

Mrs Roberts interjected.

The SPEAKER: Order, the member for Midland!

Mrs Roberts interjected.

The SPEAKER: Order! When I ask the member to come to order I mean it.

ABORIGINAL HEART DISEASE

**175. Dr TURNBULL to the Minister for Aboriginal Affairs:**

I note the recent untimely death of Mr Wayne Daley, who was the newly appointed chairman of the ATSIC Perth Nyoongah Regional Council. What can be done to reduce the number of relatively young Aboriginal men dying of heart disease?

**Dr HAMES replied:**

I thank the member for some notice of this question. I acknowledge the passing of a respected Aboriginal community leader, Wayne Daley. Wayne was born in 1951 in Kojonup and was married to Dawn Wallam, who works for the Aboriginal Affairs Department and who is in the gallery today. He leaves behind three children: Ashley, Nicole and Brody. Wayne was a member of a number of committees representing the interests of Aboriginal people in Western Australia and was very respected for that work and, in particular, for his work on the Aboriginal Advancement Council, of which he had been a member since 1992. On the day before his untimely passing, he was elected the chairman of the Perth Nyoongah Regional Council for ATSIC.

I raise this issue today not only to recognise the contribution that Wayne has made to the Aboriginal community in Western Australia but also to speak about the life expectancy of Aboriginal people and, in particular, of Aboriginal men in Western Australia. The life expectancy for most Aboriginal men is 57 years compared to the non-Aboriginal life expectancy of 75 years - 18 years more. In fact, the most common age of death for Aboriginal men in this State is 40 to 44 years, which is 10 times more deaths in that age range than for non-Aboriginal men.

Mr Graham: In some areas of the desert it is 10 years less than that.

Dr HAMES: That is correct. The average age of members in this House is 51, and we have about eight members who are over the age of 57, which is the life expectancy of Aboriginal people. Given that, one could assume that if we were all Aboriginal men, at least eight to 10 of us would have passed away. The most common age of death for Aboriginals is 44, so perhaps most of us would have died.

The most common cause of death for Aborigines is cardio-vascular disease, and diabetes is a strong contributor. I stress the importance of Aboriginal people - Aboriginal men in particular - over the age of 40 having blood sugar level tests, blood pressure tests and so on. It is most important that they also undergo the stress cardiographs performed on members in this House. They should be a normal feature -

Mr Graham: You will not provide electricity and water, let alone medical services. This is hypocrisy. You chaired a task force that called for services in the desert and then as minister you repudiated its findings.

Dr HAMES: Mr Speaker, I believe that this occasion is sufficiently solemn for you to ask the member to desist from interjecting.

The SPEAKER: Order!

Mrs Roberts interjected.

Dr HAMES: I do not think it is an appropriate forum. It is extremely important that all Aboriginal males over the age of 40 years undergo stress cardiographs.

GOODS AND SERVICES TAX, PENSION FUNDS

**176. Ms WARNOCK to the Minister for Seniors:**

I support the Minister's remarks about Wayne Daley. I knew him and, with the minister, I attended earlier this week a function at which his tragic death was mentioned.

I refer to the Minister for Senior's defence yesterday of the Howard tax package.

(1) Is the minister aware that the Howard tax package will apply a 15 per cent tax on previously tax exempt pension funds, thereby eroding the retirement incomes of about 300 000 self-funded retirees?

(2) Is she also aware of the assessment by Deloitte Tax Services partner John Randall that because of this new tax "pensioners will either run out of capital faster or have to take a smaller annual pension"?

(3) Does the minister support the imposition of this tax on pension funds?

(4) If not, what action has she taken to try to prevent the imposition of this tax?

**Mrs PARKER replied:**

I thank the member for some notice of this question.

(1)-(4) The question relates to the principle of taxing the funds of seniors. We have already heard today a response to a question in this House regarding the pre-1985 capital gains tax proposed by the Labor Party. If we are to compare taxes on seniors' incomes, there is nothing as significant as the Labor policy to tax those pre-1985 -

Ms Warnock interjected.

Mrs PARKER: When comparing what the two policies offer to seniors, taxing pre-1985 assets is very significant. I have looked at that further since the question yesterday and, under Labor, retirees -

Dr Gallop interjected.

Mrs PARKER: Let us look at the comparison.

Dr Gallop: That is not the question!

Mrs PARKER: We are comparing the two policies. Under Labor, a capital gains tax on pre-1985 assets would impose a significant cost on seniors with limited incomes, and those costs would not necessarily be recouped. Any income from those assets planned for retirement would have to be seriously reassessed.

I am not familiar with the assessment by Deloitte Tax Services, and I am happy for the member to provide it. There has been broad agreement across Australia that the Labor tax package has overlooked seniors and that this pre-1985 capital gains tax on assets is a serious attack on pensioners.

Last week the Deputy Leader of the Opposition said it was a rort of the system not to tax those assets. The seniors of this State would be offended by the suggestion that they are rorting the system. This is an attack on their incomes. I am not

familiar with the assessment, but I am happy to look at it and to do an analysis of it. However, I know that a capital gains tax on those assets is a serious attack on retirement planning.

MERRIWA PRIMARY SCHOOL

**177. Mr MacLEAN to the Minister for Education:**

Enrolments at Merriwa Primary School have increased significantly, with combined primary and preprimary enrolments going from 470 students in 1995 to 690 students in 1997. There are now some 750 students in the school population, with almost 450 in the kindergarten to year 3 age groups. Will the minister advise whether any action will be taken to alleviate the pressure on the school, and particular on those in their early childhood years?

**Mr BARNETT replied:**

I thank the member for some notice of this question. The figures he quoted are very significant. As he said, Merriwa Primary School had 470 students in 1995 and it has 750 today. The most remarkable statistic is that of those 750, 450 are in kindergarten to year 3. That reflects the extraordinary rates of growth occurring in the outer suburbs and new areas. That imposes great pressure on the Government and the department to build new schools and provide facilities in those areas.

Several members interjected.

Mr BARNETT: There are 450 very young children in a crowded situation and this Government, largely due to the member for Wanneroo's efforts, will do something about it. It will build a new school-in-houses project in Ridgewood, which will be open for the beginning of 1999.

Members opposite should follow the example of the member for Wanneroo: He acknowledged the large number of young children at that school and worked with the Government and, in this case, Town and Country Landholdings, to build a school-in-houses project that will accommodate about 100 students from that early childhood stage. As the numbers grow in Ridgewood, we will see a permanent school built on that site.

TEACHERS, DISCIPLINARY ACTION

**178. Mr RIPPER to the Minister for Education:**

(1) Does the minister endorse the Education Department's declared policy of instituting disciplinary action against teachers who dare to exercise their democratic right by criticising their employer, the Government?

(2) Has the minister's department joined Main Roads WA in attempting to terrorise its employees into silent acquiescence with the Government?

**Mr BARNETT replied:**

(1)-(2) I assume that the member for Belmont is talking about a newspaper article which appeared in the Press this week concerning a teacher from Kewdale Senior High School. The first I knew that some form of action might be taken against that teacher was the evening the article appeared in the newspaper.

Mr Ripper: That is why I asked whether you endorse the policy?

Mr BARNETT: I will say what I expect from teachers in our schools. The government school system has 800 schools and 25 000 teachers. Many people in the community will criticise government schools at the drop of a hat. Though the government school system in this State is growing, the trend over the past few years is for government enrolments to increase by 1 per cent a year and non-government enrolments by 5 per cent. We face the prospect that government education could fall behind the private sector. One of the most common complaints that parents make relates to standards of discipline and quality of teaching, and attitude of teachers. Our schools and teachers are good. However, I have made it clear to the Education Department, teachers and union representatives that I expect teachers to display a high level of professionalism in the classroom in their dealings with children and with parents. When teachers have complaints, I expect them to raise them through the proper channels.

Mr Ripper: They cannot criticise the Government.

Mr BARNETT: I do not expect to see teachers in our education system criticising their employer publicly. I expect a sense of loyalty to the Education Department and the state school system. When teachers break that code, and show disloyalty to their schools, colleagues and employer - I never ever interfere in staff matters, but when the senior people within the department think it is appropriate to draw behaviour to the attention of a teacher, they have my full support.

Mr Ripper: He wrote a letter to local community newspaper.

Mr BARNETT: We get quality education when we have quality teachers committed to their schools and organisations.

VICTORIA QUAY

**179. Mr MARSHALL to the Premier :**

What progress has been made by the State Government in the proposed redevelopment of the western end of Victoria Quay, and what is the public response to the plan?

**Mr COURT replied:**

We released the master plan for the Fremantle maritime heritage precinct in June. Public comment and submissions have been received. Those 400 submissions will be discussed at a forthcoming workshop that will involve all of the project's major stakeholders, including the Fremantle City Council and the chambers of commerce. We surveyed 400 people including 150 Fremantle residents, and 80 per cent of respondents in the wider metropolitan area and 70 per cent of Fremantle residents approved of the project.

The member for Fremantle will be interested that the key positive elements identified by respondents to the survey include the boost in tourism for the area, the relocation of the maritime museum facilities and the general facelift to the area. For Fremantle residents the key positive aspects of the redevelopment are the restoration and preservation of the Round House, benefits to the local economy, better use of space, improved pedestrian access and the proposed new ferry terminal. The results of survey and the public comments that have been made will be used to progress the planning to the next stage, which is the development of the final master plan for the redevelopment area in which a new museum building will be built.

GOODS AND SERVICES TAX, HOUSING CONSTRUCTION COSTS AND RENT

**180. Mr MARLBOROUGH to the Minister for Housing:**

I refer to the answer that the minister provided in question time last Thursday when he acknowledged that Mr Howard's 10 per cent GST would increase the cost of housing construction and rent.

(1) What will be the increase to the cost of building an average three and/or four bedroom Homeswest dwelling?

(2) What will be the increased cost to Homeswest's annual construction program?

(3) What will be the increased cost to Homeswest's annual maintenance program?

(4) Can the minister guarantee that he will not cut back on the Homeswest construction program or level of maintenance as a result of these additional costs?

**Dr HAMES replied:**

I thank the member for some notice of this question.

(1)-(5) I have held further discussions recently with the Housing Industry Association and the Master Builders Association on the cost of building construction. It has been agreed by the industry that the general increase in the cost of construction will be fractionally over 5 per cent. That means the average $110 000 house will increase by $5 500. The first home buyer will recoup $7 000. In addition, home buyers will save when they purchase items like carpets, which currently attract a 12 per cent tax, light fittings, reticulation and whitegoods, some of which attract a 30 to 40 per cent wholesale sales tax.

Mr Carpenter: What is the wholesale price of light fittings?

Dr HAMES: I do not know exactly what is the wholesale sales tax of light fittings.

Mr Carpenter: No, what is the wholesale price? You have no idea.

Dr HAMES: It will depend on what lights one purchases. I can tell the member for Willagee that when I purchased light fittings for my house eight years ago, the cost was about $5 000. Obviously, I had a reasonable quality of light fittings. However, one can purchase cheap or expensive light fittings. There is a range of different prices. To be honest, the shadow Minister for Housing will not welcome that interjection, because it highlights that a massive number of goods in housing construction attract a wholesale sales tax.

Dr Gallop: We are talking about a Homeswest housing program; answer the question.

Dr HAMES: The Leader of the Opposition should give me a chance. I cannot answer both questions at the same time. The fact is that a wholesale sales tax is imposed on many items that go into a home. New home buyers will be adequately recompensed for that price increase. Only the other day, I outlined the effect it will have on -

Dr Gallop: On the Homeswest construction program?

Dr HAMES: I will get to that.

Dr Gallop: That is the question. You are in here to answer the questions asked of you by the member.

Dr HAMES: The Leader of the Opposition should talk to his doctor. I do not think the tablets he gave to the member are working too well.

The question was in five parts and I am trying to answer the first component, which is the increase in the cost of building the average dwelling. The other components of the question related to the increased cost in construction. I have been given those figures but I cannot provide them off the top of my head. I am happy to provide them to the member. We will have to assess the effect of that and match that in with the commonwealth housing grants that we receive.

GOODS AND SERVICES TAX, RENTAL COSTS

**181. Mr MARLBOROUGH to the Minister for Housing:**

I am not sure the minister answered the previous question. What will be the impact of the GST on the cost of renting a Homeswest dwelling, which was the first part of my previous question?

**Dr HAMES replied:**

I answered that question on a previous occasion. The member will recall that I said that under the Commonwealth-State Housing Agreement, all of the States, Liberal and Labor, agreed to move to a position of 25 per cent of income being spent on rent.

Mr McGinty: Surely you can tell us how much more pensioners will pay for Homeswest accommodation?

Dr HAMES: I will, but I have been able to get out only one sentence; perhaps if the member will let me finish, I will make that clear to him.

Mr McGinty: You did not answer it.

Dr HAMES: He did not ask me that in the first part of his question. If the member goes to *Hansard*, he will find that that was not in the first component of his question. In fact, it was the question that I answered last week. I will repeat my answer of last week: The normal position is that 25 per cent of incomes go on rent, which means that with the 4 per cent increase in pension, 1 per cent would normally go to the rent increase. The coalition minister advised me that that was taken into account when the calculations were made on the 4 per cent. However, as I also said to the member last week, we have had discussions with the commonwealth minister and other state members of both sides of government and have been advised that we may consider this to be a specific increase and have that taken out with the arrangements through the Commonwealth-State Housing Authority. We will be having discussions to see whether we can remove that 1 per cent.

The SPEAKER: Order! We have just witnessed one of the difficulties we experience with question time. That answer took six minutes because the minister started answering interjections to do with light fittings and all sorts of other things. Sometimes that may be relevant, but it tends to use up question time and prevent members asking other questions.

EAST BUSSELTON PRIMARY SCHOOL

**182. Mr MASTERS to the Minister for Education:**

The new East Busselton Primary School has been open for business since the start of the third school term. It provides an excellent level of service to students and teachers alike. However, I am advised that six demountable classrooms have been required to accommodate the higher than expected number of students.

Can the minister advise how long these demountables are likely to remain at the school, and what progress has been made in the planning for the next primary school proposed for the south Busselton area?

**Mr BARNETT replied:**

I thank the member for some notice of this question.

The situation in Busselton, and other places such as Merriwa, is one of very rapid growth of student population, particularly among very young children. Members may be aware that the old Busselton primary school was located in the centre of the town, in fact, on the main road, and on three separate sites separated by road. It was an old school building and not adequate for the future. The new building - I have not seen it yet - is an excellent school according to the member and people in the area, as all new schools are, and is performing and operating very well. I am sure the member and parents always feel a sense of frustration when a new school building is built for $4.5m and almost immediately it is necessary to put transportables on the site. That is recognised, but at the same time, it is not logical to build permanent facilities which will then become half empty in the short term. Currently two proposals are being examined: One is to provide further permanent buildings to the East Busselton Primary School to be built within the next three to five years; within that time frame, we also expect to go ahead with the South Busselton primary school. The department monitors the growth areas very well and has

an ability to put new primary schools in place in perhaps nine to 12 months ahead, which is an outstanding performance. I think members opposite should give a bit more -

Mr McGowan interjected.

Mr BARNETT: I have been to the member's school and done something about it. It would be nicer if he were more gracious and recognise that things have been done in his electorate at his request.

KUNUNURRA YOUTH TRAINING PROJECT

**183. Mr KOBELKE to the Minister for Employment and Training:**

I refer to the glossy July 1998 issue of the Department of Training magazine *Training WA* which states -

> *Kununurra Youth* - Kununurra
>
> This project received $147,753 for the establishment of a facility to be used to train and provide work experience in the hospitality industry . . .

I visited Kununurra recently and found that this project had not been funded.

(1) Is the Kununurra youth project to be funded and, if so, when will the funding be made available?

(2) If the funding is not to be approved for this very worthwhile project, why did his department's glossy magazine claim that it had been funded?

**Mr KIERATH replied:** If the member wants to put that question on notice, I will get an answer for him.

SPORTS CLUB DEVELOPMENT SCHEME

**184. Mr OSBORNE to the Parliamentary Secretary representing the Minister for Sport and Recreation:**

The innovative sports club development scheme has been applauded by sporting clubs in my electorate. Can the minister advise the House -

(1) How the grants are distributed?

(2) What projects the grants cater for?

(3) Whether the scheme is as successful throughout the rest of Western Australia as it is in Bunbury?

**Mr MARSHALL replied:**

I thank the member for this question because I know he is intimately involved with sport. The minister has provided the following answer -

(1)-(3) Grants have been distributed state wide through the Ministry of Sport and Recreation and in 1997-98 505 clubs successfully took advantage of the scheme. A total of $249 567 was allocated to the projects which now have a total value of $1.5m.

The purpose of the scheme was to provide financial support to local community sporting clubs to increase volunteer involvement and to improve the quality of their activities, especially among the young.

The projects for which the grants catered were the education of volunteers, for which $109 476 was allocated to 212 clubs throughout Western Australia; resource development, 146 clubs; information services, 123 clubs; and other miscellaneous projects, 24 clubs.

I advise that the education courses were to upgrade the level of coaching, administration, officiating and injury prevention while the resource development was to develop or purchase "how to" manuals to further upgrade sport. The most important aspect of the scheme was information services, aimed at upgrading office equipment for the key club volunteers in the form of computers, answering machines and photocopiers, because amateur clubs do not have those facilities and when somebody gets a transfer, so too do all the junior development memberships; so this has been a tremendous success. The feedback indicates that the club system of WA has appreciated the opportunity to access these funds directly. In other words, it has been a tremendous success and 505 clubs have benefited from the scheme.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL FUNDING

**185. Ms MacTIERNAN to the Minister for Health:**

(1) Is it true that the Government is prepared to guarantee the private companies tendering for the Armadale health service funding from only 28 per cent of patient throughput?

(2) If yes, why is the Government requiring these companies to build a 130 bed hospital when it is limiting funding for public patients to the equivalent of fewer than 50 beds?

(3) If no, what percentage of patient throughput is being guaranteed under the term of the proposal?

(4) Is the minister prepared to table the relevant part of the request for proposal document so we can ensure exactly what is the Government decision?

**Mr DAY replied:**

(1)-(4) What I know about the redevelopment of the Armadale-Kelmscott Memorial Hospital is that the people in the south eastern corridor will be getting a new hospital, whether it is done by the Government or by the private sector, and it will be built and operating in 2001. The arrangements that are to be put in place remain to be seen, but certain specifications are contained within the request for proposal document and the percentages that the member for Armadale mention sound vaguely familiar. A whole range of different scenarios will be presented in the final proposals, but that is up to the companies and it is between the companies and the Health Department. Exactly how the service is to be provided remains to be seen. It may be undertaken by the Government or by the private sector.

Mr Court interjected.

Mr DAY: As the Premier says, this Government will be ensuring that the people of the Armadale-Kelmscott region get a much-needed new hospital, something on which the Labor Party completely failed the people of that area. We are actually doing something about it.

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