WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Thursday, 15 October 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

AUSTRALIA FREE OF RACISM

Petition

Hon Ljiljanna Ravlich presented the following petition bearing the signatures of 660 persons -

> To the Honourable The President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia wish to express our concern at the recent surge of racism in Australia. We are a group representing Australian women advocating an Australia free of racism to ensure a future for our children in a multicultural and harmonious society.
>
> Your petitioners therefore respectfully request that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 264.]

FREMANTLE EASTERN BYPASS

Petition

Hon B.M. Scott presented the following petition bearing the signatures of 224 persons -

> To the Honourable The President and Members of the Legislative Council in Parliament assembled.
>
> We the undersigned residents of Western Australia are concerned that the proposed Fremantle Eastern Bypass will -
>
> > fragment and dislocate the communities of White Gum Valley and Beaconsfield;
> >
> > increase vehicle emissions, affecting air quality and pollution levels;
> >
> > result in increased run-off of petrochemicals, heavy metals and solvents into stormwater run-off, and ultimately into local waterways;
> >
> > remove the school oval and green areas of White Gum Valley primary school;
> >
> > threaten safety of school children and all pedestrians and road users due to increased traffic levels in the surrounds;
> >
> > create increased traffic in feeder roads, adversely affecting residents; and
> >
> > destroy remnant urban bushland at Clontarf Hill.
>
> Your petitioners therefore humbly pray that the Legislative Council examine the need for the bypass in the light of the Perth Photochemical Smog Study and the Metropolitan Transport Strategy, and recommend the Eastern Bypass be deleted from the Metropolitan Region Scheme and alternative solutions be implemented.
>
> And your petitioners, as in duty bound, will ever pray.

[See paper No 265.]

SPEED LIMIT TRIAL

Motion

Resumed from 14 October on the following motion -

> That -
>
> (1) This House supports a trial to increase the speed limit to a maximum of 130 kilometres per hour on specific roads in remote areas of the State of Western Australia.
>
> (2) The trial should be conducted over a 12-month period, be fully monitored by the Road Safety Council of Western Australia, and appropriate data to be compiled both prior to and during the trial.

HON M.D. NIXON (Agricultural) [11.08 am]: When I was interrupted by question time yesterday I was dealing with the

matter of what important statistics should be taken into account when considering what causes deaths on country roads, and I was discussing the matter that when one considered some of the highways about which statistics are compiled, one would find that at the end of a long highway, such as the Albany Highway, those people who had travelled, say, 250 kilometres were more likely to suffer from fatigue than those who had just left either Perth or Albany and were on the first leg of their journey.

The next thing one would find is that, taking the fact that the Albany Highway and the Brand Highway are of similar length, the accident rate may not be much different on the two highways, although I suggest that quite a few accidents that occur on the Brand Highway may not be recorded because they do not cause much damage and people probably leave the road and press on again. However, I am sure one would find that the fatality rate per accident is far greater on the Albany Highway because on the Brand Highway there are fewer objects to hit. Indeed, because the Brand Highway has mainly low scrub, the accident rate and the death rate would be considerably lower. Maybe the extra policing of speed limits also has a negative effect on the fatigue factor. Although it is undoubtedly an important factor in controlling deaths as a result of people passing on the wrong side of the road in dangerous positions and things of that nature, the fatigue factor probably increases when people keep religiously at or below the speed limit. It has been my experience travelling widely in Western Australia that the Albany Highway is the most policed highway. I would be interested to see the statistics, because it is quite possible that the death and accident rates on that highway are at least as high, and possibly higher, than that on other roads, because when people put on the cruise control and stick religiously to the speed limit, they do two things. Firstly, of course, they suffer from fatigue; and, secondly, they probably do not slow down from the recognised speed limit when it would be wise to do so. I feel sure that the key to reducing accidents is for people to drive at the appropriate speed for the prevailing conditions. I am sure the Attorney General agrees entirely!

Hon Derrick Tomlinson: He did not even slow down after his accident.

Hon M.D. NIXON: The other factor is that people should slow down if it is unsafe to travel at a certain speed. That could be due to many factors that must be taken into account, such as livestock or kangaroos on the road or wet weather and mist. I am amazed that people can drive at 110 kmh on all rural roads. Even if people are in a hurry, they will drive within the speed limits on the Brand Highway or the Albany Highway, because they know those roads will be policed. However, when they get to the country roads - many of which are gravel roads on which the safe speed would be half of that on major highways - they can drive at 110 kmh because they know they will not be caught by traffic police, who have been instructed to concentrate on the major highways. If we wish to reduce the death and accident rates in Western Australia, we must make sure we do those things that will produce that.

Hon Peter Foss: Abolish cruise controls.

Hon M.D. NIXON: Yes, cruise controls should be abolished and speed limits should be lifted. Many factors are involved. The argument comes back to whether Governments should control people or whether people should be free and responsible. I am coming to the conclusion that the only way is for people to be free and responsible. The more the Government imposes a nanny State, the less likely are people to make responsible decisions. The only way to improve the situation under a nanny State is to have more and more police, and that is the first step towards a police State. Many things are brought about only because people are committed to the cause; if people are committed to safe driving, there is some chance of their driving safely. That does not necessarily mean sticking to rigidly enforced speed limits which are unrealistically set. In the 1960s a Citroen car was used to develop fully automatic driving, so that people could drive all day at 100 miles an hour in absolute safety because the car was automatically controlled with its power systems.

Hon Peter Foss: Even ordinary Citroen cars are safer on the road than Ford Fairlanes.

Hon M.D. NIXON: I am sure the Attorney is correct. We must put all our energies into those areas that will produce safe driving behaviour. The case has been clearly put that when speed limits were introduced, the accident rate increased. The case has been put that when speed limits were increased on freeways, the accident rate stayed the same. All the evidence points to the fact that responsible drivers prevent accidents. It has also been proved that people tend to drive at speeds at which they feel safe. If the Government imposes an artificially low speed limit, it turns law-abiding citizens into criminals. That is a problem. More important, if the Government polices the unrealistic speed limits, it turns people against the police so they are far less likely to cooperate with the police in other matters. That probably has an influence on crime levels in other areas. I have absolutely no doubt that the wise thing in this case is to give the 130 kmh speed limit a trial.

HON KIM CHANCE (Agricultural) [11.14 am]: I am, of course, broadly supportive of the motion, for reasons I have stated before, and it is not necessary to restate them in detail.

Hon Peter Foss: But you will nonetheless.

Hon KIM CHANCE: No, I will not. Other members have put the case far more eloquently than I could.

Hon Peter Foss: Are you supporting the motion?

Hon KIM CHANCE: I am in broad support of the motion. Hon Norm Kelly thanked me for the reference to his eloquence and, although I withdraw none of my reference, I do not entirely agree with everything he said. I will sum up my reason for supporting the motion. The speed limits on our roads were introduced some 30 years ago. Reference has already been made in this place to the rate of change in the primary and secondary safety characteristics of vehicles on the road which has occurred during those 30 years. It is more than considerable. Like Hon Murray Nixon, I shall refer to the primary safety characteristics and their improvement. In those 30 years cars have been developed which are much more able to cope with not only road conditions, but also variable driver skill levels, which make the 110 kmh speed limit something of an anachronism in this day and age.

Hon Peter Foss: If you had a Citroen in those days it was an anachronism.

Hon KIM CHANCE: That is certainly true, and I am sure Hon Murray Nixon would remind the House things were very different for drivers of Jaguar cars in 1967.

Hon Peter Foss: They are not as safe as Citroens.

Hon KIM CHANCE: Hon Murray Nixon would probably argue about that on the basis of primary safety characteristics. However, not having had the benefit of owning a Jaguar, I cannot be sure. I have driven some of the great cars of that era and their primary safety characteristics, if not their secondary characteristics, were on a par with those in modern cars. Suffice to say that the average car on the road in 1968 had recirculating ball steering, which was insensitive and generally inaccurate, it was equipped with cross-ply tyres mounted on an average rim width of five inches, and 13-inch diameter wheels. The shock absorber, braking and suspension technologies were of another era compared with today's cars. Despite my high opinion of some of the better cars of that time, two of which have been mentioned - I think Mercedes-Benz would be upset if it were not mentioned in that context - I would still opt to drive a current Australian made car rather than one of the old products. Modern Australian cars are in a different league from even the better cars of 30 years ago.

Hon Norm Kelly may have argued, if not on this occasion then on an earlier occasion, that people are not better drivers today. People are no less easily injured than they were 30 years ago, because the evolution of the human species and its adaptation to motoring around at speeds of more than 100 kmh has not changed or moved fast enough to make any difference. People have not become more crash resistant than they were 30 years ago, and neither have their skills improved in those 30 years. Partly because of better road engineering, it is possible that drivers today are less able to respond adequately to emergency situations than they were 30 years ago, because they would have had more experience then of evasion techniques.

Hon Peter Foss: ABS may be an issue.

Hon KIM CHANCE: I do not want to get into that engineering argument. Modern rally cars today in their original equipment form are fitted with anti-lock braking systems, but it is common for them to be dispensed with. There is a reason for that which I will not go into. Interestingly, Formula One cars use a similar technique in their traction and braking controls. Hon Murray Nixon referred to the fact that he has now driven some three million kilometres. I was fascinated by that. I looked back into my own almost 30-year driving history and I cannot match him. Mine would be somewhere between two million and 2.5 million kilometres, some as a professional driver. I add also that I have never had an insurance claim in that time, although I cannot claim never to have had an accident. In those 2.5 million kilometres, I have been involved in competitive motor sport for some 20 years also. Despite my advancing years, I still engage in motor racing, although these days my competition is limited to rallying. In pursuit of my career in rallying, I race principally in Tasmania where mountain pass-type roads can be closed for competition events in which I prefer to compete. Members who have driven off the major highways in Tasmania will sympathise with what I am saying. I do not want to denigrate Tasmanian road engineers, but Tasmanian roads could be best described as quixotic. As members can imagine, hairpin bends are fairly common in mountain passes.

Hon Peter Foss: Dictated by the terrain.

Hon KIM CHANCE: Not just dictated by the terrain; when designing these roads, I am sure the engineers said, "Here is an interesting blind crest. Which way shall we put the hairpin after the blind crest?" Because those are exactly the conditions one encounters. However, the quixotic nature makes it more difficult because there may be a sign indicating a left hairpin bend over a crest but no sign for a right hairpin bend over the next crest. Therefore, no reliance can be placed on the location of signs. In conversation with officers from Main Roads during the estimates hearings in this place, I asked if they were aware of any differences in the accident rates in rural Tasmania and rural Western Australia. They noted that it would be interesting to know; however, they were not aware off the top of their heads what those figures might be. I later researched those figures and found that there is no difference between the figures for the roads in Western Australia and those wild, winding, badly signposted, sometimes icy, sometimes even mossy roads in Tasmania. They become mossy because in the rainforest country the sun never reaches some of those corners and moss grows on the road. It is a hair-raising experience to hit that. If members think black ice is dangerous, try moss.

Hon Peter Foss: It is probably more dangerous to Western Australians who are used to long, straight roads.

Hon KIM CHANCE: Quite. However, it was interesting to me because we have better engineered roads, partly because of the terrain and partly because when one does not have to spend the kind of money per kilometre on a road that Tasmanians do in actually carving it out of the living rock, one can probably create a higher quality road. We have dry weather conditions in Western Australia. It is very rare to run into ice and almost never into moss. In spite of all of those things and the generally lower volume of traffic per kilometre on Western Australian roads, there is no essential difference between the accident rates in the hair-raising driving conditions in Tasmania and the relatively easy driving conditions in Western Australia.

Hon Peter Foss: In your research, did you find that to be the case right across Australia, particularly other States?

Hon KIM CHANCE: That was a Western Australian figure.

Hon Peter Foss: You mean Western Australia and Tasmania? You did not check the others?

Hon KIM CHANCE: Yes, rural roads. I am aware that there are big differences between rural areas in Western Australia. I suppose what I gained from that is that speed limits tend to be irrelevant because on those hair-raising roads in Tasmania the speed limit is not graduated. There is a state-wide speed limit of 100 kmh, except on two dedicated roads, the Midland Highway and the Bass Highway where the speed limit is 110 kmh; and these are very high grade roads. To give members some idea, on some of those road sections which are closed for the competition and on which are driving some of Australia's best professional racing drivers in some very expensive motor cars, it is rare for those drivers to be able to average 100 kmh on those sections; 80 to 85 kmh in some sections is all that can be managed, and even less in rain. Therefore, the speed limit is, in effect, unlimited because nobody is capable of reaching those speeds. If a Jim Richards, a Dick Johnson, a Jack Brabham or a David Brabham is unable to make these average speeds, I doubt that anyone can.

Hon Greg Smith: Or a Kim Chance!

Hon KIM CHANCE: I am only a humble navigator these days. I must put my faith in someone else.

Hon N.D. Griffiths: You would not put your faith in Hon Greg Smith though!

Hon KIM CHANCE: The point I make though is that the roads have, in effect, unlimited speed limits because it is almost humanly impossible to reach the maximum legal speed on them. Despite all of that and the nature of the roads, Tasmania's road trauma rate is no higher than Western Australia's. I am certain it is higher than Tasmanians would like; ours is higher than we want. However, the fact is that the speed limit effectively makes no difference. We could argue that, because Tasmanian drivers do not have to worry about looking at their speedometer all the time because of the road conditions, their own skill and vehicle performance will determine their speed and there will be a better outcome in people being able to drive adequately according to the conditions.

The issue that has been raised is very important and virtually every speaker has mentioned it: Should we advocate this change? Should the Parliament, and the minister in his wisdom, choose to proceed with this trial, what will be the outcome? That issue has plagued every one of us. If, as a result of the trial, the road trauma rate were to rise, I will feel some responsibility for that, having advocated it both inside and outside this place.

Hon Mark Nevill: You might remove those high speed limits on roads with the problem.

Hon KIM CHANCE: Yes, that is certainly a possibility. The only argument that matters in considering this motion is whether we believe that to be a likely outcome. In order to achieve that, the minister and his officers in Transport and Main Roads - if they are not doing it already - must consider a number of things before they reach that conclusion. I imagine that the minister has a considerable amount of international information on which he may be able to draw. However, the statistic that was mentioned by Hon Murray Nixon and others in this debate - I am not aware of the accident rate - showing that the fatality rate increased in this State in the two years after the introduction of open road speed limits is interesting. People have asked me privately if I have any idea of why that might have occurred. I think Hon Norm Kelly may have said that possibly people increased their speed because they thought they must drive at 65 mph. I do not believe that is possible. However, I do not have a theory or credible scientific information which might point to a reason for that significant increase.

Hon B.K. Donaldson: Do you think they may have not driven according to the road conditions but increased their speed?

Hon KIM CHANCE: That may be so.

Hon B.K. Donaldson: On some roads you would not travel at 110 kmh and neither would I.

Hon KIM CHANCE: I earlier reminded the House that open road speed limits were not introduced in a blanket 65 miles per hour everywhere but were phased in over two years. The 65 mph limit applied to some roads and not to others. The reason I was a bit confused about 1968 is that I have a clear recollection of when the Great Eastern Highway had a 65 mph limit but the Red Hill Road from Toodyay did not. A lot of us drivers were using the Red Hill Road rather than the Great

Eastern Highway simply to avoid that section of the Great Eastern Highway from Northam to Perth which was heavily policed as a result of the trial. As a consequence of phasing in the limit over a period of time people had the opportunity to get used to the idea of open road speed limits. As a consequence of that I do not think that they would come to the crisis to which Hon Bruce Donaldson referred in which people felt they had to maintain that speed. I do not know, because I have no information at all. I can simply note that the imposition of open road speed limits in Western Australia did not result in a reduction of road trauma; indeed, the reverse occurred. It was accompanied by - I will not say resulted in - a very significant, not marginal, increase in road trauma in Western Australia.

Hon M.D. Nixon: The death rate went from 250 deaths a year to 310 deaths in the first year to 320 deaths in the next year.

Hon KIM CHANCE: Indeed. I thank Hon Murray Nixon for those figures. When one looks at the weighted graph of road death statistics and road accident injury statistics in Western Australia, which are weighted by licensed vehicles on the road, over a period of time it has a very clearly declining graph line. In that declining graph line only two significant blips occur in the general trend where road trauma fell suddenly and deviated from the long-term line. I cannot give members the exact years when those two blips occurred but I can tell them what accompanied the blips. The first blip occurred about 1958 to 1964 when somewhere during that period the compulsory wearing of motor cycle helmets became law. There was a very significant reduction in road trauma then. Again about 1974 - members must not quote me on the year - a reduction occurred during the period when the compulsory wearing of seat belts was mandated.

Hon Mark Nevill interjected.

Hon KIM CHANCE: I am sure it was not. Even though the compulsory wearing of helmets and seat belts were secondary safety measures, they were both accompanied by significant declines in the rate of road trauma in Western Australia. Other than those two instances, the trend line shows a steady decline, probably as a result of better roads, cars and so on. As we have indicated from the figures, there was most definitely not a reaction to the introduction of speed limits; indeed, to the extent that there was a deviation the graph rose rather than fell. We need to consider that in our process towards trying to reason out the arguments why a trial of this nature should or should not be introduced. It is not simply a matter of the issue having broad numerical support in this place. That is almost irrelevant. The question is whether the decision would be right or wrong. We need to be extremely careful about the way we progress the action.

As a result of that, I will move an amendment, which may make people feel a little bit comfortable towards moving to the trial. I must say in moving the amendment that I remain committed to the implementation of the original motion, but it is reasonable that we progress in this way. I welcome the opportunity to put forward this amendment for the consideration of the House.

Amendment to Motion

Hon KIM CHANCE: I move -

(1) In part (1) of the motion, delete "130" and insert "120".

(2) Delete in paragraph (2) the words "and appropriate data to be compiled both prior to and during the trial." and substitute -

subject to the following conditions -

(i) the trial be carried out only on roads designated for the trial following consultation with Main Roads, the Road Safety Council, local government authorities, and other appropriate bodies;

(ii) the trial be carried out only during daylight hours;

(iii) the trial be limited to cars, including four wheel drives and utilities, and motorcycles, but does not include trucks or semi-trailers, omnibuses as defined in the *Road Traffic Act*, or any vehicle towing a trailer or caravan;

(iv) probationary drivers are not to be included in this trial;

(v) the trial to be fully monitored by the Main Roads Department, and appropriate data to be compiled both prior to and during the trial, and this information to be supplied to the Road Safety Council; and

(vi) the trial be implemented as a trial conducted over a 12-month period to increase the speed limit to 120 kmh in line with the limitations placed by this motion.

HON MARK NEVILL (Mining and Pastoral) [11.39 am]: I support the amendment moved by Hon Kim Chance. During my university days when I worked as an instrument hand for the then Main Roads Department I worked on surveying road realignments.

Something one notes is that a lot of those roads are designed for vehicles travelling at 110 kmh. When one goes off a straight into a curve there is a certain amount of super-elevation on the road which helps the car stay on the curve as one goes around it. My only concern with the motion as amended is that if one drives at 130 kmh around most of the curves designed for Western Australian roads, one will feel the car leaving the road. When travelling at 110 kmh around a curve designed with suitable radius and super-elevation for that curve, the car almost drives itself around the corner. If a person is travelling faster than the curve is designed for, he can feel the centrifugal force pushing him off the road. This trial is suitable only for open roads and not areas with curves designed to be taken at 110 kmh. How fast one can go on a road also depends on how well one knows the road. If one knows the road well and drives along it frequently, one can travel more safely at higher speeds.

The other two comments I make is that if this trial is not successful, perhaps we should look at the age of the cars involved in accidents. Instead of stopping the trial of 130 kmh it may be possible to rule that only cars constructed since 1990 are allowed to travel at the higher speed. I would not put that caveat on the trial now, but more accidents at 130 kmh should not mean that a road is removed from the trial. Other factors need to be considered before doing that. A more obvious measure we could take to reduce the road toll in Western Australia would be more and regular inspections of older vehicles. A lot of vehicles should not be on the road. This would create a problem for Aboriginal people as a lot of their vehicles would be removed from the roads if they were inspected. However, my experience is that Aboriginal people in remote areas do not travel fast; they travel very slowly.

Hon Greg Smith: Some of the new Land Cruisers would be roadworthy.

Hon MARK NEVILL: I know there are exceptions and in the metropolitan area some of the less experienced Aboriginal drivers would be exceptions. Some Aboriginal people do hike along the road. I am talking about people in the outback areas and gravel roads. Typically the cars are driven slowly, unless the driver has been drinking. In a place like Balgo if a car is involved in an accident and a fatality results, the penalty is an automatic spearing of the driver. Matters are regressing so much - if I can use that term - these days that I am concerned for people like the De La Salle brothers at Balgo and the Catholic priests who often drive Aboriginal people around in their vehicles. If a car rolled over and there was a fatality, a white driver could expect some retaliation. It appears such retaliation is being built into the customs and cultures of today. If there is a fatality, there is retribution against the driver no matter who that person is. We need inspections of these older vehicles, particularly the ones travelling on the roads which will be open for the 130 kmh. It may be dangerous for those older, not so robust vehicles to travel at those speeds. A lot of unroadworthy vehicles are on the road and it will be interesting to see how they feature in the serious and fatal accident statistics.

The PRESIDENT: Because of the nature of the amendment I propose to put it to the House in two parts in due course. It involves deleting and inserting words in part 1 and part 2. If no objection is raised, that is how I will deal with it.

HON B.K. DONALDSON (Agricultural) [11.46 am]: I support the amendment. My personal preference is to leave the trial at 130 kmh but I realise what is and what is not achievable. A lift to 120 kmh is possibly more relevant for the conduct of a trial. The freeway is a prime example of the way speed limits have changed in Western Australia. The Mitchell and Kwinana Freeways had a speed limit of 90 kmh. Main Roads monitored the speed on the freeways for some time. When it used its van with a mast, people slowed down because they thought it was a pie in the sky Multanova. Drivers slowed down to have a good look and sometimes this caused traffic congestions. Main Roads found that vehicles were travelling at about 101 kmh on the freeway when it had a 90 kmh limit. When the speed limit was lifted from 90 to 100 kmh, the vehicles were monitored as still travelling about 101 kmh. The average speed of vehicles did not increase. Hon Murray Nixon sought statistics to show what had happened during that period, prior to and after the change in the speed limit. Was there a big increase in accidents? No, and there may have been a reduction.

Hon Peter Foss: Everyone was travelling at the same speed, not some people observing the law at one speed and the rest at another.

Hon B.K. DONALDSON: That is probably very good thinking.

Hon M.D. Nixon: They were not breaking the law either.

Hon B.K. DONALDSON: No. The dual carriageways were an interesting experiment. It took about two and a half years to raise the speed limit from 70 to 80 kmh on some of the well-known dual carriageways. The carriageways were monitored for some time and the average speed was around 80 kmh. The speed limit was lifted from 70 to 80 kmh in a trial. Funnily enough, the average speed was still about 80 kmh. Marmion Avenue is a prime example. I have friends whose children attend St Mary's school. This couple drive their children to school every morning and pick them up in the afternoon. I had to tell them that the speed limit had been lifted from 70 to 80 kmh. They had not noticed that the signs had been changed. That indicated to me that they had always travelled along that road at 80 kmh. They did not alter their speed. There is no residential access to Marmion Avenue, just some intersections.

Hon Peter Foss: You used to travel on the dual carriageways at 70 kmh and then reach a single carriageway with an 80 kmh speed limit.

Hon B.K. DONALDSON: That is what I will say. When one reached Ocean Reef Road, the single carriageway was 80 kmh. I looked at some of these roads. The former Minister for Transport, Hon Eric Charlton, asked me to sit down with Main Roads as I had been agitating about some of these changes for some time.

The speed limits on many dual carriageways that were monitored have been changed, but some have not. Looking at some of these roads, it became quite clear to me that a complete reassessment must take place across the metropolitan areas. The speed limit on roads that I considered should have been 70 kmh was 80 kmh, and vice versa. We have not reached the end of the problem. I see too many dual carriageways with only monitored access, and no residential access where people must back out of their properties onto a road. I cannot believe the speed limit in those areas is still set at 70 kmh. One can ask what is a speed limit. As I read it, it has been designed to take into account the road surface, the types of bends, whether there is access and, if so, the nature of the access onto those roads. Those factors are assessed by departmental officers driving along in vehicles and looking at the maximum speed. It is not mandatory.

Over the years we have seen a change in the technology of the motor vehicle. Hon Kim Chance mentioned some makes of cars. I would not have liked to have driven some of the cars that were around 20 years ago at the speeds which we consider to be acceptable now. The braking systems in those old cars would not be as effective as those in the vehicles manufactured today.

Hon Peter Foss: My Citroen was a lot better.

Hon B.K. DONALDSON: Hon Murray Nixon has often told me that he swears by his vehicle.

Hon N.D. Griffiths: I do not want to hear your confessions!

Hon B.K. DONALDSON: We lesser mortals could not afford these very expensive vehicles.

Hon Peter Foss: Unless it is a Citroen.

Hon B.K. DONALDSON: My driving life was built on FJ Holdens, a moderate farming vehicle. The difference in technology in the cars of 20 years ago and those of today reminds me of the transition from the use of a horse and cart to the first motor car.

Hon Peter Foss: Unless it is a Citroen!

Hon B.K. DONALDSON: I have often said that some people have let go of the reins and put their hands on the steering wheel.

I can remember when a great deal of money was spent on the stretch of Toodyay Road from Noble Falls onwards. After all the new bends had been completed the speed limit on that section of road was 90 kmh. I was driving down from Koorda and I was picked up for exceeding the speed limit - I was driving at just under 100 kmh. A little while after that I fronted up to a meeting about local road funding with Albert Tognolini, the then Commissioner of Main Roads, and Ken Micheal, his assistant. I asked who were the engineers who had designed the road near Noble Falls. Ken told me who they were and asked why. I said that whoever designed it should be sacked. Their immediate reaction was, once again, to ask why. I referred to the many millions of dollars spent on it and said the speed limit for that stretch of road was the same as the one that had applied before the completion of the roadworks. When I asked whether the speed limits are reassessed, I was told that they should be reclassified following the completion of any roadworks. In this instance, these officers looked at a form and found that someone had forgotten to reassess the speed limit, so the original sign was put up. It cost me a fine, but luckily others benefited because the speed limit on that stretch of road was lifted to 100 kmh.

Hon Kim Chance: When that happened on the Great Eastern Highway the speed limit was reduced by 20 kmh.

Hon B.K. DONALDSON: I am very concerned that the Tonkin Highway has various speed limits. People can drive to Welshpool Road at 100 kmh. Then on one section the speed limit drops to 80 kmh, for no reason. There are Multanova cameras in place there.

Hon N.D. Griffiths: It's a revenue raising exercise.

Hon B.K. DONALDSON: That is exactly what it seems to be. The situation on the next section is worse: At the junction of Tonkin and Roe Highways, where there are on-ramps, the speed limit is again set at 100 kmh. That is not what I call a good use of speed limits on our roads.

We tend to look at speed limits as one parameter by which we can control road trauma. I will give an example to the contrary. Let us take Cowalla Road where Hon Murray Nixon lives. The speed limit there is 110 kmh. On the edge of that road are large tuart trees. If a General Grant tank hit those huge trees, not one leaf would fall.

Hon N.D. Griffiths: A very good road runs past his house!

Hon B.K. DONALDSON: When I am driving past these tuarts, I slow right down. I would not travel at 110 kmh when driving past those trees, not even if someone paid me to.

Hon B.M. Scott: They make you feel unsafe.

Hon B.K. DONALDSON: Absolutely.

Hon Greg Smith: They jump out in front of you.

Hon N.D. Griffiths: You are supposed to be driving on the road.

Hon B.K. DONALDSON: The one chain road reserve was never designed to be a nature conservation strip. Any time we cleared land on my farm I made sure we had a one chain, shelter belt inside the property. I see too many people killed on our roads. When someone's car runs off the road, more often than not it occurs at a spot where there is a tree. The use of speed limits in certain conditions has no real bearing on road trauma.

I am in the class of people who has travelled between 2.5 million to three million kilometres. I can remember driving around my farm to check the water troughs every morning during summer. It was a 37 km round trip. I added up the number of kilometres that I estimated I had travelled over the years, and the total turned out to be a lot more than I originally thought it would be. I took into account the mileage on all the vehicles I have owned.

Hon Derrick Tomlinson: Was there much traffic on those roads?

Hon B.K. DONALDSON: Some of the time I was driving on the farm. I did not add the extra kilometres I travelled on my farm. That could run into millions. Fortunately I did not travel at the maximum speed limits on some of the roads I traversed. People get a little carried away and think that by controlling speed, we will control road trauma.

I now turn to the use of cruise control. Hon Murray Nixon raised a very good point about people suffering from boredom and fatigue when driving. I do not like two things about cruise control switches. First or all, they can be set at 110 kmh or 112 kmh. The driver then merely has to steer the car. There is nothing worse when driving on a straight road, because people start to lose concentration. On some corners there are no indicative speed signs, and I think those signs are very good. I like to have control of the accelerator when I am about to go around a bend, rather than have the car take the corner in line with the speed set by the cruise control. When a person drifts off the road and has a collision, I often wonder whether the cruise control was in use in the vehicle at the time. For those who are not used to cruise controls, they can be very dangerous. I never use cruise control at night or from mid-afternoon onwards because I would rather control the speed of the vehicle at those times. I will not say that I stick to the speed limit of 110 kmh. Most people find their cars move up to 116 kmh or 117 kmh, which speed is within the framework that is tolerated.

Hon Derrick Tomlinson: You should seek legal advice before you make statements like that in Parliament.

Hon Simon O'Brien: Will you repeat that outside the House?

Hon B.K. DONALDSON: I could tell members of other speeds I have travelled at, but I will not. Like Hon Kim Chance, I have hit a couple of kangaroos in my driving life and - touch wood - the only time I have been involved in a motor vehicle accident was when I was a young fellow, and I was a passenger. Other than that occasion, I have never had an accident. I touch wood, as it can happen to anyone of us who enters a motor car to be taken on the road. Some of the advertisements which say that speed is the major cause of accidents annoy me. During the Estimates Committee hearings at which the Commissioner of Police attended I asked a question about the nature of braking systems on modern cars compared with those on the FJ Holden. At 50 miles an hour, the FJ was very dangerous; it would skate around the road, and on gravel roads it was even more dangerous. Many roads in Western Australia, as members who travel in country electorates know, should never be travelled upon at 120 kmh.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS - CONSIDERATION

Committee

[The President took the Chair.]

Standing Orders Committee - Proposed Amendment to Standing Order No 134 for a Right of Reply

Resumed from 17 September on the following motion -

That the report be noted.

To which Hon Norm Kelly moved the following amendment -

That the committee recommends that the text of the proposed amendments to SO 134 be amended as follows -

Paragraph (e) - To add after the word "noted" the following -

and that the committee shall make and report its determination under this paragraph not later than 14 days of the day on which the petition stood referred.

Paragraph (f) - To add the following -

> Unless otherwise ordered, the committee constituted under this paragraph shall report finally on the matter not later than 30 days of the day on which it was so constituted.

The PRESIDENT: The last time we considered this matter, Hon Norm Kelly spoke to the general proposition of his amendment. Some confusion arose about whether it was proper that the amendment be moved to the motion that the report be noted, or whether he should wait until such time as a substantive motion that the recommendations of the Standing Orders Committee be adopted was before the Chair. I advised Hon Norm Kelly that the amendment proposed in this form was not binding on the Council as such, but merely added to the words "That the report be noted." In due course, he must formally move that amendment to have the Council adopt it. I have had the opportunity to confirm that position with Hon Norm Kelly. A number of options are now available to him. It may be that, to save time, we should not continue with this amendment at this stage. It is clear that Hon Norm Kelly has advised the Chamber that he will move his amendment later should the major motion be moved. That is entirely a matter for Hon Norm Kelly to determine. Obviously, if he decides to withdraw the current amendment, leave of the Chamber would be required. I advise members accordingly so that we have less confusion than before - members will note that I did not say no confusion!

Hon NORM KELLY: I appreciate that confusion could easily have arisen regarding the terminology of noting and adopting a report. Strong argument exists for members to support my amendment. On reflection, as is common procedure, we have received a committee report on inquiries into a certain matter, and the appropriate procedure is to move my amendment at a later stage. The Standing Orders Committee's proposal in the report does not go far enough, but it is best that the Chamber support this report by noting it before its adoption. We should not consider making changes to the report at this stage. For those reasons, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon N.F. MOORE: On 17 September we debated the matters just outlined by Mr President. Hon Norm Kelly has solved the difficulty by withdrawing his amendment, which is obviously the sensible course of action. It is not sensible for the Chamber to add to the text of a report of a committee which met independently. Mr President is right: If the member wishes to move an amendment to standing orders, he must do so under a different motion. I indicate to Hon Norm Kelly that noting is not the same as supporting; he said they were the same thing. It is possible for the Chamber to note a report, while not necessarily agreeing with its contents.

That brings me to the point I was seeking to make at the conclusion of my comments on Thursday, 17 September; namely, a request was made of Hon John Cowdell to tell us his views on this matter. Members will be aware that the right of reply issue concerning comments made about individuals by members of the Legislative Council was raised by Hon John Cowdell in what I thought was a political manner. I know we should not bring politics into the Legislative Council! However, Hon John Cowdell did so on that occasion. The entire processes of the House had to be turned upside down to deal with it immediately. Some political issue - which I cannot recall - was around at the time, and Hon John Cowdell thought he would gain some mileage from it by forcing the House to make a quick decision on this substantial matter. We were fortunate that the determination was that the matter be referred to the Standing Orders Committee for its consideration rather than make a snap decision relating to the circumstances at the time.

Hon J.A. Cowdell: I do not want to make a snap decision - that's why I want to hear your views first.

Hon N.D. Griffiths: You're the Leader of the House, after all.

Hon N.F. MOORE: It is interesting that members opposite make those comments, because I did not raise this matter in the first place. It has never been put to me that this was a problem. The House has a mechanism which enables people to have the House inquire into concerns raised; that is, petitions. This side of politics brought in the process by which petitions are referred to a standing committee. I did not raise this matter in the first place; it was never a problem for me. Indeed, the Standing Orders Committee report recognised that point. It states at page 2 of the report that -

> The Legislative Council is unique among Australian Houses; no other House automatically refers petitions to a standing committee for inquiry and report.

Because that procedure was in place, the whole question of right of reply never occupied my mind. However, it occupied the mind of Hon John Cowdell when he raised it in this Chamber. The matter was considered by the Legislative Council at that time and was referred to the Standing Orders Committee. It has now made a recommendation, following its deliberations on the matter, and I look forward to hearing Hon John Cowdell's views on this solution to the problem he raised. It was quite proper to raise it if he thought it was an issue. Although I have indicated that in my view it is not necessary to change the existing rules, Hon John Cowdell may claim that is a result of my conservative nature. I indicate that I am subject to being persuaded on this. However, I cannot be persuaded on the basis of the speech made by Hon John Cowdell on 17 September, along the lines that he moved his motion so that members may express their opinions on this initiative and he would make comments on behalf of the Australian Labor Party following other comments. That does not

persuade me one way or the other; in fact, it does nothing but indicate that the member does not have a position. If that be the case, it is extraordinary because it was his idea in the first place to do something about it. I indicate that I am yet to be persuaded that a change to existing rules is necessary. I look forward with great interest to Hon John Cowdell's comments because he brought this matter to the Parliament on the basis that there was a serious problem. I am interested in whether he agrees with the recommendations of the Standing Orders Committee in its third report.

Hon J.A. COWDELL: Members will be aware that this matter was brought to the attention of the Legislative Council by the members of the ALP. There was a need for a right of reply and right of redress, and in that context it was raised by the Opposition. That was in line with various recommendations by the Commission on Government. The Legislative Council decided by vote not to adopt a proposal similar to that adopted by the Legislative Assembly. That was the proposal put forward by the Opposition in this place. Subsequently, the matter was referred to the Standing Orders Committee and was subject to extensive consultation and discussion. In due course the Standing Orders Committee came up with the proposal before members.

It is the view of the Opposition that this proposal, although it is untried, has merit and is certainly superior to the situation that applies at the moment. It is superior in the sense that it gives some definite form to the handling of a petition which seeks to redress a situation in which misrepresentation has occurred. That is not to say it is the ideal form but, as the Leader of the House pointed out, there would certainly be weaknesses if people were to utilise the current practice and use the ordinary petition procedure without some of the additional safeguards of the co-option of the Leader of the House or the representative thereof, or the Leader of the Opposition or the representative thereof, to enhance the standing of the committee which would normally consider petitions. In that sense, the Opposition sees this as an enhancement of the current procedure, and it has been pointed out that the current procedure may be utilised through petitions to deal with this right of reply and right of redress. It is obvious from the views expressed to date - the view of the Leader of the House that no change is necessary and the view of other members - that members in no way wish to adopt the Assembly formula, which is the procedure adopted by a range of other Houses of Parliament. In those circumstances the Opposition will support this change to the standing orders. That is not because it regards this as the ideal form or that it does not view with concern the way in which this may develop and procedures may develop that are adverse to the interests they purport to enhance. It is in the sense that it is a better proposal than the current situation. That is the view of the ALP with respect to the proposed changes.

Hon B.K. DONALDSON: Although I am not frightened of the word "change", I have some difficulties with this proposed change to the standing orders. I looked at the proposal rather than the substantive nature of the recommendation that Standing Order No 134 be changed. I see that it enables the committee, whether or not it is reconstituted, to consider the merits of the petition and recommend a course of action to the Legislative Council consistent with its findings. That is a dramatic move from the normal standing orders for committees at present. It would give carte blanche to one standing committee to continue its work, whether or not it is reconstituted. It is a significant change. That may not have been the intent.

I need some clarification because I am confused about this proposal. Although I have not been a member of the Legislative Council for very many years, I cannot recall this occurring during my time other than when a select committee of privilege was established. I have been a member of such a committee. Probably because of the way the Legislative Council is run, not many people could be aggrieved about what is said in it. At times words are bandied around but I cannot recall any member in this place denigrating someone to their detriment. That means the standards which I believe all members of Parliament should adopt are being followed in this place. The Legislative Council is fortunate to have had Presidents such as Hon George Cash and Hon Clive Griffiths who have made sure that parliamentary privilege is not abused. That is to the credit of not only the presiding officers but also the members.

I find it difficult to understand where the members of the ALP thought there were problems. Usually Hon John Cowdell is more forthright. He seemed reluctant to put an aggressive case for this change. His attitude seemed to be that if the House accepted it, that would be fine, but otherwise members should not worry about it. I can recall the Leader of the House saying that when someone speaks, they must be aggressive in order to achieve something. That is very important. I would like that query clarified. Sometimes the second reading speech does not reflect the Bill at all. I noticed one recently. This proposal on page 2 states that it -

> enables the committee, whether or not it is reconstituted, to consider the merits of the petition and recommend a course of action to the House consistent with its findings;

I do not know whether that was the intent of the substantive change or if it was just part of the overall picture that the committee tried to capture. However, if it really means that - that a committee can act when it is not reconstituted - it is a major change to committees of this House.

Hon N.D. Griffiths: Does the committee exist?

Hon B.K. DONALDSON: A major change is occurring; that is the first part. I found it very difficult to see the need for the second part. It has been stated, and we all know, that this House is unique among Parliaments in different jurisdictions and it is to the credit of this House that petitions are able to be investigated. The committee, chaired by Hon Murray Nixon for

the past five years, must be congratulated for its diligence. Members of the committee have spent a great deal of their own time on committee business when they would have preferred to spend it assisting their own electorates. However, they have been very committed and dedicated. A number of petitions come into this House, usually as a last resort, which entail a great deal of investigation. The committee and staff have provided a shining light in the handling of petitions.

Hon B.M. Scott: Hear, hear!

Hon B.K. DONALDSON: I do not know whether that extends to what is being proposed. As I said, I find it difficult to think of more than two occasions when this standing order would be necessary. I am a great believer in having a mechanism in this House to deal with standards of conduct or abuse of privilege. That mechanism is very effective because it sets up a committee the focus of which is to ensure that abuse of privilege is assessed by the member's peers. I will be delighted to understand more fully from those better informed than I the real benefits of the change in the proposed standing orders.

The PRESIDENT: Although it is not usual for the chairman to enter the debate, members have asked me to be the chairman and I was the Chairman of the Standing Orders Committee that considered this matter and, in fact, put forward the proposal. Therefore, I am in a position to respond to Hon Bruce Donaldson.

Hon Bruce Donaldson queried the words in the report which say, in part, that the committee would be enabled, whether or not it is reconstituted, to consider the merits of the petition and recommend a course of action to the House consistent with its findings. He asked me to expand on that point in the report. The report on the proposed standing order indicates that if a petition is lodged with the House which alleges, whether directly or by necessary inference, that a member of the House or any other person in the course of the proceedings has in fact caused adverse harm to a petitioner, that that petition be referred to the existing constitutional affairs committee. Once referred to that committee, the committee will clearly be required to consider the allegations made in the petition. If, in considering those allegations, the committee believes that there has been a breach of privilege, the standing order as proposed requires the committee to be reconstituted in the form set out in proposed Standing Order No 134(f); that is, with the appointment of the Leader of the House and the Leader of the Opposition or their respective nominees, to then further consider the question of privilege.

Clearly, there are two steps. If at the first stage the committee finds there is no breach of privilege or, notwithstanding a breach of privilege, the committee does not recommend that further action be taken, that is the end of the matter. It will not pursue it; it cannot pursue it any further. However, where the committee is involved in determining a breach of privilege, it will be in a reconstituted form. I hope that, in some part, allays the problems of Hon Bruce Donaldson.

Hon Bruce Donaldson also raised the question of the need for such a standing order. On behalf of the Standing Orders Committee, I say that matter was raised with the committee by committee members; that is, the need to bring in a specific standing order and not just adopt standing orders for similar problems that are handled in other Parliaments. The committee adopted the view that if the Legislative Council was to be seen to be taking seriously the matter of people petitioning this place, especially where there was an allegation of injurious affection to somebody, or severe adverse comment, it should be handled in a proper manner and that we, as a Parliament, should not be seen to be ducking the issue.

Proposed Standing Order No 134 in its present form, in my view as chairman of the committee and certainly supported by members of the committee, indicates a very serious view and requires action to be taken should someone petition the Parliament in the terms set out in Standing Order No 134.

Hon N.F. MOORE: While the chairman is in the mood to explain things to us - and you have explained them very well indeed - proposed Standing Order No 134(f) refers to the formation of the reconstituted committee; and in the final part it refers to a select committee of privilege and any member of the Legislative Council being a compellable witness without further order. My understanding of the Parliamentary Privileges Act is that if members of either House are required to attend to give evidence before a committee, they need to be ordered by the House of which they are members to attend a particular privileges committee. I wonder whether it is appropriate that any member should be a compellable witness without further order. That would give the reconstituted committee that is anticipated under this new standing order the right to require any member of the House to give evidence or be a witness. That is something the House itself should decide on an individual-by-individual basis rather than there being a blanket opportunity for the committee to call any member under this proposed standing order. Could you, Mr President, explain to me whether I have it wrong, and if I have, where I am wrong? However, if I am right, Mr President, could you tell me why you want to go down this path?

The PRESIDENT: In response to the question from the Leader of the House, for the record, I will read in proposed Standing Order No 134(f) so that everyone understands where we are going -

> For the purpose of its inquiry on a petition involving a matter of privilege, the committee is reconstituted by the appointment ex officio of the Leader of the House and the Leader of the Opposition or their respective nominees. The committee as so reconstituted may proceed to deal with the petition in the manner, and to the extent, as if it were a select committee of privilege appointed for the purpose and any member of the Legislative Council is a compellable witness without further order.

The question that the Leader of the House raises relates to the words "and any member of the Legislative Council is a compellable witness without further order". Section 6 of the Parliamentary Privileges Act in Western Australia states -

> A member of either House may be ordered by the House of which he is a member to attend before either House, or before any Committee of either House, without summons.

The Parliamentary Privileges Act also allows the House to make standing orders with respect to its procedures. Standing Order No 421 states -

> If a select committee desires the attendance of a Member as a witness, the Chairman shall, in writing, request him to attend; but should he refuse to attend, or decline to give evidence or information as a witness to the committee, the committee shall acquaint the Council therewith, and shall not again summon such Member to attend the committee.

The Standing Orders Committee believes that, given that the House sits only certain weeks of the year and given that if a petitioner - that is, an aggrieved person - believed comments in this House were such that they required urgent action, rather than wait for the House to resume sitting and then seek to have the House order a member to attend the select committee, it would certainly be of value to the committee, in a time saving way, to have that order agreed now; that is, incorporated within this standing order so the committee could act without further reference to the House.

I should explain that in practice, even in other Parliaments where they have these types of standing orders in place, there is not an avalanche of people petitioning the House and claiming to have been aggrieved by comments made in the House. It is just an opportunity that exists should someone decide to petition the House. In fact, at the moment people can petition the Legislative Council on almost any matter, and the petition is referred to the committee chaired by Hon Murray Nixon. At least this House does something about its petitions. This is taking it one step further, as the Standing Orders Committee was requested to facilitate.

Returning specifically to the question raised by the Leader of the House, the reason for those words is that they will empower the committee to have a member attend so that it can get on with the job of determining whether a breach of privilege has occurred and also to make recommendations to the House in due course.

Hon N.F. MOORE: Mr President, thank you for that explanation. In the event that somebody moves that this new standing order be inserted into our standing orders, I will be voting against that particular part of it. I think we should retain the situation whereby the House must order in every circumstance whether a member should be required to attend before a select committee. This debate has been worthwhile. If a member has strong feelings about the issue and wants the proposed standing order to be inserted into our standing orders, that member will move the appropriate motion in due course and the House will consider it.

Hon B.K. DONALDSON: Mr President, I thank you for clarification of that earlier point I raised. I know you are fully informed and have worked on this particular standing order. Therefore, I ask for further clarification for both my benefit and the benefit of other members of the House. The second dot point on page 2 states -

> Provides for a person to petition in circumstances where what has been said about that person by a member or other person, eg, a committee witness, under absolute privilege, is alleged to be wrong, misleading or damaging;

I have some concerns about this. If committee witnesses give false evidence, that is a serious act. However, a witness may be asked questions and may give frank answers. I am unsure of the situation with absolute privilege. Perhaps I am confusing the situation here with the committee structure. Mr President, could you provide clarification?

The PRESIDENT: In response to Hon Bruce Donaldson's question, the Standing Orders Committee did not want proposed Standing Order No 134 to affect only members of this House. When the budget process takes place, we have budget sessions in committee when witnesses are called to the Parliament. What those witnesses say is covered by parliamentary privilege. Proposed Standing Order No 134 does not just allow a petitioner to complain of words uttered by a member of the Legislative Council; it also covers words uttered by other persons who are witnesses to parliamentary committees. To leave them out of the equation would leave a considerable hole, so to speak, in the problem, because it may be that a witness attending, say, the Estimates Committee hearings of the House could make a comment that a petitioner later complained had injuriously affected him and sought to have the parliamentary record corrected. In fact, the Standing Orders Committee was very firm that a need existed to extend proposed Standing Order No 134 to not just members of Parliament, but those other persons who are from time to time protected by parliamentary privilege and are put in a position in which their comments can injuriously affect others.

Hon B.K. DONALDSON: I might ask a question of a committee witness, such as, "Was it poor management practices that caused this particular company to collapse?" The witness might say, "Yes. It was their own fault. Because they have been adopting a sort of loss leader marketing arrangement, that has led to their demise and put pressure on them. It is their problem. We have not caused the situation. It has been brought about because of their very poor business acumen." If that

information is reported in a document that gets tabled in the House, it is public knowledge. Could it be that a company or person could say that a person from another group had slammed him and caused him be seen by the general public in an unsympathetic light? I am choosing my words carefully because I do not want to reflect on a report.

The PRESIDENT: Once the petition is lodged in the House it will be referred to the committee. The committee must consider the merits of the petition. The committee as is proposed in Standing Order No 134 is required to report to the House with a recommendation on the action the House should take. I will use the instance of the committee stage of the budget as an example. If someone makes an adverse comment about someone else, perhaps a business practice as Hon Bruce Donaldson has suggested, that in itself is likely to be considered insufficient injury or not a sufficiently adverse comment for the committee to recommend that the House take further action. If, however, the committee determines that some person or someone's business may have been adversely affected to the extent that the committee believes that the parliamentary record should be completed, the committee can make that recommendation.

The next question that needs to be asked is: Does a person who is adversely affected have the right to sue the person who uttered the words in the Chamber? The answer is no. This standing order would not provide for that opportunity. The fact is that the Bill of Rights of 1689 gives special privileges to members of Parliament. Those privileges are extended to witnesses who come before the Parliament. It is because of those special rights that people are able to be adversely commented on without the fear of retribution through a defamation action or some other civil action. I want to make that very clear to the Chamber.

Hon B.K. DONALDSON: I am sorry to be prolonging the debate. When a member has been so named, the member could be a member or substitute member of that committee. Would that member still have the same right to appear before the committee and give evidence to protect himself or herself?

The PRESIDENT: Is that the member who uttered the remark?

Hon B.K. DONALDSON: Yes, the member who uttered the remark and as a result someone has petitioned against that remark. On page 3 of the report, paragraph (h) reads -

> *A member shall not sit as a member or as an ex officio member of the committee if the subject matter of the petition involves or relates to the conduct of that member in which case a substitution must be made under SO326A.*

What then are the rights and privileges of the member who has been named as making adverse remarks? I would like that clarified because it is also important.

The PRESIDENT: Clearly when the petition is referred to the constitutional committee, I would expect as a matter of course that one of the first things the committee would do after considering the substance of the petition would be to call the petitioner to hear his side of the story. I would expect, not only as a matter of natural justice but as a matter of course, that the committee would then call the member of Parliament who was alleged to have made a statement, to inquire of the member exactly what information the member based the comment on. Therefore, I would certainly expect that any member who is accused of making an adverse comment to be called by the committee. However, I can say that only on the basis that it is entirely a decision for the committee. If the committee does not call the member, every other member of the House has the opportunity of ensuring that a motion is passed calling on the committee to hear that member. I see no problem at all.

In dealing with Standing Order No 134, the objective of the Standing Orders Committee was to ensure that an element of fairness was accorded to members outside this Chamber who complain of being adversely affected by comments made inside the Chamber. That was the general foundation and, as I understood it, the general reason that the matter was referred to the Standing Orders Committee. Although I am speaking as chairman of the committee, if any members of the committee do not agree with what I am saying, I am quite sure they will let the Chamber know.

Hon M.D. NIXON: As a matter of clarification and for the record, I understand that the President is an ex officio member of all committees. I presume that would apply in this case. I presume also that the President would be a voting member of the committee at all times; firstly, in its first form; and secondly, in its reconstituted form.

The PRESIDENT: The standing orders of the Legislative Council currently provide for the President to be an ex officio member of standing committees. As such, the President is entitled to exercise a vote. However, the custom and usage of this Chamber over a very long period of years has been that the President does not attend and exercise that membership given the supposed impartiality of the office of President. I expect that to continue. I have said before to the Chamber that the Standing Orders Committee will be considering a complete redraft of all standing orders. A fair bit of progress has been made, inasmuch as I have the first draft of the redraft. I expect within the next six to eight weeks to be able to distribute that to members of the Standing Orders Committee for their consideration. It is a very big job which we are tackling as expeditiously as possible. In the redraft the President is not an ex officio member of those standing committees, having regard to past custom and usage in this Chamber. That is a matter for the Chamber to consider in due course.

Question put and passed.

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Ecologically Sustainable Development - Second Report - Management of and Planning for the use of State Forests in Western Australia: The Regional Forest Agreement Process

Hon CHRISTINE SHARP: I move -

> That the committee recommends that the Legislative Council endorses the findings and recommendations of the Standing Committee on Ecologically Sustainable Development Report 2, and requests the Minister for the Environment to reconsider the Regional Forest Agreement process in light of the committee's approach.

The Standing Committee on Ecologically Sustainable Development, which I chair, is conducting an inquiry into the planning for and use of state forests in Western Australia. The committee's terms of reference include considering the sustainability of current logging practices, timber royalties, substitution by plantation resources, the protection of high conservation value forests, employment opportunities and the Woodchipping Industry Agreement Act. The committee has not completed its inquiry into those matters. However, because of the topical nature of its terms of reference relating to the Regional Forest Agreement process, about three months ago the committee determined that it needed to stop work on other terms of reference and focus on the Regional Forest Agreement process so that it could report to the House in a timely way before that process was finalised.

Hon Barry House: Is it your motion or the committee's motion?

Hon CHRISTINE SHARP: It is my motion.

I will explain why the Committee should take a more active interest in the report than simply to note it. We need to be aware of two important aspects of the committee's report. The Standing Committee on Ecologically Sustainable Development has tried to come up with a practical report which is a working document which seeks to interact with the current situation with regard to important decision-making processes in respect of the long-term future of our state forests. The committee's work has been based on seeking to develop a conflict resolution approach to such issues. It is obvious to everybody that a conflict resolution approach is not characteristic of current community views on the management of state forests. Such issues are extremely controversial and polarised, and they are causing considerable conflict within the wider community and in my electorate in the south west. In its report, the committee sought to develop a fresh approach to the issues; that is, an approach which seeks to move us forward. In particular, we have sought to do that by finding a way that is not based on saying that people are wrong, making accusations or dwelling on the past. Rather, we have considered where common ground exists and where it could be developed in order to move the polarised sides in the debate to more common ground.

When I was elected to this place, because of my longstanding interest in forest management issues and my concern about the conflict that such issues were generating in my electorate, one of the first things that I did, with the help of some important people, was to instigate a round-table process. That round-table process took place in late autumn or early winter last year and it involved a wide range of stakeholders in the forest debate, including several participants from industry, members of the Forest Protection Society, various conservation groups, Australian Workers Union representatives, scientific advisers and officers from the Department of Conservation and Land Management. In all, we were about 22 in number. Meetings took place over six weeks, and they were closed meetings, by invitation only, with no media present. We wanted to know whether it was possible to develop dialogue to find common ground. It was a fascinating microcosm of the debate and it demonstrated that there was great potential for moving it forward.

It was remarkable to watch people from the conservation movement and people from Bunnings stand in front of a whiteboard for an hour and a half and redesign the timber industry in a way which both sides thought was satisfactory and which met major stakeholders' needs. Eventually, after that six-week period, the round-table process was bogged down in an apparently irresolvable argument about the Regional Forest Agreement and that process. That was partly because the Department of Conservation and Land Management's representatives were at the meeting and they said strongly that they considered that the RFA process could not be changed in any way. Therefore, other participants felt that that vehicle, which was imminent, could not be used to express the concerns of the various stakeholders and facilitate dialogue.

Debate adjourned, pursuant to standing orders.

Report

Resolution reported and the report adopted.

Sitting suspended from 1.00 to 2.00 pm

ADDRESS-IN-REPLY

Motion

Resumed from 14 October.

HON E.R.J. DERMER (North Metropolitan) [2.00 pm]: I am pleased to support the motion moved by Hon Simon O'Brien. I have many reasons to be pleased, but primarily I am excited about the good news I have to bring to His Excellency's attention; that is, the wonderful work done by the Osborne Park Hospital in my electorate.

The Osborne Park Hospital is universally respected by the surrounding community, which it has served well for 36 years. The hospital provides a full range of health care. It is there for each stage of a Western Australian's life - from obstetrics, through paediatrics, general surgery and rehabilitation to age care. The hospital looks after people from the cradle each step of the way through life.

Hon Derrick Tomlinson: Through the seven ages of man - and woman.

Hon E.R.J. DERMER: Hon Derrick Tomlinson can be assured that the hospital looks after the needs of all of the constituency, both men and women.

I focus on the quality of the obstetrics care for which the hospital has a particularly excellent reputation. Many families in my electorate have relayed to me their gratitude for the obstetrics care they have received at the Osborne Park Hospital. One can imagine that the onset of labour is often urgent. It would be an obvious advantage if one's home were close to the hospital. It is important for the people who live in that area to know that they can get that quality of care at the local hospital. Let us imagine that a new child has arrived, perhaps following an urgent requirement to get quickly to hospital, and the excited family - the father, brothers and sisters - will want to visit the mother and new son or daughter or brother or sister at the hospital. The Osborne Park Hospital is a family institution that plays an important role in fostering the most fundamental ties, especially at the exciting time of a new arrival in the family.

I refer to a different age and time and consider elderly people. I will not mention names, but I have in mind two elderly sisters who live in my constituency. The younger of these two sisters has been unfortunate and is afflicted with a condition which will require long-term hospital care. The older sister, who is blessed with better health, lives in Innaloo, which is close to the Osborne Park Hospital. The beauty of that for these sisters is that the older sister has a 10-minute walk to visit her sister. This enables the elder sister to visit her sister on a daily basis. I ask members to try to put themselves in someone else's shoes. If in the later years of one's life one is faced with the unhappy prospect of spending a lengthy time in hospital, it is easy to understand how important that daily visit would be. The only relative living close enough to visit on a daily basis the lady who receives the care at Osborne Park Hospital is her sister, as her children live in the country and in the eastern States, certainly not in metropolitan Perth. It is important for her heart and soul to have that daily visit from her sister, and it is no less important for her health, because it is a highlight of her day and boosts her morale. I am pleased to share with the House and His Excellency the Governor my enthusiasm for the great work performed by the Osborne Park Hospital and I use those two examples to illustrate that great work.

When one considers how the Osborne Park Hospital operates, the work that it performs, and how it relates to the community and to other medical professionals in that community, one can see that the hospital is not only an essential community institution but a family institution, whether it is a young family being served by the obstetrics service or a family comprising two elderly sisters. The excellent work of the Osborne Park Hospital is an example that health care is best delivered at a local community level. The exception is highly specialised services which are more appropriately provided at a major teaching hospital.

As we can see in Osborne Park and in other constituencies that members represent, the community character of health care is important. I am proud to say as the local member that the Osborne Park Hospital is a prime example of this excellence in community based health care. That excellence is delivered by the professional and dedicated staff who work at the Osborne Park Hospital. I am pleased to draw to His Excellency's attention this example of dedicated service to the community.

The importance of community delivery of health services is understood by the people of Western Australia and by the medical profession. I refer to a discussion paper titled "Health 2020". This discussion paper illustrates how patients and medical professionals throughout Western Australia understand the importance of health care being delivered at the community level. The group was chaired by Dr Dianne McCavanagh, representative of the Health Department of Western Australia, General Manager, Strategic Planning and Evaluation. The paper, which was published in June, mentions many eminent community and medical people. The foreword defines the objective of the exercise -

> *Health 2020 - A Discussion Paper* is a significant step towards achieving a strategic plan for future health care in metropolitan Perth. The discussion paper sets out a range of issues and directions to inform debate before the final metropolitan health plan is delivered.

It is clear to me that Osborne Park Hospital is a shining light and I believe it would have been in the minds of many who contributed to this report not only because of the quality of professional care it offers but also because it is a prime example of the importance of community health care delivery. That will become more evident as we examine the report further. The overview of the report states -

> Health experts identified three key changes for the future of health services in Perth. Firstly, to bring together the diverse parts of the health sector to provide continuity of care for patients;

Local, community-based health care is essential to that continuity of care. It is not difficult to imagine that if a local community-based hospital is delivering health care there is ready access to the general practitioners who have served those patients up to their needing to obtain treatment at the local hospital and who will continue to serve them after they have left the hospital.

The two important concepts acknowledged in the overview of Health 2020 and inherent in the character of Osborne Park Hospital are the partnership between the health professionals in and beyond the hospital and the continuity of service, which is the most important aspect. The paper continues -

> The discussion paper proposes the development of major new state-of-the-art Health Centres in the suburbs with clinical services delivered through newly-formed partnerships of clinicians who will bring clinical expertise from the hospitals into the community.

I am very excited that the Osborne Park Hospital will provide an excellent base for the development of those partnerships.

I note the reference to state-of-the-art facilities. The hospital has a creditable record of 36 years' service. It would be a simple matter to invest in the appropriate resources to ensure that its quality of care was brought up to date. There will be no problem in ensuring that Osborne Park Hospital has the newest, state-of-the-art hospital services available, again with the important caveat that the appropriate resources are provided.

As I have stated with enthusiasm, Osborne Park Hospital is an excellent example of health care provided in conjunction with the local community. In that sense, it is a model for the future. It and hospitals like it will provide a sound basis for the medical partnerships referred to earlier as an important part of quality health care.

I will quote at some length from this overview because these points are important and well worth sharing with the House -

> Health centres will be located in areas of high health service need where similar services are not readily available.

One of the characteristics of the area surrounding Osborne Park Hospital is its significant elderly population. It is important that health services be tailored to the needs of the people in that community. I hope that resources will continue to be provided to Osborne Park Hospital to allow it to cater for the elderly in the area along with other clients in the local community.

The overview continues -

> There are a number of significant advantages to the proposed free-standing Health Centres including:
>
> . shifting the central focus for health care to the heart of the local community by providing a comprehensive range of services for the whole family;

I made reference to that earlier. These qualities and advantages are suggested for the proposed free-standing health centres. It is important to acknowledge that Osborne Park Hospital is exactly the sort of institution that could achieve each of the qualities mentioned in this paper. It continues -

> . minimising cancellations for elective day surgery and investigative procedures because separate sites will eliminate competition with the urgent inpatient care;
>
> . making high-quality specialist advice readily available through the introduction of sophisticated telehealth systems -

That is something we look forward to the Health Department's investing in further. The list continues -

> . providing services locally for people with chronic health problems requiring regular treatment, for example, renal dialysis . . .

Those of us blessed with good health may not appreciate what a burden it is to need treatment such as renal dialysis on a daily basis. Obviously being able to access that treatment locally is very important.

Hon Derrick Tomlinson: Until six months ago people living in Armadale had to travel to Perth by train for such treatment. It was appalling.

Hon E.R.J. DERMER: We must apply resources to ensure that that quality of service is provided locally to people where that is achievable. Hon Derrick Tomlinson has pre-empted the last point of the overview, which states -

> . reducing the burden of travel for people who are ill and require treatment services in settings which are as comfortable and non-institutionalised as possible, such as people receiving chemotherapy.

If a person undergoing chemotherapy can obtain that treatment in his or her local area, that would be of enormous comfort. It is important for someone suffering from a condition like cancer to achieve mental and personal comfort and whatever serenity they can. Obtaining that treatment locally would assist in their recovery.

The overview of the Health 2020 paper contains the tests for community-based health care of the future. I am pleased to say that the Osborne Park Hospital passes each of those tests. It must be appropriately funded to provide this community health service. It must also be allocated the appropriate resources to provide the most up-to-date medical science. As I said, there is no doubt that the community surrounding the hospital, particularly its elderly population, is in significant need of high quality care.

The Health 2020 paper was put together in large part by a strategic planning committee, which undertook a comprehensive and well-planned program of consultation. It gathered and logically presented opinion and evidence pertaining to the health needs of Western Australians. It is important that members consider the results in the paper because under our Constitution provision of health care is a prime state responsibility. In the chapter entitled "Opinion and evidence" under the first subheading "Listening to the community" the report explains the substance of this program designed to gather community opinion. Community views were gathered by means of a telephone survey of members of the public, a forum of community organisations and local government representatives, interviews of respondents to advertisements in *The West Australian* and community newspapers calling for interested community leaders and interviews with consumer organisation leaders.

The report explains that by way of this consultation the community delivered two key messages about the future of health care in the Perth metropolitan area. It reads -

> Firstly, shift services from hospitals in the centre of Perth wherever possible and provide them closer to where most people live. Secondly, people expressed confidence in the high quality of clinical services delivered in tertiary hospitals and want local services of the same standard.

It is saying we should provide the service close to where people live. Osborne Park Hospital is surrounded by suburban areas. It is in the heart of the community and it has a track record of providing that service. From the evidence gathered for this report, the two key messages that emerge indicate that the Osborne Park Hospital provides exactly the right base for responding to both of these key needs. The report further stated that through the public survey, the majority expressed a preference for a local hospital service, mainly because it would be closer to home and easier for friends and relatives to visit. That is a very important point to which I referred earlier this afternoon. It also found that mature respondents made above average use of public transport to get to hospital for outpatient clinical and admissions and were more reliant on friends for transport.

I referred earlier to two sisters. Evidence of that need is emerging again. Fortunately, one of the ladies in question who was visiting her sister daily was healthy enough and, judging from my meeting with her, she will continue to be healthy for many years to come. She is able to walk to the hospital, and that is an ideal situation. If walking is not practical, public transport is important. Many elderly people are not comfortable driving a vehicle. For them that community base in the health care delivery service is extremely important.

Hon Derrick Tomlinson: The point to which you are referring is that the patients travel by public transport to Royal Perth Hospital or Sir Charles Gairdner Hospital from places such as Wanneroo and Armadale. A patient travelling is considerably more uncomfortable than a visitor travelling.

Hon E.R.J. DERMER: That would be the case depending on their state of health.

Hon Derrick Tomlinson: They might need renal dialysis.

Hon E.R.J. DERMER: It is important to have facilities that are conveniently located, with access to public transport. What is good for the patient is good for the visitor. It is not as though a dilemma exists in that case. The community surrounding Osborne Park Hospital has a high proportion of senior citizens. Local availability of care is essential to them.

No less is it important for the children of the area. The report's assessment of community opinion on children reads -

> There was strong support by parents for care closer to home, with over 70% of parents saying they would use the local hospital if the services their children required were provided there.

It is important for little ones to be comfortable in their own homes. I am a father of a 6 and a 4 year old so I know that a happy, confident young fellow in his own home can feel intimidated in unfamiliar surroundings. If we translate that to a child who is unwell needing to go away for medical care, it would be of great benefit if the medical care were close to home. A child who was a little older would appreciate that the hospital he was in was in the suburb with which he is most familiar. It is important that it be close to home so that the parents have access to the hospital.

Hon Derrick Tomlinson: Better still if they can live in.

Hon E.R.J. DERMER: That raises the issue of the need for a parent to focus on one child who is unwell and at the same

time maintain responsibilities to other children. Whichever way we look it, it is easy to understand why the survey demonstrates that being close is very important to families. The report continues -

> Although 89% of parents indicated that their child's stay in hospital had been of the right duration, one-third would prefer the child home earlier if there were adequate home support. Nearly three-quarters of these parents said that their child would feel better at home, while others said it would enable them to meet their family responsibilities.

That is the point to which I referred earlier. Clearly if the health service were closer to home in some instances it would be more practical for the child to return home earlier. That is a worthwhile objective. Osborne Park Hospital has a wonderful reputation for the quality of pediatric care it delivers to its local community. Under the heading of "Obstetric services" the paper records that two-thirds of women stated that they would prefer to use the local hospital if appropriate obstetric services were available. I referred earlier to the reasons for that.

Community organisations and local government consultation indicated that there was agreement that rehabilitation services should be located in community settings. Consultation with community leaders indicated general agreement that appropriate health services should be provided closer to where people live. Again, Osborne Park Hospital provides exactly the right model to be followed. The report reads -

> . . . the community should be consulted on the range of services provided to them.

It is important that it meet the character of that community, the people within it and the services they may need. The section on consultation with consumer organisation leaders reads -

> The development of an integrated system with improved coordination and referral processes, clearer role delineation and a shift in services from tertiary hospitals to local hospitals were seen as issues to be addressed by a sample of consumer organisation leaders interviewed by the Health Consumers' Council of Western Australia.

The reference to consumer organisation leaders continues -

> Community-based care was identified as the key to future health service delivery. Establishing processes which facilitate continuity of care and involved general practitioners, hospital clinicians and the community were seen as essential.

As I explained earlier, Osborne Park Hospital provides the right base for such community health care. The report continues -

> Also stated was the importance of targeting services for those with special needs, especially people with disabilities, with chronic conditions and the elderly.

Chronic conditions are important because they involve long-term recurrent servicing and this is what makes local community access very important. To continue -

> The importance of taking a holistic approach to health care and recognising the impact of social welfare issues were identified.

I have already addressed the social aspect in the examples to which I referred.

A clinician survey was also conducted. In a recent survey quoted in the report of members of the Medical Council and the Clinical Advisory Committee of the Metropolitan Health Service Board it emerged that the people consulted regarded the development of a well integrated health system, which includes community service and general practice, as essential to providing health care. The clinician survey demonstrated important trends in health service delivery and included an enhanced role for public-based health services, community-based health services, general practice, day surgery and emergency medicine. They are all areas which would be very much enhanced if the health service were provided on a community basis. The clinician survey also found that there was general support for population-based planning, demographic changes and the needs of specific population groups as well as changes in particular health conditions which are identified as likely to have a significant impact on the future health system. That is quite sensible. It is sensible to look at the local community, judge its needs and provide the local system accordingly.

Health leaders were also consulted -

> Those interviewed included chief executive officers and general managers of private, public and non-government health services and hospitals in metropolitan and rural areas, directors of nursing, directors of medical services, heads of university departments, general practitioners, members of the Metropolitan Health Service Board and general managers in the Health Department of Western Australia.

Clearly, it was a very comprehensive survey of health professionals. It became clear from that consultation of health professionals that the need for consumer-focused and community-based care was identified as an underlying principle to be considered in the development of the health system. Again it is not surprising that Osborne Park Hospital provides an

excellent model of consumer-focused and community-based health care. Osborne Park Hospital provides an excellent model for the future of WA's health system. Osborne Park Hospital would have been an example in the minds of the people who came to the conclusions put forward in the "Health 2020: A Discussion Paper". It is a pleasure to report the good work of the Osborne Park Hospital and its dedicated staff, work which, on behalf of the Western Australian community, I am pleased to bring to His Excellency's attention.

However, I also have an unhappy duty which is to explain that a dark shadow has been cast over the future of the Government's intentions towards the Osborne Park Hospital. It took a freedom of information report to bring this doubt over the Government's commitment to the future of Osborne Park Hospital to light. I refer to an article which was published in *The West Australian* on 27 January. It was most disturbing reading and I am sorry to tinge this afternoon's delivery with bad news. It is important, given the excellence of Osborne Park Hospital. If its future is threatened, this must be articulated in the Parliament of Western Australia. The report states -

> A money crisis at Osborne Park Hospital is threatening about 60 aged care beds, over a third of surgical procedures and over a quarter of jobs, according to documents obtained by *The West Australian* under Freedom of Information laws.
>
> Lower North Metropolitan Health Service general manager Peter Campos wrote repeatedly last year to Health Commissioner Alan Bansemer over its budget, expected to drop 29.9 per cent because of finance cuts, loss of private patients and redundancy payments.
>
> Osborne Park has lost $2.7 million in the second half of this financial year and another $5.4 million cut is forecast for 1998-99 to help pay for the State Government's contract with Joondalup Hospital.

I have endeavoured to obtain the exact financial allocation for Osborne Park Hospital for the 1998-99 financial year. The Minister for Health appears to be very reluctant to answer that simple question. The people of Joondalup have every right to local-based health service, as do the people surrounding Osborne Park. However, it is absurd to provide those services in one community by stripping those services from another. This concerns me. The report continues -

> Mr Campos said a maximum of 2353 Osborne Park patients a year would go to Joondalup. But the budget cut was equal to almost 500 more cases.

They are anticipating that people who currently have a local service in Osborne Park will need to move to Joondalup but the budget cut was such that it would not just accommodate the people required to move; it would cut the resources available for a further 500 cases. The report, which gets worse, continues -

> He predicted 27 per cent of hospital staff would lose their jobs and 20 per cent of beds would be closed. Obstetrics cases would be cut 16 per cent, surgical 35 per cent, day procedures 40 per cent, medical procedures 29 per cent and geriatric medicine 43 per cent.

The Osborne Park area has a clear community need for geriatric medicine and that service has been provided so well to date.

> Health Department chief general manager of operations Neale Fong said the projected figures were about right but he was confident they would not be realised.

That is a curious sentence. I damn well hope that they have not been realised and we will continue to ask the question to find out whether they have or not.

> Talks were being held with Sir Charles Gairdner and Royal Perth hospitals to ensure any patients from the Osborne Park area who could go to that hospital would.

Patients will be shipped from Osborne Park Hospital into the teaching hospitals further away from the local community.

> Money would come from the two teaching hospitals.
>
> Mr Campos said Osborne Park's big aged and extended care program would be cut by at least 18 beds and $1.6 million. As specialist doctors left, it would put at risk 22 more beds plus 22 at Hawthorn Hospital in Mt Hawthorn.

I was concerned to read that in *The West Australian* earlier this year. I then asked a series of questions. I still have not been able to obtain the allocation for Osborne Park Hospital for this financial year, but rest assured I will continue until I do. The questions I have asked have revealed that $2.7m was reinstated to Osborne Park Hospital to deal with patients from the teaching hospitals' waiting lists. A further question illustrated that that $2.7m would fund approximately 1 850 operations. It appears from reading the reports and the limited information available - it is a little like extracting hen's teeth; however, if one persists, a little bit of information can be obtained from the Minister for Health - that the $2.7m was taken away from Osborne Park. It was then given back the $2.7m on the proviso that it provide approximately 1 850 more operations. That can mean only one thing: The resources are compromised; that is, the resources that are available for the other services that Osborne Park has been providing to the local community? The $2.7m is taken away and then given back on the basis that

the hospital performs 1 850 extra operations. That is the best I can extrapolate from the information I have obtained. I will continue to endeavour to put the picture together by asking further questions of the Minister for Health.

I am sure that Osborne Park Hospital has performed these extra operations with excellence, and it is entirely appropriate that they be performed at that hospital. However, the resources provided to perform those extra duties at Osborne Park Hospital must not compromise other services. The evidence we have been able to extract so far indicates that that is not the case. Naturally, the people of the area serviced by Osborne Park Hospital are very concerned. They are concerned that their cherished community institution is being insidiously undermined by extra responsibilities being passed on without the resources to meet those extra responsibilities. This insidious undermining of the community institution reminds me of the behaviour of the Minister for Education about Scarborough Senior High School. I will not be distracted from the main point, but there is a common pattern. The people of the community serviced by Osborne Park Hospital want to know its allocation for this financial year. Repeated questions have not brought this forward. On 2 June I asked that simple question in the estimates hearing with the Health Department. I was told that the position had not been finalised as purchasing allocations were still being negotiated. On 8 September, Hon Kim Chance was given essentially the same answer in response his question. It reads -

> The former Minister for Health promised to provide the Parliament with details of financial allocations to each hospital and health service by 30 June this year. I ask -
>
> (1) Will the minister now table the funding offer made by the Health Department to each hospital and health service?

The Minister replied -

> (1) Provisional agreements containing volumes of services to be purchased and prices to be paid for those services have been forwarded to all the health services. Health services are now looking at these and constructing their budgets, taking into account this and other potential sources of revenue. At the end of this process, it is expected that agreement will be reached. Following the completion of this process, the information requested will be tabled.

The essence of that rather lengthy answer is that the information will be tabled. This information relates to the funding offer to the hospitals, which perhaps, conceptually, is different from the budget, but as an indication of what the funding resources will be for Osborne Park Hospital, it is a very important question and answer.

Coincidentally earlier that day I placed on notice a question containing 22 parts - I will not read out all of it - designed to detail exactly what the resource commitment would be, not only for Osborne Park Hospital but for the North Metropolitan Health Service, which includes that hospital. The second section of the eleventh part of my question asked what was the budget allocation for Osborne Park Hospital for the financial year 1998-99. The answer was that the information was not available and that for 1998-99 the budget allocation was on a program basis, not on a service unit basis.

On the day I lodged that question on notice, Hon Kim Chance was given the information about the offer which said that when it was processed, it would be tabled. When I asked a question about the budget allocation for Osborne Park Hospital - Hon Kim Chance sought information for every hospital, including the one at Osborne Park - I was told that the budget allocation was on a program basis and, therefore, the information was not available. There is an apparent contradiction between the answer given to Hon Kim Chance and that given to me. These questions were not exactly the same, so I am prepared to give the Minister for Health the benefit of the doubt. Ultimately I will be happy if I get an honest answer, but I will continue to ask for that information until I get it.

I asked two other questions which are quite simple. The first was -

> (19) What was the budget allocation for capital works for Osborne Park Hospital in the financial years . . . 1998-99?

The answer was that the information was not known at that stage. The other question was about recurrent spending at Osborne Park Hospital, to which I got the same answer. When I asked about the budget for Osborne Park Hospital for this financial year, I was told that the information was not available because the budget allocation was made on a program basis, not on a service unit basis. In the same question I specifically asked about capital and recurrent expenditure and I was told that that also was not known at that stage, without any excuse for why I could not be given that information. Those inconsistencies which I believe exist will be sorted out. I will keep finding ways to ask the question until we get an honest answer from the minister.

Members will understand how that pattern adds to the concerns and suspicions of many people who receive services provided by Osborne Park Hospital. The resource allocation to this hospital has not been clarified. No matter how many times Hon Kim Chance, other members and I ask these questions, we get evasion. We are not getting answers. We will get answers because I will persist until such time as we get them. We will test each inconsistency which is apparent by asking other questions. I will continue with those questions until I get the answers I demand.

The central question is what is the resource allocation for Osborne Park Hospital for 1998-99. There is an understandable suspicion that the Government is being evasive, but we are awake to this. We will persist until we find out what we must know. That is our responsibility. I trust that, like *The West Australian*, I will not have to use the instrument of the freedom of information laws to find out what the resource allocation for Osborne Park Hospital is. If that becomes necessary, if the Government's respect for the parliamentary instrument of asking questions of ministers is not such that it delivers the answers, we will go down the freedom of information road.

Another concern is that when we asked a specific question about the funding for Osborne Park Hospital, that information was buried by getting an answer for the entire North Metropolitan Health Service. Those answers were forthcoming in response to questions I asked at the estimates committee hearings. People who live in the country might think the North Metropolitan Health Service covers a small area; however, those who live within that region understand the difference between what is local and what is not. People who live in Tuart Hill feel that Osborne Park Hospital is local, but that a community service based in Joondalup is not local and is not within their community. Similarly, the people in Joondalup have every right to a health service in that area, and something based in Osborne Park is not local to them.

The provision of a locally based quality health service is a state responsibility. I again refer to "Health 2020: A Discussion Paper", which includes an interesting section setting out the projections of population in the Perth metropolitan area. There are various categories, one of which covers the north west metropolitan Perth and takes in the municipalities of Wanneroo and Joondalup and that general area. Between now and the year 2021 the projection is that that population will be very close to doubling. The projection for middle metropolitan Perth, which includes the municipality of Stirling and the areas presently serviced by Osborne Park Hospital, is that the population will decline marginally from 432 800 to 418 100. Although these figures are estimates, this population is projected to be almost static. The key point is this: The Government must remember that if it has a responsibility to provide health services to a burgeoning population, it is wrong - and foolish - to meet that responsibility by stripping away resources from other areas where the population will not be shrinking, but basically will remain steady over the next 20 years.

Another question is how we provide the resources for this community based health service. Prior to the federal election we all had an opportunity to assist in that regard. The federal Labor platform was to provide an extra $500m a year in public hospital funding. Unfortunately, from my perspective, the result of the election did not favour a Beazley government; therefore, that extra $500m in hospital funding is not available. The Howard Government may take some comfort from the result of the election; however, it must be brought to the attention of this State Government that it can take no comfort from that result. I checked yesterday's federal election figures from the Australian Electoral Commission. They showed that the two-party preferred vote for Labor in Western Australia was 51.55 per cent. John Howard has been re-elected, but without the enthusiasm of the majority of the people of Western Australia. That two-party preferred vote is higher for the Labor Party in Western Australia than it is for the national average.

In an election, people are concerned about many issues; the most prominent in this instance was the goods and services tax proposal. However, health is always, as it is in this instance, a very significant issue in a federal election campaign. This State Government should be warned to look to the results, and at the fate suffered by at least four federal Liberal members in Western Australia. It should remember that the provision of health services is a key issue for the voters in an election. Public health and local community based health services through hospitals, exactly like those provided at Osborne Park Hospital, are key issues.

I will demonstrate that point further by looking at a local example; namely, the electorate of Stirling, which encompasses the community most closely associated with Osborne Park Hospital, which also services a wider area. Stirling is a seat proximal to the city and coast. In normal demographics, one would expect it to be a safe conservative seat with high-income constituents. However, the Liberal Party suffered a loss of 4.15 per cent on a two-party preferred basis in Stirling. That was no coincidence: Health was an important issue in the Stirling campaign, and people's concern about the future of Osborne Park Hospital contributed to the loss of that seat for the Liberal Party. I do not know the degree of the Court Government's concern for its federal colleagues; it would be pointless for me to speculate on that. However, the Court Government 's focus should be on this issue because as well as losing the seat of Stirling with the swing of over 4 per cent, which is large by any electoral standard, this involves communities within the marginal state seats of Innaloo and Yokine. That should focus the Court Government. I am not seeking to take political advantage of the situation; if I was, I would have kept my mouth shut rather than spelling these matters out in Parliament. My intention is to serve my constituents to ensure that essential community health services are effectively delivered and properly resourced. I do not want people to wait another two years before Osborne Park Hospital is properly resourced.

The federal election is over and the State Government has a dual responsibility for funding the public health system. First, it must negotiate proper funding from the Federal Government, which will be more difficult with a Howard rather than a Beazley Government. However, it is the Government's responsibility to follow up on these negotiations. It must also then properly administer the money to maximise the delivery of health services from the money available. It is very important that the Health Department be run efficiently. I will ask further questions regarding efficiency in the health service, with a special eye on any wastage of rare and precious resources. The Court Government will be tested against both those

requirements at the next election. The quality of health care identified in the "Health 2020: A Discussion Paper" can be delivered through sensible administration and sensible priorities from the State and Federal Governments. The great role Osborne Park Hospital plays in providing excellent community centred health care is an example for future development. Such service can be delivered. However, this must be done through the provision of appropriate resources based on state and federal government priorities. This will be achieved through sound administration of the money available to maximise its return with resources on the ground.

Hon Derrick Tomlinson: That is exactly why the Government developed that policy.

Hon E.R.J. DERMER: Exactly those two measures will be used to test the Court Government. It is important in a democratic system that people be given information about resources allocated. So far, we have met with evasion when Hon Kim Chance and I asked questions in this regard. We will persist. It would be wise for the Government to be more straightforward. We will persist until we obtain the information needed. We will use freedom of information if necessary. The people of Western Australia are intelligent voters. They will appreciate the information we extract in Parliament about health funding, and this will be accounted for at the next election. They have a more acute sense of what is taking place. Voters will fully realise this Government's priorities: When they attend the community health care institutions like Osborne Park Hospital, they will judge the quality and accessiblity of the service provided. The Government may obfuscate and delay answering questions, but it cannot hide from the people of these communities the diminution of services.

I am not being a Cassandra. The electors of Western Australia and Stirling are making the message clear for the Court Government. If it continues to neglect our service the Government will go the way of the former federal member for Stirling. Osborne Park Hospital is a proud institution. People appreciate it. Ministers may not be answering questions. I may have to wait for answers or make use of freedom of information. In fact, I may never get the answers, but I will try; nevertheless, if I do not obtain the information, the people of the area will judge the Government by the standard of the services delivered. The people's interim judgment, fortunately for the State Government, was inflicted on the Federal Government, and that should cause concern for members opposite. Act now and make sure appropriate resources are provided to Osborne Park Hospital and similar community based health institutions or pay the price at the next election.

Debate adjourned, on motion by Hon Bob Thomas.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Committee

Resumed from 14 October. The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 14: Saving and transitional -

Progress was reported after the following amendment had been moved -

Page 27, after line 16 - To insert the following -

" (c) section 10 (3), (4) and (5) of the principal Act as inserted by section 6 of this Act;

(d) section 11 (2) and (2a) of the principal Act as inserted by section 7 (2) of this Act; ".

Amendment put and a division held, with the Deputy Chairman (Hon Derrick Tomlinson) casting his vote with the noes -

Ayes (11)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Tom Stephens	
Hon N.D. Griffiths	Hon Mark Nevill	Hon Giz Watson	
Hon John Halden			

Noes (10)

Hon Dexter Davies	Hon N.F. Moore		Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon M.D. Nixon	Hon W.N. Stretch	
Hon Ray Halligan	Hon B.M. Scott	Hon Derrick Tomlinson	
Hon Barry House			

Pairs

Hon Ken Travers	Hon Peter Foss
Hon J.A. Cowdell	Hon Simon O'Brien
Hon Tom Helm	Hon B.K. Donaldson
Hon Ljiljanna Ravlich	Hon Murray Criddle
Hon Cheryl Davenport	Hon Murray Montgomery

Amendment thus passed.

Points of Order

Hon MAX EVANS: I draw the Deputy Chairman's attention to a problem with the bells. The bells rang and then stopped. One coalition member was caught inside and others outside, and the Opposition was also confused.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): I apologise for that; it was my fault. I called for a division. The Minister brought to my attention that there had been a single voice, so I called for the vote again. The button had been pressed for the ringing of the bells, so it was my error and I apologise.

Hon MAX EVANS: I ask you to rectify the error, so we can have a proper vote.

Hon TOM STEPHENS: There is something to be said for the argument put by the minister. In view of the circumstances which the Deputy Chairman pointed out to the Chamber, we could resubmit this clause at the end of the Bill so a new division can be taken. That would accommodate the concerns of the minister.

Hon MAX EVANS: I thank the Leader of the Opposition for that, but we should get it cleared up now.

Hon NORM KELLY: We had a similar problem with a pairs arrangement behind the Chair. Although I accept this is a different case, because in the original case the amendment was defeated and would require reconsideration and therefore resubmission, it is my understanding that once the vote has been taken it stands.

The DEPUTY CHAIRMAN: There is a difference between this situation and the procedure the other day, which was a matter dealing with the management of pairs for which there was an agreement behind the Chair to resubmit the clause at a later stage in debate. In this instance we have an error which is, unfortunately, my error and the minister has asked for a further vote. We do not have agreement about the procedure to be followed and it is my call. I am prepared to listen to other debate and I will then seek advice.

Hon MAX EVANS: Hon Norm Kelly said the vote had been taken so we could not have a division. However, when you put the question and a division was called for I pointed out that there was a single call. You again called for voices, and allowed the division on the second call. Let us clear it up now.

The DEPUTY CHAIRMAN: I will leave the Chair until the ringing of the bells.

Sitting suspended from 3.10 to 3.16 pm

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): I have taken advice. When there is confusion about the number of voices in the vote and a division is called for, if the Chair has not heard the single voice or cannot distinguish that there was a single voice or more than a single voice, the custom of the Chamber is that, following that confusion, the question is put again. Once the question is put and the process of the division is completed, that is the decision of the Chamber, and that question cannot be immediately put to the vote for a third time. It is possible for the clause to be recommitted for consideration at the appropriate time.

Hon MAX EVANS: I am not challenging any of that. The fact that you, Mr Deputy Chairman, started the bells, stopped the bells and started the bells is what created the problem. I accept that you did not hear the voice and we had another vote. I am challenging the fact that members from both sides are missing the vote because the system outside the Chamber is faulty. Therefore, I will move that we recommit this clause at the end of the session.

The DEPUTY CHAIRMAN: I do not dispute anything Hon Max Evans said. The division was called for by Hon Norm Kelly. I called the division. Hon Max Evans then drew my attention to the fact that there had been a single voice. In the meantime, the bells had been rung. The moment it was drawn to my attention, the bells were stopped. We are told the bells rang outside. I can only take that advice, because I am inside the Chamber. Therefore, no dispute arises over what Hon Max Evans said. What happens inside the Chamber is dictated by custom, not whether the bells are heard to stop and start, irrespective of how momentary that stopping and starting might be. Therefore, the ruling is that the vote has been taken, a division was called, the division was completed, the vote was declared and the decision was declared. The minister may recommit the clause at the appropriate stage, and he has given notice that clause 14 will be recommitted.

Committee Resumed

Clause, as amended, put and passed.

Postponed clause 2: Commencement -

Resumed from 16 September after the following amendment had been moved -

Page 2, after line 3 - To insert the following new subsection -

(2) Any provision of this Act that does not commence under subsection (1) within the period of 90 days beginning on the day on which the Act receives the Royal Assent, is deemed to commence on the first day after the end of that period.

Hon NORM KELLY: We postponed this clause because a protracted debate took place - which seems to be usual for this Bill - over the effects of the implementation of my proposed amendment on the various clauses of this Bill. Since that time we have made positive amendments to the Bill. If my amendment to clause 2 is passed, it could create difficulties not only for the accounting period provisions of this Bill, but also for new provisions which have been inserted in the Bill since our initial debate on this clause. Given the fact that the minister gave assurances during that previous debate that the Government would implement these changes as soon as practicable and given the need for regulations and a tenancy code to be drawn up, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon MAX EVANS: I thank the member for withdrawing the amendment and confirm what he has said. The issue has been considered and much work has been done in the past few weeks. I now have a good understanding of this issue.

Postponed clause put and passed.

New clause 5 -

Hon BOB THOMAS: I move -

Page 7 - To add after clause 5 the following new clause to stand as clause 6 -

Section 7 amended

6. Section 7 of the principal Act is amended -

(a) by deleting "either in whole or in part" wherever occurring; and

(b) by inserting after subsection (5) the following -

(6) Where a retail shop lease contains a provision to the effect that rent is to be determined by reference to the turnover of the business then such rent must be determined exclusively by reference to such turnover.

This amendment will ensure that unless the ordinary rent of a retailer is based exclusively on turnover then any clause within a lease requiring the disclosure of turnover is void. That is done for a number of reasons. Most importantly, the Opposition believes that landlords have previously used this mechanism to increase rents. Landlords will include reference to turnover in a lease and set it artificially high so there is never any hope of the tenant's reaching that level. In that case, there will always be a different means of calculating rents.

However, if it is used as a mechanism by the landlord to identify the capacity of tenants to pay increased rents, it gives an unfair advantage to the property owners. They already have a far greater bargaining power than small tenants and this will increase their bargaining power. A reference to turnover in some leases is included to give the landlord the ability to identify those tenants who have the greatest capacity to pay increased rents. During a rent review he would go to those tenants first and strike a new rent. When negotiating new rents with other tenants he could refer to market rent because a tenant is paying that higher rent. Unless a landlord is basing rent exclusively on turnover there should be no reference to this. Some landlords say they use it for benevolence because it allows them to track the performance of the retailing sectors within the centres so they can identify where they should be spending their marketing dollars to increase the number of customers coming through the doors, thereby giving advantage to all the tenants. If members believe that they will believe anything. I do not agree with that sentiment. The Opposition therefore wants to see this clause included to provide some fairness for those small retailers.

I can see one problem with an amendment of this nature which relates to incentives given to some retailers to go into shopping centres. Some landlords set an initial low rent and when a certain turnover is reached the rent is reviewed. We do not want to exclude those start-up arrangements. However, through its access to the drafting resources, the Government could come up with an amendment to our amendment to accommodate this. I throw the ball over to the Government and ask it to find a mechanism to protect those people who have those start-up arrangements, but at the same time to take away the power that is clearly being abused by many landlords using the disclosure of turnover rents for the wrong purposes.

Hon NORM KELLY: In support of the amendment moved by Hon Bob Thomas I have an example to show how these rents in their current form can be manipulated. A tenant at Belmont Forum has a food store and cafe and a couple of stores in other shopping centres in Perth. In one store he is paying a set rent all of the time, unless his yearly turnover becomes more than $1m. Over the past five years his turnover has ranged from about $500 000 to about $650 000. There is no possible way this retailer will ever get anywhere near $1m. He is not paying rent based on turnover. However, because of the over-

$1m turnover rate component in his lease, he must supply his turnover figures to the landlord. The landlord can determine from those figures whether another coffee shop could be sustained in that centre. If another shop is introduced it will cause a 20 per cent decrease in the turnover of the existing shop while the owner must pay the same rent.

That is a case in which the unconscionable conduct provision could apply to prevent these practices from occurring. At this stage the Democrats will support this amendment because from consultation I have had it appears that although there are occasions on which turnover-based rents can be genuinely are generally worked out between landlord and tenant, on many more occasions the rental basis is used only for the landlord to manipulate his own profits from a shopping centre.

Hon MAX EVANS: Apart for Hon Norm Kelly's example, there will be many exceptions to this. I note that the Opposition is prepared to accept a more appropriately worded amendment to cover all eventualities. That can occur when the Bill goes back to the other place. The Opposition's amendment would effectively exclude agreements between parties negotiating rentals to allow for commercial risk share between the lessee and lessor over the life of the lease. Hon Norm Kelly referred to an exceptional case.

Hon Norm Kelly: I do not think it is exceptional.

Hon MAX EVANS: It comes back to people entering into lease agreements. Turnover of $1 200 or $20 000 a week is a long way from $1m. A retailer on that low turnover is unlikely to last long. In the early days it worked fairly well for fast food franchise operators. When the franchise did not go well, at least they did not have to pay much rent. I discussed with the advisers whether it would be possible to get a certified figure from a retailer's accountant if his turnover remained at less than $1m. We can examine that later.

To accept the amendment would mean that tenants and landlords would no longer be able to negotiate this arrangement even if it were to their mutual benefit. In the past when a vacancy occurred or a shopping centre was new or had become very old, turnover-based rents were used as incentives. The State Government recognises commercial sensitivity of small business turnover figures. Access to the figures is at the discretion of the tenant agreeing to rental reviews. Other arrangements may be mutually agreed between the parties. Rumours indicate that turnover figures are obtained, used or released for other than agreed purposes. That is difficult to prove at a later stage. The present Act prevents lease terms that require disclosure of turnover unless the rental agreement specifically includes the provision of those figures. It all comes back to what is in the original lease. Obviously people are finding that what is in the original lease is not what they want. We hope that the new legislation, which, as Hon Bob Thomas indicated, contains many positive aspects, will provide greater fairness between parties taking out new leases.

We are aware that some people have been conned into signing documents containing less than ideal conditions. The agent had probably signed up 100 or even 1 000 lessees. I realise there have been some problems, but I hope they will be rectified in the future. The Government does not support the amendment because it contains some flaws. If it is passed, we will look at it to see how it can be implemented to accommodate all parties in these agreements.

Amendment put and a division held, with the Deputy Chairman (Hon Derrick Tomlinson) casting his vote with the noes -

Ayes (12)

Hon Kim Chance	Hon John Halden	Hon Mark Nevill	Hon Tom Stephens
Hon E.R.J. Dermer	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*

Noes (11)

Hon Dexter Davies	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch	

Pairs

Hon J.A. Cowdell	Hon Peter Foss
Hon Ken Travers	Hon Simon O'Brien
Hon Tom Helm	Hon B.K. Donaldson
Hon Ljiljanna Ravlich	Hon M.J. Criddle
Hon Cheryl Davenport	Hon Murray Montgomery

New clause thus passed.

New clause 7 -

Hon BOB THOMAS: I move -

Page 7 - To add after clause 6 the following new clause to stand as clause 7 -

Section 8 amended

7. Section 8 of the principal Act is amended —

(a) by deleting "either in whole or in part" wherever occurring; and

(b) by inserting after subsection (2) the following —

(3) Where a retail shop lease contains a provision to the effect that turnover figures or statements must be supplied by the tenant to the landlord such provision is void unless the lease contains a provision to the effect that rent is to be determined exclusively with reference to the turnover of the business.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

New clause put and a division held, with the Deputy Chairman (Hon Derrick Tomlinson) casting his vote with the noes.

Ayes (12)

Hon Kim Chance	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens	
Hon John Halden			

Noes (11)

Hon Dexter Davies	Hon N.F. Moore	Hon W.N. Stretch	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon M.D. Nixon	Hon Derrick Tomlinson	
Hon Ray Halligan	Hon B.M. Scott		
Hon Barry House	Hon Greg Smith		

Pairs

Hon J.A. Cowdell	Hon Peter Foss
Hon Ken Travers	Hon Simon O'Brien
Hon Tom Helm	Hon B.K. Donaldson
Hon Ljiljanna Ravlich	Hon M.J. Criddle
Hon Cheryl Davenport	Hon Murray Montgomery

New clause thus passed.

New clause 10 -

Hon NORM KELLY: I move -

To add after clause 9 the following to new clause to stand as clause 10 -

Section 13 amended

10. (1) Section 13 (1) of the principal Act is amended by deleting "5" wherever occurring and substituting the following —

" 7 ".

(2) Section 13 (2) (a) of the principal Act is amended by deleting "5" and substituting the following —

" 7 ".

The amendment relates to the security of tenure of tenants. Under the existing Act that security of tenure extends for only five years. As I said in my speech in the second reading debate, the Reid report recommends that there should be at least two five-year terms of security for tenants, after which there should be an option for a further five-year term. That is the reason I originally intended to move for a 10-year security of tenure. If the Government is supportive, I am happy for it to move the term back to 10 years. As we work through this Bill, I am trying to come up with a practical and workable way of improving security for tenants, so that instead of having to try to recover their costs over a five-year lease they can amortise their costs over seven years. This would give them a better chance of becoming more profitable and of being able to compete against the larger stores and chains which have more security of tenure because of their closer relationship with the owners, if not some form of ownership in a shopping centre itself. I encourage members to support the amendment.

Hon E.R.J. DERMER: The Labor Party has examined this amendment in some detail. Although it is not without reservations, it has chosen to support it.

Hon MAX EVANS: Hon Norm Kelly commented that if the Government were willing, the period could be changed from seven to 10 years. It has been put to me that we would have to do a lot of negotiating with the Property Council. It might be a stronger negotiating point.

Amendment put and a division held, with the Deputy Chairman (Hon Derrick Tomlinson) casting his vote with the noes -

Ayes (12)

Hon Kim Chance	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens	
Hon John Halden			

Noes (11)

Hon Dexter Davies	Hon N.F. Moore	Hon W.N. Stretch	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon M.D. Nixon	Hon Derrick Tomlinson	
Hon Ray Halligan	Hon B.M. Scott		
Hon Barry House	Hon Greg Smith		

Pairs

Hon J.A. Cowdell	Hon Peter Foss
Hon Ken Travers	Hon Simon O'Brien
Hon Tom Helm	Hon B.K. Donaldson
Hon Ljiljanna Ravlich	Hon M.J. Criddle
Hon Cheryl Davenport	Hon Murray Montgomery

New clause thus passed.

New clause 10 -

Hon BOB THOMAS: I move -

Page 24 - Add after clause 9 the following new clause to stand as clause 10 -

" **Section 13C inserted**

10 . After section 13B of the principal Act the following section is inserted —

" **Unconscionable conduct connected with lease renewal**

13C. (1) A landlord must not, in renewing a retail shop lease, or in connection with the renewal, or possible renewal, of a retail shop lease to a tenant engage in conduct that is, in all the circumstances, unconscionable.

(2) Without in any way limiting the matters to which the Tribunal may have regard for the purpose of determining whether a landlord has contravened subsection (1) in connection with the renewal of a retail shop lease to a tenant, the Tribunal may have regard to —

(a) the relative strengths of the bargaining positions of the landlord and the tenant;

(b) whether, as a result of conduct engaged in by the landlord, the tenant was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of the landlord;

(c) whether the tenant was able to understand any documents relating to the supply of goods and services;

(d) whether any undue influence or pressure was exerted on, or any unfair tactics were exerted against, the tenant or a person acting on behalf of the tenant by the landlord or a person acting on behalf of the landlord in relation to the renewal of the lease or possible renewal of the lease;

(e) the amount for which, and the circumstances under which, the tenant could have acquired an identical or equivalent lease from a person other than the landlord;

(f) the extent to which the landlord's conduct towards the tenant was consistent with the landlord's conduct in similar transactions between the landlord and other like tenants;

(g) the requirements of this Act;

(h) the requirements of any other legislation or industry code, if the tenant acted on reasonable belief that the landlord would comply with that code;

(i) the extent to which the landlord unreasonably failed to disclose to the tenant —

(i) any intended conduct of the landlord that might affect the interests of the tenant; or

(ii) any risks to the tenant arising from the landlord's conduct (being risks that the landlord should have foreseen would not be apparent to the tenant);

(j) the extent to which the landlord was willing to negotiate the terms and conditions of any lease for the occupation of the retail shop by the tenant;

(k) the extent to which the landlord and the tenant acted in good faith;

(l) whether there have been substantial and persistent breaches of the lease conditions;

(m) a desire to change the tenancy mix or redevelop the centre for which vacant possession is required;

(n) the economic performance of the tenant compared to other comparable businesses in the retail shopping centre or locality during the life of the lease;

(o) the level of investment obligated under the lease and the ability of the tenant to meet that investment at a reasonable rate over the term of the lease;

(p) any compulsion upon the tenant to undertake during the term of the lease a refurbishment or a refit and the ability of the tenant to meet that cost at a reasonable rate over the balance of the term of the lease;

(q) the value of the current store fitout to the tenant's business as a going concern;

(r) the availability of suitable comparable premises in the immediate vicinity; and

(s) the disparity between the rental level of any final offer and that as determined as a fair market rent for the premises by a specialist retail valuer.

(3) A landlord or any person acting on behalf of a landlord is not to be taken for the purposes of this section to engage in unconscionable conduct in connection with the renewal of a retail shop lease, or possible renewal of a retail shop lease, to a tenant by reason only that such landlord or person institutes legal proceedings in relation to that lease or possible lease or refers a dispute or claim in relation to that lease or possible lease to the Tribunal.

(4) For the purposes of determining whether in connection with the renewal of a retail shop lease, or possible renewal of a retail shop lease, a landlord or any person

acting on behalf of a landlord is in breach of this section the Tribunal —

(a) must not have regard to any circumstances that were not reasonably foreseeable at the time of the alleged breach; and

(b) may have regard to the circumstances existing before the commencement of this section but not to the conduct engaged in before that commencement.

(5) On hearing a dispute at lease end in respect of whether a landlord, or any person acting on behalf of a landlord, has acted unconscionably under this section the Tribunal may —

(a) dismiss the claim;

(b) uphold the landlord's decision not to renew the lease but make provision for payment to the tenant in recognition of the contribution that the tenant has made to the economic value of the retail shop or the retail shopping centre during the life of the lease; or

(c) issue a new lease with the terms and conditions as determined.

(6) Where the Tribunal makes an order or orders in accordance with subsection 5(b) in assessing any economic loss the Tribunal must consider matters such as —

(a) any forced disposal of the tenant's stock at a discount rate; and

(b) any inability to recover the tenant's cost of any fixtures or fittings".

The amendment relates to unconscionable conduct connected with lease renewals. It is probably the most important amendment to this Bill. The Opposition believes that the unconscionable conduct provisions of the Trade Practices Act provide the proper standards for business. They have already been included in the Fair Trading Act, which was passed in 1987. The Opposition feels that these provisions should be included because they give protection to small businesses in their dealings with landlords.

Hon J.A. Scott: And vice versa.

Hon BOB THOMAS: And vice versa. Basically, it gives small business people access to the Commercial Tribunal of Western Australia rather than their having to endure the expense and delay of the relatively inaccessible common law court system. Therefore, the amendment is essential to improve fairness in dealings between landlords and small businesses.

Hon NORM KELLY: Lease renewal time is critical in the ongoing concerns of a leaseholder. As such, it is important that an unconscionable conduct clause is included to protect landlords and tenants. It has been argued that such a clause should be included in the fair trading legislation. I agree, but it would be irresponsible not to take the opportunity to provide such protection and coverage within the commercial tenancy legislation until wider coverage can be placed in the fair trading legislation. If that were to occur, there could be an argument to remove unconscionable conduct clauses from the commercial tenancy legislation. The amendment is worth full support.

Hon MAX EVANS: As Hon Bob Thomas said, this measure has been lifted from the trade practices legislation. Unconscionability - it is an unusual word and one that I have never used, but I assume that it still means something - is embodied in the federal Liberal Government's new Trade Practices Act provisions to assist all small business. The Court Government announced before the previous election that it would introduce legislation in Western Australia to complement the commonwealth legislation. The Government initially will make those provisions available to all small business following an appropriate consultation process. Unconscionable conduct is a wider issue involving balance of power considerations in all commercial dealings between business parties. It should not be focused in the limited sense that the Opposition proposes on retail tenants who are nearing lease expiry. In contrast, the proposals relate to only a small section of the business community.

As there has not been local industry-wide consultation, there is the probability of unintended outcomes. That is a significant change and it is inconsistent with the Government's commitment and the proposals in the Green Bill. Industry stakeholders must be given the opportunity to have input into the debate. That is a latter-day version of the vexed, misleading and accepted conduct question, and it has capacity to be subjective. These matters are legalistic and they should not be legislated on the run and have the capacity to be a boon to lawyers. The proper place for such matters is in other legislation and the courts, not in this Bill or the tribunal. The Government does not support the amendment.

Hon J.A. SCOTT: The Greens support the amendment. The Government's reasoning is not good enough, because clearly there has already been much consideration of the matter in respect of the Trade Practices Act. If the Government were to consider introducing the measure on a wider level, this would be a very good model for a future review.

Hon BOB THOMAS: The spirit of the Trade Practices Act has been included in the Fair Trading Act. I cannot see why the same cannot be done with this legislation. It gives protection both ways - it protects tenants and landlords - in a very cost-effective manner and it allows parties to a dispute access to a much speedier resolution than they could expect in the Federal Court or the Supreme Court.

Progress reported.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.56 pm]: I move -

That the House do now adjourn.

Pink Lady and Sundowner Apples - Adjournment Debate

HON KIM CHANCE (Agricultural) [4.57 pm]: I will not keep the House long, but I want to refer to today's Supplementary Notice Paper in which, after months of waiting, several questions on notice have finally been answered by the minister representing the Minister for Primary Industry. The fundamental issue that was raised in those questions - from memory, 15 related to a single issue - related to two varieties of apples: Pink Lady and Sundowner. The device that was used by the Minister for Primary Industry to avoid answering serious questions which go to the very centre of financial accountability within the department was that of avoiding the question on the basis that the Pink Lady and Sundowner, which were acknowledged in last year's budget papers as two varieties of apples, are not varieties of apples but trademarks.

It would be unparliamentary of me to use the language that I would normally use to describe such action, but such smart alec treatment is not what a member of Parliament or indeed Parliament should expect from a minister of the Crown. It is disgraceful. I have tried to talk to the minister on another matter which concerns former licensed milk vendors whose licences, businesses and futures were destroyed by the advice that he gave Parliament when we dealt with the dairy industry legislation. So far, the minister has made no time available to meet me when he and his department have made the most enormous cock-up of dealing with report No 6 from the Public Administration Committee.

On 25 August, I met with officers of the minister and of the Dairy Industry Authority and told them clearly where they had gone wrong. They acknowledged to me that they knew where they had gone wrong; but notwithstanding that, I said very clearly that if they had a problem, they could come back to me, and that if they did not understand what the committee had said, they could come back to the committee. That has not been done in either case. The minister has left these people with a wholly inadequate response to the committee's report and has refused to do anything. Today, I happened to see the minister in the corridor, and I said, "Monty, I need to speak to you about something. You know what it is, because your officers have told you what it is". However, he did not acknowledge me and just walked straight on.

My patience with this minister is wearing very thin. The issue that I raised about those apple varieties will be pursued with renewed vigour, because things have occurred within that department that have been covered up, and now that the department has given me that answer, the minister has made himself a party to that cover up. With regard to the milk vendors, I assure the House that those people will not rest, and I will not rest either.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [5.03 pm]: I am aware of this matter, and I will take it up with the minister and ensure that I get a full and frank reply for the member. The question with regard to the DAAS payments is about two months old, as the member well and truly knows, and needs to be followed up. I spoke to Robin Hinricks a couple of days ago - she actually approached me at the airport - and I understand the issue. There is some discrepancy with regard to the way the report is read - and the member and I have had discussions about that - and that issue will need to be settled before we go any further. With regard to the issue of the apples, I was outside the Chamber having a discussion with one of my officers when this debate commenced, but I will take up that issue with the minister.

WorkSafe WA - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.05 pm]: I wish to raise my ongoing concern about WorkSafe WA. A fairly damning report has been made public with regard to WorkSafe's failure to deal with unions. The final report that was made public had obviously been amended from earlier drafts. I was particularly keen to obtain a copy of the draft report so that we could assess the differences between the draft report and the final report.

One of the key reasons that I was keen to do that was that the final report was worded in a way that was, in my view, fairly inaccurate, because it effectively defamed the commissioners of WorkSafe and used those commissioners as a scapegoat for the actions of the WorkSafe Commissioner, Mr Neil Bartholomaeus, who has since been removed from that position.

On 30 September, I wrote to the Freedom of Information Commissioner for the Commissioner for Public Sector Standards and requested a draft summary of the findings into that WorkSafe complaint. The Office of the Commissioner for Public Sector Standards wrote to me on 5 October and said that after consideration of the document, he had decided that it was exempt under clause 6(1)(a) of schedule 1 of the Freedom of Information Act. That caused me some concern, because

although that draft document had been used as part of the deliberative process, I did not believe it should be exempt. I therefore wrote back to the commissioner to explain the reasons that I believed the draft report should not be exempt: It is a matter of public and parliamentary controversy; it affects public confidence in the administration of WorkSafe; it affects public confidence in the competence and conduct of the chief executive of a government department; it raises concerns about compliance with essential public sector standards; and it raises concerns about compliance with parliamentary processes and legislation.

I pointed out also that as the situation stands currently, given the final report of the Commissioner for Public Sector Standards, the 12 WorkSafe commissioners may have been defamed as a result of the process that was used in producing that final report. The 12 WorkSafe commissioners were clearly not a party to any decision made by Commissioner Bartholomaeus not to deal with unions, and therefore should not be held accountable for his actions. Therefore, I requested a review of the Commissioner for Public Sector Standards' opinion under clause 6(1)(a) of schedule 1 of the Freedom of Information Act, which deals with matters of public interest.

I made that request on 12 October, and it is interesting to note that the Office of the Commissioner for Public Sector Standards addressed correspondence to you, Mr President, dated 13 October, which added some light to this situation. The Commissioner for Public Sector Standards made it clear in that letter that it had been represented to him by me and by some members of WorkSafe WA that some of the commissioners felt aggrieved because they believe the term" WorkSafe" used in the report unfairly implicates them in the subject matter. He pointed out also that this was certainly not his intention, and that since submitting his report to the Parliament, he has learnt that under the Occupational Safety and Health Act, the commission is entitled to use as its short name "WorkSafe WA".

That is not the end of the matter as far as I am concerned, because those 12 commissioners have been defamed in the eyes of the public, and until this matter is cleared up publicly by the release of that draft report, the public perception that the commissioners have been involved in wrongdoing will continue. It is very unfair of the Commissioner for Public Sector Standards simply to write a letter to you, Mr President, outlining the shortcomings of his report. Given the events surrounding this matter, it is very important that the names of those commissioners be cleared with regard to the public perception that they have been involved in wrongdoing.

We need to ask also why it has taken the Commissioner for Public Sector Standards so long to readdress this matter. I raised my concern about the reference to "WorkSafe" as having done the wrong thing rather than Commissioner Bartholomaeus as having done the wrong thing because it was made clear to me in a conversation with the Commissioner for Public Sector Standards, and he has now put it on public record, that although he could investigate the actions of an individual, he could not find an individual guilty of having done the wrong thing; therefore, he was given legal advice that where he had made reference to Commissioner Bartholomaeus, that should be changed to make reference to WorkSafe WA.

Hon Kim Chance: It is lucky you did not ask him a really hard question, like whether an apple is an apple!

Hon LJILJANNA RAVLICH: That is right. Inadvertently, what has happened is that these 12 commissioners now have question marks after their name about the way in which they have operated, yet they have played no part in this matter. It would concern me if the Commissioner for Public Sector Standards, in correspondence with you, Mr President, is indicating that he is now of the view that no need exists to readdress my request to him under the Freedom of Information Act that the draft report be made public.

This is a matter of public interest. According to the Commissioner for Public Sector Standards, 12 commissioners were in a sense made scapegoats, and in this situation the need exists to readdress the question of whether they have committed any wrongdoing. Clearly they have not, and the perception of wrongdoing has occurred as a result of the way the Commissioner for Public Sector Standards was instructed to redraft his report. It is essential, so that this House can ascertain the extent to which that draft report varied from the final report, that the draft report be made public in the interests of not only those 12 commissioners, but also the Western Australian public.

Question put and passed.

House adjourned at 5.11 pm

QUESTIONS ON NOTICE

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

PINK LADY AND SUNDOWNER APPLES

Registration of Plant Variety Rights

56. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Were the well documented international requirements for registration of plant variety rights ("PVR") of new varieties, which requires filing uniformly across the world within six years of the first commercial sale of plants, followed in the case of the varieties, Pink Lady and Sundowner?

(2) If this was not the case, why were these requirements not met?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) This question cannot be answered because PINK LADY and SUNDOWNER are trademarks and not apple varieties. The apple varieties upon which the trademarks may be applied are CRIPPS PINK and CRIPPS RED respectively.

(2) Not applicable.

PINK LADY AND SUNDOWNER APPLES

Registration of Plant Variety Rights

57. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Why was the plant variety rights ("PVR") application for the Pink Lady and Sundowner varieties delayed in Chile and Argentina?

(2) Has this delay resulted in litigation?

(3) In which court is the litigation taking place?

(4) Is the litigation still active?

(5) Who is taking action against whom?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) This question cannot be answered because PINK LADY and SUNDOWNER are trademarks and not apple varieties. The apple varieties upon which the trademarks maybe applied are CRIPPS PINK and CRIPPS RED respectively.

(2)-(5) Not applicable.

PINK LADY APPLES

Registration of Name in South Africa

58. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Was the registration of the name Pink Lady filed incorrectly in South Africa?

(2) If so, has this resulted in expense for Agriculture WA?

(3) If it has not resulted in expense for the agency directly, who has met the costs?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) No.

(2)-(3) Not applicable.

PINK LADY AND SUNDOWNER APPLES

Extension of Trademark in France

59. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Did the agent in France for Pink Lady and/or Sundowner (Star Fruits) receive special conditions attached to the application of the trademark for one of those varieties which has the effect of extending their licence to beyond the year 2020?

(2) If so, which of the two varieties was involved?

(3) What led to this extension occurring?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) This question cannot be answered because PINK LADY and SUNDOWNER are trademarks and not apple varieties. The apple varieties upon which the trademarks maybe applied are CRIPPS PINK and CRIPPS RED respectively.

(2)-(3) Not applicable.

PINK LADY AND SUNDOWNER APPLES

Separate Filing of Trademark

60. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Why did the Directorate only allow the French agent, Star Fruits, to file the trademark originally for Pink Lady and not for Sundowner?

(2) Was Sundowner then filed separately by another company in the United Kingdom?

(3) Was it the intention of the Directorate that this separate filing process for the two varieties should take place?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) Agriculture Western Australia did not allow Star Fruits to file trademark applications for PINKLADY™ and SUNDOWNER™ . Star Fruits filed the applications on their own accord and subsequent negotiation led to the transfer of ownership to Agriculture Western Australia.

(2) Yes and following subsequent negotiation, ownership was transferred to Agriculture Western Australia.

(3) No.

PINK LADY AND SUNDOWNER APPLES

Ownership of Trademark in USA

61. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) What factors have led to Agriculture WA not owning the trademarks and logos for Pink Lady and Sundowner in the United States of America (“USA”)?

(2) How did these ownership rights come to be the property of the USA agent?

(3) Is the USA the world’s largest market for these apples in the world?

(4) What financial loss, if any, does the USA ownership of this property represent to the agency and the WA taxpayer?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) Initially Agriculture Western Australia only sought to register trademarks only where Western Australian apples were likely to be marketed, which at the time did not include the United States of America. Agriculture Western

Australia has never been involved in the creation and promotion of logos, which is an activity carried out by industry.

(2) By the filing of an application at the US Trademarks Office.

(3) No. Currently the largest sales of PINK LADY™ and SUNDOWNER™ occur in the United Kingdom.

(4) Agriculture Western Australia does not envisage the ownership of a trademark by a US corporation in the USA only as having any effect upon the finances of the State of Western Australia.

PINK LADY AND SUNDOWNER APPLES

Trademark Filing in Europe

62. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Were the trademarks for the varieties Pink Lady and Sundowner filed uniformly across Europe in order to protect those trademarks for our future marketing program?

(2) If this did not take place, why did it not take place?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) This question cannot be answered because PINK LADY and SUNDOWNER are trademarks and not apple varieties. The apple varieties upon which the trademarks maybe applied are CRIPPS PINK and CRIPPS RED respectively.

(2) Not applicable.

PINK LADY APPLES

Trademark Filing in Switzerland

63. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Is it correct that as recently as 19 months ago a Swiss company filed a trademark for Pink Lady in Switzerland?

(2) If so, does that company now control the use of the name Pink Lady in Switzerland?

(3) Can that company prevent product Australian apples from entering the Swiss market and being marketed as Pink Lady?

(4) If so, what is the name of that company?

(5) Has this arrangement been approved by the agency?

(6) What current or potential financial losses are likely to result to WA apple growers and the WA public as a result of this arrangement?

(7) Did a similar set of circumstances occur last year in respect of product from New Zealand?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1)-(2) Yes.

(3) Yes, but it can also allow the licensed use of the trademarks in Switzerland, which does not produce CRIPPS PINK or CRIPPS RED apple varieties.

(4) This information is not readily available. A search of the Swiss Trademark Register would be necessary to identify the current owner. Such searches can only be obtained for a fee, which would require the services of a Swiss Patent and Trademark attorney.

(5) Agriculture Western Australia has no authority in Switzerland which has a “first to file” rule for trademarks.

(6) There is no arrangement.

(7) The question cannot be answered as the connection between registration of a trademark in Switzerland and produce grown in New Zealand cannot be identified.

PINK LADY AND SUNDOWNER APPLES

Trademark Filing in Denmark and Austria

64. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Is it correct that until a few months ago, Agriculture WA had not filed trademarks for Pink Lady or Sundowner in either Denmark or Austria and that these trademarks have now been filed in these countries by the French agent, Star Fruits?

(2) If this is correct, why did Agriculture WA not properly file the trademarks in these countries?

(3) Does the fact that Star Fruits filed the trademarks mean that that company is now able to benefit from the control of intellectual property which should have been in the name of the WA public or of fruit growers?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) To date, Agriculture Western Australia has filed no applications in Denmark or Austria and is not aware of the status of the marks in those countries.

(2) In December 1995, an offer was made to transfer ownership of the trademarks from Agriculture Western Australia to industry which was conditional upon industry demonstrating it was able to effectively manage the assets to its own advantage. This occurred on 24 April 1998. From December 1995, Agriculture Western Australia has not taken any actions to expand the trade mark portfolio.

(3) No. Trademarks are not a world-wide right. Generally, rights to a trademark are determined by use or registration or both.

PINK LADY AND SUNDOWNER APPLES

Trademark Quality Monitoring in the United Kingdom

65. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) By what mechanism/s were the trademarks for Pink Lady and Sundowner managed in the United Kingdom last season?

(2) Which body or agency carried out the function of monitoring the quality of product coming in to the UK from France, the USA, Australia, New Zealand, and South Africa, to ensure that the product met the international specifications that are set under the published trademark quality guidelines?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) By Licence agreements.

(2) The Licensees in United Kingdom.

PINK LADY AND SUNDOWNER APPLIES

Licence Fee and Monitoring of Quality

66. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Was a licence fee collected from the Australian industry last year from growers and/or packers of the varieties Pink Lady and/or Sundowner?

(2) Was one purpose of this fee collected to ensure that the quality specifications laid down in the licence were correctly administered in the future marketing interests of this/these varieties?

(3) Were these aims achieved in all markets?

(4) If not, in which markets was proper administration and monitoring carried out and in which markets was it deficient?

(5) Was the licence fee revenue fully expended?

(6) Why was adequate monitoring not provided?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) This question cannot be answered because PINK LADY and SUNDOWNER are trademarks and not apple varieties. The apple varieties upon which the trademarks maybe applied are CRIPPS PINK and CRIPPS RED respectively.

(2)-(6) Not applicable.

PINK LADY APPLES

Licence in South Africa

67. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Was the South African industry licensed to market Pink Lady last year?

(2) If not, why not?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) No.

(2) The single desk marketeer for South Africa in 1997 would not sign a non-exclusive licence agreement.

CRIPPS PINK APPLES

Sale as Pink Rose in Germany

68. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Why were New Zealand apples, known as Pink Rose, permitted to be sold in Germany last year as Cripps Pink?

(2) Is Cripps Pink the varietal name of the WA bred variety, Pink Lady?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) Agriculture Western Australia did not grant permission for New Zealand grown Pink Rose apples to be sold in Germany as CRIPPS PINK.

(2) No. CRIPPS PINK is a WA-bred apple. PINK LADY is a trademark which under certain conditions may be applied to fruit of the CRIPPS PINK apple variety.

PINK LADY APPLES

Use of Chemical

69. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Why has New Zealand been allowed to publish their own product specifications for Pink Lady which involve the use of a chemical that the Australian industry has indicated to UK buyers is not required?

(2) What is the name of this chemical?

(3) Is the use of this chemical banned in WA or any other Australian state?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) Agriculture Western Australia knows nothing about this claim and use of chemicals.

(2)-(3) Not applicable.

PINK LADY AND SUNDOWNER APPLES

Transfer of Trademarks to the Australian Apple and Pear Growers Association

70. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) On what date did the transfer of trade marks for the varieties Pink Lady and Sundowner to the Australian Apple and Pear Growers Association occur?

(2) Why did the transfer take place so late in the marketing season when fruit had already been shipped unlicensed from South Africa to the UK and was already packed for shipment from New Zealand?

Hon M.J. CRIDDLE replied:

The Chief Executive Officer of Agriculture Western Australia has advised that:

(1) The trademarks PINK LADY and SUNDOWNER were transferred on 24 April 1998.

(2) The transfer could only occur after the Western Australian Fruit Growers Association Inc. (WAFGA) agreed, on behalf of Western Australian apple growers, to the transfer and the Australian Apple and Pear Growers Association Inc. (AAPGA) agreed to accept the trademarks.

BEST CONSTRUCTION PTY LTD'S CONTRACT

106. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Primary Industry:

In relation to the contract called for tender by the Department of Contract and Management Services, on behalf of Agriculture WA and the successful tenderer, Best Construction Pty Ltd for Stage 1 - demolition, asbestos removal, construction, roads and parking - Narrogin Agriculture Centre additions to the value of $1 717 540 -

(1) Was a business case conducted?

(2) Did it include a comprehensive cost benefit analysis?

(3) If not, why not?

(4) If yes, will the Minister for Primary Industry table details of the cost benefit analysis and information on any identified inherent risks to the Government?

Hon M.J. CRIDDLE replied:

(1) Narrogin, as with all of our major centres forms part of the overall Regional Service Delivery Policy put in place by the Coalition Government to accommodate as many Agriculture Western Australia staff as possible in the country regions. The accommodation at Narrogin was not adequate to accommodate the future numbers to be relocated there. Therefore, the decision was made to build new accommodation in Narrogin.

(2)-(4) Contract and Management Services was commissioned to engage an Architectural Consultant Company to carry out a concept master plan of the Narrogin office, evaluating the needs and options for the site and staff. All aspects and options were worked through at this stage, then the next stage of design and documentation defined the project cost more precisely.

LAW REFORM COMMISSION

Meetings

148. Hon N.D. GRIFFITHS to the Attorney General:

(1) How many meetings of the Law Reform Commission of Western Australia have taken place since March 4, 1998?

(2) In each case which commissioners attended the meetings?

(3) How many meetings between members of the commission and the Attorney General have taken place since March 4, 1998 and in each case -

(a) on what date; and
(b) which commissioners attended?

(4) Since March 4, 1998 what proposals for the review of any area of law with a view to reform have been submitted to you by the Law Reform Commission of Western Australia?

Hon PETER FOSS replied:

(1) 13.

(2)

31 March 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
21 April 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
29 April 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
6 May 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
21 May 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
26 May 1998	Mr WS Martin QC and Prof RL Simmonds
10 June 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds

18 June 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
25 June 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
6 July 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
21 July 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
19 August 1998	Mr WS Martin QC, Mr RE Cock QC and Prof RL Simmonds
15 September 1998	Mr WS Martin QC and Prof RL Simmonds

(3) 2 meetings.

(a)-(b)	30 April 1998	Mr RE Cock QC
	7 September 1998	Mr WS Martin QC and Prof RL Simmonds

(4) Nil.

POLYCHLORINATED BIPHENYLS, DESTRUCTION

298. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) How much of the 450 tonnes of polychlorinated biphenyls ("PCBs") stored by Western Power in three locations in Wattleup, Hope Valley and Welshpool are scheduled for destruction this year?

(2) If none, when and how much is scheduled for destruction?

(3) Who will destroy these PCBs and where?

(4) Are guidelines, promised by the Department of Environmental Protection in 1996 to encourage industry to send their hazardous waste for destruction, now in place?

(5) If not, why not?

(6) When will these guidelines be available?

(7) Why hasn't the Government required industry to dispose of stockpiles of hazardous waste?

Hon MAX EVANS replied:

(1)-(3) These questions should be referred to the Hon. Minister for Energy.

(4)-(6) The guidelines are part of the ANZECC document entitled the PCB Management Plan. This is a nationally-endorsed document released in 1996. National guidelines for other hazardous wastes are currently being prepared. The guidelines are being prepared nationally by the Commonwealth Government with the objective of ensuring uniformity of approach across Australian jurisdictions. A release date for the finalised guidelines has not yet been set by the Commonwealth.

(7) Government is encouraging industry to develop environmentally acceptable ways to dispose of stockpiles of hazardous waste. Before Government considers requiring industries with such stockpiles to dispose of them, with the emphasis being on the word "requiring", Government needs to consider the outcomes and recommendations of the national committees dealing with the formulation of hazardous waste management plans and guidelines.

PASTORAL LEASES, CRUELTY TO CATTLE

350. Hon MARK NEVILL to the Minister for Transport representing the Minister for Primary Industry:

(1) What action are Agriculture WA officers required to take when they -

(a) observe; or
(b) become aware of,

cruelty to cattle on pastoral stations?

(2) How many complaints, or incidents, has Agriculture WA dealt with since July 1, 1997?

(3) What regions did the reports in (2) above come from?

(4) Was cruelty substantiated?

Hon M.J. CRIDDLE replied:

(1) When Agriculture Western Australia staff either observe or become aware of suspected cases of cruelty to livestock, they are requested to report the matter to Agriculture Western Australia's Principal Consultant, Animal Welfare. Where appropriate, Agriculture Western Australia will then liaise with the Royal Society for the Prevention of Cruelty to Animals (RSPCA), and will assist the Society's inspectorial staff in investigating the matter by providing technical advice. Under the prevention of Cruelty to Animals Act 1920, the Society is provided with the power to initiate prosecutions of alleged cruelty to animals.

(2) Two.

(3) Kimberley Region.

(4) No. The RSPCA has advised that it has not proceeded with any legal action to date.

FORESTRY ACCREDITATION

376. Hon CHRISTINE SHARP to the Minister for Finance representing the Minister for the Environment:

For each of the following categories -

(a) 5th order and higher stream reserves;

(b) 4th order stream reserves;

(c) informal reserves and adjoining areas of land accredited for the Deferred Forest Agreement;

(d) diverse ecotype zones of an equal amount to or greater than 40 hectares; and

(e) the Bibbulmun Track travel route reserve (400 metres wide) -

(1) What is the total area and what total area of forest does it contain?

(2) Of the area of forest, how much has been accredited by the Regional Forest Agreement ("RFA")?

(3) What is the total area of old growth forest accredited under each of the categories and for each forest type?

(4) For (1) to (3) above, what is the difference between the amount of informal reserve accredited by the Deferred Forest Agreement process as compared with the new level of accreditation for the RFA?

(5) Was the Panel of Independent Scientific Experts ("POISE"), or any other independent scientific body, consulted on the latest accreditation of informal reserves?

(6) How many 4th order streams that require an addition to their buffer to meet the accreditation standard have already been logged down to 150 metres, and so cannot meet the new accreditation standard of 200 metres?

(7) Has the forest in these reserves been subtracted from the area accredited?

(8) Where in the Forest Management Plan 1994-2003 is the Bibbulmun Track identified as an informal reserve?

(9) Will the Minister for the Environment table maps showing the actual boundaries of -

(a) all these reserves; and

(b) all the accredited reserves?

The answer was tabled. [See paper No 268.]

QUESTIONS WITHOUT NOTICE

MAIN ROADS INQUIRY - COMPLETION

291. Hon TOM STEPHENS to the Minister for Transport:

Yesterday I asked the minister whether the Main Roads inquiry into the leaking of information had been completed. I now ask -

(1) On what date was the inquiry completed?

(2) What are the conclusions of the inquiry; and, in particular, has it revealed any breach of public sector standards?

(3) When will the conclusions of the inquiry be implemented?

Hon M.J. CRIDDLE replied:

(1)-(3) The inquiry has been completed. I cannot tell the Leader of the Opposition off the top of my head the date on which it was completed. The Commissioner of Main Roads will be dealing with that matter. He is the person who is responsible for employment in his area.

Hon Ljiljanna Ravlich: You are the accountable minister.

Hon M.J. CRIDDLE: He is the person responsible for the conduct of Main Roads, and he is the person who carries out the day-to-day operations.

MAIN ROADS INQUIRY - QUOTE FOR WORK PERFORMED

292. Hon TOM STEPHENS to the Minister for Transport:

In respect of the Ministry of Premier and Cabinet's review of the Main Roads investigation -

(1) Did any of the faxes and/or letters exchanged by International Investigation Agency on 8 or 9 January 1998 with Main Roads WA contain a quote for the work to be performed by IIA?

(2) If yes, what was the sum quoted?

(3) Will the minister now table the letters that were exchanged; and, if not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The rate was $100 an hour per investigator.

(3) I table a copy of the papers that were exchanged.

[See paper No 266.]

REVIEW OF STATE EXPENDITURE

293. Hon N.D. GRIFFITHS to the Minister for Finance:

Has the minister directed that there be a revision of state expenditure and a review of the estimates in light of changes in the rate of exchange of the Australian dollar to the United States dollar, and in light of the fact that the estimates are based on exchange rate parameters of US 67¢ to the Australian dollar for this financial year, US 69¢ for next financial year, and US 70¢ for the following two years? If so, when; if not, why not?

Hon MAX EVANS replied:

I have not asked for any revision. I am trying to work out how that may affect government expenditure when we buy in United States dollars on depreciated value. A depreciated Australian dollar to the United States dollar of 1 per cent is equal to about $12m in royalties, so we have received a benefit from the drop in the exchange rate. Most of the mining revenues are in US dollars, and our royalties are based on that, so we receive a benefit from that. In our first year in government, when the dollar went up to 83¢ or 84¢, our revenue was $29m below budget. Last year, we finished up being $50m or $60m in front to the end of June. Nothing would prompt me to ask that it be reviewed, because I do not know how government expenditure would be affected by a change in the exchange rate.

ASSISTANCE TO FORMER MILK DISTRIBUTORS

294. Hon HELEN HODGSON to the minister representing the Minister for Primary Industry:

I refer to the minister's answer to question without notice 269 answered on 14 October 1998 and ask -

(1) Has the further assistance payment to certain former milk distributors/vendors been calculated with reference to the recommendations of the sixth report of the Standing Committee on Public Administration?

(2) Will the minister table details of how the further assistance has been calculated?

(3) Will all former milk distributors/vendors covered by schemes B and C of the distribution adjustment assistance scheme receive a further assistance payment?

(4) When will the minister table a response to the third report of the Standing Committee on Public Administration, tabled on 27 November 1997, and the sixth report of the Standing Committee on Public Administration, tabled on 23 June 1998?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(4) Having considered report No 6 of the Standing Committee on Public Administration with regard to the distribution

adjustment assistance scheme guidelines, the Minister for Primary Industry advised the chairman, Hon Kim Chance MLC, member for the Agricultural Region, that he had agreed to implement a further assistance payment to former milk distributors/vendors covered by schemes B and C of the DAAS as outlined in the report. I table a copy of the minister's response. Those eligible for further assistance have been advised directly by the Dairy Industry Authority, which is responding to applications as they are submitted.

[See paper No 267.]

MINING ACTIVITIES ON PASTORAL PROPERTIES

295. Hon GIZ WATSON to the Minister for Mines:

With regard to the development of mines in Western Australia -

(1) Is the minister aware of any pastoralists having undue pressure placed on them by mining companies to vacate their properties, or of mining companies not negotiating in good faith?

(2) Is there a protocol for purchase, relocation and/or compensation to pastoralists who suffer as a result of mining development on their property?

(3) How many pastoral properties not owned by mining companies have exploration activity on them, and how many have developing or operating mines on them?

(4) What form of compensation is available to pastoralists who lose productive pasture or paddocks to the mining industry?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) From time to time pastoral leaseholders have raised concerns with the Department of Minerals and Energy about the effects of mining on pastoral leases and the willingness of tenement holders to consult them.

(2) The Mining Act provides for compensation for damage and loss in prescribed circumstances. There are no protocols for the purchase or relocation of pastoralists as a result of mining activity.

(3) This information is not kept.

(4) In general, compensation is payable by the holder of a mining tenement for any substantial loss of earnings suffered by a pastoral lessee resulting or arising from mining by a tenement holder. I refer the member to sections 123, 124 and 125 of the Mining Act.

MULIE DEATHS

296. Hon MURRAY MONTGOMERY to the minister representing the Minister for Fisheries:

(1) Is the minister aware of the mulie deaths occurring on the South Australian coastline?

(2) Has the source of the outbreak been identified?

(3) Will it affect the Western Australian industry?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(3) The Minister for Primary Industry is aware of the pilchard mortalities occurring in South Australia. The source of the outbreak has not yet been identified. However, the situation is being closely monitored in conjunction with the South Australian Department of Primary Industry. Sampling of pilchards off the south coast of Western Australia is taking place and all interested parties are being kept informed. A meeting of industry representatives is scheduled to take place on Friday, 16 October in Albany to discuss this issue and devise appropriate strategies for dealing with the matter. At this stage it is not known whether the pilchard mortalities will spread to Western Australian waters.

PUBLIC SECTOR LEAVE LIABILITY

297. Hon CHERYL DAVENPORT to the Minister for Finance:

I refer to the Auditor General's report No 8, which shows that employee leave liability has increased from $720m to $1b, and the payout in lieu of leave entitlements to the Executive Director of the Department of Conservation and Land Management, Syd Shea, and ask -

(1) What is the total of cash payments made to reduce the Government's leave liability across the public sector?

(2) How does the minister reconcile this practice with prudent financial management?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The information sought is not centrally held and is, in fact, spread across all agencies and statutory authorities - approximately 365 in all - in the public sector. However, should the member require details for a specific agency, the question should more appropriately be addressed on notice to the appropriate minister.

(2) The move to reduce leave liability across the public sector is part of a program aimed at encouraging agencies to manage employees' leave. Government agencies have been accumulating unfunded leave liabilities for many years. The Government's new budget reporting arrangements introduced this year now expose the agencies' accumulated leave liability. As a result of these new reporting mechanisms, the Government has required agencies to take proactive steps to reduce their accumulated leave liability. One measure available to agencies is to offer staff the opportunity to have their leave paid out from within agencies' existing budget allocations. This acts to constrain the growth in leave liability which would otherwise need to be funded in the future. It is therefore a prudent approach to agencies' financial management responsibilities.

On the industrial relations side, in my second year in government I became aware of these accumulated leave liabilities, which were high at that time and have become even higher for reasons I will explain. If these employees had been in my own business, I would have made them take their leave. I am aware of one person in the public sector who had 45 weeks accumulated leave. One big agency, during the period of the previous Government, allowed its employees to accumulate two blocks of long service leave. When people retired, one block of long service leave was paid out at the rate which applied 14 years after the leave became due and the other block at the rate which applied seven years after it became due. Many agencies were not showing their accumulated leave liability in their financial statements. For example, the Geraldton Port Authority had its accounts qualified, and would not include any leave liability for people who had transferred to that organisation after working for many years in Main Roads or Westrail. The port authority did not want to pick up liability for people who had previously worked for another government agency for 25 years, because the leave had not been accumulated during employment with the port authority.

The Government has now introduced guidelines and is making adjustments so that it knows the exact extent of leave liability. When people move from one agency to another, adjustments can be made. The Government produces a balance sheet with the total liabilities. That is an important step. This issue has also been affected by workplace agreements which provide a percentage increase in pay. If leave has been accumulated over 14 years, when the rate of pay increases by perhaps 10 per cent as a result of a workplace agreement, the liability increases accordingly. It has a huge impact. Those on level 9 in the public sector -

The PRESIDENT: Order! A number of members wish to ask further questions.

Hon MAX EVANS: The member asked me a very valid question.

The PRESIDENT: Order! I have taken six questions so far, and the minister's answer has taken half the time taken for those questions. I must consider other members.

Hon MAX EVANS: I will sit down, Mr President. I am sorry that members cannot be better informed, but I will do that some other day.

HOMESWEST RENTAL HOUSING STOCK

298. Hon MURIEL PATTERSON to the minister representing the Minister for Housing:

What is the existing Homeswest rental housing stock and the vacancy rate in the towns of Bunbury, Busselton, Capel, Donnybrook, Boyanup, Harvey, Mandurah, Waroona, Pinjarra, Collie, Brunswick, Albany, Mt Barker, Denmark and Boyup Brook?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The breakdown of Homeswest properties in the towns requested is as follows. In Bunbury the existing rental housing stock is 880, and the vacancy rate is 40, or 5 per cent; in Busselton, 420 and 20; in Capel, 32 and two; in Donnybrook, 26 and two; in Boyanup, eight and one; in Harvey, 78 and two; in Mandurah, 605 and 46; in Waroona, 45 and one; in Pinjarra, 82 and five; in Collie, 233 and 16; in Brunswick, 22 and one; in Albany, 582 and 39; in Mt Barker, 31 and four; in Denmark, 37 with no vacancy rate; in Boyup Brook, 14 and one.

Homeswest looked at the rental stock to ascertain the position and what had been missed previously. It must decide what will be done about these properties. Obviously some towns do not need that accommodation and that matter will be looked into.

SCHOOL EDUCATION BILL - MINISTER'S LETTER

299. Hon KIM CHANCE to the Leader of the House:

(1) Did the minister advise a resident of Albany, by letter dated 1 September 1998, that he introduced the School Education Bill to the Standing Committee on Public Administration for consideration?

(2) If so, is that claim inconsistent with the opposition of the Leader of the House to the referral of the Bill to that committee when the matter was debated and decided by a division of the House?

(3) If it is inconsistent, why did the Leader of the House make that claim?

Hon N.F. MOORE replied:

(1)-(3) Yes, I did and I will try to explain what happened. The member was kind enough to give me a copy of the letter I sent to Ms Berry of Albany. I have looked at the letter and - this may cause some mirth - it seems that the letter contains a typographical error. Although I read all the correspondence I sign, clearly I did not read this letter carefully enough. There is no way I would claim credit for referring the Bill to the Standing Committee on Public Administration because I vigorously opposed that referral at the time, still do and always will. Next week or the week after, members will know the reason I opposed that referral. The Bill will be like a dog's breakfast and the whole process is making a mockery of the way this House operates. I cannot imagine any reason that I would claim responsibility for that referral because I am happy to stand by what I said in the House. I can only suggest that a couple of sentences are missing from the letter. I will look at the draft letter in my office and make sure that this lady is advised of the exact position. I will also make sure in future that I read my correspondence much more carefully than I did on this occasion.

"HELP GET THE BLUDGERS OFF OUR BACKS" CAMPAIGN

300. Hon JOHN HALDEN to the to the Minister for Finance:

In relation to the "Help get the bludgers off our backs" campaign -

(1) Who was responsible within the Insurance Commission of Western Australia for giving approval for the campaign?

(2) When was this approval given?

(3) Did the minister give approval for the campaign; and, if so, when was approval given?

(4) Is the campaign targeted at any particular sectors of the insurance industry?

(5) If so, which ones?

(6) Will it be possible to measure the effectiveness of the campaign; and, if so, how will this be done?

Hon MAX EVANS replied:

Certain parts of the question were answered yesterday.

Hon Ljiljanna Ravlich: They were not.

Hon MAX EVANS: This looks like the question submitted in the name of Hon Tom Helm and changed to Hon Ljiljanna Ravlich.

(1) The board of management of the Insurance Commission of Western Australia approved the campaign.

(2) It did so on 30 September 1998.

(3) No, I did not have to give approval. I was made aware of the campaign in the developmental stages.

(4) Yes.

(5) Third party insurance, motor vehicle accident injury claims and State Government workplaces' workers compensation claims.

(6) Yes. Once the launch of the campaign concludes on 5 December 1998 the Insurance Commission plans to assess the number of calls and evaluate the usefulness and value of the information received.

As I said yesterday in answer to a very similar question, a lot of over-claiming takes place with motor cars, accidents, the burning out of cars, workers compensation and compulsory third party insurance. Government inspectors are trying to catch people doing this. The Government believes this is a valid approach. After all, the taxpayers of Western Australian pay licence fees and the Government picks up the cost of this fraudulent activity. I hope we see some results and we will see what happens after 5 December.

GAS PRICES

301. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy

(1) Is the minister aware that Shell and BP have entered into a partnership with Woodside and will sell North West Shelf liquefied natural gas on the east coast of Australia for 20¢ a litre?

(2) Why is Wesfarmers charging Western Australian consumers 34¢ to 37¢ a litre for LPG autogas, 15¢ a litre more than motorists of Melbourne pay?

(3) Can the minister explain why natural gas produced in Western Australia costs more in Western Australia than in the eastern States?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The minister is aware that the North West Shelf joint venturers, including Shell, BP and Woodside, sell LPG produced on the Burrup Peninsula onto the world market and is not aware of partnerships between any of the joint venturers to sell any of this production to the eastern States. Woodside has expressed a desire to sell any of its share of additional LPG to long-term export customers.

(2) While the State is fortunate to have a very reliable supply of LPG, it does not have the diverse and competitive LPG market of the eastern States where the price of LPG may be heavily discounted from time to time. Prior to the Longford incident, LPG prices in Melbourne moved in a cyclical manner, ranging widely depending on the level of discounting. With the Victorian gas crisis, prices moved well above the top of this cycle, reflecting the suppliers' decision not to continue discounting. For a period autogas prices in the Melbourne metropolitan area averaged 33.6¢ a litre while in a number of country areas prices reached 38.4¢ a litre. This upward movement in the Victorian LPG prices in part also reflected a decision by Saudi Arabia to increase the international producer benchmark by around 2¢ to 3¢, affecting Victorian producer prices, which generally mirror world prices. LPG producer prices in Western Australia also reflect world prices, in combination with the currency exchange rates, as is normally the case in some of the other States. Wesfarmers is one of a number of sellers of LPG for autogas in Western Australia and I understand that Wesfarmers therefore prices its LPG in order to be competitive in the market place.

(3) Natural gas is produced in Western Australia at world competitive cost and sells as liquefied natural gas and liquefied petroleum gas exports onto the world market and as natural gas via pipelines into the domestic market of Western Australia, where its pricing has secured its large market share against competing fuels. Natural gas produced in Western Australia is more than competitive with natural gas in the eastern States.

GERALDTON PORT AUTHORITY TENDER SPECIFICATIONS

302. Hon BOB THOMAS to the minister representing the Treasurer:

I address this to the Treasurer as the minister responsible for competition policy. Recently, the Geraldton Port Authority undertook in the Federal Court to withdraw a requirement that tenderers engage all staff under workplace agreements from tender specifications for the provision of port services. Given that this withdrawal was made in recognition that such a requirement breached the Trade Practices Act, how can the Government justify a similar requirement being inserted into the tender specifications of the Bunbury Port Authority?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I am advised that no undertaking has been given by the Geraldton Port Authority to the Federal Court to withdraw any tender specifications.

WESTERN POWER REGIONAL MAINTENANCE CONTRACT

303. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

In relation to the Western Power regional maintenance contract -

(1) What is the value of the contract and what role will Integrated Power Systems Pty Ltd have as part of this contract?

(2) As this company was only registered in January 1998, how did it win the contract without any prior experience in engine rebuilding and maintenance in Western Australia?

(3) What is Integrated Power Systems' previous experience in other parts of Australia?

(4) Does Integrated Power Systems rent from or share office space with Western Power?

(5) If so, will the minister provide details of the rental agreement, including costings?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Integrated Power Systems has achieved the status of a preferred supplier along with four other companies. No contract has yet been let to IPS. IPS will need to bid competitively for any contract which is let along with the other preferred suppliers.

(2) Not applicable.

(3) IPS has carried out some work within Western Australia and has recently secured an operations and management contract for a co-generation plant. The experience is related to that available from one of its two shareholding companies, Brown and Root AOC (Halliburton).

(4) IPS rents workshop space and equipment from Western Power at Kewdale.

(5) A commercial rate between Western Power and IPS has been struck for rental of the workshop and equipment

ELLE MACPHERSON - MEETINGS WITH SOLICITOR

304. Hon E.R.J. DERMER to the Minister for Tourism:

Some notice of this question has been given. In relation to the trip by a senior solicitor to New York in August last year to meet with representatives of Elle Macpherson -

(1) How many meetings did the solicitor attend?

(2) What is the total cost of the trip to the Crown Solicitor's Office?

(3) Were details of this trip included in the September 1997 "Report of Interstate and Overseas Travel" tabled by the Premier?

(4) If not, why not?

Hon N.F. MOORE replied:

I have a question asked by Hon Ken Travers which is identical to the question asked by Hon Ed Dermer. I presume that the Labor Party's system has broken down again.

The PRESIDENT: Is the question asked by Hon Ken Travers the question asked yesterday or is it a question in the name of Hon Ken Travers?

Hon N.F. MOORE: It is a question in the name of Hon Ken Travers of which notice was given yesterday.

The PRESIDENT: Then is it in order.

Hon E.R.J. Dermer: Hon Ken Travers and I often work closely together. We consulted on the nature of this question and I asked it in his absence.

Hon N.F. MOORE: Before I answer the question - and I am prepared to answer it - I would like to say that every day something like 40 questions come into ministers' offices to be answered as questions without notice of which some notice has been given. It would be helpful to ministers and the officers who put this information together if members opposite could let us know in advance if someone else will be asking the question. I looked under the name of Hon Ed Dermer in my file and did not have a question from him. It is only because I read through the other questions and answers that I remembered the question being asked by Hon Ken Travers. That is how I found the answer. If I am not told that the name of the person asking the question has been changed, I cannot always provide the answer.

Hon Bob Thomas: We did that before 12 o'clock.

Hon E.R.J. Dermer: The minister's office received the question under my name today.

The PRESIDENT: The question is in order as Hon Ken Travers is not in the House. I understand the minister has an answer.

Hon N.F. MOORE: I do not have an answer to a question asked by Hon Ed Dermer of which notice was given today.

Several members interjected.

Hon N.F. MOORE: I will take as long as it takes to explain to members of the Opposition that if they want ministers to cooperate and provide answers when they can, members must put the name of the person at the top of the question and have that same person actually ask the question.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: If I have to say it three times for Hon Ljiljanna Ravlich to understand me then I will.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE replied:

(1) The solicitor attended three scheduled meetings with Grubman Indursky and Schindler.

(2) As the senior solicitor was engaged by the WA Tourism Commission to provide legal advice, the cost of the trip was met by the WATC, the total cost being $7 471.68.

(3)-(4) I have been advised by the WATC that details of the senior solicitor's travel were inadvertently omitted from the September 1997 report. To this end, an addendum providing these details will be placed on the next report prepared by the WATC and duly tabled in the House.

WOMEN'S POLICY DEVELOPMENT OFFICE

305. Hon HELEN HODGSON to the minister representing the Minister for Women's Interests:

(1) Has the Women's Policy Development Office taken any steps to ensure that it is able to provide women considering abortion with details of persons or organisations able to provide advice on the effects of either carrying a pregnancy to term or aborting a pregnancy?

(2) If the WPDO does provide details of such persons or organisations on request, will the minister table details of those organisations?

(3) Will the minister advise why there is no specific category for organisations providing such services in the 1998 directory of services for women?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Women's Policy Development Office provides a direct information service to women through the Women's Information Service. Its role is to provide referral, usually by telephone, to agencies who can assist with specific problems. The major resource agency of referral used by the WIS for women seeking advice on abortion is the Family Planning Association.

(2) The Family Planning Association is included under three sections on pages 18, 58 and 78 of the 1998 directory of services for women.

(3) The directory contents list consists of broad headings, such as Health and Childbirth, and each entry includes a range of services for specific issues.

MAIN ROADS INQUIRY - QUOTE FOR WORK PERFORMED

306. Hon TOM STEPHENS to the Minister for Transport:

This question is further to the second question that I addressed to the minister today. Is the minister aware that his answer given to this House indicated that he would seek leave to table a copy of the papers that were exchanged between Main Roads and International Investigation Agency? Is the minister aware that the paper he tabled was not a copy of the letters exchanged, but rather an edited copy with the significant sections of that letter - which his answer indicated he had in fact tabled - crossed out in such a way that it was not a copy of the letters exchanged between that agency and his department containing the crucial information sought in the question?

Hon M.J. CRIDDLE replied:

I will table all information that I am prepared to table. In this case that is what I have tabled. If there is further information that the member requires, perhaps he could indicate what that is.

Point of Order

Hon TOM STEPHENS: Mr President, I rise under Standing Orders Nos 104 and 105 and I seek your guidance on when the first opportunity will occur for me to raise a matter of privilege involving a minister who has given an answer to this House in which he has effectively wilfully misled the House by claiming that he is seeking to table papers that were exchanged between an agency and his department when, in fact, the papers that were tabled were clearly no such thing and were heavily edited.

The PRESIDENT: Order! A point of order cannot introduce debateable matter. I understand the question the Leader of the Opposition has asked to be: When is the first opportunity that you have to rise to speak to a matter of privilege? The answer is: The House is currently in committee on Order of the Day No 5. If that concludes prior to the House normally adjourning, that will be the time when you can raise that issue. If, however, we do not clear that business before the House adjourns tonight, it will be at the first opportunity on Tuesday, if you say that there is a matter of privilege.
