WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE ASSEMBLY

Wednesday, 30 June 1999

Legislative Assembly

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

OLD-GROWTH TUART FOREST, LOTS PT 302 AND PT 303 SOUTH BUNBURY

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 900 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled,
>
> we the undersigned do hereby ask the Minister for Planning to prevent HOMESWEST and associated agents from clearing the old growth Tuart forest on Lots Pt 302 & Pt 303 of the South Bunbury Structure Plan (extension of Shearwater).
>
> 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 246.]

VACATION SWIMMING CLASSES

Petition

Mr Ripper (Deputy Leader of the Opposition) presented the following petition bearing the signatures of 947 persons -

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

[See petition No 247.]

SOUTHERN LINK ROAD, JARRAHDALE

Petition

Ms MacTiernan presented the following petition bearing the signatures of 100 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned wish to express our gravest concerns about the Southern Link Road proposed for the town of Jarrahdale and to the damage being done to this community and its future.
>
> We call upon the Government to take heed of these concerns and to ensure than an appropriate investigation occurs to reach the best outcome for all Western Australians.
>
> 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 250.]

Further similar petitions were presented by Ms MacTiernan (112 signatures, 63 signatures, and 57 signatures).

[See petitions Nos 248, 249 and 251.]

The SPEAKER: That is the record in this Parliament. I believe the former member for Mitchell on the last day of sitting, having cleaned out his office, produced 10 petitions.

NEW STANDING ORDERS, TRIAL

Statement by Leader of the House

MR BARNETT (Cottesloe - Leader of the House) [12.11 pm]: Members will recall that on 13 May this year, the Standing Orders and Procedure Committee presented a set of reports to this House on the modernisation of Legislative Assembly

standing orders. These reports represented the first complete rewriting and modernisation of our standing orders in over 100 years.

Ever since the Parliament established the Select Committee on Procedure in September 1994, there has been a constant desire to find acceptable ways to more efficiently and effectively use the time of this House. This has led to a number of procedural advancements over the past five years, including expanded budget Estimate Committees; legislation committees; brief ministerial statements; private members' statements; supplementary questions; right of reply by members of the public; and changes to sitting hours. In each case, the procedural change was gradually introduced in this House with the successful use of sessional orders and trials to allow members to properly evaluate each innovation. In the same spirit of advancement, I advise members that it is my intention, following Cabinet approval, to trial the majority of the proposed new standing orders during the second half of this year. It is envisaged that a motion to adopt the standing orders as a trial will be moved and debated in the second sitting week of August, following the official opening of the next session of Parliament.

No doubt the trial will expose some areas within the new standing orders which require further attention and consideration. However, it is hoped that, as with other procedural changes in this House, members will be given the opportunity to experience the modifications in operation and evaluate their success. I look forward to the trial later this year.

DISTRIBUTION ADJUSTMENT ASSISTANCE SCHEME, FINALISATION

Statement by Minister for Primary Industry

MR HOUSE (Stirling - Minister for Primary Industry) [12.13 pm]: The previous Labor Government engaged in progressive deregulation of the milk distribution sector. This included reducing the number of licensed districts from 226 to 90 and the introduction of scheme A of the Distribution Adjustment Assistance Scheme on 1 January 1993. Full deregulation was to be implemented by that Government from 1 July 1993. When the coalition Government came to office in February 1993, a review was requested of me due to the inequitable and unfair nature of that deregulation proposal. In consultation with the Milk Vendors Association of Western Australia and others who were affected, I asked Mr Eric Kelly, a former Industrial Relations Commissioner, to examine the whole issue of deregulation of the distribution sector. Mr Kelly's subsequent report to me was that full deregulation should occur, but that its commencement should be delayed.

The Dairy Industry Amendment Bill 1994 was enacted on 2 February 1995, at which time there were 255 distributors. After further consultation and the ensuing parliamentary debate, I took steps to accommodate a more reasonable position on matters associated with the adjustment of milk distribution businesses than that of the former Labor Government. This included:

increasing the original $1m the total funds available through DAAS to $7m;

increasing the level of payment from $35 per litre to $50 per litre;

increasing the maximum payment to a business from $50 000 to $150 000;

appointing an independent arbiter, Mr John Negus;

negotiating with milk companies to extend vendor contracts from one to three years.

DAAS schemes B and C were introduced on 3 February 1995 and from these more than $3.1m was originally paid to 48 businesses. Further, I have studied reports Nos 3, 6 and 10 of the Legislative Council and requested the independent arbiter to act on their recommendations. As a result, at 31 May 1999 a further $1.2m had been paid to 32 milk distributors, bringing the total DAAS payments to over $5.4m.

From the original 255 milk distributors, seven claim they have not received adequate recompense. For these seven distributors, the document I intend to table clearly shows -

the licensed white milk component of their businesses averaged over 80 per cent;

the wholesale trade component was mostly 100 per cent;

more than $875 000 in total payments has already been provided;

an offer of a further $609 000 has been made.

To end the uncertainty and speculation associated with the DAAS, I now intend to finalise adjustment payment opportunities. The Dairy Industry Authority will today provide individual offers to the remaining milk distributors who have already received a payment via DAAS schemes B and C. This is a final government financial assistance offer which will require acceptance by Wednesday, 28 July 1999. On this date, DAAS will cease. The authority board will endorse offers and acceptances on Wednesday, 4 August 1999 and cheques will be forwarded on Thursday, 5 August 1999. By all accounts, both the process and the financial provisions have been fair and reasonable. The principles of the adjustment process have been maintained and the reports of the Standing Committee on Public Administration have been complied with. I now table a chronology of events and an information schedule, totalling eight pages.

[See paper No 1077.]

STATE SUPPLY COMMISSION ACT 1991, REVIEW

Statement by Minister for Services

MR BOARD (Murdoch - Minister for Services) [12.17 pm]: I inform the House of the review of the State Supply

Commission Act 1991. Section 36 of the Act obliges the Minister for Services to conduct a review of the operation and effectiveness of the supply Act. In the course of that review, the Act requires me to -

consider and have regard to the effectiveness of the operations of the State Supply Commission;

the need for the continuation of its functions; and

any other matters which appear to be relevant.

In October 1997, a review group led by the Crown Solicitor was established to undertake the review of the Act. Following extensive consultation with both public and private sector agencies, the review group recently completed this process. The review confirms that the government contracting environment has changed substantially in recent times and this has necessitated changes to the way government undertakes the contracting function, including structural and process changes, and the clarification of roles.

The State Supply Commission has undergone a significant transformation over the past 18 months - the agency is now focused more on high-level policy development. This change of focus culminated in the release of the new "Supply Policy Manual and Guidelines" which I presented to Parliament earlier this year. This document has been extremely well received by both the public and private sectors and is proving a valuable tool in ensuring that government contracting is conducted in an efficient and transparent manner.

Notwithstanding that, the Crown Solicitor's review highlights a number of areas in which the processes and systems could be improved. The report highlights the difficulties arising from the Act in terms of its application, interpretation and interrelationship with other legislation such as the Public Works Act. Confusion is created by the fact that only some parts of government contracting are covered by the State Supply Commission Act and there is a need for legislative changes to address this. The Crown Solicitor's recommendations are strong and set a new direction for the development and delivery of supply policy and the mechanisms for ensuring compliance. While acknowledging the review, it is my intention to now undertake further consultation with the relevant government agencies, suppliers and other groups involved in government buying. I am in the process of establishing a ministerial consultative committee which will be chaired by the member for Geraldton. Over the next few months, it will consult with all of the major interested parties, including the community, to obtain input on the review findings and recommendations. Once this consultative process has been completed, I expect to report back to the House on exactly what measures the Government will adopt to further improve the effectiveness of the contracting regime. I table the Crown Solicitor's report of the review of the State Supply Commission Act 1991. I move -

That the report be printed.

Question put and passed.

[See paper No 1087.]

BILLS - ASSENT

Messages from the Lieutenant Governor received and read notifying assent to the following Bills -

1. Port Authorities Bill.
2. Revenue Laws Amendment (Assessment) Bill 1999.
3. Revenue Laws Amendment (Taxation) Bill 1999.
4. Acts Amendment and Repeal (Financial Sector Reform) Bill 1999.

BILLS - INTRODUCTION AND FIRST READING

1. Gas Corporation (Business Disposal) Bill 1999.

   Bill introduced, on motion by Mr Barnett (Minister for Energy), and read a first time.

2. Midland Redevelopment Bill 1999.

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

3. Rights in Water and Irrigation Amendment Bill 1999.

   Bill introduced, on motion by Dr Hames (Minister for Water Resources), and read a first time.

FEDERAL COURTS (STATE JURISDICTION) BILL 1999

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [12.24 pm]: I move -

That the Bill be now read a second time.

On 17 June 1999 the High Court held that State Parliaments were not able to confer state jurisdiction on federal courts - the Federal Court of Australia and the Family Court of Australia - and that the Commonwealth Parliament was not able to consent to the conferral of state jurisdiction on federal courts. This Bill is designed to deal with the situation created by the High Court's decision which has had the effect of rendering invalid judgments and orders of federal courts made in the

exercise of state jurisdiction and proceedings pending in federal courts where the court was being called on to exercise state jurisdiction under cross-vesting schemes.

In 1987 the Commonwealth and the States and Territories enacted complementary legislation in the form of the Jurisdiction of Courts (Cross-vesting) Act 1987 under which the Commonwealth vested federal jurisdiction in State and Territory Supreme Courts and the Family Court of Western Australia and the States and Territories vested state jurisdiction in federal courts. That legislation was enacted to overcome costly and arid jurisdictional disputes and operated satisfactorily right up until the High Court's decision.

The High Court's decision has implications not only for the general cross-vesting scheme but also for the specific cross-vesting schemes introduced subsequently in relation to the Corporations Law and the competition policy reform legislation and also for certain applied law schemes where laws of another jurisdiction are applied as state law and under which state jurisdiction has been conferred on the Federal Court.

The cross-vesting schemes were first challenged in the High Court in Gould v Brown, which was decided on 2 February 1998. In that case the court upheld the validity of the schemes by a statutory majority 3:3. In early December 1999 a differently constituted High Court heard a further four challenges to the schemes in Re Wakim; Ex parte McNally & anor, Re Wakim; Ex parte Darvall, Re Brown; Ex parte Amann, and Spinks v Prentice, and this resulted in the court ruling, by a 6:1 majority, that the cross-vesting schemes, insofar as they conferred state jurisdiction on federal courts, were invalid, essentially on the ground that the conferral of such jurisdiction was not permitted by chapter III of the Commonwealth Constitution. The Commonwealth and all of the States and Territories had intervened on the hearing of these cases before the High Court to support the cross-vesting schemes but ultimately to no avail.

In anticipation of an unfavourable decision, the Standing Committees of Attorneys General arranged for legislation to be prepared which when enacted would preserve the validity of judgments and orders of federal courts made in the exercise of cross-vested state jurisdiction and would enable proceedings pending in federal courts to be transferred to the Supreme Courts. A model Bill has been prepared by Victorian parliamentary counsel in collaboration with other state parliamentary counsel and the Special Committee of Solicitors General. The Bill before the House is based on that model Bill. The objects of the Bill are -

(a) to provide that ineffective judgments of federal courts made in the purported exercise of state jurisdiction are taken to be judgments of the Supreme Court or the Family Court of Western Australia, as the case requires;

(b) to provide for the transfer of current proceedings before a federal court in relation to state matters to the Supreme Court or the Family Court of Western Australia, as the case requires; and

(c) to enable state courts to deal with matters that arise under applied law schemes which would otherwise have been dealt with by a federal court.

The Bill provides that ineffective judgments of federal courts will have the same effect as if they had been given by the Supreme Court, in the case of the Federal Court, and the Family Court of Western Australia, in the case of the Family Court of Australia. This will enable such judgments to be enforced in the same way as judgments of the Supreme Court or the Family Court of Western Australia, as the case may be. This aspect of the Bill is in similar terms to the Family Court (Orders of Registrars) Act 1997 passed by the Western Australian Parliament to address the decision of the Full Court of the Family Court of Australia in Horne v Horne which declared that certain orders made by the Registrars of the Family Court of Western Australia were invalid. This legislation was in turn based on the legislation approved by the High Court in R v Humby; Ex parte Rooney (1973) 129 CLR 231. The Bill also provides for proceedings pending in federal courts which are affected by the High Court's decision to be transferred to the Supreme Court or the Family Court of Western Australia, as the case requires, and to be treated as if the proceedings had been commenced in that court.

All States will be introducing legislation based on the model Bill at the earliest available opportunity. The Western Australian Bill differs from the Bills which are to be introduced in the other States in one important respect and that is to take account of the fact that Western Australia has its own Family Court. In that regard, it should be noted that the problems that will befall the Family Court of Australia as a result of the High Court's decision will not exist in Western Australia because we have our own Family Court which is capable of exercising both state and federal jurisdiction. For that we can thank Hon Ian Medcalf QC, who, when Attorney General, foresaw the kinds of problems which are now confronting us and made the decision that Western Australia should establish its own Family Court.

I table the clause notes for the information of members, and I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

AUSTRALIA ACTS (REQUEST) BILL 1999

Second Reading

Resumed from 16 June.

DR GALLOP (Victoria Park - Leader of the Opposition) [12.30 pm]: This Bill does no more than facilitate an orderly process should Australia vote to establish a republican constitution in November. The background is provided by the federal nature of our system of Government. The referendum in November will vote on whether the Commonwealth becomes a republic. The States will then have to decide whether to follow on. This brings into play section 7 of the Australia Acts.

This section states that Her Majesty's representative in each State shall be a Governor. The States are bound by the Australia Acts. It follows that section 7 must be amended if Australia becomes a republic to ensure that the States can sever their links with the Crown should they choose to do so. This Bill requests the Commonwealth Parliament to enact a Bill in a form set out in the schedule to amend section 7, but it will not come into force unless the republican referendum is passed and receives royal assent. The Bill reaffirms the federal nature of our system by having commonwealth legislation passed at the request of all state Parliaments. It will still mean that each State will follow its own constitutional processes in determining whether to sever ties with the Crown. Each State will still be able not only to follow its own constitutional processes, but also to establish its own version of a republic. We support the content of the legislation. It facilitates a process should Australia vote yes to becoming a republic in the November referendum.

The fact that we are debating the Bill gives me an opportunity to say a few words about the republic referendum. On 6 November, Australia will vote on whether to amend the constitution and replace the Queen with an Australian president. The president will be appointed on a two-thirds vote of the Commonwealth Parliament following a process of nomination and committee consideration. Of course, that model emerged from the Constitutional Convention held last year. The most important feature of what is being proposed is that Australia will have an Australian citizen as head of state. Currently, the Queen of England is the sovereign of Australia and the source of all constitutional and democratic authority within our system of government. She is the head of state who, acting on the advice of the Prime Minister, appoints a Governor General as her representative in Australia.

There are two features of this system of government that are of concern: First, it is a hereditary system with the monarch holding office purely as a birth right. The office of head of state should be chosen on merit with all Australians being able to aspire to that position. It is interesting to look at the definition of a republic. The essential feature of a republic is that the supreme power lies in the body of citizens entitled to vote and is exercised by representatives chosen directly or indirectly by them. In other words, the representative principle operates - the democratic principle operates - as opposed to the hereditary principle. Secondly, the monarch derives from, resides in, and is essentially part of the constitutional machinery of another country, the United Kingdom. The current Queen is admired and respected in Australia; however, she is not an Australian. This also means that she is seen around the world as a British head of state representing and embodying the traditions, values and interests of that nation. Australia has evolved as a nation defined by unique geography and a unique history. It follows that we should have our own head of state embodying and representing our own traditions, our own values, and our own interests. That person should be full time on the job at home and abroad working for Australia.

The problem we now have is that the British monarch, who was once seen as a symbol of unity in Australia, is no longer capable of playing that role. This is the first and foremost question we should answer in November: Will we have an Australian as our head of state? No matter how hard the monarchists in this country try to divert the debate from that question, that is what the debate is essentially about. Any attempt on their part to divert the debate into other areas will not work. We already hear their argument that the Governor General is really our head of state. The last thing that the monarchists want to debate is the relevance of the British monarch to twenty-first century Australian society because as soon as they start debating that question, they know they are on losing ground. Therefore, they are trying to debate every other subject under the sun rather than the issue that is before the Australian people in the referendum; that is, should we have an Australian citizen as our head of state. The truth is that the Governor General is the Queen's representative in Australia. I will quote from Sir Anthony Mason, the former Chief Justice, who spoke on ABC television on 27 October 1997. The interviewer, Liz Jackson, asked this question -

> Interviewer: Many monarchists say that we do already have an Australian Head of State, Sir William Deane. He is our Head of State. He is Australian.
>
> Sir Anthony: Well, those people haven't read Section 2 of the Constitution where the Governor-General is clearly described as Her Majesty's representative in Australia. It is nonsense to say that Sir William Deane is the Australian Head of State - much as I would like him to be our Australian Head of State - he just isn't our Head of State.
>
> Interviewer: What about the view that we have two Heads of State. One the Queen and one Australian, Sir William Deane.
>
> Sir Anthony: That's equal nonsense, arrant nonsense.

It is clear that under our current constitution, the British monarch, the Queen, acting as the Australian head of state, is our head of state. That offends the principle that we should have an Australian citizen as our head of state, and also offends our democratic and republican philosophy, which is that the hereditary principle is out of place in the modern world and merit should determine who occupies positions of government in Australia.

The other debate of course is about the form that the republic should take. The fact is that an Australian republic could take different forms and we could appoint or elect a president in different ways. This was recognised by the Australian Labor Party when it debated the matter at its national conference last year. Labor dedicated itself to working for a republic, but said that the form the republic was to take should come from community debate and discussion.

Of course, at the Labor Party conference we affirmed that three basic models were taking shape for the Australian republic. The first form was that being recommended by the Australian republican movement which was to have Parliament select the head of state. The second was the so-called McGarvie option, which was to have the Prime Minister recommend a head of state and the position to be ratified by a new council of senior judicial figures to be appointed. The third model was that the president be elected by the people.

The Labor Party said that the question of whether we should be a republic was the most important issue. Its precise form could vary according to community debate and discussion. This takes us to the Constitutional Convention of February 1998 which was created to facilitate such a debate. I note that at the national level the Australian Labor Party expressed some concern in the national Parliament about the way the Constitutional Convention was created. However, in the spirit with which that convention was proposed, we entered into and supported its work. It was established to facilitate a debate about whether we should be a republic and what form it should take. One hundred and fifty-two delegates went to the convention. Fifty per cent were appointed, including 40 representatives from the commonwealth, state and territory Parliaments. Fifty per cent of the delegates were directly elected. We would have to say that the convention that was created in 1998 compared favourably to the Constitutional Conventions of the 1890s because there was much more diversity of background represented. Representation came from a significant number of women, indigenous Australians and Australians from non-English speaking backgrounds. There were different points of view and the convention facilitated what became an important and significant community-based debate on how our future should be determined.

Mr Barnett: Do you share my observation of that convention that many of the delegates were running around playing at being politicians in the corridors and as a result lost the plot about what was the main debate in the Chamber? At one stage some of the so-called broker deals did not stand up on the floor.

Dr GALLOP: I do not agree with that.

Mr Barnett: It was a good convention but people lost track. The main debate was among the convention delegates in the old House of Representatives.

Dr GALLOP: Inevitably some dialogue had to occur outside the Chamber to give structure to the debate inside. I would not regard that as a criticism of the Constitutional Convention because, as in all things, we must give structure to debates.

Mr Barnett: At one stage I think it got out of hand.

Dr GALLOP: The convention overwhelmingly supported the proposition that Australia should, in principle, become a republic. The vote on that in-principle question was 89 yes, 52 no, and 11 abstentions. The convention then voted on three proposals for a republic which, interestingly, were the three proposals mentioned in the Labor Party platform as being the most prominently discussed in the community: The direct-election proposal, the parliamentary-election proposal and the appointment by a special council following prime ministerial nomination, the so-called McGarvie model.

Members of this Chamber will be aware that I moved the direct election model that would have seen Parliament nominate candidates on a basis of a two-thirds majority, who would then be voted on by the people. My view is that we could develop an Australian version of the Irish model in which direct election is added to the system of responsible parliamentary government. The history of constitutional development in Ireland is interesting. It set out wanting to preserve its parliamentary system in which the Prime Minister is ultimately responsible to the Parliament and, for all intents and purposes, is the main player in the political system. The Irish people also felt that a directly elected head of state was the best way to have a republican form of government grafted onto its parliamentary system. They proposed a specific system in which the president would be elected following a process of nomination by the Parliament in which candidates could put themselves before the people.

Mr Bloffwitch: Can they nominate one or a number of people?

Dr GALLOP: They can nominate more than one. On some occasions only one has been nominated. Local government also has the ability to play a part in the nomination even though this has rarely been done in its system. The Irish system allows Parliament to nominate and the people to vote. The President in the Irish system has specific powers under its Constitution, but certainly not powers that over-ride the parliamentary system.

Mr Osborne: If there is only one nomination, is there an election?

Dr GALLOP: No; I think that person becomes the president. That has occurred on many occasions in Ireland's history. We could work on some version of that for Australia. I put forward my own version of that in cooperation with some other delegates at the Constitutional Convention. The fact is that proposal was not supported at the convention by a sufficient number of delegates. As it turned out neither that model nor the McGarvie model was supported. However, the so-called "bipartisan appointment" model gained 73 votes in preference to there being no change. It was then agreed that the bipartisan appointment model should be put to the people at a referendum.

The model being put to the people at a referendum should be supported. There will always be differences of opinion on what form a republic should take. I find that neither strange nor surprising. Just as we have debate in Western Australia over whether we should have two Houses of Parliament and what their powers should be there will always be debate over what are the role and powers of the president in a republic and how that president should be appointed or elected. That does not surprise me. After all, there are many differences over how we should organise our parliamentary system in terms of the relations between the Executive and the two Houses and how the Parliament itself should be elected.

Mr Barnett: Do you agree that the Irish President has a far greater public profile and recognition and is far more outspoken on policy issues than is typical of an Australian Governor-General?

Dr GALLOP: Under the Irish Constitution there is a specific protocol on how the Irish President can speak out on public issues. The Irish President is not an executive presidency. The President is meant to be a representative and a symbol of Irish unity and the person speaks for the nation.

Mr Barnett: But he is very much a public figure.

Dr GALLOP: It is a model that has developed and I believe it would fit well in our system. The bottom line, however, is that it was not supported by the convention.

Mr Barnett: Mary Robinson had a worldwide reputation.

Mr Osborne: Can your system evolve from the ARM model?

Dr GALLOP: Interestingly it could, because the system I would recommend is that the Parliament nominates candidates on the basis of a two-thirds majority and the people have the final say on who the president should be. I am sure that our republic will evolve just as our parliamentary and electoral systems have evolved. Indeed, the republic may evolve differently in each of the States. To advocate a no vote on the basis that one's preferred model is not on the agenda will open up the prospect that no change will ever come, which is what the monarchists want.

A no vote is a vote for no change. It also means that the opportunity for different States to try out models just as they have done with their parliamentary and electoral systems would not be possible. I would hate to see all the work that has been done thus far on how we might move to a republic dissipated on the altar of cynicism and pessimism. I would also hate to see all of the opportunities that would be opened up if we were to go to a republic, particularly at the state level, denied our people. This is all about Australia, both at the commonwealth and state levels, taking control of its destiny and building into its institutions the requirement that an Australian citizen become head of state. For people to say that this cannot be done or that it can only be done in one way is to place an unnecessary straitjacket on our aspirations and a debilitating limitation on our vision. If we cannot trust ourselves with our future, just who can we trust? Let us move beyond the fear and uncertainty and do something positive for ourselves, our children and our grandchildren and vote yes for an Australian citizen to be our head of state.

MR BARNETT (Cottesloe - Leader of the House) [12.51 pm]: I will make a couple of brief observations on the republic issue. I have supported the notion of a republic for the past three or four years and have been willing to do so publicly. There is a unique point in our history with the coincidence of the centenary of federation, the end of the century - the end of the millennium - and indeed the Sydney Olympics which are all factors that mean Australians will think very much about Australia and its future. As the Leader of the Opposition said in his speech, it is not a matter of saying there has been anything wrong with our system in the past, but it is now time for Australia to be confident and step forward with its own Australian head of state.

In my Resources Development portfolio, I travel extensively through Asia and it is true there is a view that Australia does not fully accept its responsibility as a fully developed, first world nation. Members may or may not be aware that Australia's economy is ranked about the fifteenth in the world. It is inappropriate that a country of such importance and sophistication, particularly in the Asian region, does not have its own Australian head of state to take us into the next century. It is not a matter of criticising or rejecting what has gone before; it is just accepting that, in the 100 years since federation, Australia has matured and logically should take this next and final step, even though to many it may be simply a symbolic change; it is nevertheless an important symbolic change. Therefore, I thank members for their comments on this legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

RAIL FREIGHT SYSTEM BILL 1999

Committee

Resumed from 29 June. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

Progress was reported after clause 49 had been agreed to.

Clauses 50 to 52 put and passed.

Clause 53: General procedure for entering property -

Ms MacTIERNAN: Clause 53 seems to impose severe limitations on persons entering rail property. When one looks at the next set of clauses as a whole, it is clear the types of penalties being imposed are excessive. Clause 53 indicates that, other than in an emergency, the Rail Corridor Minister cannot enter premises that are on railway land unless consent has been obtained or if notice has been given under clause 54. Under clause 54 at least 24 hours notice must be given before entry can be effected. I am concerned that this clause may restrict a minister and government agencies whom the minister directs, for example, from entering a property to conduct the type of random inspections on equipment that are provided for under the rail safety legislation. It seems excessive that a minister or his delegates cannot enter those premises, which we must bear in mind are on railway land that we are retaining in the ownership of the public, until 24 hours notice has been given. Can the minister explain the way in which this will impact, for example, on random inspections of drivers? The Rail Safety Act provides for random checking of drivers for blood alcohol levels. How would this impact on equipment inspections? If an officer believes that the premises are being operated in an unsafe fashion and he is required to wait 24 hours and give notice of why he wants to come onto the premises, any capacity to do random checks is effectively removed. Why have we made it so onerous for the minister or his delegates - that is, the representatives of the people of this State - to retain a reasonable level of inspection over land that will not be handed over in ownership to the private operator but simply leased?

Mr COWAN: I am glad the member has qualified the fact that we are talking about non-emergency situations. I refer her to clause 9, with which we have already dealt. She referred to rail safety. If anything in the regulations made under this legislation is inconsistent with the Rail Safety Act or the Government Railways (Access) Act, they do not apply. In that instance, rail safety is regarded as very important. Any provision of the legislation that prevents safety procedures being carried out would not apply. I am sure there would be some requirement for verification that those safety procedures were being carried out. This provision would also not apply in an emergency situation. In that sense, all the areas about which the member has expressed concern are covered by the qualifications in this clause or in clause 9.

Ms MacTIERNAN: The Deputy Premier confirmed that this provision would not require occupational health and safety inspectors operating under the Occupational Safety and Health Act to give 24 hours' notice.

Mr Cowan: Whatever requirements must be met under the Rail Safety Act can be applied here.

Ms MacTIERNAN: I am not referring to that Act; I am referring to other legislation.

Mr Cowan: I do not know what reference the Rail Safety Act makes to occupational health and safety issues.

Ms MacTIERNAN: What about the Department of Productivity and Labour Relations?

Mr Cowan: I cannot see any reason that it could not give 24 hours' notice of entry. There would be nothing so urgent that it would require anything other than a mechanism involving giving notice.

Ms MacTIERNAN: That is not necessarily true. One might want to do a random inspection of the books.

Mr Cowan: It is hardly likely that the books would be held on the rail corridor.

Ms MacTIERNAN: It is likely that they would be housed in premises such as the Westrail building, which could become part of the operation. A number of legislative Acts, such as the Industrial Relations Act and Occupational Safety and Health Act, entitle government inspectors to enter onto a range of private premises without the 24 hours' notice or warrants that are required in this provision. What is the impact of this provision on those other legislative schemes? The Deputy Premier has answered that satisfactorily in respect of the Rail Safety Act, because that is expressly provided for in clause 9. I am referring to the other government instrumentalities that will continue to play a role, such as the Department of Occupational Health, Safety and Welfare and DOPLAR. What powers will they have and to what extent will they be curtailed or subjected to these provisions?

Mr COWAN: If the member looks very closely at this provision, she will see that it does not relate to corridor land; it relates to any land. It is effectively seeking to afford some protection to the operator to ensure some capacity for it to perform its task. In addition, it requires the usual procedure and reinforces it in that if someone wants to enter private property, he must have consent or give notice. That is a far better provision than is usually found in legislation. I am sure the member would object to that very strongly as some invasion of the rights of the landowner. In this case, we are respecting those rights and requiring the Rail Corridor Minister either to seek the consent of the owner or occupier of the land and/or to give notice of entry. In that sense, it is an improvement on the usual provision, whereby someone enters and claims that he has the right to enter without notice.

Ms MacTIERNAN: Interestingly, the Deputy Premier's comments contradict his previous comments to some extent.

Mr Cowan: I am sure they do. All your comments contradict your previous comments and I must answer them. Therefore, there is likely to be a continuity of the contradictions.

Ms MacTIERNAN: It does not necessarily follow. In this instance, the Deputy Premier has no justification for saying that. By and large, we have been following a very consistent line in this debate. It is the Government, with its pretence of supporting competition by putting in anticompetitive provisions, that is guilty of an extraordinary degree of contradiction. I asked questions earlier about the right of access for inspectors of the Department of Productivity and Labour Relations to examine books, for example. The response of the Deputy Premier was that they would hardly be on rail corridor land. He has now correctly pointed out that this provision does not apply to rail corridor land, and that makes the provision much more surprising, because one wonders why the Government would dream up a provision like this. Why not have the same thing in every Act in which a minister is involved? It might make some sense if the provision related only to rail corridor land, and the Government was trying to curtail the rights of the minister - not that the Opposition would necessarily agree that those rights should be curtailed to that severe extent, but it could at least understand the logic behind it. This is a much broader provision, as the Deputy Premier has so rightly drawn to my attention. This ranges over any land or premises and not only that which might be handed over to the private operator. If we want consistency in the drafting of legislation, every piece of legislation that mentions a minister or establishes a body corporate by way of minister will have to include a provision that restricts the minister. For example, the Attorney General would be restricted from entering any lands.

Mr Cowan: No, because it is confined to the Rail Corridor Minister.

Ms MacTIERNAN: I know that. Why include that provision in this Bill, given that it is not confined to rail corridor land, which we might understand because it is land that will be leased and the Government wants to ensure that as part of that lease the minister cannot interfere with the quiet enjoyment of the private operator? The Deputy Premier is not saying that. He is saying that the Rail Corridor Minister - obviously the Deputy Premier is anticipating a National Party person - will range far and wide and will zip uninvited onto land here, there and everywhere, and must be curtailed. The Rail Corridor Minister is being told that he cannot go onto any land or premises anywhere unless he has the consent of the owner or has given notice under a provision of this Bill. Given how wide it is - it is not referring only to rail corridor land - and if it made sense, the

Government would have to do this in every piece of legislation which sets up a ministry. The Government would have to put in a similar provision restraining the Attorney General from straying onto private property.

My point is that if it is necessary to constrain the Rail Corridor Minister, why are no other ministers constrained in the same way? The legislation specifies that the Rail Corridor Minister cannot enter onto any land in Western Australia without getting the permission of the owner. Why is this minister being singled out for that sort of attention?

Mr COWAN: I do not want to antagonise the member for Armadale, and if she wants to have another crack at going round in circles, she can. I would have thought the Opposition would welcome this provision rather than ask questions about why we would give any minister - in this case the Rail Corridor Minister - the right to enter property in an unfettered way. I thought it appropriate that we make it clear that the Rail Corridor Minister must go through a certain procedure to enter property. One would assume it would be property that is closely aligned or associated with the rail corridor.

Ms MacTiernan: It does not say that.

Mr COWAN: A property can be entered in an emergency to deal with that emergency. The aftermath of the emergency might be that considerable maintenance is required on a line or considerable work needs to be done to replace ballast, sleepers or rail and the shortest access might be through somebody's property. In an emergency the workers would enter the property and go straight to the track and deal with that emergency. The aftermath of the emergency might be that repairs and maintenance are required, and they would be required to go to the landowner to request access to that section of track and offer either 24 hours' notice or obtain the consent of the owner. That is entirely appropriate. I cannot see that this needs to be debated any further.

Ms MacTIERNAN: The point I am making is that this provision is not in other legislation, and the way it is drawn is curious.

Mr Cowan: We have one of two choices: The first is to deal with consent provisions, the other is the right of entry without having to go through the normal processes. It is one or the other, so it is quite normal.

Ms MacTIERNAN: That is related only to the area of operation of the Bill.

Mr Cowan: That is not the case, and the member knows there are rights of entry onto private property that have no bearing on a particular industry; for example, the rights of entry of officers of Fisheries WA or Agriculture Western Australia.

Ms MacTIERNAN: Yes; but they are rights of entry that relate to them in the discharge of their duties. The way this has been drawn up would prevent Hon Murray Criddle from doorknocking at election time. The provision says, without reference to rail land, that the minister is not entitled to go onto property unless he has the consent of the owner or the occupier has been given 24 hours' notice.

Mr Cowan: He will write the member a letter of thanks. The last thing he wants to do is go doorknocking. He will be grateful to learn that the member has identified an escape clause.

Ms MacTIERNAN: This has been drawn up so broadly. Maybe we have a conspiracy and the Minister for Transport is smarter than we thought and he has instructed this to be put into place to avoid doorknocking! I do not understand the logic of the parliamentary draftsperson in drawing up this clause in such an insanely wide way. Like anyone, ministers are not generally entitled to go onto people's properties without their permission as a matter of common law. This provision goes far wider than just preventing the minister for rail corridors from entering into rail property. We might have understood that, although we might have concerns about that restriction. There is no point going on with it. The Deputy Premier has been unable to explain why it has been necessary to curtail the minister for rail corridors in areas which have nothing to do with the administration of his or her portfolio. It is a curious provision and one that, no doubt, will be back here one day being amended because of its absurdly broad operation.

Clause put and passed.

Clauses 54 to 62 put and passed.

Clause 63: Section 3 amended -

Ms MacTIERNAN: This is the provision which amends the Government Railways (Access) Act by deleting "the Commission" and inserting in its stead the words "a railway owner". This provision would allow the rail access legislation to apply to a private operator, should the Government be unable to sell the operation. We have had numerous debates on whether a private operator can be properly constrained by the rail access regime, and we have been unable to convince the Government, or get the Deputy Premier to understand, that this is a very live issue. Since we last debated this matter, I have come across yet another document which must be taken very seriously by the Government. I am surprised that the Government is proceeding in the light of these findings.

I refer to the Smorgon report on revitalising rail, which was commissioned by the Commonwealth Government. It was released by a task force set up by the coalition Commonwealth Government, and I will read some parts of this report. It supports what the Opposition has been saying in the debate over the past couple of weeks. I would certainly be interested to know whether the Deputy Premier is familiar with the Smorgon report, which is the most recent report on the Australian rail system. It states -

> A significant concern is the integrity of the national track as a business unit. As noted above, the ARTC has limited control over the national track in NSW, Queensland and Western Australia. This was recognised by the Neville Committee that recommended:

> . . . that the Australian Rail Track Corporation secures control and management of the national track, including those sections of the interstate network currently controlled by State authorities.

It goes on to say -

> In addition, recent developments associated with the sale of Westrail and the Darwin to Alice Springs rail project may further reduce ARTC control over the national track.

It comments on the Darwin to Alice Springs track and goes on to say -

> Similarly, the Western Australian Government is considering selling Westrail as a vertically integrated railway, including part of the national track from Kalgoorlie to Perth.
>
> The Taskforce considers that Governments should ensure that the ARTC gains 3/4 and retains 3/4 control over the agreed national track.
>
> Arrangements where the ARTC merely acts as a shop-front intermediary between rail operators seeking access and track owners that may have a vested interest in competing rail services seems a very much 2nd best option and may undermine the effectiveness of the ARTC concept.
>
> In the event of State governments selling non-national track there could be advantages in considering beforehand whether it should be incorporated into the national track.

That is the very point we were making in relation to the Kwinana-Kalgoorlie track and the Leonora-Esperance track; that is, the Government should consider putting the Leonora-Esperance track into the national grid and, as has been suggested in this report, it should certainly not consider further fragmenting the national rail system. One can see that that is against not only the national interest, but also the Western Australian interest. I make reference to the recommendations that have been made by this committee.

Ms ANWYL: I would like to hear more from the member for Armadale.

Ms MacTIERNAN: Recommendation 17 of this report is -

> To maintain a genuine national network consisting initially of the track joining the mainland State capital cities and their ports, with connecting lines to Whyalla, Port Kembla, Newcastle, Alice Springs, Westernport and Kwinana:
>
> > the New South Wales, Queensland and Western Australian Governments immediately transfer control of their components of the national track to ARTC.

The second and relevant part is -

> the Western Australian Government should not transfer control of the Kalgoorlie-Perth component of the national track to a successful bidder for Westrail.

That is a very clear statement from the coalition-appointed committee which is overseeing what is in the best interests of the revitalisation of rail and the best interests of this country. The report contains clear and unequivocal statements that we should not go down the path of including the national rail network with the sale of Westrail. It is entirely inappropriate to hand to a private operator a portion of that national grid. I would be interested to know if the Deputy Premier has read the report, and why that report has been disregarded in its entirety by the Government. I note that in *The Australian Financial Review* the other day, the Deputy Premier is reported as saying that the sale method on the privatisation of Westrail would encourage the investment required on the track that the Government could not provide. The quote of the Deputy Premier continues -

> "I have not seen, and neither have the people who have had time to investigate this, any example of a vertically separated rail system providing increased competition as a result of the separation," . . .

I find that pretty surprising because we referred previously to a report which I am happy to provide to the Deputy Premier if his task force has not seen it. It is a report on the Rail Access Corporation by its chairman. This outfit was created as a result of the vertical separation of the lines in New South Wales. It states -

> Since RAC's establishment most freight has been subject to competition between operators. In essence, in bulk rail transport, it has now become the norm to call tenders. This has so far seen freight rates fall by over 20% in real terms across all goods between 1995/96 and 1998/99.

In the space of three years they have seen a 20 per cent term in real terms. The report continues -

> In the central Hunter Valley, for example, FreightCorp has reported that coal producers paid 25% less in average rail freight rates in 1997/98 compared to two years before which amounts to savings in excess of $70m in freight rates.
>
> Under RAC's management of the NSW rail infrastructure there have been several new entrants on the network. These include new freight operators such as Austrac, Specialised Container Transport (SCT), Northern Rivers Railroad and GrainCorp. RAC is currently negotiating with other new entrants such as Toll Rail. The National Rail Corporation recently won the Macquarie coal contract in the Hunter, and FreightCorp has entered the interstate market.

The Deputy Premier said had not seen a single example of vertical separation which had resulted in increased competition and the benefits which flow that. These figures stand in direct refutation of the point the Deputy Premier is making. Here is a vertical integration which has seen a plethora of new entrants into the field, which has seen it become standard practice for people needing freight hauled by rail to put that haulage out to tender. The result has been savings of 20 to 25 per cent in real terms over three years.

Mr COWAN: I will be delighted when the member refers to some of the provisions in clause 63 rather than move to general debate on issues which have already been canvassed in the second reading. However, I will answer some of the issues she raised. I assume Mr Chairman will give me licence to do that even though it does not relate to this clause. The member for Armadale has forgotten that 70 per cent of the traffic on the east-west line is intrastate - only 30 per cent of the traffic is interstate. If we followed the recommendation the member has espoused, and offered the Australian Rail Track Corporation - and the member seems to be a strong advocate of that - 70 per cent of the traffic, being intrastate, it would require the body undertaking the transport for interstate traffic to negotiate with two parties, one of them being the ARTC.

Ms MacTiernan: Why would they have to do two bodies?

Mr COWAN: It is intrastate traffic and the ARTC deals only with interstate operations.

Ms MacTiernan: Not if it was the track manager for that line it wouldn't.

Mr COWAN: Access must be negotiated to those lines. The member for Armadale used Leonora as an example. It seems to be a favourite town of hers. Leonora-Kalgoorlie would be a state-based operation but Kalgoorlie-Kwinana would be an interstate operation. We would have to negotiate access for two parties. It is not difficult to undertake that level of access but it is not warranted, especially when we are talking about an imbalance of 70 per cent intrastate and only 30 per cent interstate.

Ms MacTiernan: Putting the Leonora line to one side -

Mr COWAN: I wish the member would.

Ms MacTiernan: - most of this intrastate traffic would only be travelling on one line; they would only have to negotiate once.

Mr COWAN: Not necessarily. Three branch lines feed into Merredin for the grain freight task, two from the south and one from the north. A number of branch lines also feed into Northam. As a consequence, we are consistently transporting product from the narrow gauge branch lines into the standard gauge and then down to Kwinana. Many tracks are used and we would have to negotiate an access regime. The point the member makes is not relevant to this clause. This issue has been debated previously and the Government believes that given the bulk of the traffic is intrastate, why add another requirement for negotiation of track access when it is not necessary.

Ms MacTiernan: Because the bulk of that would, in fact, be running on the one line and they would still only have to deal with the one operator.

Mr COWAN: No, that is not the case and the member will have to take my word for that. I wanted to address another issue the member raised which was so important I have forgotten it!

Ms MacTiernan: The one about your having not seen a single example of vertical separation which had resulted in increased competition.

Mr COWAN: More than anything else, I wanted to make the comment that the member quoted the Smorgon report. I do not think that report took into account the fact that even on our east-west line - notwithstanding the member's advocacy for ARTC to take it over -

Ms MacTiernan: I think Westrail should keep it.

Mr COWAN: Seventy per cent of the traffic is intrastate. Another issue I have with the Smorgon report is that it is common knowledge in general transport circles that the Federal Government wanted very much for its operations to be the first rail operation sold on the mainland. I am talking about the National Rail Corporation and the Federal Government's operations. It wanted a report which would favour that aspect of privatisation of the rail system.

Ms MacTIERNAN: The Deputy Premier's comments were very interesting. I am intrigued. A problem the Deputy Premier has highlighted is we will have different regimes for dealing with interstate and intrastate traffic. The minister has acknowledged that, according to his figures, 30 per cent of the traffic is interstate - it comes from the east.

Mr Cowan: Which we would like to see built up.

Ms MacTIERNAN: Absolutely, but the Government will create difficulties in doing that.

Mr Cowan: No, we won't.

Ms MacTIERNAN: We will. On the east-west line we will have two separate rail access regimes. We will have a national rail access regime -

Mr Cowan: Part of the intergovernmental agreement.

Ms MacTIERNAN: It will be an access regime. At the same time we will have the state-based access regime. There is no

saying that these two will be the same. I find it very hard to see how we will be able to deal with these problems. How will an operator be able to manage these two rail access regimes, and how will the poor person who wants to run trains on this line be able to try to deal with two different rail access regimes? Timetabling is one issue that will be governed by two separate access codes. There is great capacity for conflict in this arrangement, because, for example, a direction may be given under the state access code that operator X shall be given certain segments of time, and a direction may be given under the national code that is incompatible with the direction that has been given under the state code. This will be an absolute administrative nightmare for the interstate rail operators who are trying to negotiate the system, and it will provide even more opportunities for the company that will buy the tracks and the freight business to create blockages in the system to frustrate their operations. There will be not one but two access regimes over the one track, and there will be two different regulators, who may make directions that are inconsistent and incompatible with each other. This will create an absolute minefield for anyone who wants to use these access schemes to gain some decent access to the tracks. Has the minister given any thought to how to deal with this problem of having two access regimes govern the one railway line?

Mr Cowan: The ARTC does not yet have an access regime in place, but notwithstanding that, a person who had an interstate freight operation would negotiate with ARTC in the knowledge that ARTC has reached an agreement with the current operator, which is Westrail.

Ms MacTIERNAN: An access regime would govern that.

Mr Cowan: That is right. If we were talking about intrastate freight operations, a transporter would negotiate directly with Westrail, and once agreement had been reached about access to the track, he could then either transport the product himself or go to public tender for the transportation of that product. Therefore, in some respects it is not quite correct to say two negotiations will need to take place.

Ms MacTIERNAN: I was not saying that.

Mr Cowan: You did say that. The ARTC has negotiated with the operator, which is currently Westrail, and I assume those agreements will carry through. There may be some adjustment, but the intent will essentially be the same. With regard to interstate freight, ARTC, having negotiated with the current operator, is expected to negotiate with the new operator about an access regime, and the interstate freight people would then deal with the ARTC. If we are talking about intrastate, the ARTC would deal with the operator and have an access regime with that operator.

Ms MacTIERNAN: I understand that, but the point I was making was that this will open the possibility of having on the one line two separate regulators that will be able to make rules that are inconsistent. If, for example, an operator was frustrated by the amount of rail access that he had been given, the way in which he had been treated, or the price which he was being charged on the Kwinana-Kalgoorlie sector of his interstate operations, he would go the regulator who was governing this national code. That regulator might make a direction that was quite inconsistent with the directions that had been given by the state regulator when it came to things like timetabling, because the state regulator might have made an access order with regard to another company that was operating intrastate services on the Perth-Kalgoorlie line. The point I am making is that two different regimes regulated by two different people will be operating over the one railway line. I do not know of any other system - I would be interested if the minister could point me to another system - where on the one railway line there are two access regimes and two regulators.

Mr Cowan: We now have the ARTC and Westrail operating in conjunction with each other. There is no problem with that.

Ms MacTIERNAN: But at this point, an access regime has not been established and it is operating purely by agreements. Those agreements were sparked by a possible ruling from the National Competition Council, so Westrail got real and entered into agreements with a number of operators. What we are talking about and what this provision contemplates is that people will not always be able to negotiate an agreement that is satisfactory to both parties; hence we need to have access regimes. We are discussing in this clause how these access regimes will relate to a non-government rail operator. We will have access regimes and regulators. A person who does not like the deal that is being offered to him by the company, such as the timetabling slots that he has been allowed, may go to a regulator. We will have the absolutely farcical situation, which we do not have now, in which two entirely separate access codes will operate over the one piece of rail infrastructure, and two separate regulators will have the power to make directions not only about price but also about things like the amount of rail time that may be allocated to a person. An intrastate operator may appeal to the state regulator because he wants the trains to run between 7.00 am and 10.00 pm, and an interstate operator may make an entirely separate appeal for a similar timetable. I do not believe the minister can point to another system where on the one line there are two separate access regimes and two separate rail regulators.

Mr COWAN: This has nothing to do with this clause.

Ms ANWYL: I would like to hear some more of this issue from the member.

Points of Order

Mr COWAN: Mr Deputy Chairman, I request you to ask the member to explain exactly how this relates to this provision. We are now re-entering the second reading debate. The comments that have been made have nothing to do with the provisions of this clause. We could probably progress much faster if we dealt with the provisions as they are raised in the committee stage rather than a second reading debate all over again.

The DEPUTY CHAIRMAN (Mr Baker): Does the member for Armadale wish to respond to the minister's point of order?

Ms MacTIERNAN: Yes. The clause before us amends the Government Railways Act. It seeks to change the wording of

that Act to delete the word "commission" and replace it with "railway owner" and a range of amendments that are consistent with that. That is empowering an access regime to apply to a private operator. We are seeking to point out the difficulties that will raise with a private operator operating the access regime, particularly in this case, the Kalgoorlie-Perth track, given that in other parts of the legislation, reference is made to a separate code being operated over exactly the same track by a national regulator. We are seeking some explanation on how we might as a practical matter resolve conflicts between these two separate access codes and these two separate regulators over those tracks.

The DEPUTY CHAIRMAN: The comments made by the member for Armadale in response to clause 63 are of general application and not of specific application to clause 63. Therefore, I uphold the minister's point of order and ask the member for Armadale to ensure that her future comments on this clause relate directly to the clause rather than the Bill as a whole.

Ms MacTIERNAN: Mr Deputy Chairman, I seek some clarification. How do you draw the ambit of this provision? I have said clearly that we are dealing with issues of rail access under a private operator. Can you draw for us the corners of what aspects of rail access we will be able to discuss under this provision?

The DEPUTY CHAIRMAN: I rule that the matters that the member for Armadale wishes to raise should have been raised during the second reading stage. They can still be raised during the third reading stage. I ask that the member confine her comments on clause 63 to the key words and phrases within clause 63 generally.

Debate Resumed

Mr COWAN: Now that the member for Armadale has come back to one issue on definitions, and has loosely covered it with respect to the railway owner, it might be seen that that is defined as a person having management and control of the use of the railway infrastructure. I will answer the one question that is related to clause 63; I am sure that my ministerial colleague in another place will do much better than I in explaining it.

Ms MacTiernan interjected.

Mr COWAN: He is, and he will do it very well. As I understand it, the access regime that will be negotiated by the ARTC is negotiated on the basis that it must be consistent with the access regime that is prevailing within the State. The likely arbitrator is the ACCC.

Ms MacTiernan: An arbitrator between what?

Mr COWAN: When a dispute arises in the way to which the member referred in which two bodies are establishing an access regime. The access regime is not likely to be inconsistent inasmuch as a requirement already stipulates that the access regime established by the ARTC must be consistent with the state track access regime.

Ms MacTiernan: Where is that requirement?

Mr COWAN: That is part of the intergovernmental agreement which established the ARTC. That capacity for inconsistency is removed by that requirement, but should, as the member has outlined, some complaint or dissatisfaction arise, an arbitrator can be appointed. That arbitrator -

Ms MacTiernan: To resolve the two -

Mr COWAN: To resolve an issue but -

Ms MacTiernan: Is this part of the intergovernmental agreement?

Mr COWAN: I understand that is the case.

Ms MacTiernan: Can we get a copy of that?

Mr COWAN: I do not know whether one is available, but I will put that question to the responsible minister.

Ms ANWYL: Proposed subsection (3) in clause 63(3) sets out the management of sidings and states-

> If a siding associated with a railway is managed and controlled by a different person from the person who manages and controls the use of railway . . .

In what circumstances will that occur? Is this something that will interfere with or be associated with a situation whereby the railway corridor land might be leased to a third party? What is the intent of preserving the rights of some third party to control a siding when it has been made very clear in all of the minister's rhetoric that the business will be sold to only one party?

Mr COWAN: I understand that those sidings which have been put in place by another company or cooperative - for example, Co-operative Bulk Handling - are usually on Westrail land. The concept varies. They should not lose any right to operate that siding as they see fit.

Ms ANWYL: I would like some more detail of how the operation of that will work because it adds another level of complexity to the argument. We know in the case of railway corridor land that some opportunity will be available for third parties to lease. Let us remember that we are talking about a 49-year lease; it is a significant lease timewise for the possibility of building some other structures or whatever on the railway corridor land. Existing sidings are in place and presumably there is also the classification that spur lines are not railway infrastructure. Who will unravel all of this and what corporate structure will sort these things out?

Mr COWAN: What I said is correct. If a loop line or a siding is in place and that siding is not part of the main track, it is not subject - if one does not want it to be - to the rail corridor. It becomes the responsibility of the body which would use that siding for a specific purpose; I quoted CBH, but there would be others. If they wanted to be in the general access regime, they can say so; if they do not, they must present a different access regime for that siding. The access to their own property or to property which they use will not be threatened by the main operator.

Ms Anwyl: Will all of these things be delineated prior to the contract of sale being entered into?

Mr COWAN: That is not something that will be dealt with in the sale; that is an access issue. The sale is selling the rail freight business and giving that purchaser the right to access the track.

[Questions without notice taken.]

Ms ANWYL: We were discussing sidings as opposed to spur lines and rail corridor land that may be leased. The previous answer acknowledged it would be necessary to sort out access issues. I understand that the contract of sale does not refer to each siding. However, a prospective purchaser would want to be clear about access issues before entering into a significant purchase. Could we have a schedule that lists the relevant interests?

Mr Cowan: We can attempt to get that for the member for Kalgoorlie.

Ms ANWYL: That might be of assistance, because it would give a proper indication of the number of players involved and how it will be possible to determine and make some sense of the competing interests as those pieces of land are set out. One of the issues about the rail corridor land is that additional infrastructure leases may be provided for. I am concerned we have a clear accountability about the competing interests and how they are determined.

Mr COWAN: I can provide a list for the member, and she will find that most of the land on which the sidings exist is Westrail land and will always remain part of Westrail's property if it is not designed to be included in the rail corridor. The main line would always be designated as part of the corridor, and those sidings which are the property of Westrail, but nevertheless operated by CBH, would not be part of the corridor. If there is a reason to include the land in the corridor, it would be a matter for negotiation. I am sure we can procure for the member a list of those privately owned sidings. Privately owned sidings would be separated, and owners could enter into their own contracts with the operator to gain access or whatever is necessary. The idea of this definition and this clause is to give them the capacity to exercise their right of ownership.

Ms Anwyl: They would not be subject to the lease, even if they are on Westrail land?

Mr COWAN: No, they would be outside the corridor.

Ms MacTIERNAN: I must keep pointing out what this clause is about so that the Deputy Premier is aware of the logic of the debate. This clause substitutes a private rail operator for the government rail operator in the access regime. Before we agree to such a provision, I want the Deputy Premier to explain how the important matter of the access regime will be assured under a private operator. An important part of the access regime is supposedly the separation of the two aspects of the rail business; that is, the track management and the above-line operation. In order to make these access regimes work, one is supposed to have ring fences - said to be Chinese walls. What standard will be set for a private operator to ensure adequate separation of those two aspects of the business? Only by knowing that, can we make a judgment about whether it is appropriate to approve, as has been requested, an amendment to the Government Railways (Access) Act to enable a private operator to be substituted for the government operator.

Mr COWAN: I am advised that ring fencing is the expression most popularly used; I have not heard of Chinese walls before. I am advised that will permit the separation of accounts so that the allocation of costs to below-rail business is transparent and can be audited by the regulator.

Ms MacTiernan: How will it be done? What is the degree of separation required?

Mr COWAN: The regulator will determine that, but I assume that once there is separation of accounts, all the costs associated with the freight business will be dealt with separately from the other operations of the track or below-rail, such as maintenance of the track and any repairs that are necessary. They can be easily separated. Even I could do that.

Ms MacTIERNAN: There will be two entirely separate sets of accounts.

Mr Cowan: One for the freight business and one for the below-rail operation.

Ms MacTIERNAN: It will separate the investment that is for rail track, and that must be a separate investment from the other one.

Mr Cowan: You would separate the two. There is no reason you could not integrate the investment decision but still have the separated rail freight business and its accounts, and a rail track account which deals with the cost of maintenance. If you wanted to make an investment decision, it could be done on an integrated basis but you would be clearly able to indicate that. This is an investment decision that puts so much into the track and so much into the rolling stock. Westrail does it now.

Ms MacTIERNAN: The Deputy Premier is aware of the problem of items being credited to one account that are transferred from the other?

Mr Cowan: The regulator would manage that. That is the responsibility of the regulator if he thinks something odd is happening.

Ms MacTIERNAN: Does the access regime set out the degree of separation? For example, will there be two sets of staff or will the same staff deal with both sets of accounts? I will give an analogy from a legal practice, which is an example sometimes used. When a single firm is dealing with a matter for the people on both sides - which is entirely improper but is done from time to time - it is necessary to ensure that the personnel dealing with one matter, are not also dealing with the other matter.

Mr Cowan: Which part of clause 63 are you referring to?

Ms MacTIERNAN: The provision to delete "the Commission" and substitute "a railway owner". That means a private operator will have responsibility for the access regime. I am trying to establish how we, as a Parliament, can be confident that sufficient attention has been given to segregating the activities of the rail operator as track manager from its role as an above-line operator. We cannot decide whether it is appropriate to delete "the Commissioner" and insert "a railway owner", until we have some idea of the contents of the code that will set up a proper segregation of the accounts and of the operation of those two aspects of the business that will be handed to the private operator who, if we approve this Bill, will be given responsibility for administering the regime.

Mr COWAN: I am advised that section 28 in part 4, division 3 of the Government Railways (Access) Act contains the answer to the question raised.

Ms MacTIERNAN: What does it provide for?

Mr Cowan: We have not got to that yet. We are dealing with clause 63. I am alerting you to the fact that we should stick to this Bill.

Ms MacTIERNAN: Which section did you say deals with it?

Mr Cowan: Proposed section 76 of this Bill.

Ms MacTIERNAN: There is no point continuing this debate. The Opposition will not support this clause. As it has said time and again, it does not believe that an access regime administered by a person who is an above-line operator and a below-line operator will work. The access regime we are being asked to amend here is grossly inadequate. That is not just the view of the Opposition; it is a view widely shared by the rail industry, by users, rail operators and by those people who have been responsible for operating track companies over time. This is the essence of this legislation. It is a wrong move on the part of the Government and we will oppose it.

Clause put and passed.

Clause 64: Sections 3A and 3B inserted -

Ms MacTIERNAN: In the event of the rail owner's right to manage the rail infrastructure being terminated, clause 64 makes provision for any contracts or access arrangements that owner has made to continue, notwithstanding the termination. That is fair enough in most instances. The Opposition does not have a problem with that but it has two questions. Who would become the rail operator if there is a premature termination of the rail operator's right to manage? Given that this new railway owner will have a right to manage and control and have rights of access over the lines, is it contemplated that the owner will be able to bail out of its role as a rail owner but continue to operate on the basis of the access agreement it may have given itself? If there is a premature termination as contemplated in the clause, who will take over the operation of the rail system?

Mr COWAN: That would be a Government decision. Only the Government can terminate a particular rail; the operator cannot do it. It can withdraw a service but not terminate or deal with the issue of track. I take it that the Opposition accepts proposed section 3A in which a rail operator can connect its railway infrastructure to the railway as part of its access requirement. If a transporter built a freight terminal and a spur line, it could connect to that but the freight hauler would retain the rights to it. It would have the right to negotiate its access to that part of the track. However, the member for Armadale is more interested in proposed section 3B.

Ms MacTiernan: My first lot of questions relate to that.

Mr COWAN: As I understand it, proposed section 3B merely protects the access rights of the particular owner when the access rights of the manager to manage and control the railway infrastructure might have been prematurely terminated. I cannot explain any more than what is in the Bill. We are seeking to protect the capacity of a rail freight transporter to build its own infrastructure and connect to the rail system, and then be able to negotiate its own access rights to its property. We are seeking to give greater protection to those people when something has been terminated. I do not know that it needs any greater explanation.

Ms MacTiernan: The question was: Does this provision mean that the private operator who is not only a track manager but also an above-line operator - if that track management company falls over or departs or because of breaches has its right to manage removed - will be entitled to continue as an above-line operator?

Mr COWAN: The people who have -

Ms MacTiernan: Yes.

Mr COWAN: No.

Ms MacTiernan: If you read this -

Mr COWAN: Let me say it again. What this effectively does is: If a third party has been given access rights and for some reason the operator is no longer managing that operation, the third party's access rights are retained. That is all it does. It protects those rights.

Ms MacTiernan: I know that is the intention, but does it have a broader application? The rail owner will be a manager and an above-line operator. Therefore, when the owner loses the right to manage, it does not necessarily mean -

Mr COWAN: It means that the third party -

Ms MacTiernan: What about as a rail operator? Would it be able to continue?

Mr COWAN: As I understand it, it will have bought the business and would be able to continue to operate.

Clause put and passed.

Clause 65: Section 4 amended -

Ms MacTIERNAN: I move -

Page 35, line 13 - To insert before "Provision" the following -

> Where an alternative access code has been approved by the National Competition Council in respect to interstate services

Page 35, after line 15 - To insert the following -

> (4) Any exclusion permitted by the virtue of paragraph (3) shall operate only as long as the alternative access code is in operation.

This returns to an earlier debate. These amendments allows for the rail access code which governs the State to provide that the interstate services - that is, presumably the interstate services on the Kalgoorlie-Kwinana line - may be excluded from the operation of the state code. The logic of that, and the reason that is being done, is to put in place a national code, to which the ARTC would be a party. I have some doubt about the wisdom and workability of having two codes and two regulators for the one line, and we have gone through that at some length. However, the wording of this provision is completely unacceptable, because it will allow far broader possibilities than those that have been used by the Government to justify the introduction of this provision. If this clause were to stand without amendment, it would be possible for interstate services to be exempt from the code without any other code being put in its place. Therefore, the first amendment provides that this exemption will apply only where an alternative access code has been approved by the National Competition Council in respect of those services. We find it unacceptable that the Government will have carte blanche to say that the access code can be deleted in respect of the interstate services, but we will take at face value the Government's explanation of why it wants to include this provision; that is, so that a national code will govern those interstate services. We have introduced the second amendment to ensure that the exclusion will operate only so long as that alternative access code is in place. For example, the national code may come into operation, and we then provide an exclusion from the state code, but for one reason or another the national code may fall over, be disallowed or be withdrawn, and our second amendment will mean that the exemption that has been given will terminate and the interstate services will then come back into the original state code.

The aim of these amendments is to ensure that there is no time at which the interstate services will not be subject to one code or the other. We accept at face value that the Government wants to run two codes - we say that will be a difficult system to administer - but we believe this provision has been badly drafted and has not taken into account the possibilities that we have outlined. Our amendments will rectify that problem and ensure there is no point at which the interstate services will not be covered by an access code. I would be surprised if the Government did not support those amendments, because they do not appear in any way to contradict the avowed aims of the Government.

Mr COWAN: The member has some difficulty accepting the current status quo, in which there is not an access code but merely an agreement whereby a contractor such as the Toll Group or Specialized Container Transport can gain access to Westrail's track, and that operates particularly well. The member has forgotten, in predicating her amendments, that we do not necessarily need to have an access code in order for an operator to have the right to use the track at the moment.

Ms MacTiernan: We all know that, but presumably the Government had some reason for introducing the rail access code. Why was that introduced?

Mr COWAN: To provide access.

Ms MacTiernan: Because you recognise that to rely merely on contractual rights is not enough.

Mr COWAN: I do not know that I would necessarily accept that.

Ms MacTiernan: You would not have introduced an access code -

Mr COWAN: I will deal with the amendments so that I cannot be accused of doing what the member does; that is, take us through a second reading speech every time we go to a new clause. I am advised that the amendments cut across the intergovernmental agreement on the Australian Rail Track Corporation. The ARTC is responsible for submitting an access undertaking to the Australian Competition and Consumer Commission - that is not the National Competition Council - for registration. The Western Australian Government does not have any involvement in or influence on when this occurs or what it consists of.

Ms MacTiernan: We do not say that it does.

Mr COWAN: Under the intergovernmental agreement, the ARTC may sell access for interstate rail services. The National Competition Council suggested that this exclusion was necessary, because the state access regime cannot apply to interstate services under the terms of the intergovernmental agreement. That is why we are opposed to the amendments.

Ms MacTIERNAN: I accept that the Deputy Premier has been given that advice, but it is a nonsense. Nothing in our amendments states that the State Government must submit this second access regime. The Government cannot have it both ways. The Deputy Premier is telling us that rail access regimes are necessary because he recognises that it is not sufficient to leave it to the free market and to negotiation by way of contract. It is inherent in the Government's introducing rail access legislation that it takes that view, otherwise the introduction of rail access legislation is completely unwarranted. To go back and argue that we can have contracts is stupid. The very fact that we have a rail access regime means that the Government has recognised that to merely leave things to negotiation between the parties will not necessarily provide the outcome that it wants. That is the fundamental concept. The Deputy Premier has said - and I accept that this is part of the intergovernmental rail agreement - that the Government wants the interstate rail services to be subject to a national code. We do not disagree with that. We have raised some questions about that, but we are not trying to attack that in this provision. We recognise that will happen. Nothing in these amendments will require the State Government to make that application to the ACCC or the National Competition Council. We understand from what the Deputy Premier has told us that under the intergovernmental agreement, it is most likely that the ARTC will make that application. Nothing in these amendments is inconsistent with that.

We are saying that if the Australian Rail Track Corporation is successful in getting a code approved, it is at that point that the state access regime will simply cease to operate. The concern the Opposition has if these amendments are not accepted is that at some point - I am not saying this Government; it could be a subsequent Government - an exemption could be provided that would see interstate services not covered by any access regime. No-one can justify that. When we say this is all about competition, rather than about granting monopoly rights, why would we contemplate a situation in which an exemption for the very important interstate services could be provided? This amendment does not place on the State Government any obligation whatsoever, nor does it stop the ARTC from making an application. It seeks to provide that if the ARTC does not make the application and if it is not successful in getting the regime in place, the state rail access regime will apply until that occurs. That is perfectly reasonable. I imagine it would apply under normal circumstances. I would like the minister to explain to me why he would want a situation to arise in which the interstate services were not covered by any access regime.

Mr GRILL: I have come in a little late in this debate so I do not think I can make much of a contribution to it; nonetheless, having heard the members' comments over the past three or four minutes, I believe the member for Armadale is making what appears to be a valid point. The minister should provide an answer.

Mr COWAN: A number of points need to be made from what I gather the member for Armadale is talking about. I am a bit disappointed that the member for Eyre has challenged his integrity and legal mind by giving support for her argument.

Ms MacTiernan: You will not divide us in that way, my dear!

Mr COWAN: I do not need to; that division probably already exists.

Ms MacTiernan: It does not. We are fighting the privatisation of rail as a team.

Mr COWAN: It is my understanding that the intergovernmental agreement does not permit entities other than the ARTC to enter into an arrangement for access to the interstate track. No-one will be able to negotiate something without dealing with the ARTC. Multiparties will not be trying to use the interstate line. An agreement has been reached between Westrail, which is the current operator, and the ARTC about the way in which it will operate and allow third parties to have access to the interstate track. I do not live and breath this every day, but I know that only one body can deal with the interstate track, and under the intergovernmental agreement that is the ARTC.

The access regime that we are seeking to put in place in itself will give some rules and regulations and a clear understanding about what access can be gained. If we do not have that in place and we operate under what exists now, and if the ARTC does not provide that access, a party will have reference under the Trade Practices Act. We are seeking to put in place an access regime that is clearly enunciated. Everyone can understand it, negotiate on that basis and operate on that understanding. If they do not get what they want they can seek arbitration. Under the intergovernmental agreement, if no satisfaction is achieved, a party would have to revert to taking action under the Trade Practices Act. I understand that our purpose in establishing an access regime is to allow the parties to deal with the issue rather than getting a third party to come in.

Ms MacTiernan: They do have to get in a third party.

Mr COWAN: They do not.

Ms MacTiernan: That is the whole point of having the access regime.

Mr COWAN: I am wasting my time. The member for Armadale is seeking to waste everybody else's time. We do not support this amendment; it would achieve nothing. The member referred to the National Competition Council when the body concerned is the Australian Competition and Consumer Commission. Once again we are seeking to make amendments on the run. I was disappointed to hear the member for Eyre say he supports that concept.

Ms MacTIERNAN: The advice we are getting is that the agreement between the ARTC and the WA Government has not been finalised; it is being negotiated. Is that correct?

Mr Cowan: Yes, but they all manage to operate it.

Ms MacTIERNAN: Yes, but we all know that there is a changed environment and a great deal of uncertainty exists. I will give the Deputy Premier a history lesson in case he does not know the agreement the people have with Westrail. It was forged only after the specialised containers group took a trade practices action against Westrail because it was not granting them access. When there was a likelihood of an order being made against Westrail it came to an agreement. Everyone knows that Westrail has been entering into agreements with people because it wants to get the contracts signed and bound on a preprivatisation basis. Even the Minister for Transport does not believe that relying purely on negotiated outcomes is acceptable without there being some counterveiling mechanism for independent arbitration. That is the reason we have these rail access regimes. For the Government to keep saying parties can always agree by contract is a nonsense. It does not make sense.

Mr Cowan: To correct your attempt to give me a history lesson, that application was not a complaint about access; it was a single complaint about pricing. It had nothing to do with the capacity for that company to have access to the line. The party had had access for two years. I hope the member for Eyre is listening to this.

Ms MacTIERNAN: Price is also an important part of access. People can be priced out of a market and thereby be removed from access. A large proportion of the access regime deals with pricing formulas. Pricing formulas are an inherent part of an access regime. A large part of the code deals with pricing formulas. Pricing is an access issue.

Mr Cowan interjected.

Ms MacTIERNAN: What is the Deputy Premier saying?

Mr Cowan: I am applying some of your logic back to you.

Ms MacTIERNAN: If the Deputy Premier were to cease mumbling, I would be more than happy to listen to his words of wisdom in this regard.

Mr Cowan: That would be a first.

Ms MacTIERNAN: The Deputy Premier has said that the ACCC will be in charge of assessing the national access code. Is that correct?

Mr Cowan: As I understand it, yes. It is an undertaking as opposed to a code. The member should not ask me the difference because I do not know.

Ms MacTIERNAN: The Deputy Premier said last week that there would be a national code and that is what this exemption referred to. Is he now saying we will not have a national code?

Mr Cowan: There will be a code. Effectively it is a question of what word we use, whether it is an "undertaking" or a "code". Some prefer to use the word "undertaking". The terminology used in the Press is "code".

Ms MacTIERNAN: While we have the NCC looking after every other code, for some reason the ACCC will look after this code. It does not seem to fall within its responsibilities.

Mr COWAN: I question very much whether I will be able to articulate the explanation that has been given to me. I understand that the ACCC's operations are confined to those rail freight transporters complaining about whether they have been given the opportunity to transport their product in a fair and reasonable manner. The NCC makes a general assessment; it considers state access regimes. The member should bear in mind that we are talking about the intergovernmental agreement and not state access regimes.

The Government does not intend to support this amendment. I will undertake to have an explanation provided to the member about the operations of the ACCC and the NCC and how they operate within part IIIA of the Trade Practices Act. That is the best I can do at this stage. I have being trying to explain this, but obviously I have not been able to get the message across.

Ms MacTiernan: You do not know it yourself.

Mr COWAN: I know that; I am not looking for a victim. I am offering the member the opportunity to have direct advice outside the Parliament rather than having to use a medium that might not -

Ms MacTiernan: We are getting advice. We know what is happening.

Mr COWAN: The Labor Party does not know what is happening. My explanation might not be well articulated, so I am offering a short cut for the member to obtain advice. The Government does not support the amendment because it is completely meaningless.

Ms MacTIERNAN: I do not intend to prolong this discussion except to state that this amendment is not completely meaningless. Members on this side have pointed out the intention of the amendments, which is to ensure that interstate services are not left in a situation in which they are not covered by any access regime.

The issue of the various roles of the NCC and ACCC arose from the Deputy Premier's assertion when he rejected the

amendment that the ACCC would be responsible for approving a national code. When I quizzed him on that statement he backtracked - he did not know whether there would be a national code. He was unable to articulate whether the matter would be dealt with by the ACCC or the NCC. If he were unclear about the various roles of the NCC and ACCC - it is not unreasonable to be confused - he should not have begun his contribution by saying that the amendment could not possibly be supported because members on this side misunderstand the role of the NCC. The NCC is the body assessing rail access regimes around the country.

I am surprised at the Government's attitude. This is not a meaningless amendment, nor does it cut across the intergovernmental agreement on rail. As I said, members on this side would be very keen to see that agreement. I have asked that it be tabled because the Deputy Premier often declares that a document states one thing, but when we get it we find that it states something else. Perhaps the debate would be facilitated if we could access the details of the intergovernmental agreement.

We believe our amendment is not meaningless. It is an important protection for interstate services. We may well see a situation in which interstate services are exempted from this access code and not put under the jurisdiction of any other undertaking or code. That will be anti-competitive as much as is this legislation.

Amendments put and negatived.

Clause put and passed.

Clauses 66 and 67 put and passed.

Clause 68: Section 11A inserted -

Ms MacTIERNAN: This is an interesting provision which deals with consultation with railway owners on amendment or replacement of the code. Obviously, from time to time the access code will need to be revised, and the Opposition has no difficulty with that. This provision makes it mandatory for the minister to consult with the railway owner. That seems perfectly reasonable and, obviously, the railway owner is a stakeholder. The proposed section then goes on to say that not only will the minister consult with the railway owner, but also he must "have regard to any submissions that the railway owner makes in relation to the proposal". That seems to be a new species of consultation. Debates were held on the native title Bill about consultations in good faith as opposed to straight consultations, and I would be interested to hear the legal advice about the insertion of those words. What does it add to the normal requirement of consultation? Does that not normally provide, by implication, that the minister shall have regard to any submissions, and is this a higher level of consultation? I am particularly interested to know if any case law has given rise to the inclusion of this terminology.

Mr COWAN: Section 10(4) of the Government Railways (Access) Act contains the same wording. I assume, and I am advised, that the provisions in this clause of the Bill seek to reflect a similar intention and degree of continuity with the different Acts that must be taken into account. That explanation has been given to me, and I find it plausible. It is appropriate to maintain some consistency between the different Acts.

Ms MacTIERNAN: Will the minister check with the counsel responsible for drafting this Bill whether he is referring to the Government Railways (Access) Act?

Mr Cowan: The person who drafted this Bill is not in the Chamber.

Ms MacTIERNAN: Does the Deputy Premier have any understanding of whether the addition of the words "have regard to any submissions" gives rise to greater rights than a provision which requires consultation?

Mr Cowan: No, I do not think so.

Ms MacTIERNAN: Normally, the principle of drafting is not to change a formula unless there is some good reason for it.

Mr COWAN: That is precisely the reason that the words in section 10(4) of the Government Railways (Access) Act have been transposed; it is to make sure there is no variation.

Ms MacTiernan: Do we know what they mean?

Mr COWAN: They have never been tested in a court of law. We can both guess and try to interpret the words ourselves. That interpretation can be that they do not have greater or lesser value, but the minister must have regard for them. Until it is tested in a court of law, we can do nothing but interpret the words for ourselves, and we can do that for the next three days.

Ms MacTIERNAN: That is not my intention. I am trying to determine whether previous cases have arisen.

Mr Cowan: Perhaps the question should have been asked when the Government Railways (Access) Bill was going through the Parliament. If it had been asked, I would refer the member to *Hansard* in which the question was asked and the answer given. The purpose in this case is to maintain consistency.

Ms MacTIERNAN: This is a new situation with a private operator and we are trying to determine the extent to which the private operator will have control over the determination of the code, given that it will be put in place to control the private operator. This is very relevant to the amendment. It was less of a concern when the rail operator was a creature subject to government direction in the first place, and it was not a real live issue. However, it now becomes a live issue because of the private operator.

We have no difficulty with the Government being required to consult with the private operator; that seems perfectly reasonable. We have some concerns, bearing in mind the arguments put by the Government in debate on the native title legislation about the introduction of the words "in good faith" and what they would add to the word "consult". Therefore, using the Government's logic in debate on the native title legislation, I ask whether the introduction of the words "have regard to any submissions", has some import that these people will have a veto. If the Deputy Premier is prepared to say that the words add nothing beyond normal consultation, I will be perfectly happy with that.

Mr Cowan: I have already said that.

Ms MacTIERNAN: I do not think the Deputy Premier has. If he says that the Government's intention is not to extend the normal concept of "consult", I will be happy with that.

Mr COWAN: Section 10(4) is already in place and we are now amending the Government Railways (Access) Act.

Ms MacTiernan: This is a new section.

Mr COWAN: Section 10(4) is already in the Act and contains these words.

Ms MacTiernan: What does section 10(4) relate to?

Mr COWAN: It relates to public consultation. Do I have to explain what public consultation is?

Ms MacTiernan: This is about a private operator and the code which controls him.

Mr COWAN: This provision now deals with the private operator and public consultation. When a private operator wants consultation, exactly the same provisions will apply. I cannot interpret these words for the member, but no lesser level of importance will be given to public consultation as opposed to consultation with the private operator.

Ms MacTiernan: You do not see these words in any way amounting to a veto?

Mr COWAN: No, because they are consistent throughout the Act and they apply to the public and the private operator.

Mr GRILL: We have some responsibility as legislators, and legislation deals with the law. By the Deputy Premier's own acknowledgment, in respect of the last two matters raised, he is not able in the current circumstances to give a full explanation of what the law means. If we are to do our jobs as legislators, we must understand what the law means.

Mr Cowan: Does that mean that we also must anticipate the interpretation of the court?

Mr GRILL: Not necessarily.

Mr Cowan: We are not too good at that, are we?

Mr GRILL: In drafting legislation, we endeavour to discover what situations will arise from it. As legislators, we should anticipate how a court might interpret the legislation. We are all at sea when we reach the finer detail on this measure, and unable to give a clear definition of clause 65. Whether we were dealing with a code, understanding or undertaking, we are unable to clarify, clearly or vaguely, the role of the NCC. We seem to be unable to draw a line between the responsibilities of the Australian Competition and Consumer Commission and the National Competition Council. We now seem to be unable to give any explanation about proposed section 11A. If we take the view of the Deputy Premier, the proposed section is superfluous as it repeats a previous provision. According to the Deputy Premier, it gives no special status to any submissions made by the railway owner, but that is highly unlikely as it will place the railway owner in a special position. The member for Armadale asks what that special position means.

Before this Committee places that railway owner in a special position, it is entitled to know what the draftsperson had in mind. That is our job. If we cannot do that now, we should adjourn these proceedings until a later date. The Deputy Premier has two advisers, apparently neither of whom is the draftsperson. The draftsperson knows why clause 65 and proposed section 11A were drafted in this form. The Deputy Premier does not know, and his two advisers do not seem to know.

Mr Cowan: I have told you why.

Mr GRILL: If he told us, no-one seems to understand it.

Mr Cowan: I can guarantee that that is right! You certainly do not understand it.

Mr GRILL: No-one understands it.

Mr Cowan: I can try again if you like.

Mr GRILL: The Deputy Premier has had a few tries at this matter.

Mr Cowan: I cannot help it if your listening skills are poor, my friend.

Mr GRILL: I am not trying to enter an argument.

Mr Cowan: You are doing a pretty good job!

Mr GRILL: I am not trying to be antagonistic. I state the fundamentals. I have been involved with many committee debates over a long time, and this one is degenerating into a degree of ineptness which befits none of us. We should deal with

matters on the basis of proper advice. The Deputy Premier says he will provide advice on clause 65 in a written form. It should be dealt with by the Committee, which deals with the nitty gritty of a Bill. The Deputy Premier states in a most dogmatic fashion that he will not entertain any amendments to clause 65, but we cannot obtain a reason for that position.

Mr COWAN: I was hoping, Mr Deputy Chairman, that you would remind the member that we are debating clause 68, not clause 65. I have already explained that the amendment confers no lesser or greater rights on the railway operator than those conferred on the public. Section 10(4) of the Government Railway (Access) Act, which this provision will amend, makes provision for public consultation. The provision already exist. This amending clause provides for similar consultation with a railway operator. It seeks to confer upon the railway operator precisely the same rights as are conferred on the public through the public consultation requirement. I have now repeated that point, and I am sure the member for Eyre understands.

Mr Grill: I do not think your advice is right.

Mr COWAN: If the member looks at section 10(4), he will know I am right. The railway operator could refer to section 10(4), if it was believed a difference exists.

Mr Grill: Your colleague in the upper House the Minister for Mines has been through processes very much like this. The court has held in respect of his jurisdiction that certain people - that is, applicants - are placed in a special position because of the wording of the Mining Act. When account is not taken of that position, his actions are invalid. Therefore, the Supreme Court and High Court have overruled his decisions on a number of occasions. An ordinary reading of the Act would indicate that the minister has an overriding discretion. Undoubtedly, these words place the railway owner in a special position. I am not sure of the nature of that special position. If the Deputy Premier is receiving advice that it does not place the owner in a special position, I suggest he question his advice.

Mr COWAN: The intent was to place consistency in this clause and section 10(4) of the principal Act. As a result of that consistency, it is difficult to accept the claim by the member for Eyre that one is creating a position of greater privilege for the railway operator.

Mr Grill: The provisions in the Mining Act to which I refer were in place for nearly 100 years before they were interpreted by the Supreme Court.

Mr COWAN: We are not dealing with the Mining Act. As I said to the member for Armadale, I cannot be an advocate of a decision a court of law may make should this provision be tested in court. The Government sought to give no greater or lesser privilege to a railway operator than that which is available through the public consultation phase. That is the intent of this amendment.

Mr Grill: Who is providing that advice?

Mr COWAN: I need not answer that question, which I have answered at least twice already. The member needs to stick to the Bill itself instead of constantly playing the man - it is not his style.

Ms MacTIERNAN: It is important to consider other legislation when drafting such clauses. It is important to look at what has been decided in similar situations. That is how our system of law develops. It is rather silly for the Deputy Premier to state that the other legislation is irrelevant. We are trying to draw out a principle of statutory construction, wherein one must look at precedents. Any legislation currently before Parliament by its nature has never been examined in court, so one must look outside the measure to see how its words might be interpreted.

Notwithstanding that, I take some comfort from the minister's description that it was not the intention of the Government to give any broader rights. These words will be ambiguous and, if this comes down to some sort of battle in the courts, the minister's statement will go some way towards supporting an interpretation that these rights are not any greater than a normal right of consultation. In drawing the minister out in this regard, we have achieved one thing: A greater likelihood that we will not get a private rail operator with a power of veto over the code that is supposed to regulate it.

Clause put and passed.

Clauses 69 to 72 put and passed.

Clause 73: Sections 22A to 22D inserted -

Ms MacTIERNAN: I have a concern with clause 73. These are important provisions which concern the regulator; the person who is supposed to control the rail operator at the end of the day. These proposed sections will give him the regulated power to go in, look at the books and exercise a range of powers, all of which are important, particularly in a situation where we have a vertically integrated enterprise, because of the concerns we have raised about transfer pricing and a whole raft of other scams that can be used by a track manager who is also an above-line operator. My concern is a drafting issue, which sees the clause not striking home in the way it should; that is, proposed section 22C which relates to privilege. It purports to provide a rail owner with the right to refuse to send a statement or otherwise give information, or produce or send a book, record or document because that information would be, or the book or document contains, information in respect of which the rail owner claims "legal professional privilege". I am seeking to change the word "claims" to "has". The way this is drafted - this is very sloppy drafting - would mean that a private rail operator seeking to conceal information from the regulator could simply say, "I am claiming legal professional privilege." It need not be a claim that is reasonable, or one which is in any way supported by law. This provision requires only that he claims legal professional privilege. Once he has claimed it, he has complete immunity from providing that information. We are saying that that goes well beyond the sort of protection he should have. The protection should be limited to having legal professional privilege. It would work

in this way: The regulator would identify certain documents that the regulator wanted and the rail owner would say, "No, I have legal privilege over those." If that were contested, the regulator could take action to have the claim of privilege contested, at which time the private operator, if he were unsuccessful, would need to reveal those records. As it stands now, he can just claim legal professional privilege and that is the end of it.

Mr GRILL: The argument has been put well and I was hoping for the minister to respond.

Mr Cowan: I wanted to see whether you agreed with your colleague.

Mr GRILL: There is some merit in what she is putting forward.

Mr Cowan: Why?

Mr GRILL: A claim of legal professional privilege could be either reasonable or unreasonable. The member for Armadale is suggesting that only reasonable claims of legal professional privilege should be given this statutory elevation. Legal professional privilege applies in common law. It need not be enshrined in the piece of legislation. However, where it is enshrined in a piece of legislation, it is given a special status. By virtue of legislation, the Government is excluding the common law interpretation and is putting in place a statutory interpretation. The member for Armadale is saying that if the Government does that, it should express it in terms of a reasonable claim.

Ms MacTiernan: Or that you have privilege, rather than just claim privilege. If you just claim it, that means it cannot be overturned by a subsequent court.

Mr GRILL: If these words are taken on their literal face value, it could mean that those documents could be excluded from any reasonable search simply because a claim is made. That interpretation could be made by the courts. In those circumstances, it is a question that is worthwhile answering, and it might be worthwhile amending this clause.

Mr COWAN: The resolution of this will be that if we insert the amendment that the member for Armadale has suggested, the railway operator would be constantly going to court to identify what was legal professional privilege. He could then say, "I have legal professional privilege, therefore, I will not provide that information." If we leave the clause as it stands currently, perhaps the member is right and the railway operator would say, "I claim legal professional privilege". Then the complainant would need to go to court to confirm whether the railway operator has legal privilege.

Ms MacTiernan: That is not true.

Mr COWAN: Again, I say to the member that the consequences of her amendment in this case would be that by using the word "has", the railway operator would spend a lot of his time seeking to get some identification or proof of the fact that those things which are the subject of legal professional opinion can be confirmed. Otherwise, we must put this particular information in place. He would say, "No, I have protection under this provision" and someone else would say, "No, you have not." The amendment does not achieve anything other than throw the onus onto the railway operator to prove that he has legal professional privilege. If we leave it precisely as it is, the complainant - the person who has raised the complaint or wants to get the information - must demonstrate that no claim can be made. That is the best explanation I can give.

Ms MacTIERNAN: It is true that what we are proposing would change the onus and put it onto the private operator. If the private operator wants to keep documents secret, he should have the onus. I perfectly accept the onus argument.

Mr Grill: That is how it would be interpreted.

Ms MacTIERNAN: That is right. In fact it would be even worse than that. The mere fact that a claim has been made provides the protection. Nothing in this provision says that if a claim is proved to be unreasonable, the documents must then be handed over. It simply says that as long as legal privilege is claimed, the operator is provided with an absolution. The fact that his claim might turn out to be unreasonable does not, in this legislation, provide that he would then need to hand over that documentation. He has claimed it, that is the end of the story; he has a protection.

Clause put and passed.

Progress reported and leave granted to sit again.

WORKPLACE AGREEMENTS (PROVISION OF CHOICE) AMENDMENT BILL

Second Reading

Resumed from 5 May.

MRS EDWARDES (Kingsley - Minister for Labour Relations) [4.01 pm]: The Government will not support the Bill and I will go through the reasons for that. I will refresh members' memories on what the Bill attempts to do. It is an opposition Bill which seeks to amend the Workplace Agreements Act. It was first introduced into the Legislative Assembly in June last year and it lapsed on the prorogation of Parliament. It was reintroduced in the Assembly in April of this year, where it was again opposed by the Government. Some significant amendments were made in the other place by Hon Helen Hodgson. I say "significant" because they provide a clearer understanding of the Workplace Agreements Act that members opposite would understand. The Bill was passed by the other place in April last and was subsequently introduced in the Assembly in May this year.

The effect of the Bill is to introduce two new sections, 24A and 25A, into the Workplace Agreements Act, and it also seeks to remove section 19(4)(b) and (5). Proposed new section 24A gives an employee the right to cancel an existing workplace agreement by giving 28 days' notice in writing. The Democrats' amendment in proposed subsection (7) stipulates that the

provision will apply only to workplace agreements in place when the amendments come into operation, when the employee was not given a choice between an award or workplace agreement, and only if notice is lodged within 60 days after assent to the legislation. Proposed new section 25A requires the employer to give prospective employees an election notice stating that employment is available whether the person chooses to enter into a workplace agreement, and the employee must expressly elect to be employed under a workplace agreement. The amendments seek to repeal section 19(4)(b) and (5) which would remove the provisions which enable the parties to determine what happens after the nominal expiry date of the workplace agreement. Members opposite have had some misunderstandings about what the Workplace Agreements Act provides. It provides that, after expiration of the workplace agreement, the employee can revert back to the award or can agree that the terms and conditions of the workplace agreement can continue to apply until such time as a fresh agreement is made. I place the emphasis on agreement.

These are some of the problems with the proposed amendments: The implication of proposed section 24A is that an employee can unilaterally opt out of an agreement and remain employed on conditions different from those of workers who stay on the agreement, regardless of whether such employment is compatible with the employer's operations. This would apply only to those who were not given a choice when first employed, and for only 60 days after the amendment takes effect. The implication of proposed section 25A is an additional - we would regard it as unnecessary - bureaucratic process imposed on employers who wish to employ workers other than on award conditions. The employer must offer employment on award conditions if the prospective employee so chooses, regardless of the operational effects of such a choice. I have already explained the implications of the removal of section 19(4)(b) and (5). It will mean employers and employees will not have a choice as to which arrangements will apply after the expiration of the workplace agreement. That clearly shows a misunderstanding of how the Workplace Agreements Act currently applies.

The Government's position on choice has consistently been that new employees would not have a choice between award and workplace agreement conditions. Minister Kierath made that clear publicly on 13 August 1993, before the legislation was passed. He said that new employees would not have a choice. The employer would be able to offer employment on the basis that the employer and the employee would choose to come to agreement.

Mr Kobelke: Where did the minister say that? It is not in *Hansard* or a policy document. *Hansard* and the policy document stated a totally different plan and painted a totally different picture.

Mrs EDWARDES: The other position of the Government about choice has been that only existing employees would have a choice of award or workplace agreement conditions. The policy until July 1998 for government employees was that each agency would decide whether new employees would be given a choice of the award or a workplace agreement. From 1 July 1998, the Government adopted a policy that new public sector employees would be engaged only under workplace agreements. It was that issue that the Trades and Labour Council came to see me about when I first took over the portfolio. That was one of the concerns that it raised. I indicated to it that I would consider its concerns and the government policy. As such, there is currently no change. I am looking at the flexibility of that matter and it is an area in which agencies might be restricted.

The election policy was an issue raised in the debate. As far as I am aware giving a choice of an award or workplace agreement when commencing employment was not an issue in the last state election. We believe the Opposition does not understand the way in which workplace agreements operate and the Opposition's main argument was that the Government was taking away a worker's right to choose. We say that existing employees clearly have a choice between remaining on an award or becoming a party to a workplace agreement. The Act contains provisions which protect an employee against dismissal, threats or intimidation to enter or not enter into a workplace agreement.

Those provisions apply to employees and by definition a prospective employee is not an employee until he or she is hired. The standard feature of employment law for prospective employees is that employers may determine the conditions upon which employment is offered subject to the relevant laws. Employers have a discretion to determine whether employment is offered under award conditions, provisions of a workplace agreement or, where appropriate, a common law contract. The other opposition argument is that workers should have the right to opt out of the agreement. Why should that be the case? Normally, in a contractual sense and under contract law, the repudiation of a binding contract gives rise to damages by the innocent party. Neither an employer nor an employee should be able to unilaterally opt out of an agreement.

The effect of the proposed legislation will be utter confusion among employers about the cost of running their businesses. It will place businesses in potential jeopardy, affect potential employment growth and has the ability to affect investment in Western Australia. I will shortly give an example whereby labour relations in a particular firm were very important prior to ensuring that a workplace agreement was in place and prior to the investment of hundreds of millions of dollars.

I do not believe the proponents of this Bill understand the potentially damaging effect their propositions will have on a business, apart from the fact that it is likely to lead to confusion not only between employers and employees in a particular operation but also among employers about their likely business costs. If existing employees on workplace agreements can change unilaterally the terms of their employment by simply notifying the employer that they are changing to the award, there is the potential for some businesses to fail. If the businesses themselves have tendered or contracted out to provide goods or services based on anticipated labour costs which were factored into that tender or contract and an employee unilaterally opts out of his or her agreement, it could potentially change significantly the costs of that business. As I indicated, it is also likely to have the effect of dampening down any future employment growth. How can employers consider taking on new employees when they have no clear idea of what the ongoing costs or conditions of employment are likely to be because they will not know whether the prospective employee will opt out of that agreement or award at any time or whether the conditions of employment would suit the operation they have established or may wish to establish?

There are a number of restrictions on employment conditions in many awards which do not necessarily suit today's workplace environment. For instance, in the building trades construction and commercial travellers awards one cannot employ junior employees without the consent of the union and if they are employed they must be paid adult rates. Under the clerks and the commercial travellers awards there is limited ability to employ casual employees. Under the Transport Workers' (General) Award in the transport industry there is no part-time classification, therefore, employees must pay full-time rates. The commercial travellers award still provides for rates for use of the employees own vehicle in horsepower rather than cubic capacity. That is probably a fraction antiquated. Recently, a review has taken place of what has been occurring in the security industry. Security employees are paid $4.20 a week for turning off alarms when it is already a duty contained in their contract of employment. A number of restrictions occur in a number of awards whereby, if one is taking one's workplace into the twenty-first century, there is no level of flexibility. If an employer is already basing the operation of his workplace on certain conditions of employment by agreement with the employee and then the employee unilaterally opts out of that workplace agreement thereby affecting the conditions, the employer will not have a level of certainty of costs to the company. It will potentially affect the employer's operations as well as dampening down the likelihood of further employment operations.

I will make some further comments on some of the specific clauses. Proposed section 24 is opposed because parties to legal agreements should be obliged to keep to them for the term of the agreement with no unilateral opting out. Existing provisions in workplace agreements provide a capacity for the employer and employee to agree to cancel a workplace agreement in appropriate circumstances; therefore that ability is already there. As I indicated, the employer's business may be structured to operate on the basis of the conditions and cost structure provided in the workplace agreement.

Mr Kobelke: This is like the black slaves in the southern states of the United States of America coming to agreement with their slave owners to let them go.

Mrs EDWARDES: No, I am talking about taking workplace relations into the twenty-first century, not going backwards.

Mr Kobelke: You are talking about going backwards into the last century.

Mrs EDWARDES: No, we are not looking backwards on this, we are looking forwards. As I said, the employer's business may not be economically viable; for instance, a seven day a week operation as distinct from a Monday to Friday operation which is provided for under awards.

The employer has legitimate expectations that employment conditions will not suddenly change imposing unexpected financial challenges to that business during the term of the agreement. There may not be the capacity for employees, such as apprentices, to be given the required training if the trainers work different hours from the trainee who has elected to renounce the workplace agreement. An employee who elects to renounce a workplace agreement may also lose financially because the amendments do not give the employee the right to retain his or her existing working hours after renouncement and the employer may lawfully change the renouncing employee's working hours in order to avoid having to pay onerous penalty rates.

The amendment to section 25 is opposed because, as I have outlined, it imposes an unnecessary bureaucratic process on employers who wish to employ someone on a workplace agreement by adding to the steps to be followed and the paperwork that must be completed. It assumes that the choice of employment instrument that applies at a workplace is independent of existing working arrangements. Even if all other employees are on workplace agreements and the business operates on the basis of the flexibility that provides, the employer must still offer a new employee engagement under the award. As I have indicated previously, that may not necessarily be suitable for the employer, let alone for the employee.

The amendments to section 19 are opposed because they are unnecessary. They remove the capacity of the parties to plan or to make arrangements for the future. Upon the expiration of a workplace agreement there is the opportunity for the conditions under that agreement to remain or for the award to apply; so there is provision for agreement between the employer and the employee in those circumstances.

In this debate my main concern has been the level of misunderstanding about the content of the Workplace Agreements Act and the role of the Commissioner of Workplace Agreements. I will correct some of the incorrect and unfounded assertions that have been made about the Workplace Agreements Act as debate progresses. One incorrect and unfounded assertion is that once a person has signed a workplace agreement, he or she is forever excluded from the award system. Section 19 provides for the award to apply once a workplace agreement expires.

Mr Kobelke: The legislation does not say it has to.

Mrs EDWARDES: It provides for the award to apply once an agreement expires. The parties can agree to continue the agreement after the nominated expiry date; it is the other way around. Another unfounded and incorrect assertion is that employees could be prosecuted for disclosing to their parents the contents of an offered workplace agreement. The confidentiality provisions apply only to the staff of the commissioner's office in respect to the details of lodged agreements. Another assertion is that all workplace agreements are subject to the no-disadvantage test. That is incorrect as the no-disadvantage test is applicable only to those covered by federal awards who seek a part 2A workplace agreement. Other assertions are a slur on the Commissioner for Workplace Agreements. It has been claimed that the commissioner is not performing his duty and is not applying the no-disadvantage test properly; that he is allowing agreements to be registered that have not been genuinely made; that he is not taking adequate steps to ensure that people understand and accept the contents of their workplace agreement; and that he is allowing agreements to be registered despite threats and intimidation being used in the form of a no workplace agreement, no-job policy. That is a slur on the reputation and character of the commissioner.

Mr Kobelke: I can give the minister a specific case.

Mrs EDWARDES: The member for Nollamara can give the cases to me and they will be investigated. A generic, unfounded statement like that casts a slur not only on an extremely well-respected and long-serving public servant but also the officers in the commissioner's office. Another assertion is that the lack of prosecution for offences is evidence the Government is not serious about giving employees a real choice between the award and workplace agreements. That is incorrect. There might not be enough prosecutions for the Opposition, but there have been seven since 1993. Another assertion is that not providing any mechanism to renew long-term workplace agreements is inequitable. That is incorrect. Parties to workplace agreements can agree to cancel or vary the agreement at any time. I am pleased to have the opportunity to correct some of those statements.

Labour market reform increases the flexibility of the industrial relations system and has the potential to facilitate improvements in labour and capital productivity and therefore investments. An example of the influence that labour market arrangements have on investment relates to Worsley Alumina. Worsley held off on its plans for an $800m expansion of refining facilities until it was able to seal an industrial relations agreement with the Trades and Labour Council, various other unions and contractors. That example demonstrates the effect that uncertainty in labour relations can have on market arrangements and cost structures for businesses.

In 1997 the OECD reported on the workplace relations Act. It stated that while the reforms represent an important progress, doubts still prevail about whether sufficient flexibility in industrial relations can be achieved as long as the award system remains such an important part of industrial relations.

The Workplace Agreements Act does not do away with awards it allows them to apply. Those who are currently employees have the choice of staying under the award system or entering into a workplace agreement, and on the expiration of that workplace agreement for the award to apply.

The OECD comment that there may not be sufficient flexibility within the Western Australian industrial relations system while the award systems remain an important part of the industrial relations is interesting. When we consider where we are going into the next century it is critical that the Government provides sufficient flexibility for workplaces of the future. The Bill we are debating today will not make working life better for employees, because it is a potential disincentive to employment. It will not improve productivity or encourage investment. It would mean that employers would be uncertain about their business costs when employing new employees.

I will reinforce that with some statistics. In May 1999 over 5 079 workplace agreements were registered with cumulative figures showing an increasing number of employers and employees choosing to enter into workplace agreements. In the six years since the introduction of the Act, 149 800 jobs have been created in Western Australia. Of these, 88 600, or just over 60 per cent, were full time positions and 61 200 were part time. I cannot over-emphasise that flexibility of workplaces of the future will mean less emphasis on full-time employment. Future projections are that people born today will live on average to 120 years of age, because of improved medical facilities and diet. Their working life will be longer because they will be healthier. It is estimated that they will have four or five changes of employment during their lifetime. When we consider the education and training required to equip young people with the skills to take them into the future, we must take into account that they will change their employment on a regular basis. That means that people will not necessarily remain in the one occupation during their working lives.

This morning I attended the farewell assembly at Warwick Senior High School for Brian Walters. He has been in the education system for 44 years. That is remarkable. He has made a huge contribution to education in Western Australia and to the young lives that have passed through his care and to whom he has given guidance. He has influenced those young people to become well-respected members of the community. It is a significant achievement for somebody to have been in the Education Department for that length of time. John Murray from the government garage has been in the job for a considerable time and has done a tremendous job for the respective governments he has served. The future trend is not for that type of long-term employment. People will need to be flexible and to work full time, part time, casual, subcontract, contract, and to work for themselves. The workplaces of the future will require employees with flexibility and the ability to undertake a number of skills at the same time or to move from one place to the other. What does that mean for us as decision makers about superannuation for instance? That is a critical point. If people are moving from full-time employment, to working for themselves, to contracting out, to part time, to casualisation and so on, where and how do we ensure that the legislation, the rules and the regulations support them to make those decisions? Superannuation is a key issue on which we need to concentrate to allow such flexibility in the workplaces of the future.

I will return to some of the statistics as I digressed a little. This is something which is very close to my heart having been the Minister for Employment and Training, having previously had a long interest in this area and knowing where the future lies. In the six years to February 1999, full-time employment had grown by 59 per cent. I will compare that back. In the six years prior to the introduction of the Act, only 85 200 jobs were created, of which 39 100 or 46 per cent were full time and 46 100 were part time. In the six years to December 1993, full-time employment grew by only 6.7 per cent. The Government would argue that workplace agreements have assisted and facilitated strong full-time jobs growth.

Mr Kobelke: You are using very false statistics to prove a case that cannot be proved.

Mrs EDWARDES: Can the member prove that those figures are wrong.

Mr Kobelke: They are wrong because you are using the upswing in the economy on one side and the downswing on the other. You are not comparing like with like.

Mrs EDWARDES: Can I just say -

Mr Kobelke: The years you are talking about were the first years of Labor and you only achieved two-thirds of the jobs growth that Labor achieved in its first two years. That is the comparison - two-thirds of the job growth achieved under Labor in its first six years

Mr Osborne: It must have been a great party you had before.

Mrs EDWARDES: That had slipped my mind but I add my congratulations because some of us are not very far behind. In closing, I would have liked to have raised a number of other things because there has been some misunderstanding of the issues surrounding workplace agreements and some of the matters taken to the Industrial Relations Commission and the Federal Court. This Government is committed to ensuring that Western Australia has and maintains a strong economic record. We have a strong economic record. This Government was elected on good management and jobs and it wants to maintain and sustain that. We want to further reduce unemployment, particularly for young people. This is critical. We have been very fortunate in Western Australia that we have had low unemployment rates generally and low youth unemployment rates. However, we are not prepared to simply stand on that record; we want to further reduce unemployment.

The Government believes that a change in the labour market such as that proposed in this Bill would bring with it a level of uncertainty and insecurity for some. I know that has already occurred in some areas in which new technology has transformed the very nature of work. Many jobs have disappeared and whole new industries have emerged. Some of the jobs in existence today were not contemplated or anticipated 20-odd years ago and there will be more. More new industries will come into the market place in the future. Employees will have new skills to ensure they have jobs in place of those that no longer exist.

Workplace agreements provide an opportunity for the new workplace culture which has emerged in Western Australia. It is an important culture based on cooperative arrangements which allow people to come to an agreement about their performance and the conditions they want to be employed on, with or under. Some of the productivity arrangements which have been put in place and their performance and improvement can be shown quite clearly in the metals and mining industries. Employers are rewarded with higher productivity from their work forces and the benefits which flow from that but on the other side of the coin, employees have seen major gains in remuneration in a working life which they themselves -

[Interruption from the gallery.]

The DEPUTY SPEAKER: Order! I remind the members of the public in the gallery that while they are welcome here - I do welcome them - they may not interfere with any member on his feet. They cannot interject or make any noise whatsoever. I ask them to abide by the rules of the House.

Mrs EDWARDES: Under workplace agreements, employees have the opportunity of setting conditions which best suit their needs as well as those of their employers. That has been demonstrated in the number of workplace agreements which have been entered into.

Ms Anwyl: That is not what the report that the Commissioner of Workplace Agreements just released indicates. It lists major losses of conditions for many workers, including many workers who do not have sick leave or any form of holiday leave and who have lost leave loading and other entitlements. It also indicates that many workers are receiving less than they did under their awards.

Mrs EDWARDES: Again, that shows a lack of understanding of the operation because that particular report actually indicated that most workers were better off under their workplace agreements than under the relevant award. The survey of 5 171 employees registering workplace agreements in November of last year looked at the trends in wages and conditions under workplace agreements. I am glad the member has raised this because I did not intend to address the report. The survey found a high proportion of agreements were for casual workers predominantly in the retail, hospitality and other service industries like accommodation, cafes and restaurants which are high-growth areas for employing young people in Western Australia. The survey shows that workplace agreements are clearly providing an alternative to awards. It was encouraging to note the increasing use of productivity incentives and the willingness of parties to look at different remuneration arrangements. We want to ensure that Western Australia is competitive in the international market place. Western Australian companies are restructuring and looking at different ways of doing business and people are seeking more flexible working hours, productivity incentives, sick and annual leave arrangements and other conditions which directly benefit the individuals in the workplace.

Those specific workplace arrangements are difficult to achieve under an award system. Although in some cases the base rate of pay was less than the relevant award, often workers were signing agreements which offered them the potential to work more hours than were available under the award. Those individuals got far more in their hand than they would have done. That is what they wanted to have. The rate of pay is not always the deciding factor for someone signing a workplace agreement. Employees often want conditions that meet their own circumstances and some tangible benefits as well as intangible benefits like flexibility, lifestyle factors and family commitments, which would help make a decision on a workplace agreement.

I remember talking to a young woman who had family commitments. She wanted to start work after she had dropped the children at school and be home again for the children when they got home from school. She did not want an hour for lunch or 15 or 20 minutes for morning tea because she would have preferred to have those reduced in an endeavour to ensure that she was able to drop the children at school and be back home for them after school. Her family commitments were a key

criterion in moving to a workplace agreement. There are numerous examples of lifestyle, family commitments and other benefits which better suited the individual's circumstances being the reason for moving to a workplace agreement. The rate of pay is not always the key criterion. Often some of those other tangible benefits as well as the intangible benefits are the key issues for people.

Members will see many new changes, particularly with long service leave arrangements, whereby people want to cash in their long service leave, have the opportunity of maybe taking some and cashing in some or take it in shorter periods of time than a month at a time. They might want a week at a time instead of taking it on the calendar month which is necessarily prescribed. They might want to use the money to extend their houses, purchase new swimming pools or go on a holiday - something that the whole family can enjoy. A report was done recently in Western Australia on long service leave and flexibility for the future. That will be for the future. People cannot put their head in the sand and say that employees do not want flexibility in their arrangements, because it is quite clear that they do want flexibility in their arrangements. They want it because there is a change in the workplace and in people's lifestyles. A job will not necessarily be there for the next 40 years for the same employee to work in. Industries are changing. Industries which exist now may not exist in the future. Industries which were in place many years ago are no longer in existence. The same applies to jobs. There will be this continual expanding movement and change in workplaces, which will require a need for flexibility in workplaces and arrangements.

Workplace agreements benefit employers and employees. They ensure that we make sure that we have the opportunity to gather extra investment and further growth, so that we can ensure continuing job growth in Western Australia, particularly ensuring that our young people have many opportunities for jobs rather than being unemployed and having to cope with the subsequent consequences.

This State is in a good, strong economic position to create further employment opportunity. We want to ensure that Western Australians continue to enjoy a high standard of living in line with community expectations. We believe the Bill is poorly drafted. We do not believe it is well conceived. Enormous problems would emanate from the Bill. The Government will not support the Bill.

MR BROWN (Bassendean) [4.43 pm]: I support the Bill. In 1992 the Liberal Party in Western Australia released its industrial relations policy, which was headed "Jobs and Choices". I will read two paragraphs from that policy document. The first reads -

> We will create choice by providing another system of work arrangements alongside the system of awards.

The second reads -

> Simply, no employee will be forced into a system, which does not suit their needs.

People were led to believe before the 1993 state election that employees, and by that prospective employees, would be given a choice about whether to be employed under an award or, as it was then referred to in the industrial relations policy of the Liberal Party, an enterprise agreement. That was conveyed to working men and women in this State. Six months after the election, the then Minister for Labour Relations disclosed in a newspaper interview that there would not be a choice for new employees. That was the first time that was disclosed. It was not disclosed during the election campaign. It was not made clear in policy documents. It was only made clear six months after the election was determined.

Shortly after the then Minister for Labour Relations made that statement, I asked him questions on notice about it. It is interesting to look at those questions because the minister in a most uncharacteristic way was quite cagey in his answers. We all know that the former Minister for Labour Relations is quite a straightforward minister. In that respect he was somewhat hesitant and cagey in his answers. One must wonder why. We found after 1992 and the lead-up to the 1993 election that the Government had a mandate for this policy by being elected, but only to the extent that it would create a choice for employees and that no employee would be forced into a system he or she did not like. The former Minister for Labour Relations has also drawn a fine distinction. He has said on occasions, "No, we have not breached our policy because it applied only to employees and people who are not employed and who are applying for jobs." If that is the trickery that the Liberal Party wants to get up to, so be it. The Liberal Party will be judged by that sort of trickery. That is not what people understood. Certainly that is not what the minister and the Liberal Party attempted to make clear prior to the election.

This Bill does not seek to knock out workplace agreements. The minister has made a number of comments today which suggest that this Bill seeks to repeal every workplace agreement. It does not do that. It does what the Liberal Party policy said would be done; that is, it gives the employee a choice. Let us look at that. In some of the mining companies, employees are paid $40 000 above the award. Does anyone think that they will exercise their choice and go back to the award? I do not. However, if members think that some other people engaged in other industries who are paid significantly less than the award rate would like to get the award rate and conditions, that is true. Let us take a case in point. In Parliament House security officers are employed under workplace agreements. The last contractor who employed those security officers employed them under an award. In order for the security officers to keep their jobs, they agreed to move from one contractor to another contractor, because the alternative was that they would not have jobs. They got out of their old uniforms on Sunday night and got into new uniforms on Monday morning. What do they do now? They do exactly the same work. Their work has not changed one skerrick. What are they paid now compared with what they were paid under the award? They are now paid something in the order of 20 per cent to 30 per cent less per week for actually working a couple more hours per week.

People say - some of the security officers have discussed this with me - that is the new world; bad luck. I can inform members that those security officers are not very impressed with this new world. They do not understand how it is that

choice has been delivered because they were not given a choice. People say to me that new employees have a choice; they have a choice of accepting a job or a choice of walking away. However, that choice is constrained, because if a person is offered a job and walks away from that job, and the department of social security is advised that that person turned down that job, that person puts at risk the benefits he will get from being unemployed. Therefore, it is not like a contract whereby a person can walk away and not suffer any penalty, because there is a penalty for walking away, and that penalty is that the prospective employee puts at risk the benefits that he is entitled to receive from the Commonwealth.

I am glad the minister raised the report from the Commissioner of Workplace Agreements. This is a recent report. It showed that a survey was done of workplace agreements to determine whether they had a base rate greater than the award or lower than the award. That survey showed that 53 per cent had a rate above the award, 25 per cent had a rate below the award, 7 per cent had a rate equal to the award and there was another unknown group of 15 per cent. However, how this comparison was carried out is interesting, because the Commissioner of Workplace Agreements has reported that in many workplace agreements things like overtime, weekend penalty rates, shift allowances and those sorts of things have disappeared.

Therefore, the calculation is done in this way: Let us take security officer A who works over five days a week between Wednesday and Sunday, and his base hourly rate under the award, for example, is $12 an hour. However, his penalty rates for working night shifts and on Saturdays and Sundays mean that his actual paid rate is $15 an hour. Under a workplace agreement which replaces shift allowances and the penalty rates for Saturdays and Sundays, that security officer may have a rate of pay of, say, $13 flat. The Commissioner of Workplace Agreements looks at the flat award rate and the flat rate in the workplace agreement and says, in his calculation, that person is better off. However, in reality, that person is worse off. In reality, that person is getting $2 an hour less because no consideration is taken of the movement or the exclusion of penalty rates that apply under awards. Therefore, what we see in these calculations is this: We know that at least one in four workers - that is the minimum - are worse off under the workplace agreements legislation, and the figure is probably one in two workers.

Mr Johnson: How do you arrive at that?

Mr BROWN: I arrive at that because in the statistics from the Commissioner of Workplace Agreements, he talks about the number of workplace agreements under which there are no penalty rates, no rates for overtime, no rates for working on weekends and no rates for working shiftwork - nothing at all. There is a flat rate compared with the award.

Mr Johnson: Take, for example, a security worker. I know security workers who work two days and three nights or vice versa. They work 12-hour shifts and are happy with that. They have more spare time at home.

Mr BROWN: That is right. I can inform the member that people have worked two, two, four shifts under awards. Fire brigade employees have been working those shifts for probably the past 40 years. In the prison system, employees have worked under every combination and variation of shiftwork for the past 150 years since the colony was settled. In the Police Service, police work a bunch of different shifts. Many people work different shifts, and they like the shiftwork. That is one of the reasons they take on the jobs. They like the rate and they like the work.

Should these people work for a benchmark rate or should they work for a lower than benchmark rate? If the role of the Workplace Agreements Act was to create flexibility, but not to lower standards, that would be one thing. I have spoken to employers who have amortised some conditions. They have said they do not want to apply certain conditions. They have taken the value of those conditions and added that onto the weekly rate. Therefore, in dollar terms, the employees are getting the same as they would get under the award. Under the calculations of the Commissioner of Workplace Agreements, these employees would be doing better. However, in reality they are getting the same. It is true that some employers have done that.

Some employers have, for whatever reason, decided to pay their employees more, particularly in the mining industry in which the work force was heavily unionised. The companies wanted workers out of the unions. The way to do that was to offer them a premium to get out of the unions and onto workplace agreements. The companies were happy to do that, and they have been successful in de-unionising their operations.

We understand all of those things. The concern about this Bill is in respect of those people who are worse off. Those people who are worse off should not be worse off. The award should set the base. The difference between an Australian workplace agreement and a state workplace agreement is significant. An Australian workplace agreement is not capable of being registered if it does not meet the no disadvantage test; that is, if it provides an outcome which is less than the award, it will not be registered. The workplace agreements in Western Australia do not contain that test. They have to meet only the minimum standards set down by the Minimum Conditions of Employment Act, which in many instances are significantly less than those contained in the relevant award.

One issue that is important for the purposes of this debate is individual bargaining, and I have raised this matter with the minister. It was said that one of the great virtues of workplace agreements was individual bargaining, which would allow an employer and an employee who had a set of concerns to get together to bargain and work out an arrangement that was suitable to both parties. That was said to be a strength of those agreements. Last year, I asked the Minister for Labour Relations question without notice 726 of 1998, which states-

> Is it true that a number of employers have developed a standard workplace agreement which prospective employees must sign to be employed?

The answer was -

> Yes.

In many instances, negotiation is a sham. There is no negotiation. In many situations - I know, because people have come to my office to ask me for advice - complex workplace agreements, which are in a standard document that has been drawn up by the legal profession on St Georges Terrace, are given to employees, who are told, "If you want the job, sign it. If you do not sign it, you will not get the job. There is no negotiation on this agreement. That is it." It is an absolute furphy -

Mr Johnson: There is negotiation about the salary and the terms and conditions.

Mr BROWN: I can tell the member for Hillarys that in the case of the people who have come to me for advice, they are told, "That is the document; you either sign it or you do not. If you do not sign it, you will not get the job." What happens? People sign it! They are not in a strong bargaining position. They are in a weak bargaining position. If they do not get the job, they lose their unemployment benefits. They need to survive.

Mr Johnson: If the agreement is not fair, it will not be registered.

Mr BROWN: Rubbish! Read the legislation! If it provides for the minimum wage, which is pretty lousy - it is about 40 bucks worse than the federal minimum wage -

Mr Kobelke: It is $56 less.

Mr BROWN: - and if it provides for four weeks' annual leave and 10 days' sick leave, that is it; it will be registered. That is all they look at. They do not look at the test of what the award is, or whether a worker will be $50 or $100 a week worse off. They do not care about that, and they are not required to by the legislation. The Commissioner of Workplace Agreements cannot legislatively reject a workplace agreement because it contains conditions that are inferior to those in an award. One does not need to be very bright to get that job. It is about a level 1 job. He reads it and he says, "Has it got the minimum wage in it, or something better?", and he knows what that is, and he says, "Has it got sick leave and annual leave, and does it meet those provisions?", and if it does, it gets a tick. Some of the agreements that I have seen are one page. They give the rate of pay, annual leave and sick leave, and they then state that all other conditions are in accordance with the personnel policy of the company.

Mr Baker: There is a swag of implied conditions, of course.

Mr BROWN: I am glad this is a simple system! The other thing that was said is that this would be a simple system. We are now getting into implied conditions! A lot of workers will understand that! They will understand that that is the policy this week, but is it the policy next week?

Ms Anwyl: Get legal advice from the member for Joondalup!

Mr BROWN: The legal advice from the member for Joondalup will be free! We will be looking for the banana trees in old-growth forests again! I support this Bill, because it is fair, and because it maintains standards. Most importantly, I support it because it was the only thing the Government had a mandate to do, and it did not do it.

MS ANWYL (Kalgoorlie) [5.04 pm]: I support the Workplace Agreements (Provision of Choice) Amendment Bill and will make some comments about this legislation as it relates to two areas of my constituency. My first comment is about the people of Kalgoorlie-Boulder, because there is clear evidence that a significant number of my constituents are parties to workplace agreements. However, many of those workplace agreements have not been registered, and I will return to that matter later. Secondly, it is extremely clear from the recent document from the Commissioner of Workplace Agreements entitled "Summary Statistics and Other Information - Vol 8 - May 1999", that many young people are being taken up by this nefarious system over which the Court Government has presided. As the Labor spokesperson for Youth, I find it ironic that the Minister for Labour Relations would spend some time in her second reading speech discussing the benefits for young people of having the workplace agreements legislation and the choice that it provides. Those of us who live in the real world know there is no choice, and the people who have the least choice of all are those who are young, come from non-English speaking backgrounds, have part-time or casual work, and generally do not have the experience, skills and level of articulate dialogue that are needed to negotiate a position with an employer.

With regard to the concept of choice, as the member for Bassendean has said, we are not trying to overturn altogether the regime that has been set up by the Court Government. However, the Opposition does have the clear policy that when we are elected after the next election, we will make some significant changes to the legislation so that there is not this sort of discrimination against workers in Western Australia. However, for the time being, we have a piece of legislation in the Parliament. The minister had almost two months to prepare for the second reading debate. This matter came into this House on 5 May. This Bill been passed in the other place. I know that people like the Minister for Education and the Minister for Labour Relations find unpalatable the very notion that a piece of legislation that has been initiated in the other place will come to this place and will require them to give it serious consideration. I note that the fact that a majority of members of the other place have passed this legislation will not have one iota of influence on the Court Government and members opposite. I know they pay no regard to what happens in the other place. However, the fact is that this legislation has already been approved by the other arm of this Parliament.

Having said that, we want to provide some choice, as the member for Bassendean has said, particularly for those workers who are finding themselves worse off under this system of workplace agreements. There is clear evidence in the Commissioner of Workplace Agreements summary statistics document that not just one or two but significant numbers of workers in Western Australia are worse off. With regard to the concept of choice that members opposite are so confident exists in the workplace, we do not need to go very far to find there is no choice. In fact, we do not need to go any further than the conclusion of the commissioner's report to find there is no choice, because the commissioner's report is a very telling document. He sets out to analyse whether there is a difference between an award payment and conditions system and a

workplace agreements system. However, he cannot even do that adequately because he does not have the information at his fingertips to do it. In making that comment, he states that -

> Employees who wish to have their agreements registered do not necessarily compare their agreements to the award.

He then sets out six examples of why that may not happen. The first example of where a worker may not compare the agreement with the award is -

> A business has restructured its operations and a workplace agreement covering hours, wages and conditions is an integral part of the new structure. As a result of this, new employees are offered workplace agreements as a condition of commencing employment, as the business relies on the agreements to support its new operations.

Surely that is clear language in anyone's terms. It makes it extremely clear that, for some of the workers for whom workplace agreements have been registered, a condition of their employment is that they accept the workplace agreement; that is, there was no choice; there was no example of the worker fronting up for a job interview and being told he could go onto either the award conditions or a workplace agreement. The Workplace Agreements Commissioner is making it extremely clear that it was a condition of his being employed that he had to sign a workplace agreement. I do not know how the minister thinks that is an example of choice. The commissioner makes it clear that for a significant subset of people who registered agreements there was no choice.

Many other examples are given. We must move away from the fallacy that all workers are better off under this system than the old system. We cannot even make a proper comparison. The commissioner makes it extremely clear in this report that he did not have the full information before him about conditions that were traded off for wage increases. He did not have the information from which he could make a proper comparison. As the minister pointed out, this report is about a sample of workers. My research indicates that in the year ending 30 June 1998 almost 48 978 agreements were registered. Of those, only a handful were not accepted. The member who said that it would not be registered if it were not correct is living in la la land.

This analysis of 5 171 workplace agreements that were registered shows that 25 per cent are now receiving less than the award rate for their ordinary rate of pay. It is extremely clear that of the 25 per cent who are paid less than they would be under their proper award, 75 per cent are from supermarkets, grocery stores, cleaning firms, security firms and cafe-restaurants. Clearly a significant number of those workers will be women, young people and people who do not have much expertise or bargaining power when it comes to negotiating this fiction of so-called choice. That information is very clear.

This report was prepared by an arm of government and was not tabled in this Parliament. I am not sure why that is; perhaps it is because the Government would prefer that opposition members did not have access to it. Nevertheless, we have managed to get it into the parliamentary record. The report also reveals that 44 per cent of workers have lost their entitlement to penalty rates. For 36 per cent of that sample, the situation regarding penalty rates is unknown; therefore, it is reasonable to conclude that the real number of workers who have lost their penalties is around 70 per cent. Of that 36 per cent, a significant number may well have had their penalty rates removed.

Forty-four per cent of workers have had penalty rates for overtime eliminated. Again, for among 25 per cent of the sample, the situation regarding overtime penalty rates is unknown. If we add up these figures, we can see that a significant number of workers are worse off in this State under workplace agreements. The figures make it extremely clear that a significant number of workers have had their annual leave provisions replaced by lesser provisions. We heard the rhetoric about people having more time with their children, but only 1 per cent of those 5 000 registered increased their annual leave provision. Thirty-six per cent of workers had their leave loading eliminated. Being a member for a remote electorate I know that the leave loading is a significant factor when it comes to people deciding whether they will take holidays away from their home town. The figures on sick leave indicate that a significant number of workers are worse off. This goes on and on. It is very clear that workers are not better off. We should not lose sight of the ideological obsession that was behind the introduction of this legislation in the first place.

Kalgoorlie has a new Liberal federal member. Most of us in that electorate do not expect that choice of representative will be repeated in the future.

Several members interjected.

Ms ANWYL: I knew members opposite would enjoy this; I am saying this for their benefit. He gloats over the fact that the Australian Workers Union no longer has an office in Kalgoorlie-Boulder. He cannot stop rubbing his hands with delight every time he raises the matter. That member of Parliament has failed to consider that many of the supporters of members opposite who voted for the coalition have family members who were members of that union at one time or have fathers and grandfathers, uncles and cousins who were significant members of that union. With their blind ideological obsession with the destruction of unions, members opposite fail to understand that they have a significant place in not only the history of Western Australia but also in present and future times.

Mr Osborne: What do you know about the history of Western Australia? My grandfather was buried in Kalgoorlie and worked on the *Lake Union Star* in the 1890s. Don't preach to us about the history of Western Australia.

Ms ANWYL: My great-grandfather walked from the goldfields of Victoria to the goldfields of Western Australia so he was probably there before the family of the member for Bunbury. It is extraordinary that we must engage in a family-tree argument before being allowed to make a comment about the significance of the union movement in Kalgoorlie-Boulder.

Mr Osborne: You do not know what you are talking about.

Ms ANWYL: The member for Bunbury does not know what he is talking about because the federal member for Kalgoorlie has done himself much damage by parading around Kalgoorlie-Boulder gloating over the fact that there is no longer an Australian Workers Union office in Kalgoorlie-Boulder. A number of people, including people such as Sir Arvi Parbo - people with significant interests in profit- making ventures - are concerned about the loss of that union.

My point is that members opposite may well gloat, but they do not realise the effect that gloating will have on their ability to be re-elected. I am the first to admit that the union movement is suffering in my electorate. We know that is because people are on workplace agreements.

Mr Trenorden: I heard the union executive on ABC radio about six weeks ago saying that the union must get its act together.

Ms ANWYL: The deputy leader of the Liberal Party is saying that about his party.

Mr Trenorden: That is probably true.

Ms ANWYL: We should be realistic and recognise that people analyse their own performance, and there is no difficulty with that. No-one would deny that union membership is decreasing. We do have an ideological difference about the role of the union movement in Western Australia's future. Members will find that eventually - let us hope it is soon - there will be a huge move back to the union movement because so many workers are being discriminated against by this type of legislation.

I will recount a story about a few workers in my electorate who are not allowed to be members of a union. They used to be members of a union, but they tell me that they probably would not have a job if they rejoined. Major mining companies will not allow unions on their land.

Mr Johnson interjected.

Ms ANWYL: The member for Hillarys thinks that is wonderful.

As is so often the case in the goldfields, we are witnessing a restructuring of labour. The company employing these men came up with a sophisticated legal fiction. It said that it did not think the men were employees; it wanted to make them contractors. The company drew up workplace agreements that those men were required to sign. The men all thought that the workplace agreements had been registered. They were not very sophisticated and did not follow the issue. It was later established that the workplace agreements were not registered. They were not workplace agreements but contracts designed to change the common law status of these workers. From a common law perspective, they were clearly direct employees.

The company said it did not want to pay holiday leave, leave loadings, shift rates, penalty rates, call-out rates and so on. It wanted to put the men on a flat hourly rate. That was done, and the rate was significant. However, the whole thing was illegal; it did not meet the legislative requirements. This is a well-known and big company and it has every resource at its fingertips to obtain proper legal advice.

Those men were told later that the company had changed its mind; it did not want contracts with them and intended to employ another contractor. It suggested that they go to the contractor to obtain employment. The men were tired of being pushed around, so they got advice. It was established that they had been direct employees. However, because the workplace agreements had not been registered, the award still applied. They were then able to make claims for annual leave, leave loading and other conditions that are basic requirements of the award system. Those men received lump sum payments ranging from $20 000 to $30 000 each. Those conditions had been traded off through this system. Let us not assume that every workplace agreement has been registered. We know the registration system is a nonsense. We know from the Commissioner of Workplace Agreements' recent report that he is not in a position to vet agreements properly to determine what has been traded off. Members should not be naive enough to believe that workers experience fairness in that area.

The Department of Productivity and Labour Relations is not content with having 50 000 workers on workplace agreements last financial year. It has thought of another way to ensure that workers do not know their legal rights. This is the Court Government's idea. We had the 1993 changes to common law rights, the changes to legislation relating to people injured in motor vehicle accidents and a raft of other changes to ensure that people cannot access legal advice. They cannot even have legal representation in the workers compensation arena, even when they do not speak English.

The department has come up with another device that particularly affects remote regions like my electorate. We currently have a DOPLAR officer who provides advice to workers - so it should - and to employers. That is a good thing, because the more employers who want to seek advice the better. However, the department has decided to redefine the tasks undertaken by that employee. That person will become a workplace liaison officer and his or her duties will involve signing up more people to workplace agreements. It will not involve going to workplaces to advise people how their awards compare with workplace agreements and so on. It will not involve helping the men I described, who had been underpaid between $20 000 and $30 000 each. It will involve promoting and spreading propaganda about workplace agreements. That will remove a significant source of advice for people in my electorate. The Minister for Fair Trading recently arranged a community consultation process around Western Australia about the need for more legal advice. That is a significant issue. I told him he should appoint someone to pick up this role. Once that change in function is put into effect, it will automatically remove the right to legal advice for a huge number of workers in my electorate.

I support this legislation. It has a number of significant clauses. It seeks to overcome the inequity that exists in section 19 of the existing Act. That is a very sneaky device to ensure that workers can roll on from one workplace agreement to another forever. This legislation should be passed. It has been through the other House, and some regard should be given to that, but I will not hold my breath.

MR BLOFFWITCH (Geraldton) [5.27 pm]: I do not support this Bill. I would be one of the few members in this place whose employees are all on workplace agreements. I have 34 employees and on taking up a workplace agreement they all received more money, and they are all still entitled to sick leave. We did strike a rate for overtime, but it was 1.5 times their normal hourly rate. A mechanic who was earning about $400 a week is now earning $500 a week. Represented as an hourly rate, which is the way the workplace agreements are defined, they get half again for working overtime.

I do not doubt that some employers try to take advantage of employees. Without that team working for me, without them totally behind the business, I do not have a business. I was very pleased when the minister introduced workplace agreements. For the first time in my life, as a medium business operator, I had the opportunity to negotiate what hours my employees work and other conditions.

My wife said we had a problem because four or five employees would be going on long service leave for three months at a time. That is very hard to deal with. She suggested that they accrue a month's leave after every five years and that they be able to take it either in cash or as holidays. Two out of our 34 employees have decided to stay with the old arrangement, which saw them accrue three months' leave after 15 years' service and pro rata leave after 10 years. All the rest have gone for the five weeks. As has been said, it is good to get that month's pay, cash in hand, even with the tax system which has a terrible effect on the final pay. In doing that, they could at least use those funds to do something for their families and improve their lifestyle. I have the opportunity to do that only because I now have the flexibility through a workplace agreement. I did try to make some changes when my employees were paid award rates. I went through the Chamber of Commerce and Industry of Western Australia and the Motor Trade Association seeking a variation in the awards. The award provisions had moved to a 38-hour week, and the workshop opens for 40 hours a week. That was very awkward. Mechanics either started and finished half an hour early or started and finished half an hour late, and that is not good when trying to run a well-organised workshop. For the first time, I could set the rate and offer those people an increased rate to make it attractive for them to work an extra two hours a week. Not everybody took that up and wanted to work 40 hours a week, but four of the seven mechanics decided they would. That gave me enough flexibility within the business to man the workshop for 40 hours a week. Good luck to the other mechanics who decided to work for 38 hours a week.

I do not know what other employers do with workplace agreements, but it is a negotiating point at which to start talking. I certainly agree that I would not offer employees less than they were getting on an award. I must say that the only complaint I ever had relating to a workplace agreement was from a young girl. She came into my office and said she was working for a fast food chain as a casual and being paid $10 an hour. They offered her a workplace agreement on a pay of $8.50 an hour. She asked me why she was paid $10 when working as a casual, but as a permanent staff member she was paid only $8.50. If I have sympathy for anyone, it probably relates to what the Federal Government has done; that is, it has inserted a no-disadvantage test in these arrangements. That will probably come into this situation, but it allows for flexibility. It allows people to offer positions that in some cases they may not have been able to offer previously. Of course, employers cannot offer people $2 an hour. The limit is set by the minimum wage, which is around $380 a week. Some awards have a minimum wage of $450 or thereabouts, so there could be a difference in pay of $2 or $3 an hour. It is hard when people see these differences, and I can understand their being not too happy with that. However, that is the only thing that I can see wrong with workplace agreements.

Who should be able to talk to and negotiate with their employees? Should not the owner, the proprietor, or the person paying the wages be able to work out a flexible arrangement? Under the award system it was mission impossible to get a variation in the awards. Even if the employer was a lawyer or had the money to bend the rules, it was still very difficult when the union opposed any variation, as was normally the case. It was far too difficult. We have been given an opportunity to tailor the hours and conditions to our businesses. Surely that is the way to go as we move into the new millennium, and that is the type of approach we should all be adopting.

Mr Kobelke: Why not support this amendment, which allows us to do that?

Mr BLOFFWITCH: I will not support the amendment because it says that anyone who wants to be disruptive or upset the business can get out of the agreement and go back to the award.

Mr Kobelke: Only for the first 60 days.

Mr BLOFFWITCH: I do not even want to do it for the first two days. If we have signed a contract, I have given my faith for the 12 months or two years of the contract and they have given their faith. I do not want Parliament interfering in a contract I have with the people who work for me. What is the member trying to do to the business sector?

Mr Osborne: Give them uncertainty.

Mr BLOFFWITCH: It will give them total uncertainty.

Mr Kobelke: I accept what you said about having good relations with your employees and paying them above the award rate. In that case, why would one of them want to opt out and go to a lower level of pay?

Mr BLOFFWITCH: In my case they may not. However, why put legislation through this Parliament that will make a contract invalid? That is not our role as politicians. People enter into these contracts in good faith when they apply for a job. The situation was not as flexible if they were already employed, because I had to talk them into joining. When people enter my employment, they sign a contract indicating what they will do for 12 months or two years. It would make no sense at all for this Parliament to change that. I cannot and I will not support the Bill.

MR BAKER (Joondalup) [5.36 pm]: I will make a brief contribution to this debate, because I know other members want

to speak on the issue. I am surprised that we are even debating this Bill, because my understanding is that at the time the Workplace Agreements Act was passed in 1993, the Labor Party voted against it and ever since its party policy has been to repeal it. In that case, we should have a repeal Bill, and not an amending Bill, before the House.

Mr Kobelke: That shows your hypocrisy because you promised choice and there is no choice. It is an attempt to put choice into the Bill.

Mr BAKER: I make the point that the Labor Party has had a major policy change with regard to the Workplace Agreements Act; it no longer advocates repeal but only two or three minor amendments.

Mr Kobelke: It is your hypocrisy test.

Mr BAKER: No. It stands to reason that if the Labor Party were advocating repeal of this Act, it would do so in this debate with an appropriately worded Bill. Of course, it is advocating this Bill which has only a couple of minor amendments. It is interesting that the Labor Party claims that these amendments will change the legislation so that it reflects coalition policy at the 1993 state election. The Labor Party wants to amend the Act to put it in the form it perceives it should have been in when first passed, to comply with Liberal Party policy. The Labor Party is adopting the Liberal Party's 1993 policy, although it seems there is a dispute about the precise terms of the policy at the 1993 election.

At the outset, the obvious question is: What are we doing here? Where is the repeal Bill and the implementation of Labor Party policy? It is not before us. There has been a substantial change in Labor Party policy. It now agrees with workplace agreements and is happy with the Act that has been in force since 1993, but it wants one or two minor amendments made. It has covered a lot of ground since 1993. That is great.

The other point I make, in relation to the registration tests applied, is that certain tests in the Act must be complied with before collective or individual workplace agreements can be registered. Members opposite glossed over that point when this issue was raised during the course of their remarks. In that regard, I refer to section 30 of the Act, which I will read into *Hansard*. Subsection (1) states -

> Where an agreement is lodged with the Commissioner under section 29 -

We are dealing with a pre-registration scenario. It continues -

> the Commissioner is to satisfy himself or herself -

Members will note that the section does not say "may" or "could" if they feel like it or think of doing it. It continues -

> (a) that the agreement complies with this Act;
>
> (b) that each party to the agreement appears to understand his or her rights and obligations under the agreement;
>
> (c) that no party to the agreement was persuaded by threats or intimidation to enter into the agreement; and
>
> (d) that each party to the agreement genuinely wishes to have the agreement registered.

Before a workplace agreement can be registered, the tests under section 30, which are comprehensive, must be applied to the satisfaction of the commissioner. It is not correct to say that the prospective employee must take or leave the agreement or it will not be registered. Section 30 of the Act makes that aspect clear.

I now make some brief comments on clause 5 of the Bill. Other speakers have discussed clause 4.

Mr Pendal: Are you effectively saying that the principle is that one may have that choice?

Mr BAKER: I have not touched on that matter.

Mr Pendal: Again the yardstick you have used is that the employer should have the opportunity to withdraw -

Mr BAKER: I am not dealing with clause 4, which relates to the opting out scenario. I refer to the election notice aspect outlined in clause 5, which proposes to introduce new section 25A into the Act to compel employers to give prospective employees an election notice. In effect, this will state that employment is available to the person under a workplace agreement, under an award or under any scenario not covered by either. If the amendment is passed, it will substantially interfere with the rights of the employer and the employee to enter an agreement they may both desire. It will compel the employer to make three distinct offers of employment to prospective employees. Clause 5 covers the three offers. We are not dealing with a one-offer scenario or an election notice for one offer. First, there must be an offer of a workplace agreement. Second, there must be an offer of a contract of employment under the award, relying upon the terms and conditions of the relevant award. Third, which has not been canvassed in debate, if there is no award, another offer must be made to somehow cover other types of agreement not covered by a workplace agreement, the Act or awards. In reality, if clause 5 is passed and proposed section 25A introduced, it would compel employers merely intending to employ a person to make three separate offers of employment to a prospective employee. Any reasonable person would agree that that is ludicrous. How can the law compel a person who is party to negotiations, from which it is hoped a contract of employment will eventuate, to make three separate and distinct offers? Clause 5 of this Bill would do just that.

It was also stated that under the state Act, an employer who is considering employing a person can say, "Here is the workplace agreement - take it or leave it." At the root of that assertion is the notion of choice itself. A person's choice has many different elements. Many factors are taken into account in deciding to effect a choice and enter into an agreement.

Why should the law be modified to compel people to determine those factors? Why should the law limit the scope of various aspects of negotiating arrangements between two parties which may or may not enter contractual arrangements in due course?

Also, some substantial penalties are attached to the principal Act for unconscionable behaviour giving rise to the execution of a workplace agreement. Interestingly, mandatory minimum penalties apply under section 68 of the Act, which include daily penalties for continuing breaches of the Act. These substantial penalties cannot be overlooked as they are designed primarily to protect employees.

Members opposite also asked how an employee can negotiate on an equal basis with an employer in determining the terms of a workplace agreement. The Act provides for employees in certain circumstances to elect to be represented by a bargaining agent or union. If an individual employee is given that choice, and opts not to be represented, it seems unfair that after signing the agreement, he or she can complain about its term and conditions. After all, that person opted not to be represented and to receive advice.

Also, it is assumed that in every case in which an employer is considering employing a person under a workplace agreement, it will be a take it or leave it scenario. A Federal Court decision was made on this issue. The court was required to interpret several provisions of the commonwealth Workplace Relations Act. Judge Marshall in his interim decision held that the scenario involved was unjust and unconscionable. It is important to look at the decision upon which members who participate in the debate may rely. The decision was referred to in the other place. The Australian Services Union v Electrics Pty Ltd case was reported in the federal appeal cases report of 1999, page 211. Judge Marshall handed down his decision in Melbourne on 11 March 1999.

The case involved a company which was contracted to provide meter reading services to the Government of Victoria. That company went into liquidation or receivership and the contracts of employment were assumed by a new company. A case arose in which the new company sought to acquire the contracts. It called for public expressions of interest from meter readers asking whether they wished to be employed. During the negotiations, a company representative basically said - these were the key words - "If the people do not sign the Australian workplace agreement, they will not get a job." Judge Marshall found the words to be unconscionable and harsh. He referred to section 170WG of the federal Act, which provides that a person may not apply duress to an employee in connection with an AWA or ancillary documents. He went on to consider aspects of the legislation, and stated that he found the conduct to be unconscionable.

Interestingly, to this day, that remains an interim decision made in response to an injunction to restrain an alleged breach of that provision. As it was merely an interim decision, and an injunction, all issues were not fully canvassed during the court application. It had only to be argued that a strong arguable case existed to obtain the injunction. As with all injunctions, before the injunction was ordered, the applicant - the aggrieved union - had to give an undertaking to pay any damages should it transpire that following a full hearing of the issues the respondent would be adversely affected and suffer loss and damage and require compensation.

First, this case was under federal law, but dealt with the same principles under consideration with this Bill. It dealt with the transmission of contracts of employment, and our legislation contains a transmission section which binds successive employers. The case produced an interim decision and did not canvass all issues. It was determined on an interim basis in anticipation of a full hearing being held in April of this year. That hearing never took place. Therefore, members may seek to rely in this debate on an interim decision in response to an application for an injunction to restrain an alleged breach of a provision of the commonwealth Act.

In summary, why are we debating a simple amendment to this Act when it is still Labor Party policy to repeal the principal Act?

MR OSBORNE (Bunbury) [5.49 pm]: I join the debate on the government side of the argument. I also will not support the Bill that is before the House. I will reflect on some of the views that have been expressed by the member for Geraldton when he referred to the interests of medium-size business - for him big business would be more like it. I will make some points on behalf of the small business sector. I respect and heard clearly the views of the member for Bassendean and the member for Kalgoorlie who forcefully and with great feeling put the views of the people on the workers' side of the table. The points that I will make relate to people who are on the other side of this matter; that is, the employers and the people who are trying to keep businesses going. I will bring an understanding to the debate about the pressures they are under and how, in some senses, this legislation does not serve their best interests. In general, the small business sector comprises extremely hardworking and well-meaning people. I know members on the other side do not quibble with that. I also agree with their point that some employers are not good to their workers. The danger in the legislation is that we are making a general law which will apply to all, and which is designed to catch relatively few numbers of employers who are not doing the right thing.

Mr Pendal: Sadly, that is the name of the game today. We tend to support legislation in all Parliaments to cover the minority situation. The point is a good one, but if we stopped doing it for that reason, we would stop legislating.

Mr OSBORNE: It is important to take that point into account, and perhaps we must measure the size of the problem. Generally in Western Australia we have an improved industrial relations climate. I do not deny that there are problems in some areas and, in some instances, people are badly served by the arrangements that are made between them and their employers. In general, it is easily possible to argue that Western Australia has an employment and economic growth climate which is superior to other States in Australia. It is in the interests of employers and employees that that beneficial climate be maintained and, if possible, enhanced.

I return to one of the comments I made at the outset about the small business men in Western Australia. The small business men I know in my electorate of Bunbury are, in the main, good and hardworking people. Their prime motivation is to build something and to make a contribution to not only themselves, but also society in general. They also take a great personal interest in the people they employ. I am aware of many instances in which businesses employ people over long periods, and it is true to say that these employees in effect become members of the family. They follow an employer from business to business, their loyalty is unquestioned and that loyalty is repaid by the grateful employer. Both parties benefit from those arrangements. It stands to reason that that is in the interests of not only the employer, but also the person who holds the job. It is in the best interests of the owner of the business to do the right thing by his employees. That stands to reason because, if an employer looks after the people who work in the business, that is repaid and it benefits the business and the employee and, in time, everyone gets an improved outcome as a result. In some cases it is genuinely not possible for an employer to pay more than the business will bear. If the employer is forced to pay more than the business can reasonably bear, the result can be that the business goes bankrupt. That is to the advantage of no-one, least of all the person who is working in that business. If it were a matter of only self-interest, the owner of a small business, the employer, would want to do the best he possibly could by the people who work for him. It is not only his self-interest that does it. I put it to the House that employers do it for other reasons; they do it for altruistic reasons because they are hardworking people and they want to do the right thing by the people who work for them.

Another matter about the legislation which concerns me is the inequality in the arrangements which the Bill seeks to put in place. I refer to the contract between the employer and the employee. If it is possible, as it is under the provisions of proposed section 24A which will be inserted and which gives an employer the right to cancel an existing workplace agreement simply by unilaterally giving notice to the employer, that will introduce a significant inequality into the workplace environment. Suddenly we have a situation in which one party to an agreement can decide that the agreement is off and should cease. That is unfair on the business. The business may have made significant long-term or medium-term arrangements with respect to the supply or purchase of goods. If the cashflow environment in which the business is operating suddenly changes without the business owner having a say in that matter, that puts an unfair and unconscionable burden on the employer. I remind members that the employer is the person who must lie awake at night, who must go to the bank and who may have mortgaged his home to support the business. The stress and pressure of carrying on in that environment on a day-to-day basis is very great. In some instances it is too much for an employer to bear. If that environment can be unilaterally worsened by one party to the agreement - in this case, the workplace agreement - that will put an impossible extra burden on the business owner and the business may fail.

My point, as harsh as it may seem, is that a contract is a contract. When all is said and done, once again acknowledging that sometimes there are injustices and inequalities, generally this is a contract between people who enter into the arrangement with their eyes open. They sign it knowing what they are getting themselves into. I do not know of any other situation in which it is possible for one party to a contract to say that he has decided he is unhappy with it and wants to walk out. It is not the sort of thing people would do if they were buying a house or entering into a hire purchase arrangement for a washing machine or a television. It is not possible for one party to break a contract like that and walk away from it.

Another point I will make - I must be relatively quick because at least one other speaker wants to get into the debate, and I know we have a semi-agreement to get the matter through so we can move on to the next motion - is the issue of who owns the job. Although the employee has rights which are protected under law, the employer also has rights. As I said, if the employer has borrowed the money and has taken the risk to keep the business going, that employer has rights with respect to the employee. After all, it is the employer's money and, in a sense, he owns the job. Naturally, on a day-to-day basis, there will be negotiation and give and take, but when it comes down to it, at the end of the day, the person who is paying for the job to be performed has the greater right in saying what should be the terms of the contract. That person is the small business owner or the employer. He is paying for the job to be performed and if he decides that the job can be done in a different way, or even, unfortunately, not done anymore, ultimately that person has the right to make that decision.

I do not support the Bill. It does not recognise the contribution that the labour relations environment which we have created in the past six years has made to the Western Australian economy. I listened with interest to the member for Nollamara when he talked about unemployment rates. If the member lived in the Middle Ages and was an alchemist, he would be trying to turn base metals into gold. That is the sort of sophistry of argument in which he engages when he proposes that unemployment under this Government is not as good as it should be, or that it would have been better if his party were still in government. The facts speak for themselves. Unfortunately, we had high levels of unemployment when we came to government and, admittedly, that was partly a function of the economic cycle.

The reality is that unemployment has fallen under this Government, and it is not fair to argue that we had nothing to do with that, because if that were the case, Western Australia would not be outperforming the other States of Australia. Unemployment in Western Australia is lower than in the other States of Australia. That was not the case in 1993, particularly with youth unemployment, which when we came into government was around 28 per cent. Today, Western Australia is the only State or Territory in Australia that has youth unemployment of below 20 per cent. Any fair observer must acknowledge that while the economic cycle has contributed to that, the labour relations environment that this Government has created has also played a part. Our reforms have generated a competitive system, and the result has been economic growth and a higher standard of living in Western Australia.

Another reason that I do not support the Bill is that it does not recognise the fundamentals of employment law, which in my mind allows an employer to determine the conditions under which employment shall be offered. One fundamental of employment law is that the unilateral revocation of a contract is not right. The provisions of this Bill will allow that unilateral revocation to occur; and if that does happen, the employer does not have the right to terminate or sue for breach of the contract. I believe that most reasonable people walk into an employment contract or workplace agreement with their

eyes wide open. They undertake an adult negotiation with their employer or prospective employer, along the lines that the minister and the member for Geraldton have outlined; that is, they talk about the conditions of employment, they may trade some of their long service leave entitlements so that they can finish an hour earlier, or they may not take a lunch break so that they can get away earlier because they have family or social commitments. I believe that in the vast majority of workplace agreements that have been registered, these sorts of commonsense, mature negotiations, accommodations and understandings can take place.

If we start to turn back the clock on the changes that we have made to industrial relations legislation in this State, we will also turn back the clock on the economic growth and progress that we have managed to achieve in Western Australia. That is not in the interests of the people who are employed, and, most importantly, it is not in the interests of the people on whose behalf I have chosen to speak in this debate; that is, the small business employer of Western Australia. I do not support the legislation.

MR KOBELKE (Nollamara) [6.02 pm]: The major issue for workers in Western Australia at the current time is job security. The lack of choice under the Workplace Agreements Act exacerbates the decline in job security in Western Australia. Australia already has the second highest rate of casualisation of workers in Organisation for Economic Cooperation and Development countries, with almost one in four Australian workers being classed as casual. The minister's comment that the OECD was suggesting we need to do better is something I know nothing about. The minister clearly has misrepresented or misunderstood the data that she was given about the OECD.

The WA Government, by refusing to support this Bill and provide an element of choice under workplace agreements, is adding to the job insecurity of Western Australian workers. I am most disappointed that the Government is not willing to support this Bill, which is totally in keeping with the clear promises made by this Government prior to the 1993 election and during the debate on the Bill which led to the introduction of this Act. The minister can talk about her new workplace culture, but that is just a lot of rhetoric which bears no relevance to the reality that many Western Australian workers now face. Many Western Australian workers are now finding that their workplace culture is being characterised by increased job insecurity, an increased incidence of victimisation and intimidation of workers in the workplace, and in many areas a clear reduction in standards of employment.

That is the new culture with which many workers are having to contend. The minister's old rhetoric is meaningless and does not even reflect the reality of the statistics which her own government departments are putting together. This Government promised choice in workplace agreements, but it has denied that choice by the very structure of its Act, and it is denying it again tonight by rejecting this amending Bill. The debate tonight should not primarily be about workplace agreements; that is a very proper debate and the Labor Party on coming to government will repeal the Government's Workplace Agreements Act. However, this Bill is only about holding the Government up to its own promises. It has promised to provide choice in workplace agreements because currently there is no choice. It was misleading for the minister to say that the Government always said a new employee would not have a choice. That is not true. The Government's policies clearly stated it was all about choice. In the debate the minister said over and over again it was all about choice. The press clipping that the minister referred to of August 1993 reflected what we, the Opposition, were saying; that is, that the choice which the minister was saying was available, was not. I will quote the first two sentences of the press statement -

> Labour Relations Minister Graham Kierath has conceded that new job seekers will not have the same protection as existing workers under new industrial relations laws.
>
> Mr Kierath told a breakfast meeting of employers and unions at the Hyatt Regency yesterday that new job seekers would not have the same coverage as existing workers under the legislation.

In answering our accusations that he was not telling the truth, he was simply caught out. The Government never said that new workers would not have choice, but that is the reality. This Bill is about providing a modicum of choice; it does not provide a full range of choice, it simply gives some element of choice to workers on workplace agreements and the Government is denying even that small amount of choice.

The issue of contract law is important. The first part of the Bill allows a worker under a workplace agreement, for only the first 60 days after assent, to opt out on the basis that he was pushed into the workplace agreement without any choice. That is a very narrow opportunity in which to make a choice. For 100 years in Australia we have recognised that the contract between an employer and employee is a very special form of contract. We have set up a special area of law to deal with that. To say that it is all about contract law is to fly in the face of the reality of both the employer-employee relationship and our history of specialised law in industrial relations. The minister has set up the Workplace Agreements Act in such a way that employers can opt out and often get away with it. If they abrogate their responsibilities to a workplace agreement, enforcement is through the civil jurisdiction, and most employees simply cannot access that. The Government has loaded the system so that employers - there are many cases already - can abrogate their responsibilities and there is no chance of enforcement. The clear facts are that we have seen a relative reduction in average weekly earnings for all employees in this State to where we are now below the national figure. Average weekly earnings in Western Australia for all employees - males, females and in total - are below the national figure. That trend is being driven by workplace agreements and lack of choice.

The Government's job creation figures were concocted. We can compare the fall in employment figures this year with the growth which occurred in the Labor years. It is a nonsense, just as the Government's figures are a nonsense. We can compare the figures for the first six years of this Government's term when the country had come out of an international recession with the first six years of the Labor Government's term when the country had come out of a recession and we will see the growth in jobs under this Government has been only two-thirds of that achieved by Labor. The Government does not have runs on

the board with respect to workplace agreements. A range of cases prove that people are being intimidated; they do not have the option of upholding their rights. They are not being given choice.

I close by responding to the comment of the minister about employers. The Opposition also wants employers to have security; but we also want to give employees security. We want a stable system that works. This system opens employees to abuse by unscrupulous employers. Although they are a minority, their attitudes are an attack on good employers because they must compete with people who are undermining conditions. We are trying to say that we should establish a level playing field; all employers should pay a decent wage.

The report commented on by other speakers indicates that 25 per cent of workplace agreements provide for a lower hourly rate than the award. That says nothing about total wage outcomes, which will be far worse than that. The minister is saying the workplace agreements provide for greater productivity. The recent report from the Commissioner of Workplace Agreements, which she has not read, shows that that is not occurring. He says that 19 per cent of employees' agreements contain at least one of the following productivity incentives: Commission, profit sharing and performance pay. Not even one in five provide workplace agreements for performance incentives. It is a nonsense. Workplace agreements are about driving down wages and conditions and allowing individual employees in certain areas to be abused rather than to uphold their rights because the minister is denying them choice.

This Bill is about providing an element of choice. In rejecting this Bill the Government is showing that its motivation for introducing workplace agreements is about driving down wages and conditions in certain areas of our economy. That is something that the people of Western Australia will not accept because it is unfair and unjust and leads to the exploitation of workers. If the Government votes against this Bill, it will be voting for the exploitation of the ordinary men and women of Australia who want a fair go.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (27)

Mr Ainsworth	Mr Court	Mr MacLean	Mr Trenorden
Mr Baker	Mr Cowan	Mr Masters	Mr Tubby
Mr Barnett	Mrs Edwardes	Mr McNee	Dr Turnbull
Mr Barron-Sullivan	Dr Hames	Mr Minson	Mrs van de Klashorst
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Omodei	Mr Wiese
Mr Board	Mr Johnson	Mrs Parker	Mr Osborne *(Teller)*
Mr Bradshaw	Mr Kierath	Mr Sweetman	

Pairs

Mr McGinty	Mr Day
Mrs Roberts	Mr Prince

Question thus negatived.

Bill defeated.

REGIONAL FOREST AGREEMENT, COMMUNITY EXPECTATIONS

Motion

MS WARNOCK (Perth) [6.17 pm]: I move -

> That this House condemns the Regional Forest Agreement for failing to meet community expectations about the extent of our State's native forest placed in reserves and calls on the State Government to immediately initiate a process to identify more forest blocks for protection.

DR GALLOP (Victoria Park - Leader of the Opposition) [6.18 pm]: We have initiated this motion because the Government's Regional Forest Agreement has let down the people of Western Australia. The Government has failed in its RFA because it ignored the community's concerns about the reservation of our remaining 347 000 hectares of old-growth forest. More than 100 000 hectares of old-growth forest is still available for logging under the RFA. However, the RFA has also failed because it has not provided the certainty that it was originally designed to provide, a certainty that was promised by both the Minister for the Environment and the Premier.

The National Party these days does not appear to be certain about anything. The Deputy Leader of the National Party says he wants more old-growth forest protected in reserves. The Leader of the National Party says he was not given enough information on the RFA reserve design of the icons as to which would be in and which would not be protected. The member for Collie read out a list of forest blocks which included Jane, Giblett, Sharpe, Dawson and Ordinance blocks, and the member for Wagin apparently only wants an opportunity to speak on the issue.

Opinion also seems divided within the Liberal Party. The Deputy Leader of the Liberal Party says that the community has lost confidence in the RFA process and, depending on when one asks them, both the Premier and the Minister for the Environment are flirting with the idea of adding more forest to reserves. I use the word "flirting" because it is hardly a decisive intervention on their part if one examines the answers that they have given to questions in this Parliament and questions put to them by the media in Western Australia. However, the bottom line is that the RFA has failed because not enough genuine forest has been reserved and the people of Western Australia have recognised that.

What has the Government done to allay these fears of the community about the RFA? First of all, it said that changes could be made and that the RFA was only "a starting point". It then said that changes could not be made without the approval of the Federal Government. When legal advice was obtained from the Environmental Defenders Office it was clear that there was no legal impediment to the Government putting more forests into reserves. We then find the Premier struck a Saturday afternoon deal with Wilson Tuckey about which he will not say anything but, from what Wilson Tuckey tells us, leads to the conclusion that the Government will not be adding to the reserve system. When the legal impediment to protecting more forest was removed from the argument, the Premier replaced it with a political impediment. No wonder the community of Western Australia feels let down.

That is the background. Let us now get to the heart of this motion. I will speak only briefly; my colleague the member for Maylands will detail most of the arguments. What we are doing is simple: We are giving all those members in this Parliament who feel let down by the RFA and who are unhappy about the reserves that have been included in it an opportunity to put pressure on the Government. The member for Wagin said that he wanted more say about what should go into the reserve system. The member for Collie said she thought more blocks should be added. The Minister for Primary Industry said he wanted more blocks added to the reserve system. The Minister for Resources Development said that the public had lost confidence in the process. This motion presents the Parliament with an opportunity to send a message to the Government: We want more forest blocks placed in the reserve system. Some members want a few extra blocks included, and some, like members of the Labor Party, want an end to logging in old-growth forests. Wherever members are in that spectrum, this motion provides them with the opportunity to have a say on the Government's position. The Opposition is giving Parliament the opportunity to put pressure on the Government and to have a say about whether more blocks should be added to the regional forest reserve system.

Once again, the Opposition is placing the RFA in the hands of the Parliament, giving it the opportunity to have a say and to put pressure on the Government. As we have seen, the more pressure that is put on the Government on this question, the more we find cracks appearing in the coalition. Members should use this opportunity to tell the Government what the public is telling them: We want more old-growth forest taken out of the logging system and conserved for our children and grandchildren.

DR EDWARDS (Maylands) [6.22 pm]: I support the motion. It is a very simple motion. It calls on the State Government to initiate immediately a process to put more of our native forest into reserves. It is not a prescriptive list of blocks and it does not include much detail. However, it is a process to rectify the current situation. Without doubt the current RFA has failed the community. The Opposition is moving this motion so that Parliament can send the message that it wants to redress this problem.

The Leader of the National Party pointed out the difficulties with the RFA and suggested that more icon blocks should be included, and the Deputy Leader of the National Party said similar things. The member for Collie read out a list of blocks that she believes should be protected.

Dr Turnbull: I had very limited time in which to speak. You did exactly the same thing last week. You are not giving members time.

Several members interjected.

Dr EDWARDS: We have done nothing of the sort. The coalition has had speaker after speaker use up the time allowed for debate on this motion. The Leader of the Opposition has had to leave.

Mrs Edwardes: We have the times here. I would not suggest that if I were you.

Dr EDWARDS: Why would the Leader of the Opposition agree to give a speech at another function some distance from here at 6.15 pm if he thought he would not be there? The member's argument falls flat on its face; the member for Collie is totally wrong. Various members on the other side have said that there are deficiencies in the process and that more forest must be added to the reserve. Tonight is the opportunity for them to stand by their word. Yesterday the Leader of the National Party said that he wished that the National Party had gone into the Regional Forest Agreement discussions - presumably to the Cabinet or to the slide show - with a map of the icon areas that he could lay over the map of the old-growth forest areas. All of those members opposite who have pointed out the problems now have a chance to vote for a process that would seek to address these problems.

The RFA was launched in a blaze of publicity. We were told there would be 12 new national parks, additions to reserves and to other national parks, and money for tourism and industry restructuring. After that day we had a big publicity campaign with over $300 000 spent on pamphlets, and television, newspaper and radio advertisements. It was a sophisticated campaign. The problem is that six or seven weeks on, the community is not convinced. They have not bought that pup; they have not digested the message. The community is much more sophisticated than that. Although we were told that the RFA had added 45 000 hectares of old-growth forest to reserves, we were not told so vividly that 100 000 hectares of old-growth forest would still be logged over the next 20 years.

The other point that only came out later was that as a result of the RFA 50 000 hectares of forest that was protected under the previous forest management plan is returned to state forest, and now will be logged; and 9 000 hectares in that 50 000 hectares is old-growth forest. All is not what it seems.

I want to go through some of the examples of forests that will be returned to state forest. Under the proposed forest management plan Keninup near Manjimup is a proposed nature reserve. That is the highest level of conservation classification. It received that classification for good reason. The Department of Conservation and Land Management describes it as having virgin wandoo and jarrah forest and a habitat for six declared threatened mammal species. Now the land at Keninup will be state forest. The result of that will be logging. As the community scratches beneath the surface and sees what is going on its anxiety about this process and the RFA will be fed and will add to its cry to add more forest to the reserves.

Similarly Talling between Donnybrook and Collie is described as virgin jarrah open forest and wandoo and is habitat for declared threatened mammals and flora. Talling is part of the locality of the Tone-Perup national estate area and is listed as being worthy of inclusion on the national estate because of its high conservation values in three separate categories. It has a high conservation value because of its biotic processes, and its rare and endemic species of fauna. It has a high conservation value because of its fauna. Numbats, woylies, the western ringtail possum and various other threatened animals live in that forest. In addition it has high conservation value because of its undisturbed vegetation communities. What will happen? It will be logged. It has been taken out of a proposed nature reserve and put into the state forest as part of the RFA.

All of the arguments about the RFA adding land to the conservation estate and protecting old-growth forest fall flat once one reads the detail of what is going on. In a small way I have some sympathy with the Leader of the National Party when I read the changes to the forest management plan under the RFA. The RFA says that Giblett block, which is currently state forest under the forest management plan, will become national park and the minister's media release says that part of Giblett is to be saved and put into the Beedelup National Park. When one reads the values in Giblett - karri, old-growth jarrah, and high biophysical attributes - one might think that all was okay. However, it becomes apparent when one really looks at the issue that only 10 per cent is to be saved. A forest block that people regard as an icon, one that the minister in this Parliament said she would not allow to be logged while the RFA process was going on, will now be logged. Only a tiny part will be saved. It is a similar situation with Sharpe block. We are told it is state forest that will become national park, but it is yet another of those icons of which only a tiny bit will be saved and yellow tingle will continue to be logged. Sharpe block is described in the agreement as having jarrah old growth, jarrah-yellow tingle old growth, karri main belt old growth and other flora and fauna characteristics. What will happen to that? A tiny bit will be saved but much of it will be logged.

Mrs Edwardes: Sixty-six per cent will be saved.

Dr EDWARDS: That is not good enough. While the Minister for the Environment may have fooled her National Party colleagues with her maps and slide show, when push comes to shove it will not stick. Similarly, Swarbrick block is full of controversy at the moment, and today people have been arrested in that area because local people do not want yellow tingle to be logged. We are told that it will become a national park, but that will happen only after it has been logged. The whole situation is an absolute disgrace, which becomes clear when one compares the Regional Forest Agreement, which was signed by the Premier and the Prime Minister, with what is going on on the ground. What about the other icon? Jane block is not protected.

Mr Omodei: What was in your policy?

Dr EDWARDS: A whole lot better things than are in the policy of this Government. Under our policy set four years ago, no high conservation value old-growth forest would be logged. The minister obviously does not know our policy and has not read the details. The Labor Party has had that policy since 1995. The Minister for Local Government is talking through his hat.

Mr Omodei: You took all these blocks out of the draft policy.

Dr EDWARDS: Nonsense. We put them in the forest management plan. The minister does not know what he is talking about.

Mr Omodei: You are in opposition.

Dr EDWARDS: The minister is asking ridiculous questions. On the one hand, he has asked what we are doing, acting as though members on this side are in government, and then he is retorting that we are in opposition. He does not know what he thinks.

The Government has said that it cannot alter the reserves because of the RFA, the document signed by the Premier and the Prime Minister. Tonight, that will probably be the argument put forward by the Government.

Mr Trenorden: You have only half an hour. What argument? When will the argument occur?

Dr EDWARDS: The member for Avon should listen. Surely he will not be so hypocritical as to say he does not want more reserves added? Every man and his dog from the back bench to the deputy leaders on the Government side have been saying that. They all want more reserves added.

It is almost certain that government members will not oppose the motion on the basis of not wanting more reserves added; I hope none of them will be so hypocritical. Government members will go back to the fact that an agreement has been signed, and mount the old argument that they cannot alter the agreement. I refer to the answer given to a question I asked

earlier this year about whether the RFA would be open to review and possible alteration in the course of developing the new forest management plan. I received the simple and straightforward answer of yes. This answer came from the Minister for the Environment, and she indicated it could be reviewed. Secondly, we now have a legal opinion from the Environmental Defenders Office.

Mrs Edwardes: Do you have the opinion or an analysis of the opinion?

Dr EDWARDS: I stand corrected; it is the analysis of a legal opinion provided by three eminent lawyers to the Environmental Defenders Office. It is clear from this that the Government can alter the RFA. In addition, nothing in the RFA prevents the Government from adding other reserves to the reserve system. The Government has two options. It can alter the RFA to include more reserves or designate high conservation value areas that need protecting, that the community has demanded be protected, and protect them.

The Opposition wants more reserves added to our forest reserve system. The National Party wants more reserves added; indeed, it has read out a list in this place. Influential members of the Liberal Party want more reserves added. The community definitely wants more reserves added. This is a simple motion which would set in train processes to add more reserves and save our valuable old-growth native forests. I urge the Parliament to support this motion and send a signal to the Government to do just that.

MRS EDWARDES (Kingsley - Minister for the Environment) [6.35 pm]: I oppose the motion. I will again remind members of the Regional Forest Agreement process and then address some of the points the member for Maylands raised. The Regional Forest Agreement began back in 1992, when the Department of Conservation and Land Management entered into an agreement with the Australian Heritage Commission to look at high-conservation areas and how they could be preserved. That was also when the Commonwealth, State and Territory Governments signed a national forest policy statement, which meant they were working together towards a shared vision for the management of Australia's forests. Western Australia is not the only State to enter into a Regional Forest Agreement. Tasmania has signed off its RFA, Victoria has signed two and is about to sign a third, New South Wales has entered into negotiations and Queensland is part way through the process. The Regional Forest Agreement lasts for 20 years but is subject to reviews and two management plans during that time. My answer to the member for Maylands' question was that variations can occur after a scientific assessment process, following the reviews and the forest management plans. That is done with the concurrence of the Commonwealth under section 8 of the agreement. When people talk about the legal advice which has been presented, they should note that I have not seen that legal advice. I have seen an analysis of it but not the advice as such. That is an important point, but people presume that any additions to the CAR reserve system can be made without changing the sustained yield figure. I would like to know how that can happen because that was the whole exercise of the development of the Regional Forest Agreement; it has been an issue of balance in increasing our areas of high-conservation value. I use that term liberally because many people understand the definition of old growth, but old growth and biodiversity were the criteria to be met under a national agreement. Western Australia will be the only State to meet or exceed those national criteria and that is a pretty good commitment by this Government to the conservation of forests in Western Australia. Tasmania has not done that, Victoria has not done so to date and will not be able to do so in its third Regional Forest Agreement and neither New South Wales nor Queensland will be able to meet those national criteria. Western Australia is the only State to do so and it is a significant commitment on the part of this Government to say that Western Australia has met and/or exceeded the national criteria for biodiversity and old growth. That was based on a huge amount of scientific information. Some 46 social, economic, heritage, cultural and environmental reports were commissioned and peer reviewed.

Another misconception in the community is there was no peer review of these reports and the science in them; however, there were peer reviews. Further than that, a scientific panel was established with a representative of the Environmental Protection Authority after the authority raised concerns about the ministerial conditions to the 1994 forest management plan in December last year. They were invited to place a representative on that panel, which was able to verify that our reserves and the management carried out in our forest were sustainable. Again, that can give confidence to the community that our forests are being managed in environmentally sustainable ways.

I refer to a number of points members opposite have raised. A couple of issues arise about the number of areas remaining as state forest. The RFA involved a massive collection of new information about our state forests. More scientific information is available for our south west forests than was ever the case before. We have far more information than was known in 1994 when the current forest management plan was put in place. Therefore, anything done until that time should have been subject to the review of areas not put into national parks or gazetted. Those areas proposed formally for conservation reserves were able to be assessed in the mapping and scientific assessment process. New criteria were established; namely, national criteria on how to design a forest system. It was a nationally agreed forest criteria system. It was available neither in 1992 when CALM and the Australian Heritage Commission carried out a joint study, nor when the 1994 forest management plan was prepared. Therefore, an increased level of information has allowed us to pick up important areas of old growth, which meet the nationally agreed reserves criteria.

Some areas which were previously proposed as reserves were found not to contain significant old growth. Charley is one such block. Keninup was put aside because of fauna. The ability to properly assess that area was important as it is next to the Perup wilderness area. It was found not to meet the nationally agreed criteria. Therefore, the recommendations were for the areas to remain a state forest. That allowed us to put into reserve significant areas of old growth and significant areas which meet the nationally agreed criteria, particularly in terms of biodiversity. That is particularly true in the Blackwood area between Nannup and Margaret River. We had put into reserves only about 30 per cent of that area. Considerable debate ensued on whether we should increase reserves in that region to meet the nationally agreed criteria. The impact this would have had on Nannup and surrounding towns, particularly regarding jobs, was debated. The commitment the

Government gave was to meet or exceed the criteria. Unlike Victoria and Tasmania, which have signed their agreements, and which reduced the amount of reservation to below the nationally agreed criteria, we met the criteria, even in the area with a potential cost of jobs. We put in place a significant plan to maintain those jobs and the town of Nannup.

In other areas east of Manjimup, reserves were previously proposed as habitat for fauna. Everybody is aware of the nationally acclaimed Western Shield program which allowed us, with fox control, to reintroduce and translocate fauna to areas which they were not previously able to populate. With or without timber operations, those areas with fox control are now suitable habitat for those animals.

Again, I indicate to members opposite that the reserves in the Regional Forest Agreement resulted from the highest and most significant scientific assessment this State has ever known in the south west forests. I return to some of the blocks which the member for Maylands raised. The total comprehensive, adequate and representative reserves for Giblett block was 14 per cent saved, with 24 per cent in all reserves. The total CAR reserves in the Sharpe block was 63 per cent, and 66 per cent in all reserves. We have reserved 100 per cent of Hawke block as a result of high conservation values. Charley block, which is next door to Hawke, contains dieback, and not as much old growth as was previously determined in the 1994 forest management plan. As such, it is very important that Hawke be reserved. On scientific assessment, it was a very valuable block with high conservation values. The total CAR reserves of Jane block were 25 per cent, and 35 per cent of all reserves. Total CAR reserves of Northcliffe were 39 per cent, and 47 per cent in all reserves. Also, 74 per cent of Hester block is protected in the CAR reserves, and 75 per cent in all reserves. Of Kerr block, 13 per cent is protected in the CAR reserve system, and 17 per cent in all reserves. Therefore, a significant commitment has been made by the Government to areas of community attachment, and those areas which people identified they would like to see reserved. We have taken into account their concerns.

I want to put on record that there was significant progress leading to the signing of the Regional Forest Agreement. We have in place the most extensive scientific assessments. We have met or exceeded the nationally agreed criteria like no other State will be able to do. We have earmarked three new national parks. The reserves will be among the world's best, particularly the area in the Mt Franklin region, where we will put in place a management plan to protect and enhance a wilderness area to one which will be defined under the criteria. The Regional Forest Agreement has achieved significant results. We certainly do not condemn the Regional Forest Agreement process.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [6.46 pm]: This is the first time that I have had an opportunity to speak in this debate. One of the areas of concern to me in the debate on the Regional Forest Agreement is that the RFA had its genesis with the national forest policy statement which was signed by Dr Carmen Lawrence, the then Premier of Western Australia. One of the criteria of the RFA process is to look at the social impact of any changes to any logging intake of the timber industry in Western Australia. The Rio de Janeiro biodiversity conference in 1992 had social cohesion as a primary outcome of the conference, and also economic stability and environmental protection.

Many people have become instant experts over the southern forest region timber and reserves. Overnight, people can now explain away a whole range of issues. There is also the political aspect to the whole debate, with the Greens (WA) and the Labor Party making political mileage out of the issue. It would always be a very tough issue for whichever Government was in power, whether under this proposed national forest policy statement-cum-RFA or the renewal of the forest management plans that were due in 2003. The projections were that the cut would be reduced in the jarrah forest to 300 000 cubic metres and in the karri forest to roughly 200 000 cu m. That is a long way down from the Labor Party's 675 000 cu m of jarrah under Minister Hodge and then 520 000 cu m and about 250 000 cu m of karri under Minister McGinty. I find it quite remarkable that the Labor Party, which championed the cause of the timber industry in the 1960s, 1970s and into the 1980s, is now moving right away from that, as has been borne out by its conference and Dr Geoff Gallop, the Leader of the Opposition.

It concerns me greatly that we are talking about significant changes to an industry that underpins the economy of the south west of Western Australia. In the early days in the Warren-Blackwood region, we had a viable hop industry that was based in the place members now know as Karri Valley. It employed a number of people and, until it collapsed in the 1960s, it caused quite an impact. However, the timber industry was still underpinning the economy of the district, including agriculture, dairying and horticulture. In the 1960s we then had the huge impact of the collapse of the tobacco industry. The population of Manjimup reduced by about 2 000 people in a short period and caused a major dislocation of people. However, the timber industry was still underpinning the economy of that region and that district, of which Bunbury was the main region. It concerns me greatly that of the potential job losses that were advocated by the Australian Labor Party, the figures that were prepared by the Department of Conservation and Land Management, in accordance with a formula accredited by the Australian Bureau of Agricultural and Resource Economics, indicate conservatively that 3 000 jobs would be lost under the Labor Party's policy, of which 1 325 are direct losses from the timber harvesting and sawmilling and 1 590 are indirect job losses. An article written by Julian Grill, the member for Eyre, which has been quoted in this place before, states -

> Most of these job losses would be in the South West towns.

It goes on to say that it is calculated, particularly in Bunbury as the major regional centre, that 400 jobs would be lost in forest management from CALM. It continues -

> Additionally there would be jobs lost from the 6000 people employed in industries which depend in whole or in part on the supply of native hardwood timber.
>
> Many of these jobs would be in the Perth metropolitan area.

It also states that the service centres like Bunbury would be seriously affected by the reductions proposed by the Labor Party. A total of 400 jobs would be lost under the proposal in the Government's Regional Forest Agreement process. The whole RFA process is very finely balanced. I have said in Parliament before that it is so finely balanced that it almost gets to the point of collapsing the timber industry in the south west and all the associated woes that would come with that. It continues -

> The prospect of replacing 3000 to 4000 jobs and the permanent loss of the timber resource due to closure of the larger parts of the industry does not appear to be good in the quickly contracting West Australian job market.

Mr Pendal: People said the same in 1978 when Sir Charles Court closed two mills.

Mr OMODEI: I have referred to copious notes, but they are self-explanatory. When the members of the Labor Party talk about the RFA and its impact, perhaps they should talk to some of their people. It would be instructive for the members of the Labor Party to read an article in *The Adelaide Review* by Peter Walsh titled "Convulsions in the West". They are deserting workers in the south west of Western Australia, many of whom are members of the Australian Workers Union. I reject the motion.

DR TURNBULL (Collie) [6.53 pm]: Tonight there are two parts to this motion which has been put forward by the Opposition for debate. The Labor Party, as the Opposition, has quite cynically constructed this motion in two parts: The first part condemns the Regional Forest Agreement and the second part calls on the Government to create more reserves. The shadow spokesperson says that all members present at the moment must have an opportunity to speak on this subject and to vote in favour of the motion. Obviously, she was not listening to what I said two weeks ago. Two weeks ago, we did not condemn the RFA; we said that the RFA had achieved the process set out by the 1992 agreement, which was signed by Carmen Lawrence when Bob Pearce was the Minister for the Environment. Therefore, we will obviously not vote for this motion tonight because, as I said, two weeks ago the National Party supported the achievements of the Regional Forest Agreement. We will not turn around tonight and vote for this cynical motion which the Australian Labor Party has put forward. What is even more cynical is that the Labor Party has tried the same trick tonight as it tried two weeks ago, which is to chop the time so that no-one can speak. We cannot possibly be drawn into that type of trap.

Mr Pendal: The Leader of the House might give us a couple of hours tomorrow.

Dr TURNBULL: No way. The Labor Party is just being cynical when it continues to do this.

The National Party has said that it wants to look at the reconsideration of certain areas which are of high conservation value and which have not been included in the reserves. As we said two weeks ago, part of the concern of the general public and of some people in the south west, particularly those involved in the tourism industry, involves those blocks which have not been included in the reserve process. We are not condemning the reserves that have already been created by the Regional Forest Agreement, such as the Wellington National Park. The National Party will not support this cynical opposition motion. We have already stated our case. We have already indicated that we want a review of some of those blocks which have a high conservation value and which have been included in the logging programs. We have already begun this process. The process can be addressed through the independent sustainable management review and in other ways. The Labor Party does not know what processes are involved in the negotiations and discussions between the National Party and other members of the coalition Government.

This is just a cynical exercise on the part of the Opposition, which has not been able to make much of a contribution to this whole debate because it did not have much involvement in the RFA process. The National Party was heavily involved in the RFA process. We carried out a lengthy study on it. We recommended a great reduction in jarrah sawlog allocations to bring them down from 490 000 cubic metres to only 280 000 cu m. The RFA has come up with that result. Therefore, the National Party has had a creditable involvement in this process, and we will not be sucked into this cynical exercise tonight.

MR McGOWAN (Rockingham) [6.58 pm]: This RFA process on the part of the Government has now reached a stage of great farce. It is incredible to hear what government members in this place say. Whenever question time occurs in this place, who knows what the respective ministers will say? The Labor Party asks each minister questions concerning this process. They all stand up with different answers. Last week and the week before the National Party said it supported more blocks going into reserves. Then the Leader of the National Party said this week that, no, it did not support that. The Premier said that this matter was subject to review. Then the Deputy Premier said that the Premier had had a meeting with the federal Minister for Forestry and Conservation and there would be no change in the policy. The Leader of the House said in the national Press the other day that the process was off the rails and he was the one needed to fix it.

Basically what he is saying is that he has no confidence in the Minister for the Environment. We agree with the Leader of the House. Good point! This matter has now reached the stage where the people of Western Australia need to remember one thing: This side of the House wants to save old-growth forest; that side does not.

Question put and a division taken with the following result -

Ayes (17)

Ms Anwyl	Mr Graham	Mr McGowan	Mr Ripper
Mr Brown	Mr Grill	Ms McHale	Mr Thomas
Mr Carpenter	Mr Kobelke	Mr Pendal	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Riebeling	Mr Cunningham *(Teller)*
Dr Edwards			

Noes (25)

Mr Ainsworth	Mr Court	Mr MacLean	Mr Sweetman
Mr Baker	Mrs Edwardes	Mr Mashall	Mr Trenorden
Mr Barnett	Dr Hames	Mr McNee	Mr Tubby
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Dr Turnbull
Mr Bloffwitch	Mr Johnson	Mr Omodei	Mrs van de Klashorst
Mr Board	Mr Kierath	Mrs Parker	Mr Osborne *(Teller)*
Mr Bradshaw			

Pairs

Mr McGinty	Mr Day
Mrs Roberts	Mr Prince
Mr Bridge	Mr Masters
Dr Gallop	Mr Shave

Question thus negatived.

YEAR 2000 INFORMATION DISCLOSURE BILL 1999

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Barnett (Leader of the House), read a first time.

House adjourned at 7.04 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

FORESTS AND FORESTRY, REGISTER OF THE NATIONAL ESTATE LISTING

2522. Dr EDWARDS to the Minister for the Environment:

(1) How many hectares of actual forest are within places listed or interim listed on the Register of the National Estate?

(2) How much of this forest is old growth forest?

(3) How much of the total National Estate forest, and how much of the old growth National Estate forest, was subject to a logging moratorium, of any kind, at the commencement of the Regional Forest Agreement (RFA) in 1996?

(4) How much of the National Estate forest, and how much of the old growth National Estate forest, is currently subject to a logging moratorium, of any kind, until completion of the RFA process?

(5) Will the Minister table a map showing old growth forests that are National Estate listed or interim listed but not currently subject to a moratorium of any kind?

Mrs EDWARDES replied:

(1) 392 960 hectares of forest and woodland

(2) 217 890 hectares of forest and woodland

(3)-(4) During the RFA process, 61 360 hectares of forest and woodland, of which 47 750 hectares is old growth, was deferred from logging.

(5) Of the National Estate old growth not subject to a logging moratorium during the RFA process, 89% was in either CALM managed formal and informal reserves (Forest Management Plan 1994-2003), or other crown reserves not available for logging. The remaining 11%, which was in CALM managed State forest and Timber reserves, is shown on the tabled map. [See paper No 1089.]

LOGGING MORATORIUM, JOB LOSSES

2527. Dr EDWARDS to the Minister for the Environment:

(1) Will the Minister provide details of her claims that a moratorium on logging in high conservation value old growth forest would affect 7 220 rural jobs with respect to -

  (a) the exact break down of which jobs will be affected;

  (b) the forest blocks of high conservation value old growth forest referred to; and

  (c) how many of these jobs are eligible for transferal to other sectors of the timber industry?

(2) Did the Minister calculate how many jobs could be provided in other areas if logging ceased in high conservation value old growth forest?

(3) Since the creation and safeguarding of employment through the preservation of high conservation value old growth forest also affects rural jobs in a positive sense, does the Minister admit that her claims in relation to Labor's proposal for a moratorium are incomplete?

(4) If not, why not?

(5) Will the Minister provide information as to how many jobs will be safeguarded in the beekeeping industry if high conservation value old growth forest is not logged?

(6) If not, why not?

(7) Will the Minister provide information as to how many direct and indirect jobs will be created in the tourism industry if logging in high conservation value old growth forest is stopped?

(8) Of the 7220 jobs which the Minister claims will be affected, how many of those jobs could be transferred to the plantation timber sector with the provision of a mobile chip mill?

(9) If the Minister has not undertaken research into how native forest timber workers can be redeployed in the plantation industry, why is the Minister prepared to let these workers fall into unemployment?

(10) Given that the Minister has agreed that there will be job losses arising from the Regional Forest Agreement (RFA), what industry restructuring has the Government considered in order to provide alternative employment for those workers displaced by the RFA?

(11) Since the Government has provided in excess of $27 million for industry restructuring and development in the Gascoyne Murchison area, why is the Minister not prepared to provide an equivalent amount to the timber industry?

Mrs EDWARDES replied:

(1) The figure of 7220 refers to people that may be impacted, not jobs impacted.

(2)-(7) There is no data to support the contention that reservation of old growth forests leads to jobs in these other industries.

(8) See (1) above.

(9)-(11) The Commonwealth and Western Australian governments have agreed to a $59 million industry development plan including assistance for both the timber and tourism industries. The $41.5 million timber package includes low cost loans to install value-adding equipment and new technology, expand local manufacturing, and provide assistance with marketing, as well as money for redundancy packages and for business exit and contract buy-back support. The $17.5 million will boost the tourism industry with three new forest eco-lodges, camping and chalet sites, a scenic drive around Pemberton, tourism roads near Nannup, and recreation and tourism facilities at Wellington Dam.

SILVICULTURAL THINNINGS PROGRAM

2528. Dr EDWARDS to the Minister for the Environment:

(1) Will the Minister detail how far behind projected expectations the Department of Conservation and Land management (CALM) are in their silvicultural thinnings program?

(2) Will the Minister provide documentation to support the answer to (1) above?

(3) If not, why not?

(4) How many workers would be employed in undertaking the silvicultural thinnings required to meet CALM's projected expectations?

Mrs EDWARDES replied:

(1) CALM does not have a program of silvicultural thinning limited by time in native forests. However, to assist the member's understanding of the subject, the following information is supplied.

Karri forest: The 1987 publication "Timber Production in WA - A strategy to take WA's south west forests onto the 21st century" identified the potential to yield 100,000m^3/an thinning residues from karri during the period 1992 - 2001. The Strategy also stated that thinning of young karri and karri/marri forests is not as essential as it is with jarrah because karri will self thin, and that the main problem with thinning is not the science, but how to dispose of unwanted trees. The rate is regulated by the presence and extent of markets for timber. The proposal was to thin increasing areas of karri regrowth aged between 15 and 20 years. Because more recent research into silviculture and fire management of these young stands shows that the first thinning should be between ages 20 and 30 years depending on the quality of each stand, CALM proposes thinning later than was anticipated in 1987. Production of sawlog from regrowth thinning was seen to require development of new technology which has been delayed due to uncertainty in the industry. The 1992 draft Management Strategies for the South-West Forests of Western Australia introduced additional structural objectives for regrowth forests, as well as changes to forest management objectives. The then Minister for the Environment approved revised log yield levels in 1993. From the above it can be seen that;

* Fixed thinning targets in karri are not essential due to the biology of the forest. Significant variation is acceptable.

* Current research indicates that thinning later than proposed in 1987 is preferred.

* Rate of thinning is determined by the available residue using market. A need to increase the sale of small log timber which will allow thinning on a commercial basis increases.

* Current uncertainty in the timber industry is delaying the introduction of new technology.

The karri silvicultural thinning program will continue to be reviewed as circumstances change.

Jarrah forest: Regrowth jarrah forest may occur as extensive areas but more usually occurs as patches often as small as 10-15 hectares depending on the level of past disturbance. Because of the above the extent of commercial thinning in the jarrah forest varies from year to year depending on the proportion of regrowth forest within nominated harvesting coupes. Where necessary these areas receive further non commercial thinning post harvest to complete thinning requirements. CALM reports on this activity each year in its annual report. As part of the Regional Forest Agreement, the Government will contribute $3 million over the next five years towards thinning of jarrah regrowth stands.

(2) The answer to question (1) is supported in the following documentation:

1. Timber strategy document of 1987
2. Draft Management Plan 1992
3. Ministerial response to the Report to the Scientific and Administrative Committee regarding CALM's 1992 Forest Management Proposals. 5 August 1993

4 Forest Management Plan 1994
5. CALM Annual Reports
6. Brian J Turner Report - An appraisal of methods and data used by CALM to estimate wood resources yields for the South -West Forest Region of Western Australia

I would be happy to provide a copy of any of these documents which are not currently held by the Hon Member.

(3) Not applicable.

(4) See (1) above.

REGIONAL FOREST AGREEMENT, JOB LOSSES

2562. Dr EDWARDS to the Minister for the Environment:

With respect to employment in the State's timber industry what is -

(a) the number of full time equivalent (FTE) positions within the hardwood timber industry;

(b) the number of FTE positions that will continue even if all old-growth logging is stopped;

(c) the multiplier used to determine the number of indirect job losses that will occur under the same scenario;

(d) the source of all data; and

(e) the estimate of the number of FTE timber industry jobs at risk if old growth logging stops?

Mrs EDWARDES replied:

(a) Estimates for employment within that component of the WA hardwood timber industry that is sourced solely from public land within the RFA region are documented on pages 15-16 of the Public Consultation Paper (Towards a Regional Forest Agreement for the South-West Forest Region of Western Australia). The total number of full time equivalents directly employed in the growing and processing of native forest timber to the point of first sale is over 2 800. A further 500 CALM employees are funded from government revenue derived from timber industry royalties.

(b) An analysis of a reserve design for which all old growth forest was unavailable for timber production indicated that up to 2047 direct jobs may remain in the hardwood sectors to the point of first sale. However, this figure was based on an analysis in which only old growth patches were reserved. In practice, a comprehensive reserve design to achieve manageable boundaries in the field would inevitably need to incorporate additional non-old growth forest that is currently available for timber production. As a result, the likely impact on job loss would be greater, and hence fewer jobs would remain, than the figure quoted above. In addition, the nature of the overall industry response to such a dramatic reduction of available resource may generate further unforeseen job losses as businesses respond to a changed industry structure and risk.

(c) The multiplier of 2.2 to derive indirect employment from direct employment impacts was derived in conjunction with ABARE. The multiplier was based on the input-output employment multipliers derived for the timber industry in WA by Clements and Qiang (1995), and is comparable to similar studies undertaken for the hardwood sectors in NSW and Victoria. It should also be noted that at a local community or town level the indirect job loss might be greater than this regional multiplier would suggest. This would occur where, for example, a processing facility which was the principal source of employment and the focus of service businesses within a town was closed.

(d) The origin of datasets and the analysis process used to develop reservation scenarios and assess economic and social impacts has therefore been publicly documented in a range of publications and reports generated in the RFA process. The RFA Public Consultation Paper (pages 15-16, 30-32) explains both the origin of data and the analyses. The ABARE sawmill survey (1998) also presents detailed summaries of employment and mill data. In addition, the computer tools which incorporate these datasets were made available to all stakeholders and the general public to undertake their own reserve designs and examine the impacts on environmental and economic values during the public consultation period in June and July 1998.

(e) A preliminary estimate is that 2,888 jobs (1313 direct and 1576 indirect) jobs would be lost if logging were to cease in old growth stands. As detailed in (b) above, this figure is likely to be under estimated due to the need to undertake a full reserve design which provides practical management boundaries in the field.

FOOD, GENETICALLY MODIFED

2606. Dr CONSTABLE to the Minister for Health:

With regard to standards of labelling of genetically modified food -

(a) will processed food which contains any amount of genetically modified material require labelling which specifies and quantifies that material; and

(b) if the answer to (a) above is no, what is the recommended course of action for consumers, who -

(i) demonstrate allergic reactions;
(ii) require precise knowledge of the history of food to be ingested by them because of religious doctrine; and

(iii) require precise knowledge of the history of food to be ingested by them because of dietary conviction?

Mr DAY replied:

(a) The current proposal is that processed foods containing genetically modified material will require labelling which specifies that fact. The labelling will not have to identify which genetically modified material is present nor quantify amounts in a product. This matter will be considered again by Health Ministers from each State and Territory in August this year and the position may change after the meeting.

(b) The recommended action for all three consumer groups identified would be to avoid such products or contact individual manufacturers for further information as they currently do for all other foods.

CONSULTANTS, REVIEW OF PRIVATE SECTOR LICENSING ARRANGEMENTS

2617. Mr BROWN to the Minister for Health:

(1) Has the Government/Minister engaged a consultant to report or review the licensing arrangements for private sector health and other facilities in Western Australia?

(2) If so, what was the name of the consultant?

(3) Has the consultant provided a report?

(4) On what date was the report provided?

(5) What does the report recommend?

(6) Is the consultant carrying out any further review or preparing a further report?

(7) When is the further review or report likely to be available?

(8) What are the nature of the matters being investigated in the further report?

(9) Does the Government intend to introduce legislation to remove unnecessary red tape and duplicate legislation for nursing homes and the hostel care industry as advocated by the industry groups?

(10) If so, when?

(11) If not, why not?

Mr DAY replied:

(1) Yes.

(2) Oceana Consulting P/L was appointed by the Health Department of Western Australia.

(3) Yes.

(4) The first Report on *A Review of the Licensing of Private Sector Health and Other Facilities in Western Australia* was submitted 7 November 1998 (released as a public discussion document January 1999).

Final Report on *A Review of the Licensing of Private Sector Aged Care Facilities in Western Australia* was submitted to the Health Department on 31 March 1999.

Final Report on *A Review of Private Sector Health Care and Other Facilities in Western Australia* was submitted to the Health Department on 30 April 1999.

(5) The first Report contained 38 recommendations. A copy of this Report will be forwarded direct to the member for information. The two final Reports are still being considered by the Health Department of WA and have not yet been forwarded for my consideration.

(6) No.

(7) Not applicable.

(8) The two Final Reports have not yet been considered by Government.

(9)-(11) I am advised that this issue has been addressed in the Final Report on *A Review of the Licensing of Private Sector Aged Care Facilities in Western Australia,* but as stated in question (8), the report has yet to be considered by Government.

HEALTH, HYDROGEN FLUORIDE EMISSIONS

2652. Mrs ROBERTS to the Minister for Health:

(1) What are the known health impacts associated with exposure to hydrogen fluoride emissions?

(2) Have there been any epidemiological studies completed in order to determine if there is a link between exposure to hydrogen fluoride and high mortality rates from respiratory problems?

(3) Is the Minister aware of concerns in the Midland community about exposure to hydrogen fluoride and other chemicals linked to brickworks?

(4) If so, what action has the Minister taken to deal with these concerns?

(5) Are you prepared in the public interest to launch an investigation into the possible health impacts associated with exposure to hydrogen fluoride and other chemicals linked to brickworks?

(6) If not, why not?

Mr DAY replied:

(1) The health impacts associated with exposure to hydrogen fluoride will depend on the concentration of hydrogen fluoride in the emissions. The principal adverse effect of hydrogen fluoride is irritation of the eyes and mucous membranes. At sufficiently high concentrations, inhalation of hydrogen fluoride produces eye and nose irritation, sore throat, coughing and bronchospasm. After a delay of up to several hours, chemical pneumonia and pulmonary oedema may occur.

(2) Epidemiological studies are published and available in the public, scientific literature. The Health Department of Western Australia (HDWA) is not aware of any such studies conducted in Western Australia, other than studies conducted in the late eighties in relation to the Middle Swan Primary School. These were generally inconclusive. The Health Department of Western Australia, however, collects statewide hospital admission data relating to morbidity and mortality associated with respiratory diseases. Analyses of the data indicate that the incidence of hospitalisation and death associated with respiratory diseases in the Swan District Health Service (includes Midland area) is not significantly different from the state average.

(3) Yes.

(4) HDWA is addressing the issues raised and providing advice and information as requested.

(5) No.

(6) The most appropriate way to investigate these issues is for individuals exposed to consult with their medical advisers. A composite picture may emerge from these findings. Health surveys or epidemiological studies are unlikely to be useful as a tool to monitor environmental exposure to chemicals.

ARMADALE-KELMSCOTT MEMORIAL HOSPITAL, MR ROSS KEESING

2680. Mr McGINTY to the Minister for Health:

(1) What payments have been made to Mr Ross Keesing, Project Director, for the failed Armadale-Kelmscott Memorial Hospital privatisation redevelopment?

(2) What limit is imposed by the Sate Purchasing guidelines for someone to be appointed to a consultancy position without going through a formal tender process?

(3) Did Mr Keesing's appointment comply in every respect with State Purchasing guidelines?

(4) Has Mr Keesing subsequently been appointed Project Director for the Government Hospital redevelopment?

Mr DAY replied:

(1) Payments totalling $158,245 have been made to Prognosis Consulting (with which Mr Keesing is associated) as a result of consultancy work on both the market testing for private sector involvement and the public sector redevelopment project. It is not possible to separate payments for each component of the consultancy work.

(2) There are no limits imposed by the State Purchasing Guidelines.
(3) The appointment of Prognosis Consulting was made in accordance with State Purchasing Guidelines.

(4) As at the 21st April 1999 the tender process had not been finalised.

ARMADALE HEALTH SERVICE, CONSULTANTS

2693. Ms MacTIERNAN to the Minister for Health:

(1) Did the Minister in answer to question on notice No 2080 list 12 consultants that had been engaged in respect of the Armadale Health Service between October 1997 and January 1999?

(2) If so, will the Minister explain why only one of these consultants is listed in the report on consultants tabled in this Parliament on 18 March 1999?

Mr DAY replied:

(1) Yes, the 12 project related consultants listed on PQ 2080 were associated with the Armadale Health Service privatisation project.

(2) The Report on Consultants tabled in Parliament on 18 March 1999 was prepared in accordance with the Premier's Circular to Ministers 45/94. For the purpose of the Report a "consultant is considered to mean any person engaged

to provide professional or technical advice at a management level on a fee for service basis". PQ 2080 listed the 12 project related consultants associated with the Armadale Health Service privatisation project. None of these consultancies were at a management level. However, one of the 12 project related consultants listed on PQ 2080 was also separately commissioned directly by the Armadale Health Service to consult at a management level on a different issue. This single consultant coincidently appeared on both lists.

GOVERNMENT DEPARTMENTS AND AGENCIES, IMPACT OF FRINGE BENEFITS TAX IN REMOTE LOCATIONS

2728. Mr RIEBELING to the Minister representing the Minister for the Arts:

What action, if any, has the Minister taken to ensure that employees who receive an incentive in the form of a fringe benefit to work in the remote areas of the State will retain the full value of the incentive under the Commonwealth's new fringe benefit tax arrangements?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

See answer to question 2713.

GOVERNMENT DEPARTMENTS AND AGENCIES, IMPACT OF FRINGE BENEFITS TAX IN REMOTE LOCATIONS

2731. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

What action, if any, has the Minister taken to ensure that employees who receive an incentive in the form of a fringe benefit to work in the remote areas of the State will retain the full value of the incentive under the Commonwealth's new fringe benefit tax arrangements?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

See answer to question 2713.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEVEL TWO EMPLOYEES

2766. Mr RIEBELING to the Minister for Health:

In relation to the employment status of Level Two employees of the agencies falling within the Minister'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 DAY replied:

(a) As at 20 April 1999, there were 5041 Level Two employees.

(b) (i) As at 20 April 1999, 2652 employees were permanent full time;
(ii) As at 20 April 1999, 1724 employees were permanent part time; and
(iii) As at 20 April 1999, 665 employees were on short term contracts.

Note: These employees include those employed under the following awards:

Australian Nursing Federation Award
Medical Officers Award
Foreman Sub-Foreman Award
Hospital Salaried Officers Award
Building Trades Award
Hospital Workers Government Award
Electrical Trades Award
Enrolled Nurses and Nursing Assistants (Government) Award 1996
Enrolled Nurses Mental Health Award
Nurses (WA Mental Health Services) Award
Health Workers – Community & Child Health Services Interim Award
Australian Liquor and Hospitality and Miscellaneous Workers Union Award
Government Officer Salaries Allowance and Conditions Award 1989
Public Sector Award

HOSPITALS, HIP REPLACEMENTS AND CATARACT OPERATIONS

2785. Dr CONSTABLE to the Minister for Health:

On 31 March 1999 what were the waiting list numbers at -

(a) Royal Perth Hospital;
(b) Sir Charles Gairdner Hospital;
(c) Fremantle Hospital; and
(d) Joondalup Hospital,

for the following elective surgical procedures -

(i) hip replacement; and
(ii) cataract operations?

Mr DAY replied:

(a) (i) 210
(ii) 201

(b) (i) 91
(ii) 99

(c) (i) 161
(ii) 548

(d) (i) 21
(ii) 85

ROYAL PERTH HOSPITAL, PRINTER CARTRIDGES CONTRACT

2878. Mr RIEBELING to the Minister for Health:

In relation to an advertised contract for the supply of printer cartridges to Royal Perth Hospital (Tender HT 1/99) -

(a) Can companies which supply re-manufactured cartridges apply for this contract?

(b) If yes, will the cost savings of using this type of cartridge be taken into account when awarding the contract?

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

Mr DAY replied:

(a) No.

(b) Not applicable.

(c) Previous experience with re-manufactured cartridges has found that there are no cost savings due to:

The life expectancy of cartridges was reduced and the warranty on recycled toner cartridges have only a 3 month warranty.

Companies who provide printers to Royal Perth Hospital that have a warranty and maintenance agreements will not honour the warranty if re-manufactured cartridges are used.

FEMALE GENITAL MUTILATION EDUCATION PROGRAM

2938. Ms WARNOCK to the Minister for Health:

(1) What action has been taken by the Western Australian Female Genital Mutilation (FGM) Education Program toward training and employing Bilingual Community Educators to talk with women in the community about FGM?

(2) What additional resources are being made available to facilitate the training and employment of Bilingual Community Educators to talk with women in the community about FGM?

(3) Is information of FGM provided to -

(a) General Practitioners;
(b) Community Health Nurses;
(c) School Nurses;
(d) Women's Health Nurses; and,
(e) Student Nurses?

(4) How is information on FGM provided to each of these groups of Health Professionals?

(5) What support is currently provided to Community Health Nurses to facilitate the provision of information on FGM to newly arrived refugees?

Mr DAY replied:

(1) 19 Bilingual/Cultural Community Educators (BCCE) (10 women and 9 men) have recently completed a Train the Trainer Program of 10 and 5 weeks duration (respectively) on the health impact of FGM and basic health issues. The programs ran separately for culturally appropriate reasons. This training equips BCCEs to talk to women in the community.

(2) Pamphlets on basic health issues and on FGM are available and are currently being updated and translated into the relevant community languages. New initiatives include a video about FGM and other health issues, health sessions on Ethnic Radio concerning FGM, as well as further community health educations programs.

(3) (a)-(b) Yes.
(c) No.
(d)-(e) Yes.

(4) Education sessions are arranged and other resources including brochures, booklets, videos and charts are provided to reinforce the education sessions.

(5) A Task Force with members from Government and non- Government organisations has been established to develop protocols and guidelines for staff who are directly or indirectly dealing with communities affected by the FGM procedure.

HEALTH DEPARTMENT, STRATEGIC PLANNING AND EVALUATION UNIT

2940. Dr CONSTABLE to the Minister for Health:

(1) With reference to the Health Department of Western Australia's (HDWA) Realignment Briefing for all HDWA staff dated 10 December 1998, does the Department still intend to transfer the strategic planning function of the Strategic Planning and Evaluation unit to the university sector?

(2) If the answer to (1) above is yes -

(a) when will this transfer be completed;

(b) which employees of the university will be involved in this work; and

(c) how much will they be paid?

(3) How does this transfer of strategic function relate to the statement on page 2 of the realignment document that " ..... the Department's new management structure is designed to reduce the Commissioner's span of control to a more manageable level. There will be delegation of responsibilities from the Commissioner to the Executive General Managers, with appropriate checks and balances, which will lead to more rigorous day-to-day management. This in turn will free the Commissioner to focus more on strategic issues?

Mr DAY replied:

(1) Yes.

(2) (a) Anticipated commencement date is 1 October 1999.

(b)-(c) Not determined.

(3) In line with Health Department's new management structure, the strategic planning function is the responsibility of the Executive General Manager, Finance and Infrastructure.

HEALTH DEPARTMENT, CHIEF MEDICAL OFFICER

2942. Dr CONSTABLE to the Minister for Health:

(1) With reference to the Health Department of Western Australia's (HDWA) Realignment Briefing for all HDWA staff dated 10 December 1998, given that the position of Chief Medical Officer has a number of statutory functions -

(a) why does the document require that person to 'perform' his/her statutory and other responsibilities through negotiation with the relevant Executive Managers;

(b) where is the requirement for the Chief Medical Officer to 'negotiate' his responsibilities provided for in the Health Legislation Administration Act 1984; and

(c) why does the Chief Medical Officer not have line management responsibilities?

(2) Does the Government intend to abolish or downgrade the position of Chief Medical Officer?

Mr DAY replied:

(1) (a) The Chief Medical Officer has access to the entire resources of the Health Department to carry out his or her statutory functions. The Chief Medical Officer will negotiate the resources he needs with the relevant Executive General Manager to ensure that the Chief Medical Officer's statutory functions are supported, and that other operational priorities are also met. It is also a matter of simple courtesy.

(b) The Health Legislation Administration Act 1984 contains no reference to the Chief Medical Officer negotiating his responsibilities as equally as it does not grant any resources to the Chief Medical Officer to enable him or her to attend to those responsibilities.

(c) The functions and responsibilities of the Chief Medical Officer are diverse and complex. Moreover, it is desirable for the Chief Medical Officer to have input and involvement with the majority of the functions of the Health Department. To add line management responsibilities to the role would make it onerous and reduce the time the Chief Medical Officer has available to carry out the statutory and advisory roles.

(2) No.

HEALTH DEPARTMENT, CULTURAL ARRANGEMENTS CHANGE

2943. Dr CONSTABLE to the Minister for Health:

With reference to the Health Department of Western Australia's (HDWA) Realignment Briefing for all HDWA staff dated 10 December 1998, where the second paragraph states that - ".....the changes are based on a consideration of the five core functions, as detailed below, and an acceptance that there needs to be a change to the current structural process and cultural arrangements in the HDWA.", I ask the Minister what is meant by the term 'cultural arrangements' and why do they need to be changed?

Mr DAY replied:

"Cultural Arrangements" refers to the communication, functional and operational linkages between the various Divisions and the Health Department and between the Health Department and Health Service units. Following internal review and feedback from the Health Service units, a need was identified to make these linkages more effective.

EXMOUTH HOSPITAL, DAMAGE TO STAFF QUARTERS

2975. Dr GALLOP to the Minister for Health:

(1) What arrangements are being made to repair staff quarters at Exmouth Hospital damaged by Cyclone Vance?

(2) Does the Government intend to provide any new accommodation or will the existing accommodation be repaired?

Mr DAY replied:

(1) Contracts have been let and are being supervised by Contract and Management Services. Repair works are well underway.

(2) Existing accommodation is being repaired. The provision of two new houses has been approved (one house was approved in the 1998/99 Minor Works and one has been approved as a direct response to Cyclone Vance). The Gascoyne Health Service has submitted a Housing Improvement Plan for funding from the Minor Works Program and a decision on this will be made by the Department in July.

EXMOUTH HOSPITAL, ULTRASOUND FACILITIES

2976. Dr GALLOP to the Minister for Health:

(1) Will the Government consider the installation of appropriate equipment at Exmouth Hospital to allow for the provision of ultrasounds for pregnant women in the town?

(2) If not, why not?

(3) Will the Government fund a program of ultrasounds if the equipment was available, as they currently do in Carnarvon?

(4) If not, why not?

(5) What does it currently cost the Exmouth Hospital in Patient Assisted Travel Scheme (PATS) payments to provide ultrasounds for local women at other hospitals?

Mr DAY replied:

(1) Exmouth Hospital currently has suitable ultrasound equipment for the level of services which can be delivered by appropriately qualified staff in Exmouth. There are neither the numbers of women or qualified staff willing to go to Exmouth to perform one of the two ultrasounds normally required for each pregnancy. The initial 12 week ultrasound is being completed by an ultrasonographer (radiographer - allied health) with existing equipment at Exmouth. This service began two weeks ago and will be continued on a monthly visiting basis. The ultrasonographer in this case performs other duties unrelated to clinical matters which justifies the cost of this visiting service from Carnarvon. The second ultrasound (18-20 weeks) requires a higher resolution ultrasound machine and a radiologist (specialist medical practitioner) to perform and read the ultrasound image. The ultrasound detects major foetal and cervical defects. The appropriate ultrasound machine costs $180,000 and one of these has just been provided to Carnarvon to provide a district-wide service. The provision of such a machine cannot be justified on economic grounds as it would be used only two or three times on average per month for this purpose. There is not sufficient workload to justify or encourage a Radiologist to provide a visiting service.

(2) Not applicable.

(3) The first (12 week) ultrasound is being funded from existing Gascoyne Health Service resources. The second ultrasound will not be funded as the service is provided in Carnarvon. The additional cost cannot be justified and it would be extremely difficult to attract a visiting Radiologist to perform this service due to the low number of ultrasounds required.

(4) Not applicable.

(5) The cost of sending women under the PATS scheme to other hospitals is $1036 this financial year. The cost of sending a Radiologist (if one could be found who was interested) for one visit would be $1100 sessional fee plus approximately $700 for airfares and expenses.

CONSULTANTS, NUMBER, PURPOSE AND COST

2998. Mr BROWN to the Minister for Health:

(1) How many consultants are currently engaged by each department and agency under the Minister's control?

(2) What is the name of each consultant?

(3) What is the purpose or the nature of the consultancy?

(4) What is the cost of the consultancy?

(5) What is the anticipated completion date of the consultancy?

Mr DAY replied:

The member would be aware that a six monthly report is tabled in Parliament which provides information on consultants engaged by Government agencies. The member should access this report when it is tabled to obtain the information sought in his question.

GOVERNMENT DEPARTMENTS AND AGENCIES, RESEARCH PROJECTS

3022. Mr BROWN to the Minister for Works; Services; Youth; Citizenship and Multicultural Interests:

(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?

Mr BOARD replied:

I am advised that:

OFFICE OF YOUTH AFFAIRS

(1) Yes.

(2) Research projects have been commissioned by the Office of Youth Affairs through the National Youth Affairs Research Scheme (referred to as NYARS). NYARS was established in 1985 as a cooperative funding arrangement between the Commonwealth and the States and Territories. The purpose of this scheme is to facilitate nationally based research into current social, political and economic factors affecting young people. This research in turn is to assist in the formulation and assessment of policy development and implementation by Commonwealth and State Ministers for Youth. NYARS undertakes, annually, an estimated $200,000 worth of research specifically looking at policy issues associated with young people. The Commonwealth allocates $100,000 and the States and Territories match this providing pro rata amounts. The Western Australia Government contributes $9,000 per annum. Western Australia was the successful tenderer for three National Youth Affairs Research Scheme research projects. They are:

(a) What makes an effective role model program?
(b) Effective youth services for the future.
(c) How to generate better educational and employment opportunities for rural young people.

(3) Recipients of grants for research projects are:

(a) Dr Judith MacCallum, Murdoch University
(b) Dr Howard Sercombe, Edith Cowan University
(c) Professor Alan Black, Edith Cowan University

(4) (a) $40,000
(b) $60,000
(c) $55,000

(5) Ongoing.

OFFICE OF MULTICULTURAL INTERESTS

(1) Nil.
(2) Not applicable.

STATE SUPPLY COMMISSION

(1) Nil.
(2) Not applicable.

CONTRACT AND MANAGEMENT SERVICES

(1) Nil.
(2) Not applicable.

GOVERNMENT CONTRACTS, IN EXCESS OF $50 000

3042. Mr BROWN to the Minister for Health:

(1) How many contracts of $50 000 or more (excluding employment contracts) has each department or agency under the Minister's control entered into between 1 January 1999 and 31 March 1999?

(2) What was the amount of each contract?

(3) What is the name of each person/entity with whom the contract has been entered into?

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

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

Mr DAY replied:

(1) 44 contracts (under the purview of the Health Department)

(2)-(5) See table below -

(2) Estimated Amount of Contract	(3) Person/Entity	(4) Nature of Work or Service	(5) Estimated Completion Date
$1 200 000	Becton Dickinson Interpath Terumo	Vacuum blood collection equipment	18 February 2000 plus two extension options of 12 months each
$2 500 000	3M Australia Pty Ltd Beiersdorf Australia Ltd Coloplast Pty Ltd Convatec Faulding Pharmaceuticals Johnson & Johnson Medical Pty Ltd Seton Scholl Healthcare Smith & Nephew Pty Ltd	Tapes and dressings	1 February 2000 plus two extension options of 12 months each
$278 000	Henry Schein Regional Pty Ltd	Denture teeth	31 January 2001 plus two extension options of 12 months each
$710 455	Lovell Surgical Supplies	Perfusion tubing packs	31 March 2001 plus one extension option of 12 months
$67 000	J. Blackwood and Son	Batteries	February 2001
$85 750	Y. Micro	50 personal computers	Completed
$963 500	Advance Dental Laboratory Castodent SRP Pty Ltd	Dental prosthetic Services	16 February 2001
$51 000	Fabco	Upgrade of dental therapy mobile caravans	Completed
$23 484 300 ($3 354 900 pa over 7 years)	SSL Healthcare Services	Catering services, orderly services and domestic services for the Bentley Health Service	15 March 2006
$65 000	Subcool Refrigeration Services	Upgrade of airconditioning plant at Bridgetown District Hospital	Work in progress
$246 273.16	Carinya of Bicton	Temporary nursing home accommodation	21 February 2000

$81 778	Leica Microsystems	Supply, delivery, installation & commissioning of Ophthalmic Microscope	Not applicable - one off purchase
$90 000	Siebe Environment Controls	Upgrade of 311 control points to Satchwell BAS2800+ Building Automation System	Not applicable - one off purchase
$125 244	CDM Australia	63 personal computers	Not applicable - one off purchase
$122 987.80	Rentworks Limited	Lease of an ethylene oxide steriliser and aeration cabinet	24 March 2004
$245 622	Sanwell	Backflow prevention	Not applicable - one off purchase
$80 000	CMS Wordwide Corporation	Hardware/software agreement	7 December 1999
$59 280	Programmed Maintenance Services	Painting emission control exhaust duct system	Not applicable - one off purchase
$3 060 000	Abbott Diagnostic	Automated analysis on consumables	March 2002
$1 300 000	Medtel P/L	Anaesthetic monitoring system	June 1999
$89 000	Dantec P/L	EMG diagnostic unit	May 1999
$160 000	Hames Sharley P/L	Design of outpatient ward KEMH	June 1999
$247 800 plus consumables and third party costs	St John of God Health Care (Bunbury)	Facilities management	2004 - 5 year contract
$1 053 000	St John of God Health Care (Bunbury)	Catering	2004 - 5 year contract
$1 080 000 pa maximum, payable by care episode	St John of God Hospital, Bunbury	Renal dialysis, chemotherapy, palliative care	30 June 2001
$60 483	Centari Systems	Network, file and print servers	Not applicable - one off purchase
$171 600 maximum, ie. initial term plus extensions	Icon Recruitment	Information Systems Project Support	30 June 1999 with two extension options of up to six months each
$120 000	Robinson Technology	Technical support (ROSTAR)	30 June 2000
$50 000	AeM Consultants	Team Leader - Continuity of supply project	30 June 1999
$60 000	AXIS Technology	YSK Business Continuity Planning	31 May 1999

$70 000	Blue Start	Remanufactured toner cartridges	31 December 2000
$188 626	University of Western Australia	Mailout & data entry services for the Health Department's 1998-99 Patient Satisfaction Survey	15 July 1999
$143 000	Robinson Technology	Technical specialist (HRIS/HMDS)	30 June 2000
$89 930	Major Motors	Crew cab chassis	Not applicable - one off purchase
$110 000	AeM Consultants	Y2K Quality Assurance review project	30 June 1999
$170 000	Deakin Consulting Group	Y2K Project Manager	30 October 1999
$100 000	Complete Information Consulting	Key health information initiatives	1 October 1999
$300 000	Bowtell Clarke and Yole	Promotional campaign - Nursing as a Career	30 June 2000
$152 000	Icon Recruitments	Internet/Intranet support person	30 June 2000`
$105 524	Datanet Pty Ltd	Design and printing of Patient Satisfaction Questionnaires for mail scanner	30 April 1999
$83 631	Rockingham/Kwinana Division of General Practice	Breast assessment program for general practitioners	30 October 2000
$61 700	Oz Train Pty Ltd	Development centre to assess the development needs of executives and senior managers	30 June 1999
$70 000	Larry Amey and Associates	Roof restoration	30 June 1999
$60 000	Tyco Building Automation	Energy management upgrade	30 June 1999

COMMITTEES AND BOARDS, FORMER MEMBERS OF PARLIAMENT

3064. Mr BROWN to the Minister for Health:

(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 DAY replied:

(1) (a)-(b) In the health area there are some 83 statutory Boards and Committees, with 825 appointed members. Since 1993, each Board and Committee would have been re-formed at least twice. When other causes for member re-appointments are considered, the number of people who have been members of these Boards and Committees since February 1993 is most likely to be more than double the 825 available positions. In managing appointments to this large number of health Boards and Committees, the details retained on the members do not include whether they are former members of Parliament.

(1) (c) The Health Department of Western Australia and related agencies employ about 30,000 people, and readily accessible details retained on those employees do not include whether they are former members of Parliament.

(2) Not applicable, in view of the answer to (1).

SCIENCE AND TECHNOLOGY, INTERNATIONAL COLLABORATION

3081. Mr BROWN to the Minister for Commerce and Trade:

What initiatives has the Government taken to promote strategic international science and technology collaboration?

Mr COWAN replied:

Department of Commerce and Trade
The promotion of science and technology collaboration opportunities through cooperative arrangements with industry, government and academia in other countries is one of the strategies under the Government's science and technology policy. Since 1997, the Department of Commerce and Trade has facilitated a range of science and technology collaboration activities to gain market access for Western Australian companies and researchers through long term relationship building and demonstrating scientific research and technology development capability. Collaboration activities have included:

- Hosting visiting delegations from the European Union, France, Italy, Japan, Israel, ASEAN countries and Indonesia to meet key people involved in science and technology, inspect science and technology capabilities and plan collaborative projects .
- Holding negotiations and planning meetings with officials from the federal government, the European Union and ASEAN to identify collaborative opportunities.
- Sponsoring international conferences and workshops, including the International Association of Science Parks World Conference in Perth in October 1998.
- Developing a promotional kit to publicise capabilities and activities of Western Australian research centres (now out of print with plans to republish).
- Providing financial support to the WA program of the Crawford Fund for International Agricultural Research to promote agricultural and environmental expertise and collaborative links.
- Increasing participation of local researchers and research intensive companies in strategic alliance missions and Ministerial missions.
- Signing a Memorandum of Understanding with Indonesia to facilitate cooperative activities of mutual benefit which lead to commercial activities. This has led to reciprocal project identification visits, the initiation of a demonstration project and the identification of commercial opportunities for WA organisations.

International Centre for Application of Solar Energy (CASE)

The International Centre for Application of Solar Energy was established as a joint initiative of the United Nations Industrial Development Organisation (UNIDO), and the Western Australian and Commonwealth Governments. A core objective of CASE is to facilitate international collaboration to further the application of renewable energy technologies, particularly in developing countries. CASE is active in a number of countries, including Thailand, Indonesia, India, Malaysia, the Philippines, and South Africa, where the centre works in close cooperation with a range of organisations including government and non government organisations, funding agencies, and electricity companies. International collaboration is being achieved across a range of renewable energy technology areas, including stand alone and grid connected electricity supply systems, irrigation systems, water supply and waste to energy systems. Memoranda of Understanding exist between CASE and international agencies in the following areas:

COLLABORATING AGENCY	NATURE OF MOU
The Renewable Energy Research Centre, Hanoi University of Technology (RERC)	Technical cooperation for the development and implementation of renewable energy systems in Sonla Province, Vietnam.
The Government of Sarawak	Technical cooperation for the development and implementation of renewable energy systems in Sarawak.

The Provincial Electricity Authority, Thailand (PEA)	Technical cooperation for the development and implementation of renewable energy systems for rural electrification in Thailand.
The Indian Renewable Energy Development Agency Ltd (IREDA)	Technical and general cooperation for the development and implementation of renewable energy programs in India.
The Non Conventional Energy Development Agency of U.P (NEDA)	Technical cooperation for the development and implementation of renewable energy projects in U.P
The Indonesian Institute of Sciences (LIPI)	Technical cooperation for the development and implementation of renewable energy systems in Indonesia
Royal Irrigation Department of Thailand (RID)	Technical cooperation for the development and implementation of solar water pumping for rural irrigation in Thailand
Philippine Department of Energy	Technical and general cooperation between CASE, UNIDO and DOE for the development and implementation of renewable energy projects in the Philippines
Renewable Energy Africa (Pty) Ltd	Technical cooperation for the development and implementation of the RSA Non Grid rural electrification pilot program.

Other activities underway which are leading to the development of further areas of cooperative agreement include:

- Evaluation of Australian solar pumping and water purification technology in the Philippines, in association with the LandBank of the Philippines (Technology Promotion Centre), the Cooperative Development Authority and Bagio University.
- Undertaking a major landfill resource recovery project in Ujung Pandang, South Sulawasi using Australian expertise in landfill gas extraction, electricity generation and organic composting. This is an Activities Implemented Jointly (AIJ) Project under the auspices of the International Greenhouse Partnerships Office.
- East Java exchange program focusing on the commercial application of renewable energy technologies and small business linkages between Western Australia and East Java.

A proposal has also recently been submitted to "Targeting Strategic Alliances" Canberra for solar energy technology exchanges and training in India. Australian organisations involved include CASE, ACRE, CRESTA, and MUERI. The international counterpart is the Institute of Renewable energy Production (IREP), India. (This is the academic college of the Government of Uttar Pradesh). In addition to projects and institutional strengthening activities, CASE also represents Western Australian and Australian renewable energy technologies at various international forums, such as international conferences and exhibitions.

MARINE RESEARCH TASK FORCE, MEMBERSHIP

3082. Mr BROWN to the Minister for Commerce and Trade:

(1) Who are the members of the Marine Research Task Force?

(2) What are the qualifications and experience of each member?

(3) What are the terms of reference of the task force?

(4) What are the five key issues that the task force is working on?

(5) On how many occasions has the task force met to date?

(6) Have any funds been allocated to the task force for its work?

(7) If so, what funds have been allocated?

(8) Is the task force working to any target dates?

(9) If so, what dates and targets is the task force working to?

Mr COWAN replied:

(1) MEMBERSHIP OF MARINE RESEARCH TASKFORCE GROUP

The Marine Research Taskforce was established in July 1998 by the Ministers for Commerce and Trade, Environment and Fisheries. A core group comprising senior representatives from relevant agencies falling under their portfolios, with the addition of Department of Minerals and Energy, the CSIRO Marine Research Division and Australian Institute of Marine Science, planned and organised the work of the Taskforce. It was chaired by Mr Bernard Bowen, Chair of the Environmental Protection Authority, former head of the WA Fisheries Department and member of the CSIRO Marine Research Division's Scientific Advisory Group. The Taskforce obtained input

and involved representation from the following Federal and State Government agencies, education and training institutions, industry bodies and community groups which were identified as stakeholders in marine science in Western Australia:-

Federal and State Government Organisations
- Australian Institute of Marine Science
- CSIRO Marine Research Division
- CSIRO Land and Water Division
- CSIRO Petroleum Division
- Bureau of Meteorology
- Agriculture Western Australia
- Department of Environmental Protection
- Department of Conservation and Land Management
- Department of Commerce and Trade
- Department of Land Administration
- Department of Minerals and Energy
- Department of Resources Development
- Department of Training
- Department of Transport
- Fisheries Western Australia
- Ministry for Planning
- State Chemistry Centre
- Water & Rivers Commission
- Water Corporation
- Western Australian Museum

Education and Training Organisations
- Edith Cowan University
- Central West College of TAFE
- Curtin University of Technology
- Murdoch University
- South Metropolitan College of TAFE
- The University of Western Australia
- University of Notre Dame Australia

Stakeholder Groups
- Apache Energy Limited
- Aquaculture Council of Western Australia
- Australian Marine Conservation Society
- Australian Petroleum Producers and Exploration Association
- Chamber of Commerce & Industry of Western Australia
- City of Stirling
- Conservation Council of Western Australia
- DA Lord and Associates Pty Ltd
- Environmental Consultants Association
- LeProvost Dames and Moore
- Indian Ocean Climate Initiative
- Marine & Coastal Community Network
- Marine Education and Research Alliance
- Marine Parks and Reserves Authority
- Minerals and Energy Research Institute of Western Australia
- Pearl Producer's Association
- PPK
- Kwinana Industry Council
- RECFISHWEST
- Shark Bay World Heritage Property Community Consultative Committee
- Shark Bay World Heritage Property Scientific Advisory Committee
- Western Australia Municipal Association
- Western Australian Fishing Industry Council

(2) Members of the Taskforce were nominated by the constituent organisations.

(3) The Terms of Reference of the Marine Research Taskforce were to:-

Provide a forum for the exchange of information and ideas on marine research activities and opportunities in Western Australia.

Develop a comprehensive understanding of Western Australia's marine research expertise and priorities.

Identify areas of potential focus for an increased CSIRO Marine Research Division presence in WA in consultation with potential participants.

Make recommendations on a proposed strategy to the Ministers of Commerce and Trade, Fisheries, and the Environment, and the CSIRO Executive.

(4) The role of the Taskforce is complete. It developed a State perspective on priorities in marine science and identified areas of potential synergy and collaboration with the CSIRO Marine Research Division which will provide a basis for the division to rebuild its marine science presence in WA in a manner consistent with the State's needs and priorities.

(5) The complete Taskforce held a two day workshop on October 21 & 22 1998. The core group met a total of seven times to plan the workshop and consolidate the outcomes of the workshop into the Taskforce's Report.

(6) No.

(7) Not applicable.

(8) No. The Taskforce Workshop report was compiled and circulated to members for feedback in December 1998. The core group finalised the consolidation of the workshop findings into areas of priority research and potential collaboration ready for the CSIRO's triennial bid process in May 1999. The Ministers for Commerce and Trade, Environment and Fisheries will be briefed on the Taskforce outcomes in June 1999. The Coordination Committee for Science and Technology will now assume responsibility for determining the State Government's response to the identified opportunities during the next State Budget cycle.

(9) Not applicable.

DEPARTMENT OF COMMERCE AND TRADE, LOBBYING OF COMMONWEALTH GOVERNMENT

3084. Mr BROWN to the Minister for Commerce and Trade:

(1) Has the Government through the Department of Commerce and Trade had cause to lobby the Commonwealth Government on any matter in the 1998-99 financial year?

(2) If so, on what matter or matters was the Commonwealth lobbied?

(3) What was/is the nature of the changes being sought by the State Government/Department of Commerce and Trade?

(4) What was the outcome of the lobbying effort?

Mr COWAN replied:

(1) Yes.

(2) Promotion of the Technology Diffusion Program in Western Australia.

(3) Implementation of an assistance program to promote the program in Western Australia.

(4) Payment of $271,443 by the Federal Department of Industry, Science and Resources to the Department of Commerce and Trade to promote the program in Western Australia.

(2) Regional impacts of current taxation regime.

(3) Extension of fringe benefits exemptions for business and employers in regional and remote areas, in particular, removal of fuel excise for regional users and the introduction of more appropriately valued and indexed zone allowances for regional employees.

(4) Influenced the proposed Fringe Benefits Tax legislation.

(2) Inquiry into telecommunications legislation.

(3) The Department prepared a written submission to the inquiry by the Senate Environment, Communications, Information Technology and the Arts Legislation Committee into the Telecommunications Law Amendment (Universal Service CAP) Bill 1999. The Department also prepared a written submission and appeared before a public hearing by video conference to the Senate Environment, Communications, Information Technology and the Arts Legislation committee inquiry into the Telstra (Transition to Full Ownership) Bill 1998, the Telecommunications (Consumer Protection and Service Standards) Bill 1998, the Telecommunications Legislation Amendment Bill 1998, the Telecommunications (Universal Service Levy) Amendment Bill 1998 and the NRS Levy Imposition Amendment Bill 1998. These submissions sought to ensure full telecommunications services to all regardless of location and the equitable solution to Universal Service Obligations for rural and regional areas.

(4) A number of the requests contained in the lobbying proposals are now reflected in Commonwealth decisions and proposed legislation and others are currently under consideration

(2) ATSIC's Business Development Program (BDP) through which Aboriginal business proposals are funded.

(3) The Department recommended more formal involvement by Business Enterprise Centres (BECs) in Western Australia in ATSIC's BDP process.

(4) The Department achieved partial success. ATSIC insists on being the sole distributor of the BDP Information Kit which could have been a role for BECs to perform given their location throughout Western Australia.

(2) National Competition Policy

(3) The Regional Development Council has made submissions and appeared as a witness at a public hearing before the Senate Select Committee inquiring into Socio-Economic Consequences of National Competition Policy. The theme of the submission was that regional development consideration should be better integrated into National Competition Policy review and reform processes.

(4) The committee is yet to report but there is an increased awareness among Federal agencies of the impact on regional areas.

(2) Telecentre Access Points (TAPs).

(3) Increase access to the internet.

(4) Decision pending.

(2) Review of food regulation (The Blair Report).

(3) The Department of Commerce and Trade, together with Agriculture Western Australia, Fisheries Western Australia, the Health Department and the Ministry of the Premier and Cabinet prepared a formal submission to the Blair report and is currently working through the Senior Official's Working Group on Regulation and the Council of Australian Governments (COAG).

(4) The recommendations of the Blair Report are still being considered by the Senior Officials Working Group on Regulation and the Council of Australian Governments (COAG).

(2) Draft Australian Broadcasting Planning Handbook for Digital Terrestrial Television Broadcasting and National Television Conversion Scheme: Comment on Explanatory Paper Remote Area Licences (Part B)

(3) The Department provided written comment on issues papers to increase emphasis on consumer issues including the needs of Western Australian regional and remote viewers.

(4) The input has been reflected in the new planning handbook.

(2) Television reception problems in the south west of Western Australia.

(3) The Department provided written comment on a consultation paper to the Australian Broadcasting Authority to seek improved reception of GWN in 5 south west towns.

(4) The Australian Broadcasting Authority will require improvement from GWN in south west Western Australia. Negotiations are also underway with Prime Television.

(2) Draft policy guidelines relating to Staff and Facilities in Commercial radio and provisions of the Broadcasting Services Amendment Bill 1998.

(3) Written comment and submissions were provided relating to the improved choice of programming for consumers.

(4) Consumer interests were reflected in decisions.

(2) Regional telecommunications infrastructure paper on convenient and affordable bandwidth for all Australians.

(3) Recommended the establishment of a working party of Federal, State and Territory officials.

(4) The working party has been established.

(2) Rural transaction centres

(3) Sought $10 million in funding for Western Australia under the Rural Transaction Centres Program and a role in assessing applications from Western Australia for funding.

(4) Negotiations are ongoing.

(2) The establishment of employment strategies between Gumala Aboriginal Corporation and its joint venture partners.

(3) The Department sought cooperation from the Federal Department of Employment, Work Place Relations and Small Business (DEWRSB) to establish an enterprise strategy involving DEWRSB support including a subsidy on wages of Gumala trainees during a two year training period.

(4) The initiative was successfully finalised.

(2) Networking the Nation - the Regional Telecommunications Infrastructure Fund (RTIF)

(3) The Department sought:

- A more equitable allocation of current funds to Western Australia;
- A higher level of funding for the proposed Stage 2 program, subject to the further sale of Telstra; and
- The removal of specific conditions and outcomes attached to the Stage 2 program.

(4) The Federal Government is presently considering the future of the RTIF program.

(2) Wine taxation.

(3) On behalf of Western Australian winegrowers, the Department prepared advice for letters to the Prime Minister, Federal Treasurer and Federal Minister for Primary Industry seeking a shift in taxes of wine from ad valorem to volumetric basis.

(4) Outcome is still pending although support for volumetric tax is growing among small to medium sized wine producers.

HEALTH, PATIENT ASSISTED TRAVEL IN EAST PILBARA

3114. Mr RIPPER to the Minister for Health:

What has been the expenditure in the East Pilbara region on patient assisted travel in each financial year since 1992-93?

Mr DAY replied:

	1993-94	1994-95	1995-96	1996-97	1997-98	11 months 1998-99
Newman	349 000	314 000	279 000	331 300	264 300	240 700
Port Hedland	584 000	603 000	559 000	776 000	516 100	367 100

MINISTER FOR HEALTH, AUSTRALIA CLINIC TOUR OF INDIA AND PAKISTAN

3116. Mr McGINTY to the Minister for Health:

(1) Did the Minister recently tour India and Pakistan with an organisation known as the Australia Clinic?

(2) In relation to the Minister's tour -

(a) how long was it;
(b) who participated; and
(c) what was the total cost to taxpayers?

(3) Was the object of the Australian Clinic visit to encourage wealthy Indians and Pakistanis to come to Australia as paying patients at our public hospitals?

(4) Is there any humanitarian dimension to the Australia Clinic, such as offering medical assistance to the poor in these countries?

Mr DAY replied:

Please refer to question without notice number 859, asked Wednesday 2 June 1999.

REGIONAL TRADE OFFICERS

3184. Mr BROWN to the Minister for Commerce and Trade:

(1) How many regions have regional trade officers appointed by the Department of Commerce and Trade?

(2) Where are each of the officers located?

Mr COWAN replied:

(1)-(2) One. The Regional Trade division of the Department of Commerce and Trade is located in Bunbury in the South West region. However, the Mid West and Great Southern regions have used their own resources, in partnership with Austrade to establish TradeStart positions.

SMALL BUSINESS IMPACT STATEMENTS, NEW LEGISLATION

3185. Mr BROWN to the Minister for Small Business:

(1) What departments and agencies are responsible for producing small business impact statements on the effect of new legislation on small business?

(2) Is an impact statement produced on every piece of new legislation?

(3) Has the process of producing small business impact statements changed over the last two and a half years?

(4) What is the nature of the change that has taken place?

(5) Are copies of all the impact statements available for public scrutiny?

Mr COWAN replied:

(1)-(2) There is no legislative requirement for agencies to prepare formal regulatory impact statements for new legislation under consideration. However, when preparing a submission to Cabinet, all Western Australian Government agencies are required to indicate whether the proposal will impact on small business and to indicate what the likely impact will be. This statement is required on every Cabinet Submission, including those dealing with new legislation. Where legislation is likely to impact on small business those considerations can be taken into account and legislation modified.

(3) No.

(4) Not applicable.

(5) No.

MULTIPLE SCLEROSIS, MANDURAH

3222. Mr BROWN to the Minister for Health:

(1) Is the Minister aware of how many people in Mandurah suffer with Multiple Sclerosis?

(2) If not, is the Minister prepared to seek this information from the Health Department?

(3) Does the Government intend to create a centre or service at which people suffering multiple sclerosis may obtain treatment?

(4) If so when?

(5) If not why not?

Mr DAY replied:

(1) From our current data 36 people suffering from Multiple Sclerosis are known to live in Mandurah, 123 in the greater Mandurah region. The region includes Rockingham, Secret Harbour, Safety Bay, Pinjarra, Mandurah and surrounds.

(2) Not applicable.

(3) No. The Multiple Sclerosis Society has established outreach centres for social activities and centre-based care. One such centre is in Rockingham. The Health Department of WA and Disability Services Commission provide funding which represents 23% of the Society's income. The Health Department of WA's funding Agreement with the Society supports the provision of Community Nursing, Physiotherapy and Social Work services to people with Multiple Sclerosis. These services are provided to people in their homes and not in centres.

(4) Not applicable.

(5) Advice available to the Health Department of WA suggests that home-based therapeutic services are preferable to centre-based treatment.

GOVERNMENT CONTRACTS, NEW BREED SECURITY

3246. Mr RIEBELING to the Minister for Works and Services:

In relation to the wind-up proceedings which the Australian Tax Office is taking against companies behind New Breed Security -

(a) will the Government be reviewing the contracts it has with New Breed Security as a result of these court proceedings; and

(b) if no, why not?

Mr BOARD replied:

I am advised that:

(a) The action being taken in respect to New Breed Security and related companies is being closely monitored. Contracts will be reviewed at the appropriate time, should it become necessary to do so.

(b) Not applicable.

HEALTH, MENINGOCOCCAL INFECTIONS

3247. Ms MacTIERNAN to the Minister for Health:

(1) Will the Minister table Health Department information that is distributed to doctors advising them of preferred methods of treatment of patients presenting possible meningococcal infections?

(2) Will the Minister advise how widely these publications are being distributed?

(3) Will the Minister advise when the last health alert was issued to Western Australian doctors on this matter?

Mr DAY replied:

(1) Yes. [See paper No 1090.]

The Health Department has distributed a poster to medical practitioners outlining the epidemiology, clinical presentation and treatment of meningococcal infections and Operational Instructions to hospitals and health services.

(2) These publications have been distributed to medical practitioners and hospitals in Western Australia.

(3) The Meningococcal Disease information poster was mailed to Western Australian doctors in October 1998 and the last Operational Instruction (1156/98) on the treatment of meningococcal infections was issued on 22 December 1998.

HEALTH, MENINGOCOCCAL INFECTIONS

3248. Ms MacTIERNAN to the Minister for Health:

(1) Is the Minister for Health aware of a report by Professors Monroe and Dr Patel on South Australia's response to meningococcal disease published in November 1998?

(2) If the answer to (1) above is yes, will the Minister advise which of the recommendations contained in that report have been adopted in Western Australia?

Mr DAY replied:

(1) No.

(2) Not applicable.

HEALTH, MENINGOCOCCAL INFECTIONS

3249. Ms MacTIERNAN to the Minister for Health:

I refer to research being undertaken by the Department of Microbiology and Infectious Diseases at Sir Charles Gairdner Hospital in relation to the development of a polymerase chain reaction test for a detection of DNA from the *meisseria meningitidis*, the bacterium that causes meningococcal infections and ask -

(a) when did the testing of this procedure commence;

(b) when is it likely to be completed; and

(c) is the test currently available for use by the medical profession in Western Australia?

Mr DAY replied:

The Western Australian Centre for Pathology and Medical Research (PathCentre), in association with Sir Charles Gairdner Hospital, has developed a PCR test for detection of *Neisseria meningitidis* in the cerebrospinal fluid and blood. This has been undertaken as part of ongoing improvements in the diagnosis of infectious diseases. To answer the specific questions:

(a) The test has been developed and evaluated over the past 12 months. This has included improvements over existing methods in use elsewhere.

(b) PathCentre has used the test on samples collected last year and is currently completing the assessment of its performance and deciding on the best test protocol.

(c) PathCentre is currently making the test available on a 'special request' basis for difficult cases, while the evaluation is completed. However, it will not be economically feasible to make the test available for all patients with fevers or suspected meningitis. Therefore, guidelines are being developed to ensure that the test is used appropriately to assist in diagnosis.

MINISTERIAL STAFF, BUSINESS CLASS TRAVEL

3291. Mr CARPENTER to the Minister for Lands:

(1) Is the Minister aware that under Government guidelines, only one Ministerial staff member may travel business class when accompanying the Minister on interstate and overseas travel?

(2) Will the Minister explain why two ministerial staff travelled business class when accompanying the Minister on his trip to Christmas Island from 21 to 25 April 1998?

Mr SHAVE replied:

(1) Yes.

(2) This was not the case as there was no business class available on that flight.

QUESTIONS WITHOUT NOTICE

FOREST RESERVE SYSTEM, STATEMENT OF GOVERNMENT POLICY

1001. Dr GALLOP to the Premier:

Given the mixed and confusing messages coming from the Government over the Regional Forest Agreement and the future of our forests, and given the claim by the Liberal Party's deputy leader that the public has lost confidence in the RFA, will the Premier make a clear and unambiguous statement today about the Government's direction on forest management by outlining what changes to the reserve system are under consideration? Specifically which forest blocks is the Government proposing to include in the reserve system and which are being considered for deletion?

Mr COURT replied:

The Government has completed the Regional Forest Agreement and is now implementing that agreement. If there were to be any change to the RFA it would have to be negotiated with all of the parties concerned.

Dr Gallop: What is your position?

Mr COURT: We have told the Opposition our position; it has been made public. I have just said that if there were to be any change to an agreement, regardless of what the change might be, we would need agreement of all the parties involved. We are in the middle -

Mr Kobelke: Stuck in the middle!

Mr COURT: I prefer to be in the middle rather than on the sidelines. The Opposition has had an opportunity to explain to the public the forestry management practices it accepts and it has not done so. The Government has explained its view, and it will keep members opposite informed on a weekly basis if they want to know.

FOREST RESERVE SYSTEM, STATEMENT OF GOVERNMENT POLICY

1002. Dr GALLOP to the Premier:

I have a supplementary question. Why will the Premier not tell the people of Western Australia just what is his policy on extra reservation under the RFA?

Mr COURT replied:

I have just told members opposite that we have released the RFA and we are now in the process of implementing it. As I said, if we wanted the agreement to be changed we could not do it unless we had the agreement of all of the parties.

Mr Ripper: Is your Government proposing changes?

Mr COURT: As I have said publicly on many occasions, this Government will always listen to all concerns.

Mr Ripper: Will the Government propose changes?

Mr COURT: That may be the case. Who knows what will happen? One thing is known: The Government has presented a plan and members opposite have sidelined themselves.

Mr Ripper: You may propose changes or you may not.

Mr COURT: As long as the Opposition sits on the outside it has no credibility on this issue.

INTERVAL RESORT NETWORKS (AUSTRALASIA) PTY LTD

1003. Mr JOHNSON to the Minister for Fair Trading:

It was reported recently that the actions of the Ministry of Fair Trading against Interval Resort Networks (Australasia) Pty Ltd may be redundant. Can the minister please clarify this issue?

Mr SHAVE replied:

Interval Resort Networks has been charged under the Fair Trading Act on seven counts of making false representations in connection with the promotion of a travel and accommodation network discount scheme. These charges were listed in court on 22 June. However, on Monday, 21 June the Australian Securities and Investments Commission obtained a Supreme Court order to appoint a receiver to manage IRN and investigate its solvency. In view of this development the Ministry of Fair Trading sought an adjournment of the case so that it could confirm the status of the company. The ministry has indicated that if IRN is found by the receiver to be solvent it is anticipated that there would be no reason for charges not to proceed.

TIMBER WORKERS, RETRAINING

1004. Dr EDWARDS to the Minister for the Environment:

I refer to the report in *The West Australian* today in which it is claimed that the Government will provide $4m for retraining timber workers.

(1) Are those figures correct?

(2) Will the minister table any documents confirming the allocation of $4m for worker retraining?

(3) If not, why not?

(4) If the report is correct, why did the minister not provide that information in Parliament when she was asked about this yesterday?

Mrs EDWARDES replied:

The information I provided yesterday concerned the total package. The point that members opposite fail to grasp is that unless the industry is restructured we will lose jobs; unless there is value-adding we will lose jobs; and unless there is local manufacturing we will lose jobs. Although $4m has been allocated for redundancy, the total package is designed to ensure that the industry restructures towards more value-adding and local manufacturing. In that event we will save jobs for the long term rather than the short term, as would occur under the Opposition's policy.

NATIVE TITLE, RATEABLE LAND

1005. Mr BAKER to the Minister for Local Government:

Will the minister advise whether land the subject of successful native title claims is prima facie rateable land within the meaning assigned to the same in the Local Government Act?

Mr OMODEI replied:

I thank the member for some notice of this question. It raises a significant matter of public interest. I have been advised that to date there has been only one determination of native title by the courts on the Australian mainland, namely the Miriuwung-Gajerrong case in the Kimberley region. It is not clear from the court decision, which has been appealed by the State, whether native title amounts to land ownership or a coexisting interest. Until these issues are clarified, it is important to indicate how land subject to successful native title claim would be dealt with in regard to the Local Government Act.

When we were in the Cue parliament recently - that being the country shire's ward council meeting - one of the shires in the Pilbara indicated that it had $860 000 worth of rateable mining tenements still under doubt because of native title claims. Significant problems exist in the north west and this remains a matter of contention.

CABINET GOVERNMENT, "FIASCO" CLAIM

1006. Dr GALLOP to the Premier:

I refer to comments made on ABC Radio this morning by the Deputy Leader of the Liberal Party and the Leader of the House which read -

> Well there is no doubt the events of last week were pretty ordinary. I mean we had all sorts of contradictory statements being made and I reflected I think a frustration that is being felt widely throughout the community and certainly amongst members of Parliament.

Does the Premier accept responsibility for the fiasco that is cabinet government in Western Australia today?

Mr COURT replied:

There is no fiasco. I would be the first to admit that the whole forestry management issue is a difficult one for any Government in any State. All the States are struggling to reach an RFA within the guidelines. This Government has been able to do that, and that is a major step forward. As long as members opposite want to concentrate on what is happening within the Government and they are not prepared to offer some alternatives -

Dr Gallop: You are feeding the chooks and of course they come along and take a bite because there is no unity in your Cabinet.

Mr COURT: To the contrary, we have been in government for about six and half years. We certainly have cabinet solidarity. We have certainly accepted the convention of collective responsibility for cabinet decisions, something that the Labor Party was never prepared to do.

Mr Ripper: Haven't you explained this to your own deputy leader?

Mr COURT: My friend thinks it is clever focusing on what is happening in another person's political party, but I think he had better spend a little more time worrying about what is happening in his own party.

YOUTH, ACCESS TO INFORMATION

1007. Mr OSBORNE to the Minister for Youth:

As a country member, I am concerned that young people in regional and remote areas of this State do not have access to information on government programs and facilities otherwise available to young people, compared with their city counterparts. What is the minister doing to rectify the situation?

Mr BOARD replied:

I thank the member for Bunbury for the question.

Keeping young people informed, particularly about new initiatives, keeping them up to date on government information on programs and policies and trying to be effective on a day-to-day basis is a challenge. Members will recall that last year we launched a new web site which has had some 600 000 visits. It is the most visited site in the Western Australian Government. However, today we launched a new services directory which is an important initiative as it gives all young people, particularly those in regional and remote areas, access via the Internet to information on health, education, youth services, alcohol and drug services, crisis help lines, emergency relief, employment and training, tertiary education, legal advice and other services provided by both State and Federal Governments.

It is important that young people, particularly those in remote areas, are aware of what is available to them. The information is being produced via a CD-ROM for those who do not have Internet access but have access to computers. Also, although members will be disappointed to hear there is no poster, there is an easy link for young people to keep in their wallets with all the information, particularly with help lines that are available -

Mrs Roberts: Has it got a photo of you on it?

Mr BOARD: It does not have a photo. It has information on the help lines right around Western Australia, particularly access to the crisis care units that young people need from time to time. I would like to commend all the government agencies, both federal and state, that played important roles in bringing this new initiative together.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, DIVISION INTO TWO ENTITIES

1008. Dr EDWARDS to the Minister for the Environment:

Was the Minister for Primary Industry and Deputy Leader of the National Party correct when he stated in this place that the Government was proposing to divide CALM into two separate entities to deal with the management of the production side of the forests and the management of the conservation estate; or was the head of CALM, Dr Syd Shea, correct when he stated in a memo to staff on the day the Regional Forest Agreement was signed that CALM would retain its role as an integrated manager and would still be responsible for organising the production of logs under contract?

Mrs EDWARDES replied:

Members opposite could look up the web site and get the answers to these questions.

Dr Gallop: This is Parliament, not cyberspace.

Mrs EDWARDES: I will assist them in that regard. The commercial arm of the native timber industry will be removed from the operations of CALM and become a new body which will be its own employing agency, the Forest Production Commission. The National Parks and Nature Conservation Authority and the Lands and Forest Commission will both be abolished. The State Conservation Authority will be established and it will carry out the functions of the current NPNCA and most of the work being currently done by the Lands and Forest Commission. That will also be an independent agency as well as an employment agency. The royalties will no longer go directly to CALM as they do currently but, rather, to the Forest Production Commission and after deduction of costs those royalties will be remitted back to the consolidated fund. They will then be able to be distributed to other organisations including the Department of Conservation and Land Management. CALM will remain as an integrated land management operation. That means that we have addressed the conflicts which were perceived to be, first, the royalties and, secondly, CALM being involved with conservation as well as forest production. However, the benefits of retaining an integrated land management agency deals with two issues, particularly the issue of fire where, again, one organisation is working with all of the state forests ensuring an integrated approach to that work.

MINDARIE LAND

1009. Dr CONSTABLE to the Minister for Local Government:

I refer to the land at Mindarie owned in equal shares by the City of Perth, the City of Stirling and the City of Wanneroo and ask -

(1) Can the minister confirm the decision to split the share owned by the City of Wanneroo equally between the new local authorities of Joondalup and Wanneroo?

(2) If yes, will he now intervene to correct the original injustice when the City of Perth was restructured and ensure that the Towns of Cambridge, Vincent and Victoria Park now receive their equitable shares of the Mindarie land?

(3) If not, why not?

Mr OMODEI replied:

I thank the member for some notice of this question.

(1) I understand a decision was made at a council meeting on Tuesday, 22 June 1999, to split the former City of Wanneroo's share of lot 17, Tamala Park equally between the City of Joondalup and the City of Wanneroo. All other properties were distributed on a geographic basis.

(2)-(3) In the case of the Perth City Council restructure, I remind members of the basis on which the restructuring took place -

(i) all towns were established debt free with Perth City Council required to pay all loans on services and facilities within the towns that were provided prior to 1 July 1994;

(ii) each town was provided with $1m to establish a capital reserve fund;

(iii) each town was provided with new plant and equipment or purchased specialised items from Perth City Council with infrastructure funds;

(iv) each town was provided with council offices, a civic centre and a depot;

(v) Perth City Council underwrote a substantial part of the cost of the inaugural postal vote elections; and

(vi) the Perth City Council had to bear the cost of all redundancies.

The total cost of the restructure was in excess of $50m and was met by the Perth City Council. The decision of the commissioners of the City of Joondalup to divide the former City of Wanneroo's share arises from an entirely different set of circumstances and conditions.

KENWICK-MANDURAH RAIL LINK

1010. Mrs HOLMES to the minister representing the Minister for Transport:

(1) Can the minister please advise whether the Kenwick-Mandurah rail link project is reliant upon the outcome of the consultation currently taking place regarding the railway going through to Rockingham?

(2) If this is not the case, can the minister please provide a time frame for the rail link to be completed from Kenwick to Jandakot?

Mr OMODEI replied:

(1)-(2) The Minister for Transport has provided the following response. The community consultation with the Rockingham people is about three rail options connecting Rockingham and the south west metropolitan railway. The result will assist Government in deciding the appropriate transport system for the region. The Kenwick-Jandakot section of the metropolitan railway service is planned to be operational by the year 2005.

HEALTH, MEDICAL NEEDS OF THE TERMINALLY ILL

1011. Mr RIPPER to the Leader of the House:

(1) Can the Leader of the House explain why the Government has failed to honour its promise to introduce in the current session of Parliament a Bill to address the medical needs of people with a terminal illness?

(2) Is the failure to introduce such a Bill, as promised in the Governor's opening speech last August, the result of what the Deputy Liberal Leader has described as a lack of discipline and untidy processes in his party room?

(3) Is it another example of what the Deputy Liberal Leader has described as letting the party room make the decisions that Cabinet should be making?

Mr BARNETT replied:

(1)-(3) Those questions should clearly be addressed to the Minister for Health.

DISABILITY SERVICES, ASSISTANCE TO PEOPLE WITH ACQUIRED BRAIN INJURY

1012. Mr SWEETMAN to the Minister for Disability Services:

What additional assistance will the Western Australian Government provide in the next 12 months for Western Australians suffering from acquired brain injury?

Mr OMODEI replied:

I thank the member for some notice of this question. People with acquired brain injury throughout Western Australia are to benefit from a $400 000 boost for aids and equipment over the next 12 months. The money specifically for ABI services will be distributed by the Disability Services Commission's community aids and equipment program through a range of service providers statewide. CAEP funds a range of aids and equipment to people with permanent disabilities living in the community. These items are provided primarily through health services throughout the State, and some major non-government disability agencies. Currently an estimated 4 600 people are identified as having ABI as their primary disability. About 600 cases of serious brain injury occur every year, predominantly through trauma such as car accidents or sporting injuries and strokes. These injuries can often be life-changing and can radically affect a person's ability to live independently, to participate in sport and recreation, and to hold down a job. For some people even coping with the rigours of everyday life becomes a major challenge. Once people with ABI have recovered sufficiently to return home, it is important to provide them with ongoing support within their local communities. It is critical to provide tangible means of support to eligible people.

GOODS AND SERVICES TAX, PRICE MONITORING LEGISLATION

1013. Dr GALLOP to the Premier:

I refer to the Premier's intention to have legislation in place by 1 July 1999 to facilitate price monitoring in anticipation of a goods and services tax and ask -

(1) Why has no such legislation been introduced given that it is essential for the protection of consumers and businesses in this State?

(2) When does the Premier intend introducing such legislation?

(3) In the absence of such legislation, what measures will he have in place to protect the community from GST-induced profiteering?

Mr COURT replied:

(1)-(3) A number of Bills will need to be passed before -

Dr Gallop: The legislation should have been in place today. It is in place in Victoria. Is this another example of the backroom bickering?

Mr COURT: As I said, a number of Bills will need to be passed in the next 12 months. We have numerous pieces of legislation that we would like in place by 1 July, including some sentencing legislation that members opposite have seen fit not to progress.

As members know, the Government signed an intergovernmental agreement with all other States and Territories. When the package was changed, the Prime Minister sent a revised intergovernmental agreement, which the Government has signed. It has many of the same protections contained in the original agreement, but we are unable to remove a number of the taxes that we want to remove as quickly as possible.

Dr Gallop: How many of the state taxes will still apply under the GST?

Mr COURT: For a start we will get rid of the financial institutions duty. Does the Leader of the Opposition agree with that?

Dr Gallop: That is one. What about the other eight?

Mr COURT: That is a start.

Dr Gallop: You should remember that we have the new GST as well. What a hopeless performance!

Mr COURT: We now have an interesting situation. Will the federal Leader of the Opposition campaign to remove the GST? No, he will not. The Labor Party could not do it, so it is prepared to go into full negative mode - Dr Gallop becomes Dr No. Kim Beazley is reported in the newspaper this morning as follows -

> Federal Opposition Leader Kim Beazley is moving to reposition Labor in the wake of the goods and services tax to promote it as a pro-active party and not one which is constantly negative.

Will members opposite follow Kim Beazley again? They have locked themselves out of all the major policy decisions being made in this country and in this State. Mr Beazley has instructed his members to take off only one week of the six-week parliamentary winter break. They should spend the remaining time campaigning and promoting Labor's ideas on employment, education and regional population policy. They could do that in a couple of hours.

Dr Gallop: That is a very ungracious comment.

Mr COURT: The leader should tell us some of his party's policies.

Dr Gallop: Of course I can. Are you capable of reading them?

Mr COURT: This country is facing major taxation reform and the Labor Party has made a decision to leave itself out of the debate. I guarantee that at the next federal election the Labor Party's policies will contain nothing about winding back the changes that are about to take place.

TAXIS, DIGITAL CAMERAS

1014. Mr BAKER to the minister representing the Minister for Transport:

Will the minister provide the House with a brief progress report concerning the impact of the use of digital taxi cameras on successful prosecutions involving taxi-related crime?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

> I am pleased to inform this House that the cameras that have been installed in all of Perth's taxis have proved to be a great success. This government initiative shows the commitment we have to the safety and welfare of taxi drivers and the community generally.
>
> In 1996, following a series of assaults on taxi drivers, and when concern within the taxi industry about driver safety was strong, this Government took the initiative to convene a taxi driver safety summit. The summit was an innovative initiative that facilitated a better understanding of what problems were being experienced by taxi drivers and how improvements could be made to assist them. I am pleased to say that the summit received strong industry, media and bipartisan political support.

The major recommendation from the summit was the installation of security cameras in all Perth's taxis. The Department of Transport subsequently worked in partnership with the taxi industry and Raywood Communications, which was the successful tenderer for the supply and installation of the cameras, to develop a state-of-the-art, purpose-designed security camera for Perth's taxi fleet. Perth became the first city in the world to have every taxi fitted with security cameras. Although there was some criticism at the time, I am pleased to say that the cameras have proved to be a first-class initiative.

GOODS AND SERVICES TAX, IMPACT ON PUBLIC HOUSING

1015. Dr GALLOP to the Minister for Housing:

(1) Why is the minister refusing to table any analysis of the GST's impact on public housing in Western Australia?

(2) Is it because no analysis has been prepared, or is it because the minister is trying to conceal the truth from the people of Western Australia?

Dr HAMES replied:

(1)-(2) Members will recall that I recently tabled a copy of a letter sent by all State Housing Ministers to Senator Jocelyn Newman. That was the combined response from the States to the assessment of the GST's impact. We discussed the figures at some length and members will recall the financial conclusion about the effect of that GST; that is, what we would get back in the first instance. In addition, through another mechanism, we will receive funds as a result of the Howard-Lees agreement. I have been through those figures previously and they are in the tabled document.

SPORT AND RECREATION INDUSTRY, CAREERS FOR YOUNG PEOPLE

1016. Mr BAKER to the Parliamentary Secretary representing the Minister for Sport and Recreation:

Will the minister provide the House with a brief report advising whether the Government will provide assistance to young people who wish to pursue a career in the sport and recreation industry? If so, what will be the nature and extent of any such assistance?

Mr MARSHALL replied:

I thank the member for some notice of this question. In my lifetime I have known many young people who have sought a career in sport. The Minister for Sport and Recreation has provided the following response -

The Government is already providing significant assistance to young people pursuing careers in the sport and recreation industry. Training ranges from vocational education and training opportunities in secondary schools and TAFE, to university or traineeships in sport and recreation. The range of careers outlined in the "Careers in Sport and Recreation" publication that was recently released are supported in numerous ways by the Government. These include the provision of the TAFE component of traineeships in sport and recreation; the provision of capital funding for the development of sport and recreation facilities, many of which subsequently employ young people in programming and management positions - that is, through the Community Sporting and Recreation Facilities Fund, which has a budget of $8m per annum; and support to sporting associations and organisations through the Sports Lottery Fund which enables many young people to be employed in positions such as regional development officers in country and metropolitan sport.

DRUGS STRATEGY, EFFECTIVENESS

1017. Mr CARPENTER to the Minister for Family and Children's Services:

Is the deputy leader of the Liberal Party correct in his criticism of the Government's drug policy when he says that the community wants more than the moralising it is getting from the Government when it is a matter of saving people's lives?

Mrs PARKER replied:

The Together Against Drugs strategy is well funded, comprehensive and compassionate. Its compassion and care are easily illustrated in the elimination of waiting lists, the development of new treatment options and the support provided around the State through 11 professional teams. The Australian Labor Party says that caring is providing a drug of choice to an addict - the drug that causes the harm in the first place; shooting galleries when we do not have an open injecting problem in Perth; and cannabis in every household across Perth in which an adult resides. I do not agree that that is caring. Far more effective ways exist to provide care and support to individuals with drug problems and their families.

DRUGS STRATEGY, MINISTER'S REPORT ON SWISS HEROIN TRIAL

1018. Mr CARPENTER to the Minister for Family and Children's Services:

Pursuant to the minister's policy, when will she fulfil the promise she made last week to give us her blindly ideological report on her visit to the Swiss heroin prescription trial?

Mrs PARKER replied:

I will never present a blindly ideological response. I will be happy to present to the Parliament a report on that visit.

The SPEAKER: I remind members that the lead-in to a question should contain enough information so that people know what the question is about. Members should avoid descriptive words that may or may not apply.

EDGEWATER TRAIN STATION, ACCESS FOR THE DISABLED

1019. Mr BAKER to the minister representing the Minister for Transport:

I have received several calls from disabled constituents who have asked that a lift be installed at the Edgewater train station to enable disabled Westrail passengers to gain free and unfettered access from the pedestrian on-ramp to the train station platform proper. Can such a lift be provided for in the 2000-2001 state budget?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

> The Edgewater train station can be accessed by both steps and pedestrian ramp. The station and pedestrian ramp were constructed in accordance with disability standards at the time. The ramp has a gradient of 1:12. These standards have subsequently changed to grades of 1:14. The Edgewater train station is relatively new. A number of train stations throughout the urban rail system have a higher priority for refurbishment and for installation of improved disability access measures. Westrail and Transport have a capital works program that addresses these issues. The priorities for this work are developed in close consultation with the disabilities consumer advisory group.

FEMALE REPRESENTATION ON COMMITTEES AND BOARDS

1020. Ms McHALE to the Minister for Women's Interests:

I refer to the Government's two-year plan for women, "Building on Success", which includes a strategy aimed at further removing the barriers to women's participation in all aspects of public and community life.

(1) Is the minister aware that not one woman is among the nine members appointed to the Minister for Planning's committee for the Future of Perth project announced last week?

(2) Does the minister agree that any committee designed to set the future strategic plan for Perth should include female representation, and, if not, why not?

(3) What is the minister doing about this?

Mrs PARKER replied:

(1)-(3) That committee has not yet been formed. It has not been to Cabinet for approval. I agree that any such committee should have a wide representation. I believe there should be female representation on that committee. In regard to what the Government is doing about appointing women to boards and committees, there has been a significant increase in the number of women on boards and committees. I will ensure that increase continues to occur and to rise.

The SPEAKER: We had 22 questions yesterday and 20 today, which is a good effort. One of our members has been a little quieter than normal today. I congratulate him because he has hit 50 years of age today and does not need glasses. Happy birthday, member for Nollamara.

[Applause.]