WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE ASSEMBLY

Thursday, 22 April 1999

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 9.00 am, and read prayers.

HILTON POLICE STATION - CLOSURE

Petition

Mr Carpenter presented the following petition bearing the signatures of 389 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, the residents of Coolbellup, express our objection to the closure of the Hilton Police Station and request that the Minister for Police immediately investigate and act upon the urgent need for a police station to be located in Coolbellup.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 193.]

VACATION SWIMMING CLASSES

Petition

Mr Kobelke presented the following petition bearing the signatures of 20 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned petitioners, call on the Minister for Education to abandon plans to contract out vacation swimming classes as it could risk:
>
> the current high standard of teaching
>
> the affordability of classes
>
> the availability of classes, particularly in country areas.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 194.]

COOLBELLUP - DEMOLITION OF HIGH RISE FLATS PROGRAM

Petition

Mr Carpenter presented the following petition bearing the signatures of 393 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, the residents of Coolbellup, request that the Minister for Housing, in conjunction with Homeswest, implement a program to demolish rather than renovate all high rise flats in Coolbellup and replace the flats with single or town house dwellings in a village style plan.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 195.]

APPRENTICESHIPS

Petition

Mr Kobelke presented the following petition bearing the signatures of 20 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned recognise that apprenticeships are an important way of providing life opportunities for young Western Australians and also to securing the skilled workforce needed to develop the wealth of our State.
>
> We therefore call on the Government to address the threat of cancellation of many apprenticeships due to the shortage of work during current downturn in the resources sector by establishing targeted short term support programs to ensure existing apprentices do not lose their apprenticeships.

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

[See petition No 196.]

LOCAL GOVERNMENT ELECTIONS

Statement on behalf of Minister for Local Government

MR BARNETT (Cottesloe - Leader of the House) [9.05 am]: On behalf of the Minister for Local Government, I make a brief ministerial statement about the local government elections to be held on 1 May.

With half of the elected members in Western Australian councils up for election and a number of high profile mayoral elections, it is important that all eligible voters take an interest in their local elections and vote. As a strong proponent of postal voting, the minister responsible for its design and implementation through the Local Government Act is delighted at the positive response by many councils in adopting this form of election.

At the same time, there is disappointment that some councils, particularly some of the larger metropolitan councils, have rejected postal voting for purely selfish and parochial reasons by the councillors.

Yesterday the Electoral Commissioner, Dr Ken Evans, demonstrated the streamlined and efficient processing and handling of more than 38 000 returned postal packages. With almost 500 000 electors able to vote by post, the Electoral Commissioner and his staff are to be congratulated on their commitment to developing such a smooth and efficient system. The Electoral Commission is also to be applauded for its initiative in establishing regional processing centres at Albany, Bunbury and Kalgoorlie. All eligible electors are urged to return their ballot packages as soon as possible.

Although the Cockburn City Council's elections have been cancelled and the Wanneroo Shire and City of Joondalup elections will not be held until December this year, the historic inaugural elections for the new City of Albany will be held on 1 May. The minister is delighted to see a wide and varied list of candidates for the Albany elections and wishes the newly elected council well.

The newly introduced regulations regarding campaign gifts and expenditure have been criticised by some in local government, but the minister stands by them as being entirely consistent with the need for increased scrutiny and accountability in local government.

The coalition Government strongly supports and recognises the importance of local government and the minister encourages all citizens to become involved in the democratic process.

GRANUCCI, MS KATHERINE

Grievance

MR McGOWAN (Rockingham) [9.07 am]: I grieve to the minister representing the Attorney General about an extremely sad matter that has occurred to some people who live in my electorate. It relates to Katherine Granucci, who is a resident of Waikiki with her de facto partner, Craig Latta. Katherine Granucci's sister, Julie Hoogwerf, died on 24 February. Katherine Granucci's brother-in-law, Michael Hoogwerf, the husband of her sister who died, died in January 1997. They left four children who are now orphans.

Mr Prince: What are the children's ages?

Mr McGOWAN: Their names are Ashley, Ricky, Matthew and Cameron. They are 15, 10, 7 and 4 years of age. These four children now live in Waikiki without any natural parents and will be joined shortly by another child, as Katherine Granucci is pregnant.

My grievance relates to my constituents having gone from being childless to being required, in one day, to care for four children with another on the way. Julie Ann Hoogwerf died as a result of complications during routine surgery. Naturally that was a great shock to her family, and Julie Ann left a number of debts, including telephone and electricity bills and other expenses routinely incurred in a household of four children and one parent. She had some savings but whatever savings she had are frozen. Julie Ann also held a mortgage on the home she lived in with her children in Waikiki but unfortunately she had very little equity in the home at the time of her death. My constituent and her de facto did the right thing and agreed to help care for these children. They have assumed the role of parents to these children and moved into Julie Ann's home to provide some continuity for the children. The children still attend the same school and are living in the same house. However, there have been some problems. My constituents have undertaken to pay the debts relating to the house - the electricity, gas and telephone accounts - to keep those services connected. They have done the right thing and it has caused a massive change to the lives of these two young people in their 20s. They have gone from being childless to suddenly caring for four grief-stricken children. My constituents are finding their financial circumstances difficult. They had some problems with the Department of Social Security about the orphans allowance, which have been resolved and their major problem now is they are seeking legal aid. They applied for legal aid for three matters in early March, shortly after Julie Ann's death. The first was assistance in seeking the guardianship of the children in order to be certain that the children were theirs to look after and make financial arrangements for. Second, they sought legal aid for probate because it is often an expensive process and there are very few available assets. They would like to sell some of the mother's assets, like a car, to meet their expenses and buy a Tarago-type van with seating arrangements to accommodate the four children and the expected baby. They have been on the waiting list for legal aid since March and they are becoming frustrated. I have contacted the Attorney General's office and the Legal Aid Commission. Lee Mathers from the Legal Aid Commission was

very helpful. I would like the minister to advise the House whether he can provide these people with legal aid for the guardianship and probate matters. My constituents also applied for legal aid for a third matter. Julie Ann Hoogwerf died from a pulmonary embolism, after sitting in a waiting room for four and a half hours. My constituents would like some assistance in examining that issue and the Minister for Police should discuss with the Minister for Health the fact that this woman was left sitting in a waiting room for four and a half hours after diagnosis. It is a sad case and I hope the minister can cause some action to be taken.

MR PRINCE (Albany - Minister for Police) [9.14 am]: I thank the member for the details of his grievance. Clearly he has edited out much other relevant information. Is the house in the name of Mrs Hoogwerf alone and subject to mortgage? I assume the member for Rockingham's constituents have made some arrangements with the mortgagee to continue paying the mortgage.

Mr McGowan: They are paying the mortgage but they are also paying a mortgage on the flat in which they were living.

Mr PRINCE: Is the gentleman concerned in employment or is the couple in receipt of social security?

Mr McGowan: He is a sailor in the navy.

Mr PRINCE: Can he obtain assistance through the navy?

Mr McGowan: He can obtain some assistance but not at the moment. Apparently there is some delay. My constituents want to keep the kids in the same house.

Mr PRINCE: I am sure I speak for all members in saying that keeping the children in their own home is the right thing to do, particularly given the trauma they have experienced recently. We should be able to work the system so that can happen, subject to the member's constituents being able to meet the financial obligation that comes with the house. That may necessitate their selling the flat. The Legal Aid Commission is statutorily independent in the processing of applications and grants of aid and deals with those matters itself. I am sure the member is aware, as are those of us who have dealt with the commission for many years, that the commission makes an initial assessment and decides whether to provide aid. If the commission decides it will not provide aid, the applicant can apply for a review to a number of review panels, up to the board of the commission if one is that persistent. However, that does not mean necessarily that the initial rejection will be overturned, but it can happen. The commission very rarely, if ever, grants aid for a probate matter. I can think of only two cases in which it has done so over the past 20 years. There may be more, but it would be very unusual.

Mr McGowan: I understand that and that is why I am grieving to the minister.

Mr PRINCE: I realise that and I agree that an application should be made for guardianship. From a legal point of view, it is necessary for the ongoing care of those children, particularly the younger ones. That should happen as soon as possible. The member's constituents have not waited all that long but given the critical nature of the matter, it should be dealt with quickly. However, neither the Attorney General, other ministers or members of Parliament nor I have the power to direct the Legal Aid Commission in these areas. By law, it is statutorily independent in dealing with an application and the grant or refusal of aid. The Government only gets involved in Dietrich applications, which are not made to the Legal Aid Commission as such but directly to Government as a result of appearances in court and only in criminal cases. Legal aid is dealt with by the commission and, as a matter of law, members of Parliament are unable to direct the commission. Obviously, members may advocate and lobby on behalf of constituents and no doubt the member for Rockingham has done that. I will take the matter up with the Attorney General to see what can be done. However, it may be more desirable for the member for Rockingham to approach a legal firm which deals with guardianship and probate issues and with the difficult legal position in which these people find themselves and asks it whether it would be prepared to act on a pro bono basis. A number of legal firms do that work although they do not advertise it. They do it because lawyers in this State have always done it. If the member wishes, I am more than happy to take up this case. If he gives me the information in writing, I will personally approach a couple of firms I know and ask whether they would be prepared to take on these cases as a pro bono exercise.

Legal aid is rarely granted for probate. It may not be possible to grant for guardianship under these circumstances, given the priority to deal with other cases. It is a matter on which the relations should be able to go to one legal firm to get all the issues dealt with, rather than go to one lawyer for guardianship with legal aid and to someone else for probate. To deal with all their problems they need a one-stop shop. If the member for Rockingham can give me detailed information I will undertake to take it up with a couple of firms I know to see whether they will be prepared to act pro bono for these people.

GNANGARA PINE PLANTATION

Grievance

MR MacLEAN (Wanneroo) [9.20 am]: My grievance concerns the Gnangara pine plantation. This plantation consists of approximately 50 000 hectares comprising mostly *Pinus pinaster* trees. They are ideal for wetland control because a mature tree uses approximately 200 litres of ground water a day. I am sure that members will not confuse them with Pinus Pina - the nut tree. The problem with so many of these trees in this area is that Gnangara is also the major source of ground water for the metropolitan water system. The huge number of these trees - 4 million - is having an adverse effect on ground water levels, along with the prolonged dry weather we have had over a number of years, the demands of the horticulture industry and the export of our water by the Water Corporation. As a result, many of the wetlands in the northern suburbs are being affected severely.

Mr Riebeling: By the trees?

Mr MacLEAN: Will the member for Burrup be quiet. He is a -

The SPEAKER: Order! It is not usual to interrupt grievances.

Mr MacLEAN: As a result of a lack of water, many of the wetlands in the northern suburbs are being severely affected, which is having an adverse effect on the ecology of the wetlands which in turn has caused a number of bird deaths. Other forms of animals are also becoming severely stressed in their environment.

Social issues are also impinging on the Gnangara pine plantation. Some people do not want to pay to dump their rubbish, or it is prohibited by licensed tips, so they dump it in the Gnangara pine plantation. That causes me a great deal of concern because the Gnangara water mound is a priority one ground water area and much of that rubbish consists of half drums of chemicals. Gnangara is also a focal point for the stripping and dumping of stolen cars. It is a repository for cars stolen by joy riders, who generally set them on fire once they have finished with them. That behaviour has resulted in severe problems with fires. The Department of Conservation and Land Management has a very good fire unit in the northern suburbs based in Wanneroo. It fights over 200 fires a year, the majority of which are started from torched stolen cars.

Another concern is the inhibiting of ground water recharge as a result of the high number of pine trees in the plantation. The pine needles have a tendency to carpet the ground and after a short while become matted, which inhibits water intrusion and consequently water recharge from rainfall. The pine needles suck up rainwater, which results in extremely good mulch but does little to help the water recharge. Given the importance of water protection in that area and the severe impact of the *Pinus pinaster* trees, the need to get rid of these pine trees is becoming paramount.

In 1996 the Government announced that the Gnangara pine plantation would be replaced by "marine pine" plantations in the south west as a way of hindering salt intrusion. I support that move. It must be done economically; we cannot pull up every pine tree. CALM is a major supplier of pine products to the industry and pulling up every pine tree would severely affect it. I support the economic removal of the trees and the re-establishment of native vegetation in the area. I appreciate that as it will be a vast program - 100 times larger than Kings Park. The removal and replacement will involve a great deal of planning. Owing to the sheer scale of this government's commitment, delays have occurred in implementing the project.

When will community consultation take place on the removal of the pine trees and the re-establishment of native vegetation? Can the minister let me and my constituents know when the first pine trees will be removed and replaced by native vegetation? The Aboriginal community in Sydney Road is already working on seed gathering for the replacement program and revegetating the area that is made available to them. Other community groups are also very interested. As I said, I support the replacement of these pines. The impact of the pines has increased as a result of the dry weather, and the need to change them is increasing. When the *Pinus pinaster* were planted they served a useful purpose because we needed to control the amount of ground water that was available. These days that is not so necessary because of the exportation of scheme water. The style of management and the type of pines in that area must be changed. I hope that the minister can address some of these issues.

MRS EDWARDES (Kingsley - Minister for the Environment) [9.27 am]: It is always nice to be able to give a member some good news. Clearing of the pines has commenced and revegetation experiments are being conducted in the area. The plantation is proposed to be called Gnangara Park. It consists of more than 50 000 ha of land, 23 000 ha of which contain the pines and a further 27 000 ha of which contain natural banksia woodlands. The land is being managed for a number of purposes, including nature reserves, plantations of state forest and water protection.

In order to protect those areas, over the past couple of years we have established a coastal walk trail from that part of the park linking with Yanchep. Eventually it will link with the Bibbulmun Track, which will be a deliberately established coast-to-coast track and notably one of the major walk trails in the world. Pines are being planted elsewhere to replace the Gnangara plantations once they are cleared; they are being planted in areas where they will make an enormous contribution towards combatting salinity.

With reference to the pine plantation being used as a dumping ground, we have signed an agreement with Clean Up Australia 2001 for extensive community involvement in clean-ups. That has begun. The area is also a favourite dumping ground for stolen vehicles and the scene of many deliberately lit fires. From speaking to the people involved, Operation Pinaster has been successfully working in conjunction with the police and CALM to reduce fires from torched vehicles.

The proposal for the park, circulated in 1996, received about 400 responses. A committee was then established to incorporate those responses into a detailed concept plan. That working group comprised representatives from the Water and Rivers Commission, the Water Corporation, the Ministry for Planning, the Department of Environmental Protection, the Department of Minerals and Energy, and the Department of Conservation and Land Management. The concept plan deals with an area much greater than the original 50 000 ha. It deals also with the complex issues of conservation, recreation and ground water protection, and the range of stakeholder interests. Extensive consultation and negotiation has taken place with all of the people who are interested in the development of the concept plan.

The plan suggests how nature conservation will be protected and enhanced, how revegetation will be approached, where the recreation areas will be focused, and how the heritage values will be recognised. These matters are being looked at with a view to ensuring that the underground water reserves, which supply 40 per cent of Perth's water, are protected. The plan has received wide support from within government and is presently being printed for release for community consideration so that people will have the opportunity of having an input on what they want in the park further to the proposals that they put forward in late 1996, and on management issues such as fire protection, recreation and conservation. Gnangara Park will become a major park in the northern suburbs for children leading into the next millennium.

WICKHAM-KARRATHA ROAD

Grievance

MR RIEBELING (Burrup) [9.33 am]: My grievance to the Minister for Local Government representing the Minister for Transport is about the road in my electorate between Wickham and Karratha. The other end of that road between Wickham and Pt Sampson has also caused some concern. The Wickham-Karratha Road is subject to flooding on an irregular basis, but on a number of occasions this year it has been cut in three places, and last year it was similarly cut in a number of places. The problem is that over the past 10 years, the parents of students in both Wickham and Roebourne have chosen to send their children to schools in Karratha rather than to schools in Wickham and Roebourne, to the extent that approximately 130 students per day are travelling between Wickham-Roebourne and Karratha. Some people may say that it is not a great distance to travel, but on a number of occasions when the children set off for school in the morning, all is well, but by the afternoon when they are due to go home, the roads have been flooded and children as young as five have had to be billeted at strangers' houses and the like. The parents of those children are very grateful to those people, but the children have been greatly distressed by the experience of not being with their mum and dad at night. I am sure the minister agrees that that situation should not be allowed to continue in this day and age.

Another problem is that many small business people who live in Wickham or Karratha commute daily between Wickham and Karratha to their place of work. Robe River, which is based in Wickham, has moved to subcontracting in a massive way, and many people from Karratha work in Wickham on a subcontract basis, and their working ability is jeopardised by the flooding of this road. However, the primary focus is on the stress that is being caused to the children.

For a number of years submissions have been made to the Minister for Transport and to Main Roads, to a point where we have now received an assurance from the minister that work on this project will commence in July 2000 and be completed in 2000-01. Although that is welcome news to residents of Wickham, it means that for another year at least, and probably for another 18 months, the people will continue to suffer from any deluge of rain that prevents the children from travelling between their home and their school. It is unfortunate that Main Roads is wont to over-design some of these roadworks. In one spot on this road, the floodway is about half a kilometre long. Main Roads has taken 18 months to design a bridge, which sounds very good. However, the most efficient way of handling this problem is to elevate the road and put large floodways along the road -

Mr Omodei: Is that not a bridge?

Mr RIEBELING: I do not know. I have not been able to get from Main Roads what it has taken 18 months to design. If Main Roads is thinking of a bridge in the sense of suspending the road over an area, then it is over-designing for the problem. The people of Wickham are concerned that the talk by Main Roads about designing a bridge means that the solution will be an overkill when it could find a quicker solution to the problem.

A problem with the extension of the road to Pt Sampson is the Popes Nose Bridge, which I thought was to be fixed, because the 1996-97 budget papers indicate that $1.4m will be spent on expanding and sealing that bridge. However, people are still telling me that that bridge needs to be expanded, and when I tell them that the budget papers indicate that that money has been spent, they say the bridge may have been expanded by about one inch when work was done on it, but to no effect. I do not know whether the minister has been to Pt Sampson in the past few years -

Mr Omodei: I have been there, but I cannot remember that bridge.

Mr RIEBELING: Pt Sampson is a fishing village just out of Wickham. There is no way in the world that that bridge has been expanded in size. It is a single lane bridge, and if a truck crosses that bridge from one direction, a car cannot cross that bridge from the other. The people of Pt Sampson thought that the Government announced three years ago that that bridge would be expanded so that two cars could travel across it safely. Even though the minister is saying that in July 2000 money will be allocated to that road, the people of that area are sceptical, because they have heard that before with regard to the Popes Nose Bridge. I hope the minister will put on record that he will look at bringing that project forward if it can be done on a cheaper basis by using culverts rather than a bridge.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [9.38 am]: I thank the member for Burrup for his grievance and will refer to the advice and the notes provided to me by the Minister for Transport. There is no doubt that the flooding in those three areas is causing some discomfort for the people who use that road, particularly the school children, as the member mentioned, and I agree that they should be considered a priority. I understand that the member for Burrup has received a letter from the Minister for Transport dated 22 March, so it is quite recent, which states that -

> I agree that this bridge work is a high priority and I am confident that the project can be advanced to start in July 2000. As you would be aware, the State Budget will confirm the timing of this work when announced next month.
>
> As previously advised, design work for bridges at the Hilux and Lulu floodways has been completed. It is anticipated that a design for the unnamed floodway -

I presume that that is not Popes Nose Bridge -

> will be completed by July of this year and funding is currently programmed in 2000/2001 for construction of all three bridges.

That will fix the problems and the work is expected to cost about $3m. I know what the member is saying about bringing it forward. Obviously it will have to be done in the dry rather than in the wet. It appears that the design work has been

completed, and I will raise that with the minister. I do not think Popes Nose Bridge being a single-lane bridge is unusual. Most of the bridges in the north west are single-lane bridges.

Mr Riebeling: People fish from it; that is the problem.

Mr OMODEI: I see what the member means. I will raise that again with the minister.

For the member's information, I will be travelling to the north west in May, particularly to Exmouth and then to Moora, in my position as Minister for Local Government to address some of the issues that have arisen from the recent cyclone and flood. Obviously those local governments will be faced with some extraordinary expenditure. There are possible Grants Commission implications, so I will have someone from the commission with me on that trip.

The member will be pleased to hear about some of the good things that are happening. Australian Institute of Building inspectors are assisting councils in those areas by providing qualified or authorised officers. The Department of Local Government has agreed to pay the fares for those officers.

As members are aware, as a result of the destruction, many building applications will be lodged.

Mr Riebeling: Will they look at this road?

Mr OMODEI: I have covered the issue raised by the member for Burrup.

Those officers will be in the council offices assisting and ensuring that building applications are processed quickly. The chief executive officer of the City of Bayswater has offered to assist the council, and is likely to be up there shortly in a voluntary capacity.

I understand the member for Burrup's area of concern is a little away from Exmouth and Moora, but the cyclone probably caused some of the flooding problems to which he has referred. Obviously those issues have been on the books for some time. The plans and designs for the three floodways have already been completed. I am not an expert on bridge design.

Mr Riebeling: Nor am I.

Mr OMODEI: We readily admit that. I will raise the public comment about what the design should be - whether it should be a culvert design rather than a bridge design, because obviously there is a difference. I will get the minister to respond to the member for Burrup.

Mr Riebeling: I have had my office contact the minister's office on a daily basis for the past two weeks to get an answer.

Mr OMODEI: I will ensure that the member gets a definitive answer as to why it must be a bridge construction rather than a culvert construction.

It is a good thing the member is taking up these matters, particularly as they relate to school children. I can understand the discomfort they are suffering in being billeted. That is not ideal. I dare say that as a result of the local climate and the geography, from time to time areas will be inundated and roads will be flooded. In this case obviously they have been areas of concern and those concerns are now being addressed. It is a question of when that work can be done, and I will raise that matter with the minister.

BUS SERVICE No 107, MANDURAH TO PERTH

Grievance

MR NICHOLLS (Mandurah) [9.44 am]: I have a grievance to the minister representing the Minister for Transport. My grievance pertains to the express bus service between Mandurah and the metropolitan area known as service No 107. I have received a petition signed by 340 people and organised by Jonathan Raven, a local person representing the commuters on the bus service. The petition points out that potential commuters are being left behind at bus stops because the bus is already full. Potential commuters are losing faith in the service. Most members would agree that if one went to a bus stop to catch the bus and it went past because it was full, and that happened a number of times or even only occasionally, one would start to lose faith in the integrity of the service. The petition indicates that that is happening.

The petition also refers to a restriction being applied to concession cardholders travelling on the service. This restriction prevents concession cardholders getting all-day tickets until after 9.00 am, although there is a window of opportunity on the earlier buses. According to the petitioners, people are trying to get on the earlier service so that they can get an all-day ticket because of the financial impost involved should they have to pay a fare both ways.

The other concern raised in the petition is that the buses are regularly breaking down and are being replaced with unsuitable buses. In addition, service No 107 currently goes up Ennis Avenue and through a number of traffic lights, which adds time to the journey.

The petitioners have suggested that the minister consider the immediate purchase or hire of buses to meet these commuter needs. The problem is exacerbated during school holiday periods, when obviously there is an increase in patronage. Rather than waiting until the problem occurs and then providing an explanation, the service provider should be proactive and put on extra services during those high-demand times. The frequency of buses should be increased and backup buses should be available in the event of a breakdown. A guaranteed level of service should be provided to encourage people to use the service rather than drive them away from it. The Mandurah No 107 service to Perth should be rerouted along the Old Mandurah Road, thus avoiding Ennis Avenue. The concession window should be revised because it provides an incentive

for people trying to get on the earlier buses and the current policy decreases the general spread of use across those services. We should revise the concession guidelines for those travelling from Mandurah to Perth simply because it is a two-hour service and because we could achieve more effective usage of our transport facilities.

An article in the *Mandurah Mail* indicates that the bus company, Southern Coast Transport, is aware of the problems. It has tried to deal with the issues by providing other buses when overloading occurs. However, there is a limit to that capacity. One of the drivers is quoted in the article as saying that one bus was full before it left Dower Street, the first stop. If the bus is full then, we need the capacity to pick up other passengers between Mandurah and Perth rather than driving past them.

I urge the minister to take an active interest in this issue. I know that he is aware of the problems. I also know that there are limits on the purchasing of buses, but this issue must be addressed as soon as possible, particularly with winter coming.

This is also a safety issue. As a parent I would be very concerned if my children were left behind, whether it be at the Perth transit station or at a bus stop, simply because the buses were full. On the other side, it highlights the success of an innovation introduced by this Government whereby an express service of coaches rather than standard buses provides an excellent service. It is now so successful that people want to use the service and cannot get on the bus. I would also like to bring to the minister's attention through the minister representing the Minister for Transport in this House my other concern about public transport in Mandurah - transport to the local hospital. Mandurah now has a fantastic hospital. However, elderly people in particular are unable to travel to the hospital by public transport. I understand that a taxi ride from central Mandurah to the hospital costs $16 each way. It is important for an internal bus service to provide regular access to our hospital for members of the community, and particularly the elderly who want to visit their spouses or partners when they are in hospital. I recognise that the minister is representing the Minister for Transport in this place. However, I hope he will take my grievance to the Minister for Transport and impress upon him the need to do something about these issues.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [9.53 am]: There is one thing I must say about the member for Mandurah: He always takes up the case for his constituents in a forceful way and has certainly impressed upon the Government the importance of the need for this service. I have been provided with briefing notes from the minister's office on the grievance and I will read some of those notes. It has been noted that the member has a petition from Mr Raven containing 400 signatures. I understand that the No 107 bus service is an extremely successful service and, as the member said, because it has been so successful, the demand has probably increased. It was an initiative of the Department of Transport and this Government. Obviously, there should be close and efficient links between Mandurah and Perth.

The overcrowding to which the member referred occurred on two of the express services during the recent school holidays. The express service which experienced overcrowding was the service which departed Mandurah at 9.30 am. The unexpected high demand resulted from the extremely high use of the service by student-age children on school holidays. When this occurred, the passengers were taken on board by the bus operating the 117 service which followed five minutes behind the 9.30 am Mandurah 107 service. Although it was not an ideal solution, it provided all with the means of travelling into Perth. Transperth has confirmed to me that the unusually high demand for the 9.30 am service was a school holiday phenomenon and since school has resumed, the capacity is continuing to meet all needs and no-one has been left behind to be picked up by the 117 service.

It is also pertinent to state that Transperth is conscious of the demands on this service and intends to introduce an additional new service departing Mandurah at 9.05 am. However, this is dependent on the availability of a suitable bus and $75 000, the annual costs of operating an additional service. At this stage, Transperth has taken delivery of new Mercedes buses which will be applied to the Transperth circle route first and in turn will relieve the standard buses for application on other services such as the Mandurah 107 service. In talking to the member for Mandurah before the grievance, I understand that some of those services are covered by coaches.

Mr Nicholls: One is a coach service and therefore the standard buses that run are not able to replace it because of the speed at which the express bus travels.

Mr OMODEI: The point is taken and that will be noted and raised with the minister. It is expected that the buses that will be added will arrive within four to six weeks. It is recognised that the use of a standard bus may draw criticism. I think that the member for Mandurah is saying that it should be a coach.

Mr Nicholls: That is correct. We need a bus that can transport people at 100 kilometres per hour, not a bus that is designed to go around urban areas at about 60 kmh.

Mr OMODEI: The point is taken and I will raise that with the minister. However, I agree with the member for Mandurah that we must be proactive. The extra coaches seem to be a solution to the issue. The rerouting of the 107 service and the question of the concession are other matters that I will raise with the minister.

My notes tell me that there was evidence of overcrowding on the 6.30 am service and that has now been rectified through the reallocation of a double-deck bus from the 7.10 am service to that particular service. Therefore, in a way, Transperth is responding to these situations. The solution must be appropriate and the difficulty solved.

In response to community demands for Mandurah Hospital services, Transperth added a new route, the 163 service, in February 1999 which departs from the hospital at approximately 12.30 pm during week days returning to the Mandurah township. The service was designed to complement the existing 163 service which departs Mandurah at 10.20 am travelling to the hospital. It is expected that the combination of these services permits members of the community to visit the hospital, remain for around two hours, and return to the Mandurah township. These services, together with the other Mandurah town

services, are a new initiative of the Government and are funded on a joint venture basis with the City of Mandurah. I am concerned about the taxi turnaround. There should be a service to the hospital that works.

Mr Nicholls: I also add that there is concern because the time at which that bus goes to the hospital is the peak time when people cannot access the service. It is a major concern that there is only one return service. Another problem is there is no turnaround area for public transport buses. Although that limited service is appreciated, it does not deal with the issues and we must find a better solution.

Mr OMODEI: I give the commitment to the member for Mandurah that as a result of his raising this grievance in this place, I will raise these matters with the minister to see if a service can be provided to cater for those people who are using the hospital and require the service, rather than their having to spend $16 on a taxi fare. That is all I can say at this stage. I thank the member for his interest in these matters. Obviously matters of transport, particularly for people in the regional and country areas, are major issues and getting people to hospital and back with an efficient service is very important to all of the people in this State. I reiterate that as a result of the member for Mandurah raising this grievance, I will raise the points that he has made with the minister and ask the minister to respond as soon as possible.

SELECT COMMITTEE ON THE HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991

Report

MR MINSON (Greenough) [9.58 am]: I present for tabling the report of the Select Committee on the Human Reproductive Technology Act 1991, the minutes of meetings of the committee, transcripts of formal evidence and submissions received by the committee. I move -

That the report be printed.

[See papers Nos 881-884.]

Mr MINSON: It is with some satisfaction, and dare I say relief, that I am able to table and move the printing of the select committee's report. I thought the committee had run for 20 to 22 months but, on checking this morning, it was appointed on 15 May 1997. Had we delayed for a little longer we would have been able to say that we had run for two years, not that that was an aim of mine.

This was a difficult committee of which to be a member because it dealt with issues that strike at the very heart of some of our beliefs, issues that are often regarded as moral issues, and it made us as members of this committee confront our assumptions and prejudices. For that reason, I ask all members of this House, anybody who has an interest in this area, and the media, to read and consider this report before adopting a point of view. To that end, perhaps with some forlorn hope, I ask that the media not make this a controversial issue, but rather seek to make it a sensible community debate.

The terms of reference were such that it was inevitable that some of the committee's recommendations would lead to much community debate. We dealt with general procedural matters, discipline and so on, that are not at all controversial. However, we dealt also with matters such as rights of access to the technology, research on human embryos, pre-implantation genetic diagnosis, rights to gametes and to embryos, storage time, the fate of unused embryos, and surrogacy - which was an alteration to the terms of reference of the committee. If most members pause a while they will understand why it has taken this committee almost two years to complete the report.

This report deals with a matter that the Parliament seeks to control, an area which in a more perfect world would not need to be controlled, but rather would be dealt with by the medical profession and institutional ethics committee on a self-regulatory basis. We were told by some members of the medical profession that we were dealing with an area that involved medical procedures and should not be regarded as anything more than that. However, most people and all committee members could not agree with that point of view. We are dealing with human reproductive technology and with embryos from the very beginning of their existence, which makes the matter a little different from a normal, run of the mill medical procedure. Unfortunately the area that is being controlled is being controlled by regulation and by legislation. Legislation by its very nature tends to be inflexible. It may be appropriate at the time it is drafted, but often, as in an area such as this, by the time the legislation has gone through the Parliament, it is already out of date. We have suggested changes to the way that we regulate this area. In doing that, we recommend to Parliament that the area of reproductive technology be governed in a broad way by legislation and regulation, but that we defer to the minister and to the Reproductive Technology Council and its committees the day-to-day control and regulation of those areas that tend to be very fast moving. It is a fast moving area, because what is appropriate today may be completely obsolete tomorrow by virtue of a technological breakthrough. It is also fast moving in the sense that we are dealing with a matter whereby public perceptions have much to do with what this Parliament will do. I suggest that 10 years ago not too many people knew what IVF was, but nowadays the term IVF simply rolls off the tongue as easily as many of the other things we talk about.

I will confine my comments to three main areas. The first of those is pre-implantation genetic diagnosis. I stress to the Parliament that pre-implantation genetic diagnosis is something that should not be used lightly. The committee was unanimous in the view that it should not be used for the creation of designer babies. Those people who wish to have blond-haired, blue-eyed boys over six feet tall must take pot luck because it is a very inappropriate use of this technology. However, there is no doubt that, as we progress in medical research, we will be more able to predict when an embryo will grow into a individual who has a very severe genetic disease. In the event that we have, say, eight embryos in front of us, four of which will grow up to be healthy individuals and four of which have severe genetic diseases, it is commonsense and a reasonable and proper use of technology to implant only those which are not diseased. I know some people will say we are playing God in this matter, but as Minister for Disability Services for four years and as a parent of four healthy children,

I have seen so many sights, particularly as Minister for Disability Services, which could have been prevented by the use of pre-implantation genetic diagnosis. I think it is a very proper and moral use of the technology.

The issue of research on human material is at the best of times controversial, but when a human embryo is being dealt with, it becomes a particularly difficult matter with which to deal. It is something about which most people would prefer to bury their head in the sand and not consider the matter at all. That unfortunately was not an option which was open to the select committee since it was in its terms of reference. The technology that we now have exists only because of research. As soon as the technology became a reality, society said that we must put some controls in this area. Having put in some controls, Western Australia virtually froze its research and as a result no further gains were made to the success rates that were being experienced in the area of in-vitro fertilisation. We must use the gains that have been developed overseas. I stress to the Parliament that we are not dealing with research of the Frankenstein nature. We are not dealing with professors who wish to misuse this technology. We are dealing with research which is always aimed at an increasing success rate in the area of IVF. This Parliament must countenance a wider use of research. For that reason, the majority of the committee have recommended that for the first 14 days, research will be allowed, but only when an embryo was going to succumb in any case - I am talking now about research which might lead to harm, even though the researchers intended it to be beneficial. A period of fourteen days is chosen because that is the period prior to the development of any central nervous system. The consent of those responsible for the embryo must be obtained for the specific type of research, and the specific form of research must be approved by the Reproductive Technology Council and also the institutional ethics committee of the institution in which the research will be carried out.

It is time to stop the hypocrisy with respect to research and to recognise that we are only too willing to take the fruits of research from other States and countries. Some of us feel warm and fuzzy that we are not carrying out any research, but we are prepared to take the fruits of it. It is time that we stopped that hypocrisy and put some sensible, proper, moral legislation around the matter of research. The majority recommendation of the committee has done just that.

Finally, I turn to surrogacy, which is not controlled in Western Australia and has never been considered by this Parliament. I do not have much time to talk about the matter. However, surrogacy has always been with us. For those people who are students of the Bible, a reading of it will show that many instances of surrogacy are recorded. Research shows that, in other cultures, surrogacy has been with us for a long time. Surrogacy is now available, albeit by default, in the Australian Capital Territory; it is available in Israel and some other countries. Most definitely it is available in a formalised way in many States of the United States, in particular in California. I know that some people say anything goes in California, and to a certain extent it does. However, the way surrogacy has been approached in California is sensible and has been successful.

I also draw the attention of Parliament to the fact that people can now, from their lounge rooms, arrange genetic material, arrange a surrogate mother and settle on what fees will be charged, and then get on a plane to California and collect their surrogate child. They can have their own genetic material implanted in a surrogate mother and bring their baby back to Australia. It is time that the Parliament stopped pretending this does not exist, became a little courageous and dealt with this matter.

Basically, we have regarded surrogacy under three main headings, the first of which is traditional surrogacy. I have already alluded to the fact that that has been with us for thousands of years. I suspect that there are some people in this House who are old enough to remember that a child was borne by auntie but raised by somebody else. That has been going on for a long time and it is still with us. I wish that we would stop pretending that it does not happen.

Because of in-vitro fertilisation technology, we now have the ability to have a form of surrogacy that was not open to us before. I ask members to consider the situation, which is not all that uncommon, of a woman who has had, say, pelvic inflammatory disease, who has fully functioning ovaries, who is of reproductive age, and whose husband or partner has a very low sperm count. We can now take ova from that woman, we can take semen from her husband, find the live sperm, and by intra-cytoplasmic sperm injection take that sperm and put it inside the egg of the woman so that a couple who are to all intents and purposes infertile are now able to have their own 100 per cent genetic offspring. However, this can become a reality only if the egg is carried to term in the body of another woman. When the committee considered surrogacy and IVF in general, it made it a condition that always the overarching consideration must be the best interests of the child. The committee acknowledges that at times that will be difficult to ascertain. However, that must be the overarching umbrella in our considerations. The other matter is that human beings certainly have the right to try to have children; they do not have any inherent or legal right to succeed. However, we nevertheless have a situation in which we can assist people to have their own genetic child.

The other permutation of surrogacy is the situation in which 50 per cent of the genetic material comes from the commissioning couple. The situation I envisage is one in which, for example, a man for some reason or another has an absolutely zero sperm count, and he has a wife who for some reason cannot carry a child but has functioning ovaries. When couples gave evidence to the committee, one of the cases drawn to its attention involved a woman who had a heart disease and therefore could not carry a child. Although she could conceive, it could kill her to carry a child. However, it is possible for a couple to contribute 50 per cent of the genetic material. Therefore, the majority recommendation of the committee was that under certain conditions a framework should be put around surrogacy. The committee said that it should be allowed in situations where 50 per cent of the genetic material is contributed and the surrogate mother is chosen carefully. That would appear to be the key to the success of the whole matter.

The report contains some controversial recommendations. I ask members to read the report before making a judgment. Certainly the committee found that it was the surrogate mother, her children and her spouse who were the major consideration. However, evidence indicated strongly that if a woman is properly counselled, properly chosen - we are

dealing with about 2 per cent of those women who apply to become surrogates - and properly prepared, the matter is successful in 100 per cent of cases. However, I stress that it should be a matter of last resort, not first resort, that the people must be related, and that the situation must be non-commercial.

I now comment on committee travel. It is unfortunate that particularly over the past four or five years travel has been criticised, no matter what its purpose. It is time that members looked at the value of travel. This select committee report would have lost about 50 per cent of its value had the committee not travelled. Had it not visited California and London and listened to the best brains in the world in matters concerning IVF reproductive technology and surrogacy, I suspect that this select committee report would be of almost no value at all.

Finally, I thank my deputy chairman, the member for Thornlie; the member for Carine; the member for Kalgoorlie; and the member for Joondalup. Their thoughtful consideration of all matters and their willingness to give of their time was exemplary. I thank them for their willingness and ability to confront at times their own prejudices. I also thank the research officer, Sue Laing, who did a marvellous job, often under great difficulty, as well as the clerks of the committee, Kirsten Robinson and Nici Burgess.

MS McHALE (Thornlie) [10.20 am]: This report will no doubt cause considerable debate. I will welcome that in the community. There will be moral opinion and debate, and unfortunately, there will be controversy; however, that is not at all surprising given that the committee had to deal with a very emotional aspect of human development; that is, procreation and the notion of parenthood. Strong and diverse opinion has certainly been expressed about the topics that we members have had to explore during the life of this select committee. Those opinions are based on myriad philosophical views and principles. However, Parliament asked us to examine the issues, most of which members would probably not wish to deal with or have to explore either as individuals or legislators. The select committee has addressed its obligations very thoroughly and in a very considered manner, but not with unanimous outcomes. Members will see when they read the report that in a couple of places minority views or dissent have been expressed. The most contentious issues which will be seized upon are the issues that the member for Greenough has outlined in his opening address; they are surrogacy, access to treatment, posthumous use of embryos and limited research in line with the National Health and Medical Research Council guidelines, and access to identifying information. It is important, however, to put on record that each potentially controversial recommendation is supported by international evidence, material from submissions and analysis of the current status of legislation and practice worldwide.

I want to address a couple of issues which relate to my slightly different views from the majority of the committee. The report recommends that access be conditional upon infertility, heterosexuality and de facto and married status. We believe that the Act should be amended to remove the time frame for de facto relationships. I welcome that. However, we were not able to have a unanimous view on access by women other than married or de facto women. That still provides a situation therefore in which infertile single, widowed or divorced women, or lesbian couples, are excluded from access to technology to help them overcome their infertility. The committee debated the issue in a very considered manner. The minority view in the report felt that there was no research or evidence-based material to prevent access by infertile women without a male partner. When we looked at the research on the development of children brought up by, for instance, lesbian couples, we were persuaded by the research which concluded that children of lesbian couples function well in their psychosocial or emotional development and also gender development. In determining the best interests of the child, the minority focus was of the opinion that it is important to look at the stability and the capacity of the person to be a parent rather than sexual preference or marriage. However, so be it, we have canvassed many, many opinions and views. The select committee has made some recommendations about access but leaves untouched the question of access by women other than married or de facto women.

Parliament and the community must realise - as again the member for Greenough said - that surrogacy currently is being used in Western Australia for childless couples to create a family. Babies are being born both outside and inside Western Australia using surrogate situations, but the conception or the creation of the embryo has not occurred in Western Australia. However, children are conceived, and a child is soon to be born in Western Australia, through the surrogate situation. We must decide whether we will ignore this, which is what we have done in the past, or recognise the existence of surrogacy and deal with it in a regulated manner. That is the recommendation of the committee. It certainly was not an easy issue or position to resolve, because we looked at the potential for exploitation of the surrogate. Surrogacy involves considerable risks for all involved, especially if a woman agrees to be a surrogate without being fully informed and without proper counselling or perhaps is offered financial inducement to agree. Therefore, when members read the report, they will see that we stress that counselling should be mandatory so that people are fully informed of as many of the potential risks to which surrogacy can lead. The committee recommended that surrogacy be non-commercial and altruistic and that it be regulated.

A recent British report on surrogacy stated, with regard to whether to continue to prohibit surrogacy, that prohibition of surrogacy would constitute an unjustifiable prohibition of the procreative liberty of the commissioning couples and the surrogate's autonomy. It also stated that artificial insemination resulting in partial surrogacy is practised without medical help and that obviously natural intercourse achieves the same end. The report went on to state that unless a State is prepared to police the bedrooms of the nation, surrogacy arrangements cannot be effectively outlawed but only driven underground. We were persuaded by the argument that it continues and exists and we should not drive it underground and cause further problems for the children born from such a situation. However, in the report I draw a distinction between surrogacy involving the birth mother as the genetic mother and the birth mother with no genetic material. I have grave concerns about surrogacy involving the birth mother as the natural mother, because although it is not entirely akin to adoption, there are parallels between adoption and surrogacy in that instance. For those reasons and others, I express grave concern.

The report refers to infertility as a social and medical problem. It should be recognised that infertility is a common problem.

The causes of infertility are very varied; in fact, male infertility is responsible, according to one British study, for up to about 30 per cent of cases. There are huge social, familial and religious pressures to have children. Therefore, one can understand the lengths to which people go to have children. In-vitro fertilisation, reproductive technology, adoption, artificial insemination and surrogacy are several of the methods that people use.

Moral objections will be made to elements of the report, but ultimately Parliament will have to determine the validity of those objections.

I thank the select committee's support staff, particularly Sue Laing, the research officer, who did a very difficult job. I also thank Nici Burgess and Kirsten Robinson, and other committee members.

MR BAKER (Joondalup) [10.30 am]: I echo the general comments made on the report. The terms of reference required the committee to consider some complex issues involving the conception of a child. Many moral issues are associated with these matters. I will make some general comments on the Act and some specific comments on surrogacy.

The preamble to the Human Reproductive Technology Act makes it clear that, among other things, the Act primarily makes provision regulating human reproductive technology and artificially assisted human conception. Recital B to the Act states that Parliament considers that the Act should respect the life created by the creation of a human egg in the process of fertilisation, or embryo in vitro. Recital B read in conjunction with the preamble clearly indicates that at the time the legislation was passed by Parliament, it considered that the fertilisation of the human egg was considered to be the instant of human conception and that the human egg in the process of fertilisation, or embryo in vitro, was "a human life thereby created", and should be "respected".

Despite Parliament's clearly stated intention expressed in the introduction to the Act, the balance of the Statute is largely silent, and at worst ambiguous, regarding how one should best respect the human life thereby created. For example, section 4, which sets out the objectives of the Act, states that it is intended to ensure that the welfare of the participants in an IVF procedure are to be "properly promoted" - whatever that means. The same section has a separate and distinct consideration or object to ensure that the welfare of the child to be born consequent of an in-vitro fertilisation procedure is to be "properly taken into consideration". Further, section 23 simply requires that an IVF procedure can be carried out if, among other things, consideration has been given to the welfare and consideration of two distinct categories of entities; namely, the couple participating in the IVF procedure and the child likely to be born as a result of the proposed procedure. The Act does not prioritise these objects or considerations, and appears to give them equal weighting within section 23.

The Act does not state from what point in time the objects and considerations should be assessed, adhered to or taken into account for these two categories of human entities. Notwithstanding that, a couple can only become participants in an IVF procedure from the time they sign the necessary consent forms and enter into an agreement with a licensed IVF clinician to participate in such a procedure. This is implied in the Act. However, the Act is not clear - it is not expressed or implied, perhaps deliberately so given the sensitivity surrounding the issue - on the time in an IVF procedure at which a child's prospective welfare is to be assessed. Logic would dictate that a person's past welfare cannot be influenced or changed at a future time. However, a person's prospective or future welfare can be influenced. This process can be limited by occurrences prior to a child's future welfare being considered or actively promoted. Logic would dictate that matters relating to the welfare of an unborn child do not simply arise at the time of birth, or a few weeks prior to the birth, but at some much earlier point. A vast volume of scientific medical research makes it clear that a child's post-birth welfare can be heavily influenced by its pre-birth welfare; in other words, influences can occur while the child is still in the womb, and even as far back as the time of conception. The preamble and recitals to the Act, coupled with logic, commonsense and medical science, make it clear that any proper assessment of a child's welfare must and should be properly assessed from the time of conception - that is, from the time the human egg is fertilised.

The Act is ambiguous about what should happen in the event of a conflict between the respective interests and welfare of the participants and the unborn child. These two issues are perhaps the most important defects, if any, in the Act, particularly given the uncertainty they create. However, the select committee has included in its report a unanimous and very important recommendation; namely, recommendation 3b, which reads -

> That the welfare of the child be paramount in all human reproductive technology procedures and in recognition of that paramountcy, that the *Human Reproductive Technology Act 1991* be amended where required to reflect . . . that.

Having said that, the select committee did not recommend that the Act's preamble or recital be amended. No conditions were attached to that recommendation. This recommendation, if reflected in amendments to the Act, when coupled with the Act's preamble and recitals, would make it clear that the unborn IVF child's interests or welfare are to be paramount from the time of conception and thereafter. Further, the child once born would have its interests protected by either the Family Law Act, the Family Court Act or the Child Welfare Act. These would apply the same test; namely, the "best interests of the child" test. Also, it would apply the statement that those interests are paramount.

The recommendation again refers to the child's welfare not being of a lower order than the welfare of the participants in the IVF procedure, and not being equal to the welfare of other participants. The recommendation clearly states that the child's best interests shall be paramount - full stop. It follows that if the Act is amended to reflect this maxim in the recommendation, the law of Western Australia may create two separate classes of unborn children. First, what I call the IVF class, whose interests will be paramount over those of the genetic or social parents, and second, the non-IVF group whose interests will be subordinate to those of the genetic mother. Surely, it would be more appropriate for the interests of the latter class of unborn children to be elevated to the status of the IVF class.

In view of the unanimous recommendation to which I referred earlier, if the interests of the unborn child of an IVF procedure are to be paramount over those of its genetic or social parents - if that is the fundamental maxim - it could be argued that some problems may arise. If so, how can we agree that such a child can be the subject of destructive scientific research or experiments if such research benefits mankind? A child is not in a position to consent to the experiments. How can we knowingly allow a situation to arise in which the genetic and social mother and father may both be aged 76 years when a child turns 21 years of age? How can we permit a situation to arise in which such a child may never have the right to know his or her genetic mother or father, or even know what they look like for that matter? Further, how can we knowingly permit a situation to arise in which such a child's mother or father may have died long before the child was conceived, let alone born? I offer another example: How can we allow a situation to occur in which such a child could be discarded, rejected, sold, gifted or donated to others between the time of conception and implantation, or the time of implantation and the time of birth? What about when a child is born to two lesbian social or genetic mothers and no social father, or to a couple to whom the child has no social or genetic relationship? Several of the select committee's recommendations touch on these issues, which all need to be fully debated in the community before the Act is amended.

I now make brief comment on surrogacy. The report outlines that I oppose all forms of surrogacy, and I do so for many reasons. I now cite a couple of those reasons. A great body of evidence exists on both sides of the issue regarding whether we should allow surrogacy arrangements to be enforceable. The current situation under law is that the arrangements, or contracts if members like, are unenforceable under common law as they are believed to be contrary to good, public social policy. The sole test which should be applied on any child welfare matters - surrogacy, IVF or whatever - is as follows: What is in the child's best interests, as those interests should be paramount? Also, those child's interests should essentially be the same as those of children born of non-IVF procedures. One must remember that surrogacy arrangements are first and foremost entered into with a view to creating a child in the first instance. At that time, it may be that the arrangement is in the best interests of the child to be born. A continual reassessment of the child's best interests must occur. Many views are held on why surrogacy arrangements should be actively discouraged by legislation, the most obvious of which is the mere potential for the exploitation of the surrogate mother through promises of money, which may not necessarily be referred to in the contract as they may be in the form of gifts or money paid. Surrogacy arrangements can violate the personal autonomy and choice of the surrogate mother in that her decision to become a surrogate mother is unlikely to be fully informed as she does not know prior to birth how she will feel about the child at birth. It may be that her decision to participate will not be free and uncoerced. These are genuine concerns. Further, once the child has been born why should the birth mother be compelled to hand over the child? Children are not chattels or property. We do not permit adults to be sold or donated. I thank Mrs Sue Laing, the committee's research officer. She has worked long and hard over the past two years in what is a controversial area, and her assistance has been greatly appreciated. I would also like to thank the clerk of the committee, Nici Burgess, for her assistance. She has been a tremendous help throughout the past two years.

MRS HODSON-THOMAS (Carine) [10.40 am]: I too support the tabling of the report of the Select Committee on the Human Reproductive Technology Act. Prior to my membership on this committee my personal experience with human reproductive technology was limited to that of close friends who underwent in-vitro fertilisation treatment 10 years ago. Their story was to end sadly in the loss of their premature quadruplets who died at birth. They were left with much grief and sadness, and that impacted on their lives for a long time. I believe they were only consoled, fortunately, by a surprise natural conception. That is not unusual for some couples who have experienced failure with IVF.

The opportunity to be on the select committee has provided me with a greater insight and understanding of this fast-changing technology. I was pleased to hear from the many people we met with during our investigative travel that the Western Australian Act was regarded highly. However, it is imperative that it is clear, concise and easily understood and that firm boundaries continue to protect couples who are often at their most vulnerable, so that they are able to access as much information about the treatment as possible. That is especially so, given it is a very invasive treatment. It is critical for couples to obtain more than cursory counselling. Couples must have comprehensive counselling to ensure that they do not have unrealistic expectations of outcomes and that consideration of what is in the best interests of the child is paramount in their decision-making process.

I believe that the protection of the couple and the best interests of the child go hand in hand. The committee was mindful that further consideration be given to defining what was in the best interests of the child, balancing the competing interests, and addressing emotional and environmental factors and financial concerns. The committee has recommended that Family and Children's Service determine guidelines for defining what is in the best interests of the child.

It is fair to say that many childless couples embark on IVF programs with the faint hope that they can realise their dreams of parenthood. Couples with fertility problems are often consumed by the desire for parenthood. Clearly they need to stop and take stock of the situation, so counselling is critical. It must be more than hastily skirting the complexities of dealing with what is an emotional and major issue in their lives. There is no doubt that assisted reproductive technology has provided opportunities to couples with some forms of infertility, but it is not the answer for all couples. As the success rates leave much to be desired, it would appear that couples who want to fulfil their desires for parenthood see current success rates as being of little or no consequence.

As I have already said, IVF is a highly invasive treatment and it is important to understand the nature of the procedure to appreciate and understand the complexities. In addressing those complexities it is important that we understand the many factors that can affect a person's fertility regardless of their gender; for example, sperm quality, age of a person, contact with sexually transmissible diseases and exposure to occupational factors such as chemicals, heavy metals and fertilisers. All of these can affect fertility. It is also important to acknowledge the general shift by many couples in their decision to defer starting families particularly for educational, professional or economic reasons to much later in life. This is in part contributing to the great incidence of fertility problems.

I believe it is critical that there is an acceptance by some women, and their partners, that they will never bear children, whether the reason for that is their infertility or their partner's. Society must shift its focus to one of supporting couples in their circumstances. Perhaps it is easy for me to say that couples need to accept their lot in life, because I am fortunate to have two sons. However, I feel a great deal of compassion for couples who have a desire to be parents. I also understand that before childless couples are able to accept their infertility, society must also understand childlessness and infertility. Rather than placing undue pressure on couples to reproduce, we must give our support by understanding their circumstances. It is a challenge for all of us.

One of the most controversial aspects which the committee faced was access to this technology by single women and lesbian couples. My inherent belief is that children deserve and have a right to two parents - a mother and a father. That is my belief, and I would never dismiss that belief from my deliberations. I make no apology for my decision. Be assured though that I am not saying that children cannot be raised by single parents, because they can and will continue to be raised by single parents. There are many single parents in this place. However, if we are serious in our endeavour to consider what is in the best interests of the child, that child has a right to be loved and cared for by two parents and I believe the two parents should be a mother and father.

In all fairness, we are dealing with technology that in essence interferes with nature. In defence of my position on this matter, we still do not have enough scientific and significant evidence to support the relaxing of access to treatment by single women and lesbian couples. An article that I found most alarming appeared in the November 1998 issue of the "New Woman" magazine entitled "Baby wanted [no father required]" by Angela Matheson. The article highlights the desire of single women in the community who wish to have children on their own. The article reads -

> Three years ago Emma, 39, gave up hitting the snooze button on her biological clock and decided to have a child.
>
> I'd been divorced for two years and had no desire to get married again, but I really craved a child so I decided I'd go it alone," she says . . .

The article continues -

> She unpins a photo of a tanned, dark-haired young man attached to Jake's pinboard. "He's Jake's genetic father," she says. She rubs a finger over the man's long legs and laughs, "Not bad, huh? There's good genes in him, I think."
>
> Emma is one of a small but growing number of Australian women using fertility clinics in the United States to realise their dreams of motherhood.

I reiterate that the expectation of some women to have a child without a father simply justifies my view that little or no thought is given for the child's best interests in the decision-making process.

Another issue raised during the life of the committee by donor offspring support groups was the desire of offspring of donor gametes to access information on their origins. Once again that is a controversial area and may initially have an impact on the number of men coming forward to donate sperm. There is a genuine desire by this ever-increasing group of children resulting from donor gametes to have access to information regarding their origins and history, specifically as it may have lifelong implications and they, like every child, should have a right to the knowledge of their genetic history. However, it is also important that they understand that this knowledge should never be seen to give them any automatic right to inheritance.

I would like to acknowledge my colleague's on the committee the members for Greenough, Thornlie, Kalgoorlie and Joondalup. I also acknowledge and pay tribute to the exceptional work of the committee's research officer, Sue Laing, and committee clerks Kirsten Robinson and particularly Nici Burgess whose pleasant natural calm was ever-present. Not unlike my previous experiences on select committees, it was a true test of everyone's fortitude. I humbly thank them for their willingness, cooperation and assistance, and it was a pleasure to work with them.

MS ANWYL (Kalgoorlie) [10.50 am]: I commend this report to members of Parliament. It contains 95 recommendations, and clearly in the 10 minutes available to me I am not able to discuss them with any real value. The committee of five members has spent almost two years on this matter, and I recall that my predecessor, the previous member for Kalgoorlie, said that in his view this was the most complex area of regulation that he could recall in his 15 years in Parliament. I ask members of Parliament, when discussing some of the controversial aspects of this report, to recognise the complexities - legal, moral and social - of the matters canvassed in the report. The interesting aspect will be what steps the Government will take, given that the issue of surrogacy has been transferred to the Health portfolio from Family and Children's Services. Surrogacy is one of the most controversial issues involved in this report and I will return to it.

It is very hard for Governments to introduce controversial legislation. Many members of the coalition are still reeling from the lengthy debate on abortion, and it is unlikely that legislation addressing the urgent issues set out in this report will be introduced during the life of this Parliament. That is my prediction, and I would put money on it. However, that tends to devalue the work done by this committee with a very dedicated research officer, Sue Laing, and great assistance from the committee clerks, the most recent of whom was Nici Burgess. Some legislation will be forthcoming, but when?

Mr Minson interjected.

Ms ANWYL: It may well be that outside pressures will be applied and I certainly think that will be necessary in the current conservative political climate. This Government will not even deal with the de facto property rights of men and women in this State; that is too difficult. Members should keep in perspective where they are in terms of imposing moral prejudice ahead of ethics-based evidence.

The rights of children is a difficult issue. I have spent many years as a family law practitioner and acknowledge that it is a difficult issue with which to grapple. In many cases it is a balance between competing rights. The welfare and rights of children are paramount in the scenario set up by the committee. Who will advocate for these children? That is the difficult question. So often advocacy for children slips through the net, and the cuts to legal aid have exacerbated that need. The committee has recommended that the new family and children's policy office, within Family and Children's Services, takes some responsibility for this issue. If that policy office does not pick up the role before legislation is introduced - I have foreshadowed a private member's Bill to establish an office of children - I will continue to advocate for an office of children.

More research is needed on the sociological and developmental issues, as well as the medical issues, arising from this technology. Infertility is rising in the community and adoption is virtually non-existent in Western Australian society. Only 15 intrastate adoptions occurred last year and very few overseas adoptions. Despite the vast humanitarian needs of large populations of children orphaned in other countries, less than 30 overseas adoptions were approved in the past year. Also an application for a licence by a private, non-profit adoption agency in this State was recently refused. I am the only member of the committee who is childless - that is by choice - and that gives me a slightly different perspective from that of other members who have children.

The reality is that not everybody can access this technology to the same degree as others. There are certain access requirements but the main problem is cost, particularly for people living in rural and remote areas, and cost is a huge barrier for those wanting to access surrogacy. People with the requisite financial resources can travel overseas and make contact by the Internet to arrange surrogacy. We heard evidence from countless people who have been accessing the surrogacy arrangements in the Australian Capital Territory. That is fine for the people who have the financial resources, but many people cannot afford to access this type of technology. I am concerned, as a member of this Parliament, that there be equal opportunity for people to access infertility technology, irrespective of their income or place of residence; that is, whether they live in the city or the country. In Victoria regional clinics have been established, but there are none in Western Australia.

The majority of members of the committee used an approach whereby they tried to set aside their moral prejudices. We all have moral prejudices; it is a fact of life that people have different values and biases. However, it is important to use evidence-based ethics when making decisions on these matters. As a lawyer, I must say that the legislation as it stands is a dog's breakfast. Many members will have been present when this legislation was debated some years ago, and it is quite clear from the legislation that the moral concerns of particular members of Parliament at that time have been melded to create a lawyer's nightmare. There is layer upon layer of regulation, and I am not talking about open slather for research or surrogacy. Currently the National Health and Medical Research Council has guidelines, ethics committees in hospitals and clinics are making decisions about the appropriateness of procedures, the Reproductive Technology Council is making decisions about what should occur in this State, and vast other layers of regulations apply. Notwithstanding that the Act provided for a code of practice to be set up, it has not been done.

One of the difficult things the committee tried to do was provide clarity so that the legislative framework can proceed. There are anomalies in the legislation. For example, for a young woman who was facing invasive chemotherapy, or a procedure that might affect her reproductive organs, there was no as-of-right provision to enable her reproductive material to be harvested and preserved for future use. There have been problems relating to technology for pre-implantation diagnosis, and women have had to proceed with implantation of an embryo that may later be found to have genetic abnormalities. That could leave the couple with the difficult choice of whether to terminate the pregnancy. I do not have time to discuss all the anomalies in the legislation.

On the question of surrogacy, the committee does not suggest open slather but recognises that it is occurring in Western Australia. It suggests a system whereby this Parliament will stop pretending that it does not have a responsibility to legislate and will deal with the issue and provide for the legal status of these children. Currently they do not have a proper legal status in Western Australia; they are not part of the existing adoption legislation; and they are not provided for adequately.

I am conscious of the anguish of relinquishing mothers who have come to me over the years in the context of the adoption debate. I do not suggest that in any case there should be the forcible removal of children by mothers to enforce a contract. That is not suggested in the report. What is suggested is that we need to follow the English model and set up mandatory counselling of the couples involved. All arrangements must be canvassed fully, through the tissue of regulation to which I have referred, prior to a surrogacy arrangement being allowed to proceed. I commend the report to the House.

Question put and passed.

WEAPONS BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [11.01 am]: I move -

That the Bill be now read a second time.

The Weapons Bill 1998 makes provision to control the use and availability of replica firearms and non-firearm weapons in our community. The Bill replaces section 65(4A) of the Police Act, which has provided police with the only powers they have had, until now, to deal with the problems of non-firearm weapons in the community. This section may have been adequate to deal with the problems in 1956 when it was introduced but it has been found wanting in recent times.

Day after day members will have seen and read of knives and other offensive weapons being used in robberies and assaults,

and of gangs fighting in our streets with nunchakus, knives, machetes, baseball bats, pickets and so forth. The lack of specific powers in relation to these weapons has made it difficult for police to contain these offences. By way of example, the incidence of knives in armed robberies and assaults increased from 341 per annum at July 1994 to over 900 per annum at July 1998.

This Bill, in addition to combining into one piece of legislation the powers that police need to protect our community, incorporates controls relating to replica firearms and non-firearm weapons and reflects recent resolutions of the Australasian Police Ministers Council.

In drafting this Bill, the legislation of other States was evaluated. It became apparent from this process that other States had also experienced similar problems with non-firearm weapons as have been experienced in Western Australia and, in many cases, were in the process of providing police with powers to deal with these weapons. This Bill is based on the Victorian Control of Weapons Act 1990, as amended. Except in very limited circumstances, it does not allow for self-defence as a lawful excuse for the possession of any weapon. It should be noted that amendment to the Victorian Act in 1994 to include a similar provision in relation to knives resulted in an immediate reduction in the use of these weapons in reported crimes.

The Bill divides non-firearm weapons into three distinct categories. The first category is prohibited weapons. These are weapons that have no other purpose than to cause injury and include most of the non-firearm weapons of the type defined in schedule 2 of Federal Customs (Prohibited Imports) Regulations. Possession of these weapons will be limited to Police Service personnel, museums and persons and groups of persons exempted under clause 10 of the Bill.

The second category is controlled weapons. These are weapons prescribed in regulations to be controlled weapons; or any other article, not being a firearm or a prohibited weapon, made or modified to be used -

(i) to injure or disable a person;

(ii) to cause a person to fear that someone will be injured or disabled by that use; or

(iii) for attack or defence in the practice of a martial sport, art or similar discipline.

The reference to any other article made or modified to be used to injure or disable a person is a catch-all for all other non-firearm weapons not listed in regulations and includes articles physically modified to become weapons. In addition to providing coverage of weapons currently available that are not listed, it is intended that the catch-all will provide coverage of any non-firearm weapons developed or becoming available after enactment of the legislation, without the specific reference having to be added to regulations.

Possession of these weapons will be limited to persons who have a lawful excuse for possession, such as use in lawful activities related to sport, employment, duty, recreation, entertainment, collection, display or exhibition. Possession of these weapons for defence will not be a lawful excuse except where the weapon concerned has been expressly exempted in regulations. A person having one of these weapons will be required to carry or possess the article in a safe manner so as not to injure a person or cause them to fear injury.

The third category is other articles carried or possessed as weapons. These are articles, not being firearms, prohibited weapons or controlled weapons, carried or possessed with the intention of being used, whether or not for defence, to injure or disable any person or to cause any person to fear the same. This category relates to household items and includes articles such as boning-knives, axes, tomahawks, baseball bats and so on, which can be as lethal as many of the specifically designed prohibited and controlled weapons.

However, it is recognised that many people have baseball bats, torches and the like around their homes and businesses which they can use for protection should the need arise. The Government does not believe these people should be in breach of the legislation simply for seeking to protect themselves or their property from attack. Accordingly, clause 8(3) and (5) allow for possession of these articles for defence in a person's own dwelling or in business premises. However, if a person carrying one of these articles away from their dwelling or business is acting in a manner to suggest they intend to use it as a weapon, police will be able to intervene.

The fact that this Bill limits people from carrying or possessing any article or weapon solely for self-defence does not mean people cannot defend themselves. Sections 25 and 31 of the Criminal Code will apply to offences against this Bill. In combination these sections provide defences against charges under the Act where a person's actions or omissions are -

done upon compulsion or provocation or in self-defence. A person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary powers of self-control could not reasonably be expected to act otherwise;

in execution of the law;

in obedience to the order of a competent authority which he is bound by law to obey, unless the order is manifestly unlawful;

when the act is reasonably necessary in order to resist actual and unlawful violence threatened to them, or to another person in their presence;

done in order to save the person from immediate death or grievous bodily harm which is being threatened by some person actually present and in a position to execute the threats provided the person believes the threats will be executed and that they are not able otherwise to escape.

This would mean that people who used a weapon in reasonable circumstances would not be held responsible at law for the use of the weapon. However, it is not intended that this section would provide a defence for possessing a prohibited or controlled weapon without lawful excuse prior to the emergency occurring.

The Bill allows for exceptions under which a person or class of persons can be exempted from some or all of the offence provisions of the Bill. This provision is intended to allow for exemptions to be implemented expeditiously, where circumstances dictate. These exemptions will be granted on occasions where the Government is convinced that there is a valid reason for possession of these weapons or where it is deemed to be in the public interest to exempt a class of persons or type of weapon. It is with the public interest in mind that the Government will use this provision to allow people under specified conditions to possess oleoresin capsicum sprays for lawful defence. Members will note that the burden to prove any lawful excuse or exception on which a person seeks to rely in relation to an offence under the Act rests with that person.

If community safety were the only issue considered, items such as crossbows, swords, spears and throwing-knives would be prohibited. However, recognising that there is a sizeable proportion of the community who use these weapons for lawful pursuits such as competitive sport, hunting and martial arts training, controls on these articles have been developed pragmatically. The cornerstone of cost-efficient, non-invasive control is the requirement that a person possessing these weapons has a reasonable lawful excuse for having the weapon, and that they should be compelled to provide that lawful excuse when required. The onus of proof is made on the basis of the relative ease of proving or disproving a lawful excuse. It is far easier for a possessor to provide a lawful excuse, if they in fact have one, than it is for the prosecution to prove the lack of a lawful excuse where no excuse is tendered.

Similarly, if a person is claiming to be lawfully carrying or possessing a weapon under the provision of an exception granted under clause 10, it is considered reasonable that the person should be required to prove the existence of the circumstances they are claiming in their defence.

Further, if the person were not required to prove the lawful excuse or exception it would severely compromise the effectiveness of the legislation, as people found with weapons in suspicious circumstances could, in many instances, avoid prosecution simply by not providing an excuse. It is considered that the requirement of a person to provide a lawful excuse or exception is a reasonable quid pro quo for the continued public availability of these weapons.

As stated, the Bill will provide police with the powers they have needed to combat the increasing use of non-firearm weapons in crimes against our community. In summary, the Bill will provide police with powers to -

search a person or conveyance without warrant, on reasonable suspicion, and to seize weapons or evidence found relating to an offence;

search with a warrant, granted by a justice, any place in which it is suspected a weapon or evidence relating to an offence may be found including in, on or under any land, under or surrounding the place and any person, structure, equipment or conveyance at that place;

seize anything they find;

use such assistance to perform the search as the officer deems necessary;

use such force as is necessary;

retain anything seized until such time as the appropriate judicial or diversionary process has been completed, or until the lawful owner of the seized property has been identified; and

dispose of any seized weapons not claimed within a specified time.

It should be noted that provision has been made for a third party claiming lawful possession of a seized weapon to have his claim heard in a court, even in cases where the matter does not proceed to trial or where no conviction is recorded.

This Government recognises that people who currently lawfully possess weapons which are to be prohibited will need time to either lawfully dispose of them or apply for an exemption under clause 10 of the Bill. Accordingly, it is proposed that the offence provisions of the Bill will not come into effect until six months after the Act is proclaimed.

In view of the nature of the legislation and its reliance on what is detailed in regulations, I will take the unusual step of seeking to table a draft of the weapons regulations. Although this may not be the final draft, it will give members a clear indication of the nature of the weapons to be covered by this legislation. I commend the Bill to the House and seek leave to table the draft Weapons Regulations 1998.

Leave granted. [See paper No 885.]

Debate adjourned, on motion by Mr Cunningham.

SCHOOL EDUCATION BILL

Report

Resolutions reported and the report adopted.

A committee consisting of Mr Tubby (Parliamentary Secretary), Mr Ripper and Mr Osborne drew up the following reasons for not agreeing to certain Legislative Council amendments -

REASONS FOR DISAGREEMENT TO CERTAIN LEGISLATIVE COUNCIL AMENDMENTS

Amendments No 1; No 2; No 3 and No 4

The intended amendments will confuse, rather than aid, the interpretation of the substantive provisions of the Act.

Advice from the Crown Solicitor's Office draws attention to a number of concerns with the proposals. The concerns relate to matters of application and interpretation; use of terminology and grammar; unintended limitations on the operation of other statutes; and redundancy and irrelevance of the intended inclusions.

The matters in the proposed amendments are largely addressed in a number of the other amendments for which there is agreement or agreement in principle.

The four objects originally drafted for the Bill have been rigorously tested to be consistent with the subject matter of the Bill and to avoid conflict with any of its provisions.

Amendment No 13

The purpose of the head penalty is to define the magnitude or seriousness of the offence. In the "Green Bill" the maximum was $2 500 and this was amended in the Legislative Assembly debate. No further adjustment is warranted.

Amendments No 18 and No 19

These two amendments are unnecessary since subclause (5)(d) already requires the Panel to provide the school with a written report. Amendment No 21 provides a mechanism for the school to receive the appropriate advice from the Panel.

Amendments No 23; No 24; No 25; No 27 and No 28

Amendments Nos 22 and 26 underline the right of a parent to express a desire to be registered. Once this right is exercised, a process of application should proceed as originally drafted in the Bill.

The Bill provides that the chief executive officer is obliged to register the child, but only on completion of an application. The changes in wording are unnecessary.

Amendment No 29

The subclause was drafted as advice for a Minister to exercise caution in exercising the discretionary powers given at subclause (3).

Clauses 57 and 58 require the Minister to undertake community consultation regarding all proposed school closures and further prescription is unnecessary. In its present form, the amendment provides no guidance as to the nature and content of the proposed regulations.

Amendment No 30

The matters for consultation at subclause (1) are not related to school closure *per se*, but rather to the administrative consequences of any such proposal. The existing subclause 57(2)(e) enables this matter to be canvassed if necessary.

Subclause 56(4) relates only to subclause 56(3). It is subclause 56(1) which gives the closure power. No "grounds" for closure are set out in subclause (1). Finally, subclause 56(4) does not provide for all cases where the Minister decides to close a school.

Amendment No 31

This subclause was originally drafted to avoid a situation where significant resources could be used in legal debate over the consultation method.

Clauses 57 and 58 require the minister to consult over the effects of any proposed closure. The method of consultation is best left to the minister's discretion.

In its present form, the amendment provides no guidance as to the content or nature of the regulations. The proposed subclause 3(b) appears to negate the need for regulations.

Amendment No 38

There is a difference between subclause 1(e) and clause 123, at which the council is limited to taking part in planning processes, rather than exercising joint responsibility for the final production of a school plan

In view of the substitutions at amendments Nos 39 and 40, this amendment is unnecessary.

Amendment No 42

On the basis that this proposal affects appropriation, it is the view of the Legislative Assembly that the amendment is beyond the scope of the Legislative Council to propose.

The amendment is so broadly stated that its application and interpretation would cause legal and administrative difficulties.

Amendments No 43; No 44; No 45 and No 46

These amendments set up a direct contradiction with the policy on enrolment at clauses 185 and 192.

The amendments call into question the need for Part 5, where the establishment and scope of community kindergartens is described in detail.

Amendments No 47; No 48 and No 49

Amendments Nos 47, 48 and 49 create only minor substantive difference from the original drafting of clauses 78, 79 and 80 of the Bill.

The original construction is based on the phases of schooling, starting with clause 77 which deals with the pre-compulsory phase. The amendments would create confusion of structure, mixing the phases of schooling with the nature of boundary provisions.

The substitutions proposed for amendments Nos 33, 34 and 35 give recognition to priority for local access at government schools.

Amendment No 79

Charges for incorporation are made pursuant to the *Associations Incorporation Act 1987*. It is not appropriate to interfere with those provisions in this Bill.

In the second proposed subclause, the Minister for Education might not have the capacity to ensure the necessary arrangements, since it is outside his or her area of responsibility and power.

It is inappropriate to propose the waiving of a government charge, for which all other associations are liable. The number of P & Cs affected is likely to be small and the Bill was drafted on initial advice from WACSSO that it desired all associations to become incorporated.

Amendments No 81 and No 82

The clause was based on a provision in the current Act, which gives the minister discretion to seek a report whenever there is concern about the application of public moneys. The funds provided to non-government schools from state revenue are used for recurrent expenditure - typically salaries.

The proposal will require no more than a simple statement of compliance, rather than a comprehensive account of expenditure. It will lead to a significant administrative exercise for little public benefit.

Cooperation arrangements with the Commonwealth in relation to non-government schools financial reporting are in place and provide the capacity to deal with concerns about public accountability for state expenditure in the non-government schools sector.

Amendments No 84 and No 85

Amendment No 97 enables the preparation of regulations to deal with advertising and sponsorship issues. Naming issues are identified as a specific matter for inclusion in such regulations. These amendments are, therefore, unnecessary. At No 85, the proposed definition would defy conventional understanding of the term "educational activity" in that public events or multi-school activities which are clearly educational could not be described thus in the legal sense.

Amendments No 87; No 88; No 89; No 90; No 91 and No 92

The proposal to establish a completely separate statutory office or function for review is not supported.

The policy underpinning the Bill is that decisions about students should be made at the appropriate level of the bureaucracy - that is, school, district or central - or, in the case of non-government schools, by the school. Where decisions are disputed, the Bill establishes a range of review panel mechanisms.

While there is an avenue to either the Ombudsman or the minister if a grievance relates to a government school, a non-government school grievance can be dealt with only by the minister. The non-government school sector does not support review by any office other than the minister.

A modified scheme for the operation of these reviews is provided by the acceptance of amendments Nos 93 and 94 and a substitution for amendment No 95.

Amendment No 98

The mechanism for independent review at clause 216 provides sufficient avenue for dealing with the relatively small number of grievances which might arise.

The incidence of events under clause 20 is likely to be small. Clause 21 enables efficient management of school registers and discourages principals from removing names without appropriate checks.

The only grounds for cancellation under the Bill relate to the provision of false information or failure to keep enrolment information up to date. There is a stringent requirement in clause 20 for the principal to give the parent an opportunity to present reasons why the enrolment should not be cancelled.

The amendment is unworkable in relation to clause 21 since it may be impossible to serve notice on the relevant persons - their disappearance may well be the reason for removal from the register. The clause is unnecessary in view of support for amendment No 9 by which there is to be a regular check to locate missing children.

Amendment No 100

The current Act contains no direct reference to corporal punishment. The present regulation 32 provides that "discipline is to be mild but firm, and any degrading or injurious punishment shall be avoided."

It is sufficient for the matter of corporal punishment to be dealt with in the regulations to support the School Education Act. Accordingly, the following will form part of the drafting policy for the regulations to be made under clause 118(2)(a) - "In government schools, no physical contact or touch may be used as a form of punishment of a child."

Amendment No 102

The proposed agreements with WACSSO, or any other peak body in education, do not require legislation.

It is not appropriate to single out any one group without mentioning others. If others are acknowledged, there is the difficulty of knowing how far the list should go.

Subclause (2) mandates a time and an outcome which might not be able to be achieved and there is no mechanism for review of any agreement.

REASONS FOR DISAGREEMENT TO CERTAIN LEGISLATIVE COUNCIL AMENDMENTS AND SUBSTITUTING NEW AMENDMENTS

Amendment No 9

The Minister for Education is not able to direct agencies beyond his or her portfolio but cooperation arrangements can be achieved administratively.

A local School Attendance Panel might not be an appropriate body in all cases to undertake review, since the resources required might be inappropriate to deal with a child who is, for instance, interstate or in another region.

The intent of the amendment is recognised and so an alternative to achieve the same effect is proposed.

Amendment No 10

The intent of the amendment is accepted. A substitution provides a more appropriate structure and use of terminology. A similar approach has been taken for the amendments at Nos 10, 58 and 96.

In particular, the advice at subclause 26(2)(b)(ii) is to the child and parents, rather than the school or system. The proposed substitution enables a panel to consider the relevant factors in relation to the school and school system as well as the child and parents.

Amendment No 12

While it is accepted that in some circumstances minors may commit offences under this clause, the level of penalty must take allowance of both adults and minors. The level of penalty is essential to demonstrate the seriousness of the offence, regardless of the circumstances of any individual offences or the circumstances of individual offenders. It is the role of magistrates and the intent of the sentencing legislation to deal with these matters.

The proposed substitution has been determined in consideration of all the penalty provisions of the Bill.

Amendment No 15

The intent of this amendment is accepted, but with wording which is consistent with the drafting of the rest of the clause.

Amendment No 20

The intent of the amendment is accepted, but it is better placed following existing subclause (5) with some editorial changes, similar to those discussed at amendment No 10.

Amendments No 33; No 34 and No 35

Unlike the *Education Act 1928*, the Bill does not prevent parents from seeking enrolment outside the local area. In parliamentary debate, both the Government and the Opposition have expressed support for the principle of parental choice in selection of government schools.

On the basis that local area boundaries are necessary only where there is overcrowding of a school, the amendments do not achieve a different effect from the original drafting.

The requirement to put boundaries on a significantly greater number of government schools than at present will create an additional administrative burden which is unnecessary.

In view of a need to remove ambiguity about the issue of "priority for local access", relevant amendments to the enrolment provisions at clauses 79 and 80 are proposed to address this matter.

Amendments No 39 and No 40

The clause describes functions for which the school principal is accountable.

The intent of Amendments Nos 39 and 40 is accepted but alternative wording is provided. This is to avoid the need to amend clauses 64 and 123 for consistency with the proposed amendment.

Amendment No 41

The intent of the amendment is to reinforce the notion already in the clause about individualization of educational programmes for students with a disability. An alternative wording to achieve the same effect is provided.

Amendment No 52

The intent of the amendment is accepted, but with wording which makes it consistent with the rest of the clause and other relevant clauses.

Amendment No 56

The proposed (2) is accepted. It reinforces the right of a parent to receive appropriate notice of an exclusion recommendation.

Proposed subclause (3) creates duplication of the work of the School Discipline Advisory Panel and could delay proceedings unnecessarily. At subclause (4) [as a result of Amendment No 57], the Panel is to report on the means by which the child's case has been handled.

Amendment No 58

The intent of the amendment is accepted, but the wording needs to be modified in a similar way to that proposed for Amendments Nos 10 and 20.

Amendment No 59

The intent of this amendment is accepted, but with wording which is consistent with the drafting of the rest of the clause and with other similar clauses in the Bill.

Amendments No 65; No 66; No 67; No 68; No 69; No 70; No 71; No 72; No 73; No 74 and No 99

The Legislative Assembly recognizes concerns from the Legislative Council about the application of the scheme of charges and fees in the Bill.

The Council's amendments, however, provide an unacceptable structure which is both complex and difficult to interpret. Its effect is that charges could only be prescribed for instruction of overseas students or for activities such as specialist religious education.

The Legislative Assembly proposes a re-written subdivision which:

incorporates relevant Legislative Council amendments;

acknowledges the Legislative Council's concerns;

provides a scheme which resembles the operation of current arrangements in schools; and

adds protection for those in financial difficulty.

The intention of the subdivision is intended to be:

that any contributions and charges sought from parents can be shown to be of direct benefit to students;

that there be a scheme of voluntary contributions towards the cost of materials, services and facilities used in the educational programme of a primary school;

that there be a scheme of charges for some of the materials, services and facilities used in the educational programme of a secondary school; and

that the costs of activities which are outside the educational programme ['extracurricular'] are not matters for inclusion in the Bill, but are in the nature of separate contractual arrangements between parents and schools.

Amendments Nos 71 and 72 are not supported. The intention is that there be a discretionary power for fees to be charged to adults and overseas students.

The current policy regarding adult access to government schools is that permanent residents should have a reasonable opportunity to gain access to a school-level qualification without a charge for tuition. It is intended to continue that policy and that no regulations be made in relation to this aspect.

On the other hand, provision needs to be made for collection of a tuition charge, or portion thereof, when adults undertake community education courses, at Senior Colleges for instance. The amendment would diminish the opportunity for Senior Colleges and other relevant schools to make this provision in the future.

Amendment No 75

It is accepted that an ambiguity in the wording of the clause might lead to concern about young people attending out-of-school events at their own local school site. The alternative wording is consistent with the attendance provisions at clauses 23 and 24.

Amendment No 86

The proposed deletion removes the Minister's power to exempt schools or classes of schools from specific provisions of the Act. This clause is intended to provide maximum flexibility for the future and to enable the evolution of new models for school organization and operation to be managed appropriately.

It is acknowledged that the clause provides a significant power, which needs to be used prudently. In recognition of this a substitution is proposed by which the exercise of power by the minister is limited to a period of 3 years, which is renewable for only 1 further year with the approval of the Parliament. If the change sought is to be permanent, the Act will need to be amended.

Further constraint is provided by an extension of 3 sitting days for the Parliamentary disallowance procedure.

Amendment No 95

The substitute amendment should be taken in conjunction with the acceptance of Amendments Nos 93 and 94. It is provided to clarify the scope of inquiries; to remove ambiguity about the respective roles of the Ombudsman and the Minister; and to reinforce the avenue of review by the Ombudsman in cases of students in government schools.

Amendment No 96

The intent of the amendment is accepted but substitute wording is provided, consistent with the approach at Amendments Nos 10, 20 and 58.

The advisory panels established under this clause could deal with matters unrelated to individual students and so the application of the amendment is slightly different from those discussed at Amendments Nos 10, 20 and 58.

Amendment No 97

The effect of the proposed subclauses (3)(a) to (d) is accepted. These are seen to be helpful in providing guidance concerning the exercise of authority which derives from the powers of the Minister at clause 209.

The proposed (e) creates a potential conflict with clause 214 and it is not clear what the detail of regulations made under (e) would contain. The proposed (4) is unnecessary in view of the power to establish an advisory panel under the provisions of clause 234.

The substitution acknowledges concern about equity matters. It relates to the subdelegation power to schools.

Clause 209(1) requires that the powers exercised by the Minister are to be only "for the purpose of furthering the best interests of students and educational programmes in government schools".

Amendment No 101

Explicit provision to constrain the roles of a Council appear at existing clause 126 and so a new clause is unnecessary.

The specific concerns underlining the amendment are accepted and so a series of substitute proposals is provided.

The first of these provides a limitation on the role of a Council in the appointment of teaching staff to a school, where the limiting phrase "take part in" is used. A Council must receive specific authority from the Minister in order to exercise this function. The construction allows the Council to take part in either the selection of the principal, or the selection of other teaching staff, or both.

The second substitute amendment underlines the limitation of School Councils in relation to the management of school funds, which are vested in the school principal by virtue of clause 106. It is noted that clause 123(a)(ii) enables the Council to participate in the planning of financial arrangements necessary to achieve the school's objectives.

The third substitute amendment provides a new clause by which the property of a School Council is to be vested in the Minister. This is analogous to property held by the P&C Association.

Amendment No 103

This clause is analogous to existing clause 224. An examination of the proposed amendment has brought to light an error in the drafting.

A provision such as that at subclause (3) is usually applied to a statutory authority, rather than a chief executive officer.

Section 32 of the *Public Sector Management Act 1994* makes provision for chief executive officers to be required to follow lawful directions. It remains only for the Bill to authorize the Minister to provide directions.

The proposed substitution is also to be applied to clause 224.

Amendment No 104

The intention of the amendment is to enable the smooth transition of existing boundaries to the proposed amendments at Nos 33, 34 and 35.

The substitution provides discretion to make use of previously existing boundaries for government schools where desirable or necessary.

MR TUBBY (Roleystone - Parliamentary Secretary) [11.37 am]: I move -

That the reasons be adopted.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [11.38 am]: The list of reasons which the parliamentary secretary has read out is, of course, the list of reasons prepared by the Government and its advisors. It is a formal document and although the Opposition agrees with many of the points, it should not be assumed that the Opposition agrees with all of the rationales that have been advanced by the Government. Naturally, we will have our own informal means of communication with our people in the other place about our reasons for the decisions in which we have participated.

Question put and passed; reasons adopted and a message accordingly returned to the Council.

COURT SECURITY AND CUSTODIAL SERVICES BILL

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL

Report

Bills reported, with amendments to the Court Security and Custodial Services Bill, and the report adopted.

COURT SECURITY AND CUSTODIAL SERVICES BILL

Third Reading

MR PRINCE (Albany - Minister for Police) [11.40 am]: I move -

That the Bill be now read a third time.

MR WIESE (Wagin) [11.41 am]: I dealt with this legislation during the committee stage. This was my first opportunity to be a member of such a committee. I sincerely hope it will be my last. However, it was an interesting process, which allowed the House to proceed with its normal business while at the same time a committee of the House was considering the detail of what potentially is a controversial and certainly a substantial piece of legislation introducing a totally new concept into Western Australia. Because of my history, I am pleased to see this legislation progressing, because it is something that I was keen to see progressed when I held the portfolio of Minister for Police. It is absolutely essential that we progress the situation to get police out of lockups and out of the courts. It is a total and absolute waste of extremely well-trained and important police officers to have them confined and working in a totally non-police role in either our courts or our lockups. I hope this legislation will bring about a change which will see an end to police serving in those situations.

I now deal with the manner of the progress of the legislation through the committee stage. At times it was snail-like. Something like two to three hours to progress a clause through the committee stage is virtually indefensible. If a clause were progressed at that rate in Parliament, in the full view of everybody concerned with the legislation, people would be expressing extreme concern about the manner in which a piece of legislation, or a clause of it, was being progressed. Nevertheless, we succeeded in putting the legislation through the committee stage.

Some good matters came out of the discussions. I am also full of praise - I do not want it to go to his head - for the minister for the manner in which he allowed full and total discussion of the clauses to take place. I would have lost patience long before he did. Therefore, it was a good exercise, and it was pleasing to see the Bills progress through the Legislation Committee.

I raise one matter, which I raised during the committee stage, which has not been fully and satisfactorily dealt with. It relates to clause 31 of the Court Security and Custodial Services Bill, which deals with the making of rules. It is headed, "CEO may make rules". During the committee stage, I expressed concern that if a rule is made, under the Interpretation Act of this Parliament a requirement exists for that rule to be tabled in both Houses of Parliament and to be subject to the disallowance processes, the amendment processes and so on that form part of the Interpretation Act and the procedures of this Parliament. Dealing with rules, I quote from page 7209 of *Hansard* -

Clause 31: CEO may make rules -

. . .

Mr RIEBELING: What will be the purpose of making those rules?

Mr PRINCE: In place of the word "rules" we should mentally substitute the words "standard operating procedures"; in other words, the fine, nitty-gritty directions that are necessary from time to time.

That is absolutely correct. The intention is that these rules which are referred to in clause 31 are in fact standard operating procedures; that is similar to the standard operating procedures of the Police Service of which the minister and I are certainly aware and of which some members of the House may be aware. The Police Service has a substantial document which includes all of its standard operating procedures. They are not rules; they are not subject to tabling in the House. During

my time as minister, it became a document which was available. However, prior to that it was not available to any member of the public. That document is basically the bible by which police officers operate. However, it is not rules; it is not tabled in the Parliament. It is exactly what it says it is: It is standard operating procedures. I believe that the rules referred to in clause 31 are standard operating procedures and should be so named.

I have some concerns about whether it is wise in some cases for those standard operating procedures to be subject to full public scrutiny, because by subjecting them to full public scrutiny we may be placing at risk our ability to maintain the type of security that we need within our prisons or during the transporting of prisoners from a prison or lockup to a court, and vice versa. If the standard operating procedures are available for everyone to see, the potential exists to jeopardise our ability to maintain safe custody of those prisoners. As the minister commented, the Commissioner of Police has been making these standard operating procedures for 100 years. Therefore, it is not something new. However, if they are made rules, we get into some fairly ticklish areas.

During the debate, reference was made to the similarity between the ability to make rules under the Court Security and Custodial Services Bill and the ability to make similar rules under the Prisons Act. I quote page 7210 of *Hansard* -

> MR PRINCE: The other point to bear in mind is that this clause is almost a duplicate of section 35 of the Prisons Act; it is almost exactly the same wording.

I have checked, and the minister is absolutely correct - this clause is almost the exact wording of section 35 of the Prisons Act which has operated for many years. The following comment was raised by the member for Burrup -

> The end of the first line states "as the CEO considers necessary" . . .

I question the intention of clause 31. Under the standing orders of the Interpretation Act, a requirement exists for the publishing of regulations. This is clearly spelt out in section 42(8)(b) of the Interpretation Act. In this section regulations include rules and by-laws. The Interpretation Act goes further; it also states that if those rules, regulations and by-laws are not tabled in Parliament within six days of their gazettal, they will no longer be operative. That is my point. If a CEO has discretion on whether to publish the rules, and he chooses not to do so, section 42 of the Interpretation Act would render those rules invalid. They must be published and tabled in Parliament for them to be operative. That will raise problems. If we are to maintain clause 31 of this Bill as it stands, rules not published and tabled in Parliament will not be operative.

If my belief is correct, an interesting situation arises regarding the Prisons Act. All rules published under the powers of section 35 of the Prisons Act have not been tabled in Parliament. No rule published under the Prisons Act has come before the Joint Standing Committee on Delegated Legislation while I have been chairman or a member. Are any rules made under the Prisons Act valid? I raised that issue during the Legislation Committee debate. I asked: How can a rule designated as a rule in legislation escape that requirement? The minister responded that advice from the Solicitor General was that rules under clause 31 are not to be rules as designated under the Interpretation Act. However, the minister said that amendment will be made if any doubt arises. That is the interpretation. I have asked to see that advice from the Solicitor General, but it has not been forthcoming.

On page 7212 of *Hansard* I commented -

> . . . It may be wise to consider giving those rules another name, unless one can give very good advice to ensure that they need not be tabled in the House.
>
> Mr PRINCE: Yes. My adviser informs me that senior crown counsel has given advice in writing that these are not rules within the meaning of the term under the Interpretation Act.

As yet, I have not seen that advice. I accept the validity of what has been said that the advice has been given; however, Parliament should be very sure in dealing with clause 31 that the heading should be changed if those rules are intended to be operating procedures. They should be headed "standard operating procedures". By doing so, the need to table and make those rules available for public scrutiny will be circumvented.

Publishings of rules concerning especially the transportation of prisoners could jeopardise full safety and security. I will not carry the issue further. I could quote different sections of the Interpretation Act, section 42(7) of which deals with written law made by a person other than the Governor and which requires that the regulation be confirmed or approved by the Governor. If a matter has not been confirmed or approved as required, the subsection requiring tabling does not apply. Clause 31 of the Courts Security and Custodial Services Bill does not require confirmation or approval. The rules require consultation; therefore, that clause does not obviate the need for a rule to be published or tabled.

I will not enter long legal argument with the minister or others. I have sought outside advice on my belief regarding how the Interpretation Act will apply to this clause, and all the advice I received verifies my opinion that if a rule is not published and not tabled in Parliament within six days of publication, it will no longer be valid. The minister and Parliament should be very careful in accepting clause 31 as it stands. The intention is to apply some discretion in whether the rules are published, as clearly the minister commented that discretion is needed. He also said that the rules should be considered as standard operating procedures. If so, we should call them that. I am otherwise happy with the legislation. I will be pleased to see it pass into law and move police officers out of jobs they should never have been doing in the first place.

The ACTING SPEAKER (Mr Barron-Sullivan): I remind members that even when quoting from *Hansard*, ministers and members must be addressed by their correct titles.

MR MARSHALL (Dawesville - Parliamentary Secretary) [12.01 pm]: I was a member of this committee and it was a

privilege to be involved. I agree not only with the legislation but also with the way that the Court Security and Custodial Services Bill and the Court Security and Custodial Services (Consequential Provisions) Bill were debated cognately. I thought that was a good idea. I also enjoyed the company of members of the committee, and at this stage I record how much I enjoyed the debate by the members for Burrup and Bassendean. They were both heavily involved in this area in their previous occupations, and their input was invaluable, as was the input from the member for Wagin, a former Minister for Police, who was much involved in this area. I was educated on this subject throughout the many hours that this Bill was debated.

I congratulate the Minister for Police, Kevin Prince, for the tolerance he showed over a long period. Many of the questions were very long and the minister could have taken the opportunity to provide brief answers to those questions. One way to wear down an Opposition is to simply provide brief answers to their questions and that requires them to quickly think of further reasons for the debate. The minister did not do that. He allowed questions to be asked in due time and with his experience - from his previous occupation as a lawyer he has full knowledge of the Criminal Code - he gave explicit answers to the questions. It was a long event and at times it was almost like going back to university and listening to a four hour lecture. I had to be alert to maintain my concentration. For example, the Court Security and Custodial Services Bill contains 93 clauses, and debate on clause 7 lasted for 4.75 hours. That is some debate, but it was worthwhile.

The reason for this legislation is to take professional police officers away from "minor jobs" and put them into the areas for which they are best trained and on which millions of dollars have been spent. They should not have to be available to transport prisoners to and from prisons and guard them in the courtrooms; a security service should be employed to do that and thus release police officers for other duties. Another reason for the legislation is the deficiencies in the present arrangements. Within the Ministry of Justice, two separate divisions - offender management and court services - are directly responsible for the provision of many other functions. Similarly, both the Ministry of Justice and the Western Australia Police Service provide services for the transport of prisoners between courts and prisons. Sworn police officers provide in-court security in all courts of criminal jurisdiction, including the provision of dock guards and public gallery guards. Within the court, the powers of police are not clearly defined in respect of search and seizure. Police also manage the court custody centres where prisoners are held pending their appearance in court. All lockups in the State are managed by police.

After all the debate, it became clear that the Bills will be very important to the future of custodial services in Western Australia. This Bill will ensure the preservation of high standards of accountability and responsibility for the provision of the services mentioned. Operating in conjunction with the Court Security and Custodial Services (Consequential Provisions) Bill, the arrangements extend safeguards to persons in custody, regardless of their status before the law. In summary, this Bill will enhance the capacity of the Police Service to return sworn police officers to front-line duties in their service to the community, which is very important and much needed.

It was a privilege to be involved with the members of this committee; it was exhilarating, thought provoking and educational. It was a good exercise; it went on for too long but the right result has been achieved.

MR RIEBELING (Burrup) [12.05 pm]: Members on this side of the House agree that the police should no longer be involved in the services provided for the past 100 years through the method that these Bills are about to replace. We differ from the Government in our belief that the Government has a responsibility to maintain the service being established to replace those police officers. That was the main area of dispute over the past four weeks. If a third force will provide the custodial services and carry out transportation duties, it should be employed by the Government and not by a private individual. That has been the main difference between the Opposition and the Government in relation to this legislation. There was universal agreement that the police should no longer be involved in these duties.

I do not agree with the statement by the member for Wagin that the police should never have been involved. Western Australia inherited that system from England, and it became part of the system when Western Australia began running its own courts. Many old courts - the old Beaufort St court is an example - carry the sign "Police Court" outside. Many of the current judiciary would cringe now at going into a building with that sign on it. Of course, those courts were never police courts; they were courts of summary jurisdiction or petty sessions, but they were referred to as police courts. Therein lies the connection with the Police Force. It is historical. One of my key objections to this legislation, apart from the concept of private individuals carrying out these duties, is that it will weaken the cornerstone of the legal system, which is that justice should not only be done, but also be seen to be done. Although I do not like to give this Government credit for much, on the positive side, if this legislation leads to the perception in some smaller communities that the police are no longer in control of the court system, it will be a good result and it should be applauded. Of course, in the initial stages this legislation will not impact upon the places where that might be seen, incorrectly, to be the case.

Apart from the fact that the Government wishes to privatise the service and it has no substantial proof to indicate that it is necessary, I am concerned that the powers in the first schedule are extensive. They will allow a private contractor to stop people entering the open court system. In my view that must be done with extreme caution. On a number of occasions the minister said that the powers set out in that schedule were greater than those possessed by the police. Much of the rhetoric behind removing police from this area is that they have more powers and are wasting their time inside the court system, when they should be out and about. However, the powers in the first schedule that will allow this third force to search and seize people entering courts are far more than police officers possess.

When civil libertarians find out about the powers to search in this legislation, they will be somewhat disappointed. The test for whether these powers are required is not whether private contractors desire these powers or whether judges and magistrates are happy with these powers, but whether these powers reduce the ability of the public to access our courts. If the ability to go into our courts to ensure that justice is delivered in a free manner is reduced - not many people want to go

into our courts - people should not be restricted and these obstacles should not be put in their way. One of the major problems with the schedule powers is that the private contractor must make a judgment about a person's motive and purpose for being in court. One of the reasons for ejecting a person is that if the contractor decides that the entrance into a court is for an inappropriate purpose, he can refuse that person entry. What constitutes an inappropriate purpose has not been defined in the Bill. It is a subjective measure which the officer must decide. Therefore, we are giving power to a private contractor, who is less trained in many areas, especially in relation to police powers. A great deal of police work is involved in assuming what is in a criminal's mind in relation to his actions.

Mr Prince: Deducing.

Mr RIEBELING: Exactly. These people do not have that experience and training; however, we are giving them the power to determine an inappropriate purpose. We are also giving them the power to pre-empt a person's actions. Another provision for refusing entry is that a person is about to behave in a disorderly manner. How anyone could know that a person is about to behave in a disorderly manner is beyond me.

Mr Prince: It is an overt act.

Mr RIEBELING: The Bill does not state that. It states "believes on reasonable grounds that the person . . . is about to behave, in a disorderly manner".

Mr Prince: It does. That is what reasonable grounds means; the person must have said or done something that gives rise to reasonable grounds in the mind of the security officer.

Mr RIEBELING: However, that person need not have acted in a disorderly manner to do that.

Mr Prince: He could have said, "I am going to chuck a custard tart at the magistrate"; that is enough.

Mr RIEBELING: That would be a disorderly act.

Mr Prince: Yes, but he has not done it; he has said he will do it.

Mr RIEBELING: The threat is a disorderly act in itself. That person could be charged with a disorderly act. The words "about to behave" do not constitute an offence.

Mr Prince: It gives the officer the power to eject a person from the courtroom before that person puts his intention into effect.

Mr RIEBELING: That is what I am worried about.

Mr Prince: Surely that is better?

Mr RIEBELING: That is my concern. If the minister is happy with that power, and no doubt he is -

Mr Cowan: As this is the highest court in the State, next time you threaten me, I will have you chucked out.

Mr RIEBELING: No doubt the Deputy Premier knows what would be an inappropriate purpose for entering a court. Could the Deputy Premier enlighten me as to what would be an inappropriate action? It leaves a lot of subjective judgments to be made by the person who is employed as a private contractor. As the minister stated during the committee stage, the power to search a person who simply wants to go into a court is greater than that possessed by a police officer who is catching criminals. The minister said that it is a greater power and I believe what he said. Why we would give private contractors greater power to search than that possessed by the police is beyond me. However, the minister has done it and he has done it to the point of allowing a frisk search of a person who wishes to enter a court to watch it operate. That is the potential that the minister has allowed to occur. As the minister is probably aware -

Mr Wiese: Electronic surveillance will be used.

Mr RIEBELING: I did not mention electronic surveillance because I do not have a problem with it; the problem is with frisk searches.

Mr Prince: It is the same sort of thing in the airport, which I go through at least twice a week.

Mr RIEBELING: I have never been frisk searched at an airport.

Mr Bloffwitch: A lot of people have.

Mr RIEBELING: There might be good reason for that.

Mr Prince: Do you object to that regime at the airport?

Mr RIEBELING: I object to the regime the minister is putting into the courts, and that is what we are discussing.

Mr Prince: I asked whether you object to that regime in the airport.

Mr RIEBELING: I do not mind walking through an electronic surveillance device.

Mr Prince: And be frisked, if necessary?

Mr RIEBELING: I have never been frisked and I have never seen anyone frisked, other than by the wand. A frisk search indicates manhandling, as well as the removal of garments, under this legislation. I have never witnessed a person strip searched while waving goodbye to people in the airport.

Mr Prince: I have seen it happen a couple of times, as has the member for Geraldton.

Mr RIEBELING: It might be the company with which the members mix.

Ms MacTiernan: The security staff obviously find the minister more attractive.

Mr RIEBELING: Or his companions are more suspicious. The powers to search are of concern. I am sure that, although the minister may defend it, he knows the dangers in relation to the powers in schedule 1. If this legislation is passed unamended - I doubt whether that will be the case - I hope that the Ministry of Justice will keep a close eye on the impact on the confidence which the general public has in our court system. That is the key to whether this is required; it is not whether the judges or the security agents are happy. As I said during the committee stage, if I were a security guard and wanted to control a court, these are the powers I would want. That does not mean that they are the powers I should be given if our purpose is to maintain a court system in which the public can have confidence. This legislation does not create that. We have created a number of problems in this legislation. Although the minister listened to our long arguments, and gave good reasons why many of the clauses should be altered - he did not accept all of those arguments, but he accepted a few - this is not good legislation. Unless the minister has confidence in his colleague in the upper House and there is a move away from employing private contractors, it will be difficult for this legislation to proceed through this House.

MR BROWN (Bassendean) [12.18 pm]: I, too, will make a few observations arising from the committee stage. During his second reading speech, the minister stated -

> This Bill arises out of the recommendations of the Police/Justice core functions project established by the Government in September 1996 to undertake an extensive review of the current services with the objective of identifying a viable alternative procurement option.

In the committee stage we endeavoured to obtain a copy of that report. That demonstrates that in this Parliament, if we ask often enough, we ultimately succeed.

Mr Prince: It depends on who you ask!

Mr BROWN: On the first day of the committee proceedings, we asked for a copy of the report on which the Bill was based, and it was not forthcoming. We continued to ask every day in every session for a copy of that report. I am pleased to report to the Parliament that on one day when the Minister for Police was not only representing the Attorney General but was the Acting Attorney General, we managed to obtain a copy of that report. I am not sure that we would have obtained a copy of that report had the Minister for Police not been the Acting Attorney General at that time; one can only speculate about that. In any event, it demonstrates that persistence can pay off and that if we ask often enough and long enough and are not deflected from the cause, we will ultimately succeed in getting the document. I raise that matter because it is important that when Bills are introduced on the basis of a report or paper that has been prepared for government, that paper or report be produced for the parliament to analyse, unless it contains material that is highly prejudicial to government.

Mr Prince: I agree.

Mr BROWN: I thank the minister. I hope that in future such reports will be made available.

This Bill has two key aspects. These aspects were teased out in considerable detail in committee. One aspect of the Bill is the creation of what has been colloquially described as a "third force", which will comprise not police or prison officers but custodial or court officers who will perform the functions described in the Bill; namely, being responsible for police lockups, transferring prisoners and other people held in detention between prisons and courts, and so forth, and being responsible for the security of court lockups and the courts themselves. That raises the issue of whether it is appropriate to establish such a third force or whether it is more appropriate that those functions be carried out by police or prison officers. It became patently clear during committee that the Government's prime motivation for employing such a third force is that it will be cheaper than employing police or prison officers to perform those functions.

Mr Bloffwitch: That comment is most unfair. Cannot the reason be to release police resources back into the community?

Mr BROWN: I understand that this is proposed to be done because it will be cheaper.

Mr Bloffwitch: That is not my understanding.

Mr BROWN: I will go through some of the issues that we clarified in committee. The first issue was that many of the people who will perform these functions will be employed as casuals, for a few hours here or there, rather than the current situation where police officers are employed on a full-time basis. I do not know of any part-time or casual police officers.

We asked the minister to provide the proposed rates of pay for the people who will be employed as the third force. We were provided with a schedule that compared the rates of pay of the third force officers with the salaries that are paid to police and prison officers. That schedule demonstrates that the people who will be engaged as third force officers will be paid considerably less than police and prison officers. The Government justified that on the basis that those people will not have the same level of skill and will not be required to carry out the same breadth of work; and the minister is nodding his head in agreement.

Mr Prince: Some will be employed full-time and some will be employed part-time, as we discussed.

Mr BROWN: The motivating factor behind the employment of these third force officers is that it will reduce the cost of providing this service. Some debate took place about the nature of the training and the powers that will be provided to these third force officers, bearing in mind that they are not sworn police or prison officers. One could traverse that debate at some length, which I will not do.

The other key issue in this Bill is whether the third force officers should be employed by the public sector or the private sector. The Government's view is that these officers should be employed by a private sector provider, because the Ministry of Justice, which is the ministry that has been given the responsibility for carrying out this service, is incapable of providing this service in-house, and it can be provided only if it is contracted out. That is a point on which we part company. I cannot conceive and do not accept that the Ministry of Justice does not have people with sufficient expertise and experience who can provide the service that we have described. I do not know why the Government has concluded that the Ministry of Justice is incapable of performing this service in-house. That is somewhat of a blight on the Ministry of Justice, which was set up by the former Attorney General in 1993 as the key initiative in the fight against crime in this State, and the Attorney General's speech at that time set out all the wonderful things it was supposed to do, yet we are now told six years later that it does not have the expertise to run this third force, whose officers will not have the same authority, discretion, power and skills as police and prison officers.

I therefore do not accept that a third force cannot be provided in-house by the Ministry of Justice.

The other matter of concern if a contract were issued to the private sector to provide the service relates to the staffing arrangements. I have indicated that the minister tabled a schedule of the proposed classification rates of the various officers to be employed. It is interesting that the minister would not accept my proposed amendment which would require the Government to publish the classification structure of these officers. That would mean that the Industrial Relations Commission would not set the classification structure of these staff but, rather, government could publish the classification structure. The minister indicated that the Government would not do that because it would require the disclosure of the contents of workplace agreements, which is contrary to the Workplace Agreements Act. I do not accept that argument. We did not ask the minister what might or might not be in a workplace agreement. We asked the Government in our amendment to disclose the base rates offered to employees to be engaged as third force officers, leaving any negotiation that occurred after that to be private. Interestingly, that amendment was defeated. Why was that amendment defeated? It was defeated for exactly the same reasons as there is secrecy in the workplace agreements legislation. It was defeated because the Government does not want the public to know the miserly rates of pay and employment conditions that will be applied to these third force officers; it is to be kept a secret. The Government pushes it away by saying that it is a contractual matter between the contractor and his employees. That is the way in which the Government fudges it and tries to overcome the problem. The real reason, of course, is that the Government does not want this matter to become public.

This Bill deals with a security service employing people who will have prisoners in their control and under their supervision. Those prisoners may be juveniles, they may be intoxicated or may have mental health problems. These third force officers will be controlling the escorts and lockups and interacting with prison staff and police officers. Yet we, the public, are not allowed to know what these people are being paid - not what each person is being paid but the classification structures. Why is that important? It is important for all the reasons that are being aired now about people being content with their employment and being prepared to put in the degree of diligence required in this job.

I put on record now my concern about this matter. If this Bill is passed and a contract is let, what impact will it have on the way in which these third force officers perform their job if they receive very low rates of pay and poor employment conditions? What will it mean for morale in the service? What will it mean for public protection? In all of these areas there must be decent morale, which does not come cheaply. The Government recognised that recently when it negotiated an enterprise arrangement with the Police Service. Everybody was told that the Government salary cap was 7 per cent and it would agree to a maximum increase of 7 per cent for anyone in the public sector. The police said, "You understand what it will do to our morale. You need us. That is just not good enough, minister." All of a sudden the policy changed.

Mr Prince: No, it didn't.

Mr BROWN: The policy did not change? So, it is still 7 per cent?

Mr Prince: It is 7 per cent over two years and it runs to nearly three years.

Mr BROWN: It was 7 per cent.

Mr Prince: No, it was 7 per cent for two years at 3.5 per cent each year but it was from the time of acceptance to the finish in September 2001, nearly three years.

Mr BROWN: Will the minister tell me, since he has had that policy, what other group of government workers to date have picked up more than 7 per cent?

Mr Prince: Perhaps a few nurses, from memory, but the policy began last year.

Mr BROWN: That is right.

Mr Prince: The Police Union negotiations were so lengthy that it did not occur until before Christmas. We then had to start negotiations all over again. If the member for Bassendean wants to go through the history of this, it will take a long time. When I became involved we tried to work out how we could do it with the money that was available because what they wanted could not be done and so on. There was ballot after ballot and we finally said, "This is the best that can be done but it goes over two and a half years." I distinctly remember that summer last year had already passed.

Mr BROWN: I was interested in reading the policy about the offsets that were supposed to be in place.

Mr Prince: The clearance rates have already increased so they have virtually complied with the productivity targets in this financial year. They are working better because the morale is good as they are doing well.

Mr BROWN: I am interested in that because in other areas when the Government has talked about productivity it has meant taking away conditions of employment as trade-offs, as opposed to productivity in terms of workload and capacity.

Mr Prince: There are other things also. The clearance rates are a part of productivity.

Mr BROWN: I make the point that I examined the government policy on trade-offs and caps that are required, not productivity. It is a simple document and one does not need to be terribly bright to understand it. Even the dullest member in this place - whoever that might be - would look at the Police Union deal and the policy and say that they were not compatible. I am not criticising the 9 per cent given to the police officers. They were very happy with it and I am happy that they were happy with it.

Mr Wiese: You cannot say at any time that trade-offs actually improve productivity.

Mr BROWN: Sometimes they do and sometimes they do not. It does not do much for productivity if people are asked to trade-off their boot allowance, their 7.5 per cent leave loading or their shift allowance. It might reduce costs on a direct unit cost basis because something has been taken away. On that notion of productivity, yes, it will improve productivity if that is the way it is measured. However, in my view it does not do much to achieve higher quality work or more work within the same time on those traditional notions of productivity. The real issue is that these new third force officers proposed by the Bill will have not a prison officer's or police officer's job, but nevertheless a responsible job.

They will be required to exercise significant powers that are in the schedule to this Bill. I invite members who have not looked at those powers to examine them and they will see that they are significant. High morale will be required by that group of officers. It is somehow suggested that situation will be attained by what is proposed; that is, high morale will exist even when people are employed on a casual basis for a few hours whenever they are needed. These people will be picked up and dropped off according to need which continues the trend in this State to knock off full-time jobs and create casual, insecure jobs. By doing that it is thought that somehow we will get, working in that sort of environment, people who are highly dedicated and are paid under workplace agreements and secret deals, on the basis -

Mr Bloffwitch: How can they be secret deals when they must be registered?

Mr BROWN: Let me explain the position to the member for Geraldton so he can understand it. The deals are secret because the only people who can see them are the employees and the employers.

Mr Bloffwitch: Are they not important people?

Mr BROWN: Of course they are, but unlike awards and workplace agreements in the public sector which people can view, one will not be able to view these deals; they will be secret arrangements. Even the Minister for Labour Relations admitted the other day when I asked her a question on notice about how many people are now required to sign workplace agreements in order to get jobs, that a person cannot get a job in a range of areas in the public sector without signing a workplace agreement. There is no choice. Members should recall what the coalition said to the public in 1992; it said, "There will be a choice." It said people could have awards or workplace agreements. However, we now see the sort of choice that was referred to; that is, people can have jobs, but only on the condition they sign a workplace agreement. There is no choice. In 1992 the coalition said people would have a choice between awards and workplace agreements. Some people did not believe the coalition, but unfortunately the majority did, and they voted for it. We now know that was a barefaced lie.

Point of Order

Mr BLOFFWITCH: I was at that hearing. The minister never uttered that and, therefore, did not lie. I ask the member to withdraw.

Mr BROWN: I have not talked about a minister. I have not impugned a minister; I have impugned the Government.

The ACTING SPEAKER (Mr Sweetman): I believe the member for Bassendean did not identify clearly about whom he was speaking. He made reference to a barefaced lie, but did not clearly identify anyone. Therefore, I caution the member for Bassendean to be careful in his choice of words so he does not provoke such a response from members on the government side in future.

Debate Resumed

Mr BROWN: I will not use that term. The Government was mendacious.

Mr Prince: If you are referring to the Government of 1992, you are probably right.

Mr BROWN: No, the minister knows the situation full well and that is an interesting play on words. It is similar to the same play on words the Liberal Party used prior to the election when it hoodwinked the Western Australian public, but more and more people are becoming aware of it.

Mr Johnson: They still voted for us in 1996.

Mr BROWN: Yes, they did, there is no question about that. However, as I said, I am very happy that my comments are on the record in this place because in years to come when people examine the way in which our society has changed and the manner in which the Government of the day has changed it, my conscience will be very clear, because I have said over and over again that I do not like our society going down the United States path of the working poor and its social consequences. The information is there for anybody who bothers to read the research. People elect to ignore it and, if they do that, they cannot be made to read it. They have a choice.

This Bill is about the Government's desire, through legislation, to reduce costs. It needs legislation to do that, unlike the position in some other areas such as that pertaining to bus contracts where it was possible, without introducing legislation, to let out contracts to the private sector and to employ bus drivers on $100 a week less than they were receiving previously thus saving money by reducing wages. Even here at Parliament House, we see this happening. People with whom we, as members of Parliament**,** rub shoulders are employed by contract security companies, and they have suffered significant reductions in wages. When we bid good morning to the fellows from the security company and look them in the eye, we know their wages have been reduced by 20 or 30 per cent; they have not increased as ours have as members of Parliament.

This situation has come about because of the Workplace Agreements Act and this same Workplace Agreements Act will now be applied here because the minister has made it clear during the committee stage that all of these people will be employed under workplace agreements; there will be no selectivity. These people will be told, "These are the terms and conditions of employment; here is an offer of a job; sign up." If they do not sign and take jobs, Centrelink will be informed that they have not done so. If people do not take these jobs, their unemployment and other benefits will be at risk. This is the new face of government in this State.

We may argue about the situation for prospective workers, but let us put that to one side and ignore it for the time being. Let us look at this force and what it must do. It will have a very responsible job and if morale is not high in this force and people are not diligent, it will have deleterious consequences for the community as a whole. My concern is that that could occur. We will see if that happens. Sometimes it takes a long time for the consequences of these decisions to flow through. We saw this in 1991 during the term of the former coalition Government. I warned the then minister responsible for prisons about certain things that would occur as a result of legislation he had introduced. I warned him then, not as a member of Parliament - I was not a member of Parliament - about what would happen. He said that those things would never occur; however, they did and it cost the taxpayers about $3m. He was wrong. Sometimes it takes a long time to see the consequences of these things, but ultimately we see them. Those are my reservations and concerns about this Bill.

MR PRINCE (Albany - Minister for Police) [12.50 pm]: I will be the last person to speak in the third reading debate. In slightly under a minute we go to 90-second statements. Before I begin, it will be appropriate to ask for leave to continue my remarks at a later stage of this day's sitting.

Debate adjourned until a later stage, on motion by Mr Prince (Minister for Police).

[Continued on page 7629.]

COOLOONGUP PRIMARY SCHOOL - PARKING PROBLEMS

Statement by Member for Rockingham

MR McGOWAN (Rockingham) [12.51 pm]: I take this opportunity to raise an issue of concern in my electorate. It relates to the Cooloongup Primary School which services approximately 500 students in the community of Cooloongup. It is having major parking problems. At present the car park servicing the school is always full and is quite dangerous for people and vehicles to enter. I would like to see a second car park built. A study has been conducted and a site has been identified. The school, the council and the State Government have recognised the need. For some reason, I have not been able to work out why, there has been a hold-up in the construction of the car park. We were promised that the car park would be built earlier this year. However, it has not been built, and it should have been. I am using this opportunity to appeal to the Government to do something about this and to meet the community's need.

I also congratulate the P & C association on the work it has done. It is one of the most active and forthright P & C associations that I have ever had the pleasure of dealing with. It has brought this issue into public focus.

COMPUTER EDUCATION PILOT PROGRAM

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.53 pm]: I inform the House of a very important and innovative computer education pilot program for parents of school children who attend two of Western Australia's leading public schools which are of course the Currambine Primary School and the Ocean Reef Senior High School. The rationale behind the pilot study is that there is, at the moment at least, a very substantial body of empirical evidence which indicates that parents of many primary and secondary school children are for many reasons being left behind in computer education, particularly in its application to new and innovative techniques. In terms of all genres of literacy, the gap between parents' and children's literacy in all aspects of computer use is by far and away the only area in which, generally speaking, children are more literate than their parents and in conjunction with a qualified teacher can assist in teaching parents basic computer literacy skills. The course will be conducted over the next five to six weeks at the two schools and will involve tuition in many areas. By way of a brief summary, there will be a introductory lesson on the use of computers generally; there will be lessons in formatting, using the Internet, the use of educational CD roms, email and preparing and presenting a simple computer slide show, digital imaging and refreshers towards the end of the course.

I thank the Minister for Education for agreeing to fund this very important pilot project at these schools. It will benefit parents and their children by ensuring that families become more computer literate. No fee will be charged at this stage. Subject to the results of the pilot program, a report will be published in due course, and I believe the program will be introduced in all primary schools in Western Australia.

TEACHER SHORTAGES IN COUNTRY AREAS

Statement by Member for Kalgoorlie

MS ANWYL (Kalgoorlie) [12.55 pm]: I wish to raise the matter of ongoing primary and secondary school teacher shortages in my electorate. I know that the Minister for Education will be travelling to Kalgoorlie on 30 April. I hope that he will meet with a cross-section of principals, teachers and parents, P & C association members and school council members who are so grossly affected by the ongoing shortage. We are now in term two, and four primary school teacher positions are not filled. One of the down sides of the retrenchment that we are seeing in the gold industry is that most primary school teachers are female, and so when their male spouses and partners are forced to seek work outside the goldfields, we often lose teachers and other professionals. Given that the minister has previously said that he likes to visit schools with local members, and I indeed have extended an invitation to him on many occasions to visit, particularly South Kalgoorlie and Kalgoorlie Primary Schools where the infrastructure needs are simply not being met with their increasing number of students, I hope that we can in a bipartisan fashion visit these schools together and constructively look at the problems confronting these schools.

ELECTRIC CARS

Statement by Member for Vasse

MR MASTERS (Vasse) [12.56 pm]: Yesterday, in the front car park of Parliament House, I hosted an inspection and test drive of three electric cars. It was purely coincidental that I had arranged this visit on a day which was also National Clean Air or Smogbusters Day. I wish to thank Jim Lissiman, Dr Brian Leary and John Bisby who are all electric car enthusiasts for taking the trouble to bring their vehicles here for the Premier, the Minister for the Environment and other members of Parliament to inspect.

The cars were a 1965 Ford Mustang, a late model Nissan utility and a reasonable new Daihatsu Charade. All three cars have had their petrol engines removed and replaced by a bank of batteries, electric motors and associated equipment and wiring. They have a range of 70 to 120 kilometres and are charged overnight via a normal household electricity outlet or even during the day while at work. They generate no engine pollution whatsoever while being driven. The member for Mandurah will also confirm that these cars have very impressive acceleration, with the electric Daihatsu reported to be faster out of the blocks than a V8 Ford Falcon! The actual cost of electricity is between 1¢ and 2¢ a kilometre. However, this impressive figure must be offset by the cost of purchasing new batteries every one or two years. A cost of between $2 000 and $4 000 for new batteries adds another 7¢ to 10¢ to the cost a kilometre of running these cars. According to information provided to me by the car owners, various federal government taxes and excises make up almost 50 per cent of the cost of these batteries. Exemptions in current or future taxation laws by our federal colleagues as incentives for environmentally friendly behaviour or actions would provide a substantial boost to desirable activities such as electric cars, with consequent benefits to the quality of the air of Australian cities while also making better use of our limited fossil fuels.

HEROIN DEATHS

Statement by Member for Willagee

MR CARPENTER (Willagee) [12.58 pm]: The tragic death in O'Connor of yet another young Western Australian from a heroin overdose - the twenty-third this year - should act as a catalyst for the immediate review of the way we are dealing with this issue. The current policies are not effective enough. We should try different approaches and new ideas including, first, promoting heavily and proactively all survival strategies, including the importance of not injecting alone and what to do when someone overdoses - that is, resuscitation techniques and simply calling an ambulance. The provision of the heroin antidote Narcan survival kits to addicts and their families should be seriously considered and introduced on a trial basis with a limited number of users. Secondly, a serious study or trial of the benefits or otherwise of safe injecting rooms for heroin users should be undertaken immediately in Western Australia. Thirdly, the State Government should drop its opposition to heroin trials. The Swiss experience, overwhelmingly endorsed by the Swiss population at referendum and now being copied elsewhere in the world, showed a dramatic improvement in the health of participants and an equally dramatic and important drop in crime rates. Australian police estimate that approximately 80 per cent of crime is drug-related. Fourthly, Western Australia should trial the drug court concept recently introduced into New South Wales. Fifthly, more funds than those recently announced by the Prime Minister should be made available for family support groups and parenting programs to help reduce the risks of children using drugs and to help better equip parents of children who are using drugs. On current trends, another 50 to 60 young Western Australians will die from heroin overdose this year. Everything possible should be done to prevent that.

CAREY PARK PRIMARY SCHOOL

Statement by Member for Mitchell

MR BARRON-SULLIVAN (Mitchell) [12.59 pm]: I am pleased to advise the Parliament of a very significant decision made at last night's meeting of the Carey Park Primary School P & C association. After a number of meetings and extensive discussion over recent years, the school community last night unanimously endorsed the idea of planning for a new two storey school on the existing site on Frankel Street in Carey Park. This is a truly historical decision for the local community, which has waited many years to see a new school become a reality, rather than an endless stream of talk and promises. Naturally, I am delighted to have been able to play a part in resolving this matter, but the real credit must go to everyone who has worked in various ways to achieve this tremendous outcome, including of course my parliamentary colleagues and the Education Department officers who have been involved over the years. I wish all the best to the local architects, Brian

Delfs and Kent Lyon. Most importantly, I pass on my thanks and the gratitude of this House to all of the parents and teachers who pushed so hard for this result and who have been so patient as one obstacle after another needed to be overcome. I thank especially school principal, Kevin Lynn, deputies John Slepikowski and Lyn van Nierop, and P & C association president, Maureen Harwood. Last, but definitely not least, I send a huge thanks to Jonette Brandis. This is a unique and incredibly exciting project that means so much to the kids and families of Carey Park, Kinkella and Crosslands. In all honesty, I have never been more proud to be the local MLA and to know that I represent such a positive, genuine and committed community.

Sitting suspended from 1.00 to 2.00 pm

BUDGET SPEECH, TELEVISING

Statement by Speaker

THE SPEAKER (Mr Strickland): I advise the House that on the sitting days from 4 to 6 May 1999 I will be attending a meeting of the executive committee of the Commonwealth Parliamentary Association in my capacity as Australian regional representative. The Deputy Speaker will act in my stead in the House.

Members should also be aware that I have authorised the release of the television signal for the speech of the Premier and Treasurer in presenting the state budget and also for the budget speech of the Leader of the Opposition. In addition, questions without notice on budget day will be called at 12.30 pm.

I take this opportunity also to farewell Tamara Fischer who is leaving us to join the Fire and Emergency Services Department. Tamara has worked in this Chamber and for a number of committees for the past nine years. On behalf of the House I thank her for her work and wish her well in the future.

[Applause.]

[Questions without notice taken.]

BUSES, DIESEL FUELLED

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received a letter from the member for Armadale seeking to debate as a matter of public interest the following motion -

> In view of ongoing concerns within the community at the Government's continued commitment to purchasing diesel fuelled buses, this House calls on the Government to give urgent consideration to the formation of a select committee to review the findings of the Government's expert reference group and provide an opportunity for full and open exploration of the important health and environmental issues connected with the use of diesel fuel.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis, with half an hour allocated to members on my left, half an hour to members on my right, and five minutes to the Independent members, should they seek the call.

MS MacTIERNAN (Armadale) [2.43 pm]: I move the motion.

Many members of the House will be aware that the member for Vasse and I were recently invited to join the Minister for Transport on a visit to the DaimlerChrysler facilities in Germany. For the benefit of those members who do not keep up with corporate mergers, DaimlerChrysler is the manufacturer of Mercedes buses. For convenience I will refer to this company as Mercedes in this debate. We understood that the purpose of our being invited on this visit was to see the developments in diesel buses and the advances in the hydrogen fuel cell technology. I was pleased to have that opportunity but if the Government intended me to return supporting its decision to buy diesel buses it was mistaken. I returned believing even more that the Government had made the wrong choice in buying diesel buses.

I will give the House three reasons for my becoming even more convinced that we should be going with gas rather than diesel. First, Mercedes confirmed on many occasions that it had viewed gas as an intermediary technology and that it was not a technology which it had focused on. It was focusing its efforts on the development of a hydrogen fuel cell. That is a perfectly reasonable decision for that company. I was impressed by the amount of money and expertise Mercedes was putting into the development of the hydrogen fuel cell. However, even the most blind optimist would acknowledge that it will be at least five years before hydrogen fuel cells can become a commercial reality. Indeed, the dominant view was that it will be seven to 10 years before these buses are available. It was useful to see the hydrogen buses but their introduction is a long way away. I am pleased that the Minister for Transport has indicated that the Government would be prepared to participate in a trial of these hydrogen buses, but I wish he had shown the same openness when dealing with an already established technology in gas. By the time these hydrogen fuel cells become available Western Australia will have bought the vast bulk of its fleet. The Government will have purchased between 480 and 600 buses. These buses will be in service for 20 years regardless of what other technology is subsequently put in place. While the Opposition shares the Minister for Transport's enthusiasm for Mercedes' research, that research cannot be used to justify in any way, shape or form the decision which will effect the purchase of the majority of the buses to be bought under the current deal. It cannot justify the decision to go down the road of diesel buses.

Mercedes was very keen to show us its advanced technology, particularly various devices which will reduce CO_2 and particle emissions. However, it became evident during this presentation that this was a real problem for Western Australia. These new developments simply will not work on either the diesel fuel currently available in Western Australia or the fuel the Government is seeking to have introduced. I wish to go into some detail but I do not want members' minds to glaze over because this is an important issue. At the moment in Western Australia the sulfur content of our fuel is a maximum of 5 000 parts per million. As a practical matter, most of the fuel being sold is probably somewhere around 3 000 parts per million sulfur. Under pressure in the previous debate on this issue the Government agreed to seek to have a fuel of 500 parts per million sulfur made available to it and there is a big gap between 500 and 5 000. However, the technology we were presented with in Europe had a maximum specification of 50 parts per million sulfur. The technology which Mercedes proudly displayed to us to demonstrate that diesel is as good as if not better than gas simply has no relevance in this State.

Since returning, I have had discussions with BP Australia Ltd. It can certainly provide the 500 parts per million, and it indicated it wants to do that. Indeed, it is disappointed that this Government refuses to legislate to mandate 500 ppm in the metropolitan area. There is simply no rational reason for the Government not to do this, but it has failed to do it. However, the people from BP told me they cannot produce the required 500 ppm diesel without totally rekitting their plant, which would cost something in the order of $100m. That would not be done lightly. We certainly saw some wonderful technology in Germany. However, it demonstrated to us how far behind the eight ball we are in this State. The scientists in Germany were absolutely horrified when we told them that we were dealing with 5 000 ppm sulfur in Western Australia. They said that could not be right because we would all be poisoned. However, we had to tell them that indeed that was the case.

The third way in which this trip reinforced my conviction that we should be going with gas rather than diesel was a visit to Poitiers, which is a town in the south of France. It has become the focus for experimentation with gas buses. A project being undertaken there at the moment is trialling in the order of 22 buses. This project is funded jointly by the French Government environmental fund and the Paris Bus Company, which is interested in having a properly monitored, scientific comparison carried out. This project has been ongoing and the buses have been in place for about 18 months. Cost is difficult to compare because the cost parameters are different from those in Western Australia. However, they are coming out positively. Perhaps they are not as relevant, although they are positive. What they are showing with respect to fuel consumption and reliability is that these buses are performing superbly. Anyone who has studied this matter in detail would know that reliability is a crucial issue. In Poitiers, where they are using purpose-built gas buses, not retrofitted gas buses, they are finding that the reliability of the gas buses is marginally better than that of the diesel buses.

When this controversy arose in April last year when the former Minister for Transport announced his decision to go with diesel, there was an absolute furore in the community. Members would be well aware of that. In response to the pressures that the Government came under, it was decided that an independent expert reference group should be established to examine the issues. That group's report came out in January. It has been met with derision and disbelief by environmental groups, scientists and industry players. In the time available, we will not have an opportunity to go through that blow by blow. However, I will raise a few issues to show how far off the pace and how unreliable this report is.

The first matter I deal with is independence. The group was promoted by the Premier as being an independent body. Firstly, we have a chap by the name of Mr Brian Bult, who is the managing director of Voith Australia Pty Ltd. Mr Bult is obviously a senior industry person. I do not doubt that. However, his company is a major supplier of gearboxes to - guess who - Mercedes-Benz. There has also been a suggestion, which I have been unable to confirm, that it also has some longer term commercial alliance with Mercedes. Mr Bult is obviously a person of whom the previous Minister for Transport thinks highly, because the previous minister had a history of appointing him to various positions. He appointed him to the board of Stateships and also to a senior position with the Road Safety Council. Given that the decision to go with diesel was very much associated with the former Minister for Transport, one would have preferred someone who was perhaps more independent of him.

The next player is Mr Alan Bray. He is from Path Transit Pty Ltd, which is one of the bus operators in Perth. It is owned by Mr Ken Grenda, and he just happens to own Volgren Australia Pty Ltd, which is the company that is the primary beneficiary of the contract to Mercedes because it has the job of building the bodies. It is establishing a plant in Perth to build the bodies as a result of the decision to go with diesel and to go with Mercedes. The technology that it is using is aluminium-frame buses, and I understand that the company would not be able to use the existing plant as it is set up if the decision were made to go with gas buses. Again, Mr Grenda is not exactly a disinterested player in this matter.

Then there is Mr Greg Martin. He is the director of the metropolitan division of the Department of Transport. He was intimately involved in the making of the original decision and has been the public servant who, in all the inquiries that have been held in the Legislative Council, has fronted to seek to defend the decision to go with diesel. Again, he is hardly an independent player.

Finally, we see an acknowledgment at the beginning of the report that the person who was the research officer providing the technical advice to the department was none other than Mr Jim Fitzgerald. From the beginning, he has been a major player in the decision to go with diesel. He was the person who provided the initial report to the Government, claiming to have attended the Fuelling the Future Conference and claiming that that conference had supported the option of diesel, when in fact any objective analysis of the conference papers shows that on balance the conference favoured moving towards gas. Therefore, Mr Fitzgerald, the arch proponent of going with diesel, is brought in to give the technical advice and support to this independent committee. Unfortunately, this report is not an objective, scientific or expert report. It is basically a marketing paper which has been structured to achieve a predetermined outcome.

I turn to some of the issues. Recommendation 1 in the report recommends that there be a diesel fuel level of 0.05 sulfur.

Dealing with the cost of the fuel, I have previously outlined for the benefit of the House the problems with the different types of diesel. In this report, it is recognised that the fuel would need to be at 0.05, which is 500 parts per million. A written submission by Shell Australia Limited is quoted in the report, which says that it can produce that sort of fuel, but it costs the company 10¢ a litre more to do it. However, when one examines the fuel costings used in the report, they are the costings for the ordinary 5 000 ppm. Therefore, this committee has not taken into account the submission that it quotes, which states that it could cost up to 10¢ a litre more. Maybe the committee members had some verbal advice from Queensland that if they were buying it through Queensland it would not cost much more. There is no reference; it just says that there was verbal advice that the cost of such fuel would not be much greater than current prices. There is a written submission saying it is 10¢ more and some unsourced verbal advice saying it will not be much greater, and on the basis of that no provision whatsoever is made for the increase in the unit price of fuel. That is completely unscientific and completely lacking in any rigour at all.

Within the document it is recognised that fuel consumption levels differ according to the type of fuel. One consumes more fuel if one uses a low sulphur diesel. The report quotes a figure of between 3 and 4 per cent, but information from the United States indicates that it is probably around 5 per cent. In the figures the assumption has been made that this is the same consumption rate as with the current fuel. Therefore, another 5 per cent has not been calculated into the costing.

Finally, the assumption made about the usage rates of the buses is highly spurious. It is assumed that gas-powered buses use 52 litres per 100 kilometres, yet evidence suggests that the figure may be much lower - indeed, around 49 litres. The report takes the highest possible figure for gas consumption and the lowest possible figure for diesel consumption. Again, this is completely unscientific and unsupportable.

Calculations for vehicle emissions are based on a Mercedes-Benz bus fitted with a continually recirculating trap. However, the trap ceases to reduce the particulate matter within diesel emissions at the conclusion of a two-year lifespan. When that cost is amortised, an additional $5 000 is involved in running those traps on the buses. However, that is not calculated into the comparative capital cost. We know in any event that the CRTs will not work in this State. The report promotes certain fuel and capital items, but does not take into account the cost consequences of those decisions when moving into the accounting part of the equation.

Also, in order to investigate the reliability of Transperth's gas buses, a Melbourne consultant called Nelson English Loxton and Andrews Pty Ltd was used. This firm is somewhat notorious in the industry for its anti-gas stance in much of its work. Indeed, it is not surprising to find that it produced some extraordinary figures on reliability. The reliability figures vary. Transperth's figures based on research by Nelson English Loxton and Andrews are very poor. Other operators, such as TransAdelaide, indicate virtually no difference in reliability between the bus types. One of the private operators believes there is little difference. In making its conclusion, this report again takes the worst case scenario and concludes that gas buses are four times less reliable than diesel buses. That is totally spurious and not in keeping with the systemic and scientific research being conducted on this matter in France at the moment.

I could go on but time is limited. Air toxins are an issue. The report claims that gas performs worse than diesel in relation to a group of minor air toxins. The source of this information is said to be Wesfarmers-Kleenheat Gas, which is promoting liquified natural gas rather than compressed natural gas. No source is given for this claim in the report. The Opposition was able to obtain a report from the Society of Australian Automotive Engineers which indicates the opposite; namely, that diesel is far worse in minor pollutant emissions than gas. The same spurious claims are made with major pollutants, with a complete failure to focus on the grave health consequences, upon which the member for Maylands will speak in some detail.

The Opposition has demonstrated that a great deal of uncertainty and a conflict of evidence needs to be systematically sorted through. The best possible forum for that process is a select committee comprising members from both sides of this place. We would do the community a great service by looking at this matter objectively and rationally.

DR EDWARDS (Maylands) [3.07 pm]: I formally second the motion. I will refer to the health effects of using diesel as a fuel. Members will be aware of the problems of particulate air pollution. A select committee considered Perth's air quality, an issue which has been raised in this place on a number of occasions. Nevertheless, we are slow to properly tackle the problem. An American review of respiratory diseases outlined that the health effects of inhaling combustion-related air pollutants have been extensively investigated. Although the resulting evidence on adverse health effects is voluminous, change still tends to be very slow.

Fortunately, more of mainstream medical Australia is picking up this issue. I was pleased to see at the end of last year an editorial in the *Medical Journal of Australia*, the publication sponsored by the Australian Medical Association, headed "Something particular in the air we breathe?" It is a significant landmark that the journal has published studies outlining the impact of air pollution, particularly particulate air pollution, on the health of children. Undoubtedly, particulate air pollution affected children in the region of New South Wales where the study was conducted. It affected their lung function and gave them more colds and more coughs, particularly more coughing at night. The article makes a couple of important points. It states that this exposure has no threshold. One will see a health effect no matter how low the dosage. The difficulty is that the health effect one sees will be only the tip of the iceberg. Undoubtedly, other changes in lung function which result from breathing these substances will not be picked up.

Mr Omodei: There is a carbon monoxide emission even under the new technology looked at overseas.

Dr EDWARDS: I am talking about health effects. The point is that we are not adopting the new European technology.

Ms MacTiernan: It is not the CO_2 but things like NO_x, which is the problem with diesel. It is not a CO_2 issue at all.

Dr EDWARDS: Exactly. The editorial in the *Medical Journal of Australia* contained a table outlining changes in health indicators for each 10 micrograms per cubic metre increase in particulate matter. This is a tiny change in particulate matter. However, for each change in the standard, increases were seen in daily mortality by 1 per cent, respiratory deaths by 3 per cent, respiratory hospital admissions by 3 per cent, exacerbation of asthma by 3 per cent and lower respiratory symptoms by 3 per cent. I note only some of the parameters; I will not read out the entire table because of time constraints.

Evidence is mounting that health effects are associated with such pollution. The more we look into the issue, the more alarming become the recognised health effects. We know they cause deaths. We know they are adversely influencing children's lung function. Children with deteriorating lung function will not do well as they grow older.

The National Environmental Protection Council in Australia finalised in June 1998 the national environmental protection measure for particulate air pollution. It produced an air quality standard of 50 micrograms per cubic metre on a 24-hour average with particulate matter of 10 microns in size. It attached a very significant rider; that is, even though it has this standard, it can be exceeded on five days a year in Australian cities because of the problems with bushfires. I know from my experience on the Select Committee on Perth's Air Quality that one of the contributors to particulate air pollution is fire, and the committee was concerned about burns carried out by the Department of Conservation and Land Management. However, it is only a tiny contributor to this problem. Controlled burns can account for the five days a year when the standard can be exceeded, and they will reduce the number of bushfires.

Having said that, it means we must tackle the problem of vehicle pollution. Western Australians love their cars. The rate of car ownership in Western Australia is set to increase dramatically and, as the city sprawls, each trip will take longer. The Commonwealth Scientific and Industrial Research Organisation, the select committee and the Environmental Protection Authority have warned that the air pollution problem will get worse. People must be encouraged to get out of their cars and to use public transport. I acknowledge that diesel buses are only a small contributor to the particulate air pollution problem, but it is an extremely important issue of principle. Why should the Government lock this State into using diesel vehicles for a long period when the evidence elsewhere is that this is a huge problem?

I briefly refer to an article in *The New Scientist*, that talks about the devil in the diesel. It refers to a Japanese study indicating that the most carcinogenic chemical ever found is in diesel and the second most carcinogenic chemical is also in diesel. The study points out that the increase in lung cancer in Japan is believed to be linked in part to exposure to diesel. Diesel is a nasty substance, and we know the Federal Government is keen on it because it is about to reduce the diesel excise rate. I echo the concerns of the Australian Medical Association and others, who are alarmed about this and predict that it may contribute to 50 more premature deaths per annum through particulate air pollution. It is a serious problem which is not being adequately addressed.

Last year the Federal Government produced a report by the Australian Academy of Technological Sciences and Engineering on urban air pollution in Australia. It looked in some detail at the need for cleaner diesel fuel, and said many of the things said by the member for Armadale. The report stated that consideration should be given to the amount of sulfur in diesel fuel in order to reduce the amount of particulate matter. In the European Union a directive has been issued that from 2000, sulfur levels must drop to 53 parts per million and from 2005 must be down to 50 ppm. In all parts of the world people are acting quickly to tackle this problem. In Australia the sulfur content of diesel is up to 5 000 ppm, and in 1996 the average level of sulfur in diesel was 1 500 ppm. As the member for Armadale said, even if that figure moves downwards, it will go only to 500 ppm. The alarming evidence from the urban air pollution study by a very knowledgable academy indicates that, although city diesel with sulfur levels at 50 ppm decreases emissions, if people want to go the whole hog and use the new technology available, fuels with less than 50 ppm, and probably 30 ppm, must be used.

While the Government is setting off down the diesel track and, on the face of it, the reports appear reassuring, it has not adequately assessed the impact on health or heard the full story, and establishing a select committee would be a sensible way of looking into this properly.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [3.14 pm]: The Government will oppose the motion. With your indulgence, Mr Deputy Speaker, I will read some of the notes provided by Transport WA.

> The formation of a select committee to review the findings of the Government's Expert Reference Group would be wasteful in view of the nature of the Expert Reference Group's findings and recommendations. The overriding conclusion of the Expert Reference Group was that it is not possible to offer a recommendation for a fuel technology combination which meets the combined requirements sought by all parties to the debate.

Ms MacTiernan: Will the minister answer the questions raised?

Mr OMODEI: The member should raise those technical matters with the Minister for Transport.

Ms MacTiernan: You are representing the Minister for Transport. You are the Government.

Mr OMODEI: The member cannot expect me to answer those questions off the cuff. Perhaps the member for Armadale should be in the other House. The report from Transport WA continues -

> The combined requirements sought are -
>
> (1) lowest full cycle greenhouse gas emissions,
>
> (2) lowest air toxic emissions,
>
> (3) least contribution to population-weighted exposure to PM10, and,

(4) least contribution to population-weighted exposure to smog produced.

LPG meets the first two requirements but not the last two. CNG is close to meeting the third and fourth, but is behind low sulfur diesel on the first two. However, it is evident that low sulfur (0.05%) diesel with an oxidation catalyst meets the third, and is close to meeting the first, second and fourth. On environmental grounds, therefore, low sulfur diesel comes closer to meeting the combined requirements than any other fuel.

Both in Australia and overseas, most operators and manufacturers indicated a preference for diesel on the grounds of reliability, efficiency and price. A few Australian operators felt that CNG offers an advantage because of its image as a clean fuel, but said they would need to review their position with any significant rise in the price of CNG or fall in the price of diesel.

Ms MacTiernan: You are just reading the department's report.

Mr OMODEI: Yes, I am. I am reading the report that is provided to me by Transport WA. It continues -

The majority, however, believed that over the next four or five years low sulfur fuel, used in Euro 2 and Euro 3 diesel engines with exhaust after treatment, would provide the best value for their operating dollar. The ERG's professional economic analysis confirmed the accuracy of that belief. On economic grounds alone, a modern Euro 2 diesel bus and its successors is likely to provide the lowest cost solution to Perth's bus requirements in coming years. The economic advantage provided by diesel depends mainly on its lower capital cost, but also on lower maintenance costs. When environmental costs - for example, greenhouse gases, air pollution - were counted as part of the economic cost, the analysis still showed an economic advantage from Euro 2 (and, subsequently, Euro 3) diesel buses.

After completing their investigations, the ERG concluded that on all three grounds - environmental, operational and economic - low sulfur diesel is the fuel of choice for the new bus fleet. Using this fuel throughout the existing fleet will have the added advantage of lowering particulate emissions from older buses.

Noting that the contract for supply of new buses requires that they meet Euro 2 emission standards, the Group recommends that -

1. diesel fuels with a maximum sulfur content of 0.05% be used for Perth's new buses;

2. the introduction of this fuel should occur at the same time as excise on diesel is lowered under the Federal Government's tax reform package, or no later than 1 January 2001;

3. Oxidation catalysts should be used on these vehicles coincident with the use of 0.05% maximum sulfur fuel, and all Euro 2 buses purchased prior to the availability of this fuel should be retrofitted with these catalysts;

4. diesel engines conforming to Euro 3, and subsequently Euro 4, should be introduced as soon as practicable after being mandated in Europe (or equivalent standards and timing in the USA). Diesel fuel of a quality appropriate to the use of these latest technology engines should then be introduced;

5. the Government maintains its commitment to purchase a number of new CNG buses and monitor their operational, environmental and economic performance;

6. the Department of Transport continue to monitor the development of emerging fuel technologies with a view to assessing their relevance to long term requirements; and

7. these recommendations be reviewed in 2003.

Since the report was published, and accepted by Government, the entire Transperth bus fleet, with the exception of only around 12 buses has amended its distillate supply arrangements to the purchase of diesel fuels with a maximum sulfur content of 0.05%. This fuel is now in use in the Transperth fleet. The percentage of sulfur has already been reduced from around 0.2% to a quarter of its previous levels.

Additionally, the Hon Minister for Transport, accompanied by Ms Alannah MacTiernan, visited the Mercedes manufacturing plants in Germany and examined the new NEBUS. The NEBUS is an acronym for "new electric bus", and that bus uses fuel cell technology which results in emissions of carbon dioxide and water vapour.

It makes little sense to argue about emission differences between low sulfur diesel and CNG which are by common admission 'at the margin', when the likely technological trend for public transport in the cities is the fuel cell bus. The Mercedes NEBUS is currently being trialled in Germany. There are NEBUS units in operation in commercial bus fleets in Vancouver and Chicago. Mercedes Benz is aiming to have this technology in commercial production in 2004.

Those are the comments that were presented to me by the Department of Transport and I have read them into *Hansard* on behalf of the minister.

MR MASTERS (Vasse) [3.20 pm]: I oppose this motion primarily because discussions are currently underway or soon will be entered into between various parties which, if those discussions are successful, will overcome, to a large degree, the need to have a select committee. I support the Government's decision last year to go diesel. I also support its decision last year to install electronic fuel injection technology in five Mercedes-Benz buses. I also support the decision by the

Government to go with the Renault conversions; an agreement that was negotiated some years ago. Clearly, I am sympathetic to the goals of the motion and the intentions of the member for Armadale. However, I will add a few comments to allow members to understand my position in the overall issue of gas versus diesel-powered buses.

I accompanied the Minister for Transport, two of his staff and the member for Armadale on a visit to France and Germany from 8 to 15 April. I thank my hosts at both Renault and Mercedes-Benz. Some of the conclusions that I arrived at are worth passing on. Before I left Western Australia, I had a meeting with a Western Australian-based company called Transcom. Without going into the history of that company, it is my understanding that Transcom believed that Renault's position is ultimately to accept Transcom's electronic fuel injected gas technology within the large and profitable European bus market once 100 buses have been converted to Transcom's technology in Perth and have been shown to be reliable and efficient. I was also informed that Mercedes-Benz has recently awarded a $US60m contract to a Toronto-based company for the development of electronic fuel injection gas technology. It is also worthwhile to point out that Transcom knows very well the history of a company called Ballard Power Systems, which is now at the forefront of developing fuel cells. Ballard is now valued at more than $US1b and it is a major partner with DaimlerChrysler and the Ford Motor Company in a $US1.4b research program that is hoped to take the fuel cell into commercial production.

Ballard originally began as a struggling Vancouver-based company with nothing more than a good idea about fuel cells. The Government of British Columbia funded it with a $10m Canadian grant to produce a bus that would be powered by a fuel cell. That relatively small amount of taxpayer assistance has made Canada home to one of the world's most important technological developments that will one day form a crucial part, if not the major part, of the global transport scene. Not surprisingly, Transcom is looking at the history of Ballard. It hopes that, with a small amount of support from the WA Government, it may one day become the owner of the world's best electronic fuel injection gas technology; in other words, that it may one day emulate the success of Ballard Power Systems.

On the recent visit overseas, my first port of call was France where I was hosted by the Renault corporation. I was taken to the town of Poitiers, a one and a half hour train ride south west of Paris, where the local town council has contracted Renault to supply 16 gas buses. Initially it was a political decision to meet the demands of the local community. The community wanted better air quality with consequent improvements to human health and protection of historical buildings. Since 1997, the town of Poitiers has used Renault's carburettor injection technology and it is pleased with the public acceptability of the buses. There is no problem whatsoever with reliability, and efficiency is better than diesel. Like Transcom, it experienced initial problems, but all of those problems have now been resolved.

I then joined the Minister for Transport and spent five days with DaimlerChrysler or Mercedes-Benz in Germany, and I will pass on to members some of my conclusions. There is no doubt that fuel cell technology, as we were shown, is very impressive. Its potential is global and absolutely profound in terms of the future of transport within the world. There is no doubt that the ultimate goal of the Department of Transport of having fuel cells provided in Western Australia is a desirable and, one day, achievable dream. I was very impressed by the fact that in less than eight years, Ballard Power Systems and Mercedes-Benz were able to reduce the size of an operating fuel cell from half the size of a bus in 1991 to the same size as a standard diesel engine in 1998. That reduction in size and cost will continue so that, in the short to medium term, we will end up with a technologically acceptable and financially viable fuel cell. However, the problem is that no evidence was presented to us during our visit that suggested DaimlerChrysler's estimate of commercial production for passenger vehicles by 2004 will be met. It made some very impressive presentations, but my conclusions were that it would take another five years beyond 2004 to make the technology both commercial and economic. I have only recently been advised that a Ford Motor Company spokesman in the United States has said that - it is a quote from a journalist and members take that at some peril - fuel cell technology would not be technically viable for buses until, at the earliest, 2008, but it would still be at a high price.

The tone and nature of the presentations made to our group by Mercedes-Benz led me to conclude that, some three or four years ago, Mercedes-Benz made a corporate decision that the fuel source for driving buses would remain diesel until fuel cell technology took its place. It has been caught short, however, and customers are demanding that Mercedes-Benz supply gas-powered buses. That is a good explanation as to why the Mercedes-Benz corporation is now investing $US60m in the Toronto-based company to develop electronic fuel injection gas technology.

Mercedes-Benz has been caught short in its decision of three or four years ago. It is now urgently working to supply its customers with both electronic fuel injection and carburettor gas-powered engines. I am also convinced that Transcom has the potential to provide a world-class technology, namely electronic fuel injection gas, that will have significant global application and a useful life of 15 to 20 years before the anticipated dominance by fuel cells occurs.

I have no problem in suggesting that modest support from the taxpayers of Western Australia can be politically justified to assist Transcom to put good, clean and efficient buses on the roads in Perth, with the spin-off that it may be able to take a global position that will be of enormous benefit to all Western Australians.

It will be necessary for this Government to require Mercedes-Benz to accept Transcom technology for electronic fuel injection gas on at least five of the 133 diesel buses that will be supplied over the next few years. There is strong merit in allowing Transcom to continue with its conversion of the remaining 90 Renault gas buses. The mover of this motion understands that she has my support in principle for the goals that are sought to be achieved by the motion; but, as I said at the beginning, it is likely that there will be no need for a select committee once certain investigations get under way.

MR COWAN (Merredin - Deputy Premier) [3.31 pm]: I find it extraordinary that the member for Armadale has sought to indicate to the House, by some form of personal denigration and attack on the members of the reference group, that the reference group and its findings have no validity. In order to demonstrate her case, the member for Armadale talked firstly

about Brian Bult and said that the fact that he is an automotive component supplier is reason to challenge his independence. It does not matter what fuel system will be utilised on a particular bus. Buses by their very nature are made up of component parts. Therefore, it is highly likely that irrespective of the fuel type, that person will be in a position whereby his components are supplied for the type of bus that will come into Western Australia. You know, Mr Deputy Speaker, I suggest probably more than anyone else in this House, that component parts are very much part of the automotive industry. It is common nowadays for motor vehicles which compete under different badges to comprise the same component parts. Therefore, I find it difficult to believe that the member for Armadale can say that a person who supplies component parts is incapable of making an objective assessment of this issue.

Ms MacTiernan: There are two rival gearbox manufacturers.

Mr COWAN: Yes.

Ms MacTiernan: One supplies to Mercedes, which is competitive in diesel. The company with the most advanced gas technology is Renault. Renault has an agreement and a contract with the rival gearbox manufacturer, so it is far more likely that one can argue that there is a direct commercial advantage. If you want the group to be independent, why get a person like that?

Mr COWAN: The next person mentioned by the member for Armadale was Mr Alan Bray, who happens to be involved with Path Transit, and whose boss happens to have an involvement with Volgren Australia Pty Ltd. The buses are supplied on the basis of engine and chassis, and while the contract to build the bodies is interlocked, nevertheless it is a separately written tender. There is no doubt that if we were to move to gas buses and wanted to put the gas cylinders in the roof of the bus, we would need to strengthen those bus bodies, but that does not mean that person cannot provide some valid comments. The member for Armadale should have looked at that person's competence to talk about the industry and the efficiencies within the industry rather than take this personal approach and say that because that person happens to have some tenuous connection with Volgren, he is not -

Ms MacTiernan: A direct financial interest in the contract!

Mr COWAN: The member for Armadale did not challenge the members of that reference group on the basis of their competence and their knowledge of the transport industry. The member for Armadale had to find some tenuous issue in which she could then say these people have an interest. I know that will be well reported, but it would be nice to think that someone would balance that report by saying that these people's competence and knowledge of the transport industry was not challenged by the member for Armadale. It is very important that we ensure that the people who give expert advice have some knowledge about the transport industry.

The next issue is gas versus diesel. I am pleased to accept the report of the expert group. In my view, diesel buses, with the use of low sulfur content fuel and catalytic converters, will be as efficient as anything that we can get. I have some knowledge of vehicles which are based on fuel injection systems, and because fuel injection for gas is somewhat new, the reliability of the technology has not necessarily been proved - although there is no question that it certainly works - and there is some difficulty about the ability of such a bus to be on the road without having to undergo high maintenance costs.

Ms MacTiernan: What is the basis for that statement?

Mr COWAN: Firstly, the Western Australian experience, which can be discounted to a certain extent because most of the buses which have been converted to gas in Western Australia have been in use for some time, and there was quite a lot of disputation about whether the company that won the contract to convert the buses should get access to new engine blocks that had been cast to deal with the low compression requirements of a gas engine as opposed to the high compression requirements of a diesel engine. That conversion was not regarded as successful in respect of reliability. I am aware that in some places where the engine has been designed for a lower compression ratio which is more suited to either liquefied natural gas or compressed natural gas, even associated with fuel injection to provide greater economy, the reliability of those buses and the overall cost of their on-road maintenance is higher. That is not disputed by any manufacturer of gas-fuelled vehicles. The only occasion when that may be raised is with a fleet of new buses that has not had that length of service and that can be regarded as reliable.

It is wrong to challenge the findings of the reference group. All of the reliability issues about the Government being able to ensure that the buses it purchases meet the standards that are required - and they do - have been addressed. Those standards extend beyond emissions to operational costs, costs associated with maintenance and also value for money for the State of Western Australia.

I make two other points. In awarding this contract the Government has made it clear that a minimum number of buses will need to use gas as a fuel.

Ms MacTiernan: What is that number?

Mr COWAN: I do not have those notes with me.

Ms MacTiernan: Could it be three perhaps?

Mr COWAN: No, it is more than that.

Ms MacTiernan: It is no more than five?

Mr COWAN: That is the first purchase. These buses will be purchased over a period of years. Those gas fuelled buses

will demonstrate their reliability and we can assess the costs associated with their operation and maintenance. There is a provision for the Government to be able to increase the number of gas buses subject to their proving reliable.

Mr Deputy Speaker, I will make one final important comment and I am sorry that Mr Speaker is not here. I am surprised that Mr Speaker did not direct the member for Armadale to change the motion for the simple reason that anyone who occupies the chair in this place is usually jealous of the distinction between the Government and the Parliament and they will always argue strongly in favour of the fact that the Government is subject to the authority of the Parliament. However, this motion asks the Government to give consideration to establishing a select committee. I will quote precisely because the member for Armadale has not done so at any time in arguments and points made by her in this debate. The member asks for -

> . . . the Government to give urgent consideration to the formation of a select committee . . .

Ms MacTiernan: That is right, because at the end of the day you as a Government have to make the decision.

Mr COWAN: The truth of the matter is that on most occasions the member could have easily stood in her place on the first day of sitting this week and given notice of a motion for the Parliament to determine whether it will establish a select committee. Although I am pleased that she recognises the authority of this Government and the power it has in this place, I am amazed that the Chair decided that he too would recognise that level of authority.

We will not support this motion. However, I suggest to the member that it is so poorly worded that even if we did, what value would it have to give urgent consideration to something we could go outside and consider for 10 minutes.

Ms MacTiernan: We could develop the terms of reference and present a motion before this House. However, if you are not going to consider it, there is no point.

Mr COWAN: I am amazed that this motion was put forward in this fashion. The member for Armadale must have been having a very bad day.

There has been enough investigation on this issue of the buses. There is enough flexibility in the contract to ensure that we achieve the best deal in relation to emission controls and also to ensure that we get the best value for money for the people of Western Australia.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (28)

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

Pair

Mr Graham	Mr Court

Question thus negatived.

MINISTER FOR POLICE - QUESTION ON NOTICE 2604

Personal Explanation

MR PRINCE (Albany - Minister for Police) [3.48 pm]: I make a personal explanation concerning a response to question on notice 2604 from the member for Midland which, for the purpose of elucidation of members, is a nine-part question which reads as follows -

(1) What are the details of the current contract agreement involving Crime Stoppers?

(2) Was the contract subject to tender?

(3) If not, why not?

(4) Have there been any investigations into Crime Stoppers?

(5) If so, who conducted any investigation?

(6) Has any such investigation been completed?

(7) If so, what was the result?

(8) Were there any recommendations arising out of an investigation?

(9) If so, what were they?

The answer that I supplied to the question on notice related to questions (1)-(3) which were the questions concerning the contract for Crime Stoppers. I quote as follows -

(1)-(3) Crime Stoppers Western Australia Limited is a registered company controlled by a board of directors. The Chief Executive Officer of Crime Stoppers Western Australia Limited is Mr Noel Semmens. Issues concerning contracts entered into by Crime Stoppers Western Australia Limited or any other queries pertaining to the company can only be commented upon by the company directors. These are not issues which can be dealt with by the Western Australia Police Service.

The answer to question No. 4 relating to any investigations into Crime Stoppers was yes.

Answers (5), (6), (7), (8) and (9) answered the questions concerning the investigation. I make it clear that the answer "Yes" to question (4) is to some extent inaccurate. I explain as follows: Officers from the Western Australia Police Service internal affairs unit are currently investigating allegations of misconduct made against police officers previously attached to the Crime Stoppers unit at the police crime support portfolio. I suppose this arises because of the nature of the question asked by the member for Midland, which was whether there had been any investigations into Crime Stoppers. Technically, I suppose, in a sense, yes, there have been, but mostly no, there has been no investigation at all into Crime Stoppers Western Australia Limited, the registered company. I make that abundantly clear. Investigations are under way at the present time by the Western Australia Police Service internal affairs unit into allegations of misconduct against police officers in the Crime Stoppers unit, which is part of the police crime support portfolio.

By making that explanation, I trust that I completely exonerate the company from any suggestion that there is any form of investigation under way involving it. The allegations against the police officers, the subject of investigation, were not made against the company, its directors or staff, but against the police officers only. The investigation is incomplete. To date, no recommendations have been forthcoming. I trust that explains adequately what could otherwise be a misconception.

COURT SECURITY AND CUSTODIAL SERVICES BILL

Third Reading

Resumed from an earlier stage of the sitting.

MR PRINCE (Albany - Minister for Police) [3.52 pm]: Prior to 90-second statements before lunch, I was responding briefly to comments made during the third reading stage of the first of the two Bills that were dealt with cognately in committee. The first comments I make concern the process of dealing with these matters in the Legislation Committee. The comments of previous members who made observations about it are fair, reasonable and correct. The process was good in the sense that it was, relatively speaking, informal. No time limits were placed on the length of speeches. To some extent that is both a positive and a negative. The whole committee exercise took much longer than it should have. On the other hand, that degree of informality or less stricture on the way in which members were able to behave in the committee led to useful debate on many of the issues that were raised. I certainly endeavoured to provide the information as members asked questions about matters that were background to, or in some way germane to, the Bills that were before the committee.

From a procedural point of view, I therefore recommend to the House that we continue with the Legislation Committee. However, I offer this warning: When we have another Legislation Committee on some other legislation, it should be approached by the members concerned with a view to at least trying to have some brevity in their behaviour rather than engaging in tedious repetition and wasting time. At the beginning of the committee stage it was explained to me bluntly by the member for Burrup that the Labor Party did not agree in principle with this legislation and consequently would be opposing it. I appreciate that one method by which opposition is expressed to any piece of legislation is to waste time tediously. In the committee stage, when it is in a Legislation Committee, that achieves very little, other than to try the patience of all concerned which, after all, does not achieve anything of a positive nature. It is a good process; it worked well. However, notwithstanding whether the matter was contentious or otherwise from a party political point of view, it should have been possible to progress the debate on the Bill more expeditiously than we did.

I turn to the substance of that which has been raised. The member for Wagin is particularly knowledgeable on matters concerning subordinate legislation - perhaps to some extent too knowledgeable. He raised some interesting points concerning the question of whether the rules, as they are expressed - I called them standard operating procedures during the course of the debate in committee - are rules within the Interpretation Act and are consequently some form of subordinate legislation which should be considered by the Joint Standing Committee on Delegated Legislation and, if not, are capable of being disallowed and so on. At the time, on advice from the Solicitor General or Crown Law, I expressed the view in the committee that these particular rules are more in the line of standard operating procedures. They are not the sort of rules that one would expect to see as subordinate legislation and consequently should not be so dealt with. I appreciate that the member for Wagin's view is that if they were called anything other than rules, the Joint Standing Committee on Delegated Legislation would not examine them. That is an extraordinary proposition, because a cow is a cow whether or not one calls it a duck. In other words, the label should not make any difference to whether it is or is not subordinate legislation. Therefore, I do not give much credence to that proposition.

Mr Wiese interjected.

Mr PRINCE: What the member suggested is that if these things were called standard operating procedures instead of rules, the Joint Standing Committee on Delegated Legislation would not examine them. He just contradicted that by saying that it does not matter what they are called, if they are subordinate legislation the committee must examine them. We should have a definitive opinion from Crown Law on whether these rules, by whatever name, are or are not subordinate legislation which should be dealt with by the Delegated Legislation Committee.

I am obliged to the Clerks to this House for information about Commission on Government recommendation 121.2, which proposed that all subsidiary legislation should come within parliamentary committee purview and be supported, and the proposals from the Joint Standing Committee on Delegated Legislation for achieving that should be adopted. However, it must be noted that Parliament determines the powers that it delegates, and the Joint Standing Committee on Delegated Legislation should prepare a report or other advice setting out examples of disallowance procedures being avoided. That would enable advice to be obtained from Parliamentary Counsel's Office through the Attorney General on the most appropriate method to avoid reoccurrence.

In November 1995, The Joint Standing Committee on Delegated Legislation presented its sixteenth report entitled "The Subordinate Legislation Framework in Western Australia". One of the major recommendations in that report was a proposal to delete the definition of "subsidiary legislation" in section 5 of the Interpretation Act and replace it with a definition that states -

> subordinate legislation means any rule having legislative effect (howsoever it may be described) authorised or required to be made by or under an Act.

Parliamentary counsel has noted with regard to that that the committee recommended major changes to the regime for subsidiary legislation that has been in place during most of this State's history of representative government. Proper justification is needed for such changes. The committee has referred in passing to matters such as abuse and misuse of subsidiary legislation, lack of accountability in rule making and arbitrary and capricious rule making, but did not set out any instances in which these things had occurred. No evidence was put forward in the report in the form of extracts from relevant literature or references to overseas authorities to substantiate that view.

Parliamentary counsel comments further that it is always useful and sensible to draw on the experience of other jurisdictions. However, the committee may wish to make a closer study of the way in which subsidiary legislation is made in this State and the purposes for it. In addition, much subsidiary legislation is of a somewhat run-of-the-mill nature and may not warrant the elaborate procedures proposed by the committee. The change proposed to the Interpretation Act would necessitate the amendment of more than 100 references in other Acts.

Parliamentary Counsel's Office suggested that there may well be categories of instruments that would benefit from greater public input and more rigorous justification. I agree with that. Parliamentary Counsel's Office would, if asked, be willing to assist in identifying those categories. Sadly it seems that the issue has gone no further. I suggest that as the member for Wagin is the Chairman of the Joint Standing Committee on Delegated Legislation he should take up the matter from that point of view rather than our having to deal with this issue. I will undertake to obtain an opinion from the Crown Solicitor's Office as to whether these rules should come under the purview of delegated legislation. I do not think they do and we will see what happens. I have sought that opinion as a matter of urgency. However, I suggest the Joint Standing Committee on Delegated Legislation examine the whole exercise again based on a report in 1995, the comments I have just made and the Commission on Government's recommendations, which do not seem to have progressed.

Mr Wiese: I am saying that all of that needs to be changed. The existing situation is that rules are picked up in the Interpretations Act.

Mr PRINCE: I am of the view that the rules we are talking about here are standard operating procedures and for obvious reasons to do with security they should not be reviewed publicly and that that is how they should be dealt with. I am obliged to the members for Wagin and Dawesville for their comments.

The member for Burrup made some interesting remarks about the system in referring to police courts. I think I am right in saying, subject to correction, that originally the courts we now call courts of summary jurisdiction and petty sessions were called police courts because they were established under police legislation. It was only in 1902 that a Justices Act established the Court of Petty Sessions. Consequently, courts like Beaufort Street and the East Perth Court of Petty Sessions, as it is now, were called police courts well into the 1970s and 1980s because that is how they were established and they were courts in which offences against the Police Act were dealt with. They were places which were largely run by police and to which magistrates, justices of the peace and stipendiary magistrates came in due time. The system has evolved away from that so the courts at the summary Magistrate's Court level are basically independent of the police, as they should be. Police are enforcers of the law, they are not otherwise involved in the justice system other than to give evidence and to argue the prosecution case in the lower courts.

This is the correct evolution but it was not the case 100 years ago. The courts are now open to and used by the public and anyone may come and go. However, the overwhelming majority of people who go to courts are those who have some interest in what is taking place in the particular trial or appearance. They may be friends, relatives or supporters of the victim or the accused and they make up the bulk of the people who enter the back of a courtroom to watch. There are few, if any, members of the public who go along to look at courts and perhaps there should be more. One hundred years ago there were many such people because it was a major venue for the entertainment of people.

Mr McGowan: Maybe a few more should come to Parliament too.

Mr PRINCE: Perhaps. I made the point in the committee when the member for Rockingham was not in attendance that in the United Kingdom at the turn of the century and prior to the First World War there was one F.E. Smith - later Lord Birkenhead - who was a man of extreme capacity when it came to the use of words. Whenever he appeared in court, the place was packed and whatever he said was reported as entertainment in the popular press of the day. He was a brilliant barrister who had a rare and extremely clever turn of phrase, so much so that he became a personality of the day and was able to sell his services in the advertising field. He is a person I have studied.

Mr McGowan: Was he a sort of nineteenth century version of Rose Porteous?

Mr PRINCE: No, he was the nineteenth and early twentieth century version of the subsequent character Rumpole, but did it with a good deal more aplomb. There is no way he can be compared with Rose Porteous; that is totally unfair. However, we do not have the public interest in court processes today that there was 100 years ago. Why? It is largely because there are other means of mass entertainment, of which television is the most obvious. In the United States they have gone so far as to televise court cases, not just the sensational ones like the O.J. Simpson trial but many others in many States. I do not know whether that will ever happen in Australia and maybe it is something we should debate at a later date. However, it is a fact that the majority of people who go in and out of courts have an intimate connection with the case or cases being heard on the day. If one was to ask them if they wanted more publicity of a particular case, almost universally they would say they do not, either because they are the victim and do not want that fact publicised or because they are the accused and do not want that fact publicised whether they are guilty or innocent. Nonetheless, the public has a significant interest in seeing that justice is done in an open fashion. In our society today that is done through the media reporting what happens in the courts with greater or lesser degrees of accuracy and sometimes the accuracy or otherwise can be a contentious issue. However, fundamentally that is how the general public learns how the courts are conducted and cases are dealt with.

There is no suggestion at all in this legislation and in the powers to be given to the officers who will be the court orderlies that there should be any refusal of admission on an arbitrary or capricious basis. However, in the first schedule, power is given to court orderlies to ensure that there is no disorderly conduct within a courtroom. These are powers which have been approved by the judiciary as being appropriate. In some respects they are powers which police officers do not have at present when they act as court orderlies in the sense of having the power to search people and bags, but they are akin to the powers which exist in airports, places which are open to and used by thousands of Western Australians every day. They are, sadly, necessary. One hundred years ago they were not necessary but they are today. They are necessary now because people's behaviour has changed over the years and people behave in courtrooms in ways that one would not want them to. We need to be able to pre-empt that when we can, to have the power and the ability not only to search but also to remove people from the courtroom when they show on reasonable grounds that they are about to behave in some sort of disruptive fashion. I strongly disagree with the member for Burrup that the judgments which must be made by an officer in those circumstances are subjective; they are not. They are objective because the officer must have a reasonable belief. The member for Burrup of all people should know that reasonable belief is an objective test and not a subjective one. That was a matter of significant debate in the committee but, leaving it aside, I share with the member for Burrup the importance of people having confidence in the court system and access to it to see how things are done.

The substantial objection from the Labor Party to this legislation was partly enumerated by the members for Burrup and Bassendean. On behalf of the Labor Party, both those gentlemen said that court security, lockup management and the transport of prisoners should be provided by people directly employed on the public purse. The Government believes this is a service which should be provided by someone other than the police and that who provides the service is of less importance in determining what is provided by way of a service and how it is provided from the point of view of standards, training and accountability. If the private sector can provide that service, it should be enabled to do so. That is the fundamental difference between the Government and the Labor Party on this matter. The Labor Party says this is something government should do directly and that it is not something which should be the subject of a contract with a private industry provider. That was a theme which ran through much of the debate in the committee over the past four weeks and it cropped up in a number of different places. In his contribution to the third reading debate the member for Bassendean spoke at length about the issue of workplace agreements and accountability. That was one part of the debate.

The origins of this concept are found in the Commission on Government and the McCarrey report of 1993. I am obliged to the member for Midland for drawing attention to those reports in debate last night. A recommendation of the McCarrey report in the chapter on the Police Department was that police should no longer be involved in court security and the transport of prisoners, which was regarded as waste of valuable time and training of police officers. It recommended that some other organisation should undertake the tasks, and that private operators, if they are competent, should be considered. This practice is followed in other places. It has been undertaken in the United Kingdom, for instance, for a number of years with a significant degree of success. The number of escapes and misadventures has reduced significantly since the advent of private contracts for such service provision in that country. I understand that also to be the experience elsewhere. I see no reason for the public, through the Government, not contracting privately for court security and prisoners' transport in a way that is subject to accountability through the Ministry of Justice, through which freedom of information will apply to the private provider. A number of accountability measures hitherto only thought of as applying to government will apply to private providers. In other words, there will be strict accountability in the way the service is provided. Also, control of standards, training and so on will apply.

Therefore, the Government's view is that if the private sector can provide the service, it should be invited to do so. Whether it does so to the Government's satisfaction remains to be seen. The Labor Party's substantial objection relates the private operators undertaking that function. Otherwise, I think all members agree that we need a third service to take over these

functions. The police should not provide these services any more. I disagree to some extent with the member for Wagin, who said that the police should never have undertaken that role. In the early stage of the colony and State, until relatively recently, no other organisation could have done many of these things. This is not a function for police with population growth and increasingly sophisticated societal structures; we have long since reached that stage in the metropolitan area and larger regional towns. In the smaller centres where police provide functions which are not strictly policing, that practice will continue simply as a result of the small populations. The police should not perform this function in the larger centres as they should deal with crime, public order and safety concerns, not sit around acting as a court orderly or transporting prisoners ad nauseum up and down the highways of this State. When transporting prisoners, officers are undertaking no active policing apart from making a presence on the road seen by motorists, albeit in a security van, not a pursuit car.

The only disagreement between the Government and the Labor Party is that the Government believes this task can be carried out well, indeed, in an exemplary manner, by a private contractor - the Labor Party does not. I commend the Bill to the House.

Question put and passed

Bill read a third time and transmitted to the Council.

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL

Third Reading

Question put and passed.

Bill read a third time, on motion by Mr Prince (Minister for Police), and transmitted to the Council.

PORT AUTHORITIES BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

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

The amendments made by the Council were as follows -

No 1

Clause 7, page 8, after line 4 - To insert the following new subclauses -

(2) The Minister must by writing determine a code of practice for nominations and appointments to a board of directors that -

(a) sets out general principles on which nominations and appointments of directors are to be made, including, but not limited to -

(i) merit;

(ii) independent scrutiny of appointments;

(iii) probity; and

(iv) openness and transparency, and

(b) sets out how these principles are to be applied to the selection of directors.

(3) After determining a code of practice under subsection (2), the Minister must publish the code in the *Gazette*.

(4) Not later than every third anniversary after a code of practice has been determined, the Minister must review the code.

(5) In reviewing a code of practice, the Minister must invite the public to comment on the code.

(6) A code of practice determined under subsection (2) and any amendment are regulations for the purposes of section 42 of the *Interpretation Act 1984*.

(7) In appointing members, the Minister must ensure that the balance of interests on the board is such that no one interest may dominate the board.

No 2

Clause 30, page 20, after line 16 - To insert the following new subparagraph -

(f) to protect and enhance the environment of the port.

No 3

Clause 35, page 23, after line 22 - To insert the following new subclause -

(6) In -

(a) entering into or negotiating a contract or arrangement for the purposes of subsection (2) (b) to (f); or

(b) issuing, or dealing with an application for, a licence authorizing the holder to provide port services,

a port authority must not -

(c) impose, or purport to impose, an obligation on any person; or

(d) seek an undertaking from any person,

as to the method by which, or manner in which, the person's employees are to be employed other than an obligation or undertaking that the method or manner be lawful.

No 4

Clause 51, page 34, line 26 - To insert after the word "facilitation" the words "and the environmental management of the port".

No 5

Clause 64, page 41, after line 8 - To insert the following new subclause -

(4) Any copy of a statement of corporate intent to which subsection (3) applies must contain a statement detailing the reasons for the deletion at the place in the document where the information deleted would otherwise appear and be accompanied by an opinion from the Auditor General stating whether or not the information deleted is commercially sensitive.

No 6

Clause 69, page 43, after line 29 - To insert the following new subparagraph -

(f) include a commentary on compliance by the port authority or the subsidiary with the environmental management plan in respect of its port.

No 7

Clause 70, page 44, line 4 - To insert after the word "delete" the words "a matter".

No 8

Clause 70, page 44, line 6 - To delete the words ", a matter that is of a commercially sensitive nature" and substitute the following words -

if the board believes, on reasonable grounds, that the disclosure of the matter would compromise the competitiveness or commercial operations of another person

No 9

Clause 70, page 44, lines 11 and 12 - To delete the words "of a commercially sensitive nature".

No 10

Clause 70, page 44, line 12 - To insert after the word "it" the words "under this section".

No 11

Clause 90, page 57, line 13 - To insert after the word "in" the words "subsection (2) and".

No 12

Clause 90, page 57, after line 15 - To insert the following new subclause -

(2) The Minister and the board of a port authority must comply with section 58C of the *Financial Administration and Audit Act 1985* as if -

(a) the port authority were a statutory authority; and

(b) the board were its accountable authority,

within the meaning of that Act.

No 13

Clause 114, page 72, lines 14 and 15 - To delete the lines.

No 14

Clause 114, page 72, line 17 - To delete the words "Director General" and substitute "Minister".

No 15

Clause 114, page 72, line 21 - To delete the words "Director General" and substitute "Minister".

No 16

Clause 114, page 72, lines 26 and 27 - To delete the words "Director General" and substitute "Minister".

No 17

Clause 114, page 73, after line 2 - To insert the following new subclause -

(5) The Minister must within 14 days after a direction is given cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 133.

No 18

Clause 133, page 81, line 6 - To insert after "84(5)" the following "or 114(5)".

No 19

New clause 35, page 21, after line 18 - To insert the following new clause -

35. Duties in respect of environmental protection

(1) This Act is subject to the *Environmental Protection Act 1986*.

(2) A port authority shall formulate and maintain an environmental management plan for its port.

(3) In formulating and maintaining an environmental management plan for its port under subsection (2) the port authority shall —

(a) comply with the *Environmental Protection Act 1986* and any policy or plan made under that Act;

(b) consult with, have regard to and endeavour to give effect to any advice given by the Environmental Protection Authority; and

(c) take into account principles of ecologically sustainable development.

(4) In formulation of an environmental management plan for its port, the port authority shall make reasonable endeavours to consult such public authorities and persons as appear to be likely to be affected by the environmental management plan.

(5) In the event of a dispute arising between the Environmental Protection Authority and the port authority, that dispute shall be referred to the Minister responsible for the *Environmental Protection Act* for determination.

(6) The port authority shall implement the environmental management plan formulated and maintained by it under subsection (2).

No 20

Schedule 3, page 98, after line 2 - To insert the following new subclause -

(3) It shall be a defence to a charge laid, pursuant to subclause (1), that it was in the public interest to disclose the information which is the subject of a charge.

Mr OMODEI: I move -

That amendment No 1 made by the Council be disagreed to.

This amendment seeks to require the minister to put in place a code of practice for nominations and appointments to a board. This code would need to be reviewed every three years in a process requiring public comment, and would be disallowable by Parliament and require the minister to ensure that the balance of interest on the board is such that no one interest may dominate the board. The amendment is unacceptable to the Government for the reasons I now outline.

First, the end-of-line responsibility for the effective administration of ports rests with the responsible minister who is answerable to Parliament and ultimately the electorate. This amendment would cut across the concept of ministerial responsibility and severely restrict the flexibility the minister requires to ensure that the most appropriate persons are appointed to a port authority board. The process proposed would be administratively cumbersome and prone to interruption by sectional interests. The port authority boards are appointed to ensure the financial viability of a port, not to represent the interests groups in the community. A question that must be foremost in the minister's mind in making the appointment is: Who can provide quality input to provide a commercially viable port authority which best serves our local exporters and importers?

This is not an issue which is unique to port authorities and needs a whole-of-government approach, which has been adopted in the Government's amendments which I foreshadow.

Ms MacTIERNAN: I can understand the sentiments of the mover of the amendment in the Legislative Council. Concern has been expressed about the appointments in the Fremantle Port Authority, although this concern is not exclusively regarding that port. A preponderance of farming interests and industrial relations experts have been placed on these boards, regardless of their knowledge of or interest in shipping. I can see the practical circumstances in which this amendment arose in the Legislative Council, and I have certain sympathy for the desire to put some fetter on the minister. On the other hand, I recognise that there probably should not be an agency by agency code of conduct and that perhaps there should be a whole of government approach to development of a protocol. The Government has developed various guidelines to deal with this issue but, unfortunately, it has not given any statutory weight to the guidelines and protocols for the appointment of members and directors to boards. I understand that the amendment to be moved by the minister will require boards to have regard to the guidelines, such as they are. It is a bit weak, but we must deal with the Government to at least get some concessions because this legislation is in itself worthwhile. The Opposition will not go to the wall on this point because, regardless of whether this is legislatively enshrined, there will always be a fair amount of ministerial discretion in making these appointments. The important issue is to have some vehicle for politically making ministers accountable for the choices they make on these boards.

Question put and passed; the Council's amendment not agreed to.

Mr OMODEI: I move -

Clause 7, page 8, after line 4 - to insert -

(2) In appointing a person as a director the Minister must have regard to all relevant guidelines published, approved, endorsed or administered by the Minister for Public Sector Management.

The amendment is self-explanatory. This Government has done much to provide guidance on the appointments to government boards. The publication "Getting on Board", which was published by the then Public Sector Management Office and endorsed by the Premier, who has responsibility for public sector management, provides clear guidelines for ministers to consider when making appointments.

This amendment will formalise and reinforce that process, and ensure that the criteria for appointments are not handled in a piecemeal fashion varying from statute to statute. The requirement imposed on the minister should be only to have regard to the guidelines, in order not to limit unduly the ability to make the appointment which is most appropriate to the situation of the port authority at the relevant time.

Ms MacTIERNAN: The Opposition will not oppose this amendment although it is a bit weak. The Opposition supports the concept of a government-wide approach to appointments to boards and thinks it is justifiable, but it is disappointed that it has not been able to persuade the Government to substitute "comply with" for "have regard to". I do not know that there is much difference at law between having regard to and complying with guidelines. At law there might not be a great deal of difference. Certainly one hopes that either would achieve the objective of some express political accountability.

Question put and passed; the Assembly's amendment agreed to.

Mr OMODEI: I move -

That amendment No 2 made by the Council be not agreed to.

I foreshadow a substitute amendment which would insert into clause 30 a new paragraph that would give the port authority a responsibility to protect the environment of the port. Although the Government accepts that it is the responsibility of the port authority to ensure that the principles of good economic management are applied to the port, it considers that a function to enhance the environment of the port is unreasonably burdensome.

Ms MacTIERNAN: The Council's amendment, which was moved by the Greens (WA), is quite reasonable. Indeed, it was taken from the 1985 Dampier Port Authority Act. Obviously Labor Governments as long as 15 years ago were prepared to adopt a very positive stance. I recognise that we must work within a spirit of compromise to move the Government's legislation, but some of the provisions should remain and there should be an express obligation on the port authorities to protect the environment of the port. The Opposition will agree to this amendment being rejected on the basis of the foreshadowed amendment.

Question put and passed; the Council's amendment not agreed to.

Mr OMODEI: I move as a substitute amendment -

Clause 30, page 20, after line 16 - To insert -

(f) to protect the port and minimise the impact of port activities on it.

The first part of the amendment, when read in conjunction with proposed amendments to clauses 51 and 69, will ensure that port authorities have proper regard to their environmental responsibilities, while ensuring that they are not disadvantaged by having to meet a standard which would not apply to any private port operator with which they may be competing.

The second part is intended to confirm the continual application to ports of the Environmental Protection Act.

Ms MacTIERNAN: I see this slightly differently. It may be a fine point but I would like a change made to the wording.

Mr OMODEI: I have been advised that the Government should withdraw its amendment to allow the member for Armadale to proceed with her amendment.

Amendment, by leave, withdrawn.

Ms MacTIERNAN: I move -

Clause 30, page 20, after line 16 - To insert -

(f) to protect the environment of the port and minimise the impact of port activities on that environment.

If there is any difference, it is a recognition that the environment would cover the larger surrounds than just the specific port area. The responsibility is more clearly focused on protecting the environment, rather than merely protecting the precise and concise area which constitutes the port.

Question put and passed; the Assembly's amendment agreed to.

Mr OMODEI: I move -

Clause 31, page 21, after line 3 - To insert -

(2) Nothing in this Act limits or otherwise affects the operation of the *Environmental Protection Act 1986* in relation to a port, a port authority or port activities.

That is self-explanatory and I have referred to it in my previous remarks.

Ms MacTIERNAN: This amendment arises from a concern raised by the Greens (WA) in the Legislative Council, who had concerns that the Environmental Protection Act may not apply. Can the minister clarify whether the Environmental Protection Act applies to this legislation?

Mr Omodei: Yes, it does.

Question put and passed; the Assembly's amendment agreed to.

Mr OMODEI: I move -

That amendment No 3 made by the Council be agreed to.

Ms MacTIERNAN: We are pleased that this amendment will go through. It seeks to reverse a trend that has been occurring particularly in the regional ports, but not exclusively, wherein the management of the ports have been directed to use contracting out as an industrial tool.

Mr Cowan: That is nonsense and the member knows it.

Ms MacTIERNAN: I do not believe it is nonsense - we know. Without wanting to canvass matters -

Mr Cowan: I am surprised that you have raised it because you know it is a matter before the court.

Ms MacTIERNAN: The Deputy Premier should hold on. The matter before the court -

Mr Cowan: No, I will not hold on. It is time you pulled your horns in.

Ms MacTIERNAN: The former Minister for Transport has been racing around the State putting the heavies on port authorities to contract out and overturn the most successful -

Mr Cowan: It is nonsensical.

Ms MacTIERNAN: It is not nonsensical.

Mr Cowan: Get back to the amendment!

Ms MacTIERNAN: The Deputy Premier has raised these issues -

Mr Cowan: You raised them. I told you that you are talking nonsense. Get back to the amendment!

Ms MacTIERNAN: I am on the amendment.

Mr Cowan: No, you are not. You are all over the place, like you usually are.

The CHAIRMAN: Order, Deputy Premier! The member will continue her remarks.

Ms MacTIERNAN: We understand that the members of the National Party need to stick together and defend the indefensible time and again. Following the interjections and the unfortunate remarks by the Deputy Premier, I will canvass this issue more widely than I would have originally. The most successful aspect of waterfront reform that has taken place in this country in the past 10 years has been the introduction of the integrated labour force program in the regional ports. Nowhere has it been more successful than in Western Australia. Even Lord Osborne, in his maiden speech, gave praise and accolades to the aspect of waterfront reform that occurred in Bunbury. No doubt those words will come back to haunt him in time.

Mr Osborne: Did I hear my name?

Ms MacTIERNAN: The member for Bunbury referred to it the other day. I got it out and it will become a very useful instrument in the next campaign. The member must watch his interjections, because I follow up matters.

The CHAIRMAN: Order! Members are being distracted from the point.

Ms MacTIERNAN: The introduction of an integrated labour force program which involved a range of port activities, from stevedoring and maintenance to clerical functions being undertaken by a single integrated labour force, has been the reason that charges in the regional ports have dropped significantly and every other measure of port activity has increased. We have seen ports go from operating in the red to operating in the black. Any commentator will recognise that. In order to achieve his dream of the destruction of the Maritime Union of Australia, the previous Minister for Transport put pressure on the regional boards to break up the integrated labour force program and to start contracting out different segments of the service. What gave real evidence to the fact that this was designed to achieve an industrial relations outcome is that it was a requirement of the port authority tenders that the contractors engage in workplace agreements. Not only did employees not have a choice, but also employers did not have a choice. The weighting that was given to the compliance with that requirement in relation to any other requirement, such as having the expertise to do the job, was a disgrace. This amendment does not prescribe collective bargaining or workplace agreements. It simply says that if one is looking at contracting out port authority services, one will remain silent on the question of whether workplace agreements or forms of collective bargaining are engaged in. Therefore, these contracts will be assessed on their merits and not on the political objectives of the Minister for Transport.

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

Mr OMODEI: I move-

That amendment No 4 made by the Council be agreed to.

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

Mr OMODEI: I move the following additional amendment to amendment No 4 -

Clause 51, page 34, lines 15 to 18 - To delete the lines and insert instead -

(1) A strategic development plan must set out -

(a) the port authority's medium to long term objectives (including economic and financial objectives) and operational targets and how those objectives and targets will be achieved; and

(b) an environmental management plan for the port.

Although the amendment that appears in the message is considered unnecessary, in order to address some of the concerns raised in the Legislative Council, the Government is prepared to move an amendment which requires a port authority to include in its strategic development plan an environmental management plan for the port.

Ms MacTIERNAN: We agree to this amendment. We strongly support the move by the Greens (WA) to insert within the scope of duties of a port authority the requirement to prepare an environmental management plan. The Dampier Port Authority Act that was enacted back in 1985 requires that authority to prepare an environmental management plan. The Government expressed some resistance to the concept of preparing an environmental management plan and argued that obligations to the environment are dotted throughout the Bill now, and port authorities are also expressly subject to the Environmental Protection Act. However, the view of the Opposition is that one cannot take steps to properly discharge one's obligation to protect the environment and to comply with the Environmental Protection Act without developing an environmental management plan. An environmental management plan is not new. It is now very much standard management practice. We expect modern financial administration within our port authorities. We should also expect modern environmental administration within our port authorities.

Question put and passed; the Assembly's amendment agreed to.

Mr OMODEI: I move -

That amendment No 5 made by the Council be agreed to.

Ms MacTIERNAN: This is one of a number of amendments, one moved by the Democrats and one moved by the Labor Party, that deal with the question of commercial confidentiality and the exclusion of important information from the Parliament and the public on the grounds of commercial sensitivity. We believe that the concept of commercial confidentiality and sensitivity has been vastly overused. We note with some regret that notwithstanding government promises, the Commission on Government recommendations with regard to commercial confidentiality have been completely ignored.

Mr Cowan: That is not true.

Ms MacTIERNAN: The Government has implemented something, has it?

Mr Cowan: We have not ignored them.

Ms MacTIERNAN: The Government has not ignored them. It has raced around in circles for the past three years thinking of new excuses for not implementing them.

Mr Cowan: That is not true either, and you know it. Do you always build your speech on pure fabrication?

Ms MacTIERNAN: Can the Deputy Premier tell us what the Government has done? I note that the Deputy Premier, having argued that the Government has not done nothing, when given the express opportunity to tell us what it has done has suddenly been struck dumb.

Mr Cowan: I have not been struck dumb. I do not think is it worthy of a response. You know what has been done.

Ms MacTIERNAN: I do not know what has been done. I would like to know.

Mr Cowan: Get on with the Bill and stop sidetracking the debate.

Ms MacTIERNAN: It is certainly one of those days! I guess I am not alone in my disappointment that the Government has not done anything in any public sense, or in any sense that is in any way demonstrable. Things may be happening in Cabinet, but nothing has been done that has had any impact upon the ground in dealing with this matter.

Mr Cowan: That is nonsense.

Ms MacTIERNAN: What has the Government done? I am prepared to take this on board. I would really like to know.

Mr Cowan: Every year a report is tabled in this Parliament that talks about all of the government funding for the different agencies.

Ms MacTIERNAN: Are you talking about the consultants' report?

The DEPUTY CHAIRMAN (Ms McHale): I ask the member for Armadale and the Deputy Premier to address their remarks to the Chair and to confine their remarks to amendment No 5.

Ms MacTIERNAN: I look forward to hearing -

Mr Cowan: I will explain it in words of one syllable.

Ms MacTIERNAN: I am not a member of the National Party. The Deputy Premier can use words of more than one syllable with me.

Mr Cowan: The question is whether you would understand it.

Ms MacTIERNAN: There is no doubt that I would understand it. We have seen the outstanding contribution that has been made by members of the National Party to this Parliament. No doubt there will be a book on that one day.

This provision that was moved by the Democrats, together with an allied provision that we moved later on, gives us some small measure of comfort that in an environment of great government secrecy, at least some constraints will be placed on the misuse of the doctrine of commercial confidentiality. I am the first to admit, as I have done publicly, that when Labor was in office, it overused that term, and it also sought to hide behind commercial confidentiality.

Mr Shave: Well!

Ms MacTIERNAN: I have no difficulty in acknowledging that. I wish it was not true, but it is true. Out of that conduct, we got a royal commission, which we as a Government called. One of the key recommendations of that royal commission was that we make an absolute and fundamental change in the way in which we deal with the notion of commercial confidentiality. We were wrong; we recognised it; and we will be different. The problem with this mob is that having got into government on the basis of a pledge to be open and accountable, it has been the very opposite. This clause will go some small way towards dealing with that issue.

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

Mr OMODEI: I move -

> That amendment No 6 made by the Council be not agreed to.

The amendment that appears in the message is premised on the assumption that amendment No 19 will be successful. The Government will oppose that amendment. However, it is prepared to amend clause 69 to require a port authority to provide a summary of its performance in relation to its function in respect of environmental management of the port.

Ms MacTIERNAN: I want to make sure that I have understood what the minister said. He is moving to not support this amendment?

Mr Omodei: That is right. I will move a subsequent amendment which will refer to a summary of the performance.

Ms MacTIERNAN: I do not have a problem with the Council's amendment. However, I do not think a great deal turns on it and the amendment proposed by the minister will have much the same effect.

Question put and passed; the Council's amendment not agreed to.

Mr OMODEI: I move -

Clause 69, page 43, after line 29 - To insert -

(f) provide a summary of the performance of the port authority in relation to its function under section 30(1)(f).

I have already spoken to this matter.

Question put and passed; the Assembly's amendment agreed to.

Mr OMODEI: I move -

That amendments Nos 7 to 18 made by the Council be agreed to.

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

Mr OMODEI: I move -

That amendment No 19 made by the Council be not agreed to.

This amendment seeks to insert a new clause 35 relating to the environmental protection responsibilities of a port authority. The Government's position on this amendment is that the amendment which has already been moved in the preceding matter adequately covers a port authority's responsibilities in respect of environmental function and therefore this amendment is unnecessary.

Ms MacTIERNAN: The Australian Labor Party does not have a major problem with the Council's amendment, with the exception of the directive wherein the Minister for the Environment would override the Minister for Transport. We believe that the provision is in order. I say once again that it was based closely on the last port authority legislation, which was the Dampier Port Authority Act. However, we have negotiated with the Government and it has agreed to insert a number of clauses relating to the environment, including an obligation to complete an environmental management plan. Therefore, there has been a bit of movement in either direction. We do not disagree with what the Legislative Council attempted to do; however, as a result of a compromise we believe the Government has gone some way to doing what was sought. The way in which the Government has moved is relatively substantial; therefore, we are prepared to agree to this motion.

Question put and passed; the Council's amendment not agreed to.

Mr OMODEI: I move -

That amendment No 20 made by the Council be not agreed to.

This amendment purports to introduce a specific defence to a charge of improperly using port authority information when it is considered to be in the public interest to disclose that information which is the subject of the charge. It is stressed that the defence will apply only where information is alleged to have been used improperly. It is arguable that when a matter is in the public interest and disclosure of that information is made, it is not an improper use of the information, and a person making such information available would not be criminally responsible. More importantly, this is a matter which must be addressed at a whole of government level. In the meantime it would be inappropriate for this defence, which is not generally available throughout the Public Service, to apply to officers of port authorities. For those reasons the amendment is opposed.

Ms MacTIERNAN: I have my doubts about the correctness of the minister's interpretation of the Criminal Code. This was an Opposition amendment. We supported it as we believe it is important to protect whistleblowers. We are not saying that there should not be a charge when there has been an improper or unauthorised use of information but that there be a defence available. We still support that decision. However, again, we recognise that we must agree with the Government's stand in order to facilitate the passage of the legislation. It is a pity that the Government, while in opposition, talked very strongly of the need to protect whistleblowers but has since taken no steps to do so.

Question put and passed; the Council's amendment not agreed to.

Report

Resolutions reported and the report adopted.

A committee consisting of Mr Osborne, Ms MacTiernan, and Mr Omodei (Minister for Local Government) drew up reasons for agreeing to amendment No 4 with a further amendment added and not agreeing to amendments Nos 19 and 20 made by the Council.

Reasons adopted and a message accordingly returned to the Council.

ACTS AMENDMENT (CRIMINAL PROCEDURE) BILL

Second Reading

Resumed from 10 March.

MR McGINTY (Fremantle) [5.10 pm]: This Bill has a very simple objective; namely, to amend the law to enable the Court of Petty Sessions to take as proved any allegations contained in a summons served on a defendant when the defendant fails to appear in court. The second reading speech on this Bill outlined the extent of the costs imposed on the State through people failing to appear in court. In the last financial year, 33 000 people, involving 51 000 complaints, were summonsed to appear in Courts of Petty Sessions throughout Western Australia. The minister's speech documented that 1 357 hearings took place in the absence of defendants.

Where a defendant does not appear before the hearing, this Bill will allow the court to take as proved the facts alleged in the complaint form when that complaint form is sworn by a public officer. This covers a full range of situations: When someone has pleaded not guilty and does not appear; when someone has pleaded guilty and altered the plea, but does not appear; and when someone does not appear at the hearing. This amendment will assist in the smooth administration of justice to enable the court to act on the basis that the facts alleged in the complaint are taken as proved.

This issue would cause the Opposition some concern if it were not for an appropriate range of checks and balances on this power. It is not difficult to imagine how grave injustices could occur to individuals under this proposal: People may not have known about the hearing or had good reason not to appear in court and had a perfect defence but were unable to be at the hearing; they could have no form of redress if the court took as proved all the facts alleged in the complaint. Three important checks are involved. These are contained in provisions of the Justices Act. First, the procedure will appropriately apply only to simple offences; that is, those which are not indictable offences. We refer to allegations which fit into the lowest rung of offences against statutes, or the lowest level of criminal behaviour. The procedure will not apply to any indictable offence; therefore, the serious range of offences is excluded, which is an appropriate safeguard.

Second, section 56A of the Justices Act contains provision to cover the situation in which someone is unaware that the court will proceed in his or her absence. In other words, if someone is not aware that the hearing of a complaint against that person is taking place, a fairly simple procedure is provided by which a person, if notification of the penalty is the first the person has heard about the matter, can make application to court to set aside the penalty and have the matter reheard. It is an important safeguard. Therefore, a person with a legitimate defence to a complaint laid will not be prejudiced. That person might be required to jump through an additional hoop to get his day in court. The Bill overcomes the problem of a large number of cases in which people do not appear without adequate defence and tie up the time and resources of the court.

The next protection contained in the Justices Act is outlined in section 136A. This relates to a person who is the subject of a complaint and is for whatever reason unable to attend the court on the day. It may be due to a medical circumstance or a range of other factors. A similar procedure will apply as that for the person who is unaware that the case is proceeding; likewise, the person unable to attend is able to make application to have the outcome set aside and the matter reheard requiring positive proof of all the matters alleged in the complaint.

Those three checks are important for the proper administration of justice. The Bill contains a balance between administrative convenience and cost on one hand, and the protection of the rights of individuals who could otherwise be wrongfully accused of an offence. Therefore, the legislation requires the support of the House. My friend the member for Rockingham will detail criminal behaviour as a counterbalance to the matters I have raised.

MR McGOWAN (Rockingham) [5.16 pm]: I do not know whether I will fulfill the wishes of the member for Fremantle regarding criminal behaviour. The Minister for Police is an expert on criminal behaviour and may be able to provide examples of relevant criminal behaviour when he replies to the second reading debate on this Bill.

As indicated by the member for Fremantle, the Opposition supports the Acts Amendment (Criminal Procedure) Bill. Simple cases in which people do not show up at the Court of Petty Sessions when summonsed to do so should be expedited. The Bill will allow the court to take as fact allegations in the summons served upon the accused person. This will prevent the necessity to call for affidavit evidence and witnesses when a person fails to respond to the summons.

Anyone with experience in the Court of Petty Sessions knows that it is a fairly regular event for people not to show up when summonsed to do so. This often necessitates an extreme waste of police and court resources. Police officers and a range of witnesses to be called by the Crown wait expectantly for the accused person so they can give evidence. The court must attempt to track down the person. They hold the matter over while the court officials or police search for the individual outside court. Phone calls are made. On occasions, four or five people are employed to sit around doing nothing. My electorate has a dearth of police officers and desperately needs more. To have them sat around in the outmoded and outdated Rockingham Court of Petty Sessions is a great waste of time. Sitting in that court's physical surroundings is not a pleasant experience at the best of times, let alone waiting for a case which does not proceed. Something had to be done about this non-attendance problem which was causing great frustration.

The member for Fremantle informs me that adequate safeguards are in place to ensure that people who are not informed or have a valid excuse for not appearing in court will be able to have their matter reheard. That is a good protection. I accept that assurance from the member for Fremantle.

I indicated that the purpose of this Bill is to save time and to prevent the courts being clogged up with matters which would have been dealt with but for irresponsible people who failed to attend. This Bill is being introduced to prevent people from having to wait around for witnesses to show up, and it puts into perspective another issue I had cause to deal with recently. It involved a constituent of mine whom I know well. She was observed to be speeding by a police officer, who did not have radar equipment or a Multanova. He observed her passing through an intersection at right angles to him, and from his observation determined that she was travelling at 88 kilometres an hour in a 70 kilometre an hour zone.

Mr Prince: Fair enough.

Mr McGOWAN: The police officer made that assessment in the blink of an eye while my constituent was driving through an intersection. I hope *Hansard* recorded that the minister said that was fair enough. I do not think it is fair enough.

Mr Prince: Well, challenge it in court.

Mr McGOWAN: I am glad the minister raised that point; it is very relevant in the context of what we are discussing. My constituent was judged by the police officer's naked eye to be travelling at 88 kilometres a hour in a 70 zone. The police

officer estimated that she was driving at 18 kilometres an hour over the limit. My constituent was surprised to be pulled over by this police officer and said so. He issued a ticket for driving 18 kilometres over the speed limit because that was his estimate. Challenging the issue of that ticket involves going to court. In order to get to court people must go through a time-consuming mention process, although they do not always have to attend in person. They can normally send a representative to enter a plea on their behalf and a trial date is set down. Potentially a day out of a person's working life is involved in that process because the courts sit only five days a week on working days.

When people arrive on the day set for hearing the case, it does not necessarily mean the case will be heard that day. Perhaps the case will be heard that day if the police witness is present. Often people arrive at the court, the police witness will have been called away, and another working day has been wasted. Another date is then set. My constituent had a mention date and then was given a trial date on which to contest this matter. Again, it was a working day. She could not get paid time off work but she was potentially able to take a day's unpaid leave. If she had done that, it would have cost her substantially more than the fine she would be required to pay if she did not contest the speeding ticket. Having regard to a range of magistrates in this State, with many of them a policeman's word is law and people are unlikely to be found not guilty if they say one thing and a policeman says another. That is not an unreasonable statement to make, and I am sure many magistrates would say the same thing about their colleagues. I am sure a few magistrates would privately agree with that.

At the end of the day, such an exercise could cost a great deal of money, principally because these court appearances are always during working hours. People must attend the court at 10 o'clock in the morning, even though their case may not be heard until three o'clock in the afternoon. They can be at the court for the whole day. I suggest that courts of petty sessions should sit during the evenings. The resources of magistrates and justices of the peace should be used to enable courts to sit outside working hours, perhaps in the evenings or on Saturday mornings, to cater for people in the situation I have outlined. Court resources should be reallocated to deal with matters after hours, and that would cause a great deal less inconvenience to working people and those involved in small business who are unable to take time off during the day.

My principal point is that consideration should be given to this aspect of criminal law, and not just the aspect of accused persons not showing up. All members have experienced people coming into their offices who are extremely frustrated with the way courts operate, and those who have personal experience of it will be in complete agreement with me.

MR PRINCE (Albany - Minister for Police) [5.26 pm]: I am obliged to members for their support of the legislation because, as stated in the second reading speech, it will certainly save a considerable amount of police time, which could otherwise be far better spent, as well as court time and other resources. The changes proposed in this Bill are simple and straightforward, and make commonsense. With regard to the experiences of the member for Rockingham and the constituent, with whom I understand he is closely acquainted, before radar equipment was used all speeding charges were laid on the basis of an eyeball estimation. Before any mechanical device was used, it was an estimation by a police officer or some other witness of the speed being travelled. There is nothing wrong with that, and if the member's constituent wants to challenge the veracity of the evidence given by a police officer, the courts exist for that purpose. That is where the process of justice takes place, where evidence can be given and where magistrates can decide whether they are satisfied beyond reasonable doubt. That comes back to the integrity of the person giving evidence. If a police officer is approved in the evidence he gives, as opposed to a person who is not, it is simply the judgment of the magistrate on the day in the courtroom, and nothing else at all. To state that magistrates by rote prefer police officers against anybody else is an insult to the judiciary and the magistracy of this State, and the member for Rockingham should be ashamed of himself for putting those words in the public domain.

With regard to convenience to the public, if people did not speed, the problem would not arise. Notwithstanding that, they have a right to their trial and their day in court. As far as that is concerned, courts should be able to sit at a time that is convenient to those who must operate them, as well as to those who must appear. The Attorney General currently has a trial running in the Midland Court of Petty Sessions for courts to sit during the evening. I have no doubt that if that proves successful, it will be replicated elsewhere.

I thank members for their support of this legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Council.

ADJOURNMENT OF THE HOUSE

On motion by Mr Cowan (Deputy Premier), resolved -

That the House at its rising adjourn until Tuesday, 4 May at 2.00 pm.

House adjourned at 5.29 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ATLAS LANDFILL SITE, MIRRABOOKA

1947. Mr KOBELKE to the Minister for the Environment:

(1) Did the Metropolitan Landfill Levy apply to all waste deposited at the Atlas landfill site in Mirrabooka from 1 July 1998?

(2) How many tonnes of putrescible waste have been taken onto the Atlas site in the six month period from 1 July 1998?

(3) How many tonnes of putrescible waste have been removed from the Atlas site in the six month period from 1 July 1998?

(4) How many tonnes of putrescible waste have been deposited in the landfill at the Atlas site in the six month period from 1 July 1998?

(5) How much is Atlas liable to pay under the Metropolitan Landfill Levy for the putrescible waste deposited at the Atlas Mirrabooka landfill?

(6) How much has Atlas paid under the Metropolitan Landfill Levy for the putrescible waste deposited at the Atlas Mirrabooka landfill?

(7) How many tonnes of inert waste have been taken onto the Atlas site in the six month period from 1 July 1998?

(8) How many tonnes of inert waste have been removed from the Atlas site in the six month period from 1 July 1998?

(9) How many tonnes of inert waste have been deposited in the landfill at the Atlas site in the six month period from 1 July 1998?

(10) How much is Atlas liable to pay under the Metropolitan Landfill Levy for the inert waste deposited at the Atlas Mirrabooka landfill?

(11) How much has Atlas paid under the Metropolitan Landfill Levy for the inert waste deposited at the Atlas Mirrabooka landfill?

Mrs EDWARDES replied:

(1) Yes. It should be noted that the landfill levy legislation covers the operation of the category 63 licensed landfill at the Atlas site but does not apply to other facilities on that site. The levy is based on the category of the premises (ie category 63 - inert landfill site) and not on the classification of the waste (ie inert or putrescible).

(5)-(6),(10-(11)
Atlas is liable, and has paid, one dollar per tonne in respect of waste received at its category 63 licensed landfill.

(2)-(4),(7)-(9)
The Department of Environmental Protection (DEP) has advised me that information on quantities of waste received at landfills is provided to it on a 'commercial in confidence' basis. The information is received as part of the national Australian Waste Classification Database which aggregates the waste data. The data is provided to the DEP on a confidential basis in order that commercially sensitive information is not made available to competitors in a highly competitive industry. A briefing on the way information is collected for the landfill levy and national database can be provided.

REPTILES AND AMPHIBIANS, SEIZURE

1950. Dr EDWARDS to the Minister for the Environment -

(1) Will the Minister advise where the reptiles and amphibians seized by Department of Conservation and Land Management (CALM) on 7 January 1999 are now being kept?

(2) If not, why not?

(3) Under what conditions are the animals being kept?

(4) Has the health of any of the animals been affected since their seizure?

(5) If the answer to (4) above is yes, will the Minister provide details?

(6) If not, why not?

(7) Have CALM wildlife officers received advice as to the care and dietary requirements of the seized animals?

(8) If not, why not?

(9) If the answer to (7) above is yes, who has provided that advice?

(10) Why did CALM officers refuse the offers of assistance from the amateur herpetologists who were the subjects of the raids on matters concerning diet and routine for the seized animals?

Mrs EDWARDES replied:

(1)-(10) The seizure of fauna by the Department of Conservation and Land Management on 7 January 1999 has resulted in a number of charges being laid for offences under the Wildlife Conservation Act. As this matter is subject to due legal process, it would be inappropriate to comment or release details relating to the alleged offences that may be prejudicial to such process.

NATIONAL COMPETITION POLICY

1954. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister/Government aware that the Federal Government has called on the National Competition Council to make certain agreements between employers and employees the subject of national competition policy?

(2) Has the Minister/Government examined the Federal Government's proposal?

(3) Has the Minister/Government taken a position on the Federal Government's proposal?

(4) If so, what is that position?

(5) If not, does the Minister/Government intend to further examine the proposal with the view to adopting a position?

Mrs EDWARDES replied:

(1) Yes.

(2) The Department of Productivity and Labour Relations has examined the Department of Employment, Workplace Relations and Small Business's proposal.

(3) The Department of Productivity and Labour Relations has made a submission to the National Competition Council.

(4) The Department of Productivity and Labour Relations gave in principle, support to the Department of Employment, Workplace Relations and Small Business's proposal in submitting that patently anti-competitive employment arrangements be subjected to review.

(5) Not applicable.

TOURISM, CONVENTIONS

1970. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) How many conventions has the Government/Western Australian Tourism Commission helped plan for calendar 1999 and calendar 2000?

(2) What conventions have been planned?

(3) Will the Government provide any assistance/financial assistance to any of the conventions?

(4) If so, which conventions will be provided with financial assistance?

(5) What is the nature of the financial assistance to be provided?

Mr BRADSHAW replied:

The Western Australian Tourism Commission have in place an agreement with the Perth Convention Bureau described as the "Convention and Incentive Marketing and Promotional Services Agreement". Under the conditions of the contract the Perth Convention Bureau undertakes to bid for and deliver convention and incentive travel business according to predetermined targets contained in an operational plan approved by the Western Australian Tourism Commissions Board of Commissioners. The fee for this service is $1,035,142 per annum.

(1) The Government/Western Australian Tourism Commission via its contractual agreement with the Perth Convention Bureau has helped to successfully bid for 36 conferences which are planned to be hosted in calendar 1999 representing an estimated 14,000 delegates and $22.7 million in direct delegate expenditure. To date there are 15 conferences to be planned and hosted in 2000, representing 10,000 delegates and $20.3 million in direct delegate expenditure.

(2) A list of 36 planned conventions for 1999 and a list of 15 conventions planned as at this date for 2000 is as follows -

1999 CONFERENCES THAT RECEIVED SUPPORT FROM PERTH CONVENTION BUREAU

Conference Name	Delegates	Nat/Intl	CAP Support
Young Liberal Movement of Australian Federal Convention	100	N	$1,000
11th National Outdoor Education Conference	200	N	$800
Australas Incentive Association National Conference	350	N	$4,000
National Meeting of the Order of Australia	300	N	$1,000
World Renewable Energy Congress V	700	I	$4,000
Australian Funeral Directors Annual Convention 1999	210	N	$500
Australian Taxi Industry Conference	300	N	$1,000
Optimising with Whittle	300	N	$700
National Speakers Association National Conference	300	N	$1,500
Nurses in Management Conference	150	N	$1,000
Australasian Petroleum Production and Exploration Association National Convention	1200	N	$4,000
Naval Communications Association 2nd National Reunion	400	N	$800
9th International Flash Smelting	170	I	$500
17th International Symposium of Biomechanics in Sport	200	I	$1,000
Australian Turf Grass Conference	750	N	$500
9th National Ceramics Conference	400	N	$500
Association for Advancement in Animal Breeding Biannual conference	280	N	$1,000
Annual Bain Fallon Conference	120	N	$500
Australian Multiple Birth National Conference	100	N	$700
World Plumbing Convention	550	I	$1,000
Association of School Bursars and Administrators	350	N	$500
Australian Alzheimers Association Conference	500	N	$1,000
11th Int Conference on Hydrocephalus and Spina Bifida	350	I	$2,500
Council for Australian Secondary Tourism Teachers National Conference	120	N	$500
History Teachers Association of WA National Conference	200	N	$1,000
Indian Ocean Fisheries Conference	200	N	$600
Australasian Evaluation Society International Conference	300	I	$1,500
First International No Tillage Conference	500	N	$2,000
National Haemophilia Conference	250	N	$1,200
15th Biennial Lithographic Institute Conference	400	N	$1,200
6th South East Asian Surveyors Services Conference	250	N	$700
National Junior Sport Conference	350	N	$1,000
Harvey World Travel Annual Conference	900	N	$4,000
12th Annual Australian Society of Corporate Treasurers Conference	300	I	$1,500
34th Rotary Institute Zones &a & 8A National Conference	500	N	$1,000
54th Australian Jazz Convention	2000	N	$2,000
Total CAP Support for 36 conferences being held in 1999	14550		$48,200

In addition the WATC National Division provided $40,000 cash and $10,000 in kind for the Harvey World Travel Conference

Year 2000 Conferences

Conference Name	Delegates	Nat/Intl	CAP Support
International Society for Contact Lens Specialists	120	I	$500
Australian Society of Exploration Geophysicists	500	N	$1,000
Centenary of the Grand Lodge of Western Australia	900	N	$2,000
Australian Veterinary Association Conference	800	N	$500
Sweet Adelines International Australia Area Convention	1200	N	$4,000
Year 200 Irish Australian Studies Conference	500	N	$2,000
8th Congress of world Apheresis Association	800	I	$500
Aircrew 2000	1500	I	$1,000
9th World Meeting on Impotence	700	I	$4,000
Australian Society of Anaesthetists National Congress	150	N	$1,000
9th Australasian Congress of Genealogy and Heraldry Perth 2000	800	I	$800
International Career Conference	300	I	$2,500
Australian Pipeline Industry National Conference	200	N	$4,000
Trenchless Technology World Conference	600	I	$4,000
7th International Federation of Orthopaedic Manipulative Therapists	1000	I	$2,000
Total CAP support for 15 conferences in 2000	10070		$29,800

(3) The Government/Western Australian Tourism Commission via its contractual agreement with the Perth Convention Bureau extends the Convention Assistance Package, a key funding strategy which is available to Associations to bid for, plan and host their National and International Conference in Western Australia.

(4) All of the 36 conventions in 1999 and the 15 conferences to date in 2000 will be provided with Convention Assistance Package funding.

(5) The nature of the financial assistance to be provided is in the form of the Convention Assistance Package which provides funding up to a maximum of $4,000 to bid for and secure the conference for Western Australia. The funds also assist in the promotion of the conference to maximise delegate attendance. The package is administered by the Perth Convention Bureau and provided a total of $48,200 to the 36 conferences bid for in 1999 and $29,800 to the 15 conferences bid for so far in the Year 2000. In addition, the National Sales Division of the Western Australian Tourism Commission provided $40,000 in cash and $10,000 in travel vouchers, as a sponsor of the Harvey World Travel National Conference to be held here in 1999.

GOVERNMENT CONTRACTS

2074. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) How many contracts (other than employment contracts and contracts for less than $50,000) did each department under the Minister's control enter into in the months of -

(a) November 1998; and
(b) December 1998?

(2) What was the amount of each contract?

(3) What is the name of each person/entity with whom the contract is been awarded to?

(4) What is the nature of the work or services required by the contract?

(5) What is the completion date of the contract requirements?

(6) Was each contract awarded to the lowest tender?

(7) If not, why not?

Mr BRADSHAW replied:

(1) (a) 2
(b) Nil.

(2) (a) Market Equity Pty Ltd - $124,840
(b) Telstra Corporation Ltd in Contra Sponsorship over 3 years - $529,500 (1998 - $174,000, 1999 - $176,500, 2000 - $179,000)

(3) (a) Market Equity Pty Ltd.
(b) Telstra Corporation Ltd.

(4) (a) Market Equity Pty Ltd: Development of Statewide Five Year Strategic Plan for the Tourism Industry with broad industry consultation.

(b) Telstra Corporation Ltd: Sponsorship Contract for Contra Sponsorship – supply of equipment to Rally Australia and a rebate on a proportion of telephone calls.

(5) (a) Market Equity Pty Ltd - December 1999
(b) Telstra Corporation Ltd - November 2000

(6) (a) Market Equity Pty Ltd - Yes
(b) Telstra Corporation Ltd - Not applicable as this is a sponsorship agreement and was secured in accordance with State Supply Commission policies.

(7) (a)-(b) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, CASH PROFILING

2139. Mr BROWN to the Minister for the Environment; Labour Relations:

(1) Has the Government/Under Treasurer introduced a new process of financial management incorporating cash profiling on a fortnightly basis for the whole financial year, and an exception-reporting mechanism against that profile?

(2) Will the Minister provide all of the latest documents necessary to understand the profiling of the departments and agencies under the Minister's control?

(3) If not, why not?

Mrs EDWARDES replied:

(1)-(3) Please refer to the response to question on notice 2134 of 9 March 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, CASH PROFILING

2150. Mr BROWN to the Minister for Police; Emergency Services:

(1) Has the Government/Under Treasurer introduced a new process of financial management incorporating cash profiling on a fortnightly basis for the whole financial year, and an exception-reporting mechanism against that profile?

(2) Will the Minister provide all of the latest documents necessary to understand the profiling of the departments and agencies under the Minister's control?

(3) If not, why not?

Mr PRINCE replied:

Please refer to the response to question on notice 2134 of 9 March 1999.

WORKERS COMPENSATION PREMIUMS

2204. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister aware of an advertisement that appeared in the 1 January to 3 February edition of *WA Business News* concerning workers compensation premiums?

(2) Is the Minister aware the article quoted or purported to quote Mr Bendan McCarthy from the Chamber of Commerce and Industry?

(3) Are the quotes in the article correct?

(4) If so, does the Minister intend to initiate an investigation to determine the accuracy or otherwise of the comments made insofar as it relates to workers compensation premium levels?

(5) If not, why not?

Mrs EDWARDES replied:

(1)-(2) Yes.

(3) I am not in a position to determine if the quotes attributed to Mr McCarthy are accurate and in context. It may be appropriate for the Member to refer to a full copy of the "Report of the Standing Committee on Legislation in relation to the Workers' Compensation and Rehabilitation Amendment Bill 1997 (Report 43)".

(4) The independent Premium Rates Committee undertakes annual actuarial reviews of the outstanding reserves for workers' compensation insurance.

(5) Not applicable.

GRANT THORNTON, CONTRACTS

2232. Ms MacTIERNAN to the Parliamentary Secretary to the Minister for Tourism:

(1) How many contracts have been awarded to Grant Thornton since 1 January 1997?

(2) For each contract, will the Minister state -

(a) the project the contract was awarded for;
(b) the original contract cost;
(c) the actual final cost of the contract;
(d) the date the contract was awarded and the date it was completed; and
(e) whether the contract went out to tender, and if not, why not?

Mr BRADSHAW replied:

(1) Nil.

(2) (a)-(e) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEVEL ONE EMPLOYEES

2298. Mr RIEBELING to the Parliamentary Secretary to the Minister for Tourism:

In relation to the employment status of Level One employees of the agencies falling within the Minister's responsibility -

(a) what is the total number of Level One employees at each agency as at 9 March 1999; and

(b) of these employees, how many were -

(i) permanent full time; and
(ii) on short term contract?

Mr BRADSHAW replied:

WESTERN AUSTRALIAN TOURISM COMMISSION
(a) Total number of Level One employed by the Western Australian Tourism Commission as at 9 March 1999 was 7.

(b) (i) Permanent Full Time – Five (5)
(ii) Short Term Contract – Two (2)

ROTTNEST ISLAND AUTHORITY
(a) Total number of Level One employed by the Rottnest Island Authority as at 9 March 1999 was 23

(b) (i) Permanent Full Time – Five (5)
(ii) Short Term Contract – Seventeen (17)

One permanent part time officer makes up the total complement of twenty three Level One employees.

MINISTERS OF THE CROWN, FREE TICKETS TO SPORTING EVENTS

2329. Mr GRAHAM to the Minister for Police; Emergency Services:

(1) Has any sporting club or organisation provided the Minister with free tickets to any major sporting events in Western Australia?

(2) If so -

(a) to which events were the tickets provided; and
(b) on how many occasions have tickets been provided?

Mr PRINCE replied:

(1) All members of Parliament, and the Minister in particular, receive hundreds of invitations to attend sporting, arts and social events every year. Whilst the Minister tries to attend as many events as possible, regrettably this is not always possible.

(2) (a)-(b) This information is not readily available. Provision of this information would require considerable research which would divert staff away from their normal duties and I am not prepared to allocate the State's resources to provide a response. If the member has a specific enquiry I will endeavour to provide a reply.

POLICE COMMISSIONER, *QE II* TRIP

2465. Mrs ROBERTS to the Minister for Police:

(1) Did the Commissioner of Police depart Western Australia on the QEII earlier this year?

(2) If so, what date?

(3) Did the Commissioner take annual leave for this purpose?

(4) Did anyone else from the Police Service accompany the Commissioner on this trip?

(5) If so, who accompanied him and in what capacity?

(6) For what period of time was the Commissioner absent from Western Australia?

(7) For what period of time were any accompanying Police Service personnel absent from Western Australia?

(8) Who paid for the travel on the QEII, and any other travel costs?

(9) Will the Minister detail any travel costs paid by the Police Service?

Mr PRINCE replied:

(1) Yes.

(2) 15 February 1999.

(3) The Commissioner of Police was on entitlements of days off in lieu of public holidays that he had worked.

(4) No.

(5) Not applicable.

(6) Seven (7) days.

(7) Not applicable.

(8) The trip was arranged by Mrs Falconer as a 34th wedding anniversary present/celebration. Mrs Falconer is not a government employee, is not answerable to the Parliament of Western Australia and declines to provide any information on what she considers to be totally personal and private activities.

(9) There were no costs to the Western Australia Police Service.

POLICE COMMISSIONER, ANNUAL LEAVE

2466. Mrs ROBERTS to the Minister for Police:

(1) On what dates in each of the following years did the Police Commissioner take annual leave-

(a) 1994;
(b) 1995;
(c) 1996;
(d) 1997;
(e) 1998; and
(f) 1999;

(2) On what date did Mr Robert Falconer commence duties with the Western Australian Police Service?

(3) How much annual leave does Mr Falconer currently have due?

(4) Is it intended that Mr Falconer be required to clear all annual leave or do you intend to pay him out his annual leave when his contract expires?

(5) Has Mr Falconer had any paid leave during his term of office?

(6) If so, on what dates and for what purpose?

Mr PRINCE replied:

(1) (a) 28.12.94 to 30.12.94 inclusive

(b) 04.01.95 to 06.01.95 "
27.02.95 to 10.03.95 "
20.12.95 to 29.12.95 "

(c) 03.01.96 to 05.01.96 "
25.03.96 to 29.03.96 "
01.04.96 to 02.04.96 "
27.12.96 to 31.12.96 "

(d) 01.01.97 to 03.01.97 "
03.02.97 to 16.02.97 "
11.08.97 to 15.08.97 "
29.10.97 to 31.10.97 "
22.12.97 to 31.12.97 "

(e) 01.01.98 to 11.01.98 "
02.06.98 to 05.06.98 "
14.09.98 to 20.09.98 "
14.12.98 to 31.12.98 "

(f) 01.01.99 to 10.01.99 "

(2) 11 July 1994.

(3) 36.5 hours (as at 12 April 1999).

(4) Any annual leave still available at the end of the contract will be paid out.

(5) Only that listed at (1) above.

(6) Not applicable.

DEPARTMENT OF ENVIRONMENTAL PROTECTION, MR KELMAR

2556. Dr GALLOP to the Minister for the Environment:

(1) Has the Minister received correspondence from Mr J Kelmar regarding a debt Mr Kelmar claims is owed to him by the Department of Environment?

(2) If yes, what action has the Minister taken to resolve this issue?

Mrs EDWARDES replied:

(1) Yes.

(2) Since Mr Kelmar wrote to me, the matter has come before the Small Disputes Division of the Local Court. I understand that a settlement was agreed, and the matter is now closed.

INDUSTRIAL DISPUTES

2577. Mr KOBELKE to the Minister for Labour Relations:

(1) What have been the number of industrial disputes for the years -

(a) 1990;
(b) 1991;
(c) 1992;
(d) 1993;
(e) 1994;
(f) 1995;
(g) 1996;
(h) 1997; and
(i) 1998?

(2) What have been the number of days lost through industrial disputes for the years -

(a) 1990;
(b) 1991;
(c) 1992;
(d) 1993;
(e) 1994;
(f) 1995;
(g) 1996;
(h) 1997; and
(i) 1998?

Mrs EDWARDES replied:

(1) The number of industrial disputes which occurred nationally during the years 1990 to 1998 were:

(a) 1990 - 1 346 disputes
(b) 1991 - 1 177 disputes
(c) 1992 - 833 disputes
(d) 1993 - 687 disputes
(e) 1994 - 614 disputes
(f) 1995 - 742 disputes

(g) 1996 - 624 disputes
(h) 1997 - 522 disputes
(i) 1998 - 596 disputes

Source: *Industrial Disputes - Australia (*ABS Cat No. 6321.0). Figures have been derived from Table 1 of Cat No. 6321.0. They are the total of the number of disputes during each 12 month period.
Note: Publication does not disaggregate numbers of disputes by State and Territory.

(2)

		WA	AUST
(a)	1990	108 300	1 376 400
(b)	1991	119 200	1 610 500
(c)	1992	53 600	941 200
(d)	1993	29 500	635 800
(e)	1994	27 400	501 600
(f)	1995	101 400	547 700
(g)	1996	47 300	928 500
(h)	1997	60 200	534 200
(i)	1998	61 200	524 800

Source: *Industrial Disputes - Australia (*ABS Cat No. 6321.0). Figures have been derived from Table 3 of Cat No. 6321.0. They are the total of working days lost during each 12 month period.

POLICE, TRANSFERS OF OFFICERS

2597. Mrs ROBERTS to the Minister for Police:

(1) Have there been any difficulties or delays in the transfer of police personnel to or from country regions at the expected expiry of their placement?

(2) If so, what are those difficulties or delays and why have they occurred?

(3) How many country officers due to be transferred have not actually been relocated?

(4) How many officers in metropolitan regions due to be transferred have not been actually relocated?

(5) How many country Police Officers notified of transfers during 1998 had still not actually been transferred on 1 February 1999?

(6) What level was each such Officer and where were they due to be transferred from and where were they due to be transferred to?

(7) How many metropolitan Police Officers notified of transfers during 1998 had still not actually been transferred on 1 February 1999?

(8) What level was each such Officer and where were they due to be transferred from and where were they due to be transferred to?

(9) On what date was the decision made to transfer Assistant Commissioner Kucera?

(10) How much did this transfer cost including the cost of transferring a replacement to Perth?

(11) Will the Minister itemise those costs?

Mr PRINCE replied:

(1) There have been no delays or difficulties in the transfer of police personnel to or from the country. Transfers are issued and managed by the Police Service on a priority basis. There are officers who have completed the required minimum tenure in country locations and are seeking a transfer to relocate. Should an application to relocate be successful, the issue of the transfer is managed on a priority basis.

(2) Not applicable.

(3) 14 country officers that have been issued transfers are awaiting relocation as the date of the transfer for 13 have not been finalised and one is awaiting suitable housing.

(4) Six metropolitan offices that have been issued transfers are awaiting relocation as the date of the transfer for five have not been finalised and one is awaiting suitable housing.

(5) One country police officer notified of transfer during 1998 had still not been transferred on 1 February 1999.

(6) Sergeant rank from Kalgoorlie to Perth.

(7) One metropolitan police officer notified of transfer during 1998 had still not been transferred on 1 February 1999.

(8) Constable rank from Fremantle Police Station to Kambalda Police Station.

(9) Assistant Commissioner Kucera has not been transferred to the Southern Region. With effect from 1 February 1999 he and Assistant Commissioner Standing have had a rotation of duties.

(10) There have been no transfer costs involved in this rotation of duties.

(11) Not applicable.

POLICE, DELTA PROGRAM

2599. Mrs ROBERTS to the Minister for Police:

(1) Is 'Delta' modelled on the Queensland Police Service model that has been in place for considerably longer?

(2) Who is the person responsible for the implementation of 'Delta' in Western Australia?

(3) Has 'Delta' had any impact on the amount of crime committed in this State?

(4) If so, what was the impact?

(5) Is it anticipated that 'Delta' will have any future impact on the amount of crime committed in this State?

(6) If so, what impact is anticipated?

Mr PRINCE replied:

(1) No.

(2) As Chief Executive Officer, the Commissioner of Police.

(3) Yes.

(4) The impact is unquantifiable however, there is ample evidence that the new approach under the Delta Program, that is a local level, partnership, problem-solving approach, is directly contributing to the development and implementation of initiatives that reduce the incidence of crime and enhance community safety and security.

(5) Yes.

(6) As the Delta concept is further imbedded within the agency and the community, there will be further development and implementation of initiatives that reduce the incidence of crime and enhance community safety and security.

QUESTIONS WITHOUT NOTICE

WORSLEY FOREST LOT 4, NEGOTIATIONS

728. Mr RIPPER to the Minister for Water Resources:

I refer to the Government's decision to pay $9.5m to Worsley Timber Pty Ltd for a 3 000 hectare block of land near Wellington dam.

(1) Was it the Water Corporation chairman and Liberal Party operative Mr Peter Jones who negotiated the sale and made the final offer without Water Corporation officers being present?

(2) Were there any Water Corporation officers involved in the final stages of the negotiation; and, if so, who were they and what was their role?

(3) When precisely was the purchase price of $9.5m offered and when was it approved by the board of the Water Corporation?

(4) Did the minister issue instructions in writing to Mr Jones or the Water Corporation in respect of this matter; and, if so, on what date, and will he table them?

Dr HAMES replied:

I thank the member for some notice of this question.

(1)-(4) Anyone would think that the Opposition did not support the purchase of this land. I would like to ask whether the Deputy Leader of the Opposition supports the purchase of this land?

Mr Ripper: We support the purchase, but not the process.

Dr HAMES: A member of the Greens (WA) in the upper House supports the purchase. Hon Christine Sharp describes this as one of the most important blocks of land in the south west.

The Government is pleased to be involved in the purchase of this block of land. I did not issue any instructions in writing. However, there were discussions with the Water Corporation about the purchase of this block of land. The Government is keen to purchase this block of land. It has very high quality timber on it and it is a huge asset for the local community and the rest of the State. The Government thinks it is one of the pearls of the south west region, and it would be magnificent for that block of land to be in government ownership. It is also very important for the Water Corporation to own this block of

land. The water in Wellington dam will be of drinking quality in 10 to 15 years' time. Because of the future value of the asset the Water Corporation is also keen to purchase this block of land.

After the initial offer was rejected negotiations continued. During those negotiations which occurred up to the week before the purchase there were two people present at some of those meetings. I am not aware of who was present at all of those meetings, but at some of those meetings the Chairman of the Water Corporation, Mr Peter Jones, and the general manager for land purchases were present. The acting general manager was present at the meetings up to the week before the deal was signed.

The member's first question should be split into two parts. He has asked me who negotiated the sale and who made the final offer. A final offer is made when an offer and acceptance is signed. When the offer and acceptance was signed two people were present - the acting chief executive officer and the Chairman of the Water Corporation. When the deal was being negotiated the Chairman of the Water Corporation and the general manager for land purchases were present. In the final week of negotiations the chairman was involved directly in negotiating that deal.

Mr Ripper: The deal was finally concluded by the chairman acting on his own.

Dr HAMES: The Deputy Leader of the Opposition implies there is something wrong with that. The chairman negotiated the deal with the support of the Water Corporation. The officers were not present as the deal was signed, but an offer was made in negotiations. That is what occurs with negotiations.

Dr Gallop: Mr Jones was the only one there from the Water Corporation.

Dr HAMES: The Government does not have a problem with that. We did not direct the Water Corporation to buy the land, although we did want the corporation to buy it. It is entirely up to the Water Corporation how it manages its internal dealings and who it gets to negotiate the deal. That is not for the Government to be involved in; that is for the corporation to work out. Frankly, I cannot think of anyone better than Mr Peter Jones to negotiate a decent deal for the Water Corporation to purchase that block of land. He has done an excellent job in getting the block of land for that price.

We talked about the valuation last week. The Valuer General said it was worth $7.2m and we paid $9.5m. We had access to a valuation that was provided by the owner. It was a sworn valuation and therefore an independent valuation.

Dr Gallop: It came from the owner.

Dr HAMES: Nevertheless, we often take that into account. When the Leader of the Opposition and some of his former mates did some negotiations of their own chairs were thrown around behind closed doors when negotiations did not come off properly. The Leader of the Opposition should think back to some of the deals that occurred when he was a minister. This purchase is aboveboard. There is nothing wrong with the deal that has been done. The owner's valuation was higher than what we paid. I do not have the exact figure but the sworn valuation was in the order of $9.88m. It is worth more than that. I do not have the figures with me. However, it is an asset to the State because the value we can put on that water when it becomes of drinking quality is far higher than the purchase price. Not only do we have the water but also the block for the enjoyment of future generations of Western Australians. It is a tremendous purchase.

Mr Ripper: The minister has not answered part (3) of the question.

The SPEAKER: Order! I will not let this become a debate; it is question time.

WORSLEY FOREST LOT 4, NEGOTIATIONS

729. Mr RIPPER to the Minister for Water Resources:

As a supplementary question, why will the minister not answer part (3) of the question of which I gave him notice?

Dr HAMES replied:

I did not answer that part of the question, Mr Speaker, because you were flashing your watch and nodding at me to suggest that my answer had gone on long enough. I do not know the precise details, nor do I seek to obtain them. As I have said, the Water Corporation -

Mrs Roberts: You were given notice of the question. This is an outrage.

Dr HAMES: My general understanding is that, I think on the Monday, the negotiations were conducted by the chairman, and I think on the Tuesday, he signed with the chief executive officer, and on the Thursday it was given the tick by the board - something of that order. As I have said, it is a private corporation. It was purchasing the land on its own behalf and on behalf of the Government. The way it runs its organisation is for it to sort out.

WESFARMERS DALGETY'S RURAL TRAINEESHIP

730. Mr TRENORDEN to the Minister for Regional Development:

The minister launched Wesfarmers Dalgety's rural traineeship at C.Y. O'Connor College in Northam. How will the scheme assist rural people and rural business?

Mr COWAN replied:

The member is correct. I launched the Wesfarmers Dalgety rural traineeship in conjunction with the C.Y. O'Connor College of TAFE at Northam earlier this week. I am sure that you, Mr Speaker, know from your previous professional vocation that

rural training has been on the agenda for a long time, but it has never quite met with success. Several options started with great enthusiasm, but did not achieve great longevity. In this case the rural traineeships are focused on agribusiness, particularly the services sector of agribusiness. The traineeships are being offered under the auspices of a major farm agribusiness service company, Wesfarmers Dalgety, and it is offering the commitment of positions for trainees on an annual basis. The traineeship requires people to be placed in agencies of Wesfarmers and for them to do block training at C.Y. O'Connor College campus in Northam for three weeks. I understand that it is expected that there will be between 15 and 20 trainees annually and that the program will extend into other major agriculture businesses. I expect the program to last longer and go the distance, whereas others have not. It is an excellent program because it provides job opportunities for young people in agribusiness. It is very difficult to find positions for young people in regional areas, and that is what the program will do.

LEEUWIN NATURALISTE NATIONAL PARK, CLEARING OF BUSH

731. Dr EDWARDS to the Minister for the Environment:

(1) Is the minister aware that approximately 2 hectares of bush have been cleared in the Leeuwin Naturaliste National Park to improve the coastal views of proposed residential developments on the border of the park near Juniper Road?

(2) Is the minister aware also that two concrete housing slabs have been laid, in one case some 2 metres over the park boundary and, in the other, some 6 metres over the boundary?

(3) Who is responsible for those incursions into the national park?

(4) What action is the minister taking to prosecute those responsible and restore the integrity of the national park?

Mrs EDWARDES replied:

I thank the member for some notice of this question.

(1) I am aware that there has been clearing of vegetation on two locations adjacent to the Leeuwin Naturaliste National Park. Two areas of the national park were damaged in the initial site-clearing works. The proponents have since been issued with stop-work orders from the Augusta-Margaret River Shire Council. Those orders are still current and to my knowledge no further site works have taken place. The proponent and the local council, with advice from the Department of Conservation and Land Management, have been working towards mitigating the landscape impacts and ensuring that proposed house sites are set back from the national park boundary.

(2) Recent advice from planning officers of the Augusta-Margaret River Shire Council, along with the proponents' consultants, have confirmed that there are no concrete slabs either on the proponents' land or the national park.

(3) The owners of locations 814 and 1062 are responsible for the disturbance to the vegetation in the national park.

(4) The area of damage to the vegetation has been rehabilitated to the satisfaction of local CALM staff. The remaining area of fill that has spilled into the national park will be removed when site works recommence once the council has approved the revised site development plans.

MOTOR VEHICLE INDUSTRY, ADVERTISING GUIDE

732. Mr BLOFFWITCH to the Minister for Fair Trading:

I believe that the Ministry of Fair Trading recently prepared an advertising guide for the motor vehicle industry. Why has the ministry decided to publish the guide and what benefits does the minister believe the community will receive?

Mr SHAVE replied:

I thank the member for some notice of this question and I compliment him on taking an interest in a very fine industry - the motor trade industry. I can understand that the member -

Ms MacTiernan: Two years and one pamphlet - that's not a bad record, is it?

Mr SHAVE: Unlike the member for Armadale, the member for Geraldton acknowledges the fine job that the Minister for Fair Trading does. He does not spend his time in this place bagging decent, hard-working public servants.

Ms MacTiernan: What do you spend your time on?

Mr SHAVE: The member for Armadale would like to know what is in the ministerial box. She could do plenty with what is in it. It is true that a booklet entitled "Have I got a deal for you" has been -

Several members interjected.

Mr SHAVE: From my experience with car dealers, that is an appropriate heading and it fully recognises that it is a competitive industry. As I mentioned, the booklet has been produced and it has been mailed to all licensed motor vehicle dealers as well as advertising agencies and media outlets throughout the State. It is a good example of the Ministry of Fair Trading working with industry to ensure that the marketplace operates in a fair and competitive manner. In view of the circumstances, I am happy to commend the guide to the community, and I hope that the member for Armadale will do so. The ministry frequently receives inquiries from dealers about the correct way to promote a vehicle or deal. The booklet is designed to provide guidelines which, when followed, will ensure that advertising is accurate. In that way the booklet will

provide a ready reference for dealers to use on a day-to-day basis. Community benefits will flow from that initiative, of course. Clearly, if the motor vehicle sales industry knows how to apply advertising laws in a fair, practical way, consumers will have accurate information to help them to make the right decision when purchasing a motor vehicle.

TRAVEL AGENT'S LICENCE, REVOCATION

733. Ms MacTIERNAN to the Minister for Fair Trading:

I compliment the minister on taking only two and a half years to act on the Select Committee -

The SPEAKER: Order! Perhaps the member should ask the question or she will not get the opportunity.

Ms MacTIERNAN: I refer to the minister's answer yesterday concerning the cancellation of Mr Jeffrey Doig's travel agent's licence and ask:

(1) Who did Mr Doig speak to in the minister's office about the cancellation of his licence?

(2) Who in the minister's office contacted Mr Walker on the matter, and did that person obtain the minister's approval before doing so?

(3) Why did Mr Walker spend taxpayers' money obtaining preliminary legal advice from Corrs Chambers Westgarth when his departmental legal advice was that he had no power to revoke the cancellation of this licence?

(4) Did Mr Walker subsequently obtain detailed advice from his department refuting the preliminary advice from Corrs Chambers Westgarth?

Mr SHAVE replied:

I am a little disappointed in the member for Armadale -

Mr Ainsworth: Not again.

Mr SHAVE: Yes, I am. It would be remiss of me not to bring that to Parliament's attention. To the best of my knowledge I have never referred to Corrs Chambers Westgarth. Until today I did not know that the firm existed. Obviously, the member for Armadale spends her time on the telephone speaking to people from the Ministry of Fair Trading, trying to obtain legal advice. I thought that that was the province of the Government. I would have thought that she realised that it is an offence for such a thing to occur.

Ms MacTiernan: I have spoken to no employee of your department.

Mr SHAVE: I suppose the member for Armadale is saying that the solicitors from Corrs Chambers Westgarth gave her that information.

Ms MacTiernan: I am not saying that at all.

Mr SHAVE: She is not saying anything. She must have been looking at other people's faxes. She got it from either my department or from the lawyers; it is one or the other. There is silence. To come back to the question, Mr Speaker, because I do not want to upset you by going over my three and a half minutes, it is not the practice of the Government to name public servants doing their job. However -

Mr Ripper: What about ministerial advisers?

Mr SHAVE: However, the officer concerned did not obtain my approval to contact Mr Walker and ask that he be -

Ms MacTiernan: It's a secret, unnamed, ministerial staff member.

Mr SHAVE: Another conspiracy! The person concerned did not mind my mentioning it. However, as a matter of principle I am not prepared to do that. The officer concerned did not obtain my approval to contact Mr Walker and ask that he make inquiries into the circumstances leading to the cancellation of the licence.

(3) I am advised that Mr Walker sought further legal advice from Corrs Chambers Westgarth, of which the member is well aware, because the departmental legal advice conflicted with the earlier advice from the acting Registrar of the Commercial Tribunal on which he had acted.

Ms MacTiernan: That is rubbish; you gave him no such advice.

(4) The commissioner obtained departmental advice on 9 November 1998 about the delegation of authority by the Registrar of the Commercial Tribunal to the ministry. The member for Armadale was not aware of that because her people did not tell her when she did her little exercise. This advice was inconsistent with the advice received from Corrs Chambers Westgarth in September 1998. As a result of this advice the commissioner met with the Registrar of the Commercial Tribunal and they agreed to arrangements designed to overcome difficulties of this nature in the future.

DOMESTIC VIOLENCE, IMPROVED RESPONSE

734. Mrs van de KLASHORST to the Minister for Family and Children's Services:

(1) Has the State Government increased funding to women's refuges in Western Australia?

(2) What other initiatives has the Government introduced lately to improve the response to domestic violence in this State?

Mrs PARKER replied:

(1)-(2) The State Government has an unprecedented commitment to the fight against domestic violence. That has been matched with not only an unprecedented coordination across the State, in which the member for Swan Hills was vitally involved, but also unprecedented commitment to new levels of funding. During this Government's time in office that will increase by approximately $7m.

Presently 33 women's refuges across the State receive an annual funding level of $8.5m, which is an increase in the funding level over the past three years of approximately $2m. We have not only increased the number of refuges but also we are moving to establish three more refuges in Carnarvon, Derby and Newman. We have also moved to provide advocacy services for women who are moving beyond the point of crisis and working out how to move forward in their lives.

We are providing services for children, which services have been extremely well received. Children are secondary victims of domestic violence as witnesses. We have also introduced programs for perpetrators. That is important if we are to reduce the level of domestic violence. According to commentary from women in the sector and in the services, there is a need to provide some support for men who want to deal with their violent behaviour.

The sector has previously operated in a fairly award-free environment. Some industrial awards have impacted on the service providers. I have negotiated with those service providers on a case-by-case basis to assess the impact of the award on the service. To date I have funded an extra $1.4m to 19 of those refuges and will continue to negotiate with the remainder of them. I have also consistently raised the matter with the federal minister. After discussions with him last week, I am optimistic that the Federal Government may come to the party with a proportion of its funding with which it should come forward to match the pressures and the response the State Government has provided to date.

Never before have the present levels of funding and coordination occurred; nor have there been as many layers to the response which is aimed at dealing with not only the crisis but also circumstances beyond that.

COMMISSIONER FOR FAIR TRADING, DEFAMATION ACTION

735. Ms MacTIERNAN to the Minister for Fair Trading:

(1) Is the Commissioner for Fair Trading being sued for defamation by one of his department's employees, Mr Ross Emerson, over remarks Mr Walker made to the media?

(2) Are Mr Walker's costs in defending this action being met by the Crown?

(3) Is Mr Walker having to absent himself from his duty for extended periods to take legal advice and prepare his defence?

Mr SHAVE replied:

It would be inappropriate for me to discuss in general terms litigation that may be occurring.

Mr Ripper: What about litigation for which the Crown is paying?

Mr SHAVE: Mr Walker has advised me that Mr Emerson is concerned about some comments made by Mr Walker about matters that arose some time ago. If we had not had the protection of this place I imagine some other people would have been also facing litigation. If Mr Walker incurs any legal fees, surely it would be appropriate for them to be met by the Crown. He was discharging his duties.

Ms MacTiernan: Has he been served a writ in his capacity as commissioner?

Mr SHAVE: In the discussion I had with Mr Walker, I do not know that he specified that a writ was served on him. He said that an action was being taken against him. Unlike my learned friend over there, I am not a lawyer. I assume that if an action is being taken, a writ has been served.

SOUTH WESTERN HIGHWAY, UPGRADING OF PINJARRA TO WAROONA SECTION

736. Mr BRADSHAW to the minister representing the Minister for Transport:

(1) Will funds be made available for the South Western Highway, Pinjarra to Waroona, in the 1999-2000 Budget, in line with the original program for upgrading the South Western Highway?

(2) When is the upgrading of South Western Highway for that route expected to commence?

(3) Is the minister aware of the extremely dangerous nature of this Highway in its current condition?

Mr OMODEI replied:

It is obvious that the member for Murray-Wellington believes this is a most worthwhile project. I agree with him. The Minister for Transport has provided the following response -

(1) The amount of $10.96m has been allocated to complete this project.

(2)-(3) Design and land acquisition has commenced and roadworks are expected to be completed by April 2001.

VOLUNTEER SEA SEARCH AND RESCUE GROUPS, FUNDING

737. Dr GALLOP to the Minister for Emergency Services:

(1) Can the minister give an assurance that Western Australia's 34 volunteer sea search and rescue groups will have their state funding increased from the current annual total of $305 000 to a base level of $1m?

(2) Can the minister also assure the House that these groups will not be required to surrender control of their organisations in return for the funding increase?

Mr PRINCE replied:

(1)-(2) The sea search and rescue groups of which there are a number around our coastline, most of which are concentrated in the metropolitan area, have been in the past separated into two camps with, regrettably, little communication. Officers from State Emergency Services have spent some time employing consultants to bring the two groups together. As a result, a report was prepared which dealt with sea search and rescue for the first time ever as a coherent whole.

Certain recommendations were made with regard to the level of taxpayer support for sea search and rescue groups around the State. Comparisons were also made with what happens in other States - South Australia, Queensland and others come to mind. The result was a series of recommendations that were workshopped with both groups to achieve the formation of one coherent whole and recommendations were made to Government. That information has been fed into the budgetary process. As to what may or may not be the budget outcome, the leader will have to wait two weeks.

Dr Gallop: We were told on the radio last week that they would get the money.

Mr PRINCE: That is not true. The chief executive officer of the Fire and Emergency Services Department said that sea search and rescue groups would probably be happy with the result. The leader should not misquote him.

Dr Gallop: I think you should look at the television footage.

Mr PRINCE: Insofar as questions of independence are concerned, most if not all the groups I have read about or visited are incorporated under the Associations Incorporation Act; that is, they are incorporated, not-for-profit organisations. I do not see any way in which they can be constrained in their independence other than by the normal terms of grants or contract arrangements applied to moneys received. The constraints would be imposed from an accountability point of view and perhaps for coordination reasons. Apart from those, which would be logical, sensible and reasonable conditions, I know of no proposal to constrain sea search and rescue groups.

Dr Gallop: Will they get a base level of funding of $1m?

Mr PRINCE: The leader should wait and see.

MANDURAH RED CROSS, FUNDING

738. Mr MARSHALL to the Minister for Health:

Accusations have been made that Red Cross funding to Mandurah is inadequate. Will the minister tell the House -

(1) What annual amounts of money have been allocated to Mandurah for the past three years?

(2) Is the present allocation enough to cover the present services?

(3) Is a cutback being considered in the next financial year?

Mr DAY replied:

I thank the member for some notice of this question.

(1)-(3) The Health Department of Western Australia provides funding to the Red Cross in Mandurah to transport patients to the more central part of the Perth metropolitan area for treatment that is not available locally. In 1996-97 and 1997-98, $51 500 was made available, and in 1998-99, $71 600 has been made available. That is a significant increase for the current financial year of $20 100. I am advised that the Australian Red Cross has accepted the total allocation for the current financial year for the delivery of services.

It is important to appreciate the very substantial increase in the services available in the Mandurah district as a result of the opening of the new Peel Health Campus, which was opened last August and which was constructed at the cost of $38m. In 1997-98, the allocation for health services through what was formerly the Mandurah Hospital was $4.2m and in the current financial year the projected allocation is about $19m. That is almost a fivefold increase in resources to provide health services locally. That has led to the provision of general surgery, gynaecology, ear, nose and throat, urology, cardiology, gastroenterology and paediatric specialist services. In addition, services such as ophthalmology, orthopaedics and renal dialysis have only recently reached their full level of availability at the campus.

One of the problems that exists in Mandurah as far as accessing local services is concerned relates to the provision of public transport. Some of the people who currently rely on the Red Cross for transport to Perth find it difficult

to access services at the local hospital because of a deficiency in public transport. That issue is being taken up by the Health Department and the Department of Transport. In addition, a working party has been established involving the Health Department and Mandurah Red Cross to work through the current issues and make recommendations about an appropriate level of funding for the 1999-2000 financial year.

LONGLEY, MS LAURA

739. Mr RIPPER to the Parliamentary Secretary assisting the Minister for Education:

Notice of this question was given at 9.30 am.

Taking into account all costs, including her salary while on suspension, the cost of the independent review, legal costs and the cost of senior managers' time, what has been the total cost of the Laura Longley affair to the Western Australian taxpayers?

Mr TUBBY replied:

I thank the member for some notice of this question. In the minister's absence I am advised that Ms Longley's salary while suspended on pay has been $16 983.63 to 15 April 1999. The reviewer's charge to complete the inquiry was $2 500. The cost of senior managers' time is unable to be estimated as all activities related to disciplinary action are carried out as part of their regular duties. No legal fees have been incurred by the Education Department in relation to this matter. Therefore, total cost to the Education Department in investigating Ms Longley's actions is $19 483.63.

CRISIS ACCOMMODATION FACILITY, HEATHRIDGE

740. Mr BAKER to the Minister for Housing:

The Patricia Giles Centre fulfills a very important community need in providing crisis accommodation for women and children escaping domestic violence in the northern suburbs. Will the minister advise whether Homeswest can assist this centre in providing a crisis accommodation facility in Heathridge?

Dr HAMES replied:

I thank the member for some notice of this question. I am well aware of the Patricia Giles Centre, which is a purpose-built women's refuge at Joondalup. I am on the board of a women's refuge in the member for Maylands' electorate. Such centres serve a very important purpose. The Patricia Giles Centre manages four other houses, which are used as exit-point housing for people who have been in the refuge and who want to get back into public housing but who need somewhere to go as an interim measure. The Government recognises the need for an additional property in Heathridge. Homeswest is currently forwarding a proposal to me for the purchase of a four-bedroom property in Heathridge to be used by that organisation.

WOMEN'S REFUGES, FUNDING

741. Ms WARNOCK to the Minister for Women's Interests:

(1) Why has the minister ignored representations from the Women's Refuge Group, which asserts that refuges across the State are unable to cope financially following the implementation of the crisis assistance supported housing award?

(2) What is the minister doing about the fact that many refuges no longer employ child support workers to assist with those traumatised children, who we all know are in refuges, because those refuges cannot cope with their operational budgets, which have been static for many years?

Mrs PARKER replied:

I thank the member for some notice of this question.

(1)-(2) From my recollection, the Women's Refuge Group made one request for a meeting late last year - in about December. The reason for that meeting was to discuss whether I as minister would provide funding for the conference the group has been holding today and yesterday. I explained that because I fund the organisation to the tune of about $40 000 to organise activities such as that, the cost should come from that allocation.

The member refers to pressures on budgets. I have already explained during this question time that I am aware of the pressures on the women's refuge budgets because of the federal award that has been implemented.

To date, I have assessed the impact of that award on the funding levels of 19 refuges as they have applied to me on a case-by-case basis. All have been assessed as requiring additional funding to compensate for the award at a cost to the department's budget of $1.4m. The member for Perth knows that the funding arrangement for the supported accommodation program is a shared agreement between the Federal and State Governments. I have made consistent representations to the Federal Government. The issue was raised last week at the ministerial council and I also had a private meeting with the federal minister to raise specifically the problems and difficulties we are facing in Western Australia as a result of the impact of the federal award. I have further funded 19 refuges as applications have been made and from recollection they have received an average budgetary increase of around 30 per cent. I found the federal minister sympathetic to our claims about the impact of the award and I am looking

forward to the federal budget in the hope that the federal allocation will provide relief to match what I have provided to 19 refuges so far with other refuges going through the assessment process. This Government provides an unprecedented level of funding available to domestic violence, particularly to women's refuges. Funding to women's refuges has increased by more than $2m in the past three years and the Government is moving to establish three more refuges in response to demand. The Government will respond to the issues of crisis. It will put in place services which allow women to re-establish some stability in their lives. The Government will also try to deal with the problem by expanding what have been accepted and commended as significant initiatives; these are the perpetrator counselling programs and the very successful men's domestic help line. That help line has received more phone calls from men in the community than was anticipated and of those calls a higher than expected number of men have committed to taking on behaviour management counselling.
