Legislative Assembly

Thursday, 24 November 1994

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

MOTION - SELECT COMMITTEE ON SCIENCE AND TECHNOLOGY

Report Printed

MR THOMAS (Cockburn) [10.04 am]: I present the final report of the Select Committee on Science and Technology, and move -

That the report be printed.

At the turn of the century Australia had the highest standard of living in the world. We must ask ourselves why that was the case. It was not principally because Australia was particularly endowed with natural resources, although it was. That was not of itself sufficient for Australia to have the highest standard of living in the world. What distinguished Australia at that time from other places in the world which may have been similarly endowed with natural resources and people was that Australia had access to the most advanced science and technology in the world, and it applied that to its economy - to earning its living. It applied that science and technology to agriculture, mining and other areas. If members read contemporary accounts of that time, such as the writings of Albert Facey, they will understand that although Australia's highest standard of living in the world was just that, nonetheless people had particularly difficult times. The fact that their standard of living was the highest in the world means that others must have had even more difficult times.

Australia's reputation at that time in areas such as mining and agriculture was well known. That contributed substantially to its standard of living; however, its reputation in other areas was also good. Civil engineering in Australia is probably almost as well known as agriculture and mining. Australia was advanced also in other areas. For example, it was one of the first countries to have a film industry and it was at the forefront of the development of powered flight. The Wright brothers were not far ahead of Australians as the first to achieve powered flight. Australia had what could be described as a culture of innovation. It was at the forefront of the development of knowledge in a number of areas, and that culture was conducive to the application of that knowledge to practical problems in earning a living. That had great consequences for Australia.

That culture of innovation did not apply only to the physical sciences; Australia at that time was a very innovative place. Australia was one of the first places in the world to have compulsory arbitration as a system of wage fixing; to have votes for women; and to have pensions. It was also one of the first, if not the first, to have a Labor Government. That innovative culture applied to Australia not only in areas such as science and technology, but in the social areas. That culture was responsible for many of the advances that took place at the time, in particular, for a higher standard of living.

The point in my making that allusion to history is to demonstrate that Australia's economic success depends on two factors: Firstly, an expertise and capability in science and technology; and secondly, the application of that expertise to economic practicalities; that is, earning a living. These two factors are part of a culture of innovation. As it was the case at the end of the nineteenth century and the early twentieth century, so it is 100 years later at the end of the twentieth century and early in the twenty-first century. It is necessary for us to have a culture of innovation in order to remain internationally competitive.

It was easy for Australia to be a world leader at the end of the last century and the beginning of this century because the competition was not that great. Australia was particularly fortunate in inheriting from the colonial powers in Britain the most advanced technology in the world. People in this country were not constrained socially by cultural

conventions as they were in Britain, and conditions were most conducive to experimenting and applying their knowledge in an innovative manner. That is no longer the case: We no longer enjoy what could be described as a monopoly on a fortunate position in the world. Other countries now seek to emulate what Australia did in the early part of this century, and they are seeking to provide for their citizens as best they can. Therefore, Australia must be competitive. In order to maintain a high standard of living for the Australian people it is necessary for this country to be internationally competitive. To do that, it must deliver to world markets products that people want to buy and at an acceptable quality and price. I include services in those products, because future international trade will be as much in services as in traditional goods. As with a hundred years ago, that requires the application of science and technology to industry and our economy. We differ now in that the rest of the world has caught up with us and, in many cases, has passed us. It is significant that Singapore, which is one of the most advanced countries in science and technology, now has a higher standard of living than that in New Zealand and is approaching that in Australia. Other countries in our region are expanding economically, and the standard of living is increasing rapidly. They can be expected within our lifetimes to achieve a standard of living equivalent to that in Australia. We have much to learn from them because they have been innovative. The fact that they are achieving a higher standard of living should not be seen as a threat to this country, but rather as an opportunity because of the markets that have been created and of which Australia avails itself. We can be inspired by the example of these countries in our region which have been innovative under more difficult circumstances than Australia faced at the beginning of this century.

The Select Committee on Science and Technology was created by this House almost 18 months ago and it has extensive terms of reference. Those terms of reference can be reduced to one or two questions. A key part is the role of the State Government. Quite simply, the role of the State Government is very important; firstly, because it is a major player in the system of science and technology and it conducts research itself. A number of State Government organisations, such as the Department of Agriculture, the Department of Minerals and Energy, the Department of Conservation and Land Management and the Department of Environmental Protection, require scientific research and the State Government itself is a major conductor of research. More importantly, with regard to areas of significance in the years to come, the State Government has an important role of encouraging others to conduct research and, in particular, to do so in Western Australia and on topics that are relevant to Western Australia. It is important to our economic development that the research undertaken be practical and be applied to problems which are relevant to our immediate and longer term future. For that to be achieved, it is most desirable that the research be conducted in Western Australia. That aspect relates to the inducements the State is able to offer to the Commonwealth Government for its research program. In the federal system a substantial proportion of research is conducted by the Commonwealth. The Commonwealth Scientific and Industrial Research Organisation is the premier research organisation in Australia, and it is a federal body which funds research in other areas.

The State Government also has a role to play in encouraging private industry to conduct research, and is able to provide a range of inducements for it to do so in Western Australia and on topics which are relevant to this State's future. The Government has a role in facilitating the creation of a culture of innovation. The importance of this has now been recognised; that is, innovation is more than simply the application of smart science to a particular problem. It requires a mind set that will result in industry looking laterally for creative solutions to problems and market opportunities that might occur. An example of the role of the State Government which the committee examined, and acknowledged as a great success, is the Technology Park at Bentley. That was an initiative of a previous State Government, under former Deputy Premier Mal Bryce. It was supported by both sides of politics and it has been a spectacular success. Hundreds of people are employed at Technology Park by a number of companies. Incubator units are provided at that centre for small companies starting up. One of the issues that this report addresses is the role of the State Government in providing infrastructure, such as

technology parks, to encourage the location of innovative industry in Western Australia, and to encourage the companies already in this State to play that role.

This is the third report of the Select Committee on Science and Technology since it began 18 months ago. It produced an earlier report dealing with specific issues of relations with the Commonwealth, to which I will allude in a moment. The committee also produced a second report earlier this year on opportunities for Western Australia in its relations with neighbouring countries in South East Asia. The report before the House contains 59 recommendations, a number of which are quite comprehensive, and it is not possible for me to speak to all recommendations. Some of my colleagues will speak on this matter and will address specific recommendations. I shall address only three or four recommendations in the report.

One of the themes throughout the recommendations and the accompanying text of the report, is that the research in science and technology must be linked to business, the economy, and the practical application to and solution of problems which are relevant to this State. The committee was very interested in examining, and one of its earlier reports dealt with, the model of the cooperative research centre. This notion has arisen in Australia over the last four or five years and is based on a suggestion by Professor Ralph Slatyer, then chairman of the Australian Science and Technology Council. These are research organisations in which extra money is made available by the Commonwealth for research which is part of a cooperative venture between universities, research organisations, such as CSIRO, government departments and agencies, and industry. It is critically important that industry be involved. Currently selections are being made for cooperative research centres, and one of the requirements for success in this round of applications is that one-third of the funding must come from industry. That provides for a close interaction between industry, universities and research. It means industry is exposed to research and universities, and students will have an opportunity to be involved in practical research and interaction with industry.

The committee's recommendations have an underlying theme that the state government supported research in science and technology must be related for the most part to industry. The committee recommends that the State Government develop a science policy. Although a number of programs and initiatives are in existence, at present the Government does not have a comprehensive science policy which integrates all aspects of state government activity and the programs which are relevant to science. The State Government is a major player in science and technology within Western Australia. The committee recommends that a division of science and technology be established and located within the Department of Commerce and Trade. The committee examined different models around the world to determine where science policy should be administered and located within government. We discussed the matter and we came to the conclusion that it should remain within the Department of Commerce and Trade because that is the most relevant area of economic activity and science policy. We recommend that the division should remain a division. It is the largest section of the department with the head of division directly responsible to the head of the department. The division must have two qualities: Firstly, it must be enduring; that is, not subject to reorganisation or restructure, which tends to go on frequently in that field. Programs for science and technology take time to bear fruit, and if the State is to have a sustained presence in the field the responsibility for the administration of the area should remain in an enduring organisation. Secondly, the division must be identifiable. Although we recommend that the division should be located in the Department of Commerce and Trade, rather than operate as a separate department - because it would not be large enough for that - it must be an identifiable organisation. It will deal with the CSIRO and other federal organisations, and with universities. It is important that the State have a science and technology division which is not only enduring but also identifiable. People will know who they should deal with if they have questions relating to science and technology.

The head of the division should be a person with sufficient seniority and standing in the field for universities and industries to realise that they are dealing with a person who is

able to understand their recommendations and to make decisions. He should be a person who is eminent in the field, able to talk to vice chancellors and research officers at universities, a person to be taken seriously. That element is most important.

A couple of recommendations in the report deal with universities. Universities are very important in the field of science and technology, because a great deal of research occurs within universities. They are a very important part of the science and technology infrastructure in this State. We recommend an endowment for universities in Western Australia. We recognise that in the past this has been a controversial subject, but it is important that universities in this State should be endowed with funds to be used for the promotion of research. The subject has been controversial because it was first raised when the former Government made an endowment to the University of Notre Dame. That was a controversial decision; subsequently a further proposal was to make an endowment which all universities could access - including the University of Western Australia.

The committee looked at the endowment for UWA made earlier this century and topped up in subsequent years by private endowments. That has created an asset for UWA worth $200m. It produces substantial recurrent income which is used for the funding of research and to enhance university programs over and above those normally funded by the Commonwealth Government. It is a significant asset for that university. Three quarters of competitive research funding in this State goes to UWA. Four publicly funded universities conduct research and compete for federal funding - but three-quarters of the funding goes to one university, the University of Western Australia.

[Leave granted for the member's time to be extended.]

Mr THOMAS: The University of Western Australia enjoys substantial endowments. It receives three-quarters of the research funding to Western Australia. Part of the reason for that funding is the medical faculty, where a substantial amount of research is undertaken. Other universities are at a disadvantage. We recommend an endowment for the other universities in Western Australia. It will not be necessary for the University of Western Australia to have access to that endowment, because it is sufficiently well endowed. We recommend that the University of Notre Dame should have access to the endowment also. There may be some controversy about the notion of a private university having access to the endowment but that university is undertaking worthwhile activities and research, and we consider it appropriate for the university to receive that support. The fact that it is a private university should not affect a decision regarding its having access to the endowment. Decisions about activities to be supported by funding generated by the endowment should relate to the worthiness of the activity, the quality of the research, and the nature of the subject matter. If such research is conducted by a private university, so be it. It is very important that the endowment be created so that other universities in Western Australia have the opportunity to prosper, just as UWA has prospered.

We recommend that a series of scholarships be established at the postgraduate level to promote excellence. Scholarships established around the world become prestigious and reflect well on the organisations that provide the scholarships. The Rhodes scholarships and the Fulbright scholarships come to mind. We suggest the establishment of four scholarships at the senior post graduate level in fields relevant to the economic development of the State. They should be generous scholarships relative to other postgraduate scholarships in their level of remuneration, although in overall terms it is not a lot of money. It would be generous compared with the allowances normally paid to postgraduate work, in order to attract the best people. We suggest that the scholarships be identified with the State. Therefore, the scholarship should be called the "O'Connor Scholarship" in honour of C.Y. O'Connor, who is a model for the application of advanced science and technology in the economic development of this State. His activities are an excellent model in the area of advanced technology. At the time they were the best in the world. Circumstances have changed greatly since then, but we still have that model. By using the name C.Y. O'Connor we hope that the scholarships will be enduring and will reflect well on the State.

As I said earlier, the committee has produced three reports. The first report dealt with relations between the Commonwealth and the State and the distribution of funding for research. In particular, we dealt with the cooperative research centres and the allocation of CSIRO funding. We indicated that Western Australia constitutes almost 10 per cent of Australia's population but receives only, I think, 7 per cent of the nation's research funding and an even smaller proportion of Commonwealth funding. The Commonwealth of course is the major contributor to research funding generally. The committee did some calculations and found that the shortfall on a proportionate basis of research funding is $60m. That is reflected in the lack of distribution of federal facilities to the State. We drew attention to the need for research facilities by the Commonwealth Scientific and Industrial Research Organisation to be near the oil and gas industry which are very relevant to the development of this State and that the CSIRO was considering relocation to Western Australia. That would require assistance from the State Government in the order of $40m. That was unjust then and is unjust now. In addition to the that $60m raised from the taxpayers of this State in order to go some way to resolving that inequity, they are being asked to pay another $40m to have that activity take place. It is clearly unacceptable and we are suggesting the State should take up that issue, as I know it has.

We should be creative about this. There is no point in belly-aching because the Commonwealth will take no notice if we simply complain. Our committee has examined the role of state governments in other federations such as the United States and Germany where similar situations have a arisen. Much greater funding inequity occurs between the States in America than in Australia. A program of affirmative action has been established there called EPSCoR - experimental program for science and competitive research - where the backward states received particular funds in order to give them the opportunity to compete for research funding. That has been very successful. Nine of the 12 most successful states in acquiring funds have been recipients of EPSCoR funding.

The European Community developed a similar program to support research in areas which were, for want of a better word, backward within the European Community. It was used to fund research into marine activities in Ireland, for example, which has one of the largest coastlines in the European Community. As a State we need to argue to the Commonwealth that it has been recognised in other areas that it is inequitable to deny research to a community for no other reason than its historical background. Historically speaking, if it were not for institutional inertia, research into science and technology activity relating to oil and gas would be taking place here. A case does exist for these sorts of affirmative action programs to occur; they occur in other places. As I said we should not belly-ache because that will be ineffective. It will be necessary for further money to be spent, unjust as that is. Nonetheless, it should be done in a creative manner with programs such as EPSCoR and the program in the European Community which have been used to reallocate research funds in those countries.

The interstate variation in Australia is nowhere near as great as is the case in those examples I have indicated. The recipient states of EPSCoR funding in the US were often hillbilly states. The variation in funding to the States in the US is much greater than it is in Australia. The worst affected were states where the universities, for the most part, were bible colleges. This State should be able to mount a convincing case to the Commonwealth for reallocation of funding and some sort of affirmative action program rather than simply make an application for funding.

The activities of the science and technology committee have been very rewarding for me and other members of the committee. I thank the staff of the committee. Mr Michael Ridout, the research officer who was seconded from Murdoch University, has been of enormous benefit to the committee. I am very grateful, for his efforts. Tamara Fischer, whom all members know, has worked tirelessly on what has been a very big job. Ms Gerda Slany has worked in the past few weeks on the production of the report which, particularly in the past 24 hours, has been a substantial task. I thank the other members of the committee, the member for Dianella, who was the deputy chairman, the members for Roleystone and Collie and the member for Kalgoorlie, who was a member until early

this year, and the member for Belmont who has replaced him. I also thank the many hundreds of witnesses who assisted the committee and took interest in its activities. I particularly single out Professor Ralph Slatyer a former Chairman of the Australian Science and Technology Council and author of the cooperative research centre program who took a particular interest in the activities of the committee, and Professor John De Laeter, Deputy Vice Chancellor of Curtin University, who also took an interest in the activities of our committee and who has been of great assistance.

DR HAMES (Dianella) [10.36 am]: It is a great pleasure for me, as Deputy Chairman of the Select Committee on Science and Technology to present our report to this Parliament today. As members can see, it is a fairly weighty tome of about an inch thick. I particularly congratulate the member for Cockburn, Mr Bill Thomas, who has been chairman of our committee.

The SPEAKER: Order! I ask that the member direct him by constituency. We do not refer to members by name in this House, rather by their constituencies which, in this case is Cockburn.

Dr HAMES: With your advice, Mr Speaker, I did both.

The SPEAKER: I am suggesting the member should not do the second.

Dr HAMES: The member for Cockburn was chairman of this committee. As members may be aware the committee was his idea in the first place and was supported by this side of the House. He did a tremendous amount of work and was the guiding force behind most of the direction of the committee. Without his knowledge, expertise and previous experience in the field of science and technology this committee may well have floundered along the way. I particularly thank the member for Cockburn for his hard work. I also thank the other members of the committee, the member for Roleystone, the member for Collie, initially the member for Kalgoorlie, and then the member for Belmont. I also thank the research officer, Michael Ridout, because, as the member for Cockburn said, he was seconded to us from Murdoch University where he has a leading role in science and technology. He put in an enormous amount of work. The fact that this tome is more than an inch thick is due largely to him. I have been through it and nothing is covered that did not need to be covered. He put in an enormous amount of work along with the chairman who, as I said, was one of the guiding lights of this committee. I also thank the clerk of the committee, Tamara Fischer, who made sure our organisational structure was impeccable and when people were presented to us our timing was well organised. When we went on our visit to other parts of the world our arrivals, departures and meetings were always on time, well planned and relevant thanks to Tamara.

It has been stated on many occasions that Australia - Western Australia in particular - has always had a major reliance on income from agriculture and minerals. Although that has not changed to a great extent, as the prosperity of Western Australia improves, it is becoming more obvious that progress is being made in other areas such as increased trade with our South East Asian neighbours, targeting specific manufacturing, aquaculture, education, tourism and the further development of the mineral and agricultural industries. It is even more important with the emergence of downstream processing and other ventures in areas such as Kununurra, where considerable advances are being made in research and development.

We have been told that we must become the clever country. To some extent we are already a clever country in many areas. Australia, and Western Australia in particular, has produced a large number of inventions. The problem is we have lacked the ability to process an invention which is regarded as an extremely good idea through the next stages of further development, production, finance and marketing. We have fallen down considerably in marketing and finance in particular. Many major inventions in Western Australia have been taken overseas for the support required for further development. We think that is the area we must change in Western Australia, and most of our report deals with that point. We must not only improve the amount of research and development in science and technology but also progress it from the research base to the marketplace and

thereby provide export income for this State in particular. The committee found that Western Australia has a tremendous opportunity to be at the leading edge in research and development in Australia.

One of the reasons for that is our association with South East Asia. As members are well aware, we are on the same or similar time zones as our South East Asian neighbours. It is often said we are closer to many of the capital cities in South East Asia than we are to Sydney. That provides a tremendous advantage for this State. It is obvious to us that all over the world a far greater emphasis is being placed on science and technology than is the case in Western Australia. Our South East Asian neighbours in particular regard research and development in science and technology as a great opportunity for them to get out of the poverty in which many of them find themselves and to become leading economic forces in the region, if not the world. That has never been more obvious than in countries like Taiwan and Korea, which are fast approaching Japan as leading edge producers of science and technology developments.

When we were in South East Asia we found the ministries of science and technology were ministries in their own right and were regarded as senior portfolios. The top Ministers in those countries held those portfolios. Although that is not one of our recommendations, it is something we should consider in our allocation of ministries. Perhaps there should be a specific science and technology portfolio, held by one of our top Ministers, to make sure that this area gets the importance it deserves, and certainly the importance accorded to it in South East Asia. We must make sure that our South East Asian neighbours realise that we are serious about what we intend to do in Western Australia. With the increased prosperity of our neighbours, the time is perfect for us to implement the recommendations contained in this report. Our South East Asian neighbours are just getting into full stride in this field. If we do not do the same and reorganise our house so that these suggested developments occur, we will rapidly fall behind. Those countries are progressing in leaps and bounds because of the importance they have given to science and technology. It is often said countries wishing to have high standards of living - and I am sure we all do - must be leaders in technology and not followers. At the moment, we are followers; the recommendations of the committee will change us to leaders.

Two theories are presented in relation to research and development. The first is that there is basic research; we all traditionally regard that as being the professor with the glasses, locked away in a private laboratory doing research on whatever takes his fancy. That tends to occur in some universities and government departments. On occasions that produces major inventions, and on rare occasions those inventions find a market and progress to development. Unfortunately they tend to be few and far between, and there is often no direct link between the basic research and the marketplace.

The second theory as to what should happen in research and development is presented in South East Asia, particularly in Malaysia which believes in market driven research. Malaysia has scrapped all basic research and does not fund it; it funds departments with high levels of expertise in research and development and wait for an opportunity in the marketplace. If the marketplace says it needs a gadget to do something, the researchers and developers go about producing it. The whole system is set up so there is an opportunity to market the gadget once it is made.

The committee believes both of these aspects are important and that we cannot have one without the other. We cannot do without basic research because much valuable work is done there, but we need a market orientation as well. One of our recommendations is that there must be targeted research in Western Australia in the areas in which this State has the best opportunities to obtain market share. We recommend that funds be made available, either new funds or redirected funds, to encourage research in areas of importance and relevance to Western Australia. It is important that we combine the efforts of government departments, universities and the private sector. The best opportunity for this to occur is through technology parks.

There are 20-odd technology parks in Australia. Not all are successful, and some are

spectacularly unsuccessful. One of the most successful is the Bentley Technology Park, which is an excellent example of how such parks should work. At Bentley, 70 companies and 800 jobs have been created in eight years and those companies export 80 per cent of their production. That is extremely important for Western Australia, particularly as Australia has a large overseas debt. We should encourage companies to export products and bring income to this State and Australia.

The report contains further recommendations and observations regarding technology parks in particular. As a medical practitioner I am interested in and support the proposal to establish a medical technology park at Queen Elizabeth II Medical Centre. One of the big advantages of using QEII Medical Centre is the close proximity of the University of Western Australia. A good example of the already strong cooperation that exists between those two bodies is the proposal for major research into breast cancer put forward by Professor Attikiouzel from UWA and Professor Papadimitriou from the medical centre. We also had a presentation from Professor Constable, who is renowned for his research into eye disease. He is planning a major research facility also at the QEII Medical Centre. The centre is close to Hollywood Hospital, which has surplus land which could be used. It is owned by a major international hospital owner. We believe this provides a perfect opportunity and a perfect facility for a medical technology park in Western Australia. Some changes must be made to the Queen Elizabeth II Medical Centre Act, and it will require the support of the Minister and the board. We believe this will provide an enormous opportunity for research and development in the medical field. It will bring private enterprise into the region. Without private enterprise and private investment, technology parks do not work. This will put Western Australia at the leading edge of medical research, not only in Australia but probably throughout the world.

Other members will go into detail about different aspects of this report. I thank the members of the committee and the staff for the extremely hard work they have put in. We have had a huge number of meetings and produced three reports, the first being on the commonwealth funding and CRC grants; the second on the opportunities for cooperation with South East Asia for research and development; and the final report which we are presenting today containing 59 recommendations. If these recommendations are followed, Western Australia will, as it is in so many other areas, be leading Australia in research and development in science and technology in the future.

DR TURNBULL (Collie) [10.50 am]: I wholeheartedly support this report. This Select Committee on Science and Technology has achieved the objectives set for it; that is, five selected members of Parliament have looked at the facts, listened to presentations from experts, visited places throughout the world, and made recommendations about the best way in which Western Australia should advance for the benefit of all those who live here. Under the chairmanship of the member for Cockburn a consensus report is presented. The report focuses on the development of the natural resources of Western Australia. This State is rich in minerals, agriculture and timber. These industries have been developing over the past 150 years using the most advanced methods.

In recent times gas, petroleum and aquaculture have been developed. However, the greatest of all our natural resources is the intellect and talent of our people. Irrespective of to whom we were speaking in Western Australia, Australia or overseas, the evidence in all of their submissions clearly stated that people are our greatest resource. They said that a successful nation is one which develops the talents of its people. As was mentioned by the deputy chairman of the committee, that was evident in all the South East Asian countries we visited. We were told that they believed their best resource was their people. We must follow that example in Western Australia, especially in the science and technology area. Highly trained, vigorous people are needed to explore and develop the scientific community in Western Australia. That is the only way in which we will have productive research which will lead to great innovations and inventions which can then be utilised to develop further the natural resources of our wonderful State.

Another aspect that was highlighted in our trips to South East Asia, America and Europe was the way in which special highly focused programs are targeted. A science and technology policy for the nation, the State, a university or any other organisation is the

only way in which we can focus on a product which can be manufactured and promoted. The one thing we must have in Western Australia is a science and technology policy. Recommendations within the report deal with how we see a science and technology policy for Western Australia being developed. Through that policy we can integrate all the necessary parts that will produce the final outcome; that is, products that may be used to the benefit of the people of the State and which can be exported.

A very large part of our report focused on how to develop all the linkages that are required from the original item - that is, the intellect of a highly trained person - to the end product which will be for the use of society. It is a very complex report. Everything in the report needs to be there. I can assure members that a lot of beneficial information has been left out of the report. There are enormous difficulties with integrating all the factors on this long road from recognising people with intellect in the scientific field to producing a marketable product. What role does the Government have in managing progress along this highway?

As the chairman said, the Government does have a role which we defined as providing the infrastructure. As we all know from the early development in Western Australia of agriculture and mining, the major role the Government has had is to provide the infrastructure. The initial item required in providing the infrastructure is education. Many of our recommendations focus heavily on education. The education of those highly skilled people who will develop science and technology in our society must start within our schools. Science must have prominence in primary and secondary schools. The most important ingredient in that process is highly skilled science teachers. The integration of all the undergraduate, graduate and postgraduate activities is also very important. I am sure that a later speaker will address that area and the recommendations that we made for improving the integration between those groups.

As I have said before, the great secret in tapping and using this intellect, when there has been training and development, is by the interlinking of the people with all the varying requirements necessary to bring the products of science and technology to fruition. That can happen only when there is integration between people who work within the research centres and industry. We received many submissions from tertiary institutions, research centres and the research components of universities. The very difficult problem expressed was: How can we form links between those bodies and industry?

Western Australia does not have an ethos of industry being involved in science and technology, nor is industry heavily involved in research and development. I have had the experience in my electorate of trying to promote these links. It is very hard when there is no ethos of an industry link with research centres and the scientists that go with it. In many of the presentations to the committee, people said that they were trying to set up these links. The committee's recommendations will show that it feels the unit that will deal with science and technology policy - that is, the Department of Commerce and Trade - will have a role in promoting these linkages between industry and the research units, and between those people who provide the research and the money that is necessary. Networking and the linkages at the grassroots level are the hardest things of all to achieve. Western Australia still has a very long road to travel to achieve successful linkages. The School of Mines in Collie is a good example of networking and linkages. It started as an educational outreach of Curtin University. Gradually, the graduates from the School of Mines have gone into the industries in the surrounding area to undertake research and develop processes which will improve the productivity of those industries. The industries most closely linked to the Collie School of Mines include the Worsley Alumina refinery, the industries at Greenbushes and the mineral sands industry.

When it comes to the practicality of how to achieve a successful integration, it is obvious that money will be necessary. Many of the committee's recommendations will require funding if they are to be implemented. The funding must come from either the Federal Government, from which Western Australia is not receiving its share of research money, or Federal Government organisations like the Department of Defence, Austrade and other departments dealing with overseas aid which have poor links with Western Australia and do not give companies in this State the opportunity to access funds. The committee

recognised that Western Australia does not have equality of access to Commonwealth funding and its recommendations take this into account.

Another problem is federal and state contributions to education. Greater funding should be applied to the primary and secondary schools, and universities. Another problem is failure in selection to establish cooperative research centres. How does Western Australia gain access to funding from the Federal Government for these centres? Recommendations in both the first report and this report address these problems. The chairman of the committee referred to the problem of the lack of money available in universities for research and to the recommendation for an endowment for universities.

The next area I will address in relation to funding is how the product of science and technology and the intellect is moved into research and development. From where will the money come for research and development in Western Australia? Members will be aware of the many examples of intellectual property, particularly within the Commonwealth Scientific and Industrial Research Organisation; for example, the gene-shears project and projects undertaken by Professor Constable, which have been absolutely fantastic inventions, but which have been lost to Australia and Western Australia because of a lack of funding. It was depressing to hear of many wonderful inventions which have been funded by overseas money. Western Australia has lost the rights to this intellectual property. Universities are setting up systems to manage intellectual property and the committee strongly recommended that the Government move quickly to protect that property.

In addition, there have been wonderful scientific and technological advances in the Department of Agriculture, and examples in my electorate are the pink lady and gala apples. These apples are the product of excellent research by the Department of Agriculture, but how do we market that intellectual property on the world market and protect those rights for the benefit of this State? Similar research is occurring within the Department of Conservation and Land Management and legislation has been passed to produce a flora inventory in Western Australia. This will assist in protecting the flora gene pool and that in turn will protect what is as much the birthright of all Western Australians as are minerals. However, to do that successfully sufficient funds must be available.

Early in this State's history moves were made to develop Western Australia's natural resources by establishing the Agriculture Bank. This is a topical issue now because of the moves to sell the bank - over time funding expanded beyond the development of the agriculture industry and went into other areas of development; for example, timber mills, small mining companies and various other companies. It became "our bank" and was commonly known as the R & I Bank. Surely a bank should fund the development of the country, but it appears that we will be moving on and "our bank" will be sold.

Funding is necessary so that it can be directed towards Western Australian inventions, intellectual property and advances in science and technology. All these things should remain the property of Western Australians. People say that it cannot be done through funding from the banks because they no longer deal in venture capital funding. There must be some way of doing it. One of the committee's recommendations strongly targets the venture capital fund. Malaysia, Singapore and Indonesia unashamedly protect the intellectual property of their countries. However, in Western Australia we do not have that facility and recommendation 50 of the committee's report recommends a venture capital. I would like this fund to be overseen by a panel of eminent Western Australians from the universities, research centres and a venture capital group which could be attached to "our bank". However, a fund can be achieved in many ways. The committee reached a consensus in recommendation 50 and it outlines how the venture capital fund could be established.

Western Australia must have a science and technology policy which focuses on promoting the State's intellectual resources; that is, the great natural resource of people's intellect. The intellectual property must be retained for the benefit of all Western Australians. A method of funding that intellectual property so that Western Australia can

move on to the next step of research development must be found. The products can be marketed in the south east Asian region - a region which Western Australia can join and to which it can make a great contribution.

The select committee has produced a great document which will be received and used as a research tool. The recommendations in the report will make an enormous contribution to many areas in Western Australia. I would like to thank my colleagues, the members for Cockburn, Dianella, Roleystone and Belmont, and also our researcher Michael Ridout and clerk Tamara Fischer for their contributions to the select committee.

MR RIPPER (Belmont) [11.10 am]: Australia is open to the global economy, so too is Western Australia; that must be the way ahead. The end of protection and the triumph of free market ideas do not mean the end of a role for government; in particular, the State Government. One of the conclusions I have drawn from the work of the select committee is that around the world in regions and cities there is a self-conscious positioning for global economic competition. All around the world we see regions and cities realising that there is an international competition for economic advantage; that in the economy that develops globally in the next decade or two rewards will not be distributed fairly or evenly; and that there will be a concentration of value adding and wealth in particular locations. Various locations are trying their best to make sure that the wealth will be created in their economies over the next decade or two.

Another of the conclusions I have drawn from the work of the committee is that the international competition is strong. It is useful for members of this House, and the community generally, to recognise just how strong that international competition is and just how determined other cities, regions and nations are to make sure they will be best placed to cream off the value in the international economy in the next 20 years. If Western Australia is to succeed in that competition the quality and quantity of our research effort is important. Links between industry and academia are important, and our ability to commercialise research results is critical. All of this will depend principally on private sector effort, but the State Government has a role to provide targeted assistance, insulated as much as is possible from short term political pressures. More importantly, the State Government has a role to create a vision for the future development of this State, and to convince people of that vision. That vision relates to science and technology. We must create within this State a shared view of the future, which is somewhat different from the view which people have traditionally held in this State. Of course, our resource based industries are important, and will continue to be important; however, we must develop as well an understanding so - as the member for Collie has pointed out - that the talents of our people, and our ability to put those talents to use in value adding, will be of growing importance in the future.

This is not just a matter of wealth creation, but also a matter of the quality and variety of jobs and careers that will be available to our young people in the future. It must be a long term vision and, ideally, a bipartisan vision. We should encourage the private sector in this State to take a long term view of economic developments as well. We need more patient capital; that is, capital that is prepared to wait for a return. We have a get rich quick element in our culture.

Mr Shave: It would be nice if the country got rich quickly; it would be a nice sentiment.

Mr RIPPER: I am arguing that rather than adopt the get rich quick mentality, we will do better in the long term if investors are prepared to invest capital for a return in the long term, rather than look for the quickest short term return. We can continue with this partisan point scoring, or we can accept the point of view that I am putting, which is shared by the committee, that this State will do better if a vision is developed for the future development of the State using our science and technology resources. That should be a long term vision, and it should be a bipartisan vision. We need a plan which not only is shared by both sides of politics, but also has been developed in consultation with important stakeholders and which has their commitment to its success.

The State Government has limited resources to devote to this enterprise, but enough resources must be devoted to make the vision credible, and to convince the private sector

that the Government and the Opposition is serious about the proposals in this area. We must convince the private sector that this will be an ongoing effort; that what we are talking about is not just words, but a definite commitment to the future of the State. The limited resources available to the State Government must be used in a focused and strategic way in accordance with a plan or a policy which has been developed in consultation with stakeholders and to which they are committed.

The committee has avoided in its recommendations substantial restructuring of institutional arrangements in this field. It could be argued that there has been too much restructuring in economic development agencies in this State to the overall detriment of the effort of the State Government in promoting economic development. The committee shied away from recommending a radical restructure of the institutional arrangements in view of the history of restructures in this area in this State.

I will make a few more comments on the link between industry and tertiary institutions. The Auditor General's recent report drew attention to some problems with what he regarded as a lack of accountability and the possible misuse of university resources in connection with academic consultancies. These are important issues, and although we can fail if they are not attended to, we can fail also if there is insufficient activity by academics in relating to industry and in seeking to have their research results commercialised. We must make sure that academics have sufficient incentives to establish links with industry, and to participate in the commercialisation of their research results. It would be a pity if, as a result of the Auditor General's report, we threw out the baby with the bath water by an excessive focus on accountability and restrictions on the use of university facilities.

Mr C.J. Barnett: If we want to keep the brightest people in academia, we will need to reward them, and give them better opportunities for a mixture of teaching and private research. We are a long way behind the international trend in that regard.

Mr RIPPER: I am glad to hear that. I am staggered by this level of agreement and almost lost for words, but not quite. The Leader of the House is right. If we want academics to be involved in this sort of exercise, as the Leader of the House has indicated, incentives must be provided. Some private benefit will be gained from public resources but a broader public benefit overall will be achieved.

I conclude by commending the chairman of the committee, the member for Cockburn, for the leadership he gave the committee. It was important for the overall success of the enterprise. I commend our research officer, Mr Michael Ridout, for his work. There was a very useful and interesting association between the committee and our research officer. I thank our secretary, Tamara Fischer. Overall the work of the committee has been very successful and their contribution has been very important in that success. In a spirit of bipartisanship I commend government members of the committee for the responsible way in which they used their majority position on the committee. The entire effort of the committee has been based on consensus and tripartisanship, and I commend the government members for their contribution to it.

MR TUBBY (Roleystone - Parliamentary Secretary) [11.22 am]: I thank the member for Belmont for his comments. I also support what the member for Belmont said earlier with regard to Western Australia and Australia having to take a longer term view. This not only applies to capital investment, as the member for Belmont said. During our excursions into Asia we found that Australian companies were developing a reputation for such a short term view that Asian governments were reluctant to work with them because of their short term outlook and the quick dollar they were trying to make. Asia always takes the long term view and thinks 20, 25 or 30 years ahead. Australian companies have a tendency to look to the next financial year to make their dollars. Those two ideologies do not come together too well. Australian companies have to develop a longer term view if they are to do business in a big way with Asia in the future. This is also true of what the member for Belmont said about investment capital. Some start up companies do not make returns for many years. A lot of money is poured into development before a return is forthcoming on investment dollars. Unfortunately, many

Australian investors do not take that longer term view, and they have to develop that attitude if our country is to develop and grow in the future and keep pace with Asian countries. As the member for Belmont said, it must be a bipartisan view. It is no good this Government setting up a vision in this area and the Government changing in a few years time and then our heading off at another tangent. The development of Western Australia must be bipartisan. There is no question but that we must agree. Although it had three government members and two opposition members, the committee arrived at a consensus on every point raised. If we can do that in a committee we can do it between the Government and Opposition and set longer term views.

Everywhere we went in Malaysia, whether to government instrumentalities or private instrumentalities, they lauded what they call their Vision 20:20 policy. It has two meanings, as the member for Dianella pointed out to me last night. If one has 20:20 vision, one has very good vision. I have that no longer, but I did when I was younger. Their meaning of 20:20 vision is not only of a good vision, but where they as a country want to be by the year 2020. Everywhere we went they lauded this vision and went on to explain how their department or company was working towards that overall goal. We have a different culture in Australia. Perhaps it is easier in Asian countries because of the way they come together so easily on points of view and long term vision, but we must try. If we do not try, we will not get anywhere. The Government and Opposition must determine where we are going, work out an overall policy and set it a long way off at 20 to 30 years out and we must work towards that goal no matter who is in office.

I now wish to refer to intellectual property and the protection of intellectual property, particularly within government departments. The State Government funds 22 per cent of research and development that takes place in this State, most of which occurs in our Departments of Agriculture, Minerals and Energy and Fisheries, the Environmental Protection Authority, the Department of Conservation and Land Management, forestry and the Health Department. Much of that research is done on behalf of industry. For example, in agriculture a new strain of apple is discovered, as the member for Collie stated, and then it is made available for all the industry. In cases like this, the intellectual property does not need protection. In other instances in government departments good ideas and inventions occur and are not commercialised to the benefit of the State as a whole for a couple of reasons - one is the State Trading Concerns Act and the other is the State Supply Commission Act. These tend to bind departments and prohibit them from commercialising their intellectual property. The Education Department has just gone into the commercialisation of a program developed through its department called "first steps". It will return dollars to the State and the department. We also have to ensure that people within those departments, such as inventors and researchers, are given some incentive and receive some reward for their inventions. This must be legislated for - at the moment we cannot do it - so that individuals can be rewarded, along with their units in the department, and the rewards can stay in the department and not go to the consolidated fund. This happens in the university sector in Australia and also in the very large universities in the United States. We looked at the University of California which had established this as an art form. It has 20-odd lawyers who handle the development and commercialisation of its intellectual property which returns large sums to the university. We can do the same not only for the people working and researching in the public sector, but also for the departments, and the State will benefit.

I would now like to comment on the education section of the committee's report. I came here from the education sector where I taught science at high school for a few years. I know that you, Mr Deputy Speaker, taught mathematics for a number of years. Western Australia in particular and Australia in general are well behind other countries as far as science and mathematics are concerned. In 1991 the ratio of humanities to engineering graduates in Australia was 5:1. If we compare this with other countries, in Germany it was two humanities students to seven engineering students, in the United States 2:1 and in Japan 1:1. Maybe that is one of the reasons much of our intellectual property disappears overseas. We have not the engineers and necessary skills to develop and commercialise it here.

The Government must address this matter immediately. I do not know exactly how it should be done; perhaps we could offer postgraduate scholarships, as recommended in this report, or TEE scholarships. The Government must address some of the recommendations made in this area to ensure more graduates in the science, mathematics and engineering fields. In Germany people who have a PhD are well respected. If they have PhD (Eng) after their name, they are totally revered. They can almost write their own cheques when they go for employment, because Germany holds engineers in the highest esteem. Members should compare the way Germany develops its technology with the way Australia develops its technology. Perhaps there is a lesson for us in that.

The next area I address relates to primary and secondary school science teachers. Evidence presented to the committee by a person from the Education Department states -

> In the primary area we find at least half of our female teachers and at least a quarter of our male teachers lack confidence in teaching science . . . We have concerns about their knowledge base . . . The primary science syllabus was put together in 1982. It is an old syllabus. It is also an open ended syllabus. Teachers who lack confidence in their scientific knowledge find it tricky to work with an open-ended syllabus which basically says teachers know what they are doing in the area . . . We do not believe that we need specialist teachers in Science and Technology in primary schools but that we need to make a substantial effort to improve the confidence, knowledge and understanding of our primary teachers.

That is a pretty damming comment to come from the Education Department. We have not arrived at this situation over the past 12 months or two years - or the past 20 years; we have been going in that direction for a long time. It is time we addressed the matter. On the question of secondary teachers the report states -

> Many Western Australian science and technology subject teachers have no formal qualifications in the discipline. Science Teachers Association of Western Australia (STAWA) data shows that very few top ranking students choose teaching as a profession (three out of the top 1000 school leavers in 1992), possibly due to perceptions of professional status, lack of career prospects, and low salary potential.

These are avenues which the Government must address. If this State is to have a high tech manufacturing sector - the report states that it should - we must start at the ground level; that is, address the areas of primary and secondary education and the quality and qualifications of the teachers by attracting people into the universities in the science and engineering fields.

Finally, I commend the member for Cockburn for the way he chaired the committee. The member for Cockburn is an underrated member of Parliament. The previous Government underrated him also. It was an excellent committee. I thoroughly enjoyed working with the member for Cockburn and the other members of the committee. I also commend the committee's research officer, Michael Ridout, for the tremendous amount of work he put into the committee, and I thank Tamara Fischer for her organisation of the committee. It was very much appreciated by all members.

Question put and passed.

[See papers Nos 561-564.]

MOTION - PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Report on Payment to Heritage Council of WA Chairman, be Printed

MR TRENORDEN (Avon) [11.34 am]: I move -

> That the report be printed.

It is my honour to submit the committee's report on the 1992 payment made to the then chairman of the Heritage Council of Western Australia, as reported by the Auditor

General in 1993. The committee's report was adopted on 17 November. In tabling the report I acknowledge the efforts and contribution of the committee members. From the time of this action the committee was dealing with a member who was a backbencher, then a frontbencher, and is now the Leader of the Opposition. The public and members should take comfort in the manner in which the Public Accounts and Expenditure Review Committee handles these matters, although it experiences some difficulties and pressures from time to time. The committee comprises three government members and two opposition members. It brought down a unanimous report and, I believe, a balanced report. Others may differ from that point of view; however, it would be difficult for people to say that it is anything other than balanced.

I acknowledge the hardworking and diligent staff who assisted the committee, particularly Soraya Cary who assisted the committee in its research and in drafting its report. Because of the timing of the session we do not have much time to debate this report. I have given a commitment that I will be brief in my comments. I apologise to members who want to know more about the findings of this report; they must read it themselves. The first of the five findings states -

> The Committee finds that recommendations of the Burt Commission and the Auditor General shall be followed on all occasions.
>
> This should have occurred when the former Minister gave his instruction, and to the extent that this did not occur, unsound practices were followed.

The second finding states -

> The Committee finds that there were difficulties within the organisation, resulting from inexperience, too few executives and the lack of qualified support staff.

The third states -

> The Committee finds that the payment to the Chairman was not highlighted in the monthly financial report to the Heritage Council.
>
> The consequence of the failure to highlight the payment was a breach of accountability standards.

The fourth states -

> The Committee finds that neither the Auditor General nor any evidence given to the Committee suggested any impropriety in the payment of the $50 000.

The committee did not investigate whether the amount of the payment was justified; that was not its task. The fifth finding states -

> The requirements of the Burt Commission and the Auditor General should signal to all boards, agencies, chief executive officers and Ministers those accountability procedures required by Parliament.

It is a pity I do not have time to go into detail on that matter. The argument is about the payment of an extra $50 000 to the then chairman of the Heritage Council, who was receiving $30 000 a year. The verbal direction for the payment was given by the Minister, and the payment was made on 22 September 1992, even though two high profile reports - the Auditor General's report and the Burt Commission on Accountability report, which was brought down in January 1989 - state clearly that verbal instructions breached accountability standards.

The ex-Minister's argument was that it met the legal requirements. The committee has no argument with that; however, it does have an argument that the accountability standards were not complied with. This report clearly signals to Ministers and ex-Ministers and those in positions of responsibility that legal requirements are not enough. Members in this Chamber have higher expectations placed on them than to meet the bottom line of legal requirements.

The Auditor General found that this practice was unsound. The Crown Solicitor said that the payment was unlawful. The member for Fremantle's legal advice differed from that.

The committee made no finding on this point because it was not within the ability of the research staff available to it and of committee members to make a finding on the legal argument. The divergence in argument was between the requirements of the Financial Administration and Audit Act and the Heritage of Western Australia Act. Members must read the report to understand the reason for the difference in the argument, because I do not have time to go through that. The argument was whether the payment was remuneration or ex gratia, and members will need to read the report to find out.

The payment was made on 22 September 1992. It was reported to the Heritage Council on 16 October 1992 as a line item of $69 871 for services and charges. The council voted, according to the minutes, without knowing that the amount included a $50 000 payment to the chairman. Obviously two people at the meeting knew about the payment - the chairman and the acting director, the people who put the procedures together. It is clear that the councillors did not know at that meeting that they approved a payment of $50 000. The audit on 25 October 1993 - a year later - found that there was no written ministerial approval. Both Mr McGinty's legal advice and the Crown Solicitor point out that council approval was required for that payment. I do not have time to go through the legal argument. That is contained in the report, and other members will have something to say about it. Basically, the report comes down heavily on the side of maintaining the accountability and credibility of Ministers.

MR BROWN (Morley) [11.42 am]: Each member of the Public Accounts and Expenditure Review Committee has agreed to speak for six minutes only. I will take my full six minutes. The recommendations arising from this report have both broad and specific implications. The specific recommendations relate to the nature of the inquiry and the manner in which evidence unravelled surrounding the payment of $50 000. The other recommendation arising from the report deals with government practice in general.

I will deal with the specifics briefly. Four issues were examined by the committee: The legality of the payment; the propriety of the payment; whether the amount of $50 000 was justified; and the procedures by which the payment was made. I will deal with each matter briefly. The committee found there was conflicting legal advice. It went to the matter of whether the payment was a one-off payment or an ex gratia payment. Lawyers can argue about that until the cows come home. The committee did not claim, and its report cannot be interpreted to claim, there was any illegality in the payment. The committee made no recommendation to that effect; the committee has not found in that way.

On the question of propriety, the matter was whether open processes were followed in the calculation of the payment; that is, was this simply an underhand payment or were open processes used to calculate and authorise the payment? The committee found that open processes were used; that the open processes involved a calculation having regard to the number of hours worked by the chairman of the Heritage Council, and the rate allocated for a person of the chairman's qualification. I make the distinction that the calculations were done by the former head of the Department of State Services and checked by the Public Service Commission. Correspondence to that effect is attached to the report. The committee did not elect to go behind that correspondence to check each matter raised in the correspondence. Suffice to say, however, the committee had before it evidence from both departments that open processes and procedures were followed. The committee concluded that neither advice from the Auditor General nor any evidence to the committee suggested any impropriety in the payment of $50 000. There was no illegality or impropriety.

The third issue was the justification for the payment. That went to whether the committee should examine justification for the payment. Not one member of the committee asked for documents to be produced or evidence to be given seeking to clarify whether the calculations by the Department of State Services, and checked by the Public Service Commission, were reasonable. However, on the face of it, open processes were followed. Departmental officers did the calculations, made recommendations through the appropriate procedures and said the amount was warranted, and the amount was approved. It was not simply someone on a whim coming up with that figure. The figure

was calculated properly and accurately, presumably by government officers who were not, in any event, under question by the committee.

The final matter went to the question of procedures. The point raised by the Auditor General was that when the instruction was given to pay the $50 000 - even though it was accompanied by letters from the Public Service Commission and Department of State Services - it should have been noted in writing. That was the finding by the Auditor General, and the committee concurred.

I urge members to read the report. It sets out clearly the determinations of the Public Accounts and Expenditure Review Committee. Members should read both the recommendations and the conclusions. One of the important matters flowing from the report is the clear recommendation that all ministerial directions - even those backed up by correspondence or reports from other bodies - must be in writing. That is the clear recommendation of the committee.

I thank my colleagues serving on the committee. I thank the chairman and the professional officers who have done a sterling job by assisting the committee to bring down this report.

MR BOARD (Jandakot) [11.49 am]: In undertaking this inquiry the Public Accounts and Expenditure Review Committee has fulfilled its proper role as the watchdog on public expenditure. The committee supports the Auditor General's report. As a relatively new member of Parliament, and one who took a keen interest in the activities of the previous Government, I think it is important to have an independent Public Accounts and Expenditure Review Committee working in conjunction with the Auditor General to scrutinise the public accounts. I believe that if the work of the Public Accounts and Expenditure Review Committee had been carried forward in a more diligent manner in previous years we may not have seen some of the mistakes that have been continuously made.

Mr Taylor interjected.

Mr BOARD: I cannot comment, but I will debate that with the member for Kalgoorlie another time. In saying this, in no way do I reflect on the Leader of the House. However, it is difficult for to us bring down such a sensitive report, which I would like to examine in more detail, in such a short time. Notwithstanding that, adequate discussion should be carried out in the Parliament about time given to the Public Accounts Committee and the way in which it delivers its reports to the House. It was a sensitive report and the committee dealt with it in a very professional and diligent manner. We brought down a report which I believe was in keeping with our terms of reference.

This matter was referred to the committee by the Minister for Heritage as a result of issues raised by the Auditor General. The member for Morley focused to some extent on the fact that we examined the size of the payment and whether it was justified. I made it quite clear during the deliberations of the committee that the inquiry and the issues raised by the Auditor General related to the process of the payment, not the size of the payment or whether it was justified. The report shows that the committee diligently examined the process and whether the accountability standards were met in making that payment. Whether we should have considered that the payment or the size of the payment was justified is a matter for this House to consider. We did not do that and I made that point throughout the committee.

Having sat through the committee hearings and completed the report, I find it very difficult to understand why the former Minister would expose himself by making a verbal request of such a nature without putting that instruction in writing. Neither can I understand why the Acting Director of the Heritage Council - without reflecting on his propriety - when he made that payment on the verbal advice of the Minister, did not bring that to the attention of the council, given that he would have known that the chairman received a $30 000 annual payment. For the chairman to receive a one-off $50 000 payment, whether it was considered to be ex-gratia or remuneration, was a considerable act, particularly for a person new in the position. I find it very strange that that was done

without consulting the council or highlighting it in a meeting. I also find it strange when the amount of the payment was unbudgeted to the Heritage Council and came from other sources. Surely the acting director would have at least highlighted to the council that an additional $50 000 was coming to the council as a payment to the chairman at the time.

Unfortunately the committee had to bog itself down in some debate over whether the payment was ex gratia or remuneration. That is a pity in many ways because Crown counsel and the Auditor General obviously thought the payment, as it was referred to throughout the process, was ex gratia. However, legal advice obtained by the ex-Minister saw it as remuneration. It is a pity we are not in a position to make a deliberation on that. I understand why, but it goes to the very heart of whether the process was proper and whether accountability standards were met. The committee came down with the view that accountability standards were breached. It also found that unsound practices were followed. However, it is a pity we were not able to explore in more detail why those practices occurred. I thank the other members of the committee, particularly the staff who, in difficult circumstances and in a sensitive area such as this, worked in a manner of which they can all be proud.

MR BLAIKIE (Vasse) [11.55 am]: The Auditor General in his report said that unsound practices were followed in the payment of $50 000 to the Chairman of the Heritage Council of Western Australia in 1992 and, further, that the payment was not approved by the council and was unbudgeted, contrary to the provisions of the relevant legislation. Our inquiry followed a letter from the Minister for Heritage asking that the committee further examine the matter raised by the Auditor General. Having established those circumstances, and to support what other members of the Public Accounts and Expenditure Review Committee have said, I believe the committee has acted reasonably. Its brief was to act within difficult terms of reference, bearing in mind that the Minister at the time is now the Leader of the Opposition.

I believe the Minister who made the request should have carried out his own investigation further, even if that involved his taking the matter to the Director of Public Prosecutions. That should have been his role rather than its being necessary for the Public Accounts Committee to undertake the investigation. It was a matter of sensitivity. As the member for Kalgoorlie said, the Public Accounts Committee can be labelled as a politically loaded committee. However, members have a responsibility to get away from those bipartisan attitudes, if at all possible. It should not be the role of the Public Accounts Committee to do the work of Ministers. If Ministers have some difficulty it should be examined in due course.

The findings of the report have already been mentioned. The additional payment of $50 000 was not investigated by the committee. It did not investigate whether the payment was justified, but it found that when the Minister gave the instruction for payment, it was not given in writing. The committee also found there were staffing difficulties within the Heritage Council resulting from inexperience, not enough executives and the lack of qualified support staff. The committee further found that when establishing new agencies it is the Government's responsibility to ensure that all agencies have adequate and qualified staff with knowledge of relevant and applicable legislation and established accountability practices. It is not good enough to be given the excuse that new and inadequate staff led to errors being made. The buck stops with the Minister of the day and, therefore, the Government. That, in my view, is what the Public Accounts Committee found.

Again as has been highlighted, the committee found that the requirement outlined by the Burt Commission and the Auditor General should signal to all boards, agencies, chief executive officers and Ministers those accountability procedures required by the Parliament. The response to the Parliament is that $50 000 was paid. There needed to be a full accountability process for that payment. There was not. Whichever agency of government is involved, that practice needs to be followed. As a result the committee did sit on a matter of sensitivity and brought down a report which I hope all members will read. My final point is that the committee did not investigate whether the $50 000 payment was justified. I support the report.

MR GRAHAM (Pilbara) [12 noon]: I will deal with a couple of points in the report, the first being one made by the member for Vasse. The signal coming from this Standing Committee on Public Accounts and Expenditure Review is that its members are not particularly interested in playing capital P political games. They see the committee - despite the interjection from the member for Kalgoorlie - as being an independent committee, interested in carrying out the role and functions set for it. That is as it should be. This committee is saying that it is not interested in playing the game - a tried and proved method - of having something referred to a committee and then using that referral to get a headline. The committee will make up its own mind, quite independently, when and whether it investigates matters on the evidence placed before it. Again, that is as it should be.

From the moment the chairman presented the report he said that it was a unanimous one. I have had the privilege of every select committee and standing committee of which I have been a member - with the glaring exception of the Joint Standing Committee on the Commission on Government and the Public Accounts and Expenditure Review Committee's inquiry into the Totalisator Agency Board - bringing down unanimous reports. Of necessity, that involves negotiations. Sometimes those negotiations are very tough; but nonetheless there are negotiations and reports always stand the test of time when they are unanimous reports. As the chairman said, it is a balanced report. That is as a consequence of the tough negotiations which took place. I do not like parts of the report, but in arriving at a balanced result it is essential that the report contain parts that some people do not like to enable the Parliament to get the total picture, the full story. This report does that. The full story is laid out in the evidence to and in the conclusions of the committee.

When talking about the payment to the Chairman of the Heritage Council of WA, we need go no further than the committee's first conclusion, despite the rhetoric, headlines and newspaper stories, which states -

> The Committee does not doubt that a payment made to the then-Chairman of the Heritage Council was warranted, as the job was clearly significantly larger than was first envisaged.

There is no doubt in the mind of the Public Accounts Committee that the payment was warranted and justified. The second conclusion of the Public Accounts Committee states -

> Nor is there any evidence or suggestion in impropriety of any of the events that led to the "ex gratia" payment being made.

There is no question and no suggestion of any impropriety in the events that surrounded that payment. It would be quite improper, after this matter has been fully investigated by the Auditor General and by the Public Accounts Committee, for anyone to suggest there was. I refer to half way down page 7 of the report about the procedures that were followed by the Minister of the day and the Government of the day. It states -

> The Committee accepts the evidence that open procedures were undertaken in relation to the making of the payment and that the Public Service Commissioner endorsed $50 000 as being a suitable and proper amount.

There can be no suggestion that there was an improper or inappropriate backroom deal. It was not, and the committee accepted the evidence that was put to it and accepted the Public Service Commissioner's endorsement. There were some concerns inside the Heritage Council at the time, and they have been dealt with. To the extent that they should have been, they have been.

I thank all of the committee staff. It is difficult for committees of this nature to meet on a divisive issue, a sensitive issue, a capital P political issue. It was difficult enough to start with because it dealt with an opposition frontbencher, but it was more difficult when that member was promoted to Leader of the Opposition. Of course, as the stakes go up, people do pay much more attention to the detail of the work of the committee and its staff. At times staff members were put in difficult situations; sometimes I agreed with

them, and sometimes I did not. I thank the staff members for the way in which they have handled the difficulties that have arisen and for the patience they showed in dealing with the committee.

MR McGINTY (Fremantle - Leader of the Opposition) [12.06 pm]: I thank the five members of the Standing Committee on Public Accounts and Expenditure Review for the way in which they went about their job on this occasion. The report that has been tabled in this place this morning is an even and balanced one. It is one that I might on the odd occasion have hoped may have been worded marginally differently, but nonetheless is not one to which any reasonable person could take objection. I am particularly grateful that the members of the committee avoided the occasion of sin, and the opportunity to turn this matter into a political witch-hunt.

I say that in two contexts: Firstly, I believe the temptation was there during the Helena by-election to turn the matters which were being investigated by the committee into a blatantly political exercise. I am very pleased that the committee members refrained from doing that. Secondly, and more importantly, following my elevation to the position of Leader of the Opposition in this Parliament, there would undoubtedly have been great pressure brought to bear on at least the government members of the committee to make sure that some damage was inflicted upon me as a result of this report.

Several members interjected.

Mr McGINTY: In my view, as I said at the outset -

The ACTING SPEAKER (Mr Johnson): Order!

Point of Order

Mr BLAIKIE: I find that remark to be personally offensive and objectionable, and I ask that it be withdrawn.

Mr McGinty: Is that a guilty conscience?

Mr Lewis: You are the one who is guilty.

Mr McGinty: No; no way known. The Minister for Planning should read the report. I have been given a clean bill of health and he has been made to look like a fool.

The ACTING SPEAKER (Mr Johnson): The comments do not contravene the standing orders.

Debate Resumed

Mr McGINTY: As I said, when I became Leader of the Opposition there would have been a temptation to turn this matter into a political witch-hunt. I am pleased that the members of the committee resisted that temptation and that they have delivered an even and balanced report that quite clearly, on any reasonable reading, gives me a completely clean bill of health.

Let there be no doubt that the Public Accounts Committee found expressly that the payment made to the Chairman of the Heritage Council was warranted. It found further that there was no evidence or suggestion in any of the matters placed before the committee of any impropriety in regard to that payment. The committee dealt with the legal position and states in its report that the financial requirements of the Financial Administration and Audit Act and the Heritage Act were both complex and conflicting. The committee dealt also with written ministerial directions. I concur with the committee's conclusion about that matter and will deal with that in a moment. There was a measure of confusion in the facts presented to the committee in regard to the reporting requirements within the Heritage Council and what was adopted within the Heritage Council once I had completed my dealings with the matter.

This is a unanimous report of a government dominated committee, and for such a committee to give me a clean bill of health -

Mr Trenorden: Be fair. It is a report of the Public Accounts Committee. It is not a report of a government dominated committee.

Mr McGINTY: There are three government and two opposition members on the committee, and I have made the point that this is a balanced and fair report, so I make no criticism of the Public Accounts Committee.

Mr Lewis interjected.

Mr McGINTY: Mr Acting Speaker, do you want to let this goose go on? I am trying to address a serious matter and I would appreciate the assistance of the Chair to keep the Minister for Heritage within reasonable bounds. The Minister for Heritage has been made a fool of.

The ACTING SPEAKER (Mr Johnson): Order! The Leader of the Opposition has just asked for the assistance of the Chair. I suggest he address his remarks to the Chair and I will do my job.

Mr McGINTY: The report states at page 7, under the heading "Propriety of the Payment" -

> It should be stressed that there was no suggestion of impropriety in any of the evidence given. It should also be noted that in the Auditor General's report, impropriety was neither alleged nor implied. Instead the term "unsound practices" was used to describe the procedures relating to the making of the payment.

The committee concludes at page 9 of the report -

> Nor is there any evidence or suggestion of impropriety in any of the events that led to the "ex gratia" payment being made.

Therefore, the committee has given me a clean bill of health in regard to that matter.

Secondly, the Public Accounts Committee found the payment by me to be justified. Finding No 4 at page iv states -

> The Committee finds that neither the Auditor General nor any evidence given to the Committee suggested any impropriety in the payment of the $50 000.
>
> The Committee itself did not assess whether the amount of $50 000 paid to the Chairman was justified or not.

Neither should the committee have assessed that matter, because the report states at page 7 -

> The appropriate figure for the payment was calculated after consideration by the Public Service Commissioner of Mr Molyneux's services, and detailed information about hours and extent of work. This information was provided to DOSS by Mr Baxter and passed on to the PSC . . .
>
> By letter dated 17 September 1992, the Public Service Commissioner endorsed the payment and its method of calculation based on the hours worked and the hourly charge out rate for architects of Mr Molyneux's standing.
>
> The Committee accepts the evidence that open procedures were undertaken in relation to the making of the payment and that the Public Service Commissioner endorsed $50 000 as being a suitable and proper amount.

Let there be no doubt that the committee accepted the evidence and found that the payment was warranted. The committee concludes at page 9 of the report -

> The Committee does not doubt that a payment made to the then-Chairman of the Heritage Council was warranted, as the job was clearly significantly larger than was first envisaged.

The third issue dealt with by the committee is the legal position. The committee had before it two legal opinions - one from the Crown Solicitor's Office and the other from a barrister whom I had engaged at my expense to provide an alternative legal opinion to the committee. The report states at page 5, in regard to the legal advice provided by the Crown -

> It should be made clear that the Committee sought advice from the Attorney General on the basis of the Auditor General's Report only and no additional documentation was provided.

The report states at page 6 -

> It should be noted that, unlike the Crown Solicitor, Mr Johnston was provided with both written and verbal information by the former Chairman of the Heritage Council. In addition, correspondence between DOSS and the PSC was also provided to him. This information was not referred to in the Crown Solicitor's advice.

It should be noted that Mr Johnston provided legal advice to the committee on my behalf. The report states also at page 6 -

> Consequent to this, the main difference in the legal opinions stems from the characterisation of the payment. The Crown Solicitor deals with the payment as an ex gratia payment and beyond the scope of the Heritage Act and, therefore, the power of the Minister. Mr Johnston, alternatively, views the payment as remuneration and therefore within the scope of the Heritage Act and consequently the power of the Minister.
>
> Both positions are arguable.
>
> The Committee acknowledges the legal opinions and notes that each counsel has provided an opinion based on different sources of information and that for this reason the opinions are not comparable.
>
> Further, the Committee considers that it is not appropriate for it to make a finding on the matters discussed in the opinions.

Clearly, the legal opinions were both complex and conflicting, and as such the committee deliberately refrained from making any finding of unlawfulness or illegality. I was pleased to hear the chairman of the committee state to this House this morning that there was no doubt that what was done met legal requirements. That the view that I put to the committee, and it was backed up by a legal opinion.

The final matter I will address is the question of procedure; at the end of the day, that is what this committee's report comes down to. Two issues are at stake: First, a verbal direction was given by me as Minister to the Heritage Council of Western Australia to make the payment; second is the internal reporting procedure within the Heritage Council. In relation to the second matter it is clear that the Heritage Council was understaffed and did not have the expertise required at the time, and this was an express finding of the Public Accounts and Expenditure Review Committee. All the matters internal to the Heritage Council have been rectified.

Mr Blaikie: Whose responsibility was it to ensure that it had adequate staff?

Mr McGINTY: Members opposite are really squirming today.

Several members interjected.

The ACTING SPEAKER (Mr Johnson): Order!

Mr McGINTY: The payment was warranted and there is no question of impropriety. This is a good report and it quite clearly spells out the basis upon which this whole matter was handled in a most proper way, without any suggestion of impropriety at any stage.

Mr Lewis: It was done without accountability.

Mr McGINTY: Rubbish! The Minister is out of touch with reality and he has egg all over his face. He was the one who went on a witch-hunt and referred this matter to this committee and now he is embarrassed because ultimately it said he made a fool of himself. Even the member sitting behind the Minister said that he should not have referred the matter to the committee without making further inquiries. What the Minister said in this House was slanderous, derogatory and untrue and he has been shown up for the charlatan he is.

Mr Lewis: Are you saying that I should not have referred it?

Several members interjected.

The ACTING SPEAKER: Order! I will tolerate a certain number of interjections, but when there are three or four coming from my right simultaneously, I will not tolerate them.

Mr Kierath: I will remind you about this in question time.

Mr Lewis: Fancy saying that I should not have referred it!

Mr McGINTY: Mr Acting Speaker, are you going to call for order and allow members opposite to carry on interjecting? If you want a brawl in this place, we will give it to you.

The ACTING SPEAKER: Order! I have called order several times. To some extent the Leader of the Opposition has encouraged the interjections. He encouraged an interjection from the Minister for Planning and answered it. He should not do that and then ask me to protect him.

Mr McGINTY: I can assure you, Mr Acting Speaker, that I do not need protection on this matter; it is members on the other side who need protection after having said what they did on it. The committee found at page 8 of its report that -

> The Auditor General recommended that decisions taken in response to ministerial requests, approval, direction or recommendation, should be adequately documented.
>
> In response to this, Mr McGinty argued that a verbal direction from his office to make the payment was accompanied by written approval from the Public Service Commissioner in a letter dated 17 September 1992. Mr McGinty also pointed out to the Committee that the Heritage Act does not require written instruction under s.28 in relation to any determination made about remuneration.

It should be clearly understood by all members in this House that there was written authority to make the payment and it was given along with a verbal direction to effect the written approval given by the Public Service Commission. It is clearly recorded in this report that a written authority to make payment was handed over. Although it was not a requirement of the Heritage of Western Australia Act, I accept that in normal circumstances, and in light of experience in every circumstance, a direction given by a Minister pursuant to the power under the Act should be in writing. Where I was at fault was in not including three words at the bottom of the letter. Those words should have been "Please pay this". Instead, I gave written authority from the Public Service Commission which authorised this payment and said, "Implement this document which I am handing over to you." This unsound practices issue comes down to the absence of three words, and that is the issue at stake. When it comes down to a written piece of paper on which there is authority to make a payment but does not include those few words, quite frankly it assumes ridiculous proportions. Members in this place should refrain from trying to capitalise in a political way on something which, at the end of the day following rigorous analysis by a committee on which the Government has the majority of members, is not wrong. I thank the committee for the diligent and honest way it tackled this matter and for the integrity of its report.

Question put and passed.

[See papers Nos 565a and 565b.]

MINISTERIAL STATEMENT - MINISTER FOR LABOUR RELATIONS

Standing Committee on Legislation, Workers' Compensation Report

MR KIERATH (Riverton - Minister for Labour Relations) [12.26 pm]: Last night the report of the Standing Committee on Legislation into the State's new workers' compensation system was tabled in another place. That report must be considered in totality and viewed in line with the recommendations it makes - in other words the conclusions that it reaches. I consider the report is responsible and contains well

considered recommendations - which is more than can be said for some of the comments this morning from one of the Labor members of the committee. This report recommends only fine tuning to the new system; the majority of the recommendations support the existing system and suggest improvements where they can be made. Many of the recommendations are already in the process of being implemented by WorkCover and will be the subject of consultation before inclusion in legislation to be introduced into the Parliament next year.

The most significant recommendation of the report concerns the review process. To give the committee credit, it has come up with two options on the future of the review stage and these options will be subject to evaluation and consultation before a decision is made. In what I consider to be an excellent recommendation, the committee has recommended that the conciliation stage should involve compulsory attendance by all parties to a dispute. In the event of the review stage being removed, this would help fill the void and preserve non-adversarial dispute resolution. The further review of the system proposed by the committee already is being done by the Workers' Compensation and Rehabilitation Commission, which comprises representatives of all the organisations it recommended should conduct a review. I totally support the recommendations on greater attention being given to the return to work culture, as this was one of the principal reasons for a new system being introduced.

In the area of lay advocates for workers, there has been an increasing involvement of unions and recently about 50 people underwent special training to act as advocates in the conciliation stage for injured workers. I am disappointed that here again the Labor member of the committee this morning failed to understand that there is already a significant level of lay representation of workers appearing before the conciliation stage; in fact it was the subject of a ministerial statement I made to this House on 26 October 1994. I will repeat to this House what obviously went unheard: A month ago I said that a random survey of conciliation cases indicated that almost half of the workers represented themselves, and a quarter appeared with a family member, 19 per cent with a law clerk and 8 per cent with a union representative.

The committee heard evidence and took submissions from more than 50 people and organisations to produce the final recommendations. I repeat that those recommendations concluded that only fine tuning of the system was needed. I expect, now that everyone has had an opportunity to have their say, a more cooperative approach will be adopted by all interested parties to ensure we get the best out of the system for workers and employers.

PARLIAMENTARY COMMISSIONER RULES 1994

Council's Message

Message from the Council received and read notifying that it had agreed to the Parliamentary Commissioner Rules 1994.

STAMP AMENDMENT BILL (No 2)

Message - Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

MARINE AND HARBOURS AMENDMENT BILL

Second Reading

MR LEWIS (Applecross - Minister assisting the Minister for Transport) [12.30 pm]:

That the Bill be now read a second time.

This Bill will facilitate the improved administration by the Department of Transport of boat harbour facilities. Following the successful challenge for the America's Cup in 1982, the then Government undertook an extensive program to develop and upgrade the

maritime facilities necessary for the challenge. This program included the redevelopment of the Fremantle Fishing Boat Harbour and the construction of the Hillary's Boat Harbour. As is normal with small boat marina projects throughout the world, the development included the establishment of landside commercial developments such as restaurants, shops and other tourist facilities. These commercial developments are essential to help offset the capital and ongoing costs of the running of the facility. These facilities have been leased by successive Governments to private companies, which have invested considerable time and money in the operation of their businesses. In 1991, the Auditor General drew the Government's attention to possible deficiencies in the Marine and Harbours Act which cast some legal doubt on the Government's ability to lease land for purposes other than to "meet the needs of effective shipping and boating". As these lease arrangements were entered into in good faith, the Government is resolved to ensure that legislation is put in place to put beyond any question the validity of these, and any future, lease agreements. To this end, clause 6 of the Bill will authorise the Minister, subject to normal planning approvals, to lease departmental land for any purpose. Clause 6(2) will validate any existing lease agreement which may be found wanting under the existing legislation.

A major problem facing the department and its tenants is a lack of effective powers to control simple day to day issues such as parking. In respect of parking, which is a major concern to small business operators in the Fremantle Fishing Boat Harbour, under existing legislation it would be necessary to put in place specific regulations which provided long technical descriptions of each area in which restrictions were to apply and the extent of those descriptions. Even then, the department would have to prove the identity of the driver and proceed by way of summons in the Court of Petty Sessions before it could prosecute an offender. I am sure members will acknowledge that such a procedure is bureaucratic and totally incapable of meeting the day to day needs of a facility which regularly hosts world class yachting events. In order to address these difficulties, the Bill provides the power to make regulations which will make it an offence to disobey signs which have been erected by the department pursuant to the regulations. The Bill also provides for "owner onus" in respect of offences involving motor vehicles and gives offenders the option of having offences dealt with by way of infringement notices rather than summons.

The Bill also addresses possible inconsistencies in regard to parking fees at the Hillary's Boat Harbour. Successive Governments have regulated for a charge for vehicles which are parked adjacent to the boat launching ramp at Hillary's Boat Harbour. These fees are intended to assist in meeting the day to day costs of maintaining the ramp. Recent advice indicates that some ambiguity exists in regard to which statutory authority shall levy the fee. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

DAIRY INDUSTRY AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Mr Johnson) in the Chair; Mr House (Minister for Primary Industry) in charge of the Bill.

Clauses 1 to 8 put and passed.

Clause 9: Section 11 repealed and a section substituted -

Mr BLAIKIE: During the second reading debate last night I indicated changes that I thought would be beneficial to the Dairy Industry Authority, more particularly, to give wider opportunities for farming representatives within the dairy industry to nominate for membership. Currently membership is determined by the Western Australia Farmers' Federation, which has written to members of Parliament voicing its objections to my amendment to this Bill. Notwithstanding its objections, my assessment is that membership of the authority would be more representative if the widest possible range of farmers were given the opportunity to nominate. In addition, I propose that the Minister

call nominations from dairymen. Having received those nominations, and before he makes a decision on the farmers' representatives, the Minister should hold discussions with the WA Farmers' Federation and another group, which has been in existence for some 12 years, called the market milk liaison committee. The Minister will have an opportunity to consider the perspective of two organisations in the industry. I am required to use terminology such as "dairymen" in the amendment, because of the existing terminology within the current legislation. For the benefit of the member for Armadale, with whom I had some discussions last night, the market milk liaison committee is a group of ladies who do an exceptional job in promoting the industry. They have a far different agenda from the WA Farmers' Federation, which generally looks after the industrial and political concerns of dairymen. The market milk liaison committee follows an entirely different route, and I am conscious of the role its members play, and I commend their activities. That is why they should be included in the membership of the authority. I move -

Page 7, line 23 to page 8, line 2 - To delete the lines and substitute the following -

(a) 2 shall be persons nominated by one or more dairymen and appointed by the Minister after consultation with the bodies known by the names "Western Australian Farmers Federation (Inc.)" and the "Milk Industry Liaison Committee (Inc)" or by such other names as either body may adopt;

Mrs HALLAHAN: The member for Vasse referred to the discussions we had last night in which I said the language looked anachronistic. He explained he had considered the matter. He thought the point I raised was valid and that the parent Act was written in such language that it did not allow him the flexibility he would have liked in framing the amendment. I was pleased with his attitude, because he seemed to understand that the language in the Bill is couched in a way which rather implies that people in this industry belong to a bygone era, and we all know that is not the case. I make the case for gender neutrality in legislation because it brings with it respect for people, their occupations and for the industries involved as well. These old Acts do not do that. I do not know whether people see themselves as being dairymen. The member for Vasse has given me a copy of the parent Act. On page 4, part of section 5 reads -

"dairyman" means a person who carries on business as a producer of milk pursuant to a licence at a dairy or dairy farm . . .

The Chamber needs to be aware that we have unacceptable legacies which do not display the vitality or importance of people's work these days or their diverse occupations. I now wish to pay tribute to my colleague, the member for Eyre, who in the course of last night's debate opened up negotiations between the Minister and members of the industry. The Minister has agreed to make an increase of something in the order of $3m to the compensation package. Some people still do not see that as satisfactory, but I am sure they will agree it is a move forward in their interests. The member for Eyre is a consummate negotiator in these matters on behalf of the community. The Minister was open and prepared to reconsider the matter. There remains a great deal of anxiety and heartburn for a number of vendors who see themselves as very adversely affected. Although the openness to negotiate the matter further last night was appreciated, some people still think the matter needs to go further. I hope before the passage of this Bill is complete it may be possible to arrive at a position where everybody feels the outcome is fair and reasonable.

Mr GRILL: We have had some discussions with the member for Vasse and the Minister. The Opposition supports this amendment. We feel it allows a choice among a wider group of people and does not exclude the Western Australian Farmers Federation and is probably a good amendment.

Mr HOUSE: I am happy to accept the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 to 44 put and passed.

Clause 45: Section 53 repealed and a section substituted -

Mr GRILL: I have selected this clause of the Bill because there needs to be some further debate in respect of the compensation package that will be offered by the Government under the DAA scheme to those vendors who will be forced out of the industry as a result of deregulation both now and in the future. It seems to me that this clause is probably the most appropriate clause under which we can carry on some further debate on the issue. This clause relates to the licensing system. The licensing system under the deregulation proposal put forward by the Government will be abolished as a result of the amendment before us. This legislation was brought to Parliament some weeks ago and since then there have been some significant changes in the position of critical players in deregulation. The first has been the change in the posture and position of the Milk Vendors Association. When this legislation was first brought to this place some weeks ago the Milk Vendors Association was an unqualified supporter of it. It has moved away from that position. Although it still strongly supports the legislation being brought to this place, it has some doubts about the level of compensation to be offered to its members. It has brought forward a comprehensive proposal to government, which has been circulated to a number of people in this Chamber, which it thinks will substantially improve the compensation package. The sophisticated proposal deals with a number of matters over which I know the Government and the Dairy Industry Authority have concerns. It deals particularly with the vexed question of a cap in respect of compensation pay-outs. The present cap is $150 000. Under the proposal put forward by the Milk Vendors Association there would be no cap but a level of payments on a sliding scale, so that the more litreage the vendor was paid out for the less money would attach by way of compensation for litreage. There has been a change in the position of the Milk Vendors Association. A proposition has also been put forward by the Small Business Association which is more generous than the one from the Milk Vendors Association. It is a sophisticated proposal and one to which the Government has not yet responded. The proposal put forward by the Milk Vendors Association I understand the Minister received only last night. I received it yesterday. I understand there has not been a comprehensive response to that proposal at this stage. I thought that the Government would have been able to respond to the one put forward by the Small Business Association.

A substantial change has occurred in the position of the Milk Vendors Association. Two proposals are before the Government about a compensation package, neither of which has been fully responded to. However, the Minister gave a response to this matter last night. It was not ungenerous, and it deserves full consideration by all the parties involved. The second major change is that by the Minister on the compensation package. As I understand it, the Government acknowledges that the compensation of the initial DAA scheme was, at least in some of its aspects, inadequate. It seems to acknowledge that hardship would have been caused to at least some of the milk vendors who would have been forced out of the industry as a result of the deregulation. The acknowledgment of that comes about through the Minister being prepared to increase the milk levy to fund a payment of $7m and put in place an arbitration and conciliation process. Some written responses have been made to that offer. The first I received this morning was from Barbara and Bob Thornton-Smith. Their letter states -

> Dear Julian
> Thanks for your effort last night.
> How does the increase to $7 million help us?
> We will still have our business taken from us.
> We have no asset & no income.
> We still cannot sell within the industry to try & regain some capital.
> Our DAAS payment would only increase marginally.
> We would still be out at least $80, and no business.
> And Monty still says, "Show me anyone who would be disadvantaged"!!!
> Regards
> Barbara & Bob Thornton-Smith.

The second response I received was a copy of a response from the West Australian Small Business and Enterprise Association Inc which was sent directly to the Minister. It requests a meeting with the Minister to discuss this matter and then states -

> If you are not able to accommodate a meeting prior to 10.00am could you please send us details, by facsimile, of the $7m scheme prior to the further consideration of the Dairy Industry Amendment Bill in the Legislative Assembly.
>
> We make a specific request that such details include information on how the difference between the current $4.7m DAAS sum and the $7m sum would be allocated amongst vendors/distributors and how the $7m scheme would operate.

I then received a response from the Milk Vendors Association about the proposed DAAS funds of $7m as follows -

> The MVA submission for an amended DAAS supports this amount. We feel therefore, that we are obliged to accept the Minister's "once only" offer irrespective of other considerations.

It mentions a one-off offer because it was relayed to me by the Minister last night that an offer would be made on a one-off basis. Perhaps the Minister can confirm that is the case. On the matter of the allocation of funds the Milk Vendors Association states -

> The MVA's preferred position for the allocation of funds is as outlined in our recent document.
>
> Given the Minister's apparent rejection of that proposal then we suggest the following:
>
> > That the Minister convene a forum of industry participants under the chairmanship of an independent arbitrator [ie Eric Kelly] to establish guide-lines for the allocation of funds.
> >
> > That the forum includes representatives of:
> >
> > (a) The Minister's Office
> >
> > (b) Treatment Companies
> >
> > (c) The DIA
> >
> > (d) The MVA
> >
> > (e) The SBA

During the debate last night the Minister indicated that he was not aware of a case of direct hardship. This morning I referred the Minister to a letter from David and Maureen Heal to the Premier on 15 July. The Minister has a copy of this letter. I am putting forward this case to him and to the Chamber as one example of hardship. The letter states -

> ... we bought a milk round in October 1989 for $174,000 which has been providing us with an income of approximately $1,500 per week.

They state that they have worked six days a week to earn that income, and then go through the hardships relating to that. They then refer to the DAA scheme and state -

> As the rate of assistance we have been told, the amount we would be able to "claim" would be about $85,000.
>
> Such a sum should nearly cover our mortgage on our home which was taken out to buy the business but as you can see this would still leave us $89,000 out of pocket for the business through no fault of ours!
>
> We don't comprehend how this situation could have occurred under a government which has advocated fair play and a fair deal for small business.

The letter states further -

> We cannot go into another Business because we will have no capital to do so. This is ethically wrong and we fail to see how any member of Parliament could

> allow deregulation of the milk industry to go ahead while this unjust situation exists.
>
> To add further to our problems and to our extreme anxiety we have been told by the Dairy Industry Authority that if we accept compensation under DAAS neither of us can work in the industry in any capacity for 3 years.

I will return to that issue later. It is unnecessary to exclude experienced dairy people from the industry. The letter continues -

> If we did so we would be required to pay back "DAAS money" to the DIA . . . Any money we receive from DAAS could also be taxable.
>
> The tax we will have to pay on this will be made up of $31,000 in direct income tax and $35,000 in provisional tax . . . a total of $66,000! This will leave us with $34,000, which leaves us $56,000 short of our mortgage total of $90,000.
>
> With no means of paying off this mortgage we will be forced to sell our home. Once again through no fault of our own making.

That point is important to recognise, and it clearly highlights the case the Opposition put forward last night on this matter. The letter continues -

> On top of this we will not be eligible for Social Security payments because the DAAS payment will be treated as income by the Department of Social Security. This means our son cannot get Austudy; our disabled daughter cannot receive a disability payment and we cannot receive unemployment benefits or the Family Payment, all of which we should be able to claim if we are left without our business or our income through absolutely no fault of our own.
>
> We contribute to Superannuation schemes; pay private health insurance contributions; have very adequate insurance cover; are paying into a savings scheme for the benefit of our disabled daughter and are paying for our son to study full time.

This is a fine, upstanding family who are making a contribution towards our community and towards the industry of which they are part. If there is any truth in what they are saying - I understand it to be true - it is a terrible indictment of this system that we are allowing them to fall into this position. They conclude by saying -

> In general, we are paying our own way in a very responsible way. If the proposed Deregulatory Process is allowed to proceed we will no longer be able to do this.
>
> In the "Year of the Family" our family is being placed in an intolerable situation.

Their last plea is as follows -

> Please will you do something to help us and any other person left in this position before it is too late. Rectification of all the wrongs which have or will occur need your urgent attention before the milk industry is allowed to be deregulated.

That letter was sent to the Premier, and the first person noted to receive a copy was the Minister for Primary Industry. I do not know whether it reached the Minister's office. I provided him with a copy this morning. He has agreed to respond to that case. We have no way of knowing how many cases there are like that. The Thornton-Smiths whose facsimile I read a moment ago profess to be in the same situation. I am told anecdotally - and I do not have the means to check - that other people are in exactly the same situation. The Minister will appreciate that. We will be pleased to hear his response.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

Mr HOUSE: A number of members, including the members for Eyre and Armadale, sought further information under this clause on how the Government will treat people who feel they are disadvantaged by this legislation which will deregulate the distribution of milk industry. I make the point, firstly, that we are talking specifically about white

milk and white milk only. Therefore, the figures quoted for the milk vendors' income should include the percentage from white milk sales and the percentage from other products.

I refer to the offer I made last night and I seek some agreement from members opposite. It is not my intention to disadvantage people within this process and, as I said last night, I accept that some people, for one reason or another, may feel aggrieved or disadvantaged. I would like the opportunity to satisfy their problems in the best way possible within the principles of deregulation. I know that we will probably not get 100 per cent agreement. However, it is important that we try to ensure we satisfy those requirements, bearing in mind that the Milk Vendors Association has agreed with this process for some time.

What we are discussing now is the amount of compensation that might be applicable, and the way the contracts are drawn up and how they will apply in individual cases. I made the suggestion last night that one of the ways around this problem would be to increase the amount of money available. It has been increased a number of times from a starting base of $1m. Now we are talking about $7m. The only way that money can be raised is to increase the price of milk by approximately 1¢ a litre over a three year period. I suggested also that we put in place an independent arbitration system; an independent person, such as an arbitration commissioner, to sit in judgment on the cases and decide how those individual problems may be solved. I am happy to consult with the Opposition about who that may be, bearing in mind that an experienced arbiter is required.

The letter from Mr and Mrs Heal which the member for Eyre quoted is important, not as their individual case specifically - although I acknowledge that it is important to them - but as a good example of someone who might be particularly disadvantaged, and of a case where those hard and fast rules would not apply so that a decision could be made outside what the Government has proposed. The percentage of white milk - regulated milk - which the Heals now control accounts for about 70 per cent of their business; the other products they deliver are obviously about 30 per cent of their business. Their turnover and income must be considered in those percentage terms. It concerns me greatly that if this legislation is not passed and we do not find a solution - I am equally determined as other members of the Parliament and the community to find a compromise - this industry will be reduced to a serious position.

That could result in not only uncertainty, but a great degree of chaos, because if the companies decided that they would then deliver the unregulated products - everything except white milk - many vendors would simply go bankrupt. It is therefore important that we find a way through this problem. Making the extra amount of money available and putting in an independent arbiter to consult with organisations such as the Dairy Industry Association, the Milk Vendors Association, and the Small Business Association, and giving an independent judgment on those cases is the way to address the matter. I urge the Opposition to accept that offer in the way it is made and as a way through this problem.

Mr BRIDGE: The central consideration in the Minister's offer is the structured way the appointment of that independent arbitrator will be made. That takes on a more crucial consideration than the question of the amount of money. If it is done right it is capable of delivering a mechanism that deals appropriately with those who feel aggrieved and, that notwithstanding the component of compensation, it meets their worrying position. If we are to use our ability to go as closely as we can to satisfying those groups in the industry which feel they are being disadvantaged through the processes of this legislation, we need a mechanism to allow them to highlight clearly, and without impediments, those disadvantages, and to offer opportunity and acknowledgment and follow up through corrective measures in that system. A sum of $7m, $9m or $90m is a big package. However, if it goes into areas where it is essentially not a beneficial factor, it will not serve the same purpose as a small amount of money going into an area where a critical inequity that has resulted from this process. That is where we must make the distinction between the question of the amount of money and where that money goes in the end. If a person is genuinely disadvantaged through a reduction in the volume of his business, for

example - it might represent in dollar terms only $50 000 per annum - it could have a greater impact on that person than $5m to a larger operation.

Will the Minister outline how he considers the nature of this appointment and, above all, the autonomy that person needs to have? That autonomy is necessary so that the forces do not converge upon that person's judgment and/or capacity to operate, and so the independent adjudicator is given the ability to execute a free and proper decision. If the Minister can be firm in his resolve that he is capable of offering that in the formation of the independent arbitrator, it will go a long way to enable us to take advantage of any window of opportunity that might present itself in this system; to address beyond today some of those inequities that exist. That remains my concern more than anything else. It is not the issue of the dollars and cents that bothers me as much as the belief I hold that some people feel hurt and aggrieved and disadvantaged because there has been a reduction in their percentage of trade. There may be some way to readjust that.

Mr GRILL: The Minister has today renewed the offer he placed on the table yesterday evening. I commend him for that. However, the industry appears to be looking for some structural change to the package rather than an ad hoc solution. I am not saying it is his solution as such, but it would create many ad hoc decisions being made by an arbitrator further down the track. Neither organisation can be as definitive as it would like with its response to the Minister concerning that offer because it does not know the criteria that would be exercised in the event of arbitration on these matters. More particularly, the Small Business Association and, to some degree at least, the Milk Vendors Association would like a more detailed response to the propositions they have put to the Minister.

The Small Business Association, as I said this morning, put to the Minister a fairly sophisticated proposition which has considerable merit. It is a generous package and would entail, about $9.3m worth of expenditure. Therefore, it is a couple of million dollars above what the Minister is prepared to spend at present. It is partially self-funding in the sense that on a reduced sliding scale, vendors would have the ability to on-sell their rounds. That would also mean the beneficiaries of those on-sold rounds - those people who were able to increase the size of their rounds - would pay something for it. Some of the beneficiaries would be paying for what they were receiving and it has the added advantage that the pain would be shared. Although an extra $2.3m would be needed, the actual increase in the overall levy would be only 0.02 per cent of 1¢ The proposal the Minister has put on the table, which would create a fund of about $7m, and the proposal put forward by the MVA which would create a similar fund, would be funded by a levy of 1¢. The proposal being put forward by the Small Business Association would be funded by a levy of 1.2¢. Therefore the increase in the levy is a very small amount.

That is one of the reasons why the Small Business Association is reluctant to abandon its proposal. It is not only that it wants more clarity to its proposal and some criteria to be attached to it, but also it feels it is a far better proposal and will cost only a fraction of 1¢ extra. The SBA package also has the advantage of allowing experienced operators to remain in the industry.

The Minister's advisers, until now at least, have said we must get people out of the industry. I believe they are the wrong criteria. The criteria should be set objectively on the basis of contract and size of area of round or number of distribution points to which milk will be delivered. They are objective criteria. As long as the contracts reflect a rationalisation within the industry, what does it matter to the Dairy Industry Association or to the Minister that the son of a vendor might remain in the industry? The MVA makes exactly the same point. Why force experienced people out of the industry who want to continue to make a living in it? The present proposal does that unfairly. The President of the MVA said at lunchtime there was no sense in that. Why train another 20-odd people to come into the industry when people are already in it? Of course some will leave it and as times goes on the number who leave will increase. Should that not be decided objectively on the basis of whether they can pick up contracts? I am not talking about double-dipping.

Mr House: How would we stop the double-dipping?

Mr GRILL: If people want to carry on their respective trade, they would simply be paid out on the basis of the goodwill they have lost and be able to continue on in the industry on some other basis - as an employee or even pick up a contract somewhere. I see nothing iniquitous in that.

Mr House: If you were a member of a legal practice in a small country town, would you expect to be able to sell that practice and the goodwill that goes with it and set up in business next door to that practice?

Mr GRILL: One could not put in place that sort of restraint of trade in Kalgoorlie, Bunbury or Perth. It could be put in place in Narrogin or Wagin which are smaller country towns. The Supreme Court would not enforce a restraint of trade in a large country town or the city.

Mr House: My understanding is that if you sold a newsagency in a suburb in Perth it would contain a clause that you could not open another newsagency within a certain distance.

Mr GRILL: It would have to be localised. The decisions of the courts and the precedents are made on different criteria. The principle is that a court would not countenance a restraint on trade which would prevent a person from carrying on his chosen occupation. It will do it only for a certain period within certain localities. The Minister could not normally enforce a restraint on trade in the metropolitan area of the nature the Minister proposes. The Minister can get some advice from Crown Law on that. It is unnecessary and both the organisations I have spoken to have no problem with that. If they are paying out goodwill on the basis on which I think the Minister's officers maintain, it is simply not goodwill, but a payment under the distribution assistance adjustment scheme which is being used to ease people out of the industry.

I do not see any disadvantage in people returning to the industry to continue in their trade in another form if they can pick up a contract. They may not be able to pick up a contract or employment, but I do not see why they should be forced out of the industry. If both organisations agree on that I do not see why the Minister should have a problem with it. There are many advantages in one or another of the proposals put before the Minister. I think the SBA proposal is preferable with the exception of the ceiling.

Mr HOUSE: We are talking about how we will go about this restructuring. A number of points have been raised, and I want to refer to what the member for Kimberley said. With all the goodwill in the world, I do not think we will get 100 per cent agreement among the 250 individuals in this industry. That would be very difficult indeed. The Milk Vendors Association wrote to me asking me to get on with this legislation, and it wrote to other members asking them to get it through. Then at the 11th hour - last Friday as I understand it; I was in the bush, so I did not see the correspondence until late on Monday when I came back from Cabinet - it put forward another proposal. After writing to me and saying that it wanted me to get the proposal through, the association shifted its ground. That is difficult for anybody to deal with. The member for Eyre has been a Minister; he knows how difficult it is to deal with these issues without people moving around all over the place.

We are trying to deal with the rational restructuring of the industry. I keep coming back to that point. We can do nothing; that is an option. It might be an option if this Bill is not supported, because that is exactly what will happen. Nothing will happen because we cannot get the legislation through the Parliament. We will have chaos. I say to the member for Kimberley that we will not get 100 per cent agreement. My understanding is that we have broad agreement among a range of people. Some are not satisfied. In putting forward my proposal last night I wanted to try to find a way to accommodate those people who feel aggrieved or disadvantaged.

Mr Grill: We acknowledge it was put forward in good faith.

Mr HOUSE: Sure. Then we come to the detail of how we will do it. If I make a commitment on the run and I am not 100 per cent sure of the consequences, it can cause a

further problem. My proposal was put forward in good faith and in the best interests of solving the problem, and to accommodate the views put forward in the debate last night. Let us look at the example the member just gave. I know what he is trying to say. At least one person - I know who it is - has been driving the member hard about wanting to sell to the son. In that case we would be giving money to someone, but what would we achieve? That son could be part of the business by normal progression, just as the member's son might take over his law practice if he were a solicitor. We cannot put a stop to that. People will be able to sell to their wives and children, or vice versa. How do we limit that problem and manage it? I am not being silly about it; if the member can tell me how to do it, I am prepared to listen.

Mr Grill: I think we can work out procedures to prevent the sort of rorting you are talking about.

Mr HOUSE: That is why I suggest we get an independent person who is used to making those sorts of decisions in an arbitrary way. I am prepared to liaise with the member for Eyre about a person who is acceptable to him.

Mr Grill: That is generous.

Mr HOUSE: That takes the political aspect out of it; it is not the member for Eyre or I, or politicians who will be making the decision but someone who can sit in judgment on the issues. We will give them the amount of money they need to work with so that people can be paid out or accommodated. I honestly cannot see how we can do it in another way. Any assessment is a matter of judgment on the facts. We might all judge those facts slightly differently, but an experienced person with commonsense will come up with something that is fair. The example was given of the Heals. It appears to me when I read the information that they are disadvantaged under the proposed scheme and some accommodation must be made for them. I am sure there will be others, but many people in the broad group of milk vendors will be properly accommodated under this legislation. They might be seriously disadvantaged if we do not do something. I cannot see how I can be more specific except to say that if we can do it in the way I have proposed, I believe it will solve the problem.

Mr BRIDGE: I have no problems with the Minister's proposal. I deliberately choose to adopt a plan in addressing the point because I want the Minister to understand that I place tremendous importance on his offer of an independent adjudicator or arbitrator. I want the Minister to understand I am not in anyway reflecting on his proposal. I said to him last night, and I repeat it today, that I think it is a significant breakthrough and a major concession. Let that be clearly on the record. Just as clearly for the record, I want the Minister to understand the importance I associate with the mechanism that he will set in place to cover that arbitrator's activities. The questions he and the member for Eyre have asked each other must be asked by that person. He must have a mechanism to give him the capacity to deal with the problem.

I can tell members about another fellow, whose name I will not mention, who said, "If you can't make any money out of supplying milk, get out there and train a few horses." I can tell members they will never make any bloody money out of training horses! Nobody has had better experience at that than I because my horses' wins are two years apart! I have had plenty of practice waiting for a return on my horses. At the same time, it is a legitimate comment to say, "If you are not prepared to cop this, then do something else." However, an enormous anomaly appears to exist in the operations of the person who was mentioned. That is why I want to put on record that the way the Minister goes about setting up a structure for this arbitrator and his or her functions will be an important part of this process. It offers a safety net and the assurances and comfort that we may be able to convey to those people who feel aggrieved at the moment. It will enable us to address their belief in the inequity of this legislation. If we can do that, it will be a sound and proper position to advance to people - not the father and son referred to, but the person to whom I referred who is in a different set of circumstances and feels threatened financially.

Mr GRILL: One of the organisations is inclined to accept the offer, but both

organisations have asked the Minister for a conference with someone like Eric Kelly to set the criteria. Both organisations say there are no criteria with respect to that arbitration. They also say they do not want to buy a pig in a poke, and that certain issues must be addressed. They have indicated the issues to the Minister in written submissions. I believe they want a response to those submissions, or they would like to be able to put their case at the sort of forum the MVA has suggested. I know that one of the main concerns exercising the Minister's mind is the question of the cap. If the cap is removed, applications for funding will flood in especially if the amount of compensation is more generous. The Milk Vendors Association and the Small Business Association have put to the Minister a case for making the scheme more generous by increasing the amount of money paid per litre. The Minister and his officers are afraid that if the cap is increased, they will be inundated with applications and the Government will not have money to pay that compensation.

Mr House: We have increased the cap a couple of times with the full concurrence of the Milk Vendors Association and that was the case until last Friday when the association shifted ground. This proposal was reviewed by an independent person, in consultation with those groups about this time last year.

Mr GRILL: That is history and, rightly so, they have changed their position. They are not happy with this proposal and believe that the compensation should be more generous, but they are worn out and want some certainty; therefore, they want the legislation passed. If they had a preference, they would like a more generous scheme.

Mr House: Do they want a more generous scheme that is more equitable based on sound facts? It is a judgment that is difficult to make and it could be made by an independent person.

Mr GRILL: The Minister and his officers should have another look at this issue and perhaps criteria should be attached to the Government's offer. The proposal submitted by the Milk Vendors Association deals with the question of the cap. I do not know whether the Minister has seen the proposal, but it puts in place a sliding scale, so that if a member of the association is a big operator and has a lot of litres to sell, he will get less money for it. Therefore, it becomes less attractive to a big litre operator to give up his quota.

Mr House: Will anybody be disadvantaged by that?

Mr GRILL: As the Minister has already indicated, under any scheme some people will be disadvantaged to some degree. One of the beauties about what the Minister is suggesting is that it will take into account the odd one here and there. I am not criticising the flexibility of his scheme, because it is a good idea. There is some degree of uniformity between the concerns of the Small Business Association and the Milk Vendors Association and they want certain matters addressed. They want to be sure that the criteria for the arbiter will address those issues and that is why they prefer a change which will have some structure to it. The Minister's proposal is so flexible that they cannot be assured that any of the points they put forward will be considered. The Small Business Association prefers its scheme because it is more generous and, for the reasons I outlined, it believes it is a better scheme. It will not cost much more and more people will be better off.

I advise the Minister that I am not in a position, on behalf of the Opposition, to make the commitment he is seeking from the Opposition this afternoon because it would bind opposition members in the other place and we have come a long way.

Mr House: Perhaps we can go back to the original scheme which everyone agreed to; that is, the milk vendors' scheme. They put it to me and wanted me to push it through the Parliament.

Mr GRILL: If the Minister picks up his bat and ball and goes home it will serve no purpose.

Mr House: I am not doing that.

Mr GRILL: Let us not get into a joust on this matter. I cannot give the commitment the Minister asked for. However, this matter can be resolved amicably and along the lines he suggested. The Small Business Association will opt for a slightly more generous scheme. We will not settle this matter now, but it can be settled further down the track and it will not cause the Minister very much pain.

Mr HOUSE: With due respect to those members who have participated in the debate, they have not introduced any new material. It will always come down to a matter of judgment on whether what the Government is proposing is fair and the criteria that have been used to assess the restructure proposal have been based on the right principles. The original proposal was met with agreement across the industry. It was reviewed by an independent person and his judgment was reviewed and it was recommended to me that it was a good proposal and I should implement it. I have now made an offer which involves an increased amount of money. An independent arbiter could also sit in judgment and that would take the politics out of it. In that way there will be a balanced judgment and it will take away any prejudices I might have - although I advise members I do not have any - or anyone else associated with the industry might have. A decision can then be made in a cool, calm way on the facts available. The Government cannot do any more than that.

It was suggested that we go back to where we were months ago and have another committee to decide whether changes should be made to the industry. If that were done, agreement would still not be reached. Every time an agreement has been reached someone comes forward and tries to squeeze the tube a little harder to get more out of it. This process has been repeated on several occasions and that is where we are at today.

Mr Grill: In the interim you will acknowledge the current scheme will cause some hardship to certain individuals.

Mr HOUSE: If hardship is created and there is inequity under the deregulation principles of the scheme which have been agreed to by the Opposition, the milk vendors and the independent arbiter, I will appoint another independent arbiter to make a judgment in an endeavour to correct the situation. The Government will provide the money to do that. That would accommodate the view put forward by members last night that some individuals will be disadvantaged. In trying to restructure this industry we have reached the point where, as I said to the member for Kimberley, some people will not agree. Not all of the 250 milk vendors will agree because some of them would see an advantage in taking a different course of action and some would prefer to stay as they are. To get 100 per cent agreement would be impossible. As legislators we must ensure that the best possible result comes out of this legislation. The worst result would be no legislation at all and I do not think that would suit very many people.

Mr BRIDGE: We are about to vote on this clause. Is the proposal that the Minister put forward last night an offer that will stay in place irrespective of how we vote, or was it put forward to find some capacity to resolve the matter?

Mr House: Absolutely. You can't have two bob each way. Either you agree with the scheme I am putting forward or you don't.

Mr BRIDGE: Therefore, if I want the scheme to be preserved as an offer from the Minister and I vote against this clause, am I capable of losing that offer?

Mr House: I would not adopt that sort of dog in the manger attitude. I have put forward a proposal in the best interests of the industry in my view. I am happy to stand or fall on that. However, I hope the Opposition will have some integrity and not have a two bob each way bet and say that it will wait and see. Either you agree or you don't agree. If you don't want to be straight up and down the line, say so.

Mr BRIDGE: I want to be straight up and down the line. I am asking the Minister man to man, if I vote against this clause, will I prejudice the likely retention of the offer?

Mr House: No, you are not. That would be a dog in the manger attitude by me and I would not do it.

Mr BRIDGE: Therefore, if I vote against the clause, I will not be having two bob each way.

Mr House: I think you are, but that is up to you.

Mr Strickland: Be positive and vote for it.

Mr BRIDGE: I am worried about an industry. The offer will remain. The only thing the Minister does not want is for us to have two bob each way.

Mr House: The very reason that we have committees and debates in this Parliament is to try to get some agreement on what is best for the people we represent. That is what we are doing. We are trying to accommodate that view.

Mr BRIDGE: I want the Minister to be genuine with me because I am being genuine with him. I believe last night that I was a major player in getting the Government to agree to this position.

Mr House: Yes, I agree.

Mr BRIDGE: Having persuaded the Government to adopt that position, I do not now want to prejudice it by my conduct in this place.

Mr House: I put forward that suggestion because I thought it was in the best interests of the industry. After listening to the debate, it was my judgment that there may be some disadvantaged people and I thought there was a way around that. I put it forward in their interests. It does not stand or fall on whether you vote for it. You were instrumental in my rethinking the position. You now have a responsibility to make a decision.

Clause put and passed.

Clause 46: Section 55 amended -

Mr GRILL: I have received a message from the Western Australian Small Business and Enterprise Association which states -

> If we are able to participate in a worthwhile Forum we believe it would have to be constituted as follows:-
>
> A. Participants
>
> 1. WA Small Business and Enterprise Association (2)
> 2. Milk Vendors Association (2)
> 3. Non-voting independent Chairman (1)
> 4. Representatives of the Minister for Primary Industry (2) - observer/adviser status only.
>
> B. Basis of Matter for Discussion
>
> A compensation scheme based on the W.A. Milk Vendors Action Group Rationalisation Scheme (WASBEA).
>
> C. Independent Arbitrator
>
> Eric Kelly not acceptable.

That sets out the position of the association which represents a number of vendors. It certainly represents the majority of disaffected vendors. The bottom line is that two associations are prepared to take part in the forum. Although I cannot give the Minister the commitment he would like, I urge him to set up the forum and resolve the matter before it goes to the upper House.

Mr HOUSE: I think we are long way from clause 46. I understand why the member read that letter into the transcript. I am prepared to continue this discussion to find some way through this problem. We all want to solve the problem. We will do that within the principles of the scheme that we have been debating.

Clause put and passed.

Clauses 47 to 92 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

MR HOUSE (Stirling - Minister for Primary Industry) [3.31 pm]: I move -

That the Bill be now read a third time.

MR D.L. SMITH (Mitchell) [3.32 pm]: I regret that because I was out of the House attending a meeting on behalf of one of my constituents, I did not have the opportunity during the Committee stage to speak on the amendment to clause 9. I agree generally with many of the things that the member for Vasse has brought before the House. I cannot agree with the amendment that was moved by him and accepted by the Minister today. I do not know what degree of capriciousness caused the member to move the amendment and, even more so, I do not understand what made the Minister agree to the amendment.

I normally congratulate Ministers when they accept amendments from members, whether on this or the other side of the House. This amendment seems to have resulted in a clause which on the face of it is difficult to read and understand in relation to the processes to be adopted, and also the producer section of the industry is left in a poor situation. I hope the Minister will reconsider the amendment between now and the Bill reaching the other House for the reasons which are very clearly expressed in a letter from the Western Australian Farmers Federation. It reads -

> Dear Mr Smith,
>
> Re: Dairy Industry Amendment Bill 1994
>
> It has come to the attention of the Dairy Section that there is a proposal to table a further amendment to the Dairy Industry Amendment Bill 1994, to remove the right of the Western Australian Farmers Federation to nominate two persons to serve on the Dairy Industry Authority (DIA), (Section 11 (3)(a)).
>
> The Dairy Section of the Federation strongly opposes the above proposal on the following grounds:
>
> 1. Since the inception of the Act in 1973 the practice of appointment of industry representatives rather than individuals has served both the production and processing sectors well.

That is a comment I very much agree with. It continues -

> 2. Because both sectors had "representatives" on the Authority it has ensured a very efficient two-way flow of information between industry and the authority.
>
> 3. The Dairy Section runs two series of regional meetings each year, open to ALL dairy farmers, to ensure that they are fully informed on industry matters at state, national and international levels. These meetings are widely advertised and well attended and our DIA representatives are present which gives them exposure and access to all producers.
>
> 4. Selection
>
> a) As positions come due for appointment the Dairy Section advertises the position in industry publications (including HISWA "Dairy News", which is distributed to all dairy farmers) and nominations are sought.
>
> b) In addition there is a requirement that the two representatives on the DIA come from different zones . . .

That means different dairy areas. It continues -

> c) Furthermore, it has also been the policy of the Dairy Section that a DIA representative is ineligible to serve as a member of Dairy Council. This ensures that our representatives have a commitment to the Authority and producers, that is free from the restraints of Dairy Council policy.
>
> d) Where more than one nomination is received a postal ballot is conducted with all members of the Dairy Section being entitled to vote. (This is standard procedure for all our representative positions).
>
> 5. It would appear unnecessary for further liaison as approximately 80% of the state's dairy farmers are members of the WA Farmers Federation with some areas having close to 100% -

The member for Wellington may be interested in this. It continues -

> - (eg Harvey 70 members from 61 dairy enterprises with only one dairy enterprise not represented.)

Mr Bradshaw: I represent more than Harvey.

Mr D.L. SMITH: I know. The implication is that this is very strongly supported by almost all the dairy farmers in the member's area. It continues -

> Dairy Section has also been very successful at involving all family members and as a consequence of this we have many young farmers and women involved at all levels of industry activity.
>
> Our youngest dairy councillor is 24, we have three women and our Senior Vice President is also a woman, as is our representative on the Herd Improvement Service of WA (Andrea Shine). Thus we believe we represent the vast majority of dairy farmers and their partners in this state.
>
> In conclusion, membership of the Federation is open to all dairy farmers at minimal cost and the vast majority of dairy farmers are members. Our farming families support all our meetings and conferences to a very high degree and the involvement of our dairy women and young farmers is substantial and apparent.
>
> An integral part of our structure (and one of the reasons for our level of support) is the provision for interaction and communication between all our elected representatives, plus an obligation to report back to industry. This ensures that the views of the industry as a whole are presented, rather than the opinion of a single individual. This has been a major contributing factor in the effective working relationship between industry, the Authority and the Minister.
>
> The Dairy Section of the Western Australian Farmers Federation believes that its continued role in the appointment of industry representatives is critical to ensure proper industry representation and request your support in this matter.
>
> For further information please contact Mr Barry Oates (Section President), Mrs Marie Dilley (Section Senior Vice-President or Marie O'Dea (Executive Officer).

That is signed by Barry Oates, President of the Dairy Section. I made the mistake of assuming that the Western Australian Farmers Federation sent that letter to all members in the south west and to the Minister. I do not know whether it is the case. The letter eloquently summarises why the amendment that has been accepted by the Minister and moved by the member for Vasse should be unacceptable to the House.

The result of the member for Vasse's amendment will be that a person can be nominated by one dairy farmer and be in a position after the Minister takes part in consultation with WAFF, to be selected by the Minister to represent the dairy industry. That is to be contrasted with the position of the manufacturing and distribution sectors of the industry.

If it is good enough for representative bodies to nominate in the case of the manufacturers and distributors, it should be good enough in the case of producers. The current system of selection through WAFF has worked perfectly adequately.

Mr Bradshaw: It has not. I will give an example in a minute.

Mr D.L. SMITH: I hope the member will. I am amazed that a backbench member representing only one electorate in the south west can move an amendment which could result in a farmer, perhaps nominated by his wife or her husband, finishing up being the person chosen to represent the industry just because he or she finds favour with the Minister. That is not what the DIA is meant to be about. It is about planning with the industry groups within the milk industry and giving them an effective voice. I find it very strange that an industry group such as WAFF should have its power to be the nominating organisation removed in the way we have allowed during the Committee stage. I was not here.

For the life of me I do not know what reason the member for Vasse gave for advancing the amendment. I do not know the Minister's reasons for supporting it. This is a very substantial change in the traditional position in the dairy industry and the representation of producers. I have had the benefit of an education, as it were, from the dairy section of WAFF. When I represented the Shires of Capel and Dardanup I attended annual meetings. The contribution that the dairy section makes to the dairy industry is substantial through its education of producers, acting as a voice for the producers when meeting the Government and the community, and through conferences and ongoing work.

Although I am generally in favour of Ministers having a right of choice between nominees and the like, I do not support a situation where in effect there could be a system of nomination by only one dairyman - perhaps that should be dairy person because many women work in the industry. That is, after consulting with the WA Farmers Federation the Minister can decide to appoint that person against the advice of WAFF and against the wishes of the vast majority of producers. That is not what the structure of this provision is all about. It is about industry representation, and that should come from the organisation that represents the vast majority of producers, and not as a result of some capricious Minister's actions. The member for Vasse may have disagreed with WAFF about the selection, and the member for Wellington may do the same. They may argue that there has been some uneven distribution.

Mr Bradshaw: I will give the member an example of why it is wrong.

Mr D.L. SMITH: In the past - but that is not the issue. It does not matter what system we have, it will never operate perfectly. We must have a situation where the industry groups have the primary say. This is all about representation to ensure that the interests of the producers are heard above the voice of the Minister or his advisers. We must ensure that the producers generally are confident through the WAFF selection process that the person on the Dairy Industry Association, supposedly representing their interests, will do so. I can cite examples where people on the Dairy Industry Association have been perceived by others to be acting in their own interests or in the interests of family members. That is much less likely to happen when a person who ends up being appointed goes through the process that WAFF uses rather than the process of self-nomination and getting the Minister's endorsement after consultation with other groups.

I will give the Minister a copy of the letter, in case he does not have one. I urge him to reconsider whether the amendment should stand, or be deleted and substituted by the original provision when it goes to the other place. That is my opinion and the opinion of Barry Oates, the section president and WAFF generally believes that should happen.

MR BRADSHAW (Wellington) [3.43 pm]: Farmers should belong to farmers' organisations and groups throughout Western Australia, just like workers belong to unions. It is a fact of life that not every worker belongs to a union and not every farmer belongs to the WA Farmers Federation. As a member of Parliament, I represent all the people of my electorate, not a select group that may belong to a particular organisation.

The original draft of the Bill was restrictive. I support the amendment passed by this House. I will explain the reason for that. Earlier this year, a Cabinet minute produced by the Minister for Water Resources was to set up the south west irrigation committee to examine the question of farmers taking over the irrigation system. The minute specified that the nominations for the farmer representatives must come from WAFF. The nomination was to be by WAFF. It was considered that the person to do the job was Len Snell from Waroona, who is a member of the Pastoralists and Graziers Association. When it was put to WAFF that he would make an excellent member of the committee - he was supported by farmers in the south west - he was told that if he wanted to be a representative on the committee, he would have to join WAFF. Mr Snell said that he would not join; he was a member of the Pastoralists and Graziers Association.

Mr Leahy: That would be compulsory unionism in any other sphere.

Mr BRADSHAW: What is the member talking about?

Mr Leahy: They are trying to force him to join WAFF.

Mr BRADSHAW: He is already a member of the Pastoralists and Graziers Association. Farmers in the area wanted him to be a member of the irrigation committee but because he was not a member of WAFF - WAFF had the right to nominate a representative on the committee - he could not be such a representative. It is not compulsory unionism, although it is a way to get another member. Mr Snell would make an excellent representative on the committee.

Mr D.L. Smith: What proportion of dairy farmers in Western Australia are members - all but one!

Mr BRADSHAW: It is less than that. Regardless of whether the majority of dairy farmers are members, this legislation gives some leeway -

Mr D.L. Smith: It takes power from the industry and gives it to the Minister.

Mr BRADSHAW: It does, to some extent, but the Minister has the right to make recommendations. Why should it be the case that because a person does not belong to an organisation his right to represent farmers is taken away - even though the majority of the farmers know that person will do the right thing?

Mr D.L. Smith: Only one person must nominate.

Mr BRADSHAW: Whoever it will be, when that nomination comes forward, it will not take notice of the majority of people.

Mr D.L. Smith: He should be obliged to.

Mr BRADSHAW: That is rubbish. I have provided a prime example of the irrigation committee, when the majority of farmers supported a person who was not a member of WAFF but the federation would not accept that person. That is the reason the system does not work.

Mr D.L. Smith: The vast majority of dairy producers are members.

Mr BRADSHAW: I do not deny that, but that is not a reason to restrict the legislation so that there is no flexibility to give the farmers the right to nominate a representative -

Several members interjected.

Mr BRADSHAW: I have explained that because of the circumstances the Minister at the time will not accept one person's nomination without finding out whether the person is adequately representative of the community. It is all very logical to say the Minister should take the nomination of only one person. In theory it is right, but in practice it will not be the situation. I am surprised that the member for Mitchell has such a blinkered attitude.

Mr D.L. Smith: I support the views of WAFF because they are correct.

Mr BRADSHAW: They are not correct. The member seems to have his blinkers on. He will not listen. I have given a prime example -

Mr D.L. Smith interjected.

Mr BRADSHAW: What would the member think if people wanted to belong to the Pastoralists and Graziers Association? Does he think that they should not? Should they all join the farmers federation?

Mr D.L. Smith: They have a system of selecting the appropriate person by ballot.

Mr BRADSHAW: The message will soon go to the Minister if he wants to appoint to the Dairy Industry Board a person not representative of the community. The Minister might have power, but this provision gives more flexibility, and it is more representative of the community. The nomination should be restricted to the organisation which I hold in high regard. Membership of the Dairy Industry Association is not the sole province of farmers in the south west of Western Australia. The amendment should stand.

MR BLAIKIE (Vasse) [3.50 pm]: My integrity has been attacked by the member for Mitchell. I proposed the amendment to this Bill and the Chamber agreed with it. It was a decision of the Government and a decision of the Opposition, which indicated support for the amendment, and of which the member for Mitchell is a representative. The fact that the member for Mitchell was not here at the time is his problem. I suggest the member for Mitchell have a talk to the member for Eyre. I do not mind if he disagrees with me, but I suggest it has now spilled over to a wider arena. He should canvass why his colleagues supported an amendment with which he disagrees.

Mr D.L. Smith: With which I strongly disagree.

Mr BLAIKIE: I presented it to the Committee and the Committee made its decision. I record my appreciation to the Chamber as a whole for accepting the amendment. Very simply, it will provide the opportunity for all dairy farmers to nominate as producer representatives of the Dairy Industry Authority. The Minister of the day, having received those nominations, shall have discussions with the WA Farmers Federation and the market milk liaison committee and will privately make a decision. I have regard for the market milk liaison committee which has not previously been given any consideration in relation to the Dairy Industry Authority, but has given some service to the community. It has not done a bad job.

Subject to decision by the Legislative Council, that amendment will be put in place. The only people who could be considered for membership of the DIA in the past were members of the WA Farmers Federation. Although I have no argument with that organisation, I have discussed the amendment with its executive people. The views I am expressing today are similar to those I expressed in 1973 when the Bill was first introduced; that is, the DIA needs to be open to a far wider group of people and the House has made its decision on that.

The Minister for Primary Industries has handled a very delicate situation reasonably well. From the production side of the industry he is promoting a far wider degree of deregulation which will be welcomed by the industry. Time will reinforce that. He has accepted the need for reassessment of the assistance to vendors leaving the industry. This matter has plagued successive Governments, but at least this Minister has been prepared to act in a reasonable manner. We are making progress.

Question put and passed.

Bill read a third time and transmitted to the Council.

PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Twenty-ninth Report, Additional Documents Tabling

MR TRENORDEN (Avon) [3.53 pm]: I table some additional documents to be incorporated with the twenty-ninth report of the Public Accounts and Expenditure Review Committee.

[See paper No 567.]

PLANNING LEGISLATION AMENDMENT BILL (No 2)

Committee

The Deputy Chairman of Committees (Mr Day) in the Chair; Mr Lewis (Minister for Planning) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Mr KOBELKE: This clause covers the commencement of these amendments to be at proclamation. That is because some parts of this Bill cover the establishment of a new department. What are the major steps that should take place in order to put in place the new commission and the rearrangements to the department and the various planning committees so that we can have some understanding of the amount of work and time involved before these amendments have full effect?

Mr LEWIS: It is for the establishment of the new Western Australian Planning Commission. It would not be proper at this stage of the debate to canvass membership from the Western Australian Municipal Association and other people who wish to nominate. Therefore, time must be provided so that the nominations can be considered. Rather than fixing a date, waiting until proclamation will give the Government an opportunity to proceed with those matters before the Bill takes effect. In addition some legal arrangements must be made regarding the penalties that will come into effect under the Bill.

Mr Kobelke: Appointments to the commission and the various departments that will be established under this Bill must be considered. Other arrangements in respect of restructuring the departments will be contingent upon this.

Mr LEWIS: I am on record, and the Government is on record, as saying that we are restructuring the department to become a ministry. There will be structural changes within that department when it becomes a ministry. Certain lead times are necessary to get that situation in place.

Mr Kobelke: Are any of those things contingent on the provisions of this Bill?

Mr LEWIS: Not as far as the administration of the department goes. Some structural changes have already occurred within the department. It is a matter of having things in place, rather than setting a date and working pretty hard to meet that deadline. It may involve impediments and delays. We want to have these things in place before the Bill takes effect.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 4 amended -

Mr KOBELKE: Clause 4 shows up an error in the existing legislation. This occurs in a number of places in the Acts which are amended by this Bill. I will speak briefly on four of them, and will not raise the matter in the numerous other places where such errors occur. It raises a real concern regarding the structure of the planning legislation. The subsection (3) referred to should be subsection (4). The next amendment in the next clause is the change of a wrong word in the Bill. We can go to a clause further on in the Bill which relates to errors in existing legislation. It in no way reflects on the current Government. The legislation we are now amending was put in place by the previous Government. We are dealing with changes to Acts that, in some cases, came into place before the Labor Government came to office in 1983.

In our planning legislation there is a complicated interplay between a number of complex Bills. That is why we have so many of these errors. It is sloppy drafting, and we as members of Parliament should take some responsibility for the fact that we have allowed amendments to go through this place which contained errors. We are fixing up a very minor error in clause 4 where a subsection was incorrectly numbered. That is repeated

on a large number of occasions. If we are to have legislation which people, other than professionals, can make sense of, we must try to overcome the complexity in these Acts which, in part, leads to these types of errors. I reiterate, these errors are not just in clause 4. I have not counted them all, but a number of clauses in this Bill amend existing Acts where minor slip-ups have occurred in the way they are written. For example, two subclauses have the same numbering and an incorrect use of a word. It shows up the state of the planning legislation in this State. I know the Minister is trying to bring forward a major revamp of our planning legislation. In undertaking this process, I hope he will do more than just try to reorganise the Bills. I hope it will be an open process so that not only will people be involved in the input to the major decisions but also it will ensure that we have legislation that is readable by ordinary people, and that people with an interest in planning will be able to pick up the major Statutes, make sense of them and have some understanding of how planning takes place in this State. In clause 4 we see a trivial error, one of many which reflects a deeper underlying problem with the complexity of our planning legislation.

Mr LEWIS: What the member for Nollamara has said cannot be challenged. There are numerous errors in the existing legislation. They are very small errors. They do not change the substance of the legislation, but they make it difficult to read. It adds to the complexity. When the environmental part was in the Bill, I made the comment publicly on a few occasions that it was a very complex piece of legislation. Yet people seemed to think it was not. The member for Nollamara is saying, as others have said, that the legislation is complex. One reason it is complex is that we are trying to correct and place within other pieces of legislation the same intent so that the same provisions go across all of the legislation in the same form.

I have a desire, as I know the former Minister for Planning had a desire, to try to bring together a consolidated Act. Much to my disappointment when I became Minister, I underestimated the work load of the ministry. All members will know that there is a heavy workload in planning. It is a matter of finding the time to do everything, given that there are a number of other priorities. I hope to bring a consolidated Act to this House early next year. I cannot make a promise because a lot of work is involved. This Bill has been 12 months in the making. These problems occur when we try to overlay different Acts.

Mr Kobelke: When you embark on that course, can it be done in a very open way, similar to the process that occurred with the new local government legislation? In that case discussion papers were put out and when feedback on them was received, a draft of the legislation was put out publicly. In that way we may be able to overcome difficulties when people misunderstand the legislation or do not fully understand the import of what is proposed.

Mr LEWIS: I do not have a problem with talking to the public and having people look at what is proposed. I will hold firm on one principle: The right way to go is to bring a Bill to this place and have the Bill considered publicly. I do not think it is proper before a Bill is presented to the House that it be presented to the public at large. The proper way is to present it to the House and allow a certain time within which comments can be made.

Planning legislation has served us pretty well in Western Australia. What is probably required is a consolidation of the existing Statutes into one Statute. It should be written in more up-to-date language so that people can follow it and understand it much better. I have no difficulty with that and that is my intent.

Clause put and passed.

Clauses 5 to 7 put and passed.

Clause 8: Section 33 amended -

Mr KOBELKE: I seek clarification of the section that is to be repealed. I could not find it in my copy of the Metropolitan Region Town Planning Scheme Act. I made the assumption, perhaps incorrectly, that the subsection was never proclaimed. Can the

Minister gives some background about section 33(7); about what purpose it was supposed to serve, if any; why it is no longer needed; and why it has been repealed?

Mr LEWIS: My advice is that it was an amendment to clause 4 of the Planning Legislation Amendment Bill 1993, amending section 33 of the Act.

Clause put and passed.

Clause 9: Section 35A amended -

Mr KOBELKE: This clause contains one of the major planning changes proposed by this Bill. Proposed subsection (2) provides that a local authority shall, not later than three months after the date on which the scheme has been amended, forward to the Minister for approval a town planning scheme or an amendment to an existing town planning scheme. I suggested during the second reading debate that while it may be possible for a local authority to complete a degree of preliminary work within three months, it will find it difficult to complete a town planning scheme within three months. That reflects clearly an error in this Bill, and I understand the Minister intends to move an amendment which will overcome part of that difficulty. The Minister is keen to bring into line the town planning schemes of local authorities so that the effects of the metropolitan region scheme will flow through to the owners of property and to people who seek to develop either new suburbs on the edge of the metropolitan area or infill areas.

Paragraphs (a) and (b) of proposed subsection (2) state that the town planning scheme must be in accordance with and consistent with the scheme as so amended; and will not impede the implementation of the scheme. I would like the Minister to indicate how he interprets the words "will not impede the implementation of the scheme". I am concerned that those words are fairly broad and that it will be up to the Minister to interpret those words, at least until a challenge is taken to the court or the Town Planning Appeals Tribunal and there is some further interpretation of those words. The Minister may put on a town planning scheme an interpretation which goes beyond what a group of planners working in an area regard as fair and reasonable. This clause will give the Minister a great deal of power.

Proposed subsection (2a) is a double whammy because it states that the Minister may require a local authority to make certain changes to a town planning scheme if, in the Minister's view, it does not comply with paragraphs (a) or (b) of proposed subsection (2).

This clause will remove from local authorities the ability to negotiate and bargain with major developers to require them to make a contribution towards providing major roads, public open space or public facilities. I know the Minister is concerned that there have been instances where local authorities have been unreasonable and greedy, and while there have been extreme cases and the Minister has rightly railed against those local authorities, it is a bargaining chip which local authorities have been able to use for the benefit of current and future ratepayers. It is difficult to put in place a community facility such as a scout hall or family centre when a suburb has been established for a number of years. Therefore, local authorities must be able to negotiate with developers to ensure that we have quality suburbs and not just suburbs which meet the minimum requirements. It will always be difficult to strike a balance, because if we give local authorities too much power, we will create problems for the industry generally and add significant costs to residential development which will price many people out of the marketplace. However, this legislation does not strike a happy medium because the Minister of the day will have total control. If a local authority is holding up a particular development while it is seeking to reach agreement with a developer, the Minister may require that local authority to modify the town planning scheme in order to meet the requirements which he has laid down.

This provision is interrelated with other provisions in the Bill which give the Minister the power to step in over the top if this process breaks down. The local authority has three months in which to prepare that plan. If it has not been prepared within three months, there is a further 60 days before the Minister can take action to require the local government authority to comply. A further amendment is proposed to section 35A(3) of

the Metropolitan Region Town Planning Scheme Act which will reduce the current time from 90 days to 60 days. That is a further tightening by the Minister of his ability to control local government planning. The Minister is giving himself the power to act as the council if it has not met the requirements of those two hurdles; that is, if the local authority has not presented to the Minister within three months a town planning scheme for approval; and following a further warning period of 60 days if it has not complied with the requirement or come to an arrangement, the Minister can act as the local authority. That gives the Minister an incredible power over local government. It is a matter of balance. I am not saying that there should not be changes in this area, but the change is to one end of the spectrum, so that local government authorities will have to carry out their plans at the behest of the Minister.

Mr D.L. SMITH: The Minister will be pleased to know that I have no problem with the need for an overall metropolitan region plan. We cannot allow any individual local authority to stand out from that plan, because the overall plan is to provide the best for Perth that we possibly can. We must take into account all the residents of Perth, not just the residents of one local authority. The problem is in the planning process which requires the local authorities to fall in behind whatever decisions are made in the metropolitan region planning scheme. I made the point when the Minister was first appointed and started to outline his intentions for the metropolitan area, that my greatest concern was that he would use the major amendment process in a way that might have been suitable 20 years ago, but is not suitable today. In effect, he would use it to rezone areas on a broad acre basis without having a structural plan for the detail of that broad acre rezoning of subdivisions and the like; and that one of the consequences would be windfall profit for the owner who owned the land when the major amendment went through. I also expressed the concern that if one approached it from that basis, in effect, when the major amendment was being considered and submissions taken, many of the matters that should be considered in the process, such as detailed structure plans covering both environmental issues and the provision of services and the like, would be deferred for some later consideration when development action took place. That is precisely what has happened. The major amendments with which this Minister has been involved to date have not contributed to the land supply of metropolitan Perth, because many of the environmental service and design issues involved in proper planning have not occurred during the major amendment process, but have been left over to some later time. Many of the groups who argued about what should be a major or minor amendment thought the Minister's use of the major amendment process would give them a greater say, but they have learned to their grief that the major amendment process has in no way - particularly in the way this Minister approaches it - led to a greater degree of consultation with the community. It has not led to the views of the Environmental Protection Authority, local authorities or various community groups being heard in the planning process. That is because no matter what concerns they raise they are told that it is a matter for the development stage, and not the major amendment process stage. That is because the Minister has allowed these major amendments to go through without a detailed structure plan.

My concern in that process is that once the land is rezoned the local authority and the community largely lose the controls that they should have, and certainly they lose the degree of consultation to which they should be entitled, because the owner's position changes from where he is not seeking a rezoning of the land, but a subdivision or development approval. We all know that that process has a substantial capacity for appeal, both to the Minister and to the Town Planning Appeal Tribunal. If the local community is seeking to use the detailed planning process to accomplish things for the community or to protect particular aspects of the environment or social amenity, the landowner - because the land has been rezoned - is entitled to legal remedies which were not available to him before the rezoning action took place. That has led to a substantial shift in power from the local authority and the community to the Minister and to the landowner.

If we move from that approach to the question of the Minister saying to a local authority

what he wants to accomplish in that authority's town planning scheme now the major amendment has gone through, and we apply the timetables that were proposed in the Minister's original drafting of this clause, very little opportunity exists for the detailed structural planning that in the view of local authorities needs to be done. The Minister has changed his original version to make it substantially more amenable to local government in that all that is now required is that rather than achieve the amendment within that time scale, it has only to initiate the process to achieve that amendment. If it stopped at that, I would not have too much problem with it - even though there is power for the Minister to step in and do it himself if he thinks the local authority is not doing its job - but I am concerned that the power will exist for the Minister to step in and impose a subsequent time limit on the local authority. It is common practice in moving from the broadacre amendment to the detailed structural plan to look at all the issues - public open space, drainage reserves, road reserves, community facilities and the like - and ensure that all of those things are contemplated and included in the structure plan before the local authority agrees to the rezoning. That includes taking into account any community concerns about the environment or otherwise. It also includes, of course, the issue of road design and categorisation; that is, a proper division of the roads so that traffic can be moved to highways, arterial roads and so on to keep them out of business and residential areas. That in turn raises questions of acquisition, reasonable conditions for final zoning approval and making sure a fair deal is achieved. In general terms, local authorities have moved from the stage of looking just at the particular and known issues, and those that can be directly calculated in relation to land, to deciding when development occurs that it is appropriate that the land developer contribute so much per lot to the local authority to provide the community facilities required in the future. Quite often that involves a long, detailed and careful negotiation with the developer. No-one wants to stop development or progress. We want to ensure that those who benefit from the land development and those who purchase the land contribute to the future of the community that will result from the rezoning and development of the land. The way in which this has been structured with the time scales involved - if we remember it is done in the context of the Minister's general approach to broadacre zoning by major amendments, and the way the committees considering those amendments have commented on submissions made to them - leads to a situation in which the whole axis of planning in metropolitan Perth is moving substantially in favour of the developer. It is moving away from the notion of a fair contribution by that developer to the infrastructure of the community that will result from the development of the land. With the setting up of the time scales and procedures proposed by the Minister, on top of his approach to minor and major amendments in the metropolitan area, I am concerned that we are creating a situation in which the local authority, unless it has substantial amounts of money for strategic planning, will often be caught on the hop. It will not be able to foresee all that it needs to take into account to translate the broadacre rezoning in the metropolitan region scheme to a local amendment to a local scheme. These are important issues.

I know that the Minister, along with the Minister for Resources Development and Leader of the House, is very gung-ho about development and I have no problem with that. I believe development is the way to go for our economic wellbeing and future, and that the trickle down effect benefits the prosperity of the community as a whole, even though it is sometimes very slow. We cannot hold up development, and we certainly must provide adequate land for all the uses to which people want to put it in the metropolitan area. However, in that process we must balance the fact that the community at large cannot afford to provide from ratepayers' revenue alone or state taxes alone all the infrastructure required in these modern communities. We must be careful to get the planning and design of the structures right, and receive the correct contributions from the developers and purchasers of land. The structure the Minister proposes, especially the opportunity to intervene after the local authority has initiated the amendment and tell it to do it in a certain period or the Minister will take the matter over, shifts the whole balance. That shift will be to the advantage of land developers and will lead to fewer impositions upon them. It will also lead to planning mistakes in the detailed structure plan. In my view we have been fortunate with regard to the work the previous Government did in metropolitan

Perth through the Metroplan; the work in the north east corridor structure plan; and, certainly, some of the detailed planning carried out prior to any imposition being placed on the local authorities of Cockburn, Mundaring and elsewhere, in relation to particular amendments which they were asked to follow through. Although they may not agree with the nature of the rezoning, if the Cockburn and Mundaring councils looked at the extent of detailed structural work done before any amendment to the metropolitan scheme was made, they would recognise that with that approach once the major amendment went through, the land was immediately available. It also ensured that all the concerns of the local community were understood.

Mr Lewis: Because you acted responsibly, which I think you did. I think that with hindsight they will believe it but at the time they did not accept it.

Mr D.L. SMITH: That is correct and, for that reason, the Minister needs that power contained in this legislation. I am urging the Minister only to reconsider his approach to major amendments. I also express my concern about the Minister's power to become involved when the structural work is being undertaken and to tell the council it is taking too long. The Minister will have the power to take it over in those circumstances, and I am concerned about the consequences that might hold for the community.

Mr LEWIS: I move -

> Page 4, line 26, to page 5, line 11 - To delete the passage beginning with "shall," and ending with "implementation of the Scheme." and substitute the following -
>
> shall -
>
> (a) not later than 3 months after the date on which the amendment to the Scheme has the force of law, resolve to prepare in relation to the land a town planning scheme, or an amendment to an existing town planning scheme, which -
>
> (i) is in accordance with and consistent with the Scheme as so amended; and
>
> (ii) will not impede the implementation of the Scheme;
>
> and
>
> (b) within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval the town planning scheme or amendment prepared by it.

The member for Mitchell believes that this amendment and the thrust of the Bill will mean a shift of power in this area. I think it spells out very loudly and clearly that local authorities have a responsibility to make their schemes conform to the strategic and regional overview. The member for Nollamara and most members would probably shake their heads at some of the things that have happened, and would agree that they should not have happened because they amounted to extortion. People were placed in a position in which they had nowhere to go. This amendment attempts to introduce equity into the system, whereby people have a right to appeal in a de facto sense, in that the council cannot tell a proponent to fall into line under threat of his rezoning amendment not being processed. A council will have a reasonable time in which to conform and if it does not do so, a reserve power is provided for the Minister to make the council do the proper thing. I think everyone accepts that.

Another point has been missed; that is, the authority for conditional and developmental approvals at the end of the day is the State Planning Commission. It is not local government. In a de facto sense some local governments have assumed this role, using their position to extort by not initiating an amendment. I do not think that is an unfair statement. People did things that they would not have done had they had a right of appeal. That difficulty must be recognised. I, and most fair-minded people, believe that in this life the cards should not all be stacked in one corner in any situation. There must be equity. If a person does not have a right of appeal, he will lose every time. The intention of this legislation is to bring the scales back into balance, and to more properly

return to the State Planning Commission the ability to set conditions on subdivision development which takes in the complete overview of the entire Perth region, which will later follow to country regions, rather than having a parochial council with its own attitude saying that that is what it wants, and to heck with the rest. The responsibility of the Minister in regional planning is to have that sensible regional overview. A council which is right out of court must understand that it cannot continue to be so and to stymie the intentions of the region's scheme. That will apply particularly when there is strong demand on land supply, the land is serviced and the infrastructure is in place, and a council refuses to zone that land on the basis of inducing from people by virtue of no action what may be considered completely inappropriate giveaways. All this amendment will do is level that playing field and give a little discipline to councils and indicate that they cannot go on doing those sorts of things; that they must ensure people are dealt with in equity.

Councils are not right on all occasions, as the former Minister for Planning found out. He had to exercise his reserve powers on certain occasions. I have no criticism of that; what he did was right. With hindsight even those councils would agree that what happened was right. This amendment is to return a balance to the system. Local government in some circumstances has assumed unto itself these de facto powers by using the non-initiation of amendment wrongly.

The member for Mitchell commented on how the Government had tackled the major amendment program. That program has been successful because the Government has gone back to the proper processes which worked for about 30 years but seemed to be abandoned during the 1980s. I do know why they were abandoned. Perhaps the Government of the day was nervous about not having the numbers and major amendments being disallowed; or it may have not recognised that land must be kept zoned ahead of the urban front. If criticism is to be made for that, it is a fair criticism. The previous Government erred in that regard; it let the urban front catch up with the periphery of the then zoned land.

I am delighted with the way the processes have worked in the nine amendments which are on the Table. It is an indication to me and to many people that if we go about the process correctly, with full public exhibition and consultation, and give people the opportunity to make their submission, at the end of the day people will usually accept the umpire's decision. The umpire is not the Minister for Planning; it is the delegated committees of the State Planning Commission which must make very difficult decisions. Those decisions are made on the basis of what is equitable for everyone, recognising that at times it will impact on people. That is one of the difficulties with planning, as I am sure the member for Nollamara understands. We cannot please everyone all the time. In whatever is done, some people will be aggrieved. The balance lies in going through the complete processes so the least disruption and unhappiness is caused.

Mr Kobelke: Although the State Planning Commission plays an important role, the Minister's role is crucial, because he would not bring the amendment to the Parliament unless he was happy.

Mr LEWIS: Of course; I accept that. That is what government is about. Governments are elected to govern. They must have that political overview and must put their policies in place. Nonetheless, the State Planning Commission under the minor amendment program became the adjudicating authority because the Minister did not have to bring anything to the Parliament. The Government believes that is proper. We must never forget that every town planning scheme is an Act or amendment of this Parliament. That is sometimes forgotten, perhaps because it is taken for granted. It is proper that major amendments to our region scheme lie on the Table to give the opportunity for everyone to have their say and to represent people who may feel aggrieved so they understand they have had a hearing.

This amendment will bring back equity and stop a local authority which is capricious in its attitude from deliberately going out of its way to thwart the intentions of the regional overview, which is not necessarily put in place by the Government, but by all the

councils and group committees within the region. All the councils support the regional amendments proposed by the Government. That in itself is not a bad achievement.

Mr KOBELKE: The Minister uses the word "extortion" to describe the role played by some councils in seeking contributions from developers for the amendments to town planning schemes which involve subdivision developments. I reject the use of that word as applicable in those situations. The Minister is using harsh language which I do not consider accurate. Were a council to make requirements of a developer for the personal gain of councillors or council officers, the word extortion would rightly fit. However, when councils set out to ensure that communities benefit from the development taking place in their area, one cannot accurately use the word "extortion". What they want for their constituents may sometimes seem greedy; however, the councils represent the interests of their ratepayers and their future ratepayers when they try to get some advantage from a certain development. If they go over the top, they are likely to kill development in their own area.

The Minister for Planning knows that that may have implications beyond a local council area; therefore, greater good would require the Minister to intercede. There will generally be good sense at the local council level to know that councils cannot hold up developments in their area; that development creates jobs and needed facilities for the people of their area and it is not for the simple reason of just extending their rate base. Councils are cognisant of the fact that an additional burden on developers can come back and bite them, because they would be holding off development in their area. The Minister is a little wild with his language when he uses the word "extortion" to apply to councils which seek to gain an additional community benefit for their area by negotiating with developers. When we speak later about the repayment of compensation the Minister will find that the Opposition is consistent on these matters, because similar sorts of philosophical issues are likely to arise.

Section 35A of the principal Act contains provisions which are not changed by this amendment but which impact directly on the way the Act, as amended, will operate. Under section 35A the Minister has considerable powers and, as he indicated, previous Ministers have had to use them. Subsection (3) requires the Minister to take all or any steps necessary to have a scheme adopted by a local authority. If an authority failed to adopt the scheme, or an amendment to the scheme, the Minister could approve the scheme and cause it to be published in the *Government Gazette*. Under the existing legislation the authority has 90 days in which to fulfil the requirement. This Bill amends that time limit to 60 days, which is a tightening of the process. Under subsection (5) all costs, charges and expenses incurred by the Minister if he is required to step in, can be recovered from the local authority either as a debt due to the Crown or as a deduction from any moneys payable by the Crown to the authority. So this legislation before us tightens the provisions by conferring additional powers on the Minister. One aspect is his ability to direct that a town planning scheme conform when he judges it may impede the implementation of the scheme. Later on in the Bill we find that subsection (5) is duplicated so the Minister can recoup money from a local authority when he is required to step in and enforce the completion of the establishment or review of a town planning scheme.

I turn now to the Minister's amendment. This moves away from the three month requirement I referred to earlier, and I thank the Minister for that change of mind because he did not appear willing in the second reading debate to consider that possibility. The requirement now will be that not later than three months after the date on which the amendment to the scheme has the force of law, the local authority shall resolve to prepare in relation to the land a town planning scheme, or an amendment which is in accordance with and consistent with the scheme and will not impede its implementation. An authority must also within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval the town planning scheme or amendment prepared by it. So we have moved to a situation where councils are required within three months to move towards amendment or establishment of a town planning scheme as required. That is a feasible proposal and one with which

councils generally should be able to live. Then it is up to the Minister to give a written direction as to when that is to be completed.

Where a lesser amount of work is involved, clearly the Minister can set a fairly tight deadline and the work may be done in a couple of months. Where a regional centre is being put in place and the structure plans have not been developed and consultation about the plans is required, the Minister can set a 12 month deadline or more to enable proper planning to take place. The Minister will acknowledge that in Eglinton, where a whole new regional centre is to be built, the preparation of the final detail of the town planning scheme might take 18 months. If planning is rushed because of a short term objective, the process will be corrupted and we will not get quality planning which could be judged by the standards of what we have at Joondalup. So it is important that the process be carried out fully and properly and that the Minister provide the time for it. The amendment means that the Minister will dictate the time, and one hopes he will do that in consultation with the local authority and that it will not be the Minister and the Planning Commission in a dictatorial way laying down that councils must meet deadlines which in some respects may be unrealistic. I hope this amendment will be quite workable.

I alluded earlier to the problems we have with drafting. It may be because I am not a lawyer and not as familiar with the legislation as the Minister and his assistant may be. I am concerned about the structure of the amendment. We are amending section 35A(2) of the principal Act. The clause as it stands already has paragraphs (a) and (b) and a proposed subsection (2a). The amendment appears to insert above them new paragraphs (a) and (b).

Mr Lewis: It takes out paragraphs (a) and (b) on page 5 and replaces them.

Mr KOBELKE: I thank the Minister. I hope the Minister will give a detailed explanation of the wording of the amendment because it has a considerable breadth of interpretation and we could have some problems with that later on. I ask the Minister to comment on what is meant by "not impede the implementation of the Scheme". What effect will that have on the powers of the Minister to direct a council to amend a scheme it has brought forward?

Mr LEWIS: Any Minister carrying out his duties in any Government would be responsible and recognise when a local authority had a larger planning task to bring its district scheme into conformity compared with other minor proposals. This provision will be used only when a local authority wilfully and deliberately ignores the Minister's instruction and tells him that it will not do what he asks. The previous Minister for Planning was placed in this position on several occasions. Instead of having to go to the court every time for approval because a scheme is not in place, this provision will place some discipline on the local authorities so they must abide by the Minister's instructions. If the council fails to resolve the situation after 90 days, any reasonable Minister will ask the local authority where the difficulty lies. It is a reasonable position to adopt. If the council tells the Minister to jump in the lake and that it will not do what it has been asked, the Minister can force it to prepare a town planning scheme and if it refuses, he will do it on behalf of the council.

A ministerial position is very responsible and Ministers do not move arbitrarily and capriciously to do these sorts of things. If this path must be travelled, it would not be after 90 days; it would probably be after 180 days and then the Minister would find ways and means of not having to take this action. No-one wants to have conflict or confrontation with local government. It is much better to work out these difficulties together. If the Minister does not have this reserve power he has nowhere to go but to the courts. That is what happened to the previous Minister, even though the legislation said he should have that power. That is where the anomaly was and that is the reason the Government is making provision for reserve power in this legislation. I like to think that the Minister will never need to use this power.

During the second reading debate reference was made to 90 days, but since then I have had further discussions with the Western Australian Municipal Association, which made overtures that 90 days is too harsh. I have been a chairman of a local government

planning committee and I could see that the provision was a little too harsh, and that is the reason for this amendment. I have genuinely tried to fit in with WAMA's requirements. It readily recognised the need for this provision because it knows that some councils have done the wrong thing and that the Minister should have this reserve power to use when necessary. It is aware that if one council holds out, it can thwart a development proposal to the detriment of surrounding councils.

Mr Kobelke: What are the implications of paragraph (b)? Will it impede the implementation of the scheme?

Mr LEWIS: My advice is that it is up to the Minister's discretion and in that regard he can be challenged by councils if they believe he is exercising his reserve power too harshly.

Mr D.L. SMITH: I repeat I have no problem with the Minister having this general power to require local authorities to amend a metropolitan town planning scheme. It is very important that we continue to plan for the benefit of everyone in the metropolitan area. Some people in the community feel that planning is all about development, but it is also very much about producing the best protection for the environment and the best amenity in which to live. Sometimes local authorities do not agree that areas within their municipalities should be set aside and not attract rates for long periods. So long as the Minister makes his judgment on the basis of the proposal being in the best interests of the people and the general amenity of the metropolitan area, he must have these reserve powers.

Paragraph (b) of the amendment makes sense because it states, "within such reasonable time". That would allow the court at some stage in the future to say that the Minister is not acting properly and it does not feel that he has set an appropriate period of time. The reason I prefer the court action approach is that it gives the local authorities, developers, environmental groups and community groups an opportunity to examine the processes and try to find a defect if they are concerned with what the Minister is doing. The court could then ensure that the Minister and the commission have followed the rules in relation to the issue. Although I would prefer the retention of that, nonetheless there is still a backdoor entry to the courts because they would always require the Minister to act reasonably and properly when exercising his discretion over these matters. The courts would be able to interfere. Of course, the first step must be taken by the local authority or local group and not by the Minister as at present.

These powers are necessary and we have been extremely fortunate in the last couple of years, with what has really been a boom in the building industry, that it has been well managed in terms of land supply. One of my last arguments with the State Planning Commission when I was Minister was in relation to the last metropolitan development program which I was asked to approve. I sent it back to the commission several times because it grossly underestimated the demand over that period.

Mr Lewis: I agree with you.

Mr D.L. SMITH: This State was fortunate that action was taken by me and other former Ministers in Cockburn and other areas which in retrospect I may not now totally agree with, but it certainly eased the land supply issue. It still worries me that effectively land prices in the metropolitan area in the last 12 months have risen in the order of 15 per cent.

Mr Lewis: We have had the second largest uptake in the number of building units constructed.

Mr D.L. SMITH: I recognise that, but 15 per cent is unacceptable as a long term trend. We could be lucky with the stock market problems and bond rates because there may be a pause which will give us time to catch up.

I reiterate that the success of all this will depend upon how reasonable is the Minister of the day. If I have a major criticism about this Minister's approach to development in the metropolitan area it is that he approaches broad acre major rezonings without a detailed structure plan. Within this provision is a kernel of a major problem flowing from that if

the Minister acts unreasonably. This is not the be all or end all of what is wrong with the Bill. There is a problem with it, but for as long as this Minister and future Ministers act reasonably, it will work.

I advise the Minister that the community expects amenities to be planned well in advance of development in the metropolitan area. As a Minister for Planning for a relatively short time I regret that, in looking around metropolitan Perth, I see large areas that have been developed - I cite Rockingham as an example - with huge areas of residential development but not much community infrastructure on the ground or any future provision for that infrastructure. Land developers have to be persuaded by Governments that they must contribute fairly to the future provision of those facilities. There is a reasonable lot levy method of calculating what is reasonable based upon the detailed structural plan that identifies what needs should be paid for and by whom during that development. Provided this Minister and future Ministers act reasonably and they keep in mind the problems of paying for future infrastructure and deal fairly with the local authorities and with land developers in making the appropriate contribution - remembering that it will be paid for by block purchasers who, in the long term, will have the benefit of that amenity - these problems will be dealt with. That is an essential part of getting the future amenity and environment right for living in Perth. I still believe, despite all the criticisms of the Department of Planning and Urban Development and others and past and present Ministers, that we have a marvellous city which we can promote to the world as an example of good planning. We must continue with that and recognise that we have inherited a substantial heritage which makes Perth the best place in the world to come back to and probably the best place in the world in which to live. We must make absolutely certain, in the way in which Ministers, Governments and land developers behave, that that heritage is not lost on the need to cope with an explosion in development.

Mr KOBELKE: The Minister indicated that the period of three months for completing a town planning scheme was too hard. That is correct. However, it does have some bearing on the quality of consultations which took place to develop this legislation. I am not questioning whether the Minister went out and met with groups. On several occasions he made an effort to meet with them and he met with the Western Australian Municipal Association and local government to make sure they understood the legislation. He got feedback from them and has been willing to try to accommodate their needs. I congratulate him for that. It shows, though, that it is very difficult to carry out that meaningful consultation so that people understand fully what is contained in the Bill and the Government is able to pick up the difficulties that occur. This Bill represents a major change. Under the former provisions, councils would have been required to present the town planning scheme within three months of the metropolitan region scheme being put in place. The Minister's new proposal is very workable and I thank him for it. However, it reflects that the consultation process did not work well enough. When we come to doing further major planning legislation, I hope we can overcome that obstacle. I do not say that in an off the cuff way. I have indicated that thorough working consultation is difficult to achieve. We can sit around tables with people and listen to what they say, but not everything is necessarily addressed properly to overcome the problem. There is a real art to it.

The Minister alluded to the fact that there will be a fair degree of discretion in the application of the amendment. That will always be the case. Whether that discretion is used in an appropriate way is a matter of judgment. One must give the Minister for Planning, whoever it is, room to move to make those judgments. Only time will tell whether those judgments are good judgments. I accept that this Minister has the best intentions and understands the needs for planning in the metropolitan area and throughout the State. We can only hope, whether it is him or some future Minister, that the best judgments are made that will lead to quality planning.

The Minister said that these provisions are required when one local government authority does not want to come to the party. That authority may be trying to stop some form of development in its area which will have implications well beyond its area of control. In

cases like that, it is necessary to have a mechanism in place so that the greater good will prevail and the Minister can ensure that the town planning scheme is implemented. I want the Minister to consider that, when he puts in place these provisions, they can sometimes be used in the reverse way. He needs to establish that balance between the planning commission and local authorities. I do not pretend that he will ever get it right. If a local government authority feels a power has been given to the Minister, it may, in some instances, provide an out for it. It may duck doing what it is responsible for doing. It may serve the purposes of a council for it to decide that the issue is too hard for it to resolve because it is too controversial and decide to duck the issue. It may decide to pass the buck to the Minister to sort out and let him wear the consequences. I assume the Minister is aware of that. Therefore, while he has taken more powers to himself and to the central planning commission to ensure that councils do not stop or delay developments, he opens up the reverse use of those provisions. He may find that he will become bogged down with having to make detailed decisions at the local level because the council decides that, although it does not want to stop a development, it does not want to make the hard decision because it is a particularly controversial one. I hope this provision will not come back to bite the Minister with councils using it as a way of opting out of their responsibilities.

Mr D.L. SMITH: I want to raise, more as a parliamentarian than anything else, my concern about the way we have dealt with this legislation. I am concerned that the Minister brought in what was, in my view, a substantial change in environmental and planning management in Western Australia. The reaction by the community was what I expected when I first saw the Bill. The Minister has seen the light and divorced the environmental provisions from this legislation so that we now have an amendment only to planning legislation. The spokesperson for the Opposition on planning matters immediately identified what was, in its original form, an unreasonable clause because it required within an unreasonable time not only the commencement of the rezoning, but also the completion of the rezoning by the local authority. I have said already that the amendment goes much of the way to rectifying that. However, the fact that the amendment was necessary in the Minister's view indicates that we are rushing on with a substantial change in planning legislation without sufficient consultation.

I was pleased the Minister said that his original intention was to rewrite the planning legislation; that is, to have an entirely new Bill and not achieve a new Act by way of amendment of the old. I urge him to stick with that intention and see these amendments as being interim amendments and ones which he may perhaps be more amenable to consider amending as the need arises.

Importantly, I think the relationship between planning and the environment and getting a proper planning Bill together is a responsibility which should be borne by not the Minister or the department, but the whole community. Once this legislation is passed, I urge the Minister to be amenable to amend any problems that appear and to look seriously at a select committee to consider the whole issue of planning legislation, starting off with the draft that he presented or the draft that I prepared for a new Bill, and allow that select committee to consult with the community so that we end up with planning and environment legislation related to land use that is appropriate for the future of Perth. I would welcome the opportunity of being a member of such a committee. I do not think there will be any loss of face or power for the Minister. He will have by way of these amendments what suits him and the Government. However, what we really need is an entirely new planning Act drafted in modern language that is appropriate to all of the community consultation and concerns that are part of a modern society.

I urge the Minister not to lose hope of getting an entirely new Act one day. He must do that through the process of a select committee or, if not, similar processes to those used by the previous Government for the development of a new Local Government Act. There exists a set of draft principles for consultation, moving on to some firm pointers for drafting, and then under this Government hopefully moving on to a new Act. These issues of planning, environment, the relationship between state and local government and the way in which the community should be consulted go to the heart of what government

should be about. They also go to the heart of what to some extent is a loss of respect for politicians and the Parliament in the community. It is an area of critical importance, and it should go through a select committee or a similar process to that for the Local Government Act rather than what we have seen in this case where one Act has been brought in, a substantial part has been deleted, and when we try to proceed with the remainder we find some defects which the Minister agrees to amend.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10: Section 35B amended -

Mr KOBELKE: I put on record that we have another mistake in the existing legislation. We find that section 35B of the Metropolitan Region Town Planning Scheme Act 1959 has two subsections (3). This trivial matter is remedied by this amendment, and I support it. We must look carefully at ensuring that we have better planning legislation. On numerous occasions in the past we have had the problem of poor drafting. People did their jobs properly, but it reflects the fact that our planning legislation is far more complex than it should be.

Clause put and passed.

Clause 11: Section 36 amended -

Mr KOBELKE: Clause 11 provides that the Government will be able to seek the refund of compensation which has been paid to a landowner because of some reservation or injurious affection to that landholding. The Government is now moving to seek a refund where a reservation put in place and the cause of compensation has been lifted. It is not only doing that as the system stands and into the future, but it is also acting retrospectively to 1 July 1988. I find that aspect of retrospectivity totally unacceptable. I am opposed to the whole amendment. Assuming the Minister will in no way accept the criticism I will make, to put it on record I will move an amendment to ensure that the clause will not apply retrospectively. Will the Minister provide us with some detail as to why this amendment is needed? How much money will be involved? The Minister indicated 11 properties are picked up by the retrospective application of this provision; that is, since 1 July 1988 on 11 properties a reservation was placed which has been withdrawn, and the historical valuation of that compensation was in the order of $115 000. It is difficult to judge the amounts that would have to be refunded because the provisions of the Act are such that it will come into play only when those properties are subdivided or sold. One cannot guess what amount would be involved, but does the Minister have a ballpark figure?

Mr Lewis: The historic value is $100 000, but not on revocation. It could be $1m.

Mr KOBELKE: The revocation or a reduction in the reservation occurred back as far as July 1988 but the reservation itself might have been put on some considerable time before that.

Mr Lewis: That is right.

Mr KOBELKE: Therefore, the $115 000 payment could have gone back 10 or 20 years. The property values have increased because of inflation or rezonings, or other developments in the area which have improved the value, so the current value of those properties will be considerably more. For the retrospective refunds from properties the Minister is suggesting the figure is of the order of $1m.

Mr Lewis: I do not think a valuation has been done. I asked some questions.

Mr KOBELKE: I will take it as a wild estimate, but it gives an idea of what might be the loss to government coffers if we do not proceed with this Bill. I hope that when the Minister gets to his feet he will give an indication of the ongoing cost if we do not proceed with this.

Mr Lewis: When you say "with this" is that with the retrospective part of it?

Mr KOBELKE: I accept the figure the Minister gave me, but the retrospective application alone involves 11 properties with a historical value of $115 000. As a very rough estimate, in current terms the amount that might need to be refunded could be in the order of $1m.

Mr Lewis: Something like that.

Mr KOBELKE: If we do away with the whole of clause 11, what will be the ongoing cost to the Government? What is the extent of the error made in planning? We are dealing with the situation where a reservation is placed on land as part of the planning process, and at some later date it becomes obvious there is no longer a need for such reservation, therefore, the reservation is lifted from the land. In the interim, the landowners may have been paid compensation for injurious affection. When the reservation is removed from the land, the Government may seek a repayment of the compensation previously paid. Can the Minister indicate how often this chopping and changing may occur? People should not be caught up in a planning process which some time later is shown to be unnecessary and, therefore, the imposition placed on those people is removed and they must repay the money. The Bill opens up more problems than it seeks to solve by the amendment.

I will make a number of points in support of that statement: The amendment relating to the repayment of compensation runs for five pages. It provides a formula to judge the amount to be repaid. The amount of compensation is incorporated as a percentage of the value of the land, and later, if the reservation is not necessary, people are required to refund the compensation according to the value of the land at that time.

Mr Lewis: It is the same formula.

Mr KOBELKE: Yes. The legislation requires a complex formula and set of provisions to make it workable. The Bill is setting in place a bureaucratic, technical and legalistic procedure. That is often necessary with legislation. If this were a major form of revenue for the Government, we would pursue it, but I have doubts about whether it will be a major cost saver. Officers in the Department of Planning and Urban Development will have difficulties overseeing and managing the provision, and doing valuations; and there will be possible legal hassles regarding whether the provision is applied properly. That will involve a cost for the landowners to take action and a cost to the Government. I have real doubts about the value of the whole approach. I have doubts about whether it will be a source of revenue for the Government. That is one clear objection to the amendment.

My second objection is that the legislation contains inequities. Perhaps I misled the Minister when I said it was an injustice; however, the Minister admitted that there were some inequities in his second reading speech. I used the word "injustice", but I do not think I was misrepresenting the Minister. The Minister may have seen it that way. I said that I thought there was some inequity in this approach, and I also think that an injustice has been done. When a reservation is set in place a number of people may be paid compensation for injurious affection. Some people may have on-sold the land. They walk away with the compensation, and they cannot be asked to repay it. However, a neighbour may have retained ownership of the land and, on the sale of the property, can be required to repay an amount based on the original compensation. That is not fair. People are not being treated equally. Either the Minister requires all property owners to repay compensation - and that would be administratively difficult, if not impossible; it would create problems and make it unworkable - or he should not try to recoup the compensation from anyone. Some people will have sold the land and walked away, and some will not. That provision applies to the retrospective application; the Minister may wish to comment on how that will apply in future.

The provisions require that the money is recouped on the sale of the land, so perhaps people would be aware of a reservation when they bought a property; but will the new purchaser of a property with a reservation realise that the previous owner has been paid compensation? Will those people factor that aspect into the price paid, knowing that in two or three years they may have to repay the compensation that the earlier owner

received? It could become a legal nightmare to work out who will liable for the repayment of compensation. That is the second reason that we should not proceed with the entire provision.

I turn now to the specific amendments to section 36(7) of the principal Act. The clause provides that when compensation is paid for injurious affection, the amount to be paid and the date of the payment will be specified. Proposed paragraph (c) reads -

> the proportions (expressed as a percentage) which the compensation bears to the unaffected value of the land (as assessed under subsection (6)(b)).

That is the kernel of establishing how to run the system of paying compensation, and leaving open the possibility of a refund when it is realised later that the planning system has not worked as efficiently as it should have. The Minister will be undoing something that the planners have put in place. From time to time that will happen, but do we need this legislation and the bureaucratic mechanism to make it run, simply to pick up money which is lost because, in one instance, a mistake was made and compensation was paid? It may be a windfall gain for some people who do not deserve it.

I will explain why I think there is some inequity and injustice in this provision. When a reservation is placed on land, the use of the land is affected. The owner of the land may have wished to build a tourist facility or a motel on the land. However, because of a reservation for a road as a result of the planning process, part of the land cannot be used. When the person applies under the Act to build, that triggers the possibility of compensation - and compensation is paid. The person may go ahead and build the facility on the basis that the land is available. When the person bought the land he may have been planning to build a much larger scale tourist development, but because the land was reduced in size, the person scaled back the project and built a facility of a lower quality, and thus a lower earner. However, the person saw it as a viable proposition with the reduced land available. Some years later, with a change in planning, it may be the reservation is not required for the road, so the owner will have full use of the land - but the development opportunity may have been forgone. The fact that a different quality facility was built may not leave open the extension on to the unused land, in order to go to the initial proposal. Therefore, injurious affection has occurred which would not be picked up by the formula in this legislation. The opportunity has been forgone, not put on hold, because of the planning reservation and the compensation paid; it has simply passed by. That is no longer an option for the developer. Therefore, this proposal would not reflect the injurious affection. Perhaps that is a difficult example. That type of case would not be common; nonetheless this legislation leaves open the possibility that people can suffer injurious affection because of the reservation placed on land, because the development opportunity is forgone; and they would have to repay the compensation and there would be no recognition that they had been seriously affected by the reservation for the time it was placed on the land.

The Opposition does not accept this amendment. It feels the Government will gain little from such a bureaucratic and difficult procedure. The injustices contained within it do not warrant the amendment. We are willing to hear argument from the Minister for the amounts involved.

Mr D.L. SMITH: The Minister might find what I have to say is strange coming from the political party with which I have affiliation. I have long felt our attitude to both resumptions and reservations is wrong. There seems to be a presumption regarding resumptions and reservations that Government will misuse the power to take the assets of somebody else for purposes other than public use. Therefore, an extraordinary provision exists in relation to resumptions that, if the Government acquires land and decides later not to use it for the purpose for which it was acquired, it must identify the owner from whom it was taken and give him or her the first option of purchase. That often leads to inequity when trying to trace people. That process is also a great hindrance to the ability of the State to use that land for other purposes or to dispose of the land.

The provisions for reservation cover almost four pages of the amendments. Without wanting in any way to be patronising or offensive to my old friends in the finance section

of the Department of Planning and Urban Development, I rather suspect their heavy hand has been involved in the drafting of this provision. In the planning process if we rezone land from rural to residential, the fact that somebody makes substantial property value gains as a result, is not something we have really concerned ourselves about. It is simply a process which will result in winners whom we allow to keep their gains. In a way that encourages us to keep alive a development industry that is constantly on the lookout for opportunities.

However, when we rezone by way of reservation, we compensate the landowner who is adversely affected as a result of some community reason for setting that reservation or resumption, or we negotiate with the landowner and buy the land from that person. For the life of me, I cannot see any reason that should not be the end of the matter. There must be a presumption that the Department of Planning and Urban Development, the local authority and the Minister act in good faith at the time. Whatever they decide to do at the time simply results in either forcing acquisition of land, sale of land or the reservation being imposed. Compensation is a more than adequate way of dealing with that issue there and then.

Thereafter, for instance, if the land is still owned by that individual, who is able to convince the Minister to change that reservation to a land use purpose, and he goes through the ordinary processes, he should be able to take advantage of that because that is what everybody else can do. He should not be obliged to repay whatever compensation he received for the reservation. Although that compensation is always calculated on the impact on land value, it is difficult to measure. Some people's land use does not change and the reservation has no effect on them. If, 15 years down the track the reservation is lifted, in a way they have had a type of windfall gain throughout. They may have acquired some money at some stage and have continued to use the land as before and still get some long term value from it. That is a benefit of the planning process. The idea that if we change a reservation we must sell it back to the original owner if we have acquired it, or recover compensation -

Mr Lewis: It does not happen that way.

Mr D.L. SMITH: Will the Minister explain how it happens?

Mr Lewis: When part of a parcel of land is reserved and compensation is paid, the Crown effectively buys that part of the land. Until that land is sold, that person can stay on it. When that person has been paid the compensation, or a successor has bought it at a lesser price knowing the Crown owned that part as reserve, it is reasonable that the Crown should get back its money.

Mr D.L. SMITH: There are two aspects: One is in relation to what is a true reserve which is proposed for acquisition either now or in the future. The other is what arises in the planning process preventing the landowner from using a reservation for a purpose even though he or she continues to have full ownership of it. I believe we should draw the line and say we have done that, everybody has adjusted and if the Crown is entitled to become the owner of that land, that is the way it should stay. If the owner is still the owner, but has received compensation in the past, that is the way it should stay.

Mr Lewis: The Crown does not exercise its right initially because the boundary might go through the front of a house and, therefore, cause the demolition of that house. The sale is not effected at the time.

Mr D.L. SMITH: As I said before, sometimes it is done by reservation which is not for the sale of that piece of land, but in the nature of an encumbrance. In other cases it arises from the rezoning of the land which allows people to retain ownership, even though in the future it may not necessarily be acquired by the Crown, or it may lead to immediate acquisition. We complicate life unnecessarily. We should make the adjustment at that time and if the plan changes in the future, it should not be approached any differently from a change in rezoning in future. When we move reservations sometimes it should be allowed to result in a windfall profit.

Mr Lewis: But money has been paid to compensate for that injurious affection.

Mr D.L. SMITH: Yes, but the reservation stems from the rezoning. We do not seek to take profits from people who have their land rezoned. If in the past we made reservations and then changed our mind at a later time, it would be no different from changing our attitude to what the land can be appropriately rezoned for. There are pluses and minuses. If the Crown has acquired the land and held it for some time, it is also wrong, in my view, that the Crown should then have to try to find out who is the original owner and transfer it or, by removing caveats, divest full ownership back to the original owner. The landowner, without any holding costs for that period, suddenly picks up the full value of the land. It makes difficult identifying at any one time what are the assets of Government. One of the things that we tried to do, and this Government is trying to do, is to identify the land and the other assets of the Crown. The valuation of those assets is extremely difficult and often is made more difficult because of the provisions of the Public Works Act and these sorts of provisions.

Once land, notionally or actually, comes into Crown ownership, the community should just accept that from that point on, that is what it is. If the Crown later decides not to put it to a specified purpose, it should be free to resell it and take the profit or the value at that time for the State. This notion of seeking compensation that has been paid back and trying to trace landowners simply complicates what should be a reasonably simple matter. We have raised through the metropolitan region improvement tax certain amounts of money for all the land acquisitions and reservations needed which, in turn, leads to an asset being held. From time to time, in terms of the future amenity of Perth, it should be quite open to the Minister and the State Planning Commission simply to say, "We do not need that any more and we will sell it; we will use the money to buy a reserve area somewhere else." This amendment seeks to recover retrospectively compensation previously paid or to work out a relevant proportion of the compensation to be recovered. That is an unnecessary complication of the life of the Government and leads to quite unfair consequences. Often people who have been paid compensation in the past, who have since sold that land, probably will not be lining up for compensation. From my reading of the Bill, the retrospective elements would not be eligible for compensation if the land that had been reserved had been sold.

It seems to be legislation which does not have at its heart any matter of real principle. We pay adequate compensation through a rezoning process. If we change our mind about it, those who have been paid compensation should be entitled to keep it for the reason given by the shadow Minister; that is, the mere fact that the reserve was in place for a time often takes away the opportunity of development which is immeasurable; it takes away the opportunity for rezoning which also in many cases is immeasurable. Yet here we are going back saying, "You will have to pay back a certain amount of compensation which you received at that time." We should draw the line and say that the assets of the State Planning Commission, from whatever source, are the assets of the State Planning Commission.

If there are changes to allow the land to be used for some purpose other than that for which it was acquired, the State Planning Commission should be able to dispose of that land and receive the appreciation and value for the land it has obtained; if we have paid compensation in the past as a result of an adverse rezoning, causing injurious affection or because there has been some other reservation, it is an element of history. We should presume it was dealt with fairly at the time and that is the beginning and end of the matter. The State in a penny-pinching way is trying to work out a fair amount of compensation to be recovered from those people just because it is decided that a mistake has been made in the reservation a few years earlier, or for policy reasons or because subsequent developments on the reservation are no longer appropriate.

It seems to me to be building up legislation under which, to all intents and purposes, we can argue that people have received something from the Government for some purpose, and if that purpose has gone and the impediment is no longer there, that money should be refunded to the Government. That is not the way we operate in the field. Money paid under a mistake of law generally is not recoverable. That is not quite the situation here. At that time we said, "We want it for this purpose." That caused a loss in value for

someone at that time. Another thing that is immeasurable is the loss of opportunity during the period of reservation, and that will vary from person to person and property to property. We should just draw the line and say, "Good luck to that person and let him keep what he got at the time."

Mr LEWIS: There is a misunderstanding of what happens. When a reservation goes on a property, the people whose property is injuriously affected do not have to apply for compensation. They can enjoy that property for as long as they like, other than when the Crown's need for the reservation eventuates. However, some people trigger compensation to be paid by deliberately and wilfully making an application to redevelop within that application. They are then compensated for the difference between the affected and the unaffected values. In a sense the Crown then becomes the owner of that portion of that property. That must be accepted. It would necessarily follow that if the Crown were the de facto or the true owner in a legal sense, other than on title, other than protected, when that property is sold, it is fair and reasonable that the Crown should be paid for the percentage of the property it owns.

Mr Kobelke: In many instances the value of the property is only that value because it can be amalgamated with another piece of land. It does not necessarily have that value by itself.

Mr LEWIS: It is worked out by the before and after value; the difference between the affected and the unaffected value. When people claim, they accept the compensation; they know what they are doing. They know that they have surrendered their rights over that portion of the land; but they are happy to stay on the land because the Crown does not want to knock down the house or survey it out and physically take ownership of it, and the Crown wants to leave the people to enjoy that property for as long as they can and until it is needed.

When those people sell after 1988, a caveat is placed on the title. People who buy the property know they will own 80 per cent of the property, because the Crown owns the other 20 per cent. When those people sell and the reservation has been removed, given the parcel of land owned by the Crown, why should the Crown not be paid for it? Is that not equitable? We should focus on that fundamental principle. The member is saying that he opposes clause 11 entirely. He believes it is penny-pinching because only 11 properties currently are involved.

I draw the attention of the member for Nollamara to an omnibus amendment that was gazetted Friday a week ago about road rationalisation, which involves eight or nine of the important roads around the metropolitan region. It affects 1 200 properties and 500 houses. Compensation has been paid for injurious affection on some of those properties, but not all of them, where the reservation has been reduced. More than 11 payments are involved. The contingent savings as a result of that amendment, if the reservation were put in place, would be in the vicinity of $90m or $100m. I am not saying that that compensation would be paid, but that would be the saving of the reduction of the reservation.

Sitting suspended from 6.00 to 7.30 pm

Mr LEWIS: It has been said that errors were made on these reservations. It should be understood that when the metropolitan region scheme was originally put in place, the roads were identified for widening by markings with a felt pen; it was a notional thing. No measurements were done at the time. A broad reservation was probably delineated that was not dimensioned. Over time and with technology, and after the pavements were worked out, it has been possible to better define the dimensions. That left the difference between the requirement to service the road that was designed for vehicles and what was a notional delineation hitherto described. Rather than its being an error, it was a practical way around putting a plan in place. Members should bear in mind that they did not have electronic computers in those days and the calculations of all those roads was a mammoth job. With the technology that is available today, these roads can be quite easily identified and delineated mathematically. Because of that, the reservations are being removed on that which is not required. That will be an ongoing process. The omnibus amendment

that we brought forward last week is only the first of many. If we do not have this provision in the scheme, it will mean that those many millions of dollars which have been paid over time in compensation for injurious affection for those previously notional widenings, which were formally identified by the 42 amendment, will be forgone to the State. I do not think that is reasonable, bearing in mind that the money was properly paid at the time. When the Government paid for the injurious affection that the property owner suffered, it bought a percentage of that property and it is only right, when the property is sold and the reservation is not required, that the part owned by the State should be paid back to the State.

Mr Kobelke: Would you like to add something about the $90m to $100m? Is that the full value of land?

Mr LEWIS: That is what we call the contingent liability; in other words, if every person on the plan had made a claim for injurious affection.

Mr KOBELKE: Is it the total plan or just the variation to the plan when the reservation has been withdrawn?

Mr LEWIS: No, the amendment gazetted last week included, I think, nine major roads which affected 1 200 properties by a lesser degree and 500 building structures. It was calculated that the removal of the reservation by the various amounts would leave the contingent liability that the State would have been up for if every one of those people put up their hands and said they wanted to be compensated for the injurious affect of that widening. We have reduced the widening which means that those properties are not affected by that previous reservation. That is what the department has told me is, in ball park figures, a contingent saving.

Mr Kobelke: This amendment targets the payments that have been made by way of compensation. Can you indicate how much has been paid in compensation?

Mr LEWIS: No, I cannot tell the member. However, that is only the first of a series of amendments because we are now carrying out a road rationalisation program, and we are looking at all of the important regional roads in the metropolitan region and identifying the exact width that will be required to service the pavements and the traffic projections. What is not required will be reserved so that those properties will not be affected by that amount. If people have been paid out and the State owns a percentage of the property, which it does because it has a caveat on it, and that property is sold, the State should be paid for its share. That is straightforward.

Mr KOBELKE: The answer the Minister has given me about the amounts of money involved does not enlighten us about the impact on the State. I am not suggesting that the Minister is avoiding the question; it is a difficult area. However, it indicates that we do not have available to us data which gives us any indication of the amounts of money involved. The Minister has attempted to do that by relating it to major amendments currently under way and what might be the total contingent liability in respect of variations in planning which could arise from that major amendment. While that has some connection with the matters contained in the amendment, it is not the same thing; it is something very different. Therefore, we do not have any clear notion about the costs that might be saved by the Government by providing means whereby people will be forced to refund compensation payments.

Mr Lewis: It is not a matter of cost; it is a matter of principle. If the State owns a percentage of a property and has paid for it, and that property is sold, shouldn't the State be paid for its share?

Mr KOBELKE: There are matters of principle and there is also a matter of the proper way of dealing with it. In relation to the one I am speaking to at the moment, what is the cost benefit of the procedure? I suspect that it is marginal because the Minister is putting in place a procedure which is quite complicated and, if it were contested by people through the courts, the Minister may find that the money involved would not be in excess of the cost to run the whole system.

Mr Lewis: It is not complicated.

Mr KOBELKE: I suggest it is. I have asked the Minister for a better gauge of what moneys might be involved through this amendment. I accept what the Minister said; that is, at the present time, we are not able to have figures that will give us any indication other than the retrospective application of this provision which could involve amounts of money in the order of $1m which, I take from the Minister, is a rough estimate and I accept that. We really do not have any idea at all of the ongoing savings of this provision.

Mr Lewis: If there are only 11 properties and the planning people tell me there is a million dollars because of the historical variations to the present day values, and hundreds of properties will have reservations lifted on which compensation has been paid, we are not talking about peanuts.

Mr KOBELKE: The Minister cannot tell me how many of those properties have been paid compensation; whether it is 25 per cent, 50 per cent or 90 per cent.

Mr Lewis: The total road rationalisation program has only just commenced. That work will take years, and until it is complete I cannot tell the member.

Mr KOBELKE: We can look at this in a number of different ways. If we look at the purpose it serves or the money it saves the Government, the Minister is contending it is worthwhile; but he cannot provide an analysis to suggest how much the saving is worth. That argument is unsubstantiated. If we then turn to the matter of principle, which can be looked at in a number of different ways, the Minister is keen to ensure that the Government's funds are spent as wisely as possible and no-one gains a windfall advantage through a planning decision which then turns out to be unnecessary. From the Minister's point of view he is trying to minimise the expenditure of government money. If we look at the principle from the point of view of the people who own the land, they did not have any choice about the action taken on their property. They had to buy it because that was the planning decision that was made.

Mr Lewis: They did not have to claim. They elected to claim.

Mr KOBELKE: In some instances their financial or domestic situation may have required that they sell the property to move somewhere else; in which case, it would have been up to them to make a claim.

Mr Lewis: If they sold, the State would have bought their property.

Mr KOBELKE: There are cases where only part of the property is purchased.

Mr Lewis: Not if the property is for sale. Usually the State will buy the reserve portion, and the owner can sell the balance, or otherwise the State will buy the lot.

Mr KOBELKE: I am not disagreeing that that is the normal way; I am suggesting it does not happen that way in every case. I was taking one example, and the difficulty is that we have a range of possibilities. I wanted to talk about the practicalities of the money involved, but the Minister wanted to talk about the principle. We can approach the issue of principle in a number of ways. I am giving the Minister one angle on that. I am not saying that it applies in a large number of cases, or in all cases, but in some cases it may be that because a family suffered that disadvantage to their property, they received a form of compensation.

They may have felt that was not appropriate because of their circumstances, and because the effect on them went beyond the measure of the value of the land. When the situation changes and that is not available, in some cases that could be seen, as the member for Mitchell suggested, as a planning decision which has led to the betterment of that area, and those people have received through that betterment a benefit. That benefit would accrue to them as it does in planning decisions elsewhere. On the point of principle it is not an open and shut case. We can argue both cases. I accept the Minister's argument, but I am asking the Minister to accept that other arguments of principle would lead him to go in the opposite direction.

The next point concerns the formula being used. It may be that this is the best possible formula, but it is open to question whether people will always be advantaged by the

formula. There may be cases where the formula will disadvantage people. The National Environmental Law Association reviewed this legislation sometime ago. The association states -

> Our concern is with how accurately the proposed statutory formula for calculating the amount of "refund" will reflect the actual increase in value accruing to the owner of land who becomes liable to pay the refund. We suggest that consideration be given to providing that the "refund" should be the lower of the amount calculated by the statutory formula and the actual increase in value of the subject land which occurs as a result of the revocation or reduction of the reservation. However, it also occurs to us that sometimes land may be purchased in the knowledge or belief that a reservation is going to be revoked or reduced and that therefore the increase in value of the land will be factored into the value of the land by the market before the person who will become liable to pay the refund actually becomes the owner of the land. This could result in the land owner becoming liable to pay a refund of compensation value which had never been obtained by that person.

Mr Lewis: That is straight out speculation.

Mr KOBELKE: We are dealing with a commodity in the market. For many people their homes have value beyond that. People are dealing with that commodity all the time. It is a major industry. One needs to reflect on the formula. It may be that the Minister has the best formula available, but the matter is complex and many individual circumstances are involved, whether it be speculation at one end or at the other end people with no reason to leave their house but whose family situation is under pressure because of a planning decision, or a range of different possibilities in between. It is difficult to generalise. I am not sure who will be the winners or losers under this formula; therefore, I raise the questions that have been raised in that legal assessment. Those people are far more capable than I in trying to gauge what the impact will be. What does the Minister see as the financial value to the consolidated fund from this proposal?

Mr D.L. SMITH: The issue raised by this clause is a question of policy and principle. In the end, if the Minister decides to stick by the position, for the reasons that he has outlined, that is what he is entitled to do. Obviously a road reservation is made because someone decides that a road needs to be widened for future traffic purposes. It does not need to happen immediately; it may be a traffic projection over 15 or 20 years. Strictly speaking, if that is the intention of the Government of the day, it should proceed to resume all of that land and acquire it by resumption and add it to the road reserve. However, if we had to do that right through the metropolitan area it would add enormously to the cost, both to the moneys available through the metropolitan improvement fund and to local government, because of the immediate outlay of the money. Instead of doing that and incurring that immediate liability, all we do is propose the road reservation by way of the planning scheme. That leads in some cases to a caveat on the title, but it may just be by way of the planning process. If the landowner applies for a development approval in relation to that piece of land, it will be rejected, and he will then apply for compensation. Many landowners never do that. They have a house on the site and they are quite happy to stay there. They may regard it as a nuisance, but eventually when the Government or the local authority wants to develop the road they will have to resume at that stage. The landowners are quite happy to wait for that to happen and continue using the land as they have always done. The effect of that is that the liability of the Government is spread out over a long period, which is to the advantage of Government and the community.

At some stage in the future it is possible that road width reviews will take place. I have serious concerns about them. To some extent they are driven by people who regard public transport as the only answer and believe that motor vehicles will disappear in time. Some of the road reviews around Perth have gone overboard, and we may be forced to re-impose some reserve in the future as a result.

Mr Lewis: I have a bit of a leaning towards your proposition.

Mr D.L. SMITH: I am not saying that they are all wrong, but it is something we should be approaching very carefully.

Mr Lewis: I agree.

Mr D.L. SMITH: The $90m the Minister referred to is not money outlaid.

Mr Lewis: It is contingent.

Mr D.L. SMITH: It is the estimated ultimate cost of the land if we build those roads in the future. The outlay at present is about 10 per cent of that, if that - who knows? From the time that a road reservation is imposed, especially where compensation is applied for, it encumbers the land, reduces its value and prevents the development of that portion of it. The Minister's view is that because the Government in effect pays the compensation for the identified reserve, it has an interest in the land, and when the reservation is removed, if the owner takes it back free of the reserve, he should compensate the Government. I have no problem with that as a matter of logic. However, I repeat that this retrospective seeking of compensation by the sorts of formulae the Minister has applied tends to act capriciously, and not be equitable in every case. The process is so uncertain in its fairness that I wonder whether it is worthwhile. My proposition was put on the basis that where we proceed to resumption we should keep the land and be free to sell it, and where we do not we should treat it as an aspect of the rezoning process. However, the Minister's argument and the tradition are logical. I worry about where it leads in terms of the pluses and minuses. We should treat resumed land as state land and let the State pick up advantages which may be entailed in its sale at some stage in the future, rather than sell it back to the owner. We should forget about from whom it came and, when we no longer want it for that purpose, how we get it back to the rightful owner. With regard to compensation, it is rather like land rezoning where there any many pluses and minuses in the process. We do not seek to take a share of profits when we rezone land upwards in value. I am not sure we should necessarily take it back from people who have been compensated in the past when we remove encumbrances. It is a philosophical view, but the positions of the Minister and the department are understandable. I do not want to argue beyond that.

Mr KOBELKE: I take it from the Minister's arguing of his case that he is quite committed to this. There is no need to say anything further on that. As I indicated, we do not accept the retrospective nature of this provision which applies where a revocation or reduction in the reservation occurred as long ago as 1 July 1988. For that reason I move -

> Page 10, line 18 - To delete "occurred before 1 July 1988; or" and substitute the following -
>
> occurs before the commencement of the amending section; or

The Minister indicated 11 properties are involved with a historical value of $115 000. We should not go back and change the rules for those people who received compensation, given that many people who have received compensation will have on-sold the properties and, therefore, they are not caught by these new provisions, but those who have retained the properties are caught by them. That is not just and equitable. It is also retrospective because it changes the financial value of the land of those people who made a decision without knowing it could be affected by this approach. That is the reason I move the amendment.

Mr LEWIS: I am not prepared to accept the amendment on the basis of equity. For the people who have been paid compensation, when the reservation is lifted the full value of the property will be returned to them and they will end up with a windfall bonus if they sell it. It must be understood that on the lifting of the reservation those people will not have to pay back to the State Planning Commission the present day value of the compensation. It will only be on the sale. I repeat, the principle must remain that the State Planning Commission has a share in a property, as it were. Forget that it is the State Planning Commission. It might be Joe Bloggs who owns 10 per cent of the property. If it is sold, why should the 90 per cent shareholder take all of it and Joe

Bloggs miss out? He is entitled to his 10 per cent share on the sale of the property. Why is the State any different from Joe Bloggs? It is a simple matter of equity. The State owns a percentage of it; the original owner owns a percentage of it; and on the sale of it the State will get its share back. I cannot see how anyone could object to the equity of that proposition.

Amendment put and a division taken with the following result -

Ayes (17)		
Mr Brown	Mrs Hallahan	Mr D.L. Smith
Mr Catania	Mrs Henderson	Mr Thomas
Dr Edwards	Mr Kobelke	Ms Warnock
Dr Gallop	Mr McGinty	Dr Watson
Mr Graham	Mr Riebeling	Mr Leahy *(Teller)*
Mr Grill	Mrs Roberts	

Noes (24)		
Mr Ainsworth	Mr House	Mr Pendal
Mr Blaikie	Mr Johnson	Mr Prince
Mr Board	Mr Lewis	Mr Shave
Mr Bradshaw	Mr Marshall	Mr Trenorden
Dr Constable	Mr McNee	Mr Tubby
Mr Cowan	Mr Minson	Dr Turnbull
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*

Pairs	
Mr Cunningham	Mr Court
Mr Ripper	Mr W. Smith
Mr Taylor	Mr Omodei
Mr Bridge	Mr Strickland

Amendment thus negatived.

Clause put and passed.

Clause 12: Section 36A amended -

Mr D.L. SMITH: This clause makes it clear that the provision extends to planning control areas as well as reserves. It also makes it clear that it refers not just to areas reserved for some future public purpose, such as a road acquisition, but also to injurious affection in general. Some of these provisions will be most difficult to interpret and apply in the case of injurious affection. However, we have had the argument in relation to the other clauses and I see no reason to persist with it in clause 12.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Section 42 amended -

Mr KOBELKE: I agree 100 per cent with the Minister on this aspect, in that he has the total support of local government for this amendment. Local authorities have been asking for the penalties to be increased for some time and this is quite properly done in the amendment contained in clause 15. Local Government representatives have spoken to me on this subject, and I am sure they have urged the Minister to ensure that the application of fines, particularly those which accrue for each day on which the offence continues, dates from the time of the breach rather than the time of the court decision. At the least, they should apply from the time of the notice given by the local authority that the person is in breach of the conditions of a planning scheme and must take action to comply with that scheme. I can envisage some difficulty in controlling that. The fact that the increase in fines is so hefty will be a big enough deterrent to ensure that people do not disregard the planning conditions. The Minister and I have discussed issues similar to this and it has not always been on amicable terms. Nonetheless, I do not shy

away from the fact that it is useful to mention particular cases, one of which was the construction of a transport depot in Hazelmere. The land is zoned general rural in the Shire of Swan town planning scheme. Under a major amendment - the foothills amendment - it is now in the MRS and zoned industrial. In this case the shire is moving to ensure that its town planning scheme conforms to that. A transport depot belonging to Buckeridge was built on the land. Planning approval was given subject to certain conditions. Those conditions were not fulfilled and, therefore, no building permit was granted. Nonetheless, the depot was constructed and is now operating. The Shire of Swan is taking legal action against the Buckeridge company to have the matter regularised. To date, the company is not willing to meet the requirements of the Shire of Swan. That opens a range of problems with respect to local government and enforcement of town planning schemes. If someone as powerful and as big an operator as Buckeridge can thumb his nose at local government, what will happen to other people who do not meet the necessary by-laws and regulations? It is not good enough that local government does not have the teeth to make people conform to the planning schemes.

It is important that these penalties be increased to a maximum of $50 000, with the daily fine increasing from $200 to $5 000. It has been a problem for local government in the past. Quite often minor offences are involved in which someone has constructed a building in an area that is not appropriate, or is carrying out some activity which is deemed by the council not to be in keeping with its scheme. The council has difficulty enforcing the conditions it lays down in those circumstances. When a major operator who is one of the wealthiest people in Perth, rides roughshod over local government, we must say that enough is enough and deal with the matter. I hope this increase in fines will ensure that people conform to the requirements of each town planning scheme and the conditions set out in those schemes.

Mr D.L. SMITH: Speaking as a backbencher, lawyer and citizen, I find it objectionable that penalties should increase at all, let alone by 2 500 per cent as they have in this case. However, speaking as a former Minister involved in the East Perth Redevelopment Act in which fines of a similar level were imposed, I must be careful what I say. The new penalties should be seen as being for the most serious cases involving the most valuable land, where what is done destroys the spirit of the intention of the planning. I hope the courts will recognise that the higher penalties should not apply to trivial cases where land of little value is involved. I hope they will continue to impose the penalties traditionally imposed in such cases.

Mr LEWIS: Local government indicated that it believed the penalties should apply from the date of the transgression. I am advised that the amendment provides the court with the ability, at its discretion, to impose the penalties from the date of proof of the transgression or otherwise. It has been left in the hands of the court, and we believe that is the proper way to go. Therefore, if the court believes that a person should suffer an ongoing penalty from the date the transgression was proved, the court has that ability to so penalise. That is appropriate. After I explained the situation to local government, generally the situation was accepted.

Mr Kobelke: I do not have the background in sentencing that the Minister and the member for Mitchell may have, but how would the provision apply between the up-front fine for the offence and the fine per day that the offence continues? Where the penalty is $50 000 up-front, and it cannot be applied earlier, would magistrates tend to balance the situation and perhaps make a determination regarding up-front fines?

Mr LEWIS: I presume they would, but the last thing I want to do is presume what any court would hand down as a penalty.

Mr Kobelke: Can the Minister comment on the history of such offences?

Mr LEWIS: I do not have any personal experience in that regard. The member mentioned a situation at Hazelmere - and I must be careful here because this is the first time I have heard about it. The member said that state planning approval had been given. If that is the case, it probably gets back to a local government transgression against a building licence.

Mr Kobelke: My inquiries indicate they are looking to proceed with charges under the Metropolitan Region Town Planning Scheme Act in which the penalties are contained.

Mr LEWIS: I cannot comment. I have answered the member's other questions.

Clause put and passed.

Clauses 16 to 19 put and passed.

Clause 20: Section 3 amended -

Mr KOBELKE: This clause changes the name of the WA Planning Commission in a number of sections in the State Planning Commission Act which will become the Western Australian Planning Commission Act.

During the second reading debate I spoke about the move to ensure that planning goes well beyond metropolitan Perth. I drew some parallels between changes in this legislation and the change that took place in planning in the early 1950s. I do not pretend to be a student of planning history but it appears there is value in drawing parallels. At that time, changes took place which led to the establishment of a statutory regional plan for Perth - the Stephenson plan for Perth as we know it today. The Minister is seeking to institute a statutory plan throughout the State. I will talk about that later. However, it is a major change. I hope the Minister will not misinterpret my comments, but I welcome the extension of a statutory plan out of Perth. However, we have a problem with the way the Minister is doing it, and we will address that aspect later.

We need to look at the development of the State, and the greater emphasis on non-metropolitan areas is welcome, but there is more to it than changing the name of the Act and making provisions for statutory plans in non-metropolitan Western Australia. I hope we will achieve the key objective of growth outside Perth. A range of issues confront us on a daily basis because people are aware that the solution, or part of it, rests in limiting the rate of growth of metropolitan Perth and providing alternative growth areas. If we are to do that we need to emphasise planning outside metropolitan Perth. The Minister said that, and I support him. I hope he will be open to the criticism that needs to be made about the way this is being done. If we do not put in place a range of other matters, these provisions will not be productive. They will not have the desired effect of promoting growth outside the metropolitan area.

Clause put and passed.

Clauses 21 to 23 put and passed.

Clause 24: Section 5 repealed and section 5 substituted -

Mr KOBELKE: The clause deals with the constitution of the commission. Because the Government has the numbers obviously the Minister has the ability to put in place the structure he considers will best serve planning in this State. I do not agree with him. I am not saying that I have a better package, but these provisions will not deliver the goods. They will not improve planning.

The Minister indicated that this is a step back prior to the changes in 1985 when the State Planning Commission was created. There may be a nostalgic value to returning to that time but it does not make good planning sense. The Minister seeks to constitute a commission which will be controlled by the chief executive officers of government departments. The Minister explained the need for cooperation between departments so that they are all trying to kick goals for the same side. We support that objective, but I am not convinced that this is the mechanism by which to achieve that aim. We need overall government policy to drive the various departments and instrumentalities to ensure they realise what are the whole of government objectives. If we adopt a whole of government approach, from the Ministers down to the CEOs, people can work in the same direction and we will minimise departmental rivalry. The approach taken here is to put all of these people together on the State Planning Commission and hope that they will work together. I wish the Minister luck but it will take more than luck to see the various bureaucracies working together. A suggestion has been made in another forum that the way to get bureaucracies to work together is to have middle management spend time

working in the various departments with which they are seen to be in competition. That might be an element in the senior executive service through which we can ensure officers adopt a whole of government approach, so that we have real professionalism which will overcome the petty rivalries between government departments.

The Government will drag out the chief executive officer from each of these departments or instrumentalities and ask them to form the Western Australian Planning Commission. I do not overlook the fact that other people will be on the commission; however, the structure clearly indicates that the controlling factor of the commission will be those chief executive officers. Those officers will have got there because they are people of talent and ability. They generally will have plenty of drive and initiative and will know how to get things done. However, those attributes do not necessarily make them good planners; it does not mean they will have knowledge of the necessary planning aspects for the whole State. They will still recognise the role their instrumentality or agency plays.

The other factor is that they are busy people. There has been continuing pressure on government agencies to produce more with less. This Government has certainly gone too far, but the practice was under way when the Opposition was in government. We tried to increase the efficiencies throughout the public sector. The chief executive officers or their nominees will have the task of managing a government department, and as a part time job the Government is asking them to play a central role in the planning of this State. With so many on the commission the Government will not receive the commitment it would otherwise get from the smaller structure of the five members of the State Planning Commission. They are people who have expertise in a range of areas; who may have come up through government departments or local government; and who have the background in how the system works, but then move to comprise the planning commission for Western Australia. They do not see themselves as having two hats. They should not be in the position of asking whether they are addressing the planning needs of this State, or looking after issues of the roads, the water supply, transport or the environment. I am sceptical that the way the Minister has structured this planning commission will deliver an honourable objective on his behalf.

Mr D.L. SMITH: Clause 24 provides for the constitution of the new commission to be 12 members. Of those 12, a chairperson will be appointed by the Governor on nomination from the Minister. The experience and background that chairperson requires seems entirely unconstrained; it can be any person the Minister chooses, regardless of qualification or background. I would prefer the chairman to have some detailed background and experience in planning. However, under this provision it is completely untrammelled. Five other members are to be appointed by the Governor, two of whom are to be appointed by the Minister. They are to have specific qualifications; however, the list of qualifications is so wide that it includes business management, property development, financial management, engineering, surveying, valuation, transport, housing, heritage, local government or community affairs.

Mr Lewis: Which are all germane to planning.

Mr D.L. SMITH: They are so wide, Minister, that in the end it provides the untrammelled right to appoint another two. Effectively only three representatives of local government will be appointed. I am pleased that one will come from the metropolitan area and one from the country. However, I am not so pleased that the metropolitan person will be chosen from a list of four names provided by the WA Municipal Association. I thought that with respect to the metropolitan area it might have been more appropriate for the person to be appointed on the nomination of the Local Government Association of Western Australia. As a supporter of WAMA in the past, I suppose I should continue my support, despite its current pussyness!

Mr Lewis: I saw the chief topcat tonight.

Mr D.L. SMITH: I do not think any of them could be called a topcat; neutered perhaps!

Four names are also to come forward from the country. I thought that might have been more the responsibility of the Country Shire Councils Association. Again, as a previous

supporter of WAMA I cannot object to that, other than it is four names. I would prefer it to be limited to two names so the Minister will be more constrained in his choice. If he cannot get someone to his liking out of four names, I will be surprised. One is to be the Mayor of the City of Perth. I suppose that has some relevance to the city and the importance of the city area in relation to the whole of Western Australia. It has long been my view that the City of Perth's planning powers should be vested entirely in a separate entity. For that reason I do not believe the mayor should automatically be a member of the commission.

One of the other six members is to be appointed by the regional Minister. I am pleased that that probably means there will be a second country representative; however, I am not pleased in that it presumes the regional Minister will always be that. Each of the regions in Western Australia requires a Minister. I do not know what will happen to this provision when that occurs, as will occur if there is a change of Government. The other five members are to be from the agencies involved in the planning process or the provision of services within government. In effect, if we take the five members who represent those agencies and take the two to be nominated by the Minister for Planning, the one to be nominated by the regional Minister, and the chairperson, we finish up with nine people who will be there at the behest of the Government, and only three who will represent the interests of local government. That is an unsatisfactory balance. The State Government should have the majority; however, it should be more like a majority of seven to five, not effectively a majority of nine to three, as will be created by this legislation.

I remain concerned about the service providers being directly represented on the planning commission. I have no problem with everyone of them being able to have the opportunity to provide advice; however, membership will lead to the Water Authority and those involved in transport having too much say in the final decision. Although I am a great supporter of the Water Authority in general terms, as contributions from consolidated revenue have dried up, it has tended to regard the planning process as a taxing source for itself. We should not encourage too much of that. I fear that might continue to be the case through the approval process in which it will be involved. The issue of who is on the commission and the like will become the responsibility of the Minister of the day and the policy of the Government. They are not matters I will argue too much about. My main criticism is that the balance is nine to three against local government. That typifies the rest of the Bill in which there is a move away from the substantial involvement and control by local government to make it a peripheral player.

Mr LEWIS: The member for Nollamara said that he felt there was a little nostalgia in the model that had been adopted. It is true that I had the privilege to be a member of the metropolitan region planning authority for three or four years. In that regard I saw how a body which had a similar structure to the commission worked. I do not know whether that is nostalgia; however, I do know that the old MRPA served the State very well from its inception in 1959 through to 1985 when it was abolished.

I have also had first-hand experience of being a Minister of a State Planning Commission. The current State Planning Commission has only one member from local government. When I became the Minister I think that was also the fact. Indeed, the commission chairman had had experience in local government, but there was only one serving elected person on that commission. Although local government would like a little more representation, there comes a time to rationalise just how many people are needed on a body. If we give way to everyone who wants a seat we will end up with an unwieldy body with inhibited decision making powers.

I was not being nostalgic when I referred to the model on the basis of my experience; it had to do with how I saw it working. Local government has three representatives, but as the member for Mitchell has said, in the breath of the qualification allowed, the avenue exists for another person from local government to be appointed. I am not saying that will be the case, but the possibility exists. Even the position of chair is open for a person from local government to be appointed by the Governor. This offers a certain amount of flexibility. There are five bureaucrats on a board of 12 people. I agree with the member

for Mitchell that perhaps the person who is the nominee of the Minister responsible for regional development will probably not be a bureaucrat, but rather a chairman of one of the commissions. The balance will therefore be preserved. It must also be understood that a board of 12 offers the possibility of deadlock. Therefore, the chairman must have a casting vote.

We have examined this very objectively. We are trying to draw together the chief executive officers who must be recognised as the pre-eminent people of the respective departments. All of those agencies or departments are particularly connected with the various elements in the planning function. It is very important to have that whole-of-government approach across all the government agencies so that we avoid mistakes when deciding whether an area can be serviced or whether transport is in place or is environmentally acceptable. I am quite confident that the structure will work. The onus is on the goodwill of the good people whom I believe will be appointed. One can have all the best intentions in the world and the purist structure, but with the wrong people, a board will not work. The structure is incidental to the skill of the people appointed.

Mr KOBELKE: I see in the structure of the commission, as a result of the way this legislation is drafted, an iron hand being placed over planning by the planning bureaucracy. I am concerned that power sharing will not be adequate between the WA Planning Commission, local government authorities and the regions. The appointment of a regional representative is left to the Minister responsible for regional development. The legislation which presently covers our regional commissions throughout the State is far better legislation than this Bill, although it is not perfect.

Mr Lewis: The Country Planning Council has never met.

Mr KOBELKE: We are asking the regional Minister to nominate one person for the WA Planning Commission. We have a structure of commissions which cover regional development, yet they do not get much of a look in under this legislation. The Minister can appoint someone, but there is no requirement that that person be a member of one of the regional commissions. With a conspiracy theory one might say this legislation did not have that position until it went to Cabinet. The Deputy Premier, who is the Minister responsible for regional development, may have fixed it up by adding that at the end. If he did, I congratulate him on that small win.

Mr Lewis: It is not true.

Mr KOBELKE: I think the legislation is deficient in not specifying that that person should be a member of one of the regional development commissions so that there is a link to regional commissions outside the metropolitan area of Perth. Subsection (2) provides the conditions that will apply to the representative from the Western Australian Municipal Authority. It says in the next clause that if they do not fulfil all the conditions, the Minister may nominate a person. It does not reflect confidence in WAMA. I realise when drafting legislation that all eventualities must be covered because from time to time bodies such as WAMA may change their name or go out of existence.

Mr Lewis: If WAMA were recalcitrant or wanted to thwart the commission by not nominating a person the commission would not be duly constituted.

Mr KOBELKE: I am really asking the Minister to read the exact words within proposed subsections (2) and (3). I am not saying there is no need to take account of all eventualities, but his own choice of words was that WAMA may become recalcitrant. The point I am making is that we are not treating local government as an important, if not an equal, player in the planning process. It is clearly to be relegated to the bottom rung to fulfil a limited role as dictated by the central planning commission.

Mr Lewis: It has only one member now.

Mr KOBELKE: I am asking the Minister to consider the tenor of the language used in these two subsections. They reflect how the people who think they understand planning, who want to control it, will lay down in the finest detail how everyone will fit in with something that is their preserve. The whole tenor of the provision is that the planning powers of local government are being subsumed into the central planning commission.

Mr Lewis: That is a very long bow.

Mr KOBELKE: We have raised that matter in other parts of the Bill already, and it will come up again. I am asking the Minister to look carefully at that provision in the Bill to see whether he shares my concerns. To me it says that we will not give WAMA the respect which it is due and accept that it has an important role in providing people to this organisation. We will dictate in the finest detail exactly how WAMA will operate and it will have to jump to the tune of the planning commission. Obviously WAMA will meet those requirements because it will want to have someone involved with the Western Australian Planning Commission. However, the tenor of the language reflects the underlying shift in the planning power which is contained within this Bill.

Clause put and passed.

Clauses 25 to 30 put and passed.

Clause 31: Section 18 amended -

Mr KOBELKE: I find this clause very difficult to follow. Subclause (1)(c) inserts a new subparagraph (iii) into section 18 of the State Planning Commission Act. Another function of the commission will be to advise the Minister on town planning schemes under the Town Planning and Development Act, and the amendments to those schemes made or proposed to be made for any part of the State. I am not sure exactly how that extends beyond what already is contained within the principal Act; that is, to advise the Minister on coordination and promotion of urban, rural and regional land use and land development in the State. It is laying down more detail. However, I am not sure how far the implications of new subparagraph (iii) will go. I refer to proposed paragraph (ba) in clause 31(1)(d) on page 22 of the Bill.

Mr Lewis: I am getting confused.

Mr KOBELKE: It is a very confusing clause, and I seek the Minister's help to try to make more sense of it. New paragraph (ba) will be inserted which relates to the matters about which the commission can advise the Minister. I am referring to both the principal Act and the amendment. The principal Act states that the function of the commission is to advise the Minister on certain matters. New paragraph (ba) seems to duplicate what is already in new subparagraph (iii). My main concern is with the first few words of new paragraph (ba), "if matters of State or regional importance". That is casting a pretty wide net. I know local government has some concerns that these terms could be a catch-all; they could encompass a wide range of matters and activities and the power will be considerably enhanced by the use of those words.

Mr Lewis: You had better go back and ask the first question. I did not pick it up.

Mr KOBELKE: I realise it is difficult. Subparagraph (iii) talks about the functions of the commission to advise the Minister on a whole range of things that are already in the principal Act. Some additional things are being placed in this provision on which the new planning commission can advise the Minister. Can the Minister advise why that is necessary? That seems to be largely covered by other areas that are being included. Is there a legal or technical need for those matters to be specified?

The next matter in proposed paragraph (ba) relates to the new matters on which the commission is to advise the Minister. That is an incredibly broad power. Local government authorities outside of the metropolitan area have been critical of this provision. They are a bit dubious about what might be caught up in that provision which will give power to the Minister to dictate a whole range of matters that are presently the preserve of local government. Even if they are not, they may be matters in which local government has a peripheral activity and which it may find the Western Australian Planning Commission will take control of. Subclause (2) seeks to insert new subsection (1a) into section 18 of the principal Act. It states, in part -

> ... the commission shall, in performing its functions ... resolve to prepare a regional planning scheme or an amendment to a regional planning scheme as if it were a local authority ...

I am concerned with the words "as if it were a local authority". Can the Minister advise whether that currently is the case? Under the provisions in this new subsection the commission can act as a local authority outside of metropolitan Perth. What provisions apply to that and in what instances can the commission act as a local authority?

I refer now to the complexity of the planning Statutes. There are a number of major Statutes and an interrelationship between various provisions within all of those Acts. That makes it very difficult for anyone, other than someone with particular expertise, to make sense of planning laws in this State. We have a classic example with proposed subsection (1b) on page 23, which states -

> The provisions of the Metropolitan Scheme Act referred to in subsection (1a) apply to and in relation to a regional planning scheme or an amendment to a regional planning scheme as if ... there were substituted for section 32A(2) of that Act ...

We are saying that the State Planning Commission Act applies in this instance and another Act can be changed to accord with this State Planning Commission Act, but we will not amend any other Act. We are simply saying, "For the purposes of the State Planning Commission Act, this provision works this way; but we can change parts of another Act so that it can be interpreted in the same way as the provisions of the planning Act." I can understand that is a logical construct; but it makes it very difficult to understand the planning legislation. Legislation should be worded so that it can be understood by ordinary people. The drafting of this Bill is the main problem the Opposition has with the Bill. Proposed subsection (1c)(b) on page 25 of the Bill states that the local authority shall, not later than 90 days after the day on which the commission scheme has full force and effect under those provisions, prepare and forward the scheme to the Minister for approval. This is the trigger which gives the Minister the ability to intervene if, after 90 days, the local authority has not fulfilled its requirement to update its scheme. In a previous clause the Opposition expressed concern that three months was not sufficient time in which to bring the town planning scheme into line with the regional scheme. This proposed subsection is similar to the provisions in a previous clause, but it refers to 90 days.

Mr Lewis: It is exactly the same.

Mr KOBELKE: I am puzzled that one amendment refers to three months and another to 90 days.

Mr Lewis: We are following the theme of each Act. The metropolitan scheme Act refers to three months and the State Planning Commission Act refers to 90 days.

Mr KOBELKE: I accept the Minister's logic, but for someone who is a fan of Lewis Carroll's *Through the Looking-Glass* in which there is a great deal of logic, I cannot see any logic in this Bill.

Mr Lewis: One amendment will go into one Act and the other into another Act.

Mr KOBELKE: As Lewis Carroll said: The time has come, the walrus said. I accept the Minister's logic, but he should reflect on the point I made that the planning legislation is in a mess. I can see no reason why members on both sides should not work together to ensure that this State has standard planning legislation. I ask the Minister to explain the points I raised relating to provisions on pages 21 and 22 of the Bill. I also ask him to comment on this legislation implying changes to other Acts which do not actually happen and to further explain the 90 day rule.

Mr D.L. SMITH: This clause goes to the heart of why I, as a country person, am strongly opposed to this Bill. It is under this clause that the Minister has the opportunity to approve statutory regional schemes in the country which will be developed by the commission. I ask the Minister, firstly, whether I am correct in presuming that these schemes can be over any sized area; secondly, that they can be any sized area within a single local authority rather than across several local authority boundaries; and thirdly, that the ultimate power to develop these regional schemes is with the commission rather than the regional committees which will be formed by this legislation. Will a regional

planning committee have the power to develop regional plans, or will statutory regional plans be dependent on what the commission chooses to delegate?

Mr Lewis: It must be understood that this clause relates to areas of state or regional significance; in other words, it must be a pretty important matter. If a council were to feel aggrieved that the State Planning Commission or its regional committee was bringing down a scheme that was not of state or regional significance, regardless of whether it would be over a large geographical area or a specific area and be a purpose amendment for a major resource development, it could be challenged at law.

Mr D.L. SMITH: Am I correct in presuming it can be a very small or major area?

Mr Lewis: As I understand it, yes, but it must be of state or regional significance.

Mr D.L. SMITH: I will come back to that. Can it be totally within a single local authority's boundaries and not across a region?

Mr Lewis: Yes, it could.

Mr D.L. SMITH: Will the ultimate power for the development of these regional plans rest with the commission, with the regional committees having only those powers which the commission may delegate?

Mr Lewis: Effectively, that is right because the commission has the power to put in place the statutory regional committees.

Mr D.L. SMITH: Once the regional plan is developed will the Minister's powers be the same as they are in requiring a local authority to incorporate the scheme within its town planning scheme?

Mr Lewis: Yes, but it would be subject to a state or regional purpose.

Mr D.L. SMITH: Will the Minister explain what he means by state or regional purpose?

Mr Lewis: I refer to the member's area where there are about half a dozen local authorities. In my estimation there is a need for a rationalisation of shopping centre strategy, to identify regional open space, to pay compensation and to identify roads which go from one shire to another, without the need for councils to incorporate within their schemes the regional and strategic intent.

Mr D.L. SMITH: What will happen in the case of a major resort development?

Mr Lewis: I do not know whether that would be regional, but it would not fit the category of state significance.

Mr D.L. SMITH: Is the Minister prepared to say emphatically that developments like resort developments would not be construed as a state or regional purpose?

Mr Lewis: The purpose of this Bill is that if a major resource development of state significance were proposed to be established on a particular site in the north west and a local authority said it would not allow the development, the Government should have the planning powers to override the council's decision and allow the development to proceed. That is what I see as being of state significance.

Mr D.L. SMITH: I still oppose this provision because it will involve a substantial shift of power from local government to the State Planning Commission and the Minister, whether it be this Minister or future conservative or Labor Ministers, and this power may be used by the SPC and the Minister of the day to take over what has traditionally been regarded in country areas as primarily the function of local government. Beyond that, it is clear to me that an improvement tax similar to the metropolitan region improvement fund tax will need to be levied in order to implement these schemes.

Mr Lewis: We are not saying there will necessarily be a tax. We are saying there will need to be a fund.

Mr D.L. SMITH: Yes, and I am forecasting that in country areas there will need to be a new tax similar to the metropolitan region improvement fund tax to fund the acquisition of reserves and the like. In the metropolitan area, 1.6 million people contribute to that

fund so it is possible to share the burden, but we have a large area of land between the two capes in the south west which should be acquired by the State for reasons of environmental protection and preservation. The quality of those assets in my region is such that they are certainly state, if not also national and international, heritage assets. If the cost of acquiring those state assets were to be borne by the small population of that area, it would impose upon them a substantial burden. Will the implementation of these regional schemes and the acquisition of land for reserves and other purposes be funded in such a way that the burden will be borne unfairly by the people in those regional areas rather than continue to be the primary responsibility of the State? The mechanism which applies in metropolitan Perth results in a small levy applying to a limited amount of land which raises $17m to $20m a year and is pretty close to being adequate for the needs of metropolitan Perth, but we cannot raise that amount of money in the areas covered by statutory regional plans without adding substantially to the tax burden of the property owners and residents of those regions. The Minister should spell out what are his current options and what are the amounts he envisages having to raise through those options in order to achieve the objectives of the regional plan. If the State persists with this takeover of local government powers, then the State should take the primary responsibility for funding these new regional schemes.

I have said a number of times that I support the Premier's proposals for the City of Perth. We all know that the cost of that redevelopment, in respect of money expended or proceeds forgone from land and buildings which will be retained for heritage purposes, is likely to be $80m. Although country residents will not benefit directly from that, we believe that should be funded from consolidated revenue because it is part of developing the State's capital in a way of which we can approve, but we also want to ensure that applies to the heritage areas in our region and the service requirements that will be involved in these regional plans.

That applies also to the urban bushland requirements. I note that although we did have a fairly glamorous release about the Government's intention to spend $100m in a relatively short period, last year very little was spent on urban bushland requirements in urban Perth; it was certainly substantially less than was spent in the previous year. I do not see any contribution from consolidated revenue to supplement the metropolitan region fund. I am concerned to ensure that if the implementation of statutory regional plans for the protection and acquisition of areas in the south west and other regions for the benefit of future residents is regarded as a state function, the State continues to bear the majority of the financial responsibility.

Mr LEWIS: I move -

Page 25, lines 16 to 34 - To delete the lines and substitute the following -

(b) the local authority shall -

(i) not later than 90 days after the day on which the Commission scheme has full force and effect under those provisions, resolve to prepare -

(A) a town planning scheme which is consistent with the Commission scheme; or

(B) an amendment to the local authority scheme which renders the local authority scheme consistent with the Commission scheme,

and which does not contain or which removes, as the case requires, any provision which would be likely to impede the implementation of the Commission scheme; and

(ii) within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval under section 7 of the *Town Planning and Development Act 1928* the town planning scheme or amendment prepared by it.

I refer the member for Nollamara to section 18(1)(a) of the State Planning Commission Act, which states that the functions of the commission are, in addition to those conferred upon it by any other written law, to advise the Minister on subparagraphs (i) and (ii) of that section. It is silent on whether the commission has the power to advise on town planning schemes under the Town Planning and Development Act 1928. In other words, while it performs that function now, because it advises me on every town planning scheme which comes across my table, it does not have the power to do so. Therefore, the purpose of this clause is to make it loud and clear that that power does exist.

Proposed paragraph (ba) on page 22 of the Bill provides the Western Australian Planning Commission with the authority to create a statutory region scheme outside of the Perth metropolitan area.

Mr Kobelke: I asked you about the lack of definition in the words "State or regional importance".

Mr LEWIS: I have covered that. The next question the member asked related to proposed subsection (1a) on page 22. I am advised that section 7A of the Town Planning and Development Act gives power to local authorities to initiate town planning schemes. This proposed subsection must be in this Bill because, so that the town planning scheme can be brought down in the same way, it gives that power to the State Planning Commission. It is a technicality to use the provisions of the Town Planning Development Act to give the Western Australian Planning Commission, which is constituted under the Western Australian Planning Commission Act, those same powers.

Mr Kobelke: Does that apply to the metropolitan regional schemes?

Mr LEWIS: No. That is covered under section 35A of the Metropolitan Region Town Planning Scheme Act.

Mr Kobelke: That is the point I am making. You are extending that power to establish regional schemes outside the metropolitan area, but it does not exist in the metropolitan area.

Mr LEWIS: Yes, if a council does not bring down its scheme in conformity with section 35A of the Metropolitan Region Town Planning Scheme Act, the Western Australian Planning Commission can act in its stead.

Mr Kobelke: In that case, the Minister acts in place of the local government authority. In this case, the State Planning Commission acts. Is that correct?

Mr LEWIS: The proponent must be either the local authority or the Western Australian Planning Commission. This gives the Western Australian Planning Commission the power to do these things. I accept that it is complex.

Mr Kobelke: My concern is that, in the complexity, there has been quite a considerable shift in power. We have said that many times and I do not need to say it again. I see this as possibly another move. Because of the complexity, I am seeking your confirmation of it.

Mr LEWIS: I have explained it as best I can.

Mr Kobelke: The other question relates to the construction used on page 23. Proposed subsection (1b) refers to the Metropolitan Scheme Act but there is no such thing. I presume it means the Metropolitan Region Town Planning Scheme Act.

Mr LEWIS: The interpretation in section 3 of the State Planning Commission Act states that the Metropolitan Scheme Act means the Metropolitan Region Town Planning Scheme Act.

Mr Kobelke: I am asking you about the construction used there when referring to another Act to have effect when applying the State Planning Commission Act. I understand the logic. However, it makes it difficult to understand how these Acts work when that construction appears in the drafting of the legislation. Was consideration given to a construction of the legislation which would be more understandable to people who do not have expertise in planning legislation?

Mr LEWIS: Because we want it to be done in the same form and to follow the same procedure as the Metropolitan Region Town Planning Scheme Act provides, rather than bring all of those pages of procedure across into this Bill, it has been done in shorthand.

Mr Kobelke: I understand the logic of it. However, it makes it very difficult for people who take an interest in planning to understand when that is the way it is put together.

Mr LEWIS: Many of these cross-references would go in a consolidated Act. As I said before, it is my goal to try to put in place a consolidated Act in the term of this Government.

Mr Kobelke: The way it is done is to transpose over a minor amendment the provisions applying to the establishment of a metropolitan region scheme to a non-metropolitan area. I have real concerns that what you need to do in regional Western Australia is something quite different. Perhaps you should have looked for an alternative model or a more marked adaptation of the model that is used in the metropolitan area when it comes to meeting the needs of non-metropolitan Western Australia.

Mr LEWIS: As the member probably realises, the full procedures in the Metropolitan Region Town Planning Scheme Act relating to regional planning - that is, advertising, exhibition, hearings, and indeed the whole gamut of what currently happens in the Perth region - are being transposed to regional Western Australia. It was done that way purposely because if it works reasonably well in the Perth region - it works a lot better in the Perth region than people give it credit for - it should work just as well in regional Western Australia.

Mr Kobelke: One problem will be resourcing the work done. Currently, you don't have a large number of planners outside Perth. Do you have any estimate of the extra resources that will be required by the commission and the Department of Planning and Urban Development to take up statutory plans in rural Western Australia?

Mr LEWIS: Since we have come to government, we have increased planning officers in the country by about six FTEs.

Mr Kobelke: That is not the point. Have you estimated what additional resources will be required to put in place statutory regional plans?

Mr LEWIS: The regional statutory committees will come into place. They will be resourced in concert with those local councils, which will develop regional plans. The idea of having council representation, which we will come to later in the clause on regional committees, is so they are owned by the councils within the region and not the people in Albert Facey House.

Mr Kobelke: The rural councils are concerned that they will be called upon to resource them.

Mr LEWIS: That is true. In response to the member for Mitchell, there needs to be a fund.

Mr Kobelke: I am talking about resourcing the planning, not the implementation.

Mr LEWIS: That is what happens in the regions at the moment. The regional improvement fund is used to pay officers for the implementation of statutory regional plans. Although they are officers of Department of Planning and Urban Development their funding comes from the improvement fund. The Government recognises that there must be a fund. How we will structure that or put that in place is something for further consideration; indeed, it will require a money Bill. It will be jointly funded by the councils in the region and the Western Australian Planning Commission.

Mr D.L. SMITH: Statutory regional planning is based on what is called "a matter of State or regional importance". It is not clearly defined, and will be open to the discretion of the commissioner.

Mr Lewis: The member is learned in law. How can we define these things? It is a matter of interpretation.

Mr D.L. SMITH: Yes, but courts are always assisted by definition clauses and expressions by the Minister before a Bill is passed.

Mr Lewis: I have tried hard to explain this to the member for Mitchell.

Mr D.L. SMITH: I have not extracted a sufficiently clear explanation. Ultimately these powers are with the commission, and although the regional committees can advise the commissioner, the extent of any power on their part to develop these schemes is purely a request, not a delegation.

Mr Lewis: Once a regional committee is in place its statutory obligation is to advise the planning commissioner.

Mr D.L. SMITH: Both the obligation and power is to advise; it is not to make decisions.

Mr Lewis: The member is familiar with how the south west committee works.

Mr D.L. SMITH: It works very well because of the powers that have been delegated to it.

Mr Lewis: Why shouldn't that continue?

Mr D.L. SMITH: There is no clear intention on the part of this legislation to allow the development of statutory regional schemes to be the sole responsibility of the regional committee. They are primarily the responsibility of the commission. The role of the regional committees in relation to the statutory plans is purely advisory, and their other powers are as delegated by the commission from time to time. The ultimate power in these matters is with the commission and the Minister. Even if there were some delegation of the powers, that would not prevent the commission still exercising its primary powers; that is, it will not delegate the sole and exclusive power to develop regional plans to the regional committees, but it will reserve to itself and through it the Minister the power to develop these regional statutory schemes.

My second problem is that there has still not been any clear answer on the alternatives and options the Minister is considering for the funding that will be required to implement these schemes. It is obligatory on the part of the Minister when he introduces these concepts, even if he says that taxing and revenue Bills must be treated in a separate way, to tell us what are the various options. I want the assurance that primary responsibility for these matters and for imposing a new charge or tax on residents of the area where the statutory regional scheme is applied should be the State's responsibility.

Mr LEWIS: At the end of the day this Parliament will determine whether a regional scheme is allowed or disallowed. These regional plans will be tabled in this Chamber and be subject to disallowance.

Mr D.L. Smith: Yes, Minister; in the same way as minor and major amendments to the metropolitan scheme are tabled in this place. The Minister knows that it depends on whether the Government of the day has a good majority or whether it has the problematical majority of the previous Government.

Mr LEWIS: It still must be tabled in the Chamber, and the opportunity exists for debate and for a Government to have the Opposition berating it. Currently, the south west committee is operating under powers devolved from the State Planning Commission. The member for Mitchell is suggesting that this legislation is of a lesser statutory power than that which currently exists. I refute that.

Mr D.L. Smith: It is, because of the power to develop regional planning schemes, which the commission does not currently have.

Mr LEWIS: If we have statutory regional planning, this way is better than the way it was done under the member's ministry. We are giving statutory power to regional committees. Surely that is a better lot than that which currently exists?

Mr D.L. SMITH: I am in favour of those committees being given statutory powers. I am not in favour of the fact that the commission will have the actual power to impose statutory regional planning schemes on those regional committees and on local authorities.

Mr LEWIS: That is the policy enunciated in this legislation, and the Government will not withdraw from it.

Mr KOBELKE: The Minister has taken up the point we made and he has also acknowledged that WAMA pointed out that this clause, as brought into the Parliament by the Minister, was clearly not workable. It was not possible for local authorities to bring forward schemes within 90 days. So we have the amendment by the Minister which says that within 90 days a local authority shall resolve to prepare a town planning scheme consistent with the commission's scheme and that it will then be advised by the Minister of how much time it has to complete it. That is a far preferable mechanism to what was originally in the Bill. I acknowledge that the Minister has listened to the advice he has been given. I appreciate that he has brought forward something which is an improvement, but he can still clearly dictate to the local authority. We have this phrase "and which does not contain or which removes, as the case requires, any provision which would be likely to impede the implementation of the Commission scheme". That really says that it will go back to the Minister and if he feels any element is likely to impede the implementation of the commission's scheme, this will give power to the Minister to direct the local authority on that town planning scheme. I see in that a real element of the centralisation of power. That apart, we certainly welcome the amendment the Minister has moved.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 32: Section 19 amended -

Mr KOBELKE: The constitution of my local tennis club or many of my local organisations could do far better than this clause. We have the establishment of a number of committees, which we welcome, but we find that that role comes after membership. No mention is made of how many people will comprise the membership of the committees. We are given just a list of who will make up the membership. It is in very legalistic terminology. No simple description is given, just the people who will make them up and a description of their role. The way this clause is put together again reflects the bureaucratic approach which discourages people from taking an interest in planning. One could discuss at some length the membership of these various committees, but given the hour and the fact that we wish to move on, I will pass over commenting on how the committees are to be put together, other than to say that in the schedule a few pages later on we find that the various regional development commissions' boundaries are to be reflected in those used within this amendment.

Mr Lewis: That is other than the Perth region.

Mr KOBELKE: That is other than with one small amendment. There is to be some regional representation through development commissions, but if one looks at the way it is put together this appears to be an afterthought. The Minister could actually have ensured that it had more significance and a direct membership. One clause reads that when a matter relates to a region, additional members from that area may be brought onto the committee. The person must be nominated by the Minister responsible for those commissions. We could have had a much more direct connection and even the requirement that the person nominated be a member of a regional develop commission. I could make more comment on that, but given the time available I simply put those thoughts on the record.

Mr D.L. SMITH: Clause 32 amends section 19 of the principal Act and introduces a variety of committees known as the executive finance and property committee, the statutory planning committee, the transport committee and the infrastructure coordinating committee. The exact powers and functions of these committees are not described in detail at all except to say that they will have such powers as delegated to them by the commission. Almost the same words are used for the functions and powers of each of these committees. That really means that exactly what each of these committees will be doing will be entirely up to the commission and that they will not in any way have been

controlled by the Parliament by having appropriate criteria for delegation set out in the legislation. One could make all sorts of presumptions about what the executive, finance and property committee will be delegated. One might expect the statutory planning committee to be concerned with statutory processes subsequent to the rezoning.

Mr Lewis: That is its function.

Mr D.L. SMITH: One might generally expect the transport committee and the infrastructure coordinating committee to have the roles their names imply. However, that protection is not given by this Bill. The power to delegate to each of those committees is quite open. Will the infrastructure coordinating committee have responsibility for developing the metropolitan development plan - or whatever the Minister now calls it - each year or will the wider group previously included in the development programs continue to do that without statutory authority?

Mr Lewis: The infrastructure coordinating committee will do that but obviously in consultation with the wider group, but the Western Australian Planning Commission will bring it down. What will be recommended to it will be a resolution of the commission.

Mr D.L. SMITH: As I said before, the role of the regional planning committees is to advise the commission on planning in their region or part of it in which they are established, to make recommendations to the commission on the need for, and the extent and content of, regional planning schemes but not to develop or improve them. They can then perform only such functions as the commission has delegated under proposed section 20. I would prefer to see them directly involved and to have the powers to develop statutory regional planning schemes, if that is what is desired, rather than the power remaining in the State Planning Commission, with the regional committees having the power only to advise and be consulted and to do what is delegated rather than have the absolute power. I am concerned about the make-up of these regional planning committees. The number of persons who can be on them under this legislation appears to be unlimited, because proposed subsection (1b)(iv) reads -

> such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

I understand the need for such a general provision because in some country areas each of the service agencies will be strongly represented, whereas in some other regions that representation will not be as wide or the officers in that region will not be as senior as may be required. To that extent, in some cases the Minister will probably appoint a number of service agencies. In other cases only one or two people may be appointed, or people outside the region may be appointed to do the work. In the end, it is wide open with the result that the commission, with the approval of the Minister, can appoint enough people to outvote all the other people on that regional planning committee. Beyond that, the same number of representatives of local government will be on the regional planning committee, no matter where it is formed. The description of the regions, which mirrors the regional development commissions indicates that they vary from four local authorities in the Gascoyne region, to 13 in the great southern region, 19 in the mid west region, 12 in the south west region and 45 in the wheatbelt. Even though 45 wheatbelt local authorities are involved, only three representatives will be appointed.

Mr Lewis: It is a minimum of three.

Mr D.L. SMITH: It must be no less than three persons, so the requirement is for only three persons from the 45 local authorities that might be represented in relation to, say, the wheatbelt scheme. A better attempt should have been made to examine existing structures in those regions. For instance, the Country Shire Councils Association has various zones in the wheatbelt region, and I would like specific provisions to be included to deal with those zones. That would ensure each of the Country Shire Councils Association zones were represented on the wheatbelt regional committee rather than, for example, the Shire of Northam, the Town of Northam and the Shire of Bruce Rock providing the sole representatives for the entire region. In that sense, the credence given to the views of all local authorities in the regions is watered down. The Pilbara, Peel,

Gascoyne and Kimberley regions are well treated because three local government people will represent four local authorities. The power of the individual local authorities and their influence on these committees will vary substantially. Beyond that, the unlimited power of the commission to appoint members of the committee is a matter of concern. The commission can appoint a person approved by the Minister for Planning, and the Chairman of the State Planning Commission - I do not know why this is referred to as the person specified in section 5(1)(c)(vi) rather than stating his title.

Mr Lewis: I did not draft it.

Mr D.L. SMITH: A further committee member is to be a person approved by the Minister and appointed by the commission as having practical knowledge of and experience in community affairs. There is no obligation for that person to be from the region, let alone any local government being involved in the selection of that person. Another member may be a person nominated by the commission, again not necessarily being a resident of the region. The named people include not less than, but not necessarily more than, three people representing local government. Four persons will be appointed by the Government of the day, through the Minister for Planning or the Minister for the regional commissions. In addition there will be such other people that the State Planning Commission, with the approval of the Minister, chooses to appoint. In the process the interests of local government may be substantially outweighed, as could be the interests of the local community.

The south west planning committee which I appointed, firstly, had no statutory base and relied on the power of the State Planning Commission to delegate. Secondly, it did not have the representation from local authorities in the region, for which I argued. Now that we are moving to a statutory base, we must remember that the committee at Bunbury was a trial group. We wanted to know whether it worked effectively. As this system will be established statewide, I presume the Bunbury model met with the approval of that region and was seen to be effective. I believe these regional planning committees are an ideal way of ensuring that as far as possible they decide what is best for their local communities without too much involvement by or direction from the State Planning Commission. However, under this legislation, the regional planning commission will have only an advisory role in relation to statutory planning because of the way in which it has been structured; the uneven distribution in the number of local authorities; the open-ended power of the commission and the Minister to appoint additional persons to the regional planning committee; and, finally, because the actual powers of that regional commission will be those which are delegated by the commission.

These are deficiencies which do not satisfy me that, either in a policy rationale or regional power sense, these new regional planning committees will be as effective as was the south west regional planning committee. Ultimately, these are questions of policy for the Government of the day, but I hope that in the short time it remains in office, it will continue to monitor these matters and, as required, amend the legislation to give the local people more power to make and control local decisions.

Clause put and passed.

Clauses 33 and 34 put and passed.

Clause 35: Sections 38, 39 and 40 repealed and section 38 substituted -

Mr KOBELKE: Section 39 of the principal Act states that a person who is skilled in town planning shall be appointed in the commission to be the executive director of planning. That is replaced by the new clause that there shall be appointed such Public Service officers as are necessary to enable the commission and its committees to perform their respective functions. No direct reference is made to the fact that the executive director of planning, or someone by another title, will be skilled in town planning. One assumes it will always be the case and, although there may be roles for administrators who do not have a planning background, the office of executive director of planning will remain, under whatever name. That requirement has been removed from the Act. Perhaps in this modern day and age, with the level of professionalism now in the Public

Service, it will not be a problem. Planning is now a well established profession. I do not know when the existing clause was placed in the legislation, but I suspect it was done when it was not easy to attract professional planners to Perth and it was necessary to ensure the person had appropriate qualifications and experience in town planning. It should be noted that the requirement for the person to have that professional standing is being removed by the amendment.

Clause put and passed.

Clause 36: Section 41 amended -

Mr KOBELKE: The clause enables the Minister to delegate powers for a range of professional, technical or other services to be contracted out without requiring ministerial approval. I understand what the Minister is trying to achieve. He feels it is not an efficient or modern practice for a range of minor matters to require ministerial approval. I support his move. My concern is that we are leaving the door open for the system not to be accountable. There needs to be a requirement for the Minister's directions to be reported. Is it currently a requirement that all such matters appear in the annual report of the commission? If not, what procedures are available to ensure an acceptable level of accountability when the Minister delegates powers, allowing the department and the commission to contract out services to consultants?

Mr LEWIS: The member is correct. The clause will remove minor matters and contracts which the Minister must approve. The Minister may give directives to the WA Planning Commission that all contracts over a certain monetary value, in particular categories, would need to be referred - and others would not. It is up to the discretion of the Minister.

Mr Kobelke: Currently, must all such directives be reported publicly in the annual report or by some other method?

Mr LEWIS: Currently, all such contracts need my approval.

Mr Kobelke: When the amendment is in force will it require that instructions or delegations by the Minister be reported publicly?

Mr LEWIS: I am advised, no. It gets back to the integrity of the commission. It is a body of 12 good people. The commission will operate under the Financial Administration and Audit Act and all the other requirements of government or state administration. If the Minister has not set a threshold on the ability to enter contracts, the commission will carry out its duties in a competent, honest and accountable way. The matters that do not fall within that category will go to the Minister in the normal course of events.

Mr D.L. SMITH: Does the Minister intend to include in the annual report a list of the powers delegated to the various committees? Does he intend to table that information in Parliament or provide it in some other way?

Mr LEWIS: I am informed that such delegations must be gazetted. The member may recall that.

Mr KOBELKE: Will the Minister consider an amendment requiring that all written advice by the Minister be reported in the annual report of the commission? In one year, the Minister may say that contracts up to $50 000 can be let by the commission without ministerial approval. They would appear in the annual report. At another time, the Minister may increase or decrease that limit. That would make the system accountable because we would know to what extent contracts could be let by the commission without ministerial approval. Will the Minister accept such an amendment?

Mr LEWIS: I am not prepared to accept the amendment. My understanding is that the Financial Administration and Audit Act requires that whenever a direction is made to the Western Australian Planning Commission on such matters, that will be recorded. That is my understanding off the top of my head. Perhaps the member for Mitchell may recall the requirement.

Mr D.L. Smith: It depends on the requirements of the Burt Commission on Accountability whether that is included in the annual report.

Mr LEWIS: The normal procedural manuals will operate. There is nothing sinister here.

Mr Kobelke: We should have proper and accountable procedures.

Mr LEWIS: What else would a conservative Government want?

Clause put and passed.

Clauses 37 to 52 put and passed.

Clause 53: Section 7 amended -

Mr D.L. SMITH: My primary concern relates to the powers of the Minister in proposed subsection (2a), which reads -

> The Minister may, in relation to a town planning scheme or amendment submitted to him under subsection (2)(b) -
>
> (a) approve of that town planning scheme or amendment;

I have no problem with that. It continues -

> (b) require the local authority concerned to modify that town planning scheme or amendment in such manner as he specifies before that town planning scheme or amendment is resubmitted for his approval under this subsection;

My concern is that the power to direct local authorities to modify may be another vehicle for the Minister to take over the powers of the local authority to initiate rezoning. That is of special concern for country areas. The Minister's third power is to refuse to approve that town planning scheme or amendment. I have no problem with the approval or refusal, but the power given for the modification of the scheme or the amendment is so wide and so untrammelled it gives the Minister substantial discretion.

Mr Lewis: That happens now. The member did it many times, when a Minister.

Mr D.L. SMITH: It may be what happens, but there was no clear statutory power in the past. It has not been an untrammelled power such as the clause seems to envisage. My worry is that the framing of this provision again involves a wider power than that possessed by previous Ministers.

Mr Lewis: The member knows that by convention, over different Governments and a range of Ministers, this has been happening for years.

Mr D.L. SMITH: It has been happening for years to a greater or lesser extent. My concern is that the statutory expression of what has been the convention for a long time is so untrammelled that it not only gives the Minister the power to deal with the amendment that is before him for approval, but also enables him to go outside that and add matters which go well beyond that which might have been envisaged by the previous powers - powers which have been exercised more by convention and practice than their having a clear legislative base.

Clause put and passed.

Clauses 54 to 56 put and passed.

Clause 57: Section 12A inserted -

Mr KOBELKE: The Opposition welcomes the move to notify on titles that land is subject to some hazard. However, it is concerned that the full impact and the processes involved have yet to be explained by the Minister. The general thrust of the clause has merit; however, it opens up a range of questions on which I hope the Minister will shed some light this evening. Other methods of vendor disclosure could be used to achieve the same end. Why is this approach the best, and how will it work? Who will be called to provide the information on the new lots which are to be subject to such a notice? Is local government to play an important part in that? If so, does that mean that liabilities could

accrue to local government if errors were made, or if people felt they had suffered injury from that land and the notification did not protect their rights?

A range of issues about indemnity and liability must be addressed. One person has indicated that his legal opinion is that no indemnity against liability would flow from this notice on a title, whereas others have expressed concern that it could mean that various liabilities may or may not follow from notification. It is a wide open question. It is a matter which the Minister must clarify so that people will clearly understand the role to be played by such notification.

The potential for confusion also exists for councils which already have their own method of notification for hazards on certain lots of land. If councils were to continue to issue their own notification, that could be confused by the notices placed by the commission. Is there to be the potential for a dual system? If so, how does the Minister view that, and what action, if any, does he propose to take to ensure that any confusion is removed? What is the procedure for the removal of such notices? No appeal provisions are contained within the Bill. When a dispute about notification occurs, the method of resolution may be through the courts. For landowners that may be an impossible situation. The legislation does not provide any mechanisms to deal with conflicts that may arise. Will the Minister give an indication on the legal comparison of such notifications with caveats or memorials, which are different legal instruments? Where does this instrument sit in the range of legal instruments available on titles?

Dr WATSON: I take up where the member for Nollamara left off with examples of subdivisions in my electorate which I fear may be contaminated, and to establish whether this clause will protect future buyers. Recently the Minister became involved with issues over the Felspar Street incinerator. There are two issues to that matter: One is the emission from the chimney stack which has been a source of air pollution in Welshpool and its surrounds for too long. The other is the contamination of the ground - the soil and perhaps ground water - with polychlorinated biphenyls. I will deal with the issue of emissions first.

The Minister recently became involved in the matter through the need for a planning approval by the owner-operator of the incinerator. The recommendations of the ministerial inquiry into this incinerator's operation recommended, among other things, that an acid gas scrubber be inserted into the old burner and that there be a 500 metre buffer zone between the incinerator and residential housing. It is my understanding that it was easier for the owner to offer to install the acid gas scrubber into his incinerator for which he would need a planning approval, rather than to install a new burning method for which he would need environmental approval. He made the decision to go for planning approval, which was refused by the City of Canning; however, on appeal to the Minister for Planning, his appeal was upheld.

A number of matters are related to this issue. The thing that hurts me the most is that it has gone on for years. Before the last election it was to be investigated and dealt with, but it has gone badly off track. It should not be up to the ordinary people who live in housing in that area to have to persuade the Government to the point that they have had to go to the Ombudsman because the Environmental Protection Authority refuses to take their calls.

This kind of waste management is not appropriate for the metropolitan area. Wattle Grove on the south side of that incinerator and the area directly adjacent between that and Roe Highway is to be opened up for residential housing. Will the people who buy into that subdivision be told about the hazards emitted by the incinerator? Furthermore, will it be on their title or deed that the soil has been contaminated with polychlorinated biphenyls?

Just last week I asked the Minister for the Environment about the levels that had been recorded from PCB testing. I understand that the National Health and Medical Research Council recommends that once testing identifies a measurement of 1 part per million of PCBs there should be investigation and evaluation. The early test done at the insistence of Greenpeace and a community group demonstrated 171 parts per million. The Minister

told me that it varied between, I think, 2 and 11 parts per million - I am not certain of that - but the measurement to which he referred was much lower than 171 parts per million. Nevertheless, it is above 1 part per million.

In the light of those facts and considering the protections that will be included in the Act, I have some questions further to those of the member for Nollamara. This proposed section will apply when the planning commission considers it desirable that owners or prospective owners be made aware of hazards or other factors seriously affecting the environment. How will the commission make that decision? On whose authority and on whose advice? Will there be a systematic collection of that sort of information? For how long will the information remain on the title or deed? I notice in subsection (4) that the commission may at some time after the notification has been deposited request that the notification be removed. I can understand that if the incinerator is moved that will no longer be valid, but in this case there is also the possibility of PCB contamination, which the Minister will understand does not biodegrade. In any case, if the soil were to be removed completely there is still the question of groundwater contamination. I have four areas I can readily recall in my own electorate where this could apply and I am sure all members have similar areas in theirs.

Another matter concerns the clay foundations of a large subdivision in the suburb of Kenwick. A new subdivision has had its infrastructure established in preparation for building. The houses in the street parallel to the street it will run-off and the streets running at right angles to that all have cracks up to three inches wide in their walls, between their ceilings and the top of the wall, between the walls themselves and sometimes in the architraves of windows and inside arches. I hope that the group of constituents and I are dealing with their problems in an appropriate manner. They will be seeking expert engineering and legal advice. Will those people in the new subdivision who are buying houses opposite those houses where these faults have been identified know that the area was developed on clay ground soil on top of a swamp? It is a huge issue and these are working people who are investing in new houses. It is not a flash suburb.

The CHAIRMAN: Order! I have been listening for some time and I can understand the sincerity of the issues raised and the need to address problems of that nature, but I am wondering when the member is going to address clause 57. We are debating whether that should be printed. The member has had sufficient lead in. Maybe the point has been made, but it is my job as Chairman to keep people reasonably close to the point.

Dr WATSON: With due respect, the Chairman's attention may have wandered in the beginning. I was following on from the comments made by the member for Nollamara to illustrate the questions he had asked about how such notification of hazards will be put on the titles. I referred to examples in my own electorate where four instances readily came to mind, two of which I have just described. I am happy to leave it at two. Will people who buy into the new subdivision in Kenwick be told that because their subdivision has been built on the same swamp and clay underlay that they face that risk? Those questions are very relevant to clause 57.

The CHAIRMAN: Order! The questions are, but I think the member was wandering into the issue in depth. The questions she has just raised are very appropriate.

Dr WATSON: I wanted to make sure the Minister understood. How will the commission obtain its evidence? The lies put to the Felspar Road group have been lies of omission. Government departments have not made information available to those people. The Environmental Protection Authority has now said that it will not take their calls. The residents have had to approach the Ombudsman. If the EPA will not disclose to the Western Australian Planning Commission that kind of information, how will people be protected? Where will that information come from? With all due deference to you, Mr Chairman, whether I refer to the other two issues will depend on how the Minister responds to these issues.

Mr D.L. SMITH: I have three or four concerns with the proposed section. The first is that it does not appear to be capable of any retrospective effect.

Mr Lewis: That is right.

Mr D.L. SMITH: It will apply only to plans of subdivisions or strata schemes which are developed in the future. If that is to be the only case where these new records can be noted on the title, my concern is that they will be used as some sort of substitute for refusal. If the commission has a real concern about a hazard or some factor which will affect the use and enjoyment of the land, the rezoning simply should not occur. I worry about how this will be used for land which might be flood prone or too close to a poultry farm or a fuel depot and residential planning will still be agreed to, but an opportunity will be given to warn the buyers of the hazards on those lots that have been approved. I do not consider that to be an appropriate use of these sorts of provisions. If there are dangers or problems that impact on the use of that land, we should not allow that land to be zoned for that use.

In the past planning process mistakes have been made. From time to time residential subdivisions are approved that are too close to poultry farms or are allowed on areas which later appear to be flood prone or are found to be unstable. When we become aware of that, we should attempt to do one or two things. We should either try to record on the title the fact that that land, although it is already zoned for that purpose, is flood prone, for instance, and that buyers should be aware of that when they purchase the land, or we should try to include in the town planning scheme some specific zoning which would indicate to people that this land is zoned residential but has certain problems.

Planning mistakes have been made in the past for the reasons I outlined about the East Bunbury area, where a major problem has been created by the fact that residential land, some developed and some undeveloped, is on an area that is flood prone. We will finish up with differing fill heights and different parts of houses that have differing fill heights underneath them. Those situations need some immediate means by which future buyers can be told what they will be confronted with if they buy the land. That should be through some planning process or through some record on the title.

When that occurs there should be some understanding that at that stage those who have the land, if the title for that land is noted with some kind of defect or hazard in terms of land use - whether it is by record on the title or under the planning scheme - should be entitled to claim some form of injurious affection because effectively the land has been devalued through the planning process by that notification. The problem always is that local authorities tend to shy away from including such warnings in their schemes by way of amendment to existing schemes. They fear it may lead to some claim for injurious affection. Nonetheless where it is clear that a problem has arisen from the planning process, there should be some obligation on the part of the State to pick up the cost of that planning mistake. That should be in terms of the depreciation in the value of the land with which those landowners suddenly find themselves. Beyond that, in terms of its applying in the future, I raise the question of what it means to the indefeasibility of title that I raised during the second reading debate.

We need to recognise that these new records of conditions on title will constitute some reduction in the nature of full title. They will constrain to what use the land can be put or place the owner or the purchaser of that land in a position where that buyer will be able to use the land in a way which results in loss being suffered because of the nature of the hazard. That is starting to encroach upon what has been regarded as the advantages of the indefeasible title system.

In the second reading debate I said that I had come to the conclusion that it was worthwhile encroaching on the indefeasibility for the benefit that we were trying to achieve; that is, people should be aware of these problems when they buy land. With the present land information systems we should be able to merge the title details and the other information we know about the land so that potential purchasers, when they are searching the land, know not only what they are getting on the title - the size and the location of the land - but also what are its zoning and other advantages and disadvantages.

The way this clause has been framed makes me concerned about whether, rather than

facing up to fair compensation provisions in these sorts of situations, the commission is leaving itself open to future claims by land purchasers. For instance, if a subsequent buyer of a new lot created after this Act comes into operation, could establish that there was some hazard associated with the land which the commission should have identified in the planning process and included a warning on the title, and that it failed to do so, the commission might be able to be sued in an unlimited way for its neglect in not ensuring that that was on the title.

My preferred path would have been to include some new provision in this clause that exempts the commission from any liability for not including a notice in appropriate cases, but including a general right of compensation which was defined where some kind of planning mistake leads to a devaluation of the land while it is held by the landowner. In essence, I believe the kind of record of condition of title about which we are now talking unfortunately will be used to allow rezoning to take place in cases where it is inappropriate.

At this stage we should have experimented with a record on conditions of title in a retrospective sense by seeking out those situations in Western Australia where there has been an obvious planning mistake and where there is a defect in terms of the land being able to be used for the purpose for which it is zoned. That should be done by way of encumbrance on the title. If we do that, we should understand that it will lead to the devaluation of some land and we should have some scheme to provide a form of compensation that is appropriate or some mechanism for compensation being allowed in those situations, if not against the State Planning Commission or local authority, perhaps giving a right that takes some action against the person who sold the land or who developed it originally, without necessarily bringing the liability back to the commission. It is an interesting concept and, frankly, I have argued for it in retrospective planning mistakes. I do not support it in its current form because it is prospective and it will give notice in situations where planning approval should not be given at all. The best way to deal with those cases is to refuse approval and leave the land as it is.

Mr LEWIS: Members opposite misunderstand the intent of this clause. The power only exists for the State Planning Commission or its standing committee to put a condition of approval on the subject land which is before it for subdivision or otherwise on a strata application. In that regard only the titles emanating from that development can have that record placed on them. This clause is prospective, not retrospective. It has purposely been drafted in that way. A proponent may be aware that the land in which he is interested is within an aircraft noise contour. It is probably acceptable that people can live under those conditions because that sort of thing happens on every day of the year in every country of the world.

People should be made aware of this so that they do not voice their disapproval after they have purchased the land. An example is the subdivision in Jandakot which has infrastructure of approximately $400m or $500m. People in that area are now saying that the Jandakot airport should be relocated. When they bought the land in that subdivision it would have been better if they had been made aware that the area was affected by low flying aircraft. Another example is the unexploded ordnance at Safety Bay. The area in question was an artillery range during the last war and millions of dollars have been spent by the State and Federal Governments to clear that ordnance. No-one can safely say that every shell has been removed or exploded. This clause does not provide any indemnity if there were to be an explosion. It is a case of caveat emptor.

Dr Watson: How would someone know about a PCB contamination?

Mr LEWIS: I accept what the member is saying.

Dr Watson: We know that now.

Mr LEWIS: Between 18 or 20 referral agencies will be asked for their comments on each application and the State Planning Commission or its delegated standing committee will consider the responses. If a response from the DEP or the local authority is that a poultry farm is in close proximity to the particular area and in certain weather conditions

people will be subjected to an unpleasant odour, the State Planning Commission may approve the development on the proviso that a notation to that effect goes on the title. I will not get into the reasons why I upheld the Felspar Road appeal. It is not proper for me to argue those reasons now.

Dr Watson: The recommendation in the inquiry was that no incinerator should be within 500 metres of the area.

Mr LEWIS: There are buffer zones in the area. The Environmental Protection Authority may say that it was there before the houses were built and there is nothing within the 500 metre buffer zone. If the local authority and the State Planning Commission thought it appropriate that housing be established there, the titles should show that from time to time the local residents would be inconvenienced. That is the intent of this clause and no liability attaches to it. The clause does not say that the commission shall -

Dr Watson: It says "may".

Mr LEWIS: It does not even say that. It states "considers it desirable". It comes back to a test of integrity and how the State Planning Commission exercises its responsibilities. One hopes that it would exercise them properly.

Dr Watson: So should all other departments.

Mr LEWIS: The State Planning Commission cannot do the work of local authorities, the DEP or other departments. They must also properly exercise their responsibilities. I hope I have explained how this clause is intended to work.

Dr Watson: So it will be both retrospective and prospective?

Mr LEWIS: No, it is not retrospective. It applies only to future proponents' applications that may fall, for example, within an industrial buffer and the wisdom of the approving authority may be that under normal circumstances it is reasonable, but from time to time under an inverse atmospheric layer there will be some inconvenience. The commission may say that the situation is tolerable, but people must know about it.

Clause put and passed.

Clause 58 put and passed.

Clause 59: Section 18A inserted -

Mr KOBELKE: This clause underpins the increased powers that go to the Minister for Planning under this Bill. If the Minister is satisfied that a local authority failed to comply with the provision of two sections of the Town Planning and Development Act, he can take certain action. Clearly, there is a guideline which determines the extent of that power, but there is a fair degree of room to move and it gives the Minister the power to decide whether an authority has failed to comply.

Mr Lewis: This comes back to the problem the previous Minister had with the City of Cockburn. It refused to finalise its scheme. Notwithstanding that the legislation said that it must comply, there was no mechanism to force it to do so. This is a reserve power.

Mr KOBELKE: I accept that. Under this clause the Minister will judge whether the local authority failed to comply. I suggest it may not always be an open and shut case, but the Minister will be the arbiter of it.

This clause applies to sections 7AA and 18 of the Town Planning and Development Act. Section 7AA deals with the required fifth year review of a town planning scheme and section 18 deals with the obligation on a local government to prepare or adopt a scheme. If the Minister is satisfied that a local authority has failed to comply with a provision of section 7AA or 18, the Minister may serve notice in writing on the local authority specifying the relevant provision and the manner in which the local authority has failed to comply with it; specifying a period which is not to be less than 90 days within which the local authority is required to comply with the relevant provision; and advising the local authority that the Minister intends to exercise the powers conferred upon him if the local authority does not comply with the relevant provision within the given period. The

Minister will then have the power to act as the local authority and to charge all costs and expenses to that local authority by either recouping the money from it or deducting it from payments made to the council from government revenue.

I accept that there are times when a Minister will have to take on a council and pull it into line, but the problem is that the Minister will now have a direct and ready process whereby he can act as a local authority.

Mr Lewis: Only in default.

Mr KOBELKE: I have said that. The point I am making is that that will influence the whole planning process. If the Minister does not use his powers carefully, selectively and in a way which is seen not to be threatening to the planning powers of local government, the whole system will tip very much towards the centralisation of power and the undermining of proper planning processes. There must be a partnership between the State Planning Commission, the Minister for Planning and local authorities. There will always be a balancing act. I am not suggesting that any government ever gets it perfectly right, but I am concerned that if the Minister cannot put this into effect in such a way that local government will be comfortable with and have confidence in his actions and uses the provisions of this Bill in a heavy-handed way to dictate to local government, it will be a backward step in the planning processes of this State. This is a crucial clause of the Bill because it will give the Minister power to override local authorities, and it goes too far.

Mr D.L. SMITH: This is yet another clause of this Bill which shifts the balance of power from local government to the Minister of the day. Clearly, it is an untrammelled power because if the Minister believes a local authority has failed to do its part, he may exercise the powers of that local authority and require that authority to pay for the cost of his so doing. This is a new power -

Mr Johnson: You used that power to override the Wanneroo City Council.

Mr D.L. SMITH: It is similar, but when I exercised that power, the member for Whitford and other people in the community objected to it. If the member had any integrity and persisted with the views which he expressed at that time, he would vote against this legislation because it will give the Minister of the day more power than I ever had. If the member was concerned about my behaviour then, he should be extremely concerned about this legislation. We know that the member was just playing politics then and he is just playing politics today because he is interested in only the political implications of what he is saying and not the public interest.

Members opposite should consider that the Minister of the day may not always be a person of their liking, and, in that sense, if they have any real concern for community and local government views they would vote against not only this clause but the whole Bill.

Mr LEWIS: The member for Nollamara put a question on notice which was answered on 27 October. We are all aware that some councils have planning schemes which are over 20 years old.

Mr Kobelke: Is this the answer to the question? I have not received it.

Mr LEWIS: The member has received it. Of the 125 town planning schemes that exist in the State of Western Australia, 12 are over 15 years old, 33 are over 10 years old and 45 are over five years old; in other words, 90 of those 125 planning schemes are out of time in accordance with the requirements of the legislation, which has existed since 1928. I do not mind if a council scheme is five years old, and it is probably all right to have it reviewed within 10 years, but to have a scheme which is more than 10 years old is over the top. Some councils just cannot be bothered to have a review, and as the former Minister, the member for Mitchell, would know, the Minister of the day currently has no power to tell a council to do the right thing by its constituents and bring its town planning scheme into conformity with modern day requirements. The intent of this clause is to bring a discipline to those councils which currently are out of time.

Clause put and a division taken with the following result -

Ayes (26)

Mr Ainsworth	Dr Hames	Mrs Parker
Mr C.J. Barnett	Mr House	Mr Pendal
Mr Blaikie	Mr Johnson	Mr Prince
Mr Board	Mr Kierath	Mr Trenorden
Mr Bradshaw	Mr Lewis	Mr Tubby
Dr Constable	Mr Marshall	Dr Turnbull
Mr Cowan	Mr McNee	Mr Wiese
Mr Day	Mr Minson	Mr Bloffwitch *(Teller)*
Mrs Edwardes	Mr Osborne	

Noes (19)

Mr Brown	Mrs Henderson	Mr D.L. Smith
Mr Catania	Mr Kobelke	Mr Thomas
Mr Cunningham	Mr Marlborough	Ms Warnock
Dr Edwards	Mr McGinty	Dr Watson
Mr Graham	Mr Riebeling	Mr Leahy *(Teller)*
Mr Grill	Mr Ripper	
Mrs Hallahan	Mrs Roberts	

Pairs

Mr Court	Mr Bridge
Mr Omodei	Mr M. Barnett
Mrs van de Klashorst	Mr Taylor
Mr Shave	Dr Gallop

Clause thus passed.

Clauses 60 and 61 put and passed.

Clause 62: Section 24 amended -

Mr D.L. SMITH: The intent of clauses 62 and 63 is to set time limits on the commission for it to do its work. In effect, if the commission does not do its work in the 90 days after receiving a notice of the kind envisaged in clause 63, the Minister can give the approval and take over the commission's role. Most of our comments tonight have been about local government's role in the planning process being reduced in favour of the State Planning Commission and the Minister. These two clauses deal with the transfer of power from the commission to the Minister.

While I have no doubt that that might be appropriate in some cases, to leave it in the power of the applicant in the sense that it is the applicant who issues the notice and then it is referred to the Minister, is a dangerous precedent. There are some planning issues on which the commission needs to take additional time. In that sense, I think the provision in clause 62 to extend the time that it has to do things is appropriate for a limited period. However, I do not think the sort of power conferred in clause 63 is appropriate.

Mr LEWIS: The intent of clause 62 is that, if an applicant does not appeal within the 60 days after the 90 days, he loses his right of appeal. This clause intends to allow the applicant that right of appeal, notwithstanding the 60 day period after the 90 days, until the conditions of the application are considered.

Clause put and passed.

Clause 63: Section 26 amended -

Mr D.L. SMITH: The comments I made on clause 62 apply to this clause and I ask the Minister to explain the intent and effect of clause 63.

Mr LEWIS: All this clause does is make it clear that, after 90 days, the applicant can give notice of default, which triggers the right of appeal.

Mr D.L. Smith: I do not think that is appropriate. It goes too far and gives the applicant and the Minister too much power to override the commission.

Clause put and passed.

Clauses 64 and 65 put and passed.

Clause 66: Section 40 amended -

Mr D.L. SMITH: What is the intent and effect of this clause?

Mr LEWIS: Currently the Act is deficient because there is no ability to refer strata titles to the Town Planning Appeals Committee. The intent of this clause is to give the TPAC the power to make recommendations to the Minister.

Clause put and passed.

Clause 67 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

MR LEWIS (Applecross - Minister for Planning) [10.59 pm]: I move -

That the Bill be now read a third time.

MR KOBELKE (Nollamara) [11.00 pm]: I will make two brief points in summing up on the third reading. I contended during the second reading debate of this Bill that it was a major shift to the centralisation of planning with the planning commission and the Minister. As we have gone through some of the clauses in the Bill that has become evident not only in the provisions contained in the Bill which have given considerable power to the Minister and reduced the power of local government, but also in the way in which the clauses have been worded and the expressions that have been used. One simple way was the detailed provisions that have been laid down, so the Minister and the commission will detail to the Western Australia Municipal Association how it will make appointments. That is one of many cases where the presentation of the Bill clearly indicated bureaucratic concentration of power. That overrides the positive aspects the Opposition was happy to support.

The second point is that in the second reading debate I claimed it was totally impractical to require a council to put in place a town planning scheme within 30 days of a regional scheme being brought down. It is simply not possible in many cases for that to be done. We recognise that the Minister has taken account of that, and the two amendments which he moved put in place a set of provisions which enable a decision to be made within 30 days and for a council to start work on a town planning scheme, and the period for completion will be dictated by the Minister. Although that is not necessarily the best way to go, it is a workable solution and a vast improvement on the Bill that the Minister introduced.

Those two points reflect that the degree of consultation which the Minister undertook was not adequate. Although he met with people, it was not effective. The Bill clearly shows that if proper and thorough consultation had taken place using the expertise of planning both local government and throughout the State, we would not have had these major flaws in the Bill. We are thankful we have made some progress in improving the Bill, but if falls far short of what the Minister should have brought forward.

MR D.L. SMITH (Mitchell) [11.03 pm]: I said in the second reading debate that if I were still Minister for Planning and I were able to get this legislation through this place with so little opposition, I would have thought all my Christmases had come at once. This legislation gives untrammelled power to the Minister and the commissioner of the day. It has substantially moved power away from local government to the State Government and the Minister of the day.

Some people on the opposite side may accept that in the circumstances of the current Minister, but I ask them to remember that after Christmas one of their other colleagues might be the Minister for Planning, or in two years' time somebody from this side of the House, whom they may not find quite as acceptable. If that is the case and members

opposite are the least bit concerned about the role of local government and local communities in the planning process, they should be concerned about the passage of this legislation, and the way that it has gone through tonight.

Question put and passed.

Bill read a third time and transmitted to the Council.

BILLS (3) - RETURNED

1. Electricity Corporation Bill
2. Gas Corporation Bill
3. Pawnbrokers and Second-hand Dealers Bill

Bills returned from the Council with amendments.

House adjourned at 11.05 pm

QUESTIONS ON NOTICE

LANGUAGE SERVICES POLICY - GOVERNMENT DEPARTMENTS AND AGENCIES, IMPLEMENTATION

1512. Mr BROWN to the Attorney General; Minister for Women's Interests; Parliamentary and Electoral Affairs:

(1) Has the language services policy of the Government been fully implemented in each of the departments and agencies in the Minister's portfolio?

(2) What funds have been specifically allocated for the implementation of the policy in each department and agency?

(3) Have funds for the effective implementation of the language services policy been increased in the 1994-95 budget and if so, by what amount?

(4) What funds and resources were allocated to the implementation of the language services policy in the -

(a) 1992-93 financial year;
(b) 1993-94 financial year?

Mrs EDWARDES replied:

(1) To ensure that government services and programs are accessible to all Western Australians the language services policy was introduced. This requires that all public sector agencies develop and implement a language service strategy, which is appropriate to their needs and those of their clients. Agencies' operational and budgetary responses to the language services policy are tailored to suit their particular responsibilities and vary according to clientele or whether they are involved in service delivery or policy advice.

(2) Ministry of Justice: $95 000

WA Electoral Commission: No funds have been specifically allocated for implementation of the policy. However, the commission has produced multilingual information pamphlets on voting rights and procedures and encourages the employment of multilingual polling officers during elections.

Equal Opportunity Commission: The commission has had no funds specifically allocated to the implementation of the policy. Money from funds allocated for services and contracts is used on an as needs basis for interpreter services.

Law Reform Commission: The commission's languages services plan, executed in accordance with the policy, provides for resort to interpretation services where necessary. Specific funds are not set aside for this purpose, but funds, if necessary, would be drawn from the miscellaneous contracts allocation.

(3) No.

(4) (a) Nil;
(b) $99 000 (Ministry of Justice).

LANGUAGE SERVICES POLICY - GOVERNMENT DEPARTMENTS AND AGENCIES, IMPLEMENTATION

1513. Mr BROWN to the Minister representing the Minister for Finance; Racing and Gaming:

(1) Has the language services policy of the Government been fully implemented in each of the departments and agencies in the Minister's portfolio?

(2) What funds have been specifically allocated for the implementation of the policy in each department and agency?

(3) Have funds for the effective implementation of the language services policy been increased in the 1994-95 budget and if so, by what amount?

(4) What funds and resources were allocated to the implementation of the language services policy in the -

(a) 1992-93 financial year;

(b) 1993-94 financial year?

Mr COURT replied:

The Minister for Finance; Racing and Gaming has provided the following reply -

(1) To ensure that government services and programs are accessible to all Western Australians, the language services policy was introduced. This requires that all public sector agencies develop and implement a language service strategy, which is appropriate to their needs and those of their clients. Agencies' operational and budgetary responses to the language services policy are tailored to suit their particular responsibilities and vary according to clientele or whether they are involved in service delivery or policy advice.

(2)-(4) In respect of parts (2), (3) and (4) of this question, the situation relating to each of the relevant agencies is as follows -

Government Employees Superannuation Board -

(2) No funds have been specifically allocated for the implementation of the policy.

(3)-(4) Not applicable. See (2).

Note: Although funds have been allocated specifically for the implementation of the language services policy, meeting the information needs of all clients is a priority for the board. The development and implementation of the customer service charter will further progress work already done on meeting these needs.

State Government Insurance Commission -

(2) None.

(3) No.

(4) (a)-(b) None.

State Taxation Department -

(2) There has been no specific allocation of funds.

(3) Unable to be determined.

(4) (a)-(b) Unable to be determined as there has been no specific allocation of funds and resources.

Valuer General's Office -

(2) None.

(3) No.

(4) None.

Office of Racing and Gaming -

(2) None. Any strategies are covered within existing budget.

(3)-(4) Not applicable.

Lotteries Commission -

(2)-(3) The language services policy has been incorporated into the marketing strategy for Lotteries Commission products and the publicity for the commission's community funding programs. No specific allocation has been made for the implementation of the policy which is funded from existing advertising and publicity budgets.

(4) In 1993-94 between $6 000 and $7 000 was spent in the production of "point of sale" material in the Vietnamese and Chinese languages in support of the Lotteries promotions for Chinese New Year.

During 1993-94 a survey was carried out throughout the commission's 640 lottery agents to establish whether there was a need for foreign language information brochures on lottery products. The survey found that demand for foreign language brochures did not justify their production.

Totalisator Agency Board -

(2)-(4)Nil.

ETHNIC COMMUNITIES COUNCIL - GOVERNMENT FUNDING

1639. Mr BROWN to the Minister representing the Minister for Racing and Gaming:

What funds have been provided to the Ethnic Communities Council by the State Government in the last three financial years?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following reply -

(1) November 1993 - $20 000 for new computers and furniture.

(2) April 1992 - $9 500 towards costs for Multicultural Week.

(3) October 1991 - $3 960 for an ethnic toy library project.

HOSPITALS - BUNBURY REGIONAL, NEW
Project Committee, Appointment

1653. Mr D.L. SMITH to the Minister representing the Minister for Health:

(1) Has a project committee been appointed to manage the design and construction of the new regional hospital in Bunbury?

(2) If yes, who are they?

(3) If yes, what are the terms of reference?

(4) When can we expect them to make a decision on the design of the hospital?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1) Yes.

(2)

Anne Donaldson	General Manager, Bunbury Health Service
Beryl Cosgrove	Acting Director of Nursing, Bunbury Health Service
Geoff Shannon	Chairperson, Medical Advisory Committee, Bunbury Regional Hospital
Tom Cottee	Chairperson, Bunbury Health Service Board of Management

Phillip Clift	Associate Professor, Edith Cowan University, Bunbury
Denis Payne	Hospital Board member
Lui Tuia	Hospital Board member

Other members will be coopted as required.

(3) Terms of reference are currently being developed.

(4) In the first half of 1996.

BURSWOOD CASINO - EXTENSION PROPOSAL

1692. Mr TAYLOR to the Minister representing the Minister for Racing and Gaming:

(1) Has the Government under consideration or has it received any proposal from the Burswood Casino for an extension of the casino and/or provision for additional gaming machines?

(2) If yes to (1), what are the details of the proposal or proposals?

(3) Has the Minister met the Burswood Casino management in order to discuss any such proposals?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following reply -

(1) Yes.

(2) To extend the casino licensed area to accommodate additional gaming machines.

(3) Yes.

STATE GOVERNMENT INSURANCE COMMISSION - ASBESTOS RELATED DISEASES CLAIMS

1746. Mr GRAHAM to the Minister representing the Minister for Finance:

(1) Does the State Government Insurance Commission have a policy regarding the processing of claims for asbestos related diseases?

(2) If so -

(a) what is that policy;

(b) will the Minister provide a copy of the policy?

Mr COURT replied:

The Minister for Finance has provided the following reply -

(1) Yes.

(2) (a) To process claims expeditiously.

(b) The policy is a corporate philosophy and appears in the annual report; the relevant extract states -

The Insurance Commission's corporate philosophy is to contribute to the economic development of Western Australia by providing professional insurance and financial services for the benefit of the people of Western Australia. To achieve this objective, the following goals were set:

Financial: To be an effective performer, matching revenue and expenditure.

Statutory: To efficiently manage statutory insurance obligations.

Clients: To provide professional insurance and advisory services to Western Australian Government departments,

authorities and instrumentalities to minimise the cost to the government and assist in the management of its assets and liabilities.

Claimants: To provide claimants with prompt, professional, friendly service.

Community: To be a responsible corporate citizen.

Our People: To provide a satisfying and healthy working environment which attracts, maintains and develops capable people.

Corporation: To provide competitive insurances which provide a commercial rate of return on funds invested by the Commission.

STATE GOVERNMENT INSURANCE COMMISSION - ASBESTOS RELATED DISEASES CLAIMS

1747. Mr GRAHAM to the Minister representing the Minister for Finance:

(1) How many claims were made on the State Government Insurance Commission for asbestos related diseases for the year ending 30 June -

(a) 1975
(b) 1976
(c) 1977
(d) 1978
(e) 1979
(f) 1980
(g) 1981
(h) 1982
(i) 1983
(j) 1984
(k) 1985
(l) 1986
(m) 1987
(n) 1988
(o) 1989
(p) 1990
(q) 1991
(r) 1992
(s) 1993
(t) 1994?

(2) Of those claims, how many were there in each year for each particular type of asbestos related disease?

(3) Of those claims, for each particular type of asbestos related disease how many were settled in each year?

Mr COURT replied:

The Minister for Finance has provided the following reply -

(1) The SGIC did not come into existence until 1 January 1987; accordingly the response to the member's questions start with the financial year ending 30 June 1987.

(m) 1987 - 97

(n) 1988 - 39

(o) 1989 - 253

(p) 1990 - 112

(q) 1991 - 68
(r) 1992 - 68
(s) 1993 - 67
(t) 1994 - 35
Total 739

(2)

	Mesothelioma	Lung Cancer	Asbestosis/Other
1987	19	5	73
1988	9	-	30
1989	37	22	194
1990	15	13	84
1991	16	12	40
1992	26	16	26
1993	29	10	28
1994	22	6	7
Totals	173	84	482= 739

(3)

	Mesothelioma	Lung Cancer	Asbestosis/Other
1987	6	3	10
1988	8	-	8
1989	29	2	56
1990	54	21	187
1991	18	4	18
1992	24	3	34
1993	19	9	9
1994	31	4	22
Totals	*189	46	344= 579

*The mesothelioma settlements are higher than reported claims over the same period as the data include claims reported to the former State Government Insurance Office prior to 1 January 1987, which were not settled.

STATE GOVERNMENT INSURANCE COMMISSION - ASBESTOS RELATED DISEASES CLAIMS

1748. Mr GRAHAM to the Minister representing the Minister for Finance:

Will the Minister provide the costs to the State Government Insurance Commission of defending asbestos related claims for the year ending 30 June -

(a) 1975
(b) 1976
(c) 1977
(d) 1978
(e) 1979
(f) 1980
(g) 1981
(h) 1982
(i) 1983
(j) 1984
(k) 1985
(l) 1986
(m) 1987
(n) 1988
(o) 1989
(p) 1990

(q) 1991
(r) 1992
(s) 1993
(t) 1994?

Mr COURT replied:

The Minister for Finance has provided the following reply -

Yes. Prior to 1 July 1993 legal costs paid to the Crown Solicitor were on a bulk basis and it is not possible to isolate what proportion of the bulk cost would be attributable to the defence for asbestos related disease claims. The 1994 figure includes legal costs paid to the Crown Solicitor, which are not included in previous years' figures.

SGIC established 1.1.87

(m)	1987 -	-
(n)	1988 -	$1 084 697
(o)	1989 -	$5 296 744
(p)	1990 -	$858 102
(q)	1991 -	$1 050 498
(r)	1992 -	$386 180
(s)	1993 -	$277 437
(t)	1994 -	$204 521

STATE GOVERNMENT INSURANCE COMMISSION - INDUSTRIAL DISEASES FUND, BALANCE

1749. Mr GRAHAM to the Minister representing the Minister for Finance:

What was the balance of the industrial diseases fund for the year ending 30 June -

(a) 1975
(b) 1976
(c) 1977
(d) 1978
(e) 1979
(f) 1980
(g) 1981
(h) 1982
(i) 1983
(j) 1984
(k) 1985
(l) 1986
(m) 1987
(n) 1988
(o) 1989
(p) 1990
(q) 1991
(r) 1992
(s) 1993
(t) 1994?

Mr COURT replied:

The Minister for Finance has provided the following reply -

SGIC established 1.1.87

(m) 1987 - $9 982 895

(n) 1988 - $12 089 879
(o) 1989 - $14 363 159
(p) 1990 - $18 474 823
(q) 1991 - $17 053 003
(r) 1992 - $15 088 247
(s) 1993 - $14 911 219
(t) 1994 - $15 508 494

GOVERNMENT DEPARTMENTS - RELOCATED TO ROCKINGHAM ELECTORATE

1767. Mr M. BARNETT to the Minister representing the Minister for Finance; Racing and Gaming:

(1) What action, since being elected, has the Minister or the Minister's department taken to relocate any portion of his department to within the electorate of Rockingham?

(2) If none, why?

Mr COURT replied:

The Minister for Finance; Racing and Gaming has provided the following reply -

The situation with respect to the relevant agencies is as follows -

Government Employees Superannuation Board -

(1) None.

(2) Not appropriate.

State Government Insurance Commission -

(1)-(2) Not appropriate.

State Taxation Department -

(1) No action has been taken.

(2) No need exists for the department to relocate any portion of its operations to Rockingham.

Valuer General's Office -

(1) None.

(2) Whole of metropolitan area serviced from a central location.

Office of Racing and Gaming -

(1) No.

(2) Given the size and nature of the Office of Racing and Gaming, it is not appropriate to locate any portion of the office to the Rockingham area.

Lotteries Commission -

(1) None.

(2) The Lotteries Commission is based at the Herdsman Business Park. Services to the public by the commission are being satisfactorily delivered from head office. There is an agency in central Perth which provides payments to winners of all divisions other than division 1 and all Scratch 'n Win prizes other than top prizes. Previous analysis of the Lotteries Commission shows that relocation could not be justified.

TAB -

(1) None.

(2) Not appropriate.

STATE GOVERNMENT INSURANCE COMMISSION - THIRD PARTY INSURANCE FUND

1790. Mr RIPPER to the Minister representing the Minister for Finance:

How much of the reduction in the liability for outstanding claims in the third party insurance fund between 1992-93 and 1993-94 is due to the introduction of a threshold deductible and capping to claims for non-securing loss?

Mr COURT replied:

The Minister for Finance has provided the following reply -

1992-93 Nil, because legislation did not come into effect until 1 July 1993.

1993-94 As only 580 of 5 137 reported claims have been finalised, the actual savings are difficult to quantify. Based on the small proportion of claims settled against claims reported, the estimated saving is approximately $33m.

STATE GOVERNMENT INSURANCE COMMISSION - THIRD PARTY INSURANCE FUND

1791. Mr RIPPER to the Minister representing the Minister for Finance:

(1) What was the precise contribution of the introduction of a threshold/deductable and capping to claims for non-pecuniary loss to the 1993-94 profit on the State Government Insurance Commission third party insurance fund?

(2) What is the expected contribution of these charges to the profit on the SGIC third party insurance fund in each of the next three financial years?

Mr COURT replied:

The Minister for Finance has provided the following reply -

(1) $37.3m.

(2) Due to the claims experience following introduction of a threshold/deductable and capping having a history of only 16 months, it is difficult to project the extent of savings over the next three financial years; however, the 1993-94 savings are anticipated to continue.

STATE GOVERNMENT INSURANCE COMMISSION - THIRD PARTY INSURANCE FUND

1792. Mr RIPPER to the Minister representing the Minister for Finance:

On what basis has the State Government Insurance Commission increased the discount rate used to measure its liability for outstanding claims to 9 per cent?

Mr COURT replied:

The Minister for Finance has provided the following reply -

The nine per cent discount rated used by the SGIC in determining its long-tail liabilities was based on a five year projection, which has attempted to capture the cyclical nature of financial markets. The projections are based on a qualitative model and assume adherence to a selected neutral asset allocation adopted. External advice was received from funds managers

and an actuary before adopting the nine per cent rate, which falls into the median range of fund managers' forecasts.

TABCORP - EXPANSION INTO WESTERN AUSTRALIA

1802. Mr TAYLOR to the Minister representing the Minister for Racing and Gaming:

Further to the Minister's answer to question on notice 1738 of 1994, given that TABCORP is now a privatised, profit oriented body on what basis can the Minister state that it will not seek to expand its commercial activities into Western Australia?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following reply -

TABCORP is not expected to expand its Totalisator Agency Board activities into Western Australia because of the prohibitions contained in section 23(1) of the Betting Control Act.

ANREPS - INQUIRY BY MINISTRY OF FAIR TRADING

1819. Mr McGINTY to the Minister representing the Minister for Fair Trading:

(1) Why is ANREPS, a privately-owned, WA-based, nationally-franchised marketing consultancy, still under investigation by the Ministry of Fair Trading, when the Minister told Parliament on two occasions late last year that the ministry had given the company a clean bill of health?

(2) Has the ministry been inquiring into ANREPS' operations over a period of more than four years?

(3) During this time, has ANREPS cooperated to the ministry's satisfaction in responding to these inquiries?

(4) What have been the nature of the complaints which have prompted this sustained campaign by the ministry?

(5) Is there any person or organisation that has continued to lodge complaints about ANREPS and its operation over this period?

(6) If so, can the Minister name that person or organisation?

(7) Does the Minister or the ministry accept any responsibility for any adverse effect on ANREPS' business caused by this sustained harassment?

(8) Can the Minister advise as to when the ministry's investigations might be finally concluded?

(9) What are the specific concerns that the Minister has about activities of ANREPS?

(10) How many complaints have there been since 1989 from members of the public who have used the services of ANREPS?

(11) Does the Minister regard it as desirable that home owners have freedom to choose whether to sell their home privately using a system or engage an agent?

(12) How is it considered (if at all) that the interests of the consumer will be adversely affected by the services provided by ANREPS?

Mrs EDWARDES replied:

The Minister for Fair Trading has provided the following reply -

(1) The Ministry of Fair Trading has received legal advice this year which concluded that the trading practices of ANREPS breached section 26 of the Real Estate and Business Agents Act. This section creates an offence that a person (or persons) shall not carry on business or by any means hold himself or itself out as a real

estate agent . . . unless he or it is licensed as such under the Act, and holds a current triennial certificate in respect of the licence.

Section 26 is central to the purpose of legislation regulating the real estate industry.

The Registrar of the Real Estate and Business Agents Supervisory Board has issued a directive to the ministry's officers, who are appointed investigators under the Act to investigate the matter.

(2) The Ministry of Fair Trading conducted an investigation into ANREPS in 1989-90. A subsequent investigation was conducted during 1992. Senior officers at the ministry also consulted with ANREPS earlier this year following receipt of the legal advice referred to in the answer to question (1).

It appears that the trading practices of ANREPS may have changed since the ministry carried out its previous investigations. In addition, ANREPS has indicated that the legal advice referred to in question (1) is based on facts and evidence that might not be correct or relevant. As a result the ministry has undertaken a new investigation.

(2) In general ANREPS has cooperated to the ministry's satisfaction in responding to inquiries.

(4) There is no campaign. The ministry, as it is obliged to do, responds to complaints and, as matters come to its attention looks to see that the law is enforced. The nature of complaints concerning ANREPS is that the organisation may be conducting business as an unlicensed real estate agent.

(5) Under section 138 of the Real Estate and Business Agents Act, the registrar and other officers of the board are obliged to keep particulars of a complaint confidential. Similar provisions bind ministry employees under section 24 of the Consumer Affairs Act.

(6) See above.

(7) There has been no harassment. When the ministry's officers opened the current investigation every effort was made in discussions with ANREPS' senior management and legal advisers to explain the nature of the investigation. The organisation is operating in an area of the law which has not been resolved before the courts. The ministry has legal advice that concludes there is a breach of section 26 of the Act, and ANREPS has stated that it has legal advice which concludes there is no breach. The ministry believes that because of the importance of section 26 of the Act, it is in everyone's best interest to ensure a thorough investigation of the organisation's trading practices is undertaken before a decision is made on whether to institute proceedings before the courts.

(8) To a large extent the time taken to complete this investigation will depend on the level of cooperation provided by ANREPS to the ministry's investigating officers. Further evidence and further complaints will necessitate further investigations. It is the responsibility of government to attend to complaints that appear to have some basis.

(9) Refer to the answers to questions (1) and (4).

(10) Three public complaints.

(11) Yes, provided that all relevant legislation is complied with by those who develop such a system.

(12) The Parliament has enacted a number of protections for the public in the regulation of real estate agents. Unlicensed persons who act as real estate agents do not provide these measures of protection. Not to follow up on allegations that unlicensed people are acting as real estate agents would mean the virtual deregulation of the real estate business. Of course, the Leader of the Opposition may hold the view that licensing is unnecessary, but I do not believe that view is generally shared. It is in the public's interest to ensure that trading practices of real estate private sales organisations are not in breach of requirements of the Real Estate and Business Agents Act.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - COMMUNITY GROUPS

Bus Purchases, Funding

1833. Mr BROWN to the Minister representing the Minister for Racing and Gaming:

(1) Further to question on notice 1339 of 1994, are community groups which receive recurrent funding from the Department for Community Development ineligible to acquire funds for the purchase of buses?

(2) If so, when was this policy implemented?

(3) If not, why are non-profit child care centres provided with recurrent funding from the Department for Community Development ineligible to acquire funds from the Lotteries Commission for this purpose?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following reply -

(1) No. Groups which are eligible for funding under the Lotteries Commission Act are eligible to apply for buses based on demonstrated need.

(2) Not applicable.

(3) The Lotteries Commission receives more requests for grants for vehicles from a wide range of community groups, than can be supported. As a matter of policy, the Lotteries Commission sets priorities in its funding guidelines for funding for vehicles. Based on advice from the Department for Community Development and from the Commonwealth Department of Human Services and Health, grants are not normally made for vehicles for child care services, as access is generally not seen as a major issue for these centres. Hence, under Lotteries Commission funding guidelines, child care services are normally not eligible for a grant for a vehicle.

I understand where access is an issue in remote areas, the Commonwealth Department for Human Services and Health in special cases has provided a bus for child care centres. The commission regards access to child care services as the responsibility of the primary funding body which in this case is the Commonwealth Government. The Lotteries Commission provides child care centres with grants towards a range of equipment which is considered integral to the success of the service and to meet the needs of the children. Where it can be demonstrated that a number of different community groups will have access to and benefit from a vehicle, an application from a child care centre would be considered by the Lotteries Commission. However, the success of such an application will depend on the competing demands from other organisations.

HOSPITALS - MT HENRY
Strategic Plan, Consultations

1844. Dr GALLOP to the Minister representing the Minister for Health:

Will the Minister guarantee that the strategic plan for Mt Henry Hospital will be developed in consultation with staff, residents and the Supporters of Mt Henry Hospital?

Mr MINSON replied:

The Minister for Health has provided the following reply -

Yes, and other interested parties.

GOVERNMENT DEPARTMENTS AND AGENCIES - OPINION POLLS

1888. Dr GALLOP to the Minister representing the Minister for Health; the Arts; Fair Trading:

What opinion polls or surveys have been conducted or commissioned by the Minister's departments or agencies since 1 January 1994?

Mr MINSON replied:

The Minister for Health; the Arts; Fair Trading has provided the following reply -

Health:
I am sure the member would acknowledge that there are a wide range of opinion polls and surveys that are conducted on a day to day basis within the departments and agencies under my jurisdiction. For instance, Health Department health care facilities conduct patient surveys for a variety of reasons, opinion polls and surveys are regularly undertaken to gauge health promotion programs. The costs involved in seeking definitive answers to the member's question in relation to the Health Department of WA alone would be extensive and I am not prepared to allocate resources for this purpose. I have advised the member on previous occasions in response to similar questions that I am more than happy to answer any specific questions and I remain so.

The Arts:
Department for the Arts -
Reark Research Pty Ltd has been contracted by the department to conduct a tracking study designed to monitor the general public's perceptions of the value of arts and culture in Western Australia.

Perth Theatre Trust -
No opinion polls. Market research questionnaires have been conducted as part of the customer service program.

Screen West -
Screen West is conducting a survey of volume of public sector film and video production, and film and television production facilities held in government departments.

The Library and Information Service of WA -

A Minister's discussion paper on proposed new public records legislation was released for public comment.
Survey to prioritise production of catalogues in languages other than English.
Survey of public library services for annual statistical return.
Survey of clients using the on-line public access catalogues in the Alexander Library building.
Surveys of public libraries to determine levels of satisfaction with services and catalogues.

The Art Gallery of WA -
The Art Gallery has conducted opinion surveys of people who attended several major exhibitions, including Mao Goes Pop, J'aime la France, Art of the Himalayas, Mambo: Art Irritates Life and Arthur Boyd Retrospective. Participants in education and public programs are also surveyed from time to time. The information collected is used to help the gallery build a better understanding of our customer needs and to measure the success of particular activities.

Fair Trading -
Survey of country service stations by the retail goods branch is currently in progress.
Housing Branch Survey: The housing branch surveyed 75 clients who had been referred to the Small Disputes Division of the Local Court to settle residential tenancy disputes. This survey was carried within branch resources as a part of regular operations.
1994 Employee Survey: A survey of all staff within the ministry to provide a benchmark of the issues to be considered in the ministry's workplace reform agenda.

WATER BEDS - WARNING, SHOULD NOT BE USED BY INFANTS

1916. Dr WATSON to the Minister representing the Minister for Fair Trading:

(1) In light of recent recommendations of Australian medical authorities, will the Minister insist that water beds carry a warning that they should not be used for infants?

(2) If not, why not?

Mrs EDWARDES replied:

The Minister for Fair Trading has provided the following response -

(1) The incidence of infant deaths associated with the use of water beds is still being examined by the federal Bureau of Consumer Affairs in association with medical authorities and final recommendations have not been made. The results of the continuing research will be considered when available.

(2) It would not be appropriate until final recommendations are made.

STATE HEALTH LABORATORY SERVICES - WESTERN DIAGNOSTIC PATHOLOGY, PURCHASE OR MANAGEMENT OFFER

1919. Dr GALLOP to the Minister representing the Minister for Health:

(1) Has Western Diagnostic Pathology made an offer to the Government for the purchase and/or management of the State Health Laboratories?

(2) If yes -

(a) what was the nature of the offer;

(b) to whom was the offer made;

(c) what was the response?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1)-(2) The Government is not considering any offer made for the purchase of the State Health Laboratories by Western Diagnostic Pathology. Discussions have taken place with WDP in recent months as a result of an advertisement being placed in the Press inviting expressions of interest in innovative proposals. Discussions with WDP were of an exploratory nature and are not being actively pursued at this time. Discussions also took place

with other private laboratories. If it is decided to pursue some of the innovative proposals, then it is expected that this would be through open tender.

PATHOLOGY SERVICES - COMPETITIVE TENDERING, TIMETABLE

1920. Dr GALLOP to the Minister representing the Minister for Health:

(1) Is the timetable for the competitive tendering of pathology services the same as that laid down in *Policy for Pathology Services in Western Australia* (May 1994)?

(2) If not, what changes are envisaged?

(3) Is the State Health Laboratory still examining the feasibility of a joint venture with a private pathology group as reported in *The West Australian* on 2 November 1994?

(4) If yes, what is the general nature of the joint venture being examined?

(5) If not, what services will the State Health Laboratory be offering for tender in 1995?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1) The timetable laid down in the policy document is a guide for those involved in the implementation of the policies. Effort has been concentrated on services provided from the Queen Elizabeth II Medical Centre site in terms of unifying the management and organisational structure and streamlining its functions, and good progress is being made. The other teaching hospital sites are similarly addressing such issues.

(2) The dates generally will be somewhat later than those shown in the policy document due to the complexity of the issues involved. It is intended that implementation will be achieved during 1995.

(3)-(4) The unification of the laboratories on the Queen Elizabeth II Medical Centre site is being concentrated on as the main priority. Joint venturing will still be considered in due course and, if it is decided that it has potential benefits, then an open tender approach would be adopted.

(5) It is intended that the Queen Elizabeth II Medical Centre laboratories will be open to private provider competition during 1995. No restriction on the range of services will be imposed but naturally community service obligations, teaching and research may need to be treated differently.

HOSPITALS - MT HENRY

Residents' Medical Records, Transferred Without Permission

1923. Dr GALLOP to the Minister representing the Minister for Health:

(1) Have any medical records of residents at Mt Henry Hospital been provided to other nursing homes to which residents may move without the permission of the residents and/or their guardians?

(2) Will the Minister guarantee that the transfer of highly sensitive and confidential documents will not be distributed in this way?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1) No.

(2) Medical records are the property of the hospital and will not be transferred to other nursing homes.

WHATLEY HOUSE, MAYLANDS - FUTURE

1927. Dr GALLOP to the Minister representing the Minister for Health:

(1) Have plans been finalised for the future functioning of Whatley House, Maylands after the four staff members are relocated?

(2) If yes, what are those plans?

(3) If not -

(a) who will determine what is to be done;

(b) when will the decision be announced?

(4) Will the Minister himself approve any plans or will he devolve the planning to the metropolitan health authority concerned?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1)-(2)

One member of staff previously located at Whatley House will be officially transferred to Swan Health Service from the end of November 1994. That staff member will continue to work in community based psychiatric rehabilitation within the Swan health district. The three other staff members currently located at Whatley House will remain there for the foreseeable future. These staff members provide both mobile and site located psychiatric rehabilitation programs for residents of the inner city region.

(3) (a) The minor changes in the programs offered from Whatley House will be decided by the Whatley House staff, and service consumers in conjunction with Dr R. Davidson, coordinator of the Inner City Mental Health Service.

(b) Information regarding any changes to the services offered from Whatley House will be circulated as soon as it is available.

(4) As Whatley House is a facility within the inner city health district, future plans will be reported through the inner city management committee to the board of Royal Perth Hospital for approval.

ARTS, DEPARTMENT FOR THE - EXECUTIVE DIRECTOR, POSITION ADVERTISED

1933. Ms WARNOCK to the Minister representing the Minister for the Arts:

(1) Has the position of Executive Director of the Department for the Arts been advertised?

(2) If so, when?

(3) If not, when will it be advertised?

Mr NICHOLLS replied:

The Minister for the Arts has provided the following reply -

(1) No.

(2) Shortly.

(3) Not applicable.

STATE GOVERNMENT INSURANCE OFFICE - DOCTOR, CLAIMANT EXAMINATIONS

1949. Mr BROWN to the Minister representing the Minister for Finance:

(1) How many claimants against the State Government Insurance Office were instructed by that office to undergo an examination by a certain doctor in the financial years -

(a) 1986-87
(b) 1987-88
(c) 1988-89
(d) 1989-90
(e) 1990-91
(f) 1991-92
(g) 1992-93
(h) 1993-94?

(2) Of all the reports submitted by this doctor, how many -

(a) supported the claimant;

(b) claimed the symptoms suffered by the claimant were caused by events or circumstances unrelated to the nature of the injured person's claim?

(3) What is the total amount the SGIO has paid this doctor in each of the financial years named in (1) above?

Mr COURT replied:

The Minister for Finance has provided the following reply -

I presume the question relates to SGIO Insurance Limited. This organisation was sold by public float on 31 March 1994. Therefore I am not in a position to now reply to parliamentary questions relating to that organisation.

DISABILITY SERVICES COMMISSION - RESPITE, STATEWIDE POLICY

1965. Dr WATSON to the Minister for Disability Services:

(1) Further to question on notice 1480 of 1994 part (5), has the Minister considered working with the Minister for Seniors to develop a coherent statewide policy on respite?

(2) If not, why not?

Mr MINSON replied:

(1) No.

(2) The Disability Services Commission consults on an ongoing basis with government agencies and key community stakeholders. It would be very difficult to develop a statewide policy that reflected the various needs and age appropriate responses to both seniors and younger people with disabilities.

BOARDS AND COMMITTEES, GOVERNMENT - APPOINTMENTS; WOMEN

1974. Dr WATSON to the Minister representing the Minister for Health:

Given that all Ministers except two answered the following questions and given government accountability I again ask -

(a) since February 1993 how many people has the Minister appointed to boards and committees in each portfolio under the Minister's administration;

(b) how many of these appointments have been women;

(c) how many terms of women have expired in that time;

(d) what goals does the Minister have in relation to achieving equal representation of men and women on boards and committees in each portfolio?

Mr MINSON replied:

The Minister for Health has provided the following reply -

I refer the member to my answer to question on notice 883. For the member's information I also refer her to question on notice 1166 which lists all statutory authorities, boards, advisory committees and government instrumentalities in all health portfolios under my control.

WATER AUTHORITY OF WESTERN AUSTRALIA - SUPPLY PROCEDURES MANUAL

1992. Mrs ROBERTS to the Minister for Water Resources:

(1) Will the Minister provide me with a copy of the Western Australian Water Authority's supply procedures manual?

(2) If not, why not?

(3) If so, when?

Mr OMODEI replied:

(1) Yes.

(2) Not applicable.

(3) A copy is tabled. [See paper No 566.]

MENTAL HEALTH - HILLVIEW CHILD AND ADOLESCENT CLINIC
Consultant's Report

2001. Dr GALLOP to the Minister representing the Minister for Health:

(1) Has the Minister received the report of the consultant conducting the independent review of the Health Department's proposed replacement facilities and services for Hillview Child and Adolescent Psychiatric Services?

(2) If not, when does he expect to receive the report?

(3) When does the Minister expect to make his decision on the future of these services public?

(4) Does the Minister intend to make the consultant's report public and if not, why not?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1) No.

(2) This week.

(3) Following discussion with interested parties to the report.

(4) Yes.

MENTAL HEALTH - COMMONWEALTH FUNDING

2034. Dr GALLOP to the Minister representing the Minister for Health:

(1) In relation to the gross capital expenditure of $16m on mental health in 1993-94 how much was funded by the Commonwealth Government?

(2) In relation to the $4.016m which is budgeted to be spent on mental health in 1994-95 how much will be funded by the Commonwealth Government?

(3) On what projects, if any, will the commonwealth money be spent?

Mr MINSON replied:

The Minister for Health has provided the following reply -

(1)-(2)
Nil.

(3) No commonwealth contributions are being made towards the Health Department capital works mental health projects in 1994-95 of $4.016m. The projects are -

	1993-94 $000	1994-95 $000
Graylands - new secure unit	684	90
Heathcote Replacement -		
Bentley	6 971	957
Fremantle	8 344	2 969
	15 999	4 016

CREDIT CARDS, GOVERNMENT - MINISTER AND MINISTER'S STAFF

2094. Dr GALLOP to the Minister for Water Resources; Local Government:

(1) Has the Minister been issued with a government credit card?

(2) Has it been used by the Minister?

(3) Which of the Minister's staff have a government credit card?

Mr OMODEI replied:

(1)-(2) Yes.

(3) Principal private secretary.

CREDIT CARDS, GOVERNMENT - MINISTER AND MINISTER'S STAFF

2095. Dr GALLOP to the Minister representing the Minister for Health; the Arts; Fair Trading:

(1) Has the Minister been issued with a government credit card?

(2) Has it been used by the Minister?

(3) Which of the Minister's staff have a government credit card?

Mr MINSON replied:

The Minister for Health; the Arts; Fair Trading has provided the following reply -

(1)-(2)
Yes.

(3) My principal private secretary.

CREDIT CARDS, GOVERNMENT - MINISTER AND MINISTER'S STAFF

2096. Dr GALLOP to the Minister for the Environment; Disability Services:

(1) Has the Minister been issued with a government credit card?

(2) Has it been used by the Minister?

(3) Which of the Minister's staff have a government credit card?

Mr MINSON replied:

(1)-(2)
Yes.

(3) Ms Helen Grzyb, principal private secretary.

MINISTERS OF THE CROWN - MEDIA, PUBLIC RELATIONS OR COMMUNICATION TRAINING AT GOVERNMENT EXPENSE

2144. Dr GALLOP to the Minister for Water Resources; Local Government:

(1) Has the Minister undertaken any media, public relations or communication training at government expense?

(2) If so -

(a) when;

(b) what was the name of the firm;

(c) what was the cost?

Mr OMODEI replied:

(1) Yes.

(2) (a) 23 June 1993.

(b) Corporate Dynamics.

(c) $485.

MINISTERS OF THE CROWN - MEDIA, PUBLIC RELATIONS OR COMMUNICATION TRAINING AT GOVERNMENT EXPENSE

2145. Dr GALLOP to the Minister representing the Minister for Health; the Arts; Fair Trading:

(1) Has the Minister undertaken any media, public relations or communication training at government expense?

(2) If so -

(a) when;

(b) what was the name of the firm;

(c) what was the cost?

Mr MINSON replied:

The Minister for Health; the Arts; Fair Trading has provided the following reply -

(1) No.

(2) Not applicable.

MINISTERS OF THE CROWN - MEDIA, PUBLIC RELATIONS OR COMMUNICATION TRAINING AT GOVERNMENT EXPENSE

2146. Dr GALLOP to the Minister for the Environment; Disability Services:

(1) Has the Minister undertaken any media, public relations or communication training at government expense?

(2) If so -

(a) when;

(b) what was the name of the firm;

(c) what was the cost?

Mr MINSON replied:

(1) No.

(2) Not applicable.

QUESTIONS WITHOUT NOTICE

POLICE - ATTORNEY GENERAL, INTERVIEWS

623. Mr McGINTY to the Attorney General:

I remind the Attorney General of her statement to the House in September 1992 that "accountability is about providing information to the Parliament", and her statement on Radio 6PR yesterday, "I have nothing to hide."

(1) If the Attorney General is accountable to Parliament and has nothing to hide, why did she refuse to advise members of this House that she had been interviewed by police, yet she made that admission to journalists later?

(2) If the Attorney General has nothing to hide, why will she not indicate where she was interviewed by police?

(3) Why will the Attorney General not tell the House whether her interviews with police were related to the search warrant executed to examine her financial affairs?

Mrs EDWARDES replied:

(1)-(3) I remind the House of the answer I gave yesterday: I am more than happy to talk to police and assist in any investigation in relation to anybody - as, I am sure, members opposite would be.

On 22 September 1994 -

Dr Watson: I cannot hear!

Several members interjected.

The SPEAKER: Order!

Mrs EDWARDES: - in an interview with Channel 9, it was indicated -

An Opposition member: We cannot hear!

The SPEAKER: Order! If members have something to say, there are ways to go about it - without trying to have a private conversation with me.

Several members interjected.

Point of Order

Dr WATSON: We simply cannot hear the Attorney General's response.

The SPEAKER: The member for Kenwick raises this matter, and she is a person who has a very soft voice - as do other lady members. I can encourage members to speak in such a way that they can be heard by all members. I hope that when we put in the new audio system the problem will be overcome. We are making strenuous efforts at the moment to get funds to replace the existing audio system. Meanwhile, all I can do is to encourage members to speak up.

Questions without Notice Resumed

Several members interjected.

The SPEAKER: Order!

Mrs EDWARDES: On 22 September, members may recall, an interview on Channel 9 indicated that warrants -

Points of Order

Mr McGINTY: The Attorney General is speaking even more quietly. She has deliberately lowered her tone below that she was using before, so that we

cannot hear at all. I could hear her earlier because I sit on the front bench, but even I cannot hear her now. Mr Speaker, I ask that you insist that she raise her voice.

Several members interjected.

The SPEAKER: Order! I will not direct members to speak in a certain way, other than by encouraging members to speak so that we can hear them. I think yesterday the Attorney General indicated that she had a problem with her voice, and I take that to be part of the difficulty.

Mr RIPPER: I understand that the standing orders provide that if it is difficult for a member to be heard from his or her seat, the member can advance to the Table of the House and speak from there. That would be one way to resolve the difficulty.

Mr C.J. BARNETT: We are seeing a deliberate attempt to try to unsettle the Attorney General.

Several members interjected.

The SPEAKER: Order!

Mr C.J. BARNETT: I suggest members in this House sit quietly. The Attorney General is speaking in her normal tone. When members opposite want to hear, they do.

Mrs Hallahan interjected.

The SPEAKER: Order! I formally call to order the member for Armadale. I say again, we are taking steps to improve the audio system in this Chamber. I hope that with the long term arrangements that will be overcome. In the present term, I urge the member and all members to speak up so that they can be heard. I do not believe it is appropriate to do any more than that. I will not direct anyone.

Mr MARSHALL: I give an explanation that might help the House. In 1954, after the grand final football match when South Fremantle demolished East Fremantle all the people in the room were very disappointed. In those days spectators could come in to see their heroes. As was the custom of the day - the member for Fremantle may like to listen to this and learn a little history about the place he represents - the coach of South Fremantle, Clive Lewington, stood on the rubbing down table to commiserate with the losing side. He was a gentleman Sandover Medallist and a great leader for South Fremantle who died of cancer. As he was speaking in his very low tone, one of our larrikin, probably wharfie, mates in the ceiling screamed out, "Speak up Lewington, we can't hear you." Lewington then said, "I am afraid that is unfortunate because I seem to have quite a bit of authority with the tone I usually use - this premiership team seemed to listen to me quite nicely." I learnt that if one is a leader one does not need to have a huge, authoritative voice to demand respect and attention.

Several members interjected.

The SPEAKER: Order! I regret that I allowed the member to make those comments, even though I found them interesting!

Questions without Notice Resumed

Mrs EDWARDES: As I was attempting to say, on 22 September Channel 9 reported that the police were going to issue a search warrant against my personal bank account. I met the police that evening to ask what the hell the report was about because I had no knowledge of the matter. I said that they did not need to exercise search warrants because they could have the information they required and they needed only to ask. The matter concerned an inquiry into Dr Bradshaw currently before the court. There

is no secret about that. I have indicated that I will assist the police in whatever way I can with that inquiry and I met them in my ministerial office.

WOODCHIPPING INDUSTRY - EXPORT LICENCES, ANNUAL RENEWALS

624. Mr OSBORNE to the Minister for the Environment:

(1) Is the Minister aware of concerns in the south west at renewed attempts to stop the issuing of woodchip export licences?

(2) Can the Minister advise the House of any action he can take to protect the export income this industry generates and the jobs that provides in the transport and timber industries and the Bunbury Port?

Mr MINSON replied:

I thank the member for the question. It is a very timely one. I am extremely disappointed with the behaviour of some sections of the conservation movement. Unfortunately we are going through what has become an annual ritual in Western Australia and Australia: The annual renewals of woodchip export licences. Why we do not move from a three to a five year export licence period is beyond me. I thought I, the Government and the Department of Conservation and Land Management were doing everything we could in researching this matter in a sensible and scientific way and putting forward good argument. However, I was very disappointed in the federal Minister, who gave $25 000 -

Mrs Henderson: He is an excellent Minister; you should aspire to be like him.

Mr MINSON: He is a joke. If I ever get to be like him, I will resign. The federal Minister paid $25 000 of taxpayers' money for a report that I could have written overnight. It was absolutely absurd, and he should ask for the taxpayers' money back. I assure this House and the people of Western Australia that the only timber that is taken for woodchips in this State is the waste marri and karri timber.

Mrs Henderson: Oh, come on!

Mr MINSON: Is the member telling me that it is not? I ask her to give me some examples. I am quite happy to stop answering the question so that she can give some examples.

Mrs Henderson: You should go to a mill and watch the logs come in and see whether they are waste. They are not waste.

Mr MINSON: I have done that. Can the member tell me whether it is still the case that any citizen can go to a woodchip yard and take any log that that person wishes to take because it is higher grade timber? Is that still the case?

Mrs Henderson: I have no idea.

Mr MINSON: Nothing goes through the chipper that can be used for anything else. I have tried for two years to put forward good, sensible and scientific argument on this matter. I am disgusted with the behaviour of the federal Minister. He paid $25 000 for a worthless report. It would be just like asking Dracula whether there should be a blood bank. Quite frankly, the Minister should ask for the money back. The great majority of Western Australians are very interested in this matter. They guard their forests jealously. When I explain to them that it is waste timber, timber that would otherwise be burned or left to rot, they are quite satisfied. I am extremely disappointed with not only the federal Minister but also those who advise him. I call upon the federal Minister to move to at least five year export licences and to start dealing in facts and truth. We know a

federal election is just around the corner, but that is no reason to put in jeopardy a whole industry and the livelihoods of people and their families in the south west.

POLICE - EDWARDES, COLIN, INTERVIEWS

625. Mr McGINTY to the Attorney General:

I refer to the Attorney General's preposterous claim yesterday that she was unaware whether her husband has been interviewed by police, a claim bettered only by her previous claims that she was unaware of the position her husband held in the Justice Ministry or that her husband was a signatory to her campaign accounts. Does the Attorney General seriously expect the House to believe she has no knowledge of whether her husband has been interviewed by police over allegations of serious criminal behaviour, especially given that this is the Year of the Family?

Mrs EDWARDES replied:

I have no knowledge of this matter. As such, this question should go to my husband. As he is not here to answer the question -

Mr Ripper: What about the conflict of interest?

Mrs EDWARDES: There is no conflict of interest, and it is not within my portfolio.

STANDING COMMITTEE ON LEGISLATION - REPORT ON WORKERS' COMPENSATION AND REHABILITATION ACT

Recommendations and Hon John Cowdell's Comments

626. Mr BOARD to the Minister for Labour Relations:

Can the Minister explain the correlation between the public comments made today by a member for the South West Region, Hon John Cowdell, and the recommendations made in the report of the Standing Committee on Legislation in respect of the Workers' Compensation and Rehabilitation Amendment Act?

Mr KIERATH replied:

I have heard the Leader of the Opposition use the word "outrageous" a lot lately, but I must say that the comments of Mr Cowdell are outrageous. I wonder whether he has read the report to which he has put his name, because during a media interview which Mr Cowdell and I had this morning, he made the introductory comment that we are wasting taxpayers' money. Taxpayers' funds are not used to pay for workers' compensation because that is funded completely by the premiums paid by employers. I have come to expect the Labor Party to get such basic principles wrong from the start.

The report made 12 recommendations. Seven of the recommendations supported the changes which we have made and made suggestions about how we could improve the system. Another recommendation was that either additional training be provided for review officers or the review stage be removed altogether. The remaining four recommendations were in total support of the system. The report endorses overwhelmingly the changes which we have made.

Several members interjected.

Mr KIERATH: I can understand the Leader of the Opposition's sensitivity because the report does not recommend any major change in the direction which we have taken. It does not recommend that we return to a legal adversarial system. It states that we should improve the conciliation stage by making it compulsory - something which members opposite argued against strongly.

Several members interjected.

The SPEAKER: Order! I formally call to order the member for Mitchell.

Mr KIERATH: It is interesting that when we get away from the theatre of this Chamber and into a committee where Labor Party members of Parliament can think rationally - which is very rare - and listen to the information which is provided, they support the changes which we have made and overwhelmingly endorse the direction which we have taken. Unlike the Leader of the Opposition, they have made constructive suggestions about how we can improve the system. The Leader of the Opposition never makes constructive suggestions. He is always negative and carping.

Mr McGinty interjected.

The SPEAKER: Order! I formally call to order the Leader of the Opposition.

Mr KIERATH: I can understand the attitude of this poor mob opposite because they all voted against the direction which we have taken, yet two of their members now say it is the right direction, although it can be improved. That is an overwhelming endorsement of the changes which we have made, with some constructive suggestions for improvement and fine tuning. I challenge the Leader of the Opposition to get his act together and come up with positive suggestions rather than with his constant negativity and carping.

WEST COAST BRIDGE CLUB - CITY BEACH CIVIC CENTRE NEGOTIATIONS

627. Dr CONSTABLE to the Minister for Local Government:

Some notice of this question has been given. I refer to the decision made by the Commissioners of the Town of Cambridge several weeks ago to evict the West Coast Bridge Club from the City Beach Civic Centre in order to provide temporary accommodation for the town's administration.

(1) Can the Minister advise if suitable premises have been found within the Town of Cambridge for the bridge club?

(2) If yes, where will the bridge club now be located?

(3) Can the Minister give local groups and organisations an assurance that they will not be subjected to the type of disruption experienced by the West Coast Bridge Club during the remaining months of the restructuring period?

Mr OMODEI replied:

(1)-(3) I thank the member for notice of the question. I am pleased to advise the member and other members interested in the location of the West Coast Bridge Club that I understand the issue has been resolved to the club's satisfaction. The club will operate from the City Beach Civic Centre until December 1995. This is a delicate situation and the new Chief Executive Officer of the Town of Cambridge and the City of Perth commissioners have been involved in lengthy negotiations. These negotiations have been conducted to the satisfaction of the West Coast Bridge Club and I suspect that in December 1995 the new council will make a decision about its future. I hope that decision is made in consultation with the club. In the meantime, the Town of Cambridge will have to secure temporary accommodation until permanent offices are constructed. This has been a lesson to the commissioners and the chief executive officer of that town and they now know that the community must be consulted on local issues. In respect of any disruption to other community groups I suspect that the CEOs of the new towns have learnt a lesson from this experience and they will treat any issues that arise in a slightly different way. I am confident that the issue has been resolved.

DAMPIER-PERTH NATURAL GAS PIPELINE - TARIFFS

628. Mr THOMAS to the Minister for Energy:

I refer to the comments of the independent gas producers reported in *The Australian Financial Review* yesterday that the tariffs to be set for the Dampier to Bunbury pipeline are anticompetitive, discriminatory and skewed to protect Woodside, the State Energy Commission of Western Australia and Alcoa.

(1) Will the Minister advise the House who determined the tariff, and how?

(2) How can the Minister assure the House that his proposed deregulation of the gas market will be genuinely open and non-discriminatory?

Mr C.J. BARNETT replied:

(1)-(2) The tariff structure and rules of tariff for third party access to the Dampier-Perth natural gas pipeline were determined by the energy implementation group and consultants. A number of very complicated issues were involved, not the least of which was the quality of the gas and the chemical specifications for what was allowed. It was a difficult process and a lot of effort went into it. The tariffs are likely to be announced in the next few days.

I advise members that the industry will not be going to a fully deregulated market. It is not possible to go from a highly regulated market to a totally deregulated market in one step because of the existing rights and contractual obligations. To get any change requires the cooperation and goodwill of all the parties. The Alcoa and North West Shelf projects have particular contractual rights; why should they forgo them simply because the State Government wants to disaggregate and introduce competition? The Government has had to achieve an acceptable level of disaggregation and deregulation. Some independent gas producers would have hoped for everything, but the choice they had was no change or substantial change. They have 80 per cent of what they would have liked. I cannot give them 100 per cent because it would take away the rights from Alcoa and the joint venture partners. Why would they give up their rights which are protected under contract?

FISHERIES DEPARTMENT - INSPECTORS, PEEL REGION, ADDITIONAL

629. Mr MARSHALL to the Minister for Fisheries:

(1) Is the Minister aware of the urgent need for at least two extra fisheries inspectors in the Peel region? At present, two field officers patrol the lobster fishery from Preston Beach to Long Point, the closed water areas for marron as well as all the crabbing and net fishing outlets on the estuary.

(2) Does the Minister plan to give the present inspectors extra staff during the lobster season or peak periods?

Mr HOUSE replied:

(1)-(2) I am advised by my colleague the member for South Perth, who has traversed more coastline than I have, that the Western Australian coastline is about 12 000 kilometres long. It would be almost impossible to have sufficient inspectors to adequately patrol the entire coastline as well as the rivers, estuaries and inland water areas that must be policed.

The member for Murray makes a very valid point. I recognise that we have some deficiencies in our inspectorial system, and some places need more inspectors. Last year we put in place the volunteer assistance

program, where a number of voluntary inspectors assist our official inspectors, and we will increase the number of volunteers this year. Fishing is one activity in which there is a lot of cooperation and agreement. Those who break the law are few indeed. It is my aim to encourage people to be part of the cooperative policy with as little policing as possible; that is not to say we do not need any policing. We will be putting temporary inspectors in Mandurah during the crabbing and marron seasons, and we will be addressing those other problems as quickly as we can within the new budget.

SWAN VALLEY - PRESERVATION, MINISTER FOR PLANNING'S COMMENTS

630. Mr KOBELKE to the Minister for Planning:

I refer to the difficulty that the Minister for Planning has in expressing himself, despite the best efforts of his highly paid advisers. Given that the residents of the Swan Valley have been protesting against the Minister outside the House -

(1) Will the Minister confirm what he told the House yesterday? That is, "The Government will preserve the Swan Valley forever. It will take the roads out of the valley; it will take the people out of the valley."

(2) Did the Minister mean to make this statement, or was this just another malapropism, similar to that where he accused the Leader of the Opposition of "licking his tail"?

The SPEAKER: Order! Some of those words are inappropriate.

Mr LEWIS replied:

(1)-(2) Any idiot would understand what I said last night when I said that the Government was taking out of the valley the roads and the houses - that is, the roads and the houses that the Opposition when in government were going to put there.

Mr Graham: So now you are going to take out houses that are not there?

The SPEAKER: Order! I formally call to order the member for Pilbara.

Mr LEWIS: In 1990 the Labor Government's urban expansion program allowed for a population of 220 000 people in the Swan Valley. Members opposite do not deny it. They wanted to run the Perth-Darwin highway right through the middle of the Swan Valley. Do they deny that? Any idiot would understand what I said last night, and put it into the context of the debate.

MEAT - CONTAMINATED

631. Mr McNEE to the Minister for Primary Industry:

(1) Is the Minister aware of a news item on 6PR radio this morning claiming Australians were eating contaminated meat because of a sloppy inspection service?

(2) What action is the Minister taking to correct this statement, which can cause only alarm for consumers, and even greater burdens for struggling producers?

Mr HOUSE replied:

(1)-(2) I did not hear the news item this morning, but it was brought to my attention by the member for Moore. It is a pity that people want to spread misinformation about agricultural industries. It is fair to say that Governments of all ilks, both Federal and State, and industry leaders have worked very hard to build up a good reputation for Australian products overseas and to develop our markets. This sort of comment, which is ill-

informed and absolutely incorrect, does nothing but harm to those markets. I was sufficiently concerned about this matter to make an appointment to meet the Japanese Consul-General, Mr Imamura, at 9.30 this morning to reassure him that we have in place the proper protocols and that our inspection system is impeccable. That is substantiated by a report presented to me at the beginning of this year.

Mr Grill: Who made the comment that you complain of?

Mr HOUSE: Someone on a 6PR radio station this morning. I did not hear the comment, but it was brought to my attention by the member for Moore. I asked for a complete review of the inspection system to make certain that our meat had no contamination of any sort. The report to me indicated that this State has an impeccable system - the best in Australia - and I can assure consumers in Western Australia and our overseas customers that there is nothing to fear from consuming meat produced in Western Australia.

FAMILY POLICY - NATIONAL REPORT, MINISTER'S RESPONSE

632. Mr KOBELKE to the Minister for Community Development:

I refer the Minister for Community Development to his response to the independently prepared national report on family policy released yesterday - a report which he admitted he had not read but had described as "a recipe for disastrous bureaucratic intervention in family life".

(1) Is the Minister aware that the report seeks the implementation of coalition policy for the establishment of a national office for family policy?

(2) Has the Minister conveyed to Mr Downer his dismay at the federal coalition's family policy?

(3) Given that this report - yet to be considered by the Federal Government - is the result of extensive consultation with Australian families, does the Minister believe that his views are more valid than those of the people who gathered this report?

Mr NICHOLLS replied:

(1)-(3) The comments reported in *The West Australian* this morning were in response to the media statement by the federal Minister and newspaper articles commenting on the report. I have today received a copy of the report, which I will go through in detail. The thrust of the recommendations, as they appeared in both the newspaper reports and the response of the federal Minister, is that the way to help families in Australia in future is to set up a national body that will determine policy, and to set up a national framework so that all families will receive subsidies. It will essentially be a process of government intervention and imposition of policies and processes on families. We should be trying to help families to make decisions themselves about what is in the families' interest. We should also try to change the taxation system so that instead of taxing families more, and then ingratiating ourselves by sending a cheque through the mail, we allow them to keep more of their income.

Mr Kobelke: Your Government increased taxes and charges on families.

The SPEAKER: Order! The member for Nollamara has asked his question.

Mr NICHOLLS: In relation to taxation and family policy, we should allow families to keep as much of their income as possible, and then provide those financial benefits to families whose incomes are low. That would provide assistance to those disadvantaged families. At the moment an absurd situation exists at the federal government level. My comments are

not directed solely at the current Federal Government, but the absurdity is that we take more from the families and wage earners in taxes, and then send it back to them in a cocktail of benefits, on the basis that the Government is ingratiating itself. Those people are then conditioned to believe that they cannot survive without cheques from the Government.

Mr Brown interjected.

The SPEAKER: Order! I ask the Minister to bring his answer to a close.

Mr NICHOLLS: Members opposite may not agree with my comments, but in Western Australia this year we have successfully supported a campaign in which the Government has not only allowed local communities to assist families, but also has supported a campaign focusing on the strengths and benefits of families. Members opposite cannot come to grips with the fact that adults, parents and families can think for themselves, and can make decisions without a social edict that runs the idea that only the Canberra knows best.

Mr Brown interjected.

The SPEAKER: Order! I formally call to order the member for Morley.

Mr NICHOLLS: Part of that edict also is that we cannot allow families to take charge of their lives and to live up to their responsibilities. When we look at the policy and the actions of the Federal Government -

Mr Marlborough interjected.

The SPEAKER: Order! The member for Peel.

Mr Marlborough interjected.

The SPEAKER: Order! I formally call to order the member for Peel.

Mr NICHOLLS: Families are the fundamental basis of our society and we should support them.