WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE ASSEMBLY

Wednesday, 23 June 1999

THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

SWAN RIVER FORESHORE REDEVELOPMENT

Petition

Ms McHale presented the following petition bearing the signatures of 77 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned citizens call upon the State Government to reassess its priorities and redirect the $80 million it has committed to the redevelopment of the Swan River Foreshore to more worthwhile community infrastructure projects in the areas of health, education and public transport.
>
> 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 241.]

PERTH MINT

Statement by Premier

MR COURT (Nedlands - Premier) [12.03 pm]: At the weekend the State celebrated the centenary of one of its most significant historic institutions - the Perth Mint. One hundred years after the establishment of the Perth Mint, it is appropriate to take a moment to reflect on its history and the positive contribution it continues to make to the State of Western Australia. The idea of a mint in Perth was conceived by the Premier of the then colony of Western Australia, Sir John Forrest, in the latter part of the last century to capitalise on the gold discoveries in the Yilgarn field which gave rise to the gold towns of Coolgardie and Kalgoorlie. The importance that Forrest placed on the mint is summed up by his comments in the *Hansard* of 9 July 1895 as part of debate on the Perth Mint Bill. Forrest told his parliamentary colleagues -

> We all know it was said thousands of years ago that "Fortune favours the brave;" and I believe it will help and favour us now if we only show ourselves equal to the responsibilities cast upon us in these moving days. . . . This Mint will be the copestone of the edifice we have been rearing up during the last few years.

The Perth branch of the Royal Mint was opened on 20 June 1899. Since that time the mint has weathered many storms, including successive threats of closure or takeover by the Commonwealth. The Commonwealth made efforts to close the mint in 1901, 1914, the late 1920s and the late 1960s. Thankfully, ownership of the mint passed to the State Government on 1 July 1970. The Western Australian Government later played a critical role in the renaissance of the Perth Mint in the mid-1980s, when it persuaded the Commonwealth to allow the mint to launch an international legal tender, precious metal coin program. The Government brought in the necessary expertise, including the current chief executive officer, Don MacKay-Coghill, the architect of South Africa's successful Krugerrand investor coin, who oversaw the redevelopment of its operations.

Today, the Perth Mint is recognised internationally as an innovator and world leader in the specialised fields of both minting and refining. Since the commencement of the precious metals coin program in 1986, it has generated more than $2.4b in gross revenue, 90 per cent of which was earned overseas. During this period the Perth Mint's coins have consumed more than 122 tonnes of gold, 328 tonnes of silver and 16 tonnes of platinum. The mint's asset base has grown from $5.2m to more than $50m and it has contributed $17m to the State in the form of dividends and statutory contributions.

The Perth Mint is a Western Australian icon. Its elegant limestone administration building is one of Perth's best-known and admired buildings. Designed by the famous colonial architect, George Temple Poole, and built from Western Australian materials, it is now the home of the popular Perth Mint shop and gold exhibition and attracts more than 100 000 visitors annually. The Perth Mint is not only one of the oldest in the world still manufacturing coins on its original site, but also Australia's only operating "gold rush mint". The buildings in which the coins are minted are among the best examples of Victorian industrial architecture in Australia. Among the mint's many achievements is an unbroken record as a precious metals refiner.

In November last year, the mint's refining business, Australian Gold Refineries, merged with the Perth-based listed gold refiner, Golden West (Australasia) Pty Ltd, to form the AGR joint venture. The combined operation is the largest refiner of gold and silver in Australia, offering world-class facilities, extensive technical expertise, market experience and distribution networks. Gold Corporation retained 50 per cent ownership of the AGR joint venture, underlining the Government's continued commitment to the provision of refining services for the Australian gold industry.

A century after the first discoveries in Western Australia, gold - and the Perth Mint - remain an integral part of the State's economy. During that time, 4 050 tonnes of gold worth $A58b has passed through the mint. This enormous volume of gold represents about 3.25 per cent of all the gold produced in the world. That statistic speaks for itself. I am sure all members would agree that the Perth Mint's centenary is a significant milestone in this State's history and is living testimony to the foresight of Sir John Forrest.

BILLS - INTRODUCTION AND FIRST READING

1. Planning Appeals Bill 1999.

2. Planning Appeals (Transitional and Consequential Provisions) Bill 1999.

Bills introduced, on motions by Mr Kierath (Minister for Planning), and read a first time.

3. Heritage Bill 1999.

4. Heritage (Consequential Provisions) Bill 1999.

Bills introduced, on motions by Mr Kierath (Minister for Heritage), and read a first time.

5. Occupational Safety and Health Amendment Bill 1999.

Bill introduced, on motion by Dr Gallop (Leader of the Opposition), and read a first time.

CRIMINAL CODE AMENDMENT BILL 1999

Second Reading

MR PRINCE (Albany - Minister for Police) [12.12 pm]: I move -

That the Bill be now read a second time.

The Criminal Code Amendment Bill 1999 seeks to address criminal law reform in the area of videotaped interviews conducted by officers of the Anti-Corruption Commission. The amendments are little more than procedural, given that they merely codify regulations which are already in place.

Videotaped Interviews: Chapter LXA was inserted in the Criminal Code in 1996 through the enactment of provisions contained in the Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992. This chapter presently deals with issues associated with videotaped interviews conducted by the police.

The Criminal Code Amendment Bill 1999 now seeks to effect a number of changes to chapter LXA of the Code in relation to videotaped interviews conducted by officials of the Anti-Corruption Commission. The amendments are not substantive in nature and merely seek to place the Anti-Corruption Commission under the same Criminal Code regime in respect of videotaped interviews as currently applies in relation to videotaped interviews conducted by police officers. The current restrictions contained in the Code in respect of broadcasting and retention of videotapes of police interviews will apply in exactly the same way in relation to videotaped interviews conducted by the Anti-Corruption Commission.

As an interim measure, some of these provisions have already been effected through amendments contained in the Criminal Code (Authorized Persons) (Videotapes of Interviews) Amendment Regulations 1998. The provisions contained in the Criminal Code Amendment Bill 1999 are designed to codify, in statute law, the existing restrictions and obligations that surround videotaped interviews conducted by officials of the Anti-Corruption Commission.

In addition, the Bill will codify the existing regulatory powers which enable the Parliamentary Commissioner to have access to videotaped interviews and will enable the Parliamentary Commissioner to play such videotaped interviews to other persons. In this way, the Parliamentary Commissioner will be placed on the same footing as police officers and Anti-Corruption Commission officials in relation to the handling of videotaped interviews.

Conclusion: It is this Government's policy to ensure that the Anti-Corruption Commission is a powerful, independent, investigatory body, which is provided with the necessary means and safeguards to ensure it can continue to function in an efficient and accountable manner. The Bill achieves this purpose. I commend the Bill to the House.

Debate adjourned, on motion by Mrs Roberts.

BILLS - RETURNED

1. Treasurer's Advance Authorization Bill 1999.

2. Revenue Laws Amendment (Taxation) Bill 1999.

3. Revenue Laws Amendment (Assessment) Bill 1999.

Bills returned from the Council without amendment.

RAIL FREIGHT SYSTEM BILL 1999

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

Clause 1: Short title -

Ms MacTIERNAN: The Opposition has been disappointed by the Government's response, but to some extent enlightened by debate late last night. It is often interesting to listen to backbenchers because they tend to be less guarded in their comments. The Opposition pointed out in considerable detail the logical contradictions in the proposals that the Government put forward. For instance, the idea of a vertically integrated system is logically inconsistent with competition. It became

clear from the comments of the member for Collie that the Government does not intend to be serious about competition on the rail line. This position was also inherent in the response of the Deputy Premier. He did not address the critical questions centred around the incompatibility of a system of vertical integration with the notion of competition as anything more than some niche marketing on the side.

The CHAIRMAN: I remind members that when we deal with the short title, it is not an opportunity to give a resumé of the Bill; it is for members to state whether they agree that it should be called the Rail Freight System Bill.

Ms MacTIERNAN: I understand that, but making general comments certainly has been the practice since I have been in this House.

The CHAIRMAN: It is something that we are trying to get back on the rail.

Ms MacTIERNAN: I do not intend to revisit it again. I just want to make these preliminary comments. It is disturbing to learn that the Deputy Premier is uncontrite in his view that the entire rail network is to be considered as an homogenous unit; that he considers the Beacon-Bonnie Rock line to be of the same standard as the east-west line and the lines out of Collie; and that he believes that our entire rail network should be treated as if it were a low-volume regional rail network. This is contrary to the advice that he would have received from Westrail and contrary to the advice given and the attitude taken by the Productivity Commission. It is a position one must adopt if one is in the Deputy Premier's position. It is only by adopting such an absurd position that he can justify the way in which this scheme has been proposed. Only by doing that can he justify providing a total monopoly over our rail network to a private operator. We have all agreed that there is an argument for monopoly in relation to low-volume regional rail. It is an outrage for the Deputy Premier of this State, the man responsible for business development in this State, to claim that the entire network must be viewed as a low-volume regional rail line. So outrageous is this prospect that it includes the line which is part of the interstate network. We will ensure that users will ensure that this is understood by WMC Resources, Anaconda Nickel Ltd, Outokumpu Metals and Resources and any other operator. The member for Roe, who is in the Chamber, can be assured that we will ensure that all the operatives in Esperance are aware that this is the Government's view of its rail line and that the Government is committed to an anti-competitive policy in this regard.

Clause put and passed.

Clause 2: Commencement -

Ms MacTIERNAN: I have an amendment to this clause which is on the Notice Paper. Our amendment seeks to say that this Bill, which enables the Government to sell off our freight business and our rail network, should not take effect until such time as the National Competition Council has signed off on the rail access regime. I will take members through this so they understand the importance of this in the overall scheme of the legislation. The Government, quite disingenuously, is claiming that we can have vertical integration and real competition. I will not revisit all the arguments as to why that is impossible. The Government says that its rail access regime is the crucial tool which will deliver this. The reality is that the rail access regime that has been drawn up is a heap of rubbish. It will do little to address the real problem of an above-line operator also being the rail track manager. We went into this in considerable detail the other day and, because we have very little time, I will not revisit those points. We have quoted the Integrated Supply Chain, which is a heap of resource developers; we have quoted Toll Rail; we have quoted the Australian Rail and Track Corporation - all of which share that view. Mr Chairman, can we have slightly less noise?

The CHAIRMAN: Members should keep the noise level down. If they wish to carry on a conversation, they should do it outside the Chamber.

Ms MacTIERNAN: The rail access code devised by the Government must go before the National Competition Council to be vetted and certified. Our concern is that we have said frequently that this code will not be adequate to deliver any real competition. We have a body which supposedly will be some sort of umpire on this decision. We have a body whose charter it is to make a determination on this matter. Let us not allow this Bill to operate until such time as the National Competition Council has certified that this takes effect. That does not stop the Government moving forward with its regime. It will simply mean that it cannot invoke it until such time as the National Competition Council has signed off on it. Importantly, the amendment I have proposed seeks to ensure that the National Competition Council must sign off on a code that will apply to a private operator. During our discussions with the National Competition Council, we learnt that the submission that has come forward relates only to Westrail as an operator. We are advised by the National Competition Council that certification would collapse once there is a sale of the legislation. Notwithstanding the provisions in this Bill that it simply takes out the name "Westrail" and inserts the private operator, the National Competition Council certification of that code will cease. It recognises that a different assessment process will take place if there is a private operator rather than a government operator. If the Government is genuine and wants to see competition on the rail line, and if it genuinely believes that the code will deliver that competition, let it put its money where its mouth is. Let us say then that this power to dispose of our network, our freight business, will not operate until such time as a neutral third party has said, "Yes, this code will do the job."

Mr THOMAS: I support my colleague. Her amendment will preserve the role of this Parliament and the role of accountability. As things stand, if the Bill were to pass without the amendment which is sought, obviously the provisions in the Act can come into effect without this Parliament having before it the response of the National Competition Council. Yesterday in the Parliament when the member for Armadale spoke, an enumeration was given of the reasons why it is difficult if not impossible to achieve proper competitive principles with a vertically integrated monopoly, particularly a privately-owned vertically integrated monopoly. I made the same points when I spoke. Unfortunately, I was not able to be

present in the Chamber for the balance of the debate. From what I have read in the uncorrected daily *Hansard*, and in particular the Deputy Premier's reply to the second reading debate, no answers were forthcoming to the points made. If the amendment sought by my colleague were passed, the response from the National Competition Council to the principles of the Bill, if passed, would be tabled. Therefore, Parliament will be able to satisfy itself that the NCC is satisfied. That should be done; otherwise, we will effectively lose control of the matter and we would have no guarantee that the NCC had approved it, nor the terms of the approval and the NCC's view on the code and regime proposed. The amendment to be moved by my colleague is sound and will preserve the role and integrity of Parliament in overseeing the project.

Mr COWAN: To my knowledge, no amendment has been moved. I am sure the member will move the amendment when I resume my seat.

I comment generally on the provisions of this clause. I am pleased that the member for Armadale finally reached the provision within the clause, which allows for an orderly process once things begin to fall into place. In initially considering some of the wording in this clause, I thought someone was deliberately trying to confuse me. Effectively, it will ensure that as we privatise the rail freight system, and undertake the lease arrangement, a natural and orderly procession will occur.

Two issues arise in response to comments by the member for Armadale and her proposed amendment: First, the National Competition Council has indicated that its preference is that it will decide on certification after the regime is in place. I am aware that efforts might be made by the State to acquire certification before implementation. Nevertheless, it is not the preferred choice of the NCC. I also advise the member that the National Competition Council has indicated that it will not recommend certification of the regime until legislation is passed by the Western Australian Parliament.

Ms MacTIERNAN: The Opposition's proposal is not inconsistent with that point. We say not that the legislation will not pass, but that we will have exactly the same system as proposed at the moment. I do not know how across the issue the Deputy Premier is. This Parliament some time ago passed the Government Railways (Access) Bill, which became the Act of that name. However, it is yet to be proclaimed. It has passed both Houses of Parliament, but as the Government swung the lead, the code, which is delegated legislation subject to that Act, is still before the National Competition Council for approval. We want the same schema to apply to the Bill before us. The National Competition Council would have no reason to object to that proposition. Legislation has passed through both Houses of Parliament and is not proclaimed; therefore, the NCC is assessing the rail access regime in relation to Westrail. The Labor Party wants the same process to apply to the code for the private operator. By all means, try to get the legislation passed by both Houses of Parliament. However, before it is proclaimed - in the same way as the Government Railways (Access) Act is yet to be proclaimed - allow the matter to be assessed by the National Competition Council. Our proposal is compatible with the NCC advice. We understood the proviso, and have framed our amendment accordingly. The Deputy Premier provides no answer to the proposition before the Government.

Mr COWAN: The Government will not support the amendment the member might seek to move, and I stand by what I said earlier. Some acceptance may arise on the basis of the technicality of the member's comment. However, the National Competition Council has indicated it has a preference for this process to unfold before it makes its assessment. We understand that. It is not prepared to make any assessment until Parliament has passed legislation. I acknowledge the view that we could pass the legislation to get over that hurdle.

Ms MacTiernan: That is exactly what you did with the other legislation.

Mr COWAN: However, it would have little impact. The NCC would not want to make an assessment of this issue until a clear indication is made of what is in place, not just what was passed by Parliament - it refers to what is put into effect by the Government. It is two issues. For that reason, the Government has no intention of accepting any amendment proposed.

Ms MacTIERNAN: The consequence of the Government's decision is that we must take on trust, without any third party placing a ruler over the matter, that the rail access regime will work. All evidence indicates that it will not work. Let us consider some of the operators to which we referred yesterday. We spoke about the Australian Rail Track Corporation, a rail track owner, which stated that there is a multitude of ways in which a rail track owner, particularly one with a vested interest as an operator, can inconspicuously behave in an obstructive manner; that is, through pricing and network control. The corporation referred to a regulator and arbitration procedure, and things which might be needed to control such a situation. Rail track operators indicate the difficulties involved. Toll Rail is a private operator on the other end. It tells us that a rail operator can derail its competition in a thousand and one ways. Timetabling is one way in which companies are most vulnerable. Users say that they are very concerned about the sale of an integrated Westrail. The concern is that rail track users, either directly or with contract railway operators, must negotiate track access rates. The negotiation will be with a track owner which might also be an above-rail operator competing for integrated supply chain business. Three classes of people - we could magnify that - say, "You have it wrong, guys." Rail track operators, people who operate rail business, and an above-rail operator all say it is wrong. There are users who are saying it is wrong. How much more evidence does the Government need to be convinced that this is wrong?

Against that weight of evidence, the Government is saying, "Hey guys, we've got a rail track access code." It has not been approved by anyone. No-one thinks it will work except the Government. It has not even been signed off. As we speak here and as we are being asked to pass this legislation, it has not even been endorsed in respect of Westrail by the National Competition Council. It has not even had a preliminary signing off in relation to Westrail, let alone a signing off in relation to the other operators. When I raised this matter last night, the Deputy Premier promised to bring forward today a heap of examples that would show where this system had worked. I ask the Deputy Premier now to show us his examples.

Mr COWAN: I do not have those examples to hand but I am sure we will provide them at some time during the course of this debate.

Ms MacTiernan: The cheque is in the mail?

Mr COWAN: Again, that is not relevant to the clause we are debating. I have no intention of debating issues with the member that standing orders do not permit. I will return to the provisions of this clause and deal with issues that she raised that are relevant to it. There is only one; that is, the question of the code and how the code might apply. The member quoted something earlier which was really a reference to the interstate line. I am sure when she read the Bill she would have been aware that the state code that will be prepared under the proposed Rail Track Access Act will apply only to state lines, not to the interstate line, because an intergovernmental agreement established the Australian Rail and Track Corporation and refers to a code for interstate lines. The member will find a later clause in the Bill which exempts the lines the subject of the intergovernmental agreement which established the ARTC and which will operate outside the code.

Ms MacTiernan: Under what code will it operate?

Mr COWAN: I imagine it will be one established through the intergovernmental agreement.

Ms MacTiernan: Can you show us that provision?

Mr COWAN: It is proposed section 65(3) on page 35. I am sure we will debate that issue when we get to that clause. However, the issue raised by the member and the reference she gave relating to clause 2 refers to interstate lines which are the subject of intergovernmental agreement and which will have a separate code.

The CHAIRMAN: Does the member for Armadale intend to move her amendment?

Ms MacTIERNAN: Yes. I move -

> Page 2, line 6 - To insert after "proclamation" the following -
>
> > which shall not be earlier than the day on which the Minister has caused to be tabled in both Houses of Parliament advice from the Minister that the National Competition Council has approved a rail access regime which would apply to a private rail track manager operating in Western Australia

The comments I made earlier apply not just to the east-west line. The Integrated Supply Chain and the Chamber of Commerce were equally concerned about the situation on the Leonora-Esperance line. It is therefore a nonsense to say that the content of this clause applies only to the east-west line. It applies also to the other lines, most notably those lines in and out of Bunbury and Kwinana, over which even the Government has acknowledged there should be competition. Although the rail track authority is primarily concerned with the east-west line, the importance and relevance of the comments it made was as a track operator giving evidence of how it can sabotage its competition. The users are concerned about the Leonora-Esperance line. I understand that there are other users, such as Alcoa, that are concerned about those lines in the south west of the State.

Mr Cowan: Is the member referring to the users from the Esperance-Kalgoorlie region who signed the letter to the Transport minister?

Ms MacTIERNAN: I am referring to the notes, which I have quoted on numerous occasions, which have been prepared by these five companies who formed the Integrated Supply Chain. This represents the view of this body of producers.

Mr Cowan: They have met with the Transport minister and all the concerns they have expressed in that letter have been allayed. They have no problems with the Government's proposals. I suggest the member talk to them again.

Ms MacTIERNAN: When did they meet with the minister?

Mr Cowan: I have no idea of the minister's diary. However, I can tell the member that it would have been recently. They are perfectly comfortable with the Government's proposals, and the concerns that have been expressed in that letter have now been, not withdrawn, but dealt with.

Ms MacTIERNAN: I tell the Deputy Premier that I met with them on Monday and that is what they said.

Mr Cowan: We are getting two stories then, and I tell the member whom I would much rather believe - the Transport minister.

Ms MacTIERNAN: I can understand that the Deputy Premier would much rather believe him and I understand why. I would like to believe in Santa Claus and the Easter bunny; I would much rather believe in them than not. However, it is one thing to want to believe in things, but there is another thing called reality. Does the minister know what they said? Minister Criddle has said to them that if they do not get behind the Government and support the legislation, guess what? The Government will do nothing. The Government will not take any action to reform Westrail. They do, as we do, want Westrail reformed but the Government has put this threat over them. The minister can laugh but this is what his minister said to them.

The CHAIRMAN: I just remind members that we are dealing with the commencement date in clause 2.

Ms MacTIERNAN: Absolutely.

The CHAIRMAN: Members are straying into general debate. We have to deal with the clauses and the amendment moved by the member for Armadale.

Ms MacTIERNAN: Absolutely. My amendment turns on the need to delay proclamation until such time as a rail access regime has been signed off. The Deputy Premier is trying to tell us that the users are now all happy.

Mr THOMAS: The point that has just been made by my colleague is that we as a Parliament should not allow this Bill to become an Act, if it passes through both Houses of Parliament and comes into force, until these criteria are satisfied. We, as a Parliament, must ensure that the National Competition Council has approved the regime and passed all the necessary criteria submitted to it. If we do not do that, we will be remiss in our duty. We will be setting off into the ether and anything may come of it. We will not be able to satisfy ourselves that the criteria which we properly believe should be applied have in fact been satisfied. The amendment moved by my colleague is appropriate because it requires those preconditions to be satisfied before the Bill can be proclaimed and come into force. That is a very proper mechanism for seeking to achieve the objectives which she has enumerated and for the way in which it should be done, otherwise we are leaving it in the hands of the Government to decide when the legislation will come into force. It may well be that it could be done without those preconditions being satisfied. This is a form of amendment which is appropriate for achieving the objectives enumerated by my colleague.

Ms MacTIERNAN: We have received no response from the Government and no legitimate reason that it will not halt proclamation until this code has been put in place. The reason that the Government has not responded is that it knows there are grave doubts about whether this code will ever be signed off with regard to Westrail, let alone with regard to a private operator. More importantly, the Government does not intend to have any real competition on these lines. The Government's view, as revealed in the debate last night, is that the competition will be inter-modal. The Government believes that in reality it is proper to have a monopoly on the rail track, and that the competition will be provided by road. That is an absolute disgrace with regard to the four lines that have been identified by the Government as being lines on which there should be open access and real competition. There is no point my labouring this matter any further. The Government has been shown up once again as being completely insincere in its desire to have competition. The Government proclaims that privatisation is all about competition, but it is using privatisation to frustrate competition.

Amendment put and a division taken with the following result -

Ayes (16)

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

Noes (29)

Mr Ainsworth	Dr Hames	Mr Marshall	Mr Prince
Mr Baker	Mrs Hodson-Thomas	Mr Masters	Mr Shave
Mr Board	Mrs Holmes	Mr McNee	Mr Sweetman
Mr Bradshaw	Mr House	Mr Minson	Mr Tubby
Dr Constable	Mr Johnson	Mr Nicholls	Dr Turnbull
Mr Court	Mr Kierath	Mrs Parker	Mr Wiese
Mr Cowan	Mr MacLean	Mr Pendal	Mr Osborne *(Teller)*
Mrs Edwardes			

Pairs

Mr Riebeling	Mr Barnett
Mr Grill	Mr Day
Mr Marlborough	Mr Barron-Sullivan

Amendment thus negatived.

Clause put and passed.

Clauses 3 to 7 put and passed.

Clause 8: Effect on *Government Railways Act 1904* -

Ms MacTIERNAN: This clause provides that anything that the Government takes out of the Government Railways Act may again become part of the Government Railways Act. Subclause (5) states -

> Nothing in this section prevents anything that has ceased to be part of a Government railway from again being part of a Government railway except that corridor land cannot be part of a Government railway.

How will this work, and under what circumstances will land that has been part of the government railway but has ceased to be part of the government railway become part of the government railway again?

Mr COWAN: I have been advised that land that is designated as not being necessary for the uses for which the operator wants to operate the railway may be taken out of the corridor of the operator, and once that land has been taken out of that corridor, it will revert to Westrail. I am sure the member will acknowledge that Westrail in its planning for lines and rail services holds significant parcels of land, particularly in some regional towns. In my home town of Merredin, Westrail holds considerable parcels of land. Merredin is not a good example, because an intergovernmental agreement operates in that area, thus Merredin will not necessarily be affected much. However, some branch lines run into Merredin. Any land which is currently owned by Westrail and which the minister does not want to put under the control of the operator will revert to Westrail. As the member says, the Act also makes provision for that land to be transferred again should there be a need for it.

Ms MacTIERNAN: My concern is that Mr Baker is writing letters to the papers telling people not to worry about the prospect of lines being closed by the private operator because the Government can always get them back and run a rail line again. It is an intriguing prospect. Will the minister explain how that might work? It clearly comes within the ambit of this clause. Is the Government seriously expecting punters out there to believe that, for example, if the private operator decides that it will not operate a York-Quairading line, the Government can immediately take the York-Quairading line back? Will the Government tell us how it proposes to operate a railway system given that it has no rolling stock and no staff? Is this merely another example of giving absolutely ridiculous, absurd assurances to country people that they will be looked after?

Mr COWAN: I am pleased that the member quoted the York-Quairading line because it raises a couple of experiences.

Ms MacTiernan: You are likely to keep closing it down on a temporary basis, making councils very angry.

Mr COWAN: I am not aware that councils are very angry; I am aware that councils understand that cereal production is the core business of those shires. Getting that product to the marketplace is important. They would express their preference for it to be done by rail. By the same token, they understand that the priority is to get the product to the port to get it sold. They acknowledge that. In this case the issue that the member has raised about the operator having a particular obligation and deciding that it will not fulfil it -

Ms MacTiernan: After 2005.

Mr COWAN: A lot can happen in that time. I am pleased that the member recognises that the operator has an obligation as part of the lease agreement. The member can be sure that not only is there the agreement with the State Government about the conditions under which the operator runs the service but also there will be contracts with the major customers of Westrail, which would raise obligations. The operator would have to meet its obligations not only to the State but also to those present major users of rail. I am quite sure that in those two instances many safeguards would support the retention of a particular line. Notwithstanding all of that, as the member will have seen with the current lines that have not been used for temporary periods for reasons that might be associated with maintenance, flooding or some damage occurring to a particular part of the line, one would expect the same thing to occur with the operator, one would hope, because of greater efficiency, at a lesser rate than occurs with Westrail. The answers to the member's question lie in the obligations that the operator will have to the State in its lease and, assuming it is competent doing the work, to the body that might be contracting the transport task, such as Co-operative Bulk Handling Ltd. It would be the only body in that region to which the member referred. There would be others, depending on where and which line one is talking about. The position is that the operator would have obligations in its contract with the State and in its general contracts.

Ms MacTiernan: How do we know that?

Mr COWAN: How does one know that night follows day? Of course there will be an obligation.

Ms MacTIERNAN: The statements of the Deputy Premier will offer absolutely no assurance to anyone whatsoever. For a start, even the Government is acknowledging that with grain lines there will be no obligation on the part of the private operator after the year 2005. The obligations that will be imposed go only to 2005. Those people on the Leonora-Esperance line do not even have a guarantee until 2005; there is no such assurance for them. There is nothing in the Deputy Premier's bland assurances that the Government will do the right thing and require a contract. Let us take the example of the York-Quairading line. If a private operator decides not to operate a train on the York-Quairading line after 2005, which would be outside the ambit of the contractual obligation, will it be able to hold onto the line or will the line automatically revert to the Government? This is a crucial point. One of the examples that the Government likes to quote is New Zealand and how hunky-dory the system is there. However, in New Zealand a dispute is raging as we speak because a private operator did not want to run over a line any more. The private operator intends to rip up those lines to prevent any future competitor from using them. I will concede that the latest mutation of this proposal is that it would not be within the power of the private operator to do that because it will only lease the lines. That will stop some of those gross abuses. However, will it stop the operator sitting on the line or doing what the Government does? The Government has said of the Beacon-Bonnie Rock line, for example, that it is not closing it but simply not using it. Therefore, we have a new class of lines that are not closed but not used. Will a private operator be able to do a similar scam on the York-Quairading line? Will it be able to say that it is not closing it but just not using it; or, immediately that becomes the situation, will this clause, as it should do and as I suspect it does not, mean that the line will come out of its operation and revert to government hands?

Mr COWAN: I am somewhat intrigued because every time the member gets to her feet she uses an example of the existing rail service, which we are trying to fix by transferring to a private operator which might be more efficient and, I am sure, will be more efficient and able to provide a better service. The member keeps on reinforcing the need for this. She has admitted in the first instance that Westrail has gone as far as it can go under government ownership. She reinforces the point by quoting examples of what is happening now and what we are seeking to repair by transferring Westrail's freight operation to a private operator. In respect of the rail task which might or might not be the subject of a decision by the operator about whether it will continue with that rail task using that line, naturally there must be a degree of flexibility; one cannot be totally rigid in any lease arrangement. Where there is a significant shift in the volume of the traffic that might have been on a line, there will be a requirement for the operator to notify the Government of its intention for the service it provides. The last resort is that the State can resume that ownership.

Ms MacTiernan: It can, can it?

Mr COWAN: Yes, it can, but it is not something one would do other than as a last resort. The moment one takes responsibility for that line, one returns to the very issue that was debated at length last night, which is that one assumes responsibility for all of the maintenance costs associated with it; and the member has just given us a good example of those

maintenance costs, because they are prohibitive and because we are competing in a very highly pressurised area of government financial resources and Westrail does not get a very high priority. That is one of the reasons we are seeking to do this. An operator will not have those capital constraints that the Government has upon it.

Ms MacTIERNAN: We will not know what these contracts are so it is important for us to draw out what might be in them. The Deputy Premier has not told us something that we did not know before: If a private rail operator - we are talking mainly about the wheat, or, it would probably apply to Leonora as well - was able to show to the Government that a substantial change had occurred in the volumes - is that what the Deputy Premier is saying?

Mr Cowan: In the rail task.

Ms MacTIERNAN: In the rail tasks carried over that line, it could apply to not operate over that line.

Mr Cowan: That is right.

Ms MacTIERNAN: Does this apply before 2005 or after it?

Mr Cowan: It does not apply until five years after the operator takes over the operations at Westrail.

Ms MacTIERNAN: For the first five years, there will be no capacity to make such an application. This capacity is after five years.

Mr Cowan: Yes, as I understand it.

Ms MacTIERNAN: Can the Deputy Premier check that?

Mr Cowan: Yes, as I understand it that is the case, but I will give you that confirmation.

Ms MacTIERNAN: We know that applies from the glossy pamphlet that has been handed around and that is an undertaking that applies in relation to the grain freight network.

Mr Cowan: I thought it was a little smarter than the pamphlet that was handed around in your name.

Ms MacTIERNAN: That is right, but the content is nowhere near as good. Some of us have form and others have substance.

Mr Cowan: Some of us have neither.

Ms MacTIERNAN: The Deputy Premier should not talk about his National Party colleagues in that way.

Mr Cowan: I was not. I was talking about somebody else.

Ms MacTIERNAN: I know it was not me, although the Deputy Premier has a tendency to be somewhat contradictory. I take heart in his statements last night that I was not a person who lacked substance, and I refer him to the *Hansard*. The 2005 undertaking applies only to the grain freight network. Can the Deputy Premier clarify that or does the 2005 agreement also apply to the Leonora-Esperance line?

Mr COWAN: The advice I have is that some attention has been paid to the branch lines that would effectively service the grain industry and the grain industry alone at this moment, although we anticipate that if we were able to identify a competent operator, it would win back some of the traffic for other bulks such as fertiliser or products of that nature - maybe fuel in some areas. This proposal may be focused on those branch lines, but it has effect across the board. Once again, the issue of operations of those lines will be the subject of the agreement that is reached between this State and the operator. Then we will see the conditions that are applied to those operations. The focus of attention has been on the branch lines because they are presently the most vulnerable - many of them have been closed over a long period. One would naturally go to the lines that are most vulnerable. With respect to the task force and the thinking of government, we have sought to maintain the level of service on those lines which may be regarded as being vulnerable as the first priority, but when it comes to reaching an agreement with the purchaser or the operator - I think we can keep calling the operator the company which will operate Westrail freight - that might not necessarily be confined to only those branch lines which are presently regarded by many as the most vulnerable. That could be applied all the way through, but I am not in a position to say that there will be a blanket situation. The present thinking of the task force is that people have identified those lines which are vulnerable because many of them have been closed over past years -

Ms MacTiernan: Or not used.

Mr COWAN: - or not used. One is not used.

Ms MacTiernan interjected.

Mr COWAN: Name the others.

Ms MacTiernan: I will get my map out and tell you.

Mr COWAN: The member has threatened us for some time and I am looking forward to the time it does come out. Because of the publicity and attention that has been given to those branch lines, which are currently not in use, that was the first area of concern. The real issue is that when the operator has been identified and negotiation takes place between the operator and the Government, it is likely that it will be expanded to the majority of the lines that we have.

Ms MacTIERNAN: Does the Deputy Premier understand the problem that we have with this issue and that he will face in

the upper House? He is asking us to pass a piece of legislation that will empower the Government to dispose of the rail lines, and then he is making all these -

Mr Cowan: No.

Ms MacTIERNAN: Sorry, dispose, and he can consult with his advisers on this: The definition of "dispose" includes "lease".

Mr Cowan: As long as you understand that it is a lease.

Ms MacTIERNAN: We understand; we have read the Bill.

Mr Cowan: Good, that is a great start.

Ms MacTIERNAN: It is evident that the Deputy Premier has not.

Mr Cowan: That is a bit hard.

Ms MacTIERNAN: He tries to correct us when we use the words that are at the essence of this piece of legislation, which is the concept of disposing and the disposing shall not -

Mr Cowan: It will be in the form of a lease.

Ms MacTIERNAN: It is disposing.

Mr Cowan: I am reminding you that it will be a lease, and that is different.

Ms MacTIERNAN: It is disposing of this network. When we raise questions about it we get bland assurances in response: "We cannot know"; "We will not know"; and "It is up to the sales task force, you can be assured." How can we make a proper decision about a piece of state infrastructure -

Mr Cowan: You have already made your decision.

Ms MacTIERNAN: The Labor Party has certainly made a decision because members on this side know what rubbish this is.

Mr Osborne: It is curiously self-defeating to complain that you have not had enough information now.

Ms MacTIERNAN: We have been trying to include mechanisms in this legislation that might provide us with information and enable us to get the Government to deliver on some of these bland assurances, which will certainly not give any comfort to anyone around the State.

Unfortunately, I do not have here a letter referred to last night from Mr Baker, the "quarter-million-dollar man", who has been engaged by the Government to oversee this sale, along with a cast of thousands. Mr Baker wrote to the *Kalgoorlie Miner* because the natives are undoubtedly restless. The Kalgoorlie Chamber of Commerce is keen to know how it can support the Opposition in the fight, and the Goldfields-Esperance Development Commission is likewise opposed to the Government's proposal - unless there have been some secret meetings at which Mr Criddle has been assured that a U-turn has been made. Mr Baker is seeking to hose down the natives. He writes that no-one should worry because the Government can always take back the railway line and run a rail operation over the line itself. No doubt that is a reference in part to this subclause. We know from Mr Baker's rather silly comments in the newspaper yesterday that the purpose of this is to assure people that if the private operator decides not to operate on the lines, the Government can resume operations. Is the Deputy Premier serious in his contention that this clause would operate to see the Government set up railways on those marginal lines, as has been stated by Mr Baker to the people of Kalgoorlie?

Mr COWAN: In all practicality, we will not find the Government's going back to running its own rail operations. Having made a decision to sell Westrail's freight business, it is not about to go charging back in.

Ms MacTiernan: Tell Mr Baker that.

Mr COWAN: I would like to finish before the member comes to a conclusion. The answer to the first question is, yes, the Government can resume responsibility for the line. That is not in dispute; the member accepts that.

Ms MacTiernan: It can; whether it will is another issue.

Mr COWAN: It can, and that is now not in dispute. I am pleased we have resolved that issue. The member asked whether the Government can go back -

Ms MacTIERNAN: No, I asked whether the Government will go back.

Mr COWAN: - and start up a freight business and a rail service. The answer is no. That is my view, and I am sure the minister will confirm it; otherwise there would be no benefit in selling the freight business. It is important that, if it felt it were justified, the Government would be required to have a service provider in place. That is a key issue in this case.

I do not want what I have said to start a rash of ambit claims, whereby the operator says that it will not operate in a specific area. I doubt that that will happen, because clear obligations will be imposed upon the operator in any terms of sale. However, the member refers to that happening at some time because of unforeseen circumstances. The mining industry is a good example. Pressures from commodity prices or operational costs can cause a decision to shut down a mine, which

means the operator has lost the ability to transport out some of the processed product from the mine. In that case, there is a sudden and dramatic change in the freight task for that area. The Government of the day is hardly likely to step into that situation. If we see the gradual erosion of a service and an opportunity for that to be corrected over two or three years, the Government may offer either the operator or some other contractor who could deliver the service using the third-party access regime the ability to deliver a service. In that situation, the Government could, as it does with power and water, look at an obligation to maintain that service for a period. That is for the Government of the day to determine; it is not embodied in the legislation. However, I assure the member that, under the framework of this legislation, the Government could consider that, assess the case on its merits and act accordingly.

Ms MacTIERNAN: I now raise one of the scenarios that the Opposition thinks is highly probable. Financial inducements might be offered to companies such as Koolyanobbing Iron Ore Pty Ltd to take its iron ore via Kwinana, thereby removing a major freight load from the Esperance line. As a result, it would be unlikely that moneys would be spent on the Kalgoorlie-Esperance line, and that would be a disincentive for companies like Anaconda Nickel Ltd to use the Esperance port. It would continue to use Kwinana both to export its product and also, importantly, to import its supplies. The Esperance business community is keen to see Anaconda move its sulfur through the port of Esperance. If the major operator ceased operations and other operators who can use the standard-gauge line were dissuaded from using the line, the viability of the service would be undermined. That is something a commercial operator could easily do, and it makes sense. If that were done, the Kalgoorlie-Esperance part of the line would not be operating and the Government could then resume it.

We do not know under what circumstances the Government would be able to resume the line or whether the company would be able to maintain control by running one train a week. Unfortunately, that is detail we will never have. If the operation stops altogether and the line is resumed, the Government would need to provide a considerable subsidy to get someone to operate the line under those degraded circumstances, particularly when all the other cargo has been enticed off the line to Kwinana. The assurances that are being peddled by the rail task force in the Kalgoorlie region are not credible. The situation that is likely to arise in this privatisation exercise are extreme and provisions such as this which give some power - we do not know what precisely because it will be contingent on the agreement; but some legislative possibility - for these lines to be taken back, particularly under those circumstances, is no assurance at all.

Clause put and passed.

Clauses 9 to 11 put and passed.

Clause 12: Limitations on disposal of land -

Mr THOMAS: I raised a matter in the second reading debate which my colleague the member for Armadale just raised; that is, the way in which terms and conditions will be placed by the lessor - the Government - on the lessee regarding the corridor; that is, the land and the rail and fixed assets that will be leased. I refer to an interchange that took place between the member for Armadale and the Deputy Premier some minutes ago regarding this clause, in which it is provided that disposal for purposes of land and its fixed assets is to be by way of lease or something that is not "greater than a leasehold interest".

This is probably one of the most critical parts of this legislation. I am concerned that we will be handing over to the private operator investment decisions about the quality and nature of the rail infrastructure in this State. That operator may not necessarily have the same interests as those of the State. I asked this question during the second reading debate, but indicated that I would not be in the Chamber to hear the Deputy Premier's reply. On subsequently reading the uncorrected *Hansard* I noted there was no answer to my questions. What will be the terms of the leases and how will they relate to the maintenance and possibly the enhancement of the capacity of the rail infrastructure to carry loads to meet the current and possibly future needs of the State as the State might define them? The State might have a policy that it is better for social, environmental or whatever reasons to get a greater proportion of freight off the road and onto rail. In normal events allocations could be provided through the budget to upgrade the capacity of the railway lines. As I read this clause, we will lose that capacity, and decisions will be made by people who will have a commercial interest in running the line. It may well not be in the commercial interests of the operator, the lessee of those assets, to enhance that line. As we know, the owner will be a vertically integrated operator and presumably it will be running a business. It will be in the owner's interests to have the rolling stock and the freight carried on that line to the capacity of the infrastructure that it has leased. Another company might say that it had secured some new business and would be able to carry it on the line, but not unless the capacity was increased; the line may need to be duplicated or the carrying capacity of the rail increased or whatever, but money may need to be spent. Why should the lessee spend its money to enhance the capacity of the track in order to carry someone else's freight? The obvious answer is that it will also be in the business of selling capacity on the rail as well as operating trains. However, it may be that in those circumstances it is not prudent for the operator to do so; it may not be cashed up and may not want to borrow for that purpose. It may wish to keep that company out of the business and use its position as the lessee of the lines to do that. I would like the Deputy Premier to address carefully the matters that will be subject to the leases. What terms are in the lease and how is it possible for the State to impose a realistic obligation on the lessees of that land and rail to maintain and enhance the carrying capacity of those lines to a standard that might be perceived to be in the interests of the State?

Mr COWAN: Some obligations on the operator will be incorporated into any terms of sale. Perhaps one of the most important, as the member identified, will be the requirement that the operator maintain lines so that they are fit for purpose. Fit for purpose means that those lines must be fit to carry the demand by customers and to accommodate third-party access seekers. In that instance the operator will have a clear obligation to meet those demands. The line must be fit for purpose; it must be capable of carrying not only the existing traffic, but also the traffic that is likely to be attracted to rail by either the operator or another person or business under the third-party access regime.

Of course, there is also the underlying feature that at any time the Government, as it does now with Westrail, can choose to provide those additional qualities to the track that might enhance its capacity should it consider it important enough to deal with new traffic that might come into service on that line if it were at a particular standard. There are two provisos: First, a requirement will be imposed on the operator that it must maintain the lines so that they are fit for purpose. That includes not just the carrying of existing traffic but also the ability to meet demand by those third-party access seekers. That is very important. Second, the State Government reserves the right to make a decision that it might want to make in order to attract additional traffic to rail by improving its quality so that the service that people are seeking to place on that rail can be put there.

Mr THOMAS: I am pleased to hear the Deputy Premier's comments; I am glad that what he said seems to be the case. Where is provision for that in this Bill? I said that I was concerned that there is not necessarily any provision to ensure that the rail infrastructure is enhanced to meet the future needs of the State. The Deputy Premier said there were two ways around that: First, the terms of the lease can require that the operators will be obliged to enhance the capacity if third-party use exists. That is great if that is the case. Second, if the owner is not of a mind to do so, the Government will increase the capital and invest in the line. I am also pleased that that is the case. The first question that arises in relation to each of those matters is, where is the provision in this Bill for this to be the case? If the State were being authorised to enter into leasing arrangements for enormous state government assets, the legislation should provide for matters relating to the terms of the lease. If the State is authorised to impose those sorts of obligations on lessees, provision for that should be made in the legislation. I cannot find that provision. In the event that the lessee is not of a mind to invest because there may be better places to invest its money, notwithstanding it can presumably be forced to do so under the terms of the lease, the Government can contribute funds and increase the capital investment in that infrastructure. I cannot find that sort of provision in the Bill.

The second question that arises about each of those matters is, how can there be an obligation on the lessees to enhance the capacity of the infrastructure - the rail track? Earlier this year we dealt with legislation about third-party access to gas pipelines. That legislation contained matters relating to obligations on people to enhance the capacity of the infrastructure. It is an enormously complex matter. Because we cannot force someone to invest in something that is uneconomical, we must have a definition of what is uneconomical. What the Government or a would-be third-party operator might see as economical might not necessarily be economical for the lessee. We would have all sorts of problems defining under what circumstances the Government can require an operator to invest in the infrastructure. Even if that were the case, what if the operator did not have the money or its bankers did not agree with the would-be third-party users or the Government that the proposal it has in mind is economical? These matters are dealt with in a complex manner in third- party access legislation that relates to gas transmission lines. National codes which are inches thick set out those issues. There is none of that in this legislation. I cannot be confident, firstly, that this legislation authorises the Government to enter into such arrangements and, secondly, even if it does, that the Government has any intention to do so in a serious way.

Mr COWAN: It is not my task to convince the member for Cockburn of something that he does not want to believe. The legislation undoubtedly will refer to the lease agreement for the track and will deal with the issue of making sure that the company maintains the lines, so that they are fit for purpose. Perhaps I could be flippant and say that because we are selling the business on a vertically integrated basis, there will be incentive for the operator to do that. I refer the member to clause 42(4), which enables the Rail Corridor Minister to have all of the powers that are already given to Westrail. Westrail's operations are currently based on maintaining the lines based on economics and making sure that those lines are fit for purpose.

The lease will contain a requirement for the operator to undertake to maintain the lines so they are fit for purpose. Notwithstanding that, clause 42(4) provides for the Rail Corridor Minister to have all the powers that exist with Westrail at the moment, so that the responsible minister can then undertake to deal with the matter. Those are the assurances I can give the member for Cockburn. I am not sure that I need to make any reference to or comparison with the gas deal. The member will find that the powers that are conferred here will be sufficient to ensure that the tracks are maintained to a reasonable standard and the opportunity exists for new business to be attracted to rail. That will be a consequence of the vertically integrated system the Government is putting in place. I am confident that we will see the operator grow that business and we will have an acceleration in the volume of traffic that is consigned to rail, even greater than the current increase.

Mr THOMAS: I am pleased to receive the assurances from the Deputy Premier. I hope he will excuse my cynicism, but I cannot see that the Bill contains any obligation on the Government to provide terms in the leases which would require the lessee to enhance the capacity of the infrastructure should it be desirable to do so in order to facilitate third-party customers. In the absence of any obligation to include such provisions in the lease, and one assumes the terms of these leases will be subject to negotiation between the lessor and lessee, the lessee will want to protect its commercial interests and would minimise its obligations. The experience in other areas such as the iron ore industry, in which there are three privately operated rail lines, mostly with third-party access rights, is that it has proved in every case to be impossible. I do not think there is one single case of third-party access being achieved. Notwithstanding that, the operators have a statutory obligation to ensure their commercial interest and convenience are protected. My colleague the member for Armadale may not be aware of this: When I asked the Deputy Premier what will happen if the lessee were not able for some reason to upgrade the infrastructure - perhaps it does not have the money or its banker may not be as confident as the would-be third-party users that it is a viable proposition - the Deputy Premier stated that under clause 42(4) the Government can still build and enhance railway lines on the corridors.

What will be the arrangement between the lessee of the corridor and the Government? The safety net for providing adequate quality infrastructure on the rail system is that Westrail will be able to invest in these areas. Presumably the asset would still be in the lease, and the lessee would still hold the title; therefore, the lessee would have control of the asset. The

Government will have contributed to the capital cost of the asset, from which presumably the lessee will gain financial benefit. What will be the arrangement between the lessee and the Government? The Government should have equity in the lease, notwithstanding that it is the lessor. Some arrangement must be made in those circumstances between the Government and the lessee.

I ask the Deputy Premier to point me to some clause in the Bill which might assuage my concerns in this regard in case I am jumping at shadows or my concerns are ill-founded, although I do not think they are. The lease's subject matter is not specified in the Bill. I have seen enough of such commercial negotiations in other circumstances to not be convinced by the Bill's coverage. In fact, a would-be lessee would ensure that the terms of the lease are such that its commercial interests are protected. Therefore, it is unlikely that we will have leases which are sufficiently watertight to protect public interest, unless the subject matter is enumerated in the Bill. The types of leases to be involved should be prescribed in the Bill to protect the public interest.

Mr COWAN: Again, the member is making a case for Parliament to have direct involvement in negotiating the terms of the lease. That is not appropriate. It has never been the case in the past, and will certainly not be the case with this legislation. The member might be aware that clauses to be dealt with in the future indicate that the agreement may deal with certain matters, although no obligation is involved.

Regarding improvement to the track either to attract new freight business or to accommodate the existing business should volume increase, capacity will exist for the operator during the course of its operations to undertake what would be normal in any commercial arrangement. If improvement is to be made to the track, and if it is funded by the State, what will happen with the lease will be the subject of negotiation. The principle that the operator shall be no better or worse off shall apply, which is a standard commercial approach. If the capacity for the operator to gain extra revenue results from an investment by the State, the operator will be better off, and it will be necessary to adjust accordingly. Unless the member wants Parliament involved in the lease agreement in its entirety - which he probably does, but will not get - the lease arrangements will contain commercial operations and values which apply in any lease arrangement.

Ms MacTIERNAN: The Deputy Premier keeps assuring us that the lease will do X, Y, and Z. Has a draft lease already been drawn up; has the Deputy Premier seen any such lease; and will the request for proposal or tender document contain the lease which will become part of the overall agreement? Also, will the lease be predetermined before the matter goes out to tender, or is there no lease at this time and no certainty regarding what the lease will contain?

Mr COWAN: The member needs to look at clause 12, which deals with the proposal for the disposal of land, not a lease. I said at the beginning of the committee debate that I would very much like to stick to the issues contained within the provisions. The question asked does not relate to the provision. Nevertheless, a responsibility of the Rail Freight Sales Task Force was to identify some key conditions needed to be included in any lease.

Ms MacTIERNAN: I take it that it is not the Deputy Premier's intention to have the lease drawn up before the matter goes out as a request for proposal or tender?

Mr Cowan: No.

Mr THOMAS: The Deputy Premier asked why the Opposition raised these matters under clause 12. This clause authorises the Government to enter into leases, and I want to talk about the terms of the lease. We could refer to it under clause 14, which states that the agreement may deal with certain matters. The same discussion applies whether it is held at this point or on another provision - it is neither here nor there.

The Deputy Premier said that I was seeking to have Parliament directly involved in the negotiation of the lease. That is not what I seek to do. It is proper for Parliament to ensure that certain matters are the subject of the lease. If they are not the subject of the lease, the public interest is likely not to be properly served. When the State disposes of assets - which are mostly undeveloped land, but substantial and valuable assets - in agreement Acts, the terms of the agreement between the State and the project's proponent are invariably schedules to the Act. These are set out in detail for Parliament to see. Parliament cannot amend the agreements, but it can reject them. It is acknowledged that Parliament is entitled to see such matters.

Progress reported and leave granted to sit again.

[Continued on page 9460.]

[Questions without notice taken.]

WATER SERVICES COORDINATION AMENDMENT BILL 1999

Second Reading

Resumed from 13 May.

DR EDWARDS (Maylands) [2.38 pm]: The Opposition supports this Bill and a small number of members will speak to it this afternoon. I refer initially to water and health. It is a popular myth that around the middle of the century a magic bullet was invented - it is usually referred to as penicillin - which meant that health suddenly improved. Certainly health statistics for my generation and the previous one indicate fertility rates have decreased, infant deaths have decreased, maternal mortality has decreased and life expectancy has increased beyond the expectations people had 150 years ago. Popular mythology in the community suggests that it was the arrival of penicillin, antibiotics or some other magic bullet that

has led to this dramatic turnaround. The reality is different: This change has come about as a result of public health gains and, in particular, the advent of a potable water supply and properly separating the water supply from sewerage and sewage treatment.

The Opposition is very pleased that this Bill is before the House. It is particularly pleased that it addresses the issues of plumbers, their licensing and the associated procedural matters.

I will quote from Dr Lewis Thomas, who wrote in the *Journal of Foreign Affairs* about the credit that should be afforded to plumbers and engineers. I am indebted to the executive director of the Master Plumbers' and Mechanical Services Association of Western Australia for this quote. I am also very pleased that its training facility is in my electorate. The article states -

> Much of the credit should go to the plumbers and engineers of the western world. The contamination of drinking water by human faeces was at one time the single greatest cause of human disease and death for us; it remains so, along with starvation and malaria, for the Third World. Typhoid fever, cholera and dysentery were the chief threats to survival in the early years of the nineteenth century in New York City, and when the plumbers and sanitary engineers had done their work in the construction of our cities, these diseases began to vanish. Today, cholera is unheard of in this country, but it would surely reappear if we went back to the old-fashioned ways of finding water to drink.

That statement is correct. In the past few weeks in this State we have been concerned that people might have contracted typhoid while holidaying in New Guinea. There might be a small number of people for whom that diagnosis has been confirmed. Fortunately, treatment is quick and effective, and there will be no major problems. However, it highlights that in other parts of the world, where sanitary conditions are not of the same standard as ours, these diseases still exist and travellers to those places can contract them. It is interesting that one of the fundamental methods of improving health in society is as simple as boiling water, but these are the issues we are dealing with today.

It is surprising that in this context plumbing has not been treated as seriously as we are about to treat it. When one looks at the contribution that proper plumbing and adequate sanitation engineering has made to our quality of life and the health and wellbeing of the community, it is a pity that we have lagged behind to some extent in this area. This issue was brought home most vividly with the Sydney water crisis. People were extremely concerned when they discovered that they had cryptosporidium in their water. It was international news, and undoubtedly it has put a blight on Sydney for the Olympic Games.

Water is one of our most precious resources and we must do everything we can to protect it not only now but also into the future. For these reasons groups such as the Master Plumbers' and Mechanical Services Association and the union covering plumbers - the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union - have been working over the past few years to have this Bill introduced into the Parliament, and the Opposition is pleased to support it.

I will make some comments about the background to this Bill. In 1995, as a result of measures introduced by the Council of Australian Governments, the water industry in Western Australia was restructured. The Water Authority became the Water Corporation, with parts of it forming the Water and Rivers Commission, and the Office of Water Regulation was established. Previously the licensing of plumbing was undertaken by the Water Authority. Obviously, it was not appropriate for that body to continue to undertake that function. The Office of Water Regulation was given the task of examining plumbing licensing, and it subsequently released a discussion paper. It is a pity that it has taken some time to go through the motions. At least today, before Parliament rises for the winter break, this legislation will be passed by the lower House.

The positive and very important aspects of the proposed plumbers licensing board are that it is independent and self-funded. The board's primary role will be to administer and approve applications for the licensing and registration of plumbers and drainers. The board will also make recommendations to the Minister for Water Resources on standards of plumbing work and it will have a role in investigating complaints. People often have complaints, and I was pleased to read in both the minister's second reading speech and in the discussion paper released previously that the board will be taking up this role but not interfering in contractual disagreements. With professional groups such as plumbers, people need to know that they can request assistance from a body that will protect the community's interests.

In addition, I understand that the regulations will provide for the board to have the power to conduct disciplinary hearings and to impose fines and even suspend or cancel licences in the event of non-compliance with the subsequent by-laws and regulations. I am also pleased that this board will have a community education role. There is a great need for that as it appears the community needs to be educated about a number of practices.

I am pleased that the minister has spelt out the source of nominations for board membership. It is interesting that in a time during which we are moving away from sectorial groups, this legislation includes them. However, I totally support that because a professional board such as this covering a range of aspects of a profession needs those groups. Members on this side look forward to seeing the make up of the board once the regulations are passed and the board is established. I am pleased that reference is made to plumbers from the country being represented and that the minister suggests there will be a position for a licensed or registered plumber nominated by the CEPU. It is also appropriate that the Minister for Training will nominate a person representing training interests. It is also obviously critical that consumers be heard, and the Minister for Fair Trading will nominate a consumer representative.

About 10 000 new plumbing services are installed each year. The work undertaken by the plumbing industry is extremely significant and it is important that we know we have a network of the greatest integrity and that any risk of contamination

or associated problems is prevented. I will go through some of the case studies I have been given showing what can happen if plumbing work is not carried out by people who know what they are doing. On average, the Water Corporation receives about 300 complaints a year about inadequate plumbing. Such installations can be very dangerous.

The first case study deals with partially blocked inverts causing routine internal flooding with raw sewage. This occurred in my electorate early this year. The situation arose when unlicensed and unregistered handymen altered an internal sewerage system within a property boundary. Unfortunately, they did not have the skills and knowledge to line up the joints and as a result there was an internal build- up of toilet paper, faeces and other wastes. That caused a total blockage and the flooding of raw sewage into the dwelling. Obviously that has very serious health implications and it is not something with which anyone would want to live. If an appropriate person had carried out the work in the first place, that would not have occurred. Not only are these household situations dangerous to the people living in the houses because of diseases to which they may be exposed, but also if a rental property is involved it will affect the property and its value. Obviously, it takes a considerable amount of money to correct these problems.

The second case study refers to an incident in Beechboro, also earlier this year, in which a hot water system was incorrectly installed. The problem was so severe that the system could have exploded. Effectively, a time bomb was ticking away in a house and could have exploded, with grave consequences. An unlicensed and unregistered plumber, as a tenant, fiddled with the hot water system and did not know about the relief valve. No doubt that is something about which most people are warned. If the relief valve is not working effectively the system could blow up. If children were in a house in which that situation arose, an explosion of that nature could have devastating results.

The third study concerns back flow of polluted waters entering a potable water system. In May of this year at Bibra Lake a bottle-washing factory using detergent and toxic cleaning fluid for cleaning bottles was unaware of back siphoning these chemicals into the water supply. However, the factory owners became aware that the water was discoloured. They complained about the discoloured water only to find that the problem was being caused by their system due to a cross-connection between the two supplies. This also could have been extremely serious, depending on the nature of the chemicals. Given that it was a factory and that its staff were washing bottles, it is a serious situation. Again, I have been advised that this crisis could have been prevented by appropriate plumbing design and the installation of the appropriate back-flow prevention devices.

Some time ago members of the Labor Party had a long and heated debate about back-flow devices and a number of plumbers were enthusiastic in their debate. It provided a good education to those of us who were not plumbers and who had not thought about the ramifications of inadequate back-flow devices.

The final case study involved toxic chemical contamination with potentially fatal results. In Kwinana last year a large heavy industrial plant discovered that a highly toxic chemical substance from its laboratory had been back siphoned when a licensed plumber had unfortunately interrupted the water supply to install an evaporative airconditioner. The chemical was toxic, but fortunately the issue was uncovered quickly and the problem contained on the site.

Although all my other case histories have been about people who were unlicensed and unregistered, the final case involves someone who was registered. It shows that we need bodies to ensure that even people who are registered have professional education, are advised of changing standards and are made to keep up with changing standards. They should also be told that if the system breaks down, such as in the small number of cases to which I referred, the public has confidence that a board exists, such as the new board, to which the public can refer its concerns.

No doubt plumbing registration and licensing does not grab the imagination of many people. However, in the context of public health, the need for potable water and the need for the separation of clean water from our sewage, it is obvious that plumbers play a pivotal role. The Opposition is pleased with the Bill and supports the licensing board the minister proposes to establish and the composition of the board that he spelled out in his second reading speech. We look forward to the Bill's implementation as soon as possible.

MS McHALE (Thornlie) [2.54 pm]: It is interesting to note the matters that we take for granted these days. We take water quality almost for granted and we take adequate sanitation for granted. When we analyse what makes up a quality water supply and adequate sanitation we can see how the layers of responsibility unfold and how it is critically important to our community health that we focus on high standards of water quality and sanitation. We need not look back too many years to see how public diseases and epidemics were caused by inadequate controls and, perhaps only a few hundred years ago, lack of awareness about disease and sanitation.

This Bill will contribute significantly to ensuring high standards of water quality and sanitation are maintained by recognising the importance of regulating the plumbing industry. As my colleague, the member Maylands, indicated, the Opposition is pleased to support this Bill. I have a number of questions for the Minister for Water Resources and would like him in his response to deal with a number of concerns that I think might be ameliorated without having to go into Committee.

The essence of this Bill is to establish a plumbers licensing board. Like many issues that come before Parliament, a long history is attached to this issue. In fact, there has been a gestation period of, I understand, about 20 years. As far back as Arthur Tonkin's days, approval was given to set up a plumbers licensing board. Governments of both persuasions have been somewhat tardy in bringing about the legislation. Nevertheless, it is here today and has the support of both parties.

As the member for Maylands indicated, four years ago a review was undertaken of the water industry, out of which came three separate agencies. The Water Authority became the Water Corporation and a service provider on a commercial basis. The Office of Water Regulation was also established. Clearly, it is not considered appropriate for the Water Corporation

to be a regulatory board because it is a service provider. Hence, this Bill will establish the Plumbers Licensing Board under the umbrella of the Office of Water Regulation.

The licensing board will be deemed to be independent, self-funding and responsible for all occupational licensing of registered plumbers, licensed plumbers and other categories of plumbers in Western Australia. We heard that the board will consist of up to nine members, all chosen by the minister, but nominated by the key stakeholders. The Bill stops short of limiting from which areas people come and how many from one area, unlike many other Acts stating membership of boards. However, at least in his second reading speech, the minister makes the Government's intention clear on the composition of the board. The Green Paper issued prior to the Bill also indicates clearly the make-up of the board. We are pleased that the Government intends to have union representation on the board, and representation from master plumbers, consumer interests and training interests, as well as non-union representation. I am pleased it is acknowledged that in order for this board to operate effectively, all the stakeholders must be given a legitimate place on the board.

That is a sensible approach that will lead to a well-balanced board that will operate in the interests of the community. It is interesting that in a way the Bill is going against the tide of deregulation and recognises the role for regulation of this occupational industry. The Opposition agrees with that. We see the value of setting up a board at several levels. These were identified in the Green Paper. They are not unique ideas, and it is worth indicating that the Green Paper recognised the value of the regulatory board in protecting the interests of plumbers. If it undertakes its functions well, the board will look at the training needs of the industry and also the recognition of qualifications.

Also important is the protection that the board will give to customers or consumers. The board will be a central body able to receive complaints about plumbing services. It will access expert opinion on plumbing work. Also there will be a financial benefit in that the fees for inspection will be reduced. At the moment the Water Corporation sets a scale of fees. It is anticipated that the fees that will be set by regulation, and therefore are yet to be tested, will be less than they are currently. That will be a benefit to the community. More broadly, at a community level the benefits to the community hopefully will be the overarching objective of high standards of plumbing work and a quality assurance built into the system. The Opposition sees the value of the board at those levels.

I will turn now to some of the issues that I would like the Minister for Water Resources to deal with in his response. Firstly, the definition of "document" includes any tape, disc or other device or medium. I am concerned about that definition, given my work on the State Records Bill. The State Records Bill has a comprehensive definition of what is a record. My concern with this definition relates to how it deals with maps, diagrams and graphs. Would a map or a diagram of a plumbing system, for instance, fit within the definition? The definition says what it includes but is silent on what it might exclude. The minister might want to look at that definition to see whether the Bill can be improved in regard to the definition of a document. The Bill includes the words "or otherwise" which is a catch-all phrase, but it is sometimes better to spell it out wherever possible.

The Bill proposes that all plumbers pay a fee. At the moment registered plumbers do not pay any fee, and licensed plumbers and plumbers with a restricted licence pay $103. Under the Bill all registered plumbers will pay $75 a year and licensed plumbers will pay $200 a year and $150 for restricted licences. While $75 is not a huge amount of money; it is when the fee will increase from zero to $75. The view has been expressed that that fee could be phased in. I am not proposing an amendment at this stage, but I would like the minister's comments on the response to the fee structure. It is to be a 100 per cent increase for licensed plumbers, and for registered plumbers, of which there are 7 000, the fee will increase from zero to $75.

The Bill is brief, as the detail will be in the regulations. The Opposition is keen to look at the detail that appears in the regulations to ensure they reflect the intent of the Bill. Depending on how the regulations are worded the Opposition may have some additional concerns. At this stage, accepting that the Bill will not include the composition of the board, but rather that will go into the regulations, I do not have any further comments to make.

I have raised the State Records Bill in relation to the definition of a document or record. I want to raise that Bill again in a slightly different context; that is, the State Records Bill exempts the Water Corporation records from being subject to scrutiny - unlike every organisation other than the Gas Corporation and the Electricity Corporation. Interestingly, the Office of Water Regulation and hence the board will be subject to the State Records Bill if the Government ever brings it back into this House. However, that is a different matter. The Office of Water Regulation and the board should be subject to the State Records Bill. If it is good enough for the Office of Water Regulation and the plumbers licensing board, which is self-funding, it should be good enough for the Water Corporation. That is not something the minister can address during this debate, but I put on record this curious anomaly. It is rightly the case that the Office of Water Regulation is covered by the State Records Bill and so too the board and it is entirely inappropriate that the Water Corporation is not covered by the State Records Bill.

I refer to the staff currently employed by the Water Corporation either as inspectors or as staff who deal with the fee collection and other duties associated with the registration and licensing of plumbers. When the board is established those duties will be transferred to the board. What safeguards are in place for the staff who are currently employed on these sorts of duties? Have there been any discussions with the staff and/or unions on the impact of the board on that group of staff and will they be automatically transferred to the board?

The main issues on which I seek comment are the adequacy or otherwise of the definition of "document" and the fee structures. I am interested to hear the minister's comment on the State Records Bill, although I do not necessarily expect him to comment.

The ultimate issue for the Opposition, the Master Plumbers' and Mechanical Services Association and the plumbers union is to ensure the safety of our community through the adoption of high standards of regulations and sanitation. A number of reviews conducted over the past few years have covered the same issue. I refer to the Tregillis report, the Paine review and the Hossack report, which all came down in favour of maintaining a regulatory regime. This resulted from concern about community safety. We saw in New South Wales the appalling situation with an outburst of the cryptosporidium bacteria in water. Heaven forbid that anything of that magnitude arises in this State. One means of maintaining high quality is a strong focus on standards and access by the community to a complaints mechanism.

In summary, the Opposition acknowledges the critical role the plumbing industry plays in the front line of community health. We need guarantees on maintaining the highest standards with our drinking water and sanitation. Interestingly, the Master Plumbers' and Mechanical Services Association states -

> We have always supported the most stringent standards of licensing and regulation to safeguard the quality of workmanship in the trade.

A key code of ethics is that the health and safety of the community is of key importance and shall be protected to the best of members' ability. The unanimous view is that the legislation is proposed to ensure the highest standards and protections of the quality of our water and sanitation. The Opposition supports the Bill.

MR KOBELKE (Nollamara) [3.13 pm]: I join fellow Labor members in giving full support to the Water Services Coordination Amendment Bill, which proposes the establishment of a board with functions related to the licensing of plumbers, and regulation-making powers for the performance of plumbing work. I congratulate the Minister for Water Resources on introducing this very constructive and overdue proposal. I will not recount the history of the development of the Bill, its setbacks and the different proposals advanced. I am pleased with the minister's proposal, even though we must wait to see the fulfilment of many aspects of its structure through regulation.

This Bill represents a new proposal to establish a plumbers registration board, and is not in keeping with the Government's approach to matters of regulation. It is good that the Government has chosen this changed approach in this important area. The Government has generally been about deregulation. When the Labor Party was in government in the late 1980s and early 1990s, it was keen on that also. As a rule, deregulation was in vogue Australia-wide. If agreement was not reached to regulate, regulations tended to be swept away. The process of deregulation was initiated for good reason; namely, restrictive practices arose in certain areas because of over-regulation. These became hidebound and served the interests of certain practitioners more than the public good. It was necessary to look at regulations generally to see whether we could reduce the degree of regulation and the additional costs caught up with regulatory regimes.

In many areas that process has gone way too far. We must ensure, for the protection of the public good, that regulatory regimes are put in place in areas of great risk to the health and welfare of the community. Also, individuals' financial assets are placed at risk without a degree of regulation. We must treat each area on its merits and make a judgment on whether regulation is needed; if so, what is the most suitable form of regulation?

Those are my general comments, and I now turn to the minister's proposal which clearly covers an area of great need. I sincerely believe that the design of the mechanism proposed is by far the most appropriate in this area, and I express my full support for the measure. I refer now to the importance of plumbing and the need for stringent regulation in this area. The member for Maylands commented on the important public health consideration relating to the provision of a potable water supply and good sanitary systems. Our potable water supply is the most precious supply of all, and must be protected by ensuring that people who perform the associated work are not only properly trained and skilled, but also operate to a standard which ensures the services are of the highest quality and present no risk to the health and welfare of our citizens.

Currently, 10 000 new connections are made a year to the network, which the minister indicated in his speech has a total value of $8b. The magnitude of that investment in plumbing, sewerage and other water-related matters indicates the importance we place on that infrastructure. One must ensure maximum benefit is derived from that huge investment. We do not want failures in the system through poor design or workmanship, as that would not enable the benefit to be gained from the large investment. Failures occur in the system. Even in a regulated and licensed system, I do not assume that failures will not arise. On rare occasions, a licensed plumber will get it wrong. We must ensure that such incidents are reduced to a minimum. The regulatory regime proposed through the establishment of a plumbers licensing board will go a long way towards meeting that goal. We cannot allow cowboys to operate in the market, the result of which would be catastrophic.

I understand that the Water Corporation on average receives 280-320 serious complaints a year from the public about illegal plumbing resulting in defective, unsafe or unserviceable plumbing. The complaints result from substandard or negligent work of registered or licensed plumbers to illegal and defective work of unregistered and unlicensed plumbers. I place on record a number of cases which took place in Perth and were brought to my attention. An incident in South Perth in February 1998 involved a relief valve failure which caused an explosion. In that instance an instantaneous hot water system in a bathroom vanity cupboard exploded as a result of improper installation by an unregistered and unlicensed plumber. The pressure build-up resulted in the unit exploding, sending boiling water and metal shrapnel around the room. If the occupant of the dwelling had been in the bathroom, he or she would have been killed or at least seriously injured. Clearly, that is something we need to guard against.

I will give two further case studies. A case of substandard venting occurred at Kardinya in October 1998 which resulted in sewer gases entering a dwelling. In that instance, the poor plumbing design of traps on internal plumbing fixtures caused incorrect venting which allowed noxious sewer gases to escape into the dwelling. The traps had not been properly vented,

resulting in water cycling out of them which broke the container seal that would normally prevent the escape of sewer gases. I understand that as many as 50 such cases are reported each year.

The last example involves in excess of 100 similarly reported cases each year of dwellings being flooded with raw sewage. The installation of overflow relief gullies is a standard feature of sewer design to prevent the flooding of a dwelling if the main sewer is blocked by a back-up of raw sewage. Poor design or installation often results in the relief gully failing and the dwelling being flooded with sewage. Clearly, 100 or more cases a year seems a large number but it is a very small percentage of the large number of new dwellings added to the system each year and the huge number involved overall. We want that number reduced to an even lower percentage through this regime.

The importance of plumbing is clear to all members who have spoken in this debate. One aspect that must be recognised is the professional approach of the industry itself, which believes that it is performing a public service, which is indeed the case. Plumbing may be a profitable enterprise and a number of people have done very well out of it. Many plumbers I have met and mixed with have a real understanding of the importance of their trade to the wider community and are committed to providing the highest quality service. I have been impressed equally by the approach taken by the Master Plumbers' and Mechanical Services Association of WA and the Communications, Electrical and Plumbing Union. Those organisations wish to ensure that the trade maintains the highest standards. The Master Plumbers Association believes in the importance of the plumber contractor's role as a front line for community health where it has the role of guaranteeing the highest standards of drinking water and quality sanitation. Members of that association believe that by promoting the interests of the contractors and their businesses they will ensure an efficient plumbing industry which will uphold the highest possible standards of health in our society. They are always very supportive of maintaining the most stringent standards in order to guarantee the high quality of workmanship which ensures the performance of the systems and good health. Although a measure of self-interest exists, that self-interest is productive and worthwhile for our community. If people are not committed to maintaining the highest standards and delivering high quality services, we will soon find more and more of these problems cropping up where individuals pay the price of problems of waste water, storm water or sewage causing damage to their houses and great inconvenience and distress, with the possibility of people losing their lives through a major failure in our water or sewerage systems.

It is, therefore, most important that we give recognition and status to people involved in the plumbing industry which, in part, will flow from the establishment of the plumbers licensing board. Clearly someone cannot just set himself up as a plumber and start tinkering with pipes; there is much more to it than that. There is a clear public interest in maintaining high standards in plumbing work and if one needs that high standard of work, one will consult a qualified plumber who will be certified and recognised by the plumbers licensing board. That may be an old and established view of plumbing but I hope it is one we can keep.

As an aside, I refer to Mr Geoffrey Smith who was my neighbour for some years after his retirement. He was a master plumber who held executive positions with the Master Plumbers Association for many years. He was totally committed to that trade and put huge numbers of unpaid hours into training and testing young plumbing apprentices. He made a fantastic commitment to our community by his efforts in that area. One would hope that many more people will follow, as they did previously, the example of Geoffrey Smith to ensure a real pride in plumbing work and the establishment of the highest possible standards in the industry to the very clear benefit of the people of Western Australia.

I turn now to the structure of the Bill and the plumbers licensing board which flows directly from the point I was making. Although the Bill is enabling legislation and the details will be contained in regulations, I accept the clear undertaking in the minister's second reading speech that the structure established by those regulations will provide representation from the industry. That being the case, those committed people in the industry will ensure they have ownership of the plumbers licensing board. I mean "ownership" in the very best sense of the word; that is, by working with and through the plumbers licensing board they will deliver a community service and uphold standards in their industry.

I commend the minister for indicating that he will provide for sectorial representation. I know often political disagreement occurs as to whether sectorial representation should take place and I acknowledge that some of the boards with sectorial representation set up by the former Labor Government did not work. The mechanisms implemented did not produce the outcomes we hoped for. Therefore, we must try to implement a mechanism which provides for sectorial representation and yet does not, through a parochial view of the various interest groups, undermine the work of the board. I do not think that will be the case in this instance.

However, in his second reading speech the minister outlined that the board will comprise two licensed plumbers nominated by the Master Plumbers' and Mechanical Services Association; two licensed plumbers nominated by the Minister for Water Resources to represent independent or union country and metropolitan plumbers; one licensed or registered plumber nominated by the CEPU, plumbing division; and one licensed drainer nominated by the WA Drainers Association. I have omitted the other four people who will help form the board. That clearly shows a majority of members will have plumbing qualifications, which is very important in ensuring this board works. I look forward to seeing the minister establish the board. As I have already said, the Bill does not contain the details of board membership, which will be covered by the regulations. However, it sets out the functions of the board and I will briefly put those on the record. Proposed section 59B in clause 7 states -

(1) The functions of the Board are -

(a) to monitor matters relating to the qualification and training of plumbers, and to provide advice on those matters to the Minister and the Coordinator and, with the approval of the Minister, to any other person or body concerned with those matters;

(b) to advise the Minister and the Coordinator on matters relating to the licensing and regulation of plumbers;

(c) to administer any licensing scheme provided for by the regulations; and

(d) to perform licensing, disciplinary and other functions given to it by the regulations.

(2) It is also a function of the Board to do things that it is authorized to do by any other written law.

That gives the duties and directions to the board, and the regulation will set up exactly how the board will work.

It is important that the board will centre on plumbing and be involved in the plumbing industry, and I believe that involvement will result in the best outcome. The role of the board in the inspection regime is a matter of conjecture, but the board will have a fair amount of say about what will happen with regard to inspection. Throughout Australia there has been a move from inspecting every job to having a more self-regulatory regime with sample-checking by inspectors, and by that means, and by the professionalism of plumbers, achieving a higher standard than may be achieved by trying to check every job that is done. I have some views about that matter, but I will not take up time by canvassing them now. I have confidence that the board, in looking after the long-term interests of the industry, will put in place the most efficient and cost-effective mechanism of inspection. The board will obviously need to deal with non-performance and disciplinary matters. Those matters are always contentious. I understand that while the minister will have power to get information from the board, that power will not extend to disciplinary matters. The minister will have the power to direct the board in writing. I have no problem with that, because that direction will then become a matter of public record, and the public can judge whether the minister of the day has made that direction on good or on poor grounds. Ministers clearly need to take a role in giving directions, but the system must be accountable, and I believe it will be accountable under this Bill.

One matter that causes me some concern is that the minister will have access to all records other than those that belong to an excluded category. If all the records were generally public, I would have no problem with that, but a few years ago we had an incident in which another minister abused information that he had obtained from an independent board. This is a balancing act. One needs to have faith in the minister of the day, and the minister needs to play a role, but hopefully no minister will abuse the right to access that information. It is interesting to note that while the maximum penalty for not complying with the regulations is $5 000, if the coordinator or the member of the board were to disclose confidential information, the fine would be $10 000, or 12 months' imprisonment. Therefore, a stricter requirement is placed on the board to maintain confidentiality than is placed on people to comply with the directions and regulations which will be set up under the board. That is proper with regard to the investigation of a complaint against a person, because the livelihood of that person may be at risk, and the improper use of that information may cause great damage to that person. It is necessary to ensure that the processes are proper and do not cause unfair disadvantage to people. One minor concern is that the Bill provides no guidance about what the minister can do with information that he may have obtained from the board. A minister will act improperly if he uses information that he has sought from the board for a purpose that is not directly related to the minister's responsibility as established under this Bill.

I commend the minister for bringing forward this Bill. I accept the minister's undertakings in the second reading speech about how the regulations will function, and I hope I will not be disappointed, because ministers sometimes fail to implement undertakings that they have given with the best of intentions. However, given the amount of work that has gone into this Bill and the length of time for which it has been around, I believe I am acting on fairly sound grounds in accepting that the minister will implement fully what he has indicated in the second reading speech. I wish the minister well with this Bill, and I look forward to seeing the board up and running in the shortest possible time.

DR HAMES (Yokine - Minister for Water Resources) [3.35 pm]: I thank members of the Opposition for their support of the Water Services Coordination Amendment Bill. I was surprised at the time for which this legislation has been running. The member for Thornlie talked about 20 years. I was not aware that this legislation had been around for that long. I have been the Minister for Water Resources for two-and-a-half years, and in that time I have not been able to get this legislation through the Parliament, so I do not feel so bad now. It is appropriate that I have taken this long to get this legislation to this place, because, as members know, the Bill has had a bit of a chequered history. It was introduced by the Government as part of the reform process to split up the Water Authority, but when that legislation got into the Parliament, it was withdrawn and not proceeded with because it was believed that legislation had major flaws. There was also a problem because people who were not members of the Master Plumbers Association, particularly in some country areas, were severely disgruntled by what was proposed in the legislation and launched fairly strong opposition to it. I have made sure that this time around - this is why it has taken so long - not only do the opposition parties support this legislation, but also the Master Plumbers Association, union members and country members have been given the opportunity to have input and to complain if they do not like it. That has led to the evolution of this Bill into a Bill that I believe everyone supports.

The member for Nollamara said that the move towards regulation is somewhat contrary to the general trend of Governments everywhere, which is to deregulate. The point made by the members for Thornlie and Nollamara is correct. The plumbing industry is a special case, and it is extremely important to have a regulatory body that is managed by plumbers themselves, with their knowledge and support, and to ensure that we get plumbing right. The members for Nollamara and Thornlie gave a small snapshot of the things that can go wrong within the plumbing industry, and when about 300 complaints are made per year, it indicates not necessarily that all those complaints are justified, but that there is a potential in the community for things to go wrong, and to go seriously wrong. I made the judgment, as did the Government, in supporting this legislation that there is a special need to establish a plumber licensing board. I am generally not in favour of having sectorial representation on a board. I prefer to have a board that does not comprise people who are looking after their own patch and piece of turf, and to have in charge of a board a person who represents broader interests and who receives advice and

representation from special interest groups. However, in this case, once again it is horses for courses. The people on this board need to represent all those different groups. One group that the member did not mention was drainers. The member may recall that for many years there has been a long, strong and, at times, fairly bitter dispute between plumbers and drainers, including recently about the registration of drainers. Those issues have now been resolved with the support of the Master Plumbers and Mechanical Services Association of WA and the drainers. They have come to terms with those disagreements. On the board we also have now a member of the drainers to represent their interests. Getting those groups together on a board is very important because they must have knowledge of what is going on to make judgments on their industry. If we did not do that, it would be like taking people who were not doctors and having them make judgments, as does the Medical Board of WA, on professional standards of doctors. Once again, they are horses for courses.

The member referred to the $5 000 fine. The maximum penalty besides that is the fact that the board can remove a licence from a plumber, which removes his total livelihood. The board does have fairly strong powers. If we are ever to have proper regulation of an industry that controls people who act outside the interests of the industry, we must have the ability, as once again does the Medical Board, to remove a licence from that person. There are avenues that a person can take if he feels that he has been unfairly treated. The board still has that fairly powerful option.

The Bill outlines what the minister can do with the information provided in cases of appeal, where the minister must make a decision on what the board has done or a decision made by the board. The minister must have knowledge of the case and so must have access to that information. I am sure that the member is right: It would be totally inappropriate for ministers to misuse that provision, but it must be in the Bill. Members of Parliament need to judge whether a minister has abused a power available to him in that or any other aspect.

Mr Kobelke: I appreciate the direct way in which you are answering the issues. You have fairly clearly put on the record that you think it improper for a minister to seek to take information from the board and use it for something that did not relate to his responsibilities with the board.

Dr HAMES: That is exactly right. I would expect him to use that information in the decision-making process on whatever issue he has with the board and only on that issue.

I have covered a couple of the issues mentioned by the member for Thornlie, particularly with this Bill perhaps going a little against the tide of representation and regulation. The member for Nollamara made the same points. The member for Thornlie first talked about the definition of a document and how it deals with things like maps, diagrams and graphs. The definition in the Bill states -

> In this section -
>
> **"document"** includes any tape, disc or other device or medium -

The words "or medium" would cover things like maps and diagrams -

> - on which information is recorded or stored mechanically, photographically, electronically or otherwise;

The whole point of that definition is to be as inclusive as possible. It is difficult for me to imagine any mechanism for recording that may be left out. I do not have the member's knowledge of the Bill to which she referred earlier. If the member finds that that definition does not cover all those things that we think it does, perhaps she could let me know, so we could have the opportunity of changing it if we need to.

Ms McHale: As long as it is your intention that the definition be inclusive so that it covers maps, diagrams and so forth, I am happy. Once I sat down, I thought of the State Records Bill. That definition will become the definition used anyway, even if it is not in your Bill, because it will be caught by the State Records Bill.

Dr HAMES: I thank the member for Thornlie. It is certainly meant to be inclusive of any medium, current or future, on which the matters may be recorded.

The second point the member made was about the fee structure. She talked about a 100 per cent increase for licensed plumbers and registered plumbers' fees going from zero to $75. Those figures were widely publicised when we were discussing them. The Master Plumbers and Mechanical Services Association of WA strongly brought them up. In all the briefings that we had through the Office of Water Regulation and in all forums to make sure that people were fully aware of that figure, I am unaware of any objection to the fee. There may have been one or two but certainly none of any serious nature, remembering that the $75 fee is a tax deductible item for plumbers, as is the other $100. After the tax deduction is taken into account, the fee is very small. I will discuss inspection fees in a moment. Once the plumbers get into the inspection mode, they will quickly make up that extra cost that they must pay. For that reason it is not appropriate for us to phase it in. We need the funds straight off to be able to fund the operation of the board, I hope, from the beginning of the next calendar year. Provided the Bill receives support in the other House, we hope to be able to start on 1 January.

The member for Nollamara is keen to see the regulations. I appreciate those concerns. I tried to spell out very clearly in the second reading speech what those regulations will cover, particularly in the membership of the board. I deliberately spelt those out in the second reading speech so that people are under no illusion. It is not the original structure with which I intended to proceed in the previous Bill that was put to this House. One of the reasons that it failed to receive proper support was that it was not a properly representative structure.

As to who is subject to the legislation under the State Records Bill and the comments about the Water Corporation, the Water Corporation is a body which acts at arm's length from government. It needs to have that separation because it allows for

confidentiality in its dealings, particularly when going out to contract and dealing in a competitive market. That does not need to be the case with the Office of Water Regulation or the water board. We are quite happy for them to be subject to the Bill.

A major issue that I have not covered yet is the issue of inspections. That is not in the Bill or the regulations because I decided to leave it, in effect, to further negotiations between the board and the Water Corporation. I have had discussions in the first instance with the Water Corporation, which I believe should no longer have that inspectoral role. It was spelt out as part of the code of reforms that those roles should be taken by the board. We have had discussions on the matter, and I have the support of the Water Corporation.

We have talked about staffing issues. The suggestion was that some of the existing inspection staff would go across. Remember that the Water Corporation must do more than merely plumbing inspections. It must inspect its own works as well, which include, for example, contractors working on infill sewerage programs for the Water Corporation. So the Water Corporation will still have inspectors although it would not need as many.

We had discussions about how much should be done by the board and how often it should do inspections, whether both city and country, and how they should be spread out. Although we made significant progress, I soon came to the conclusion that the decision on that was not something that I, the Office of Water Regulation or the Water Corporation should be making. Once the board is established, one of its prime roles should be to sit down and have discussions with representatives of the Water Corporation with my assistance and negotiate further to ensure that those workers are protected. What I hope and expect to happen is that some staff will go across and the rest will be absorbed within the Water Corporation staff if they are no longer required for those duties; or they could be transferred to other inspectorial roles that the Water Corporation will retain. I expect those things to be done, including the fees. The expectation in those discussions is that the fees will reduce; that was the anticipation of the Master Plumbers' and Mechanical Services Association in discussing what those fees might be. It will then be up to the board to take it further. I am happy to leave that up to the board as we progress.

I have now covered the issues that have been raised by the Opposition. Once again I thank the Opposition for its support. I thank the Master Plumbers' and Mechanical Services Association, particularly its chief executive, Stuart Henry, who has worked long and hard and who has been patient over a considerable period to ensure this Bill receives proper support, and the union representative whom I notice is in the gallery to see this legislation through. I also thank the representative from the Office of Water Regulation, Paul Kelly, who has done all the work associated with this Bill in seeing it through to this stage. He has done an excellent job particularly in calming any fears in the community, and in negotiating his way through all the issues that have been raised. The support that has been given to this Bill today by the Opposition is a reflection of the hard work that he has done in ensuring that this Bill reached the stage where it is today.

Question put and passed.

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

RAIL FREIGHT SYSTEM BILL 1999

Committee

Resumed from an earlier stage. The Deputy Chairman of Committees (Mrs Hodson-Thomas) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

Clause 12: Limitations on disposal of land -

Progress was reported after the clause had been partly considered.

Mr THOMAS: When the Committee reported progress for question time, a few interchanges had taken place between myself, the Deputy Premier and the member for Armadale. I was talking about the matters that are able to be contained in the leases and the very important nature of those leases in the performance of the lessee concerning the public interest, and the obligations of the lessee to maintain the rail infrastructure in such a way that it would be able to enhance the capacities. The Deputy Premier responded to those questions and said that it was anticipated that the terms of the lease would impose obligations on the lessee, and in the event that they were not fulfilled or the leases did not provide for them, it would be possible under clause 42(4) to provide ability for the State to intervene and provide funding for those enhanced facilities. In answer to a question from me, the Deputy Premier said that it was anticipated that the terms of the lease would combine some arrangements between the State and the lessee because obviously the State would feel that it was owed something in terms of return on that investment. The point I made before we reported progress was that I did not think that was good enough. I have no doubt that the Deputy Premier is genuine in his intention that the lease will be drawn up which would correctly reflect the interest of the State. However, the legislation does not prescribe the types of items that will be dealt with in the lease; it simply states there will be a lease. We know that the Government will have a number of considerations when it negotiates this lease. We know for example that the Government will be interested in maximising its return on the sale of the business and the letting out of the fixed assets; that is a consideration. Equally, the would-be lessees will be interested in securing a lease that is most advantageous to them commercially when it comes down to the obligations that exist on a lessee to enhance the capacity of the infrastructure that is leased out, such as what happens in the event that it is necessary for the State to intervene under clause 42(4) and fund an enhancement of those assets and what arrangements then exist between the lessee and the State. Those matters will be complex, and their drafting no doubt will be the subject of commercial negotiations between the State, as the lessor, and the would-be lessee. I am suggesting a situation whereby there could be some compromise in those terms, so that in the event of a commercial difference and the need for the matter to go to arbitration, those matters are construed legally and finally in the commercial interest of the lessee. The State could find

itself in that situation, which is not to its commercial advantage. When arrangements or relations exist between the State and proponents of projects in agreement Acts, the terms of the agreement are spelt out and are contained in a schedule to a Bill that is presented in this Parliament, so the Parliament knows precisely what are the arrangements between the State and the proponent. Under this proposal, we are doing much more than leasing out earth, which is able to be developed into a project. We are leasing out assets which are already the result of a considerable amount of investment of public funds over many years. The terms of the lease should be apparent; we should know what is in them. Even if we do not know the detail of those terms, we should at least know the subject headings and the sorts of matters that will be dealt with in the lease, but we do not even know that. All we have is the best intentions in the world of the Deputy Premier; however, I am doubtful that this legislation will be able to facilitate that undertaking.

Clause put and passed.

Progress reported and leave granted to sit again.

OCCUPATIONAL SAFETY AND HEALTH AMENDMENT BILL 1999

Second Reading

DR GALLOP (Victoria Park - Leader of the Opposition) [4.00 pm]: I move -

> That the Bill be now read a second time.

The 1984 Occupational Safety and Health Act was enacted for the purpose of promoting and improving standards of occupational safety and health for Western Australian workers. However, by virtue of a legal quirk, the more than 4 000 sworn members of this State's Police Service are denied the protection of this Act. I remind the House that not only are these protections available to the majority of this State's work force; they are also available to unsworn officers of the WA Police Service. A further irony is that employees in the private security industry are covered by the Act. The private security industry, under this Government's ideologically-driven privatisation and outsourcing agenda, is becoming increasingly involved in what are normally considered traditional policing-type activities. They have the benefit of the Occupational Safety and Health Act; sworn police officers do not.

In these circumstances, it is unclear why one group of workers would be offered a degree of protection not available to others. I also remind the House that another group - self-employed persons - that was originally excluded from the Act has since come under its jurisdiction as a result of the 1996 amendments. However, police officers were not included in those amendments. Labor is not prepared to see our police officers continue to be exposed to this lack of basic industrial law and employment protection.

Undoubtedly, the police work in hazardous situations. No amount of legislation can make it hazard-free because the very nature of the work is high-risk. However, other workers also work in high-risk situations - the construction and manufacturing industries are examples. Instead, for far too long the unique nature of policing has been used as an excuse to avoid the standards that apply to other workers and in other workplaces.

It is worth noting that the Government has not found the unique status of police officers a hindrance in making them subject to legislation affecting other areas of industrial law. I refer specifically to their inclusion in the Workplace Agreements Act. The lack of occupational safety and health protection has been of ongoing serious concern to many police officers and their union. It is a sad indictment of this present Government that it has failed to do anything to adequately address this anomaly, despite the fact that on 20 June 1998, the former Minister for Police said in a press release that -

> . . . the State Government supported moves to amend the Occupational, Safety and Health Act to cover police officers.

I might also add that in that same statement the minister affirmed support for legislation to provide vicarious liability for officers acting in good faith.

There have been two important reviews of the Occupational Safety and Health Act that have included an examination of the status of police officers. As far back as March 1992, Commissioner Robert Laing of the Australian Industrial Relations Commission accepted the recommendation of the Department of Occupational Health, Safety and Welfare that the definition of "employee" should be broadened to cover police officers. Commissioner Laing concluded -

> There appears to be no good reason why the amendments sought should not be made.

The Act was more recently reviewed in 1998 by Mr Jeremy Allanson, a lawyer. Mr Allanson also recommended that the Act be extended to cover police officers, even though he acknowledged their unique status as holders of an independent public office under the Crown, and some of the issues that flowed from this status. Nevertheless, in Mr Allanson's view, the problems he discussed in his review were not insurmountable, nor were they sufficient to preclude police officers from the Act's coverage. I also add that some of the issues he discussed may well apply to the Act generally. Mr Allanson acknowledges that -

> There must, however, be some sensitivity to these issues in both the nature of any amendment and the administration of the Act.

It is interesting to note that both the Commonwealth and Northern Territory Governments have legislated to extend coverage to police officers within their respective jurisdictions.

In light of this background, I will now turn to the provisions of the Occupational Safety and Health Amendment Bill. The

Bill provides for a number of changes to the definitions of "employee" and "employer". Further, a definition of "police officer" is included. Significantly, the Bill expressly provides that it is to commence on 1 July 2000. The purpose of this one-year delay is to give important stakeholders, including the Western Australia Police Service, WorkSafe, and the Police Union, sufficient time to prepare and promulgate an appropriate code of practice under part VIII of the Act. The code of practice will provide guidance to both police management and the officers themselves, and will be a means to deal with many of the "sensitivities" that were highlighted by Mr Allanson. The code is a vital part of this new regime. In my view, provided that its preparation is conducted in a climate of cooperation and consensus, there is no reason that a code of practice cannot be in place prior to the commencement of this Bill.

The Bill also inserts a definition of "work" that is restricted to police officers. Police can be called upon to exercise their powers and duties at any time, including when they are not officially rostered for duty. One example would be if they came across someone breaking into premises, or assaulting another person on the street. It is my understanding that an officer could be disciplined for failing to attempt to prevent this type of breach of the law, even if he or she is not officially rostered on duty. It is for that reason the definition of "work" applies any time the officer is performing a duty or function of his or her office, irrespective of whether the officer is officially rostered on or off duty.

I accept that an off-duty officer will not have access to the same resources as an on-duty colleague, and that it may seem impossible to require a safe working environment for officers, in effect, at all times - on and off duty. However, I remind the House that the Act does not impose an absolute duty on employers. It is understood that all hazards may not be eliminated from workplaces. Rather, the duty is to maintain a safe working environment "so far as is practicable", and similarly, employees have an obligation to "take reasonable care". It is for this reason that a code of practice will be important.

Police officers work in a variety of workplaces - from the general office of a police station to specialist areas such as forensic laboratories and detention centres, any private or commercial premises, and open places such as walking the beat or attending a road accident. The code will need to encompass the different workplaces police work in, and it will also need to be able to address the variety of situations police officers are exposed to, particularly those that are more hazardous and high-risk, such as urgent duty driving and undercover operations. Further, it will be able to take into account situations in which equipment or other resources are not readily available, such as when officers are required to perform policing duties while off duty.

By way of example, in cases of urgent duty driving, different standards may apply when officers are on duty and have access to approved police pursuit vehicles, as opposed to cases involving an off-duty officer being in a private vehicle not equipped for pursuit duties. When on duty, a code of practice may stipulate minimum standards of training and equipment before an officer can participate in pursuit duties. When on duty, a code of practice may stipulate minimum standards of training and equipment before an officer can participate in a pursuit. If off duty, it may be considered that the safety of the officer, as well as the general public, requires that the use of a private motor car is prohibited, or restricted to certain circumstances. The code will also need to deal with more practical matters such as the issue and compliance of notices, the role of inspectors and so forth. Obviously a great deal of thought and planning will be required to frame a code of practice. However, given the commitment and enthusiasm of all relevant parties, it is an achievable goal.

I am aware that the Government apparently wants the new Police Act to be fast-tracked. However, not only does this Government have a poor record on implementing its legislative promises, but also it has constantly failed to demonstrate initiative and commitment in respect of police matters generally. I remind the House about the stalemate last year when the Government refused to accept that it was possible for dismissed police officers to be given a right of appeal to the Industrial Relations Commission, even though a similar process had been established in New South Wales. It was only after some months that this Government reluctantly accepted that giving dismissed officers a right of appeal was fair, and would not bring the whole system grinding to a halt. Grudgingly, the Government brought in the interim administrative arrangement that is currently operating while the existing Police Act is reviewed.

Furthermore, it is becoming increasingly apparent that the Government is paralysed in relation to law reform generally. Prostitution law reform, drug law reform, de facto relationships and so forth are all on the back-burner. With this in mind, the Opposition is somewhat sceptical that the Government intends to introduce any legislative reforms and initiatives in relation to the Police Act of 1892. It seems that we are destined to enter the twenty-first century lumbered with a Police Act from the late nineteenth century.

I might also add that if the Government surprised us, and introduced a new police Bill, it may purport to incorporate some kind of occupational safety and health requirement. In this respect, I wait to be convinced that a separate scheme for police officers is preferable to the more general coverage extended to workers. I commend the Bill to the House.

MR PRINCE (Albany - Minister for Police) [4.12 pm]: I respond to the second reading speech of the Leader of the Opposition. Members of this House know that is unusual. Normally matters are adjourned and left to lie for at least a week before there is a response. However, I am aware that members of the Police Service are in the Public Gallery and they may not be aware of our standing orders. I am also aware, because the President of the Police Union telephoned my office today to say that he had nothing to do with it, but nonetheless put out a newsletter urging all officers to come today to hear the debate, that it would be appropriate for there to be some debate and for the officers concerned to hear, again, the Government's position on the subject.

I am pleased to say that in principle the Government and the Opposition agree. That is a strange thing, particularly as the Opposition usually opposes everything. I make the point that there is no disagreement about the extension of occupational safety and health laws to police officers. The issue has been, and still remains, precisely how we do that - whether it should

be done through a police administration Bill, which is in preparation now, and which is one of a suite of Bills to replace the Police Act 1892, or whether it should be done by some form of amendment to the Occupational Safety and Health Act. Those are matters that are being worked on at the moment by experts in the area. I will detail some of that in a moment.

The former Commissioner of Police, Commissioner Falconer, supported the amendment to the Act for police coverage a year or more ago. The commitment of both the Government and the Police Service to that was reflected in the original enterprise bargain documents that were put to the Police Union more than 12 months ago. That document included occupational safety and health coverage and some other matters. That was rejected by the union in October. The union sought to have occupational safety and health and the issue of civil liability, often called vicarious liability, removed from the EB negotiations and dealt with as a separate issue. That was fair enough. It was immediately after that that the Minister for Labour Relations initiated a review into the totality of the occupational safety and health legislation, to deal with this subject among others.

Mr Jeremy Allanson, as the Leader of the Opposition stated, prepared a compendious report. I have a copy of that report, and will lay on the Table that part of his report which dealt specifically with police. The Minister for Labour Relations initiated that review in the last half of last year. I met before Christmas with Ian Taylor. His connection to this matter goes back to his early days in Parliament. I understand that although the original occupational safety and health legislation was introduced by Mr David Parker, who was the minister, Ian Taylor was then a backbencher with the carriage of the legislation through this House. Ian Taylor is no longer a member of Parliament but last year was engaged by the Police Union and came to see me. We discussed at length the issue of coverage, how it will be achieved, and what should be done. I gave him unqualified commitments that as far as the Government and I are concerned, police officers should be appropriately covered by occupational safety and health. I will refer to vicarious liability in a little while. Ian Taylor has not been back to me since then, but I assume that he reported to the union to that effect. He seemed to be happy with what had been said.

The Allanson report was tabled in this House on 25 November last year. The report raises a number of problems that exist between the way in which the Occupational Safety and Health Act is written at the present time and the requirements of police. Those issues have been worked on since then. A working party involving people from WorkCover, the Police Service and my office have been meeting on a fortnightly basis. They are under directions to report to the Minister for Labour Relations and me by the end of July. Subject to receiving that report, we intend to direct that legislative amendments be prepared. Without wishing to pre-empt what they will come up with, I suspect it will be amendments to the Occupational Safety and Health Act rather than inclusion in the police administration Bill. However, that is a matter for those who are expert in the area to sort out.

Dr Gallop: We have done it.

Mr PRINCE: I agree with the Leader of the Opposition in principle.

Dr Gallop: Then give it a second reading.

Mr PRINCE: I do not have a problem with that at all. In the second reading we debate principle, but the way in which the Leader of the Opposition wants to implement the principle will not work. I will repeat that to the Leader of the Opposition because I am sure he has read Jeremy Allanson's report. On the issue of coverage of the police, Mr Allanson details various provisions of the Police Act 1892, the appointment by the Governor of a commissioner, and then commissioned and non-commissioned officers. Part 2 of the Act deals with regulations, duties and discipline. Under section 9 rules, orders and regulations can be framed, but the Police Act does not prescribe the requirement for a member of the Police Force to obey orders. That requirement is found in police regulations, in particular the general rules relating to discipline to the effect that a member may not disobey a lawful order and shall not, without good and sufficient cause, fail to carry out a lawful order. Those provisions do not point to the existence of an employment relationship between the Commissioner of Police and police officers. That conclusion has been reached in a number of court cases both in this State and elsewhere.

Mr Allanson refers to a 1991 case in Queensland in which a prosecutor evidently had been directed to work in the unhealthy conditions of the Cairns watch-house and said he would not. The matter wound up in the Supreme Court, which came to the conclusion that there was no employer-employee relationship and doubted whether there was a master and servant relationship between the Crown and a police officer. That is because of the nature of the appointment of sworn police officers; they are not employed within the meaning of employment as it is contemplated under the Occupational Safety and Health Act. For those who are interested in this, I urge them to read the nine or 10 pages of Mr Allanson's report for a summary of that problem. Mr Allanson says on page 18 -

> There may be room for debate on the authorities whether it has been finally determined that police officers are not employees at least for some purposes. I note that there is currently a conflict of opinion whether police officers are employees for the purposes of federal laws relating to industrial relations.
>
> Until that debate is resolved, the weight of authority favours the view that a police officer is the holder of an office under the Crown and is not an employee. In particular, an officer is not an employee of the Police Commissioner. Rather, the relationship, including the power of the Police Commissioner to control or discipline police officers, arises from the Act and police regulations and the nature of the police force as a disciplined force in the service of the Crown . . .

That is, in the service of the State. He goes on to state -

> The issue under the *Occupational Safety and Health Act* then arises quite simply. The Act provides a regime based on the relationship of employer and employee. The Act also looks to enforcement by way of notices to the employer and ultimately by prosecution of an employer or employee . . .

If it were possible in 1984, when the legislation was brought into the House, and later when Labor members were in government, it would have required extensive amendment to the Bill to bring police officers under the control and aegis of this piece of legislation. They did not do that. What they are seeking to do by a very simplistic amendment is to say that police officers are employees, and they are not. The weight of legal opinion is that they are not. Labor members would create a problem by the simplicity of their Bill. I agree with them in principle; we are trying to work out how to do it.

Coverage of similar legislation has been extended to police in the Commonwealth and the Northern Territory. Mr Allanson goes on to detail the way in which it operates. He then raises the nature of the police engagement and character of the duties carried out by members of the police which may raise difficult issues as to how and to what extent they may properly be subject to regulation by an outside body. That is the second part of the problem. There will be difficulties. There is potential conflict between the police regulations and orders and the requirements of a WorkSafe inspector. In the event of perceived conflict between an officer's duties under his or her office and the duties of an employee under the Act, there could be difficulties - what law prevails? Several examples could be quoted in which police officers engage on a fairly common basis - for example, covert operations, the actions of the Tactical Response Group in responding to a variety of incidents, drug squad operations, protective services matters involving dignitaries, some investigations conducted by, perhaps, the macro task force, civil disorder matters such as the waterfront dispute, isolated community patrols, natural disasters -

Mrs Roberts: Can I ask you -

Mr PRINCE: If the member for Midland wishes to make a speech, she can make it later. In Moora recently during the second flood police officers responded to help people. A police officer simply abandoned his personal property to help people who needed his assistance.

Dr Gallop: What about firemen?

Mr PRINCE: Hang on. That policeman was obeying a duty and putting himself at some risk. He lost personal property as a result. That matter is being addressed administratively. The point is that the variety of things that police officers can be called upon to do do not fit within the occupational safety and health concept and the law as it is presently written. Certainly, for example, inside a police station, that which is occupational safety and health general good duty of care compliance with things such as lighting, ventilation, heating, cooling, the provision of toilet facilities and so on, are things that should be complied with. However, if an offender is brought into the police station and is behaving in an extremely violent fashion, that is when we begin to see the conflict between the concept of employer-employee duty of care and the duty of a police officer in restraining that individual.

I know of several incidents that have occurred over the years. One incident last year comes to mind. Four police officers near Mandurah had to be called upon to restrain a deranged young man who was so violent and so out of his mind in many respects that he actually managed to discharge an officer's firearm in his holster and shoot another officer in the leg. That is a potentially very hazardous situation; indeed it caused injury. Should an officer be required to do that in the course of his duty? The answer is yes. If we applied all the occupational safety and health rules to that situation, the answer would be no, and perhaps the officer should back off. I hate to think that we would get into the position that applies in Victoria where such matters are dealt with in a far more violent way. We need carefully to go through issues of that nature, and that is being done at present.

Mr Marlborough: It sounds to me as though the minister is looking for ways to exclude rather than -

Mr PRINCE: No, I am not.

Mr Marlborough: It certainly does.

Mr PRINCE: It is interesting that the member for Peel should say that. What he said is in fact the way in which the Australian Federal Police are covered: They are covered, "except". There is a general statement of coverage, except it does not apply to covert operations, dangerous operations, hazardous operations and so on. That is a way of doing it.

Mr Marlborough: That is what I am saying.

Mr PRINCE: No, I am saying that the federal police are "covered" but it is a coverage that is limited basically to surroundings which one would say are relatively hazard-free in an environmental sense, and they are not covered when it comes to getting into any potentially dangerous situation. I do not agree that that is the right way to go. We should have a cover that in some way is able to vary according to the circumstances in which the officer finds himself or herself. Sometimes there will be plenty of time to think it through and at other times it will be very quick. It is debatable whether a code of conduct is the way to go. It is an interesting proposition - I see it in the Bill and in the second reading speech - and it is being examined by officers from WorkSafe and the police at present.

Mrs Roberts: You still haven't said whether Anti-Corruption Commission officers are covered. They undertake similar operations.

Mr PRINCE: I do not know. I do not think that ACC people, in the ordinary course of their duties, are put in the same position as police officers in carrying out all the functions that I mentioned - covert operations, TRG, division 79, general duties, high-speed pursuits and so on. ACC officers do not do the full gamut of activities that our 4 700 police officers do. I want to see them covered. I have said that ever since I became the Minister for Police. I have given those assurances publicly and privately and to the people employed by the union. The Minister for Labour Relations and I have directed a working party to prepare the detail from which the legislation can be drafted. That working party is to report by the end of July on what we will do and where we will go, and that is something that I intend to happen. As to the result, I do not know

whether it will be a Bill or part of the police administration legislation that is under preparation or an amendment to the Occupational Safety and Health Act - I suspect the latter - but either way it must be something that, if the Leader of the Opposition will pardon my expression, is somewhat more sophisticated than what opposition members have come up with. It is a simplistic way of addressing the problem.

Dr Gallop: You suggest amendments.

Mr PRINCE: I will. That is why I have no problem with the legislation being second read.

Dr Gallop: Terrific.

Mr PRINCE: It is important for the police to know that there is bipartisanship on the principle of occupational safety and health coverage to the police. That is something that I have said for a long time. The Leader of the Opposition has now said, "Terrific." Exactly how it is done is being worked out now. We talk about delay. One of the things I find offensive is that we have a Police Act 1892, and it is now 1999. The darned thing should have been repealed 20 years ago and something that is far more contemporary and modern put in its place.

The prostitution legislation is currently going to draft No 6. I last looked at that Bill 10 days ago, and it was about 150 pages long. We are now down, I hope, to the last half dozen or dozen contentious issues with regard to that Bill.

That is a suite of at least six Bills. Those Bills in different stages will come back through the cabinet and party room processes, and, subject to those processes, will be introduced into this House and will then be available for debate, and I hope that after sensible and reasonable debate, those Bills will pass with or without amendment. That is what I have driven in the past 11 months that I have been Minister for Police, and I intend to see that completed while I am minister, because I find it offensive that at the end of the twentieth century, the Police Service is operating under an Act that is more than 100 years old. I support the principles of the Bill presently before the House. I do not support the detail. It simply will not work. It does not, for example, deal with section 26 of the Occupational Safety and Health Act, which is the right to refuse labour in a hazardous situation, when we all know that police officers in the execution of their duty will put themselves into a hazardous position because it is their duty to do so. That alone requires that this Bill be substantially amended. I suggest it will simply lie and will not pass, because a more compendious Bill will come along to replace it. The principle is right; the detail is, with respect, not as good as it should be and too simplistic. I support the second reading.

I lay on the Table the papers to which I referred, which are some extracts from the report of Mr Allanson into the Occupational Safety and Health Act.

[The papers were tabled for the information of members.]

DR GALLOP (Victoria Park - Leader of the Opposition) [4.31 pm]: The Opposition appreciates that this Bill will get a second reading, which means it will proceed to the committee stage at a later stage of the Parliament's sitting. We look forward to getting from the Government constructive suggestions on how it believes the Bill may be amended, because the minister has indicated that he believes the Bill has deficiencies. That is his view. If that is the case, we wait to see what those deficiencies are and how we may fix up the Bill. The Opposition is keen to progress this matter and to ensure that the rights of police officers in Western Australia are properly protected by the laws of our State. It is a major step forward to get this legislation through a second reading, and it indicates that the Parliament of Western Australia does want to make that fundamental reform to ensure that the rights of police officers are properly protected.

Question put and passed.

Bill read a second time.

SUPERANNUATION AND FAMILY BENEFITS AMENDMENT BILL 1999

Second Reading

MR PENDAL (South Perth) [4.33 pm]: I move -

> That the Bill be now read a second time.

In December this year, Western Australia will celebrate 100 years since the extension of voting rights, or suffrage, to women. That advance put Western Australia into the very vanguard of liberal thinking around the world, particularly given that South Australia and New Zealand were the only British colonies to have given women the vote up to that time. Since then, the lot of women has been markedly improved, with great progress having been made as late as the 1890s, and beyond.

It is something of a puzzle, therefore, to learn that in 1999, we still retain on the statute book in Western Australia a law which seriously discriminates against retired female civil servants in superannuation pension entitlements. In saying that, one is also able to make the seemingly inconsistent, but nevertheless accurate, observation that the discrimination to which I have referred by its very existence also discriminates against male spouses of such retired female civil servants. The passage of this Bill, therefore, will serve an unusual dual purpose of ending a double-edged discrimination which should have been removed a long time ago.

That discrimination was brought to my notice by a constituent whom I shall call Mrs Fairview, a nom de plume. Mrs Fairview was born outside the State in 1928, arrived here in 1964, and joined the Western Australian civil service superannuation scheme in the mid-1970s. She had by that time been employed as a nurse at Royal Perth Hospital for three or four years. She worked productively through the following years, retiring some 13 years ago aged 58 years. To this day, Mrs Fairview receives an annual pension of currently about $10 500. Her only problem, if we husbands can ever be seen

as such, was that she married in 1955 aged 27 years. Her husband is now 73 years old, and, fortunately, is in good health. However, were she to die tomorrow, under the provisions of the Superannuation and Family Benefits Act 1938, none of her pension benefits would revert to him. Members would be aware that under the same legislation, if a male had joined the civil service and superannuation scheme and had died during his service or subsequent to his retirement, his widow would receive the full superannuation pension entitlement. I understand there may be a single exception to this; that is, where the widower can show that his gross income in the year before his wife's death was less than two-thirds of her superannuation entitlement.

Putting this one instance aside, I contend that discrimination exists in two parts. First, it treats a female superannuant in an inferior manner to a male superannuant; second, by extension, it treats a male surviving spouse in an inferior manner to a female surviving spouse. Thus, action taken to pass this Bill will be a win-win situation by ending discrimination in two parts, but principally it will view a female's earned entitlements as important as a male's in the same job. Most people seem to see this as eminently fair. However, as late as 1993, the State Government introduced a Bill to amend both the Superannuation and Family Benefits Act and the more modern Government Employees Superannuation Act. The aim in 1993 was to accommodate certain commonwealth requirements, as well as to remove a number of discriminatory provisions in the pension scheme. Oddly, and quite inexplicably, there was no mention of the need to remove the discrimination which my Bill now seeks to target. I say the 1993 Bill was inexplicable in this regard because, on the one hand, it abandoned discrimination against de facto spouses, while it continued discrimination against married spouses in the way I have outlined.

Members who are prepared to acknowledge the injustice of the situation I have outlined are also entitled to know the impact on the state budget of this measure. To this end, I have been in touch with the Government Employees Superannuation Board. The overall impact on an annual state budget of $7.7b is quite minimal. I am advised that the additional cash costs if this Bill were passed are projected to be some $200 000 in the first year for some 16 widowers identified to be in this category, and rising to a peak of $487 000 per annum in year 9 involving 23 widowers. Putting financial considerations aside, the measure deserves to pass because it seeks to redress a historic, even offensive discrimination that is simply unacceptable in this year that celebrates a time when Western Australia led the way in treating women equally. I commend the Bill to the House.

Debate adjourned, on motion by Dr Constable.

POLICE (IMMUNITY FROM CIVIL LIABILITY) BILL

Second Reading

Resumed from 9 September 1998.

MRS ROBERTS (Midland) [4.40 pm]: This is a very important and long overdue piece of legislation. I commend the independent member for South Perth for bringing this Bill before the House. Not only does the Opposition support the Bill sponsored by the member for South Perth, but also it would have been happy to introduce it. We support sworn police officers in this State having immunity from civil liability. The Government says it will address this issue as part of its Police Service Bill. That may sound commendable, but it is not the appropriate action at this time for the following reasons: First, the inevitable delay which will occur. The minister advised people at the recent Police Union conference that he hopes to introduce the suite of Bills that accompany the Police Service Bill in the spring session of Parliament. We all know that is code for his not having any expectation of being able to pass that suite of Bills during the spring session this year. We will be waiting until some time next year.

Mr Prince: It depends on you.

Mrs ROBERTS: The Minister for Police is wrong; it does not depend on us because we have not even seen the legislation he proposes to introduce. Week after week I asked him about the fire service legislation and we never saw it; then he was rolled in his own party room. We have asked this minister and previous ministers where their prostitution legislation is, but we have not seen that either. This depends on him also because he cannot even get a decent drafting priority for a Police Service Bill from his own cabinet colleagues. That is his problem, not ours. He should bring the Bill before the House because we are more than happy to progress that sort of legislation. We will indicate that today by voting for the Bill moved by the member for South Perth. The delays have been incredible. We have had previous ministers in this House, the members for Darling Range and Wagin, making similar undertakings. Some of them indicated they would bring a Police Service Bill before the House within three months, but we never saw it. In fact, the coalition promised it would bring the Bill before the Parliament prior to the 1993 election, and we are still waiting.

The minister says it depends on us and that may be right, because it will depend on us getting into government to enable this legislation to be passed by this House. Given the minister's inadequacy in getting a decent drafting priority for his Bills, the earliest the Police Service Bill could be passed is the middle of next year. We hope to see something happen by that stage, but even then it will be too late. Dealing with the redraft of the Police Act 1892 will be a little like our experience with the School Education Bill. It will cover such a wide variety of complex matters that it will not quickly get the stamp of approval. It will cover so many issues that inevitably it will take a considerable time to pass through the Parliament. However, some of those matters should and can be progressed urgently, including this legislation for immunity from civil liability.

In his second reading speech the member for South Perth properly outlined the purpose of the Bill and gave a number of examples of why we need to progress it urgently. The main reason is to provide protection for police officers against civil actions taken against them because of their actions and incidents that occur during the course of their duties. The autonomy of the office of constable has left police officers civilly liable for their actions. Rather than the Crown being liable for civil proceedings against police officers, a situation exists in which individual police officers are liable. This is of concern in

some of the situations in which police officers find themselves. Recently we have seen examples of this with urgent duty driving, the use of stingers and other situations in which a police officer may become civilly liable or be sued due to the activity he has undertaken in good faith as part of his duties. It makes police officers in this State very vulnerable. The potential for absolute financial disaster exists for a police officer and his family if a civil action is taken against him because of something he has done in good faith in the course of his work. It also renders vulnerable those taking an action. A person who takes an action and seeks compensation for something that has happened to him or a member of his family because of the actions of a police officer, may well find that the junior constable or whoever it is that he takes the action against - he cannot take the action against the Crown - does not have great financial means. He may be a junior constable of very limited financial means. The person in the community taking the action may find he cannot get the degree of compensation that is justified in the circumstances. If the Crown is responsible, such people are better protected because the compensation that is rightfully awarded to them will be paid by the Crown. Police officers or their families will not be bankrupted and those who are rightfully due some form of compensation will not be in a situation of not receiving as much compensation as they deserve.

I highlight the double standards in operation in this State. If we compare the treatment of officers of the Anti-Corruption Commission with that of police officers, it will be seen a degree of hypocrisy exists. An article that appeared in a recent edition of the Police Union journal under the heading "Want vicarious liability protection? Join the ACC!" stated -

> Want vicarious liability protection? Wish to avoid civil action being taken against you because of a work incident? Then, don't look for it in the Police Service because the WAPS does not provide such protection to its sworn officers.
>
> But, if you are an employee of the Anti-Corruption Commission, you have no worries at all.
>
> Why? Because under section 49 of the ACC Act 1998, you are totally covered.
>
> The Commission, a member of the Commission, an officer of the Commission, a seconded officer, a special investigator, a service provider or a member or employee of a service provider are all covered.
>
> This section says that all of these people are " . . . not liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith in the performance or purported performance of any function under this Act."
>
> So, there you have it. As a police officer, you have none of this protection.

The article states further -

> Seeking vicarious liability protection for its Members has been one of the Police Union's longest campaigns.
>
> But without any effort and solely as a result of Parliament's selective largesse, the ACC and its officers have total protection from civil actions and you, as police officers, have none.
>
> There's obviously one rule for the police and a much different - and better one - for all others.

It concludes by stating, "So much for a fair go and justice for police!" I do not see why there should be a difference. Why should this group of people which was set up recently be operating under the ACC and be provided with immunity from civil actions whereas our police officers are not. I do not see why, because of government delays and the partisan actions of this Government, police officers should not have the same protection as other workers in this State or the same protection as those who work at the Anti-Corruption Commission.

I will highlight another reason that some action on this is absolutely urgent. At the recent Police Union conference, a motion was moved for a ban on high speed pursuits. I was in attendance while this motion was discussed. One point that was made was that without any protection for vicarious liability, officers were putting themselves and their families in vulnerable situations when embarking on high speed pursuits. I note the resolution carried at the conference indicated the union fully endorsed taking industrial action as at 12 July this year if the Government did not move to provide some vicarious liability protection. It is time for the Government to show its commitment. What does the minister intend to do to avert this industrial action by the Police Union and the ban on high speed pursuits? After waiting for more than a year since high speed pursuits were last banned, it has said that the time is right to take action and it fully intends to do so. I believe it is justified in doing so.

This Government displays a complete and total lack of commitment to the police officers of this State. It is no more evident in any other area than in the failure to provide them with vicarious liability protection. Unfortunately, it has been given a low priority by the Government. It has been hypocritical. The Government has misled the police officers of this State. Minister after minister and member after member have continually told them, "Yes, we will take action; next month, next session, next year." Now is the Government's opportunity to take some action. Talk is very cheap. The police officers of this State are sick and tired of talk and promises. They are calling for action now. The Government should stop playing politics and support the private member's Bill moved by the member for South Perth. There is not much point in professing bipartisan support and not delivering it.

This Bill has been moved by an independent member of this House and the indications are that there is support from the minor parties in the upper House for this Bill. Surely the minister will not allow petty politics or one-upmanship to prevent the introduction of a fair and just system of civil liability protection for police officers. We should all want a system that is just, fair and right. In good conscience, members of Parliament could only support this Bill. I urge all members to examine their consciences, support the hardworking men and women of the Police Service of this State and vote for the Bill.

MR PRINCE (Albany - Minister for Police) [4.53 pm]: I am the lead speaker on this matter for this side of the House. However, unless the member for Midland interrupts me, I am not likely to use the full 60 minutes. When this Bill was introduced between three and six months ago, I said that the Government supported it in principle. There is, and has been, no question about that. There have been a number of public commitments. As I said earlier in regard to the Occupational Safety and Health Amendment Bill, last year an attempt was made in the course of enterprise bargaining negotiations for this matter to be resolved, and the union rejected that. The matter is to be resolved by legislation, and it should be resolved long before that stage. It should have been done a long time ago. I found it completely incongruous that a police officer acting in the course of his duty, protecting the people of this State from wrongdoers, could in some way be liable in a personal sense for some form of civil action or liable for some sort of criminal action that may be brought against him, when he has acted in good faith in the discharge of his duty, and has not acted in any way illegally - I make that distinction. A police officer or anyone else, whether he be a member of Parliament or a private citizen, who breaches a law in a criminal way - that is, commits an offence against any Act; the Road Traffic Act, the Misuse of Drugs Act, the Criminal Code or whatever - is subject to the law. No-one is above the law and that is part of the rule of law.

In this instance, police officers who behave illegally are obviously subject to prosecution, whether that be brought by the public officials of the State, whomever they may be, or whether the prosecution be for breaching the Fisheries Act or another Act; they are as subject to the law as anyone else. We are talking about an officer who behaves lawfully in the sense of not illegally, but who is liable to be pursued by a private citizen in the civil courts or in the criminal courts for an offence. The suggestion was made during question time that if a police officer in apprehending someone is subsequently charged on private prosecution with an offence of assault, the Police Service should pay for that person to be represented in the courts through the whole process, whatever it takes, because the officer has acted in good faith in accordance with his duty and is on the wrong end of someone bringing a private prosecution for an offence.

The same rules should apply in the civil area. If the officer is not the subject of a complaint for assault under the Criminal Code, but is subject to a writ of summons for damages for assault, the Police Service should ensure the officer is covered for his legal fees in the defence and also covered for the consequences of the action, whatever that may be, as long as he has acted lawfully and apparently in good faith. This is where it can become a little debateable. That is the view I have expressed, and I have expressed it a number of times. I do not resile from it at all.

I take issue with the way the Bill has been written, because it deals only with civil action. It should cover not only a civil action brought against a police officer acting in the course of his or her duty and in good faith, but also any other action. Those who are of a criminal mind may want to make things difficult for a police officer by bringing a private prosecution against him for an assault. It is a classic one to try. Some other form of private prosecution could be brought perhaps without the necessity to go to indictment. The Police Service should represent that police officer, back him or her and provide legal representation. It should support the officer throughout the process, whether it be a private prosecution for an offence or a civil suit for damage. Police officers have some protection. The member for Midland is in error on that matter. I refer her to section 101 of the Road Traffic Act.

Mrs Roberts: It is only when they are doing traffic duties, and the member for South Perth pointed that out in his speech. We are all aware of that.

Mr PRINCE: That includes what is done on the roads. Section 101 states -

> No matter or thing done or omitted to be done by the Minister, the Director general, the Council, any Council member or deputy of a Council member, police officer, member of the Police Force, warden, inspector, or other person authorized to carry out the provisions of this Act in good faith under or for the purposes of this Act, or purportedly under or for the purposes of this Act shall subject the Crown, the Minister, the Council or any person hereinbefore referred to, to any liability in respect thereof.

That is obviously an indemnity against a private prosecution for an offence or a civil action for any form of damages. That must be taken into account when we talk about high speed pursuits, the use of stingers and other operational matters. If there is some doubt as a matter of law -

Mrs Roberts: Is pursuit of an armed robber covered by the Road Traffic Act?

Mr PRINCE: I am not referring to that; we are talking about traffic matters such as high speed pursuits, use of stingers, and things of that nature.

Mrs Roberts: A police officer may pursue an armed robber in a high speed pursuit -

Mr PRINCE: The member for Midland should let me finish. If there is some doubt whether section 101 of the Road Traffic Act covers those issues, it should be resolved in this place to eliminate all doubt.

Mrs Roberts: You are the minister; you should amend it.

Mr Pendal: You have the power to move amendments.

Mr PRINCE: I know that and section 101 should cover it; if it does not, it should. A law should exist that ensures that police officers acting in good faith are covered. There is no doubt that they should be covered irrespective of whether they are engaged in traffic duties, which is obviously covered by the Road Traffic Act, or engaged in some other duties and happen to be on the road.

Deputy Speaker's Ruling

The DEPUTY SPEAKER: I must give a ruling on this Bill as it is a money bill. As a private member's Bill the minister must first seek authorisation of the allocation of money. As the allocation of the money has not been sought, the general practice is that the Bill cannot be put to the second reading vote and will go to the bottom of the Notice Paper until money has been allocated to it.

Mr PRINCE: I understand that means the debate can continue; but as a matter of formality we cannot have a vote when the second reading debate is exhausted until we have a message.

Points of Order

Mr BROWN: How is it a money Bill, Mr Deputy Speaker? It sets up a potential contingent liability, but it does not require any payment as of itself.

Mr PENDAL: I took advice to that effect from both the officers and the Speaker and as you correctly reported, Mr Deputy Speaker, my understanding was that the matter was capable of being debated at the second reading stage and then of being placed by the Speaker on the Notice Paper pending the arrival of a message. The Speaker does not know at this stage whether that message has been arranged. That would otherwise allow a full debate to take place.

The DEPUTY SPEAKER: That is exactly how I understand it. I refer the member for Bassendean to clause 5 at page 2 which reads -

> any reasonable costs incurred by a police officer in defending any civil action to which this section applies.

That is the wording on which I base my ruling.

Debate Resumed

Mr PRINCE: It is perhaps something of a technical exercise, Mr Deputy Speaker. For the benefit of people in the public gallery, it means that we can debate this Bill fully, but it cannot proceed without some other formalities being complied with.

The Bill before us is in some respects wrongly thought of as a Bill covering vicarious liability. It is not; it is only partly concerning that. It is mostly, particularly under clause 5(1), an immunity. It is a statement that a civil action cannot be brought or maintained against any police officer in respect of any act or omission done in good faith in the discharge of his duty. It is an anomaly that arises out of the Police Act 1892, which is of itself a copy of the 1850 English Police Act, that police constables are appointed by the Governor and are not in an employer/employee relationship with the Commissioner of Police or anybody else; nonetheless they are officers of the Crown. As officers of the State they are obviously an organised and disciplined force in that sense.

I refer to the remarks I made in the previous debate on occupational safety and health. Due to that peculiar status - peculiar because it does not apply to anyone else who is a member of a state agency - there is an anomalous position whereby the statute has not contained any formal statement of liability and coverage or immunity from any formal proceedings against police officers for the past 100 years.

However, an arrangement has existed for a considerable period with the Police Union whereby the union arranges representation for officers against whom actions of this nature are brought. It does not spend any money that is not recoverable because the money expended is accounted for back to the Government and by regular ex gratia payments. Those amounts, subject to checking by the Crown Solicitor's Office, are then paid by the State to the union. That is a tortuous way of handling the exercise and not one that should be perpetuated into the future.

I support a formal law such as that which this Bill envisages, but to also cover other areas that provide that an officer acting in good faith in the exercise of his duty is indemnified concerning civil matters or is covered for any reasonable expense in relation to a prosecution that could be brought against him. In any event, if there is a finding of civil liability and any finding of damages whether it be punitive, aggravated or otherwise, those damages should be paid by the Crown. That proposition is not commonly found in civil law because, under civil law, an employee is not necessarily covered by any concept of vicarious liability by the employer if he has acted negligently.

That has been the law since the law of negligence was expanded at the turn of the century, which was after the Police Act was passed, but which is commonly part of good employer-employee relations and it depends very much on the circumstances of each case. Police officers occupy a special position - and so they should - and where there is no question that they are acting in good faith, if a court finds there was some form of negligence and a monetary penalty is imposed and there should be no question of contribution by the officer, there should be no question of the officer being required to pay. That could arise only when an officer behaved illegally or with bad faith.

That is the proposition I put forward to the Police Service that is preparing the Legal Services Bill that incorporates these provisions. Debate has occurred within the Police Service, particularly in the legal services unit and elsewhere, about the Bill introduced by the member for South Perth and whether the Crown should be responsible for payment of punitive or aggravated damages. We need to debate that issue perhaps more fully during this debate or at some other time because we can envisage a situation in which an officer acting in good faith in the execution of his duty is found by a court to have behaved negligently and to be liable to punitive damages.

Should the Crown be responsible under those circumstances? In the light of the nature of a police officer's job, the way in which police operate and the immunity and indemnity they should have by reason of that position, which is unlike that of

anyone else in society, they should have that coverage for punitive or aggravated damages. The legal service unit has a different view, and it is a matter we are trying to resolve.

The Bill does not refer to any form of shared responsibility if there is a degree of wrongdoing on the part of an officer. We need a definite statement in any law we pass that, irrespective of whether there was wrongdoing by the officer, the Crown is liable. Otherwise, debate will ensue. In that sense, the Bill is not as well written as it could have been. I am sure it was well crafted by the people who wrote it according to the issues put to them. A number of other deficiencies are of significance. For example, the Bill does not cover special constables who can be appointed by the Commissioner of Police, as is often the case with federal police officers on secondment. They should be covered. It is a matter of amendment which can be made.

Mr Pendal: You arrange it, and we will support it.

Mr PRINCE: It does not cover special constables who can be appointed by magistrates and justices in times of civil unrest. Granted - it happens rarely. However, one would need special indemnity granted to those so appointed. Those amendments need to be crafted to become part of this law. The Bill does not cover police aides, which is a particular deficiency considering Aboriginal police liaison officers who are effectively police aides who do remarkable and exemplary work. They are often in situations in which they could be the subject of some action against them and they should be covered.

As a matter of practice, the Crown, the State or the Government pays hundreds of thousands of dollars a year to the union for defence of officers from civil and other forms of action brought again them. It has done so for years. Former Commissioner Falconer brought in, by administrative action, a system for the Police Service to do this work directly, and this appropriate approach is being used increasingly. The service should be looking after its own in that way as a matter of formality. I have no difficulty with that notion.

It is necessary for some fairly significant amendment to be made before the Bill can deal with issues I have raised, and some others. I see the member for South Perth nodding.

Mr Pendal: I agree that you are capable, with the resources available, given the time it has sat on the Notice Paper, to move amendments. We will agree to them. We could have the Bill through by tomorrow night.

Mr PRINCE: I do not have the amendments. The member for South Perth knows that is not possible.

Mr Pendal: Of course it is possible.

Mr PRINCE: The member did not even know it was coming on for debate today until lunchtime.

Mr Pendal: What does that suggest? A lack of courtesy for a start!

Mr PRINCE: I did not bring it on.

Mr Pendal: You have had the Bill for six months. You have all the resources of Crown Law. Whenever we see amendments to government legislation, we see 5 000 people wheeled up to the Chamber. Do not come that silly nonsense with us!

Mr PRINCE: It is not silly nonsense at all.

Mr Pendal: It is absolutely absurd, silly nonsense.

Mr PRINCE: I did not bring it on for debate today.

Mr Pendal: You must have known it was coming on for debate. You are supposed to be the Minister for Police.

Mr PRINCE: Of course it is coming on for debate; it is in the police administration Bill.

Mr Pendal: I will have something to say about that when I respond to the debate. It is a pitiful response.

Several members interjected.

The ACTING SPEAKER (Mr Sweetman): Order! Members should direct comments through the Chair.

Mr Pendal: You still have the capacity to move amendments. I am sure the Opposition will accommodate you, as will we.

Mr PRINCE: The amendments are not here - they are not capable of being moved.

Mr Pendal: Why are they not here?

Mr PRINCE: Because the law better written will be in the police administration Bill.

Dr Constable: When?

Mr Brown: In the fullness of time and after due consideration.

Mr PRINCE: No.

Mr Pendal: You will be long departed from the Police portfolio before we see amendments to this Bill unless we do it today.

Mr PRINCE: No way. I have a personal stake in seeing the Police Act 1892 repealed. It is a disgrace to this State that a 100 year old Act is responsible for the structure of our police and the way in which they operate.

Mr Pendal: I agree.

Mr PRINCE: It is absurd that police operate under an Act which refers to furious driving of horses and carts. It is crazy that it is still on the statute book.

Mr Pendal: Of course it is! Who is the one person who can change that?

Mr PRINCE: I am getting it done now.

Mrs Roberts: When will it be introduced, minister?

Mr PRINCE: The full drafting policy papers and so forth are with the Deputy Commissioner Administration and will be with me next week.

Mrs Roberts: They are the drafting instructions.

Mr PRINCE: It went to Cabinet some time ago and went off for preparation. The detail of drafting instructions will come to me next week, and go back to Cabinet and then off for drafting.

Mrs Roberts: What priority does it have?

Mr PRINCE: I will get the best drafting priority I can.

Mrs Roberts: It has no priority at all.

Mr PRINCE: It has not been sent for drafting yet! All the other Bills are progressing nicely, including the simple offences Bill.

Mr Ripper: Do not accept less than an AAA priority.

Mr PRINCE: I do not want to get horribly political, but why the hell did members opposite not do something about this? They have done absolutely, stone, motherless nothing. Members opposite talk about the Government doing nothing with police. Think about what the Opposition did when we tried to give police the power to deal with only graffiti. We had debate in here, and it was turned around! It was crazy. The three strikes legislation was knocked out in the Legislative Council, so the police do not have the necessary powers to deal with recidivist offenders. I just launched a burglary initiative in Wanneroo this morning: If they target recidivist burglars, down goes the burglary rate by up to 20 per cent. What those opposite are doing is appalling!

Police officers in this State are better paid than they have ever been. With one exception in one rank, they are better paid than those anywhere else in Australia. We built 22 police stations in the last three years, and the previous Labor Government built nothing. Another 11 stations are on the way. It is an indictment upon the way police were previously paid and resourced that this Government has had to spend, but it will spend more. An operations centre in Midland and a new police academy will be provided, along with a stack of other facilities. This is largely because for 10 years members opposite sat on their hands and blew $1.5b, which should have been far better spent. Do not come that this Government does not look after the police; it is completely untrue.

The principle is correct with this legislation, although it needs modification. It needs amendment, and will be amended. I would prefer to see it in a proper police administration and service Bill, not a stand-alone statute. That will be introduced into Parliament as soon as it is written, along with all the other measures. Members opposite are incapable of doing anything except carp. Every time the Government acts in here to improve community security and safety and deal with law and order issues, members opposite try to stop it. I debated in this place for days the issue on surveillance devices of the right to pilfer which one of the Opposition members was extolling. It is absurd that the Opposition opposed that Bill, and it did. With the Court Security and Custodial Services Bill we are trying to take police officers away from court security duties and transporting prisoners around the State and put them back on the frontline; and what is the Opposition doing? It is standing up and saying that it is going to stop that, it is not going to happen and police officers should be left to do those jobs when most of them would much rather be out of them. The Opposition does not agree with helping police officers at all but instead comes up with oratory and rhetoric and its actions completely and utterly negate absolutely everything that it says.

As a matter of principle, this legislation is right; as a matter of detail it needs amendment. It will be returned in an amended form in the police administration Bill as soon as I can get it drafted and into this Parliament, along with legislation for simple offences, covert operations, criminal procedure and practice, intoxication, prostitution and so on.

Mrs Roberts: No-one will hold their breath waiting for that because we have been waiting for years.

Mr Brown: Will they all come in at the one time?

Mr PRINCE: If I can get them all into Parliament as one group, I will.

Mr Brown: Why do you need to do that?

Mr PRINCE: Because we can pass the lot and repeal the Police Act 1892, which would be something I would be very proud of doing.

Mr Brown: It is a political stunt. Why don't you move on with the legislation?

Mr PRINCE: Mr Acting Speaker (Mr Sweetman), I have made it plain that the principles behind this and what has been drafted are good up to a point. However, the legislation does not cover everything that it should.

Mrs Roberts: But you are overcome with inertia; that is your problem.

Mr PRINCE: Get off it. !

Mrs Roberts: You are overcome with inertia.

Mr PRINCE: The member for Midland is so negative it is not funny. The Bill needs amendment; and these matters should be in the police administration Bill and that is where they will be.

MR MARSHALL (Dawesville - Parliamentary Secretary) [5.20 pm]: In commenting on this debate I must say it is a discussion which I believe all members agree is necessary. It is true that police officers in this State have never been provided with vicarious liability or occupational safety and health insurance cover. This anomaly is due to police officers being appointed by the Governor and not as public servants under suitable legislation. As part of the rewrite of the archaic Police Act 1892 - I repeat 1892 - the Government will ensure that officers receive these protections to which all other employees are entitled. It is anticipated that this legislation, with amendments, will be introduced into Parliament in the spring session. What we have been talking about is sure to happen.

I talk about this legislation with a great deal of anguish. I was coming home from a function of the West Australian Football Commission the night the commission gave Peel Thunder a licence to enter the Westar Rules football competition. It was a wet and rainy night and I passed a number of police cars surrounding a car that was smashed against a tree on the road to Mandurah. No-one has worked out how the accident occurred, but somehow that police car had been squashed against a very small sapling. Unfortunately and sadly Jane Kennaugh, a beautiful young officer, was killed and the driver of the car, Glenn Murray, who was a champion golfer at the Pinjarra golf club, was incapacitated. My heart went out to his family when I saw his condition.

I was privileged to be invited to be the auctioneer at a fundraising function for both of those families. That is when I said to myself, "Why am I being invited to raise money for these families when there should have been proper cover and there was not?" I then looked back at the archaic Police Act 1892 which made me shudder at what previous Governments had done and made me ask why the legislation had not been amended previously. I am pleased to mention the camaraderie that exists among the officers in the Police Service and the concern and respect of the public for the police. There would have been about 300 people at the Mandurah greyhounds club. It was easy to be the auctioneer because everyone was giving freely and we raised in the vicinity of $95 000 for those families from the turnout that night. That was only a pittance really as we were talking about the death of one police officer and the incapacitation of another. Both those police officers were highly respected in the Mandurah area.

I would like to change the theme a little and add lustre to this debate by doing something that is not done often enough; that is, praise the Police Service. Suddenly some members sat back and shuddered wondering what they were hearing. Unfortunately, there is no-one above the major clock in this House to listen to what I am saying either because I believe the Police Service has had an injustice meted out to it by the media or because some statements made to the media lead the community to distrust the police.

A couple of aspects occurred to me in researching this matter today. Our Police Service is going pretty well. The past commissioner created new ideas. I thought about what is being done in other States and members are all aware that the report of the Wood royal commission into police corruption in New South Wales made many recommendations. One of those was that the Police Service should be reorganised. I wondered whether we were doing that. Of course we have done it and we are beating the eastern States in that regard as the Delta program is already doing a fine job. The Wood report also recommended that independent agencies be set up on police corruption. I wondered what we were doing about that. The Anti-Corruption Commission stands out like a neon light as something that has been done in that area.

I repeat that our Police Service is not praised enough. We must protect the image of the Police Service as that is our saving grace in this community today. Thirty years ago in the 1960s when all our young, daring, adventurous Australians went to London when they were 19 years old - and they are still going today - the advice given to them was to ask a bobby if they were in trouble or needed advice; and they did so with great trust. I believe the same advice applies today. However, in the same era if they went to New York they dared not ask a policeman for advice with trust. Why was that? Was it because of corruption? Was it because of deceit? Was it something that had been developed by the media? Was it because of unrest in the community? Why did the New York community not trust its Police Service? Once that mistrust occurs in our community we do not have a chance. We must therefore promote our Police Service for all the good it does.

Last night the Dockers had a big fundraising launch in Fremantle for the future of their club. They are trying to raise $3m for a clubhouse, and they should get it as they raised $1m last night. However, one of the great things about my being there was not only being among generous, successful people, but also East Fremantle players seem to be like bees to a honey pot when they attend an occasion. Over 400 people were there, but gradually we all drew together. There was Tony Buhagiar, the Essendon and former East Fremantle champion on one wing, and Con Regan on the other.

Mr Marlborough: Buhagiar is a bit short for a policeman, don't you think?

Mr MARSHALL: I did not say he was a policeman.

Mr Pendal interjected.

Mr MARSHALL: I tell the member for Peel that the horse Marlborough won the other day and he should sit back on his laurels and enjoy that for a moment. I would like to tell the member for South Perth that Con Regan was not only a champion state footballer but also a champion in the community. He started in the ranks in the Police Service walking the beat -

Mr Kobelke: Member, it does not become you to be flippant on such a serious issue.

Mr MARSHALL: I am not being flippant. I want to say something about a policeman who is highly respected in the community. As we were talking Con said, "A couple of people over there have come up and asked whether you remember the day you helped them when they were coming through?" He said they were now 50 years of age. However, one of the things about Con Regan is that he would advise young people when they were in trouble and give them a second chance. He had the respect of all the people around him and rose through the ranks to become an assistant commissioner which is a creditable thing. I have never heard a bad word spoken about former assistant commissioner Con Regan. There is no doubt that our officers are dedicated and loyal and work beyond the call of duty. I am sorry to say that at times we do not appreciate them.

Let us look at some of the crime categories. I want this recorded because, as the member for Nollamara said, one can be flippant. The police have to deal with murder, attempted murder, manslaughter, driving causing death, assault, sexual assault, kidnapping, abduction, armed robbery, blackmail, extortion, unlawful entry with intent, motor vehicle theft and other theft - the list goes on. These crimes are mentioned individually in the newspaper but when one sees them collectively one sits back with a bit of a shudder and says, "Those people are not just good, they are he-men or he-persons for what they are doing". These are our community representatives who have to advise the next of kin of accidents, deaths, suicides, drug overdoses and the like. I repeat: Our Police Service is underrated and not appreciated and when members look at the Police Act 1892 -

Mr Pendal interjected.

Mr MARSHALL: If the member for South Perth listens, I will add lustre with a bit of praise to this debate on why these are deserving changes to the legislation. I am using figures from between 1993-94, which is when the coalition reforms commenced, and 1997-98. The figures reveal some outstanding achievements. The total number of offences being cleared as a proportion of the population has increased from 2 985 to 4 334 per 100 000 head of population, which represents a 45 per cent increase, which is enormous. The total number of armed robbery offences being cleared as a proportion of the population has increased from 12 to 28 per 100 000 head of population, which represents a 132 per cent increase. That is another amazing figure. The total number of burglary offences being cleared as a proportion of the population has increased from 358 to 428 per 100 000 head of population, which represents a 19.5 per cent increase. The total number of serious and common assault offences being cleared as a proportion of the population has increased from 410 to 607 per 100 000 head of population, which represents a 48 per cent increase. Those people out there working in the Police Service are getting wonderful results and never getting any acknowledgment for them. For the nine months to March 1999 compared with the nine months to March 1998, the clearance rate increased in every major crime category, including assault, robbery, burglary, motor vehicle theft, damage and drugs by an average of 4.3 per cent. That is worthy of being put on the record.

I will put more figures on the record because it is important that we know the good news and why the Police Service needs our support.

Mrs Roberts interjected.

Mr MARSHALL: I know the member does not like to hear this. For armed robbery for the period to March 1999 compared with the same period in 1998, the number of reported offences fell by more than 16 per cent and clearance rates rose by more than 17 per cent.

Mrs Roberts interjected.

The ACTING SPEAKER: Order!

Mr MARSHALL: The Opposition does not like to hear the good news. It is important that it go into *Hansard*. For those periods, the clearance rates for armed robbery rose by more than 17 per cent, reported serious assaults fell by nearly 4 per cent, reported unlawful entry with intent fell by more than 10 per cent and reported vehicle motor theft offences fell by more than 26 per cent. All those figures are relevant for supporting a Police Service.

In my electorate of Mandurah, the number of police has increased from 34 three and a half years ago to 85 at the moment. The police facilities are overcrowded and should be extended. We are trying to have a new police station constructed at Falcon to alleviate the problem. The Delta program in Mandurah is headed by Assistant Commissioner Bob Kucera who is doing a wonderful job and who has a good rapport with his troops and the community. Once again, he has the respect that we must give the police.

With all this in mind, I believe that the Police Service deserves more bouquets than it receives. I want to put on record that I wholeheartedly support any legislation that provides better conditions for our Police Service.

MR BROWN (Bassendean) [5.34 pm]: I support the Bill. I join with my colleague, the member for Midland, in commending the member for South Perth for introducing this Bill. Before I move to the heart of the comments I want to make, which will be brief, I want to deal with two matters: One matter raised by the Minister for Police and another by the member for Dawesville.

The Minister for Police in his contribution to the debate indicated the Government agreed in principle with this Bill but said that the drafting of the Bill was deficient. He also said that the question of immunity would be dealt with in a package of legislation that the Government would introduce at a later time. I put it to the minister that there is no good reason for delaying the passage of this Bill or, if necessary, this Bill with appropriate amendments. I understand that the Government wishes to introduce a package of legislation which changes a number of laws, including the Police Act and Criminal Code,

as well as introducing new laws dealing with substance abuse. I understand the politics of that in that the Government wishes to say that it has taken a very broad brush initiative to get some political mileage for itself. Although I understand the Government's political imperative for wishing to do that at some later time and therefore being able to say to the community that it is taking all of these initiatives and what a wonderful job it is doing, it is not a political imperative for the community and, more importantly, it is not a political imperative for the Police Service and individual police officers.

The imperative for police officers is to be able to obtain the protection that this Bill provides; hence the question the Government must ask itself is whether it will put its political advantage ahead of the interests of police officers. If it puts the interests of police officers before its political advantage, it will deal with the member for South Perth's Bill and move appropriate amendments, whatever they may be, to that Bill to make it a good Bill. It will not put it off for another day - perhaps three or six months down the track - and then claim credit for the Bill. On a number of occasions Governments have sought either to defeat private members' Bills or delay them and then three months, six months or a year down the track introduce their own Bills and claim credit for what they call a miraculous, innovative idea. I put it to the Government that the test of how quickly it agrees to process this Bill depends on what it gives priority to; whether it gives priority to its own political advantage and therefore wishes to delay it or whether it gives priority to the interests of ordinary police officers. I also put it to the Government that if it gives priority to ordinary police officers, it will put through this Bill now, even though it is not convenient for the Government's political agenda to have this Bill dealt with now. We will see what is more important for the Government in the way it deals with this Bill. We will see whether the coalition's political interests go ahead of police officers' interests.

Mr Prince: The Police (Confidence Power and Review) Amendment Bill 1998 is on the Notice Paper to be read a second time by the Leader of the Opposition. That Bill was introduced on 18 August last year. We have not seen the Bill yet. That is grandstanding. I do not grandstand. This will become law properly, and I will give credit when it is done.

Mr BROWN: I am glad that the minister said that. We on this side of the House are a bit sceptical because the Government introduced a Bill to change the Workers' Compensation and Rehabilitation Act and it sat on the Notice Paper for all of 1995. The minister may remember that. On the last sitting day at 9.00 pm his Government rushed in a number of amendments and said that we must accept them that night. We had not seen them, yet the Bill had been on the Notice Paper for months.

In 1998, a Bill was introduced and sat on the Notice Paper for 12 months until 9.00 pm on the last sitting day when the Government came in with a whole heap of amendments no-one had seen and which it wanted the House to pass by midnight as it was important stuff! We are a bit cynical on this side of the House. We are not exactly stupid; we have seen it all before. We have seen Bills introduced by this Government sit on the Notice Paper for months and months. Then the backbench - which is a bit slow, a bit gaga - finally works out after reading it 12 times, "Oh, that is what it means. Christ, we did not know that" and they go in and roll the minister. The minster representing the Minister for Transport stood up the other day and voted against his own Bill because the vegie patch down the back had woken up after 12 months and said it did not like the legislation! They said, "We have read the words. Christ, is that what they mean? We did not understand that." They did not understand. This bloke over here and the Government talk to us about competence. The member for Joondalup was looking for banana trees in old-growth forest the other day. I do not think he has ever seen an old-growth forest let alone a banana tree, and the Government talks to the Opposition about competence. The members opposite are the keystone cops of the modern day. The minister should not talk to me about competence because the list goes on and on.

Mr Prince: You introduced the Bill but you have never had it drafted. It was a stunt - August 18 last year. You do stunts; we make laws.

Mr BROWN: Talking about stunts, we can go on and on about the Government's legislation. We have many examples. Having made my preliminary points, I will now turn to the Bill.

Mr Osborne: Got that off your chest now?

Mr BROWN: Yes.

Mr Osborne: Feeling better?

Mr BROWN: Yes. Why is it necessary to have a Bill of this nature for police officers? The first aspect that needs to be considered in answering that question is the nature of police work and how it is different from the work of most employees. I suggest it is significantly different. Police officers work under clear rules and seek to enforce many different and complicated laws. By virtue of the nature of their duties, police officers work under pressure. Unlike lawyers and sometimes unlike doctors, at times police officers do not have the luxury of time to think through the issue. Sometimes police officers are confronted with a set of circumstances which require them to make a snap decision, a decision in a moment, to protect life and limb. Faced with those circumstances, it is possible for a police officer to make an error of judgment.

Mr Prince: As long as they are acting in good faith there should not be a problem.

Mr BROWN: That is right. However, after the event, in the cold light of day in some court where members of the legal profession are coolly and calmly tracing individual steps with lots of time on their hands and lots of advice about the law, these officers may be found to have made an error of judgment but to have acted in good faith and in a way which they believed was the most appropriate for the set of circumstances with which they were faced. In those circumstances, should those officers be subjected to the possibility of civil damages being awarded against them? The answer is no. We are agreed on that point. If that is the case, it is simply a matter of the appropriate form of words in a piece to legislation being passed through this House to afford police officers that level of protection.

Mr Pendal: A very good point.

Mr BROWN: That is all the issue is. It is not very complicated and one would have thought given that this Bill was introduced some time ago and has been on the Notice Paper since, it would not be difficult or impossible for parliamentary counsel to draft amendments to it. Parliamentary counsel could have done that. It might have taken a little time and appropriate instruction but it could have been done. Parliamentary counsel could have provided the minister with a set of amendments to make the Government relax about the final drafting of this Bill. However, that has not been done. Notwithstanding the member for South Perth introducing this Bill and giving it to the minister, the Bill has been ignored. As I understand it - correct me if I am wrong, minister - this Bill has not been referred to parliamentary counsel.

Mr Prince: No, it has not.

Mr BROWN: No attempt has been made to draw up amendments to this Bill to make it acceptable to Government.

Mr Pendal: It is an interesting comment. If it has not been referred to parliamentary counsel, how do we know it has deficiencies?

Mr BROWN: The minister has used his legal mind to tell us.

Mr Prince: And others. Parliamentary counsel are the specific people who draft the law, not necessarily the people who look at things.

Mr Pendal: I hope you are not saying that they are always first-class for attention to detail. The heritage legislation which was introduced into this place nine years ago was a disgrace.

Mr Prince: It was unintelligible.

Mr Pendal: Absolutely.

Mr BROWN: In any event, the minister has told the Parliament that the Government agrees with the principle this Bill seeks to establish but that the Bill has not been referred to parliamentary counsel, that no consideration has been given to any amendments, and that parliamentary counsel has not been asked to consider any amendments to make the Bill acceptable to the Government. I interpret that to mean that the Government is more interested in the politics of its legislative package later this year or next year than in protecting police officers now.

Mr Prince: No, not so.

Mr BROWN: If it is not so, I ask the minister why the Bill has not been referred to parliamentary counsel. Why has the minister not sought advice? If that advice was that the Bill as drafted is deficient, why has the minister not asked parliamentary counsel to prepare amendments to make the Bill acceptable?

Mr Prince: I have sought advice. The advice I have is that this should be in the Police Service administration Bill. I agree with that advice. This whole area should be in there.

Mr BROWN: Let us assume that the minister agrees that is the case. It is similar to the debate I have had with the Minister for Fair Trading over another piece of legislation. That debate is about where it is appropriate to include certain provisions; should they appear in one Act or another. There will always be disagreements about that. However, if the Government were serious about this issue, it could seek to put the appropriate amendments here and when it introduced its package of amendments and they were passed, that package could replicate what is in this Bill. When the package of amendments is passed, the minister could repeal this Bill. That would be a simple way of dealing with the matter. It would ensure that police officers were provided with this level of protection at an early date. In the event that unforeseen circumstances arose in the second half of the year that prevented the Government from finally preparing the legislation, and the same thing occurred next year, at least this change would be made.

Mr Prince: I will give that some consideration. I expect to have drafting instructions for a police administration Bill on my desk at the end of next week. That is what I have said I need. If it appears that it will take longer than I anticipate, I will consider taking up the member's offer.

Mr BROWN: We will see. Members of the Labor Party will be listening for the ministerial statement giving the time lines when we return after the break.

Mr Prince: That is fair enough.

Mr BROWN: If we do not get them, we expect the minister to move to amend the Bill to achieve these objectives, albeit using different words that parliamentary counsel considers appropriate.

Mr Prince: The Weapons Bill sat in a committee of the other place for nine months. Will you guarantee that this Bill will be dealt with as quickly?

Mrs Roberts: That is a big furphy you stated in this place a couple of months ago. Why not speak to your Attorney General about that? He caused the delay. You should speak to your Leader of the House and the Attorney General to find out why it was held up for six months. The committee it was referred to was dominated by government members. That is the biggest nonsense argument you have ever tried to perpetuate in this place.

Mr Prince: I am not talking to you.

Mr BROWN: I will deal with the minister's question. I am not the opposition spokesperson on these matters. As the minister will appreciate, because we on this side of the House support this Bill, it has gone to our caucus room, which has passed a resolution to support it.

Mr Prince: Good.

Mr BROWN: If another piece of legislation with different words designed to achieve these objectives - and nothing else - were introduced by the minister, I believe the Opposition would make the same decision.

Mr Prince: Therefore, I have a fall back position if I need it. Thank you.

Mr BROWN: I do not understand what is the fall back position. During the member for South Perth's second reading speech he referred to dealing with vicarious liability concerns, and the crux of this matter being related to the employee-employer relationship, the difficulty that poses if one is a police officer and the different position of police officers compared to that of other employees. I note that the Bill contains no suggestion of simply seeking to overcome this dilemma by deeming police officers to be employees. Simply deeming police officers to be employees will not overcome the problem that is created on the question of vicarious liability.

Mr Prince: No, it will not. In fact, the civil law probably would not help either.

Mr BROWN: I refer in that regard to a Bill introduced during the last Parliament by the now member for Armadale, but as she was then - the Legislative Council member for the East Metropolitan Region. The Employees Confinement of Liability Bill was introduced in 1996 following a case in the local court in which Robe River Iron Associates used a 1957 English court ruling to sue one of its employees for damage to a compressor as a result of a crane mishap. There was no suggestion that the damage occurred as a result of serious or wilful misconduct; it was accepted that it was done by the employee in error. The matter went to the Magistrate's Court as Robe River Iron Associates v Coombes on 6 June 1996. Magistrate W.G. Tarr found against the employee. The now member for Armadale quoted that decision as follows -

> . . . although I have some sympathy for the defendant and the predicament he will find himself in if my decision goes against him, I cannot ignore my role and duty as a magistrate in a court of summary jurisdiction. I must follow the law as established by higher courts and contained in the authorities referred to. It is not my role to make new law and I would be doing the defendant no favours if I allowed my sympathy for him to influence me to ignore the authorities and provide the plaintiff with obvious grounds of appeal.

Although it is unusual for an employer to sue an employee as a result of damage caused by error of judgment or mistake on the part of that employee, the law as it stands enables that to be done.

Mr Prince: Yes.

Mr BROWN: Some companies, fortunately very few, elect to exercise their rights under the law and sue workers when that occurs.

Mr Prince: Very few.

Mr BROWN: Yes, but for those sued it is significant. In this case the worker was sued for $11 000, which is not a small amount that workers have in the piggy bank or under the bed.

Mr Prince: It is questionable whether that can happen in the Police Service given that there is no employee-employer relationship. It is the same for a commissioner and a police officer.

Mr BROWN: Yes. I raise it in the context of this debate because there is some question about whether the difficulty that faces police officers could be dealt with in some way if there were a different relationship from that which currently exists between police officers and the State and more in line with an employee-employer relationship.

Mr Prince: We need a clear statement in law that, in relation to a police constable - they are all police constables, irrespective of rank - the Crown is liable, and the removal of the whole question of employer and employee.

Mr BROWN: I am interested in the minister's comments about the deficiencies in this Bill. The Bill prepared for the member for South Perth is on the right track because it does not deal with the employer-employee relationship; it simply deals with police officers and their duties as police officers acting in good faith, and the obligation that is taken on by the Crown. I, along with my colleague the member for Midland, support this Bill. The Bill has been a long time coming and is long overdue. I understand that the minister will not agree to the Bill today, so we can look forward to one of two things in the next eight weeks: The minister will come into this place and provide a definitive time line for the introduction of a Bill that will achieve this objective, or the minister will bring back amendments to this Bill so it can be debated prior to any other legislation being introduced.

Withdrawal of Remark

The ACTING SPEAKER (Mr Sweetman): I draw the attention of the member for Bassendean to two references to the word "Christ". For some people in the Chamber it is blasphemous, and for others a profanity. Because every word we say in this Chamber is recorded for posterity in *Hansard*, it is appropriate for the sanctity of the Chamber, and if not that, for the peace of mind of the Acting Speaker, that I ask the member to formally withdraw.

Mr BROWN: I have no hesitation in withdrawing. It was not meant in that way. I suppose I was somewhat animated by the interjections from the Minister for Police, but no disrespect was intended to those who would view it in that way. If they view it in that way, I apologise.

Debate Resumed

MR OSBORNE (Bunbury) [6.01 pm]: I briefly join this debate to reiterate what the minister has said. As a member of the Government, I strongly support the principles on which this Bill is based. I also reflect on some of the remarks the

member for Bassendean made. All of us understand and respect the fact that the Police Service is a different sort of job; it is a unique job. The police do a dirty, dangerous and sometimes a very unsafe job for the community. As such they deserve our absolute support. Some of the comments that have come from the other side of the Chamber have given the impression that the Government has ignored the Police Service. I am delighted the minister has given a commitment that the principles that the Bill seeks to advance will be brought back to this place at the earliest possible juncture in the spring session of Parliament, and we will be able, in the context of a total rewrite of the Police Act, to advance those objectives that this Bill seeks to promote.

There is a fair explanation for government legislation not coming here to date. Any fair observer should recognise and agree that this Government has worked as hard as it possibly can to advance the cause of the Police Service in Western Australia for the benefit of the community that we all serve. Over the past six years of our term of Government, some remarkable achievements have been posted. As everyone knows, we put large amounts of capital injection and a significant increase in police manpower into the service, such that the Western Australia Police Service today is one of the best resourced police services both operationally and in terms of facilities in Australia. Western Australia has the highest per capita number of police officers of any State in Australia. Under the reforms of the Delta program, the Police Service in Western Australia has a new operational structure and a focus which is best practice in Australia. We have supported that as far as we possibly can with tough new legislation, but there is more to do. Some of those pieces of legislation have been outlined here this evening. We will do all we can to support the Police Service in this State. Importantly, one of the things that we said at the outset was that we could not rely on the Police Service alone to do the job of making Western Australia's community safer, that it had to be a cooperative, community-based effort.

We put an enormous amount of thinking and effort into the Safer WA program, and the results are starting to come through. We never believed that the results of that program would show immediately, and that has not been the case. Safer WA communities have been established all over Western Australia. I am proud to say that I am a member of a Safer WA committee in Bunbury. I believe that the outcomes from that are beginning to be seen. They are observable and will continue to improve over time.

I want to also take the opportunity, while I have the chance, to recognise the work of some of the police officers in Bunbury with whom I have a great deal to do. First among them is the police superintendent John Watson.

Mr Prince: He is an excellent officer and much maligned in recent times.

Mr OSBORNE: He was maligned a little by the media recently over his decision to seek to recover costs from the forest protesters. I happen to believe that John Watson was right. He was talking about people who went into the forest with the intention of disrupting the lawful activities of businesses in the forest, with the stated intention of pleading guilty to the offence at a later stage. John Watson knew that those people intended to plead guilty, and as such he viewed their actions as vexatious. I agree with him, and in that instance costs should have been recovered.

John Watson has been important for more than that. Without reflecting in any way on the people who went before him, his appointment to the Bunbury police district has been a revelation. He is strong, tough and fearless. He is clear in the messages he gives to the community about the responsibilities of the Police Service and what he wants to do, and also about the responsibilities he sees that the community has as well. Any reasonable person would know that Western Australia cannot go on increasing the number of police officers. Ultimately, even if we had a policeman in every home, on every street and in every business, we still would not be able to solve crime if we did not have the cooperation of the community. John Watson has been clear in Bunbury that all of us have a responsibility to attack crime. He has been very good with his no tolerance policy on outlaw bikie gangs. It is a great comfort to the people of Bunbury to know there is a strong man like that who is prepared to take these thugs on and not let them get away with what they used to get away with in the past.

Other officers at the station include Senior Sergeant Don Grey. Nothing is too much trouble for Don Grey. Every time I need advice or information, Don Grey is always there. Senior Constable Dave Hurdle goes to crime prevention meetings every month. The same can be said about Dave; nothing is too much trouble for that fellow. He instils an enormous amount of confidence in the service. Other officers in the past include good friends of mine, Neil Fisher and Frank George, who used to assist the Bunbury drug action group. In fact, I had a couple of business discussions with Frank when he was working in the traffic section, and he always likes to remind me about those. These blokes are terrific. They are members of the community. In a place like Bunbury, they fit in easily and well but they are also able to impart a professional attitude and distinction about the way they do their duties on behalf of the community.

John Watson and his people have also been working closely with the Government over the design of the new regional police headquarters. We are looking forward to that. I was delighted in the state budget that the vote for the regional police headquarters in Bunbury was increased from $6.9m to $9m because of the increased number of personnel there. We are also making provision for Ministry of Justice personnel. When that regional headquarters is completed at the end of the next calendar year, I believe the job of policing in our district will improve dramatically.

Mr Bloffwitch interjected.

Mr OSBORNE: It is not pork-barrelling. If it had been pork-barrelling, Bunbury would have had that police headquarters an awful lot earlier. I remember when we came into government in 1993, it was a commitment of Hon George Cash, who had been shadow minister, that Bunbury would have a regional police headquarters immediately. When the member for Wagin became Minister for Police, he quickly retracted that and said he would put a police station into Belmont, Victoria Park and other needy places first. If it were a matter of pork-barrelling we would have had a police headquarters in 1994 rather than in 1999-2000.

As the minister said in his speech, 22 police stations have been built across Western Australia since we have been in government, including one in Australind which took much pressure off the Bunbury Police Station. Across city and country Western Australia, police stations have been provided as part of our program to improve the capital available to the service to perform its job.

I refer now to statistics. If one reads the newspaper or watches popular television stations, one would think we are in the grip of a crime wave in Western Australia. I do not think that is true. Evidence from universities and the Police Department's own crime statistics indicate that the incidence of crime is not at an all-time high. The issue has been beaten up. That is the case in Bunbury. Statistics presented by Dave Hurdle every month at the crime prevention committee meetings indicate not only that Bunbury has falling rates of crime, but also that its rates are lower than those of other country areas of Western Australia.

Mr Pendal: You will want to add your support to the police by giving them a bonus by voting for the Bill then.

Mr OSBORNE: We support the principle of the Bill. As I said, the Minister for Police and the member for Bassendean had what I regard to be almost a contractual discussion across the Chamber indicating that the minister will come back in the spring session of Parliament with the principles contained in the member's Bill as part of a total rewrite of the Police Act. If not, the minister will produce amendments to the member's Bill along the lines outlined. Although we are not able to vote on the Bill of the member for South Perth as a result of a constitutional matter brought to our attention, we support it in principle. We will see a decided result from the member's initiative in introducing this Bill.

Back to the Bunbury crime statistics, the December figures outline rates of burglary with intent, damage, graffiti, stealing and stealing of vehicles. Rates in the December period in the past three years have all been in decline. Other figures compare the incidence of crime in Bunbury with that in other places in Western Australia, both on a raw data basis and a per 100 000 population basis. Across the State, burglary, for example, occurs at a rate of 4 477 per 100 000 population. The figure for Bunbury is 3 210. The incidence of stealing offences per 100 000 population in Western Australia is 5 922, and the rate for Bunbury is 5 951. The Western Australian rate for stealing motor vehicles is 1 508, and the Bunbury rate is 405 per 100 000 population. The rate for damage to property across Western Australia per 100 000 population is 3 553, and the Bunbury rate is 1 022. I table the papers for the balance of today's sitting.

[The papers were tabled for the information of members.]

Mr OSBORNE: Those figures show that not only does Bunbury have a low crime rate compared with that of the rest of Western Australia, but also that the crime rate has declined over the past three years.

An article from *The West Australian* is headed "Violent crime at 70s level". That figure is being repeated across the State. We do not have a crime wave or crisis across the State. The Government's approach, and the work of the Police Service, have resulted in a decline in crime rates across Western Australia. This made me wonder why the community perception is that we are in the grip of a crime wave. The media has some responsibility to bear. I remember reading an article in the library some months ago which drew a distinction between the way newspapers were published in the past and that of today. In the past, newspapers sold news to readers, and the list price for a newspaper in 1900 may have been nine pence or a shilling, which equates to $5 or $6 in today's money. No-one would pay that much for a daily newspaper today. Newspapers today are supported by revenue from advertising. It follows that a newspaper or television station is not selling news to its readers, but selling readers to the advertisers. The newspaper has an exciting or inflammatory front page, and a reader opens the paper to see -

Dr Constable: To which clause of the Bill does this refer?

Mr OSBORNE: I am allowing myself the opportunity to make some general remarks before I sit down.

Mr Pendal: You are not digressing or anything?

Mr OSBORNE: I do not believe the Chair thinks so.

If it bleeds, it leads on television bulletins. If a violent crime took place, whether it occurred in Tasmania, Queensland or the dark side of the moon, it would be reported at the head of the Channel 7 bulletin. Newspapers are the same. Anything extraordinary or violent will make the front page. When a person reads a newspaper, he or she will see that, say, the member for Geraldton is selling cars at half price this week.

Mr Bloffwitch: He might as well be for the amount of money he is making.

Mr OSBORNE: I hope the member will not make us cry - it is too late!

The popular media has a role to play. If responsible reporting of crime occurred in Western Australia, we would not have a community perception of crime being out of control.

I am aware of the remark made by the member for South Perth. However, I agree wholeheartedly with his comments made recently about attacks on drugs in Australia. The entire debate has been about what to do to defend users of drugs - namely, treatment programs and the like - yet nothing has been said about the source of drugs. An interesting article I read in the library a couple of weeks ago was headed "Why not attack the drug barons?" We are spending enormous resources dealing with the effects of drugs, but not doing anything to get stuck into the dealers or drug barons.

Mr Bloffwitch: We are. We are trying to pass surveillance laws and other things which are either delayed here or thwarted in the other House.

Mr OSBORNE: I was referring to a broader scale.

Mr Bloffwitch: What chance have they got?

Mr OSBORNE: It is difficult when one is interjected upon by someone from one's side of the House! I was trying to make a broader point. We are aware of the technology available to superpowers like the United States. The North Atlantic Treaty Organisation has been involved in intense bombing of the former Republic of Yugoslavia. While it is possible to put an Exocet missile down Gaddafi's chimney and give grief to those sorts of people, it seems impossible to stop the production of drugs on a world scale. The production is easily located in places like Mexico, Cambodia and the border areas of Pakistan and Afghanistan. However, it is impossible for world superpowers to do anything about the world supply of heroin. If the superpowers decided to carpet bomb the poppy fields of Cambodia, they would do more for world peace and prosperity than any war currently being waged.

In conclusion, I support the work of the Police Service, which does a tough, dirty and dangerous job for us all. The police deserve our support and admiration. I am optimistic that the minister will return to this place in the spring session with a total rewrite of the Police Act, which will not only support the principles the member for South Perth seeks to advance, but also enhance them.

MR BAKER (Joondalup) [6.19 pm]: I also support the hardworking men and women of the Western Australia Police Service and acknowledge that there is a need to provide greater protection for them when it comes to civil suits and criminal prosecutions. I support the gist, thrust and purport of the Bill, but, as the minister has indicated, the Government will table in the spring sitting a Bill which will roll together, so to speak, into the one piece of legislation, civil and criminal indemnities and immunities and address other issues which impact upon the ability of the Western Australia Police Service and its officers properly to perform their duties.

I have read through the Bill proposed by the member for South Perth. One aspect that nobody has touched upon yet is that part of clause 6 under the heading "Indemnity", which seems to purport to exclude the application of the indemnity to police officers in respect of any breaches of any written or unwritten law of the Commonwealth of Australia. In that regard it is important that the minister consider that issue when he completes the drafting of the Bill that I mentioned earlier. I know that we have no legislative power to enact laws that would have the effect of modifying or altering the commonwealth law, but I understand that it may be possible, if we work in conjunction with the Federal Government, to enact mirroring legislation of some description. The reason is quite clear. As many members will be aware, members of the Western Australia Police Service often work with the Australian Federal Police and the National Crime Authority, for example, in certain covert operations. In many cases they seek to rely upon federal law to give them certain powers to do certain things. They act with those officers in investigating commonwealth offences, not just state offences. It might be hypothetical that, given a particular covert operation, a Western Australia Police Service officer who is working with a federal police officer may somehow attract a potential commonwealth liability, either criminal or civil, of some description. It is appropriate that our police officers should also be able to rely upon indemnities in respect of breaches or possible breaches of commonwealth law, provided, of course, that the preconditions set out in clause 5 are satisfied.

Such legislation is needed because, as we are well aware, there is no master-servant or employer-employee relationship between the Crown in the right of the State of Western Australia and members of the WA Police Service. Because of that, the doctrine of vicarious liability does not apply, hence the tortious or civil acts or wrongs of members of the Police Service cannot be sheeted home to the Crown. There are two ways to get around that problem. One is to enact legislation which would have the effect of deeming police officers to be servants, agents or employees of the Crown in the right of the State of Western Australia; and the other, of course, is to run with legislation of this kind which would provide for immunities and indemnities.

It is interesting to note that the member for South Perth has decided to adopt the latter methodology, and I understand that the Minister for Police will adopt that methodology as well when he introduces the police administration legislation later this year. There are some good reasons for that. The obvious one is that under the doctrine of vicarious liability, irrespective of whether the employee has acted in good faith, the liability still sheets home to the Crown; whereas, of course, with the indemnity or immunity method, liability sheets home only in cases in which the officer has acted bona fide in the execution of his duties, whatever those duties may be. Members will see straight away that if the employer-employee method were adopted, the Crown would assume and acquire more potential liability than would be the case if the immunity or indemnity method were used. That is one very good reason to use the latter method rather than the employer-employee deemed relationship method.

It is quite sad that, as a matter of law at this time, the police do not have at least those immunities and indemnities. I remember a debate about four weeks ago which involved a simple amendment to the Parks and Reserves Act. Many of the amendments were minor. I think there was a minor change to delete the word "reserve" and substitute it with the words "the land". I read section 12 of the Act and it was amazing to see a provision to the effect that parents are vicariously and strictly liable for the tortious or criminal acts of their children on public parks and reserves. Reading further through that section I saw that the gist of it was that if a child damaged a swing or a toilet block or graffitied a barbecue structure in a park or reserve, the parents of that child would be strictly liable to indemnify the relevant local government authority in respect of such damage. That is the only provision that I have ever seen in which parents, through the doctrine of vicarious liability, have been made strictly responsible and liable for the tortious and, in certain cases, criminal actions of their children.

Many people in the community would like that principle to be upheld generally in all laws, whereby parents would be strictly liable for the actions of their children. One reason that many people accept the need for that is that they believe it would encourage parents to act more responsibly and ensure that they kept proper control of their children so that they were not

out in the public domain damaging property, stealing and assaulting. It is interesting to note that under that Act parents are vicariously liable, yet at this time under the laws of Western Australia the Crown is not vicariously liable, because there is no deemed employer-employee relationship as between police officers and the Crown.

Beyond that, as members will be aware, many provisions in the Criminal Code and the existing Police Act provide the police with indemnities from criminal prosecution in certain circumstances, and all those provisions use similar phraseology - for example, words to the effect that a police officer is not criminally liable if he is acting bona fide in the execution of his duties. One very simple example is arrests. A police officer can use such force as is reasonably necessary in the circumstances to effect an arrest. It is interesting to note that the law indicates quite clearly that to the extent to which excessive force is used, that excessive force is not justified, authorised or excused under the law.

Such an issue arose in Port Hedland several years ago. A police officer purported to effect an arrest upon a juvenile, used what a jury found was excessive force, and as a result the person who was charged with assaulting him was acquitted. It was a case in which the officer alleged that he had been assaulted. The juvenile was charged with assaulting a public officer in the execution of his duty. The argument was that the officer was simply trying to arrest the person. A baton was used, excessive force was used and the juvenile was injured. The juvenile was actually able to raise the defence of self-defence to the charge of assaulting a public officer in the execution of his duty, simply because the public officer went too far. The public officer, or the police officer, used more force than was reasonably necessary in the circumstances, and because he did that he could not seek to rely upon the protective provision in, I think, section 231 of the Criminal Code. It seems bizarre that someone charged with assaulting a police officer can actually raise the defence of self-defence against that police officer, but that is an indication of where an immunity, so to speak, in the Criminal Code is available. However, when, for example, the conditions attaching to that are breached, the officer cannot avail himself of such an immunity. There are many other such provisions in the Criminal Code involving police officers who are serving or executing warrants or due process or assisting in arraigning prisoners, removing disorderly people, trying to prevent a breach of the peace and so on. There are also such provisions in the Police Act, as I have mentioned.

As the minister has said, it is appropriate that all those immunities or indemnities, be they civil or criminal, should be rolled into the one piece of legislation to ensure that the police have a blanket cover to protect them when they go about effecting their statutory duties, and so they should. Members are well aware that many police officers nowadays are worried sick about what they should do in certain circumstances. They may have doubts as to what are their powers and, unfortunately, in some cases they will not take action because they fear the possibility of civil litigation being brought against them should they act beyond what powers they have. A simple example would be if an officer is effecting an arrest because he believes he has a reasonable suspicion based on reasonable grounds that a person has broken the law. If it turns out that that suspicion was not formed on the basis of reasonable grounds, it could be argued that that arrest was unlawful, hence the officer could be sued for the civil mirror action to assault, namely, trespass to person.

The same applies to the offence of deprivation of liberty, the civil equivalent of that being false imprisonment. It is important that we give our policemen and policewomen the security of the knowledge that, provided they are doing the right thing - to use that sophisticated phraseology - provided they are acting bona fide in the course of their duties and exercising their functions properly, they will be protected both on civil and criminal bases. This Bill is a large leap in the right direction but it deals only with the issue of civil liabilities and does not address the need for indemnities for breaches of commonwealth law. Once again, I hope the minister will address that aspect of the proposed legislation in due course.

One other interesting aspect that should be raised is that many members will be aware of the Limitation Act, or the Limitation of Actions Act as it is known in other States and Territories. That Act lays down set time limitations in which people must commence civil proceedings in cases involving, for example, negligence, trespass and so on. It is interesting to note that section 47A of our Limitation Act 1935 requires that any action alleging that a police officer has not acted in pursuance of his statutory duties shall be commenced before the expiration of one year from the date on which the cause of action accrued. It is interesting to note that there is a 12-month limitation on those actions. The general rule is that if the action is not brought within that time, the action cannot be proceeded with. There are exceptions to all the time limitations in the Limitation Act or the Limitation of Actions Act as it is known in other States but it is interesting to compare that one-year period with, for example, an action against a person for negligence arising out of a motor vehicle accident when there is a six-year limitation. That provision greatly assists police officers when faced with potential civil liabilities by reducing what would otherwise be a six-year limitation period under the general scenario of cases involving civil actions. There are other provisions in the Criminal Code which also contain time limitations or restraints on people wishing to take actions against police officers in other circumstances. I raise these points because it is one thing to refer to the need for an indemnity or immunity from suit if officers are acting bona fide in execution of their duty, but it is another thing to determine when and for how long that immunity applies. What I am saying is that even if the immunities as suggested and endorsed by the Government are established, time limitations will apply to any person taking civil action against a police officer in circumstances in which it is alleged that the officer has breached various laws of torts in civil actions, be they trespass to persons, negligence, false imprisonment etc.

The other issue I raise is whether we should sit and wait for the Government to run with its legislation or whether we should act now and vote in support of this Bill. To be frank, I was inclined to consider supporting this Bill because I agree that there have been unusual and perhaps unacceptable delays in the legislation being brought to the Parliament by the Government. However, I am mindful of what happened last year when the Leader of the Opposition proposed the Police Act Amendment (Graffiti) Bill 1997. That was the Bill that the Australian Labor Party was promoting to try to give greater powers to police when detecting and prosecuting graffiti artists etc. Members might recall at that stage the Government declined to support the Bill and three months later the Government tabled its own Bill, the Police Amendment Bill 1998. The member for Midland raised this as an example in her view of when the Labor Party comes up with a good idea, the Government says,

"Yes that is a great idea," sits on it for a couple of months and then runs with the same idea; in other words copies the same legislation. Although that example was referred to by the member for Midland, it was not the case and a cursory comparison with the legislation will make it clear.

The Police Act Amendment (Graffiti) Bill 1997 tabled by the Leader of the Opposition contained four clauses, one of which created an offence, whereas the Police Amendment Bill 1998, dealing once again with the issue of graffiti, contains nine clauses and made necessary consequential amendments to, for example, the Young Offenders Act giving police additional power to search, seize, detain etc. Those powers were not included in the Bill tabled by the Leader of the Opposition. With hindsight, at least on that issue, it was certainly in the best interests of this Parliament to wait for the Government Bill because it was a far more comprehensive Bill giving the police far more additional powers that they desperately needed at the time. If we had accepted the Bill proposed by the Leader of the Opposition, no doubt we would be amending it now to give police additional powers; it is therefore a matter of being patient. As the minister indicated, the legislation proposed by the Government will be ready in the spring sitting of Parliament. Had he said the spring sitting of next year I would be tempted to vote with the Opposition in support of the Bill proposed by the member for South Perth.

I wish to make a few general comments about the roles of the policemen and policewomen in the Western Australia Police Service employed in the Joondalup police district. I know, as many members accept, that there is a perception in the community that crime levels are out of control. This issue has been debated on many occasions in this House and most members would accept that it is merely a perception and not reality. Recent figures issued by the WA Police Service indicate that all the statistics on key crimes are reducing. It is certainly the case in the Joondalup police district and has been the case since June 1995. In that regard, I commend the hardworking policemen and policewomen of the WA Police Service who work in the Joondalup police district, in particular Superintendent Darryl Lockhart, the officer in charge of that police district.

MR PENDAL (South Perth) [6.36 pm]: Firstly, I thank members who have taken part in the debate. Secondly, I thank those members who indicated their support for the Bill. By extension, I express my sadness and disappointment at the Government's decision to oppose the Bill. I begin by asking a question: How many years do police officers in this State need to wait for reform? It is now fully 18 years since the last jurisdiction in Australia moved to give civil immunity to the police that we are seeking to give Western Australian police tonight. That was the State of South Australia. Eighteen years since then, the Western Australia Police Service has waited at the station for the train that never came. Members should just think about what the world has been able to achieve in the past 18 years. In the same time that the Western Australian Government has been unable to tackle the problem of police protection and immunity, monolithic European communism in a raft of countries across eastern and western Europe has collapsed. Yet, we in this Parliament are not able to come to grips with the lack of police immunity.

Look at what has transpired in that 18-year period in Northern Ireland, which has gone from regular and constant violence to relative peace. Yet, in that period Western Australia is not able to progress down the path towards providing immunity for police. Members should consider what has happened to South Africa in those 18 years. Apartheid has died and Nelson Mandela rose to become president of that country. He has also retired in that period. However, we in this State are not able to come to grips with the long overdue question of immunity for the police. Germany found time in that period to bring down the Berlin wall - a massive decision. However, we are unable in this Parliament to come to grips with the relatively simple matter of giving policemen and policewomen proper protection in their jobs.

I tell the members of the Government and the Minister for Police, in the event that they do not know, that the eyes of the Legislative Assembly, the Police Union and four and a half thousand police personnel are watching the Government on this issue.

All the union and the police personnel want to see is some sign and some sympathetic response indicating that the Government is listening. We have heard that the police administration Bill - that long awaited and overdue piece of police reform law in Western Australia - will contain the provisions of the Bill that I have introduced. My information is that that Bill has not yet been drafted and that it cannot possibly get into this Parliament before the autumn session of next year. What follows the autumn session of next year is one more session or part session, and then a state election. Therefore, these same police personnel are looking down the same barrel that they have looked down for the past 18 years, which is massive inertia and inactivity: When in doubt, do nothing. Every day that we delay on this legislation, we keep the doors open for the Mr Bigs and the crime bosses in this place. That is a fact. This legislation goes far beyond some of the examples that we gave during the second reading debate.

This legislation goes to the heart and soul of policing, and to the policing of the Mr Bigs and the crime bosses in this city. Those people have unlimited financial resources and unlimited access to legal assistance to put pressure on young police officers who get too close. Any member in this House is capable of speaking to police officers and leading members of the Police Union to get an understanding of the level of the problem. Young vulnerable police officers, and experienced police officers, are being held back in their job because of the pressure that is placed on them in the form of letters, injunctions and legal action from people who can afford to pay for that action, people who are the crime leaders in this State, yet we have shillyshallied for 18 years, and in particular we have shillyshallied for the past six years since this Government has come to power. There is a huge morale problem that I can tell members will not be cured by half a dozen government members getting up in this place and telling the police what a good job they are doing. They want the Government to do something that puts meaning into that phrase.

Mr Bloffwitch: The minister has done that.

Mr PENDAL: He has done absolutely nothing. His response to the question of when this debate was brought on was an

insult. This Bill has been on this Notice Paper for nine and a half months. The Government has not even had the courtesy of referring this Bill to parliamentary counsel. It is absurd to suggest that because the Minister for Police happens to be a lawyer, he is capable of making a decision about whether a Bill is good or not. If that were the case, the Government could dismiss all of the parliamentary counsel who are under contract and employed in this State, because we would not need them. We could simply ask the members of the Cabinet who have a legal degree whether a Bill was worth introducing; and how silly would that be! The last time we did that with a major single piece of legislation, it ended up in the High Court and was chucked out 7:0. That Bill was put together by people who are telling us in this debate that the Bill that I have presented is inadequate. If it is inadequate, let us amend it. Did the Government seek to do that? The Government did not. Did the minister attempt to do that? The minister did not. The minister sat on his hands for nine and a half months.

That sort of inaction has brought the Government to the brink, and the Police Union is now saying - the member for Midland alluded to this - that if some sign does not come from the Government by 1 July, it will be on. Why must this Government be taken to the brink before there is any response? This is a re-run of what happened one week ago in this Chamber. Look at how massively the whole debate on forestry has solidified in the past week! The Government is now saying that there is a Regional Forest Agreement that was signed, sealed and delivered, and set in stone five weeks ago, but it is now capable of being amended.

Mr Bloffwitch: The Government has never said that.

Mr PENDAL: Yes, it has. One week later, the Government is prepared to take another major issue back to the brink. Why must the Government be taken to the brink? If this legislation is deficient, the Government has the resources to bring the amendments into this place in the next nine days. If this Bill is deficient, the Government has the capacity to bring a message into this place in the next nine days, because my understanding is that at the end of it, the Government will correctly say we cannot vote on the second reading until a message has arrived. That situation can alter in the next nine days, and those people who are capable of getting a message are capable of bringing this matter to a resolution before we rise at the conclusion of this session.

We should not for heaven's sake let the Government put itself in the position that it put itself in last December when we debated the sentencing laws. I moved an amendment in respect of a sentencing option to allow a magistrate or a judge to withhold any judgment pending that person's agreement to go onto a reputable treatment program. What happened? Ministers and backbenchers of the Government got up and said, "That is a good idea. That is worth supporting. However, we will not do anything about that tonight." Six months later, what have they done? Nothing. Six months later, another 40 people are dead. I ask again: Why must the Government be brought to the brink on every single occasion that a serious issue of public policy is aired in this place? The Government has stopped listening. That is the truth of the matter. What are we asking of the Government in this Bill tonight? We are asking for a level of immunity for actions that are carried out in good faith. That is all. Is that something radical or new? Is that something that needs to be examined because it is ground over which we have not travelled before? No. Eleven years ago, this Parliament gave that immunity, as it should have done, to the Anti-Corruption Commission, and I support that. Five years ago, we gave the same immunity to the civil servants who would be administering the new fines infringement legislation. We gave them in 1994 what we cannot bring ourselves to give to the police tonight. Five years ago, we gave that sort of blanket immunity from civil prosecution to every person employed under the Public Sector Management Act of this State. Why is it then that we are such slow learners that we are not capable of extending that same immunity, not simplistically but simply, to the police officers of this State? In the past 11 years we have given immunity to every part of the public sector except the part that needs it the most. It is not the civil servants or the people who are administering the fines infringement legislation who are coming up against the Mr Bigs and the crime bosses. The police are confronted by those people on a regular basis, yet we are pulling back from giving help to those people who need it the most.

This is not the time for inertia. This is a chance to throw a lifeline to a Police Service that is under immense pressure and whose morale is suffering probably more gravely than at any time in the past generation. Why is my confidence not buoyed up by my thinking that the Minister for Police will do the right thing. Since 1991, in a mere eight years, six Ministers for Police have all promised to do the same and get rid of the archaic 1892 Police Act. The story and the outcome have been the same. It is an insult to this House and to the very fine lawyers who drafted this legislation to be told that the legislation is incapable of being amended. The Government has had it since 1 September of last year. The greatest crime of which it stands guilty today is that it simply sat on its hands and did nothing. It is an insult to be told that the Bill has never been referred to parliamentary counsel. That is how seriously the Government has taken legislation that has been sponsored in part at least by a major public sector union, in this case representing men and women who are sworn to uphold the law.

I repeat to members opposite and to the minister who responded on behalf of the Government, 4 500 sets of eyes will be on him and the Government over their inability to come to grips with the problem that South Australia dispatched with some ease in a bipartisan way fully 18 years ago. I am sorry that the Government has stopped listening on this matter. I am not buoyed up by any of those assurances we have heard tonight from the Minister for Police for the simple reason that I have heard them so many times before. I know the fate of the Bill. I am pleased that it will not end up in the rubbish bin of this House. I know that it will remain on the Notice Paper. However, I know, too, that we have nine days to go in this session. Nine days is capable of enabling two things: First, the arrangement of a message via Executive Council, which sort of thing is done every day of the week, and, second, the Bill's being referred to parliamentary counsel. I invited the minister and other members of the Government by way of interjection to come back to the Parliament with some amendments. If they think the Bill is inadequate, the people who have helped in the drafting of it will be overjoyed at the prospect of having the chance of looking at some amendments to make the legislation better.

The spotlight now is indisputably on the Minister for Police and on the Government. I regret to say that the fate of this Bill

will be exactly the fate that others have suffered in the past six years. For that the police of this State will condemn the Government. I commend the Bill to the House.

The ACTING SPEAKER (Mrs Holmes): As the House was advised by the Deputy Speaker during the debate, this Bill, if passed into law, would appropriate revenue, and consequently it cannot proceed without a message from the Governor. I direct that this Order of the Day be placed at the foot of the Notice Paper until such time as a message is received.

Debate thus adjourned.

PETROLEUM SAFETY BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

House adjourned at 6.54 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

TOURISM, GOODS AND SERVICES TAX

1952. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is the Minister aware of an article that appeared in *The Australian Financial Review* on 27 January 1999 concerning the Tourism Council of Australia calling on the Federal Government to exempt from the proposed Goods and Services Tax all accommodation or travel in Australia bought off-shore in conjunction with a return international air ticket?

(2) Has the State Government supported the Tourism Council's submission?

(3) If so, when?

(4) If not, why not?

(5) Is the Minister also aware that the same article referred to the Tourism Council wanting the retention of the existing Tourism Shopping Tax regime?

(6) Has the Minister/Government supported the position of the Tourism Council?

(7) If so, when?

(8) If not, why not?

(9) Has the Government made a submission to the Federal Government on the operation of the Goods and Services Tax insofar as it relates to the two issues raised by the Tourism Council of Australia?

(10) If so, when was the submission made?

(11) What changes has the State Government called on the Federal Government to make to its tax package so that the package supports the tourism industry?

Mr BRADSHAW replied:

(1) I am aware of the Tourism Council of Australia Submission on the GST submitted to the current Senate Select Committee on a new tax system referred to in the press.

(2)-(4) The Tourism Council Australia submission was seen by this Government as an appropriate private sector initiative supporting the sectorial interests of the tourism industry. It was not appropriate on a purely sectorial basis to support what was one of many submissions from industry interest groups within the GST debate.

(5)-(8) The same approach is applied to the issue of retail shopping in which the Tourism Council Australia has its own view on the expected GST impact on tourist shopping.

(9)-(11) This government made a submission to the Senate Select Committee on the new tax system but no specific mention was made of the tourism sector. The thrust of the submission was on the Commonwealth being mindful of the state's tax base in its deliberations on a GST package. Treasury have indicated the submission went to Canberra late January 1999 or early February 1999.

GOODS AND SERVICES TAX, PROFESSOR PETER BISHOP DIXON'S EVIDENCE

2103. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Has the Minister/Western Australian Tourism Commission had the opportunity of examining the evidence given by Professor Peter Bishop Dixon to the Senate Select Committee on a new tax system?

(2) Does the Government/Western Australian Tourism Commission agree with the observations made by Professor Dixon that a Goods and Services tax will have a negative impact on the tourism industry?

(3) If not, why not?

(4) What fundamentals of the argument advanced by Professor Dixon does the Minister/Western Australian Tourism Commission disagree with?

Mr BRADSHAW replied:

(1) Yes.

(2)-(3) The Western Australian Tourism Commission has advised that tourism as an export industry should have exemption status similar to other export industries under the proposed federal GST model, otherwise tourism will be at a relative disadvantage.

(4) The debate on whether a GST is needed or not is in many respects a philosophical approach to the tax regime and whether reliance on direct or indirect taxes is needed. Academics as well as others disagree on the best approach. The Government of Western Australia supports the introduction of a GST. The final format of a GST is still under debate.

STATE FINANCE, COST CONTAINMENT REFORMS

2586. Dr GALLOP to the Premier:

In reference to comments made on top of page 11 of Analytical Information in Support of the Treasurer's Annual Statement 1997-98" which claim that a number of reforms have contributed to containing the cost of general Government operations, will the Premier provide figures to justify this statement, in particular what has been the extent of "cost containment" or savings from these reforms, including -

(a) the introduction of productivity savings;

(b) competitive tendering and contracting out;

(c) encouraging private sector involvement in the provision of public infrastructure; and

(d) requiring measurable productivity trade-offs and target achievement in exchange for general wage and salary increases;

across the general Government sector, for each of -

(i) 1993-94;
(ii) 1994-95;
(iii) 1995-96;
(iv) 1996-97; and
(v) 1997-98?

Mr COURT replied:

The benefits of financial reforms put in place by the Government since gaining office in 1992-93 have enabled improved service delivery across all areas of government. The following observations are made about initiatives in each of the identified reform areas.

(a) Productivity savings - Productivity savings across budget sector agencies have been absorbed by agencies without reductions in service delivery. For example, from the 1997-98 budget, productivity savings of $60 million were identified, growing cumulatively to $103 million by 1999-2000. Short-term spending restrictions were introduced in the budget sector for the period 1996-97 to 1998-99 to allow for temporary cuts to Commonwealth funding grants. The Commonwealth cut Western Australia's grants by $59 million in 1996-97, $62 million in 1997-98 and $29 million in 1998-99.

(b) Competitive tendering and contracting out and private sector involvement in the provision of public services - As a matter of principle, the public sector only enters into contracting arrangements where private sector providers can make equivalent services available at a lower cost or greater service outcomes can be achieved for the same cost. Three consecutive surveys have been conducted by Professor Simon Domberger of the University of Sydney's Graduate School of Business for the years 1993-94, 1994-95 and 1995-96, calculating savings from competitive tendering and contracting reforms based on returns filed by public sector agencies. The surveys estimated that savings have averaged 20%, 24% and 22.5% in each year respectively.

(c)-(d) Productivity trade-offs and target achievement in exchange for general wage and salary increases - Since 1996-97, the Government has operated a policy of funding 50% of budget sector wage rises with agencies to meet the remaining cost from existing budgets. Since service levels have not been curtailed, this implies a productivity saving associated with that portion of wage increases funded from existing allocations.

Additionally, the Government has made significant advances in service delivery. Some examples are:

- Reform of the government trading enterprise pricing structures has provided significant benefits to businesses in the State, particularly from reforms in the energy and water industries. These reforms are driven by two principles:

  As government trading enterprises (GTEs) embrace commercial practices, efficiency gains in the form of lower costs and/or better quality of service are achieved. For example, between 1992-93 and 1998-99 average non-residential electricity bills on the South West Interconnected System are estimated to have fallen 22% in real terms. Gas tariffs for commercial customers have remained virtually unchanged in nominal terms since 1992-93 resulting in a decrease in real terms in excess of 10%. Also, real water costs for an average medium size commercial business have fallen by almost 50% since 1992-93. For large commercial and industrial customers the decline has been significantly larger including a 58% reduction for industrial business and almost an 80% reduction for large commercial businesses.

  With the continued reduction of cross-subsidisation between business and residential customers, the Government is working towards bringing GTE prices more into line with the user pays principle.

- Under the public transport system existing prior to the current reforms, MetroBus expected 7,500 down trips per

year (down trips are those that are cancelled). Under the current system with private companies running routes, as at May of this financial year only 370 down trips have occurred. This is only about 5% of the rate of down trips under the previous arrangement.

- In the Health sector since 1997-98, hospital inpatient 'scaled central episodes' which are a measure of a standard complexity episode of care, have increased by 31% to over 403,000 episodes per annum (within the public health sector). Furthermore, occasions of service for outpatients treated in public hospitals are expected to continue to increase and reach almost 3.2 million in 1999-2000. Also, since 1997-98, Community Health occasions of service are expected to rise to almost 1.4 million, an increase of 34% on 1996-97 activity levels.

  Between 1994-95 and 1997-98, Public Hospitals experienced a 36% increase in same-day episodes. This has reduced the average cost per episode of care through savings achieved by not having to factor in the cost of an overnight stay.

  A Central Wait List Bureau has been established, as part of the Metropolitan Health Service. The Bureau has enhanced the role of secondary hospitals in procedural interventions, therefore improving access for patients. This includes activity at privately managed public providers (Peel and Joondalup). The Bureau has improved the quality of waiting list data, adherence to guidelines, regular auditing and communication with referring doctors. Of the 3,270 cases specifically identified at the start of the wait list strategy in August last year only 513 cases remain untreated. Over the last twelve months there has been a 22.9% reduction in the total waiting list numbers to 12,881.

- At Westrail, between 1993 and 1999 there has been an overall effective freight rate reduction of 15% in the main railway business segments. For example, over the past decade, in grain freight rates alone, there has been a saving of $186 million to grain growers.

  As a measure of its performance, Westrail is now handling a transport task some 30% greater than at the beginning of the decade, with 45% less rolling stock and 70% less staff.

MINISTERIAL STAFF, PRESENTS AND SOCIAL FUNCTIONS

2733. Mr CARPENTER to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) Did the Premier use taxpayers money to pay for staff presents and/or for staff social functions during the 1998 calender year?

(2) If yes -

(a) on what date;
(b) for what purpose; and
(c) how much was spent?

Mr COURT replied:

(1) No.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEVEL TWO EMPLOYEES

2755. Mr RIEBELING to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

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

(a) what was the total number of Level Two employees at each agency as at 20 April 1999; and

(b) of these employees, how many were -

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

Mr COURT replied:

I am advised that :

Ministry of the Premier and Cabinet
(a) 83

(b) (i) 60
(ii) 6
(iii) 17 (includes Term of Government, Term of Minister and Term of Leader of the Opposition Contracts).

Treasury
(a) 27

(b) (i) 24
(ii) 2
(iii) 1

Anti-Corruption Commission
(a) The Anti-Corruption Commission did not employ any employees in Level two positions as at 20 April 1999. However, the ACC did employ eight officers in Level 2/3 positions who were being paid in the Level Two salary range as at 20 April 1999.

(b) (i)-(ii) Nil.
(iii) Eight.

Governor's Establishment
(a) 3 (Equivalent classification - not PSMA employees)

(b) (i) 3
(ii)-(iii) Nil.

Office of the Public Sector Standards Commissioner
(a) 5

(b) (i) 4
(ii) 1 acting for a period of 3 months full-time.
(iii) Nil.

Gold Corporation
(a) Nil.

(b) (i)-(iii) Not applicable.

Office of the Auditor General
(a) 16

(b) (i) 16
(ii)-(iii) Nil.

EDEN HILL CULTURE AND ENVIRONMENT CENTRE, MINISTER'S COMMENTS

2853. Mr BROWN to the Minister for Aboriginal Affairs:

(1) Was the Minister interviewed by Liam Bartlett on Radio Station 6WF on Thursday 8 April 1999?

(2) Was the interview on or did the interview touch upon the Pyrton site in Eden Hill?

(3) During the interview did the Minister say "only Robert Bropho and his group" are the ones who are laying claims over the Pyrton land?

(4) Did the Minister intend to convey the impression to the listening public that Robert Bropho and his group were the only ones who wanted the Pyrton area?

(5) Was it the Minister's intention to single out Robert Bropho and his group?

(6) Was the Minister aware a number of groups have supported a proposed culture and environment centre for Pyrton?

(7) Is the Minister also aware that the Centre would cater for all people?

(8) If not, what was the Minister's understanding of who would use the cultural and environment centre?

(9) Prior to the interview, did the Minister receive a proposal or a copy of a proposal for the Eden Hill Culture and Environment Centre, copies of which were distributed to interested groups and individuals?

(10) When did the Minister receive a copy of the proposal?

(11) Did the Minister misrepresent the proposed Centre in his interview?

(12) Is the Minister aware the proposed Centre was to cater for all Aboriginal people and not just those from the Swan Valley Noongar community?

(13) If so, why did the Minister say the Centre was specifically for Robert Bropho and his group?

(14) Did the Minister say or infer that "I have an Aboriginal Committee who does that assessment and tells me if there is a problem or not"?

(15) What is the formal name of the Committee referred to by the Minister?

(16) Who are the members of the Committee?

(17) Is the Minister referring to the ‘Metropolitan Commission of Elders' as his Aboriginal Committee?

(18) Is it true the Metropolitan Commission of Elders passed a resolution saying no to the prison on Pyrton land?

(19) When the Minister refers to an Aboriginal Committee, is he referring to the Culture Material Committee?

(20) How many members of the Culture Material Committee are from the area in question - ie Pyrton?

(21) Has the Minister insisted an ethnographic study be carried out before the land is divided up?

(22) If not why not?

Dr HAMES replied:

(1)-(2) Yes.

(3)-(4) No.

(5) As my office only received complaints from Mr Bropho and his group, he was the only one mentioned in the interview.

(6)-(7) No.

(8) A copy of the proposal was not sent to my office.

(9) No.

(10) Not applicable.

(11)-(12) No.

(13) Not applicable.

(14) Yes.

(15) Aboriginal Cultural Material Committee.

(16) ABORIGINAL CULTURAL MATERIAL COMMITTEE (ACMC)

Members as at 1 May 1999:

Mr Ken Colbung (Chair)	AAD Metropolitan/ Wheatbelt Region
Ms Margaret Anderson	Deputy for Andrew Reeves
Dr Caroline Bird	Archaeologist
Mr Eugene Browne	Deputy for Henry Houghton
Dr Cathie Clement	Historian
Mr Don Collard	AAD Southwest Region
Dr Ian Crawford	Anthropologist
Ms Averil Dean	AAD Southwest Region
Mr Patrick Edwards	AAD Goldfields Region
Ms Patricia Fry	AAD Pilbara Region
Mr Mick Gooda	Deputy for Haydn Lowe
Ms Vivienne Hansen	AAD Metropolitan/Wheatbelt Region
Mr Henry Houghton	Ex-officio - Authorised land officer
Mr Hadyn Lowe	Ex-officio - CEO Aboriginal Affairs
Mr Gordon Mandijalu	AAD Kimberley Region (West)
Ms Lucy Marshall	AAD Kimberley Region (West)
Mr Bill Pearce	AAD Murchison/Gascoyne Region
Mr Andrew Reeves	Ex-officio - Director of Museum
Mr Trevor Solomon	AAD Pilbara Region
Ms Carol Whitehurst	AAD Murchison/Gascoyne Region
Ms Maureen Young	AAD Goldfields Region
Vacant	AAD Kimberley Region (East - female)
Vacant	AAD Kimberley Region (East - male)

(17) No.

(18)-(19) Yes.

(20) Two.

(21) No.

(22) The Aboriginal Affairs Department requested the architect retained by the Disability Services Commission to carry out an ethnographic study and it is understood the Ministry of Justice is following up this request.

GAMING MACHINES, FUTURE PLANS

2888. Mr BROWN to the Premier:

(1) Does the Government have a policy on the extension of poker or gambling machines outside the Burswood Casino?

(2) What is that policy?

(3) Does the Government intend to allow poker or gaming machines to be operated outside the Burswood Casino when the exclusive licence held by Burswood expires?

(4) On what date does the Burswood Casino exclusive licence expire?

(5) Has the Government given any consideration to allowing one or more casino developments in regional Western Australia?

(6) If so, what regions have been considered for such a development?

Mr COURT replied:

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

(1)-(2) Government policy is not to introduce gaming machines into hotels and licensed clubs.

(3) No.

(4) 24 December 2000.

(5) No.

(6) Not applicable.

CONVENTION CENTRE, EAST PERTH POWER STATION

2933. Mr PENDAL to the Premier:

(1) I refer to the Government's plans to call for expressions of interest for the provision of a purpose-built convention centre and the Government's decision to allocate $100 million to achieve that purpose and ask will the Government consider the old East Perth Power Station in the light of -

(a) the commanding position this building occupies overlooking the Swan River and the Burswood complex;

(b) the fact that the building is already on the State Heritage Register;

(c) the proximity of the building to water, train and other public transport; and

(d) suggestions that Sci-Tech might be relocated to the site?

(2) If the answer to (1) above is no, why not?

Mr COURT replied:

(1)-(2) The Expressions of Interest (EOI) released on 23 January, 1999 delineated a geographical area within which the EOI would be considered. This area did not include the East Perth Power Station site. The area delineated was agreed to following consultation with industry and feasibility studies conducted and reviewed over many years. It would be inappropriate for the Taskforce to seek to re-scope the Terms of the EOI at this time. The Taskforce, Project Team and Evaluation Panels are currently reviewing the submissions received from the seven consortium applicants.

CORAL BAY, TOURIST AND RESIDENTIAL DEVELOPMENT

2948. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Has the Government approved the development of a tourist and residential development in Coral Bay?

(2) When was the approval granted?

(3) What is the nature of the approval?

(4) Has the Government supported a tourist and residential development in Coral Bay?

(5) What is the nature of the support?

(6) On what date did the Government decide to support the development?

(7) What is the nature of the development the Government supports?

Mr BRADSHAW replied:

(1) Coral Bay is a townsite under the jurisdiction of the Shire of Carnarvon and has a number of tourist and residential developments that have been built over a number of years.

(2)-(3) Over time, approvals have been given for various developments in this area, in line with town planning needs as Coral Bay has grown.

(4) Governments over the years have supported various tourist and residential developments.

(5) Planning support has been given through Town Planning Schemes.

(6) This has been ongoing over many years.

(7) Appropriate development as permitted under approved Town Planning Schemes.

PLANNING, SUBDIVISION APPLICATIONS

2966. Dr EDWARDS to the Minister for Planning:

(1) With respect to the Applications for subdivision Nos 86358, 87506 and 89631 made by Mr Tinsley Beck and the subsequent investigation into decisions made by the West Australian Planning Commission (WAPC) regarding

these applications, what action does the Minister intend to take to reconcile the views of the Ombudsman (that the WAPC' handling of the applications has been inconsistent) with the contrary views of the WAPC?

(2) If no action is intended to be taken, why is this the preferred option?

(3) Does the Minister accept the view of the Ombudsman that this matter could have been resolved when the first application was made if the officers dealing with it had been more focussed on resolution?

(4) If not, why not?

(5) Does the Minister accept the view of the Ombudsman that due to the failure of officers to resolve the matter when the first application was made, considerable financial cost resulted for the Becks and considerable time and energy was expended by the WAPC and the Becks?

(6) If not, why not?

(7) What changes to administrative procedures and practices have been made as a result of the Ombudsman's recommendations in relation to this case?

Mr KIERATH replied:

(1) No further action will be taken.

(2) A close study of the complaints made by the Beck family showed that the action taken by the Ministry for Planning and the Western Australian Planning Commission was correct.

(3) No.

(4) The City of Gosnells advised Mr and Mrs Beck of the access difficulties inherent in their submitted plan of subdivision and suggested they lodge a modified plan, which would overcome these problems, to the Ministry for Planning. The Becks did not pursue this, which left the Ministry for Planning no option but to consider the original plan. A subsequent appeal to the Minister for Planning against the Western Australian Planning Commission's decision was also dismissed.

(5) No.

(6) Officers can only make recommendations to the decision-making committees based on the formal applications before them. It is not their role to "resolve matters" that have not been included in those applications.

(7) There was no need to make any changes to administrative procedures or practices.

GOVERNMENT DEPARTMENTS AND AGENCIES, RESEARCH PROJECTS

3018. Mr BROWN to the Minister for Housing; Aboriginal Affairs; Water Resources:

(1) Are any research projects being undertaken by the departments and agencies under the Minister's control?

(2) What is the nature of each research project?

(3) Who is conducting each research project?

(4) What is the anticipated cost of each research project?

(5) What is the anticipated completion date of the research project?

Dr HAMES replied:

Aboriginal Affairs Department:
Yes.

(2) (i) Benchmarking Aboriginal Education - research to identify the teaching and learning environments and experiences which appear to provide the most effective, culturally appropriate conditions in which Aboriginal children can achieve English literacy and to identify school and institutional practices which may contribute to achievement or failure.

(ii) South West Local Area Data - the object of the research is to develop a package of data on key economic, social justice, criminal justice indicators as well as demographic information of Aboriginal people living in five local areas of the South West Region, namely Bunbury, Brookton, Katanning, Mount Barker and Collie.

(3) (i) Edith Cowan University.
(ii) Social Systems and Evaluation.

(4) (i) $49,778.00 Aboriginal Affairs Department
$101,047.00 Australian Research Council.
(ii) $39,148.00.

(5) (i) April 2000.
(ii) June 1999.

Ministry of Housing:
(1) Yes.

(2)
(i) Needs Analysis and Community Development plan for Burringurrah Aboriginal Community.
(ii) Evaluation of an Environment Intervention to Prevent Otitis Media and Other Infections in Indigenous Children.
(iii) Identification of Strategic Asset Management Best Practice for Indigenous Community Housing Organisations.
(iv) Review of the Community Disability Housing Program.
(v) The production of a Policy and Procedures Manual for Community Housing Programs.
(vi) Review of Supported Housing Assistance Program.
(vii) Assessment of specified properties.

(3)
(i) Symonds Pty Ltd.
(ii) TVW Telethon Institute for Child Health Research.
(iii) Spiller Gibbons Swan Pty Ltd.
(iv) Nick Francis and Associates.
(v) Elaine Pearce.
(vi) Jo Stanton Consultancy.
(vii) Australian Property Consultants.

(4)
(i) $36,000.00.
(ii) $99,644.00.
(iii) $70,000.00.
(iv) $19,550.00.
(v) $14,000.00.
(vi) $19,380.00.
(vii) $31,500.00.

(5)
(i) 30 June 1999.
(ii) 31 December 1999.
(iii) 30 June 1999.
(iv) 31 August 1999.
(v) 31 August 1999.
(vi) 30 June 1999.
(vii) 30 June 1999.

Office of Water Regulation:
(1)-(2) The Office of Water Regulation, along with the Water Corporation, Agriculture WA and the Centre for Water Research at the University of Western Australia have made a contribution towards a research project to study Rural Dam Efficiency.

(3) Professor M Sivapalan at the Centre of Research is in charge of the study.

(4) The Office of Water Regulation is contributing a total of $12,500.00. The total two year project budget is $92,500.00.

(5) February 2001.

Water and Rivers Commission:
(1) Yes.

(2)
(i) Groundwater resource evaluation of Collie Basin.
(ii) Groundwater flow model for alluvial aquifers in arid environments.
(iii) Joint intermediate rainfall zone research program.
(iv) Salinity in experimental catchments.
(v) To create better management strategies and remediation for groundwater studies.
(vi) Indian Ocean climate initiative.
(vii) Water requirements of groundwater dependent vegetation.
(viii) Design guidelines for stormwater quality management.
(ix) Development of an ecological model of the Swan River.

(3)
(i) Groundwater Resource Appraisal Section, Research Investigations Unit, Water and Rivers Commission.
(ii) Groundwater Resource Appraisal Section, Research Investigations Unit, Water and Rivers Commission.
(iii) Catchment and Salinity Investigations Branch, Research Investigations Unit, Water and Rivers Commission.
(iv) Catchment and Salinity Investigations Branch, Research Investigations Unit, Water and Rivers Commission.
(v) Centre for Groundwater Studies, CSIRO.
(vi) CSIRO and Bureau of Meteorology Research Centre.
(vii) Edith Cowan University.
(viii) Edith Cowan University.
(ix) Centre for Water Research, University of Western Australia.

(4)
(i) $180,000.00.
(ii) $180,000.00.
(iii) $200,000.00 per year.
(iv) $50,000.00.
(v) $70,000.00.
(vi) $320,000.00 in total per year ($50,000 from Water and Rivers Commission)
(vii) $586,000.00 over 3 years ($244,000.00 from Water and Rivers Commission).
(viii) $150,000.00 over 3 years ($50,000.00 from Water and Rivers Commission).
(ix) $400,000.00 over 3 years ($267,000.00 from Water and Rivers Commission).

(5) (i) 30 June 2001.
(ii) 30 June 2000.
(iii) 31 December 2023.
(iv) 30 June 2001.
(v) Ongoing.
(vi) 30 June 2003.
(vii) 30 June 1999.
(viii) 30 June 2000.
(ix) 30 June 2003.

Water Corporation:
(1) Yes.

(2)-(5) See paper No 1048.

COMMITTEES AND BOARDS, FORMER MEMBERS OF PARLIAMENT

3072. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Since February 1993, what Former Members of Parliament have been -

(a) appointed to a Government Board, Commission, Committee or other body; and/or

(b) appointed by the Government to any Board, Commission, Committee or other body; and/or

(c) employed or appointed within the Government in any capacity, paid or otherwise, under the Minister's control?

(2) In each instance -

(a) what is the -

(i) name of the Former Member; and
(ii) the title of the position,

to which they have been appointed;

(b) which organisation/department is responsible for the position; and

(c) what remuneration is paid for each position?

Mr BRADSHAW replied:

WESTERN AUSTRALIAN TOURISM COMMISSION
(1) Two.

(2) (a) Under the terms of reference of the Regional Marketing Advisory Council, Presidents of Regional Tourism Associations are appointed to this committee. As such, Mr Ian Laurance as President of the Pilbara Tourism Association and Mr Jim Clarko as President of the Heartlands Tourism Association are members. I would like to add that Mr Julian Grill MLC as President of the Goldfields Tourism Association is also a member. The Western Australian Tourism Commission does not pay remuneration to members of this advisory council.

ROTTNEST ISLAND AUTHORITY
(1) Nil.

(2) Not applicable.

TOURISM COMMISSION, EFFECTIVENESS OF STRATEGIES

3094. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) With reference to the 1999-2000 Budget Statements, Volume 3 at page 1385, will the Minister explain exactly what charges and fees and other revenues are referred to in note (a) under the table of expenditure?

(2) With respect to page 1387, will the Minister explain if the effectiveness of the Western Australian Tourism Commission (WATC) activities is measured by -

(a) perceived knowledge of Western Australia as a holiday destination; and/or

(b) propensity to consider Western Australia as a holiday destination; and/or

(c) estimated economic benefit of tourists or additional tourists visiting Western Australia?

(3) Is it appropriate to measure the effectiveness of the Government/WATC strategies by calculating the economic benefit derived from an increase or decrease in the number of tourists visiting the state?

Mr BRADSHAW replied:

(1) Revenue is raised from a number of sources, including:
Industry contributions to cooperative marketing campaigns
Fees for the EDS system

Industry contributions to trade shows and sales missions
Event gate takings
Event sponsorship
Fees charged for services provided on a cost recovery basis
Commission from sales at the WA Tourist Centre.

An analysis of Revenue by Strategy is attached for the Member's information. [See paper No 1049.]

(2) The effectiveness of WATC's strategies, aimed at raising consumer awareness, are measured in the interstate and intrastate markets by:

Perceived knowledge. This is the percentage of people aware of WA as a holiday destination, and

Propensity to consider, which is the percentage of people with a preference to travel to WA (Interstate) or within Western Australia (Intrastate).

The effectiveness of the WATC's strategies, aimed at incremental tourism in cooperation with industry, is measured by the level of visitor expenditure generated by tactical campaigns.

(3) No. It is not considered appropriate to measure the effectiveness of WATC strategies by calculating the economic benefit derived from an increase or decrease in the number of tourists visiting the State because WATC strategies only constitute some of many factors impacting on tourist numbers. One of the outcomes defined for the WATC is "Western Australia is promoted as an attractive tourist, event, convention and incentive travel destination". Strategies included under this outcome are:

Image and promotional campaigns to promote WA as a tourist destination.
Tactical marketing campaigns in cooperation with industry.
Bidding for and, in some cases, running events.
Bidding for conventions and incentive travel.

Hence, the performance measures are appropriate to the strategies undertaken.

NINGALOO REEF DEVELOPMENT, GUIDELINES

3101. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is the Minister aware of an article that appeared in *The West Australian* on 1 May 1999 under the heading of "Reef marina back on track"?

(2) Did the article deal with the proposed development on the Ningaloo Reef?

(3) Is the Minister mentioned in the article as saying that the Government had agreed to a new set of guidelines under which a more modest development could proceed?

(4) What are the guidelines the Minister referred to?

(5) When were they publicly released?

Mr BRADSHAW replied:

(1)-(3) Yes.

(4)-(5) A decision was made to issue new guidelines for development at Mauds Landing. The guidelines have only recently been provided to the preferred developer at the Mauds Landing site and were tabled in the Legislative Council on 22 June 1999.

NORTHBRIDGE, SOIL TESTS

3154. Ms WARNOCK to the Minister for Planning:

(1) What are the results of soil tests done in the Northbridge Urban Regional area in recent weeks?

(2) Has soil contamination been discovered?

(3) If so, what will be done to alleviate the problem and make the area safe?

Mr KIERATH replied:

(1) The results are tabled. [See paper No 1050.]

(2) Samples of soil from a number of sites contained lead in excess of that acceptable for inner city residential.

(3) Contaminated soil will be removed and replaced with clean fill.

TOURISM, SOUTH KOREAN TOURISTS

3182. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Further to question on notice No. 2089 of 1999, will the Minister advise why South Korea was not mentioned in the profile of inbound tourists?

(2) What was the number of Koreans that visited -

(a) Western Australia;
(b) New South Wales; and
(c) Queensland,

in the following financial years -

(i) 1996-97; and
(ii) 1997-98?

(3) Is it true that -

(a) inbound Korean tourists declined substantially with the onset of the Asian economic crisis; and

(b) the decline had a greater effect, in absolute and percentage terms in Queensland and New South Wales compared to Western Australia?

Mr BRADSHAW replied:

(1) The WATC is of the opinion that the sample base used for Korea in WA in the International Visitor Survey (IVS) is insufficient to provide accurate measurement of the market. Hence it was not reported in its own right in Question 2089, but it was included under "Other" as was Taiwan, China and other similar small markets.

(2)

		1996/97	1997/98	%
(a)	Western Australia	1 800	1 700	- 5.6
(b)	New South Wales	181 000	99 000	- 44.8
(c)	Queensland	182 400	89 900	- 50.7

(3) (a) Yes.
(b) Yes, refer to (2) above.

TRAINEESHIPS AND APPRENTICESHIPS, NUMBER

3193. Mr KOBELKE to the Minister for Employment and Training:

(1) How many trainees were in training in traineeships as at the 30 June 1999 and as of the 30 June for each preceding year back to 1990?

(2) How many apprentices were in training in apprenticeships as at the 30 June 1999 and as of the 30th June for each preceding year back to 1990?

Mr KIERATH replied:

(1) As at:

-	17 June 1999	-	5 900
-	30 June 1998	-	5 378
-	30 June 1997	-	4 288
-	30 June 1996	-	2 379
-	30 June 1995	-	1 376
-	30 June 1994	-	1 193
-	30 June 1993	-	1 239
-	30 June 1992	-	527
-	30 June 1991	-	505
-	30 June 1990	-	740

(2) As at:

-	17 June 1999	-	12 400
-	30 June 1998	-	12 855
-	30 June 1997	-	12 935
-	30 June 1996	-	12 766
-	30 June 1995	-	12 297
-	30 June 1994	-	11 520
-	30 June 1993	-	10 912
-	30 June 1992	-	11 544
-	30 June 1991	-	12 443
-	30 June 1990	-	13 900

COSSACK, MANAGEMENT AND FUNDING

3201. Ms McHALE to the Minister for Heritage:

I refer to the historic Cossack site and ask -

(a) did the Government fulfil its 1993 election commitment and place the responsibility for the management of Cossack in the National Trust;

(b) if not, why not;

(c) if not, who has responsibility for its management; and

(d) how much Government funding goes towards the Management of Cossack?

Mr KIERATH replied:

(a) No. The Heritage Council of Western Australia managed Cossack from 1991 until 1996 when the management was transferred to the Shire of Roebourne on the basis of a 21 year lease. The Shire of Roebourne also entered into a Heritage Agreement with the Heritage Council to undertake conservation of the place, including Jarman Island, in accordance with the requirements of a Conservation Management Plan.

(b) The 1993 Coalition platform undertook to "look to place Cossack under the responsibility of the National Trust". At the time, the Local Government was deemed to be the most suitable custodian due to its proximity to the site, long term involvement in its conservation through the Management Committee, and its ability to assist with technical and physical resources.

(c) Shire of Roebourne.

(d) The agreement for conservation purposes required commitments of the following amounts to be made to the Shire of Roebourne by the Heritage Council of WA:

1996-97: $60 000;
1997-98: $40 000;
1998-99: $20 000.

An additional $63,613.59 was funded to the Shire of Roebourne between September 1996 and January 1998 to meet the salary cost of the Manager of Cossack.

PARRY STREET, EAST PERTH, DEMOLITIONS

3207. Ms WARNOCK to the Minister for Planning:

(1) In relation to tunnel work and subsequent urban renewal are any further demolitions planned for Parry Street, East Perth?

(2) Does the Government plan any heritage assessment of remaining buildings in Parry Street?

Mr KIERATH replied:

(1) No.

(2) Heritage assessment of all buildings has previously been conducted.

QUESTIONS WITHOUT NOTICE

REGIONAL FOREST AGREEMENT, NATIONAL PARTY VIEW

939. Dr GALLOP to the Minister for the Environment:

(1) Does the minister accept the criticisms of her Regional Forest Agreement by the National Party, which is reportedly pushing for a further 30 000 hectares of forest to be placed in conservation reserves?

(2) As the minister responsible for forest management, is she working to achieve such an outcome?

(3) Would any additions to the reserve system require the Commonwealth Government's approval?

Mrs EDWARDES replied:

(1)-(3) Yes to the last question. The Deputy Premier and I have worked -

Dr Gallop: Hang on. Yes?

Mrs EDWARDES: Yes to the last question.

Dr Gallop: For additions to the reserve?

Mrs EDWARDES: Yes. The Deputy Premier and I have worked closely on this matter and we will continue to work closely on the implementation of the Regional Forest Agreement. The Deputy Premier regards the RFA as a major step forward.

REGIONAL FOREST AGREEMENT, ADDITIONAL 30 000 HECTARES

940. Dr GALLOP to the Minister for the Environment:

I have a supplementary question. Is the minister working towards the addition of 30 000 hectares to the reserve system?

Mrs EDWARDES replied:

No. However, we will continue to work with anybody who wants to work towards the implementation of the Regional Forest Agreement.

HEROIN ADDICTION, HEALTH DEPARTMENT ACTION

941. Mrs HODSON-THOMAS to the Minister for Health:

What action has been taken by the Health Department to deal with the problem of heroin addiction in the community?

Mr DAY replied:

I thank the member for some notice of this question. With 77 deaths from heroin overdoses in Western Australia last year and 42 deaths so far this year, the Government is keen to find whatever new ways may be more effective in dealing with this tragic problem in our community.

Ms MacTiernan: Are you the new minister for drugs strategy?

Mr DAY: No, the minister for drugs strategy is on my right and members will be hearing from her later.

For the past 25 years those treating the problem of heroin addiction in our community have primarily relied on the use of methadone to deal with the problem. It is clear now that there are other pharmacological agents which have a very important role to play in dealing with the problem of heroin addiction. I am pleased to advise the House that in the next two years the Government will be making available $3m from the Health budget to trial the use of two drugs, in particular naltrexone and also buprenorphine; firstly, to assess their effectiveness in maintaining detoxification following removal from heroin addiction and, secondly, to assess their effectiveness in dealing with detoxification following the use of methadone over a long period of time.

Some of the funding will also be used to increase the amount of treatment available at the Next Step Clinic in East Perth; the number of in-patient beds there will be increased from 17 to 21. The trials to be conducted at the Next Step Clinic will be linked with other trials in the eastern States and this will go a very long way to increasing the body of knowledge which we have, both in Western Australia and throughout Australia, in dealing with the problem of heroin addiction.

GOODS AND SERVICES TAX, PUBLIC HOUSING

942. Dr GALLOP to the Minister for Housing:

I refer to the minister's comments on ABC radio yesterday.

(1) Do not those comments confirm the Opposition's claims that the minister intended to fund part of the cost of the goods and services tax on Western Australian public housing through increases in rents for pensioners and other Homeswest tenants?

(2) Why did the minister conceal this policy decision from the people and the Parliament of Western Australia?

(3) Was it because the minister had assured pensioners in 1998 during the federal election campaign that they would not be subject to rent increases as a result of the Howard tax package?

(4) Once again, I ask the minister to table all correspondence and relevant material on this matter.

Dr HAMES replied:

(1)-(4) I am glad the Leader of the Opposition has given me another chance to go through this matter because I heard there was some confusion about the dollars that were spent.

Dr Gallop: On your part.

Dr HAMES: On the part of both sides of the House this time. I have now found from where the Leader of the Opposition got his document and where he is making his mistakes. I will go through the figures in that document so that he can work out what it was and where he made his error.

We sent a letter to Senator Jocelyn Newman on the whole commonwealth-state housing agreement funding when we were negotiating with the Commonwealth Government to get increased funding to renew the commonwealth-state housing funding program for the out years. In that letter each State submitted what it thought was the disadvantage to the State in receiving an efficiency dividend each year; from memory, the Western Australian figure was about $10m. Another figure had no provision for indexation on the amount of money we received. I support the Leader of the Opposition's view that without doubt that is a disadvantage to this State. This Government has been campaigning long and hard to have that indexation reinstated.

There was also a GST figure of $42m, which is the $42m under the GST column that the Leader of the Opposition talked about yesterday. If the Leader of the Opposition reads the print about two inches below that, he will see that it is the gross figure and does not take into account income through other changes. That is where I get to the $26m that I was telling the Leader of the Opposition about yesterday. The $70m-odd that he was talking about last week was the sum of those three figures. Now we have worked out from where he got the dollars. When the Commonwealth Government provided 4 per cent to the pension as a GST compensation, it said at the time that 1 per cent of that, whether one was in public or private rental housing, including state housing, was to cater for possible rent increases.

Dr Gallop: But you promised the people in an election there would not be any increases.

Dr HAMES: I am about to tell the Leader of the Opposition what I said, if he will listen. When the Leader of the Opposition goes back to the questions he asked of me a year ago -

Dr Gallop: My friend, do you want me to quote you from the paper in September 1998? *The West Australian* said that the Housing minister Kim Hames said that his State would not increase rents. You lied to the people, minister.

Dr HAMES: If the Leader of the Opposition would just wait -

Withdrawal of Remark

The SPEAKER: Order! I require the Leader of the Opposition to withdraw.

Dr GALLOP: I withdraw, Mr Speaker.

Questions without Notice Resumed

Dr HAMES: When we were asked that question last time we said that the issue had not been decided and we were still working on it.

Dr Gallop: Why didn't you tell the people it was decided against pensioners' interests? You concealed it from them.

Dr HAMES: I, as a state minister, did not want to increase those rents and take that 1 per cent out of the 4 per cent. What I had planned to do was when we got to that stage -

Dr Gallop: You are incompetent and useless. You can't count the fingers on your hand. That's your problem.

Dr HAMES: I can count some of them; I am not sure how many.

Dr Gallop: Exactly, you hit it in one.

Dr HAMES: Perhaps the figures I just suggested to the Leader of the Opposition were the appropriate ones, the 25 per cent that we are talking about. I did not want to bring in that 1 per cent increase in charge and I planned to talk to the Treasurer.

Mrs Roberts: Why did you mislead the people?

Dr HAMES: I did not mislead the House at all and I made it perfectly clear that I did not want to increase the rents. I never did and I still do not. The fact is now there will be no increase. It is great news for pensioners that they will not have to pay -

Dr Gallop: I have a supplementary question.

Dr HAMES: The Leader of the Opposition should wait until I have finished my answer before he asks his supplementary question. He must wait until I finish talking. Perhaps if I sit down, he can ask his pre-prepared supplementary, which is not in the full spirit of supplementary questions.

The SPEAKER: Minister, I will determine that. The Leader of the Opposition has a supplementary question.

GOODS AND SERVICES TAX, COMPENSATION

943. Dr GALLOP to the Minister for Housing:

I ask a supplementary question. Will the minister now confirm, following his answer, that the $26m compensation is inadequate for the State of Western Australia given the terms and conditions of the Howard-Lees package?

Dr HAMES replied:

The Leader of the Opposition should have listened to the answer that I gave the other day. The answer is that the $26m compensation that I discussed with the Leader of the Opposition the other day has nothing to do with the Howard-Lees agreement. That figure is a separate -

Dr Gallop: You are useless! You are like the Collingwood Football Club - useless!

Dr HAMES: It has won a few premierships!

Before the Leader of the Opposition starts praying to the media again hoping for divine intervention, that figure is not the full amount of compensation this State will receive. In the past week, and, in fact, in the past few days, negotiations have been taking place between the federal Treasury and the state Treasury to provide an additional amount of compensation. We have worked out how that will happen, and that will be in the order of an extra $3m to $4m. The $26m covers the total net cost to this State of the GST, without the 25 per cent of that 4 per cent. An extra $3m to $4m will come to this State. We had a state Housing Ministers hook up this morning to discuss this issue -

Dr Gallop: Why did you not tell us that last week? It is because you misled the Parliament. That is why.

Dr HAMES: Additional revenue of $3m to $4m will come to Homeswest to cater for that difference in the effect of the Howard-Lees agreement.

TAFE STUDENTS, ATTITUDE TO COURSES

944. Mrs van de KLASHORST to the Minister for Employment and Training:

As an educator, I am interested in the results of the recent research into TAFE students' attitudes towards their courses. Can the minister inform the House of these results?

Mr KIERATH replied:

I thank the member for Swan Hills for the question and some notice of it. The results show that the vast majority of the 20 000 students are very positive about the courses in which they are engaged. In fact, 90 per cent of those students said they would recommend their course to others, they felt their studies would help them get better jobs or a promotion, and their studies would equip them for further studies or contribute to their personal development; 60 per cent of the students intend to undergo further education, most choosing TAFE, but 30 per cent intend to go on to university; and 60 per cent of all students were part-time, and many of them were already in employment. That shows that Western Australians are committed to continuous learning. The research was funded by the Western Australian Department of Training and included students from 13 TAFE colleges, the Academy of Performing Arts, and some private colleges. The research of the TAFE graduates indicated also that 81 per cent of school leavers, which is a fantastic number, had found jobs within six months of their graduation from a TAFE course, and 72 per cent of all graduates, whether school leavers or not, had found jobs within that same period, and 70 per cent of those graduates who were in work felt they had received either an increase in earnings or a desired new job or promotion as a result of their training. The proof of the pudding is right there, and I offer our congratulations to all those involved.

COMMISSIONER OF POLICE, ELIGIBILITY FOR APPOINTMENT

945. Mrs ROBERTS to the Minister for Police:

I draw the minister's attention to Police Act Regulation 502.1(a), which states a person is not eligible to be appointed to the Police Service unless "he is an Australian citizen, or a permanent resident, within the meaning of the Australian Citizenship Act 1948 of the Commonwealth." Was Mr Matthews an Australian citizen when he was sworn in last Friday?

Mr PRINCE replied:

No, Mr Matthews was not; he was a New Zealand citizen when he was sworn in last Friday. However, under the provisions of the Citizenship Act, the definition of "permanent resident" includes all people who are New Zealand citizens. Therefore, he is a permanent resident; therefore, he was eligible to be sworn in.

COMMISSIONER OF POLICE, ELIGIBILITY FOR APPOINTMENT

946. Mrs ROBERTS to the Minister for Police:

I ask a supplementary question. Does the minister seriously expect people to believe that Mr Matthews was a permanent resident when he was sworn in last Friday?

Mr PRINCE replied:

Yes, I do, because the commonwealth Citizenship Act states that "permanent resident" includes New Zealand citizens. That is why he is entitled -

Mrs Roberts: A permanent resident of both Australia and New Zealand at the same time? Is that right?

Mr PRINCE: The member for Midland is a legislator. She should go away and read the law. She should read the Citizenship Act, and ring the commonwealth immigration people, who will give her the explanation, as I have -

Mrs Roberts: I have heard about legal loopholes before, but this is ridiculous!

The SPEAKER: Order! Perhaps the minister will finish his answer.

Mrs Roberts: In every practical sense of the word, he was a visitor when he was here last week.

Mr Court: Even the Police Union has given up on the attack!

Mrs Roberts: The Premier would know a lot about that!

The SPEAKER: Order, members! We are trying to get questions from a lot of people, and we are having all these little side questions.

Mr PRINCE: The member for Midland is wrong in what she is trying to imply; and if she is right, why does she want an outsider to come in as the Assistant Commissioner for Professional Standards? Hypocrisy?

COMMUNITY WATER SUPPLY PROGRAM, FUNDING

947. Mr McNEE to the Minister for Water Resources:

I understand that further funding has been allocated to the community water supply program. How much money has been provided and where it will be spent?

Dr HAMES replied:

I thank the member for the question. One of the member's many tasks in this State is to chair the Rural Water Supply Coordination Committee, which has been working very hard on the allocation of funding, which comes partially from the Water Corporation and partially from the Office of Water Regulation, to greatly improve the supplies of water to some of the remote and dry areas of Western Australia. I am pleased to announce that the next list of those communities that will receive funding for pipelines to take that vital resource to smaller communities has been announced. Those priorities were

put by the committee that is chaired by the member. The following communities will receive funding: North Kalgarin pipeline in the Kondinin region, at a total value of $636 000; Mingenew pipeline, $1.7m; Moora-Round Hill pipeline, $1.7m; Warralakin-Boodarockin pipeline in the Westonia region, $503 000; and three pipelines in the Mt Marshall region - Scotsman West pipeline, $295 000; Gabbining pipeline, $188 000; and North Wialki pipeline, $417 000. The total value of pipelines funded by the Water Corporation is $5.562m. The Beacon community dam and catchment, the Perenjori water harvesting project, the Kalannie Oval dam, the Fitzgerald community dam project and the Howick bore will also be funded to a total value of $486 000, bringing the total value of pipelines and dams that will be funded to over $6m which will go to our rural communities to provide that much needed resource.

MR BOB FALCONER, LEGAL COSTS

948. Mrs ROBERTS to the Minister for Police:

I refer to the criminal charge being brought against Mr Bob Falconer and ask -

(1) Who is paying for Mr Paul O'Brien to represent Mr Falconer, and for his other legal expenses?

(2) What costs, if any, are the taxpayers of this State up for?

(3) What precedents, if any, is the minister aware of for the Crown to pay legal expenses for criminal charges, as opposed to civil charges, against any current or former senior public servant?

Mr PRINCE replied:

(1)-(3) The Crown - the State - is responsible for the costs of representation of Commissioner Falconer.

Dr Gallop: You are setting an interesting precedent. You will get a few bills sent your way now!

Mr Court: We got a few bills for your ministers too, from memory.

Dr Gallop: Not for criminal charges.

Mr Court: Pretty close to it.

Mr PRINCE: The Police Commissioner has the responsibility, and exercises it frequently, to provide for the costs of representation of police officers. The commissioner cannot grant himself that, so the Government -

Dr Gallop: You have a few bills coming your way.

Mrs Roberts: The Government did that, did it?

Mr PRINCE: Yes and so it should. The accusations being made were in the form of a private prosecution by a private citizen, not a public prosecution brought by a public authority.

Mrs Roberts: The Director of Public Prosecutions is not taking over?

Mr PRINCE: As it is an accusation of an indictable offence, for it to proceed to trial the indictment must be issued and the DPP must decide whether he will take it over. He has not done that.

Dr Gallop: Does the same rule apply to ordinary police officers in this State?

Mr PRINCE: Of course it does.

Dr Gallop: So you will fund all their legal expenses, will you?

Mr PRINCE: Yes, of course. Where a person alleges, for example, that a police officer assaulted somebody in the course of his duty and the person brings a private prosecution, the Police Service will pay for that officer to be represented, and so it should. Exactly the same position applies with the Commissioner of Police, who is also a police constable.

Mrs Roberts: Will you bring those examples before the House?

Mr PRINCE: It happens as a matter of course, and always has; indeed, it happens across government outside the Police Service, whether with ministers or public servants.

Mrs van de Klashorst: It happens with school teachers.

Mr PRINCE: Yes, as my colleague has said, school teachers are an example. They are represented and their costs and fees are paid. There is nothing exceptional about this and it is not an unusual precedent. It is something that should be done and is being done.

DRUG ABUSE STRATEGY, MINISTER'S TRIP TO SWITZERLAND AND SWEDEN

949. Mr BAKER to the Minister for Family and Children's Services:

In her capacity as minister responsible for the WA Drug Abuse Strategy, I refer to the minister's recent short visit to Switzerland and Sweden to inquire into drug policies, treatment facilities and programs in those countries. Can the minister please provide this House with a brief overview of some of the initial findings?

Mrs PARKER replied:

I will be preparing a statement for next week and also a full report of my trip. The information needs to be shared and to be debated fully not only in this place but also in the community of Western Australia. I look forward to that. I will be integrating the findings of my trip into the next Together Against Drugs Strategy when we release it in a month or so.

Ms MacTiernan: Why did you go at this particular time?

Mrs PARKER: I am happy to answer that as well as to give a brief overview of the most critical parts of the trip. For some time I have wanted to visit both Sweden and Switzerland because of the tremendous comparisons of drug policies that can be made.

Several members interjected.

The SPEAKER: Although this might be entertaining, one of our difficulties is that we want to maximise the opportunity for all members to get questions up. A moment ago we had the example of the member for Armadale getting in a snide little question and others interjecting questions. Perhaps we could give lots of people more opportunities. If members ask questions and have them answered, we can get on with the next question, rather than have these elongated questions which end up all over the place.

Mrs PARKER: I will take the interjection from the member for Armadale. The reason I went at that particular time was that Archbishop Hickey invited me to join him in Italy to inspect a drug treatment program which the church is considering introducing into Western Australia. I thought it was a good opportunity to do that. We were very impressed with what we saw. In regard to the Swiss and Swedish experience, 30 years ago Sweden made a decision to change its direction in drug policy. Since that time it has progressively implemented what has become perhaps one of the most restrictive drug policies in the world. That has certainly been accompanied by some very impressive treatment programs for addicts. The United Nations world drug report of 1997, states that in Sweden there is a lifetime prevalence of drug use in the 16 to 29 year old age group of about 9 per cent. The comparison in Australia for approximately the same age group is 52 per cent. A real benefit has been gained in Sweden from the turnaround from a very liberal policy to a more restrictive one. That 1997 report states that in Sweden in the previous year in the same age bracket, use of any illicit drug was 2 per cent, while in Australia it was 33 per cent.

Mr Marlborough interjected.

The SPEAKER: Order! I am taking it that the member for Peel has not seen me on my feet because he has been so well-behaved for almost the past two years. I know that he does not want to cause problems with my interpretation of this very important standing order. If the minister stands and allows an interjection, I have the habit of allowing people to make their interjections. It is probably time to finish this answer, so perhaps the minister can bring it to a close.

Mrs PARKER: In Switzerland I visited the heroin prescription clinic and spoke to the professor who was responsible for the scientific component of the Swiss heroin trial. I spoke to a World Health Organisation official who is responsible for the report on the trial.

Mr Marlborough interjected.

The SPEAKER: Order! Member for Peel.

Mrs PARKER: I spoke to the police chief in charge of operations and planning in Zurich. All that I saw and heard further confirmed my opposition to a heroin trial. In short, entry into the Swiss heroin trial has already been relaxed. Some people receive methadone during the week and heroin on request at weekends. There are four separate shifts a day when people can inject at intervals of 30 minutes.

Dr Gallop interjected.

The SPEAKER: Order! Leader of the Opposition.

Mrs PARKER: Up to 80 per cent of hardened addicts making inquiries do not enrol in the program because of its structure. Officials in both countries confirmed that the key and the breakthrough in responding to the drug issue was across-government coordination. As I said, I will present a full report to the Parliament next week. I look forward to debate on the issue and will keep members informed.

Several members interjected.

The SPEAKER: It is just as well the minister has finished. I have had just about enough of this. I am trying to run question time and give everyone an opportunity to ask questions. Interjections have been coming from all over the place and the minister has been trying to answer them. Let us get on with a reasonable question time, for goodness sake.

ALINTAGAS AND WESTRAIL, PROCEEDS OF SALE

950. Ms MacTIERNAN to the Premier:

In his budget speech last month the Premier stated that the successful sale of AlintaGas and Westrail would "substantially fund the Perth to Mandurah railway". However, last night the Deputy Premier gave an undertaking to this place that no income that is yielded from the Westrail sale "will be spent in the metropolitan area".

(1) Whose undertaking reflects official government policy?

(2) Will the surplus proceeds of any such sale be applied to the extension of the metropolitan line, as the Premier promised last month, or will they be used to upgrade the newly-privatised track network?

Mr COURT replied:

(1)-(2) If any surplus funds result from the Westrail sale, I will be the happiest person in this Chamber. The first priority for the proceeds from the sale of AlintaGas is debt reduction within AlintaGas. We would like to use most of the balance of the funds for the construction of the railway line to Mandurah. If everything went according to plan, it would enable us to fund a large part of that project and have the work carried out immediately. We do not envisage a large surplus from the sale of Westrail. The outcome of the sale cannot be predicted, but we have no difficulty in saying that those funds would be spent in country areas; that is not an issue.

Ms MacTiernan interjected.

Mr COURT: I have just said to the member that the Government expects to have significant surplus funds from the sale of AlintaGas which will be used in the rail project.

ROAD SAFETY, VEHICLE HEADLIGHTS TRIAL

951. Mr MARSHALL to the Minister for Police:

What statistics and research were used to determine the road safety trial of vehicle headlights being turned on every Friday? How will the trial be monitored and, if successful, how soon will the law be implemented?

Mr PRINCE replied:

The assistant commissioner for traffic and operations support, Mr Hay, accumulated some statistics from overseas experience, principally in Europe and America, although not across all States. The statistics were sufficient to enable him to reach the conclusion that when a very high compliance rate occurs, a significant reduction in road trauma results. Safety advantages occur because not only can vehicles be seen, but also drivers are better able to see, particularly when visibility is not as good as it could be. In 1997, the Royal Automobile Club ran a campaign over Easter called "Be Seen Be Safe". The police supported that campaign. Police officers were instructed to drive with their headlights on. That was thought to be relatively successful.

The initiative for using headlights during the day on Fridays was copied from Queensland which ran this as a voluntary exercise in 1995-96 for about six months. It had a low compliance rate of only about 4 per cent of drivers in the metropolitan area and 80 per cent in the country, yet there was a 4 per cent reduction in multiple-party crashes during those six months. That was sufficient to indicate it was a good idea to try. It has been tried and we will continue with it. No official monitoring occurs and there is no intention to change the law to make the use of headlights during the day compulsory, but it is an initiative that has worked elsewhere. We will trial it here and encourage drivers to switch on their headlights on Fridays. Then perhaps it will become the norm for people to drive with their headlights on during daytime hours. The effect is a reduction in crashes and road trauma, which is what road safety is all about.

RAILWAYS, EXTENSION OF LINE TO CLARKSON

952. Ms MacTIERNAN to the Premier:

I refer to the Minister for Transport's recent confirmation that the Government's 1996 election promise to extend the railway line to Clarkson before the next election would not be honoured.

(1) Is the Premier aware that the member for Wanneroo told a public meeting in Clarkson recently that the Minister for Transport was a boofhead who did not know what he was talking about?

(2) Is the Premier concerned that such cruel statements may undermine the credibility of National Party ministers and government transport policy?

(3) Is the Premier happy to have a National Party minister publicly copping the flak for a broken promise which is ultimately the Premier's responsibility as Treasurer?

Mr COURT replied:

(1)-(3) I am not aware of the descriptions that the member has referred to and I hope that project is completed.

MINISTER FOR TRANSPORT, DESCRIPTION BY MEMBER FOR WANNEROO

953. Ms MacTIERNAN to the Premier:

Does the Premier agree that his Minister for Transport is a boofhead?

The SPEAKER: I will rule the question out of order because the member is seeking an opinion.

LOCAL GOVERNMENT, BOYCOTT POLICIES

954. Mr MASTERS to the Minister for Local Government:

I am aware of and share the minister's previously expressed concern about local government councils adopting policies to boycott certain companies and products, particularly those associated with timber production. Will the minister advise what

action he might be contemplating to ensure such businesses are able to continue to employ Western Australians and to compete fairly for council works and tenders?

Mr OMODEI replied:

I thank the member for some notice of this question.

Although very few councils have adopted such a policy, it is interesting to note that in those which have, the councillors' commitment to the cause relates primarily to someone else's money; that is, the ratepayers. I wonder how many of those councillors have ensured that their superannuation funds do not invest in companies such as Wesfarmers. I am considering a number of options for councils adopting a boycott policy. In the first instance I am advised that such policies may not be lawful, but if this proves not to be so, amendments to the Local Government Act and regulations would put the issue beyond doubt. Significant changes were made at the recent council elections in the composition of some councils, which may be considering boycott policies. Therefore, I propose to await reviews that councils may undertake such policies before determining to pursue further action. I hope that councils will not disadvantage local companies or their ratepayers in their purchasing decisions.

GOVERNMENT CONTRACTS, PUBLIC INSPECTION

955. Mr RIPPER to the Premier:

I refer to the $3b which the Government spends on contracted out works and services.

(1) Why has the Premier broken the promise his Government made in this place in October 1996 to make all government contracts valued at more than $5 000 available for public inspection?

(2) Who made the decision to break this promise? When was the decision made?

(3) Is this broken promise further evidence of his Government's contempt for the recommendations of the Commission on Government?

Mr COURT replied:

(1)-(3) This Government has provided more information on contracts, consultants and travel than any other Government. The Deputy Leader of the Opposition gets all the information he asks for. I am very interested that he has asked a question on contracting out because he sits in this Chamber saying how strongly opposed he is to the trend to contract out more services. He has a new-found policy of being opposed to privatisation and the like. Yesterday, his Labor Government colleagues in New South Wales brought down a budget on the basis that it will contract out many more services to save more money. The Labor Party in Queensland wants to sell off the Totalisatory Agency Board. Labor Governments are moving towards contracting out.