Legislative Assembly

Wednesday, 6 December 1989

THE DEPUTY SPEAKER (Dr Alexander) took the Chair at 2.15 pm, and read prayers.

PETITION - GRAYLANDS HOSPITAL

Prison-Forensic Unit - Establishment, Opposition

MR HASSELL (Cottesloe) [2.17 pm]: I have a petition which reads as follows -

To: The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned respectfully showeth:

That the community is extremely concerned about Government plans to establish at Graylands Hospital a prison/forensic unit for mentally disordered offenders and persons who have committed serious offences but have been found "not guilty" by reason of insanity, particularly because such unit will now be in the heart of a residential area and close to a public primary school and private college and therefore your petitioners humbly request that:

1. Plans to establish the prison/forensic unit be abandoned forthwith; and
2. Any future plan to open a prison/forensic unit within a populous suburb and next to schools and playgrounds be fully discussed with and justified to the community and all relevant authorities and interests before such future decision is made.

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

The petition bears 145 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 125.]

PETITION - "MEN OF DISHONOUR" NEWSPAPER ARTICLE

Italian Community - Slander Opposition

MR CATANIA (Balcatta) [2.19 pm]: I have a petition couched in the following terms -

To: The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned citizens of Western Australia express our concern at the article "Men of Dishonour" by David Williams which appeared in the West Australian Newspapers "Big Weekend" on the 4th November 1989. We protest in the strongest possible terms at the cheap, insensitive, deplorable slandering and labelling of the Italian Community in particular and European communities in general. We urge the Government to vigorously pursue its anti-discriminatory programme to educate all Australians to be more sensitive and tolerant to the many diverse ethnic groups that today form the Australian family and help stamp out the wrongful perceptions perpertrated by such articles.

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

The petition bears 791 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 126.]

A similar petition was presented by Dr Watson (99 persons).

[See petition No 127.]

PETITION - TRAFFIC LIGHTS

Wanneroo Road-Prindiville Drive, Wangara - Installation Request

MR PEARCE (Armadale - Leader of the House) [2.21 pm]: I have a petition couched in the following terms -

> To: The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned request that traffic lights be installed on the corner of Wanneroo Road and Prindiville Drive, Wangara.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 253 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 128.]

MOTION - MEREDITH, NICHOLAS

Tan Case - Trial, Independent Inquiry

THE DEPUTY SPEAKER (Dr Alexander): This morning I received a letter from the member for Cottesloe seeking to debate as a matter of public importance the case of Nicholas Meredith and Peter Tan.

[Five members rose in their places.]

The DEPUTY SPEAKER: In accordance with the Sessional Order, half an hour will be allocated to each side of the House for the purpose of this debate.

MR HASSELL (Cottesloe) [2.25 pm]: I move -

> In the opinion of this House the presentation to the Attorney General, Hon J. Berinson, MLC of legal opinions from Mr R.F. Redlich, QC, with him Mr P. Searle, and Mr Leo Wood in relation to the case of Nicholas Meredith (convicted of the manslaughter of Mr Peter Tan) present the opportunity for the resolution of this matter, and therefore urges the Attorney General to respond, positively to the repeated public requests for,
>
> (1) the institution of an independent, public assessment or enquiry of the whole conduct of the Meredith trial;
>
> (2) a public acknowledgment by the Government of the injustice of the outcome of the trial; and the request
>
> (3) that an ex gratia sum be paid to Mrs Tan to cover the costs of her obtaining the opinion of R.F. Redlich, QC and P. Searle.

It would be a matter of grave concern and an act of gross unkindness, amounting to cruelty, if the Government and the Attorney General neglected the opportunity to now do something about this case. I am deeply concerned that the Government will pass up this opportunity, will fail to act, will seek again to put it off, to stonewall, as has been happening for so long. I hope that I am wrong and that in the Government's response today some positive light will be shed on an issue that has caused an enormous amount of distress and which should not have gone on for as long as it has. Why am I concerned? I am concerned because of the indications from the Attorney General that he may not yet be prepared to confront the difficult issues - I acknowledge they are difficult for him - and deal with the matter decisively, as distinct from putting it off again.

On Monday at 2.30 pm at short notice - it was a courtesy of the Attorney General that he agreed at such short notice - I spoke to the Attorney General with Mrs Tan and presented him with a letter which contained the opinions of Mr Leo Wood and Mr R.F. Redlich, QC, which made the formal requests of the Attorney General that are repeated in this resolution.

The Attorney General issued a short statement that day indicating that a meeting had been held and he had been presented with the two legal opinions. The statement continued -

> "On preliminary consideration only, and given reports that the Coroner may be prepared to hold an inquest into the cause of death, the opinions would not seem to raise issues that could not be adequately dealt with by a formal inquest," Mr Berinson said.
>
> "However, I have referred the opinions to the Solicitor General for his review and advice. Pending receipt of his opinion, it would be inappropriate to offer any further comment."

If the Government says today in response to this motion that the advice has not yet been received and that the matter has not yet been assessed, I will accept that. It has only been a few days and serious issues are raised, although the serious issues have been raised again and again with the Attorney General who has had many opportunities to seek the advice of the Solicitor General or, preferably, as I said publicly, some independent outside person.

Mr D.L. Smith: Is that the first occasion on which you have given him a copy of Mr Wood's advice?

Mr HASSELL: It is the first occasion on which I have given him the opinions of Mr Wood and Mr Redlich. I will describe how this came about. If the Government responds by saying that the matter can be solved by the Coroner's inquest, that will be an act of gross unkindness, if not cruelty, to Mrs Tan. Any analysis, however shallow, of these issues indicates that the Coroner's inquest cannot deal with the fundamental issue raised by the Tan case. I will briefly retrace what has happened.

Peter Tan was attacked by Nicholas Meredith in an unprovoked and brutal way on the Mitchell Freeway on 18 February 1988; in other words, almost two years ago. Mr Tan died four days later and that was the critical event. Meredith was put on trial in August 1988, more than a year ago, and his sentence was pronounced. Ever since then, Mrs Tan has been fighting to put right what seemed to her to be a grave injustice. In that fight Mrs Tan has been joined by many people. Mrs Tan did not ever seek to politicise the issue. She went to the Attorney General, the police, Crown Law authorities, the Human Rights Commission, and the Multicultural and Ethnic Affairs Commission. She went wherever there was an official channel to seek some redress for an injustice. One way or another she could get nowhere. In January this year, while we were busy electioneering, Mrs Tan was in China. When she returned she discovered something remarkable; she had received from the Royal Perth Hospital a copy of the medical report which indicated the clearest conflict between the medical evidence presented at the trial and the medical evidence she had been given by the Royal Perth Hospital. It was at about that time in February, after the election, that she came to see me. I had been corresponding with Mrs Tan before then on an on-off basis. I had written to her on the day I read of the outcome of the trial last year because I was struck by the apparent injustice of the case, and I simply offered her any assistance I could give. She had been to see me and I had spoken briefly to her; I had also asked some questions in the House at her request. It did not go beyond that. However, in February this year she asked me to take up the case because of the medical evidence she had received, and I did so. At that time she was awaiting answers from the Attorney General, Hon Joe Berinson, and she did not receive those answers until some weeks later. The time delay was tremendous.

We were fortuitous to have the assistance of Dr Charles Stuart who offered his own analysis of the medical evidence. Many things were done along the way and Dr Stuart's evidence became public. It was attacked by Professor Byron Kakulas and the whole issue resolved for a while into a battle between medical experts. That was of no benefit because Mrs Tan had never set out to attack the medical people. The point was raised repeatedly that additional medical evidence existed, and it had not been raised in the trial. The question of an appeal against the sentence had not been resolved at that time, although it now has been by the opinion received from Mr Redlich, and the questions had not been answered. Mrs Tan's contacts with various Government authorities had been unsatisfactory; they had been exclusionary and closed the door in her face. They had not been prepared to re-examine the fundamentals or the issues involved to ascertain whether everything had been done which should have been done.

When I had a meeting at the Law Society with a senior Crown Law officer who I know well and respect, he was not able to satisfy me on some basic questions. When the matter was raised in Parliament by me the Premier attacked me for raising it because of the criticisms I levelled. Mrs Tan was distressed about that because she felt, given what she had been through, my criticisms were mild by comparison with her pain. She felt the Premier was more concerned about the politics of the situation than dealing with the issue. It will be recalled that the Premier insisted on rushing off his criticisms of my conduct to the Parliamentary Standards Committee, headed by Kim Beazley Senior. It will be interesting to see what that committee has to say when it reports to this House through the Premier in the near future, I hope. After all those efforts we seemed to have got nowhere. The Attorney General still refused to take an independent opinion, to provide an opportunity for someone outside the system - not the Solicitor General, the Chief Crown Prosecutor, the Crown Law authority or some other Government department - to look at the matter dispassionately and say whether she was right or wrong, whether I was right or wrong or whatever they saw as the situation.

Then along came Mr Leo Wood, a kindly man who volunteered through a third party who rang me on his behalf to look at the case. Mr Wood is an elderly member of the legal profession. He is respected as a defender of those who cannot defend themselves and as a defence counsel generally. He wrote a lengthy opinion after he examined the papers and then when certain other things were mentioned to him wrote some more in qualification of what he had said and tried to give the clearest of pictures as to the position. We did not make that public and did not take it to the Attorney General at that time because we felt that with all the doors that had been closed in Mrs Tan's face to that point the Attorney General would, in a sense, try to dismiss Mr Leo Wood, so we decided that the only thing to do was to go outside the State and seek that independent and totally dispassionate assessment that the Attorney General had denied Mrs Tan repeatedly.

An approach was eventually made to Mr R.F. Redlich, QC, of the Melbourne bar. Of necessity, Mrs Tan was required to engage a junior, Mr Peter Searle of the Melbourne bar. As members would understand, the cost was considerable, in the vicinity of $15 000 for that opinion after payment is made on a reduced basis to Mr Jack Curtis, her solicitor here, and on a limited basis to Mr Redlich and Mr Searle who agreed to not increase their fees even though more work was involved than they had anticipated. Finally, that opinion arrived last week or thereabouts, a matter of a few days ago.

Mr D.L. Smith: Was it last week or before last week?

Mr HASSELL: It could have been before last week because something had to go back, which is why there was a supplementary note which I think was received on Friday afternoon last week. That opinion did not endorse everything that I or Mrs Tan had said, but it did on its face say very simply that further medical evidence was available for the trial of Nicholas Meredith and that it was relevant to the establishment of the critically important element of the trial; that was, the intent of the accused and that intent went to the issue of conviction for murder or manslaughter. That medical evidence was not presented to the court. That medical evidence should have been presented to the court, that much was clear. Mr Redlich declined to pass any adverse comment on the Crown Law Department's handling of the matter but he spelt out clearly in his various remarks that the evidence was available, it was relevant, and it should have been presented.

In an interview some months ago relating to this case of which we have a record the Attorney General said, very clearly, that the ultimate responsibility for the presentation of all the relevant evidence in a prosecution rested with the Crown Law Department. We reached the stage where it was decided that before any public comment was made these opinions would be presented to the Attorney General and that was done on Monday afternoon. The people of "The 7.30 Report" on the ABC who have so assiduously analysed and followed this case from the beginning ran their piece on it on Monday evening and other media took up the matter from there.

Why do we bring the matter to the House today? Because we have put it in the hands of the Attorney General and I point out to the Minister handling the case in this House that we have done so out of fear that the Government will once again duck the issue, will once again put it off and will once again try to sidestep the ultimate responsibility that rests on the shoulders

of the Attorney General. No-one wants to find a scapegoat. No-one wants to put anyone's head on a pikestaff. However, it is vitally important to Mrs Tan's peace of mind for the rest of her life and to the peace of mind of her family that the outcome of this case should be acknowledged as an injustice. It is important that the system we have been questioning for months be corrected. The system has been questioned not only in relation to this case.

It is not unreasonable to ask that Mrs Tan be given an ex gratia payment to cover the costs of her obtaining the opinion of Mr Redlich and Mr Searle. Fortunately Mr Leo Wood was kind enough to provide his opinion voluntarily. It is particularly relevant to mention that request for payment because Mrs Tan was given some assistance in relation to this matter by the Chung Wah Association Inc, the Chinese association. It clearly and distinctly said that it provided funds to Mrs Tan for her to decide their use. It was not seeking to have those funds applied to obtaining an opinion so what she has applied to obtaining that opinion in excess of those funds has all been paid by her and she is entitled to the benefit of those moneys.

It is particularly galling to consider that Nicholas Meredith was represented by Perth's top QC, Mr Miller, and may have been supported by the State with legal aid but that Mrs Tan has had to battle alone in this matter without any support of that kind. The fact that she has been vindicated by the opinions of both Mr Wood and Mr Redlich underlines the reasonableness of the request that she receive a sum to cover the actual costs, which are fixed.

Time is terribly short in these debates so I only have a moment to refer to a couple of comments made by counsel concerned. Mr Redlich said the following -

> There is a body of medical evidence which was not called at the trial. Such evidence could have been obtained upon reasonable inquiry. We have considered this evidence in the next section of our advice. It should be emphasised that the effect of this additional evidence may have resulted in Dr Hilton sufficiently qualifying his opinion so as to give greater weight to the defendant's conduct before and after the deceased fell to the ground.

In other words, the clear evidence of Dr Hilton which allowed the defence to succeed, and on which the case proceeded on the basis of manslaughter rather than murder, may have been qualified. Mr Redlich says -

> In substance, it is Dr Tan's opinion -

Dr Tan is the neuropathologist, whom the Government keeps silent, and will not allow to speak out; and I hasten to say he is no relation to the deceased. I continue -

> - that the massive brain injuries which led to excessive brain swelling and ultimately death did not occur solely as a result of the deceased's head striking the road. Mr Tan (neuropathologist) relies on the severity and multiplicity of the injuries to the brain, the severe axonal injury and the minimal injury to the cerebellum. Such injuries, he says, cannot be explained merely by the head striking the road surface when the deceased fell from a standing position . . . We assume that Dr Hilton would not have been qualified to express opinions upon such a specific subject and had his attention been directed to such matters he would likely have qualified any opinion that he had expressed.

The opinion also says -

> We think that there was a substantial body of medical evidence which was in existence at the time of the trial and which ought to have been available to the prosecution which tended to support the characterization of the Defendant's conduct as consistent with intent to cause grievous bodily harm . . .

It is important to understand that the intent to cause grievous bodily harm was the foundation of a conviction for murder rather than manslaughter. The opinion continues -

> What is critical is that punches or kicks would account for part of the multiplicity and severity of the brain injury which caused death.

Mr Wood, the Perth criminal law barrister, said in his opinion -

> The important conclusion to me from the said report (Dr Stuart's) is that there was substantial medical evidence available which was relevant to the offences, particularly murder, of which the accused could have been convicted tending to

establish the essential element in that offence of grievous bodily harm and which also would have tended to add emphasis or reason to the Jury's rejection of the defence of accident and even to a total disbelief of any of his evidence which really was the only evidence of how the deceased may have sustained the rear skull fracture.

I ask the Government, if it will do nothing else, to please take this opportunity to resolve the matter; to not leave it to a Coroner's inquest, because the Coroner's inquest cannot deal with the central issue that there was available medical evidence, that it was not called, and that it should have been called. The issue is not what that evidence was but that there was a breakdown in the system. The Coroner cannot effectively deal with that issue. We can bring out that evidence. It will cause to Mrs Tan more pain, cost and delay. There will be a battle between QCs representing Dr Hilton and Dr Noel Tan, and all the other specialists will get into the act - no doubt Professor Kakulas will also be represented - each one defending their little castles, positions and credibility. But it will not resolve the issue. Only the Attorney General can resolve the issue; and only if he is at last prepared to make a decision in the face of overwhelming advice, not from Mrs Tan, nor from me, but from totally independent people.

Amendment to Motion

MR D.L. SMITH (Mitchell - Minister for Justice) [2.54 pm]: I move -

That all words after "Mr Peter Tan)" be deleted and replaced by -

raise issues which can be properly addressed by the announced Coroner's inquest and by the reference of the opinions for the consideration and advice of the Solicitor General.

The House regrets the continued efforts by the member for Cottesloe to politicise the tragic circumstances of Mr Tan's death by drawing conclusions which are inconsistent with available facts and before proper consideration can be given to other submissions.

This House shares the deep concern of the community at the tragic loss to Mrs Tan and her family. Further it is acknowledged that although the sentence imposed on Meredith was legally correct, it fell short of just punishment as measured by community standards rather than the law. This House also notes that, at the initiative of the Government, legislation was passed by this Parliament last year with the effect of bringing the relevant laws into line with community expectations.

This House asserts its confidence in the officers of the Crown Law Department who conducted the case, noting in particular the concluding paragraph of the opinion of Mr Redlich QC and Mr Searle which says:

> In the final analysis, and on the assumptions we have referred to in the course of this advice, we cannot detect any departure from the proper course of the criminal justice process which would give rise to any warranted complaint against those who conducted or were responsible for the trial.

The Tan matter has been on the Notice Paper of this House since almost the commencement of the session.

Mr Hassell: What have you done about it? Nothing!

Mr D.L. SMITH: The question might be asked, because it is a motion moved by the member for Cottesloe, why the member for Cottesloe has done nothing about it.

Mr Hassell: We have been waiting for Mr Redlich's opinion, obviously, because we could not get through to your Attorney General; we still cannot get through to him.

Mr D.L. SMITH: The motion moved by the member for Cottesloe at the beginning of this session was -

That this House calls on the Government to appoint in consultation with the Leader of the Opposition and the Leader of the National Party an independent highly qualified specialist Queen's Counsel to examine all facts and material relating to the charging,

> prosecution and trial of Nicholas Meredith for the killing of Peter Michael Tan and to report on the conduct of the prosecution and trial to this House through a written report to be tabled by Mr Speaker . . .

The motion went on to make particular reference to a number of things. It is clear that the intent of that motion was to obtain an opinion of the sort now provided by Mr Redlich and Mr Searle. How serious was the member for Cottesloe in moving that motion; was he seeking simply to politicise a really tragic event for Mrs Tan and for the community? If the member for Cottesloe was seeking to convince the Attorney General and this House that such an opinion should be obtained, why was it that the opinion of Mr Wood, obtained in May or July of this year, was never provided to the Attorney General before Monday of this week? That opinion was apparently in the possession of the member for Cottesloe before the motion was moved, and during all the time the Notice of Motion has been on the Notice Paper; at no stage has he taken the trouble to provide it to the Attorney General, with a view to convincing him that perhaps the motion should be taken seriously.

Mr Hassell: Nothing convinces your Attorney.

Mr D.L. SMITH: The truth is that the member for Cottesloe has never taken this matter seriously; he simply wants to gain political mileage; to use the matter as a platform - perhaps to regain the leadership of members opposite; and does not really have any serious concern for Mrs Tan, nor for the issues involved. Were it otherwise, one would have expected today an apology for some of the things he has been saying, because the opinion which he obtained - apparently not last week, but the week before; and which, I might say, he gave to the television stations before he gave it to the Attorney, which reveals how serious he was about it -

Mr Shave interjected.

Mr D.L. SMITH: The concluding remarks on page 37 of the report from Mr Redlich are as follows -

> In the final analysis, and on the assumptions we have referred to in the course of this advice we cannot detect any departure from the proper course of the Criminal justice process which could give rise to any warranted complaint against those who conducted or who were responsible for the trial.

Another question, which was posed and is answered on page 36 of the opinion, is this -

> What is the view of Counsel on the repeated public statements by the Attorney-General for Western Australia that he refused to appeal against the leniency of sentence because of Crown Law Department advice that the appeal could not succeed?

That has been one of the constant complaints of the member for Cottesloe, yet although the opinion gives the answer, he chooses not to draw any attention to it because the answer given by Mr Redlich and Mr Searle is that in view of their opinion about the likely success of an appeal against sentence, the advice of the Crown Law Department was reasonable, and they did not think criticism was justified. In other words, no criticism about the decision not to appeal is justified. That is not the opinion of the Crown Law Department; that is not the opinion of the Attorney General; that is the opinion of the independent counsel which the member for Cottesloe has introduced into this place. The question which follows was -

> Would a prudent prosecutor operating independently have appropriately instituted an appeal against the leniency of sentence?

The answer is this -

> This and the preceding question suggests some political interference with the prosecutional discretion. We have seen nothing in the material to suggest that the Crown made its decision on anything other than proper considerations. Such concerns could not arise where the administration of the prosecution -

And so it goes on. That is the opinion of the Queens Counsel obtained on behalf of Mrs Tan, that no appeal against sentence was warranted and that nothing these counsel could see warranted any assertion that the prosecution discretion was exercised other than on normal considerations. They discount any concept of political interference in the process.

Mr Hassell: Who said there was?

Mr D.L. SMITH: In the course of his address the member for Cottesloe sought to justify the argument that he was moving this motion today rather than waiting for some response from the Attorney General on the basis that somehow or other he did not trust the Attorney General to come back with the appropriate advice. He quoted a letter from the Attorney which indicated what the Attorney was doing. He said that the Attorney General had issued a statement saying that on preliminary advice the opinion obtained from Mr Redlich did not seem to raise any issues which were not already going to be dealt with at an inquest.

However, he was referring the matter to the Crown Solicitor for opinion, so the criticism and the fear which the member for Cottesloe has is not that the Attorney might give an opinion different from that espoused by the member for Cottesloe, but that the Crown Solicitor, in the course of advising the Attorney General, might give an opinion contrary to that tendered by the member for Cottesloe. As Mr Redlich has confirmed in his opinion, the Attorney General has acted in the best traditions of English law and our parliamentary system in this matter. There is nothing to complain about in the process by which the trial was conducted or any hint of political interference after the conclusion of the matter. What the Attorney General has done in this case is what he would do in any such case, having obtained the opinion of Mr Redlich from Mr Hassell, the member for Cottesloe, on Monday afternoon at 2.30. He sought some quick preliminary advice, but more importantly, he referred the matter to the senior Crown Law officer of the State for an opinion. It is to be a considered opinion, and an opinion which would not be politically motivated or publicity seeking.

The original opinion from Mr Redlich occupies 37 pages, and one page of supplementary advice, yet the member for Cottesloe, a former lawyer, expects the Crown Solicitor to consider all the contents of that opinion and provide a considered response to suit the member's timetable; that is within 48 hours of the documentation being made available to the Attorney General.

Mr Hassell: I made it clear that that was not the case.

Mr D.L. SMITH: In fact it was something like 42 hours. The member for Cottesloe gave notice of this motion at 11.15 this morning.

Mr Hassell: I have just made it clear that that was not our expectation.

Mr D.L. SMITH: Without wanting to dwell again on the history of the Tan matter, the simple fact is that the jury was faced with the following questions which had to be established beyond reasonable doubt before any conclusion could occur. Firstly, did Meredith intend to kill Mr Tan, in which case he would be guilty of wilful murder? Secondly, did he intend to cause grievous bodily harm to Mr Tan, in which case he would have been guilty of murder? Thirdly, did he unlawfully kill Mr Tan, but without proof beyond reasonable doubt that he intended to kill him or cause him grievous bodily harm, in which case he would be guilty of manslaughter?

The Crown charged Meredith with the most serious offence possible, one of wilful murder.

Mr Hassell: The police charged him, not the Crown.

Mr D.L. SMITH: The Crown conducted the prosecution on the basis of wilful murder, but the jury was not satisfied beyond reasonable doubt that Meredith intended to kill or grievously harm Mr Tan and so convicted him of manslaughter. As members will be aware, it is a fundamental principle of our criminal justice system that jury acquittals in such cases are final. The member for Cottesloe knows there is nothing that he or I or the Attorney or the High Court or anybody else can do about the jury's verdict. The fact of the matter is that the jury had the opportunity to convict of wilful murder, or murder, or manslaughter, and it chose to convict of manslaughter, and that is the state of affairs that we are stuck with. Nothing that we now do for Mrs Tan, and nothing that we do at the instigation of the member for Cottesloe can change that fact. Meredith will not be brought back; he will not have any heavier penalties imposed, and he will not be convicted of any more serious charge because there is nothing anyone can do to overturn the verdict of the jury.

As has been said, once a jury returns that verdict, the sentencing options of the judge hearing the matter are limited. He can only sentence for manslaughter on the basis of two facts. One is the common range of sentence tariffs for manslaughter convictions, and the other, because

of the provisions applying at that time, was that the youth of Meredith had to be taken into account. As was emphasised on page 36 of the opinion of Mr Redlich and Mr Searle, there was no prospect of any success in appealing against sentence, the advice of the Crown Law Department was reasonable, and they did not think any criticism of that decision not to appeal against sentence was justified.

So what are we left with? We are left with a proposition by the member for Cottesloe that somehow or other justice will be done for Mrs Tan if the Attorney would simply acknowledge that there was something defective about the prosecution or the handling of this case. In particular he would seek to have something said by the Attorney General about the medical evidence. I re-emphasise what is said in the concluding paragraph of the Redlich opinion -

> In the final analysis, and on the assumptions we have referred to in the course of this advice we cannot detect any departure from the proper course of the criminal justice process which would give rise to any warranted complaint against those who conducted or were responsible for the trial.

So in the opinion of Mr Redlich there is nothing to criticise of those who conducted or who were responsible for the trial. What the member for Cottesloe is really seeking to attack now is not the officers of the Crown Law Department, apparently, but the quality of the forensic evidence given by the forensic pathologist, Dr John Hilton. The critical issue in relation to the evidence of Dr Hilton related simply to his view that the death was caused by the injury to the brain, caused when Mr Tan fell to the ground backwards and struck the rear of his skull, cracking it open. That was the clear evidence of Dr Hilton. Once that evidence was given it was obviously open to the jury - and again, Mr Redlich does not seem to criticise the jury - to come to the conclusion that it was open to reasonable doubt that Meredith's actions had been a direct cause of death and not the indirect consequence of what he did; that is, the falling to the ground and the striking of his skull on the ground. In relation to that aspect, the only substantial criticism that could be made is that the reports of the Royal Perth Hospital on the admittance of Mr Tan to the hospital gave rise to some concern as to whether there may not have been a hairline fracture to one of his facial bones and whether, if that fact had been revealed to the jury, the jury might have had something on which to be convinced beyond reasonable doubt that the death injury was really caused by the blows to the front of the face and more particularly, perhaps, by that fracture rather than by the fracture caused at the back of the skull when he fell to the ground.

Firstly, even if that evidence had been led, if the evidence of Dr Hilton had stood - namely, that his view was positively that the cause of death was the falling to the ground - I do not have too much doubt that the jury would have had reasonable doubt as to the actual cause of death. However, what the member for Cottesloe and perhaps Mr Redlich try to draw as a longer bow is to suggest that if Dr Hilton had been aware of the Royal Perth Hospital's medical information, Dr Hilton's own evidence may have been different. Dr Hilton has had that possibility put to him and he says that he did not decide the question of the injuries to the front of the face just on the basis of a physical, external examination or X-rays, but that he actually cut to the bones which are claimed to have been fractured, and that on a physical visual examination of those bones he could not detect any fracture. His strong position still seems to be that even if he had been aware of the RPH evidence his opinion would not have been different because he was in the privileged position of conducting the autopsy and actually opening up the bones which were said to have been fractured or otherwise the other injuries that might have been suffered to the face of Mr Tan.

After the information came forward from Royal Perth Hospital we were not left in the position of simply having Dr Hilton's response; we received the response from Professor Kakulas and his opinion was, in effect, to support that of Dr Hilton; that is, having examined, as a professor of medicine - a specialist - the extra evidence that was available from RPH the result for him was still to stand by the opinion of Dr Hilton.

In any event, this whole issue of what was the actual cause of death will be the subject of another public inquiry. The Coroner has already indicated that he intends to receive evidence and to conduct an inquiry as to the actual cause of death of Mr Tan. No doubt in the course of conducting that inquiry he will have the opportunity to call the doctors from Royal Perth Hospital - Dr Tan, Dr Hilton, and Professor Kakulas - and any other experts he

might want to call. He will have the opportunity of conducting that independent inquiry into whether the actual cause of death was as indicated in the evidence given at the trial by Dr Hilton or by some other means. However, by this motion the member for Cottesloe seeks to bypass that inquiry, to simply take up the opinion of Mr Wood and that of Mr Redlich and Mr Searle, who say that perhaps there are some aspects of the medical evidence that need further consideration, and say that on the basis of those concerns as already expressed the Attorney General, as a matter of justice, should say to Mrs Tan, "I now accept there was something defective in the way the case was conducted or in the forensic evidence that was given. We will apologise to you for it even though we cannot help you in any other way, and we will pay for the cost of these opinions", and somehow or other that would fix up the matter forever.

It would be quite improper and irresponsible for the Attorney, on the basis of opinions before him, without having any evidence - without seeing the witnesses and examining their demeanour and being able to examine all the contrary evidence of each of the experts - to jump to a conclusion when he knows full well an inquest is about to be conducted by the Coroner which will address that problem. In the end, despite all the prancing up and down of the member for Cottesloe seeking to raise this as a political issue, this is what we are left with in essence: The opinion of an independent counsel from Victoria obtained by Mrs Tan is that there has been no political interference; that the decision not to appeal was correct; that there was no reason to criticise the conduct of the trial; and that the only matter for concern by him is the issue of whether the jury, in the end, had all the evidence that was available in relation to the cause of death and whether, if it had had all the evidence available, it may have come to a different conclusion in relation to the question of wilful murder, murder or manslaughter. That is the very issue the Coroner will determine; that is the very issue on which the Coroner will take evidence.

I have no doubt at all, and I do not think the member for Cottesloe should have any doubt - and I am absolutely certain that if he had been asked, the opinion of Mr Redlich would have been - that the proper person to answer this question for Mrs Tan is not the Attorney, nor Leo Wood, nor the member for Cottesloe, nor Mr Redlich himself, but an officer who has the responsibility for investigating and determining the cause of death; namely, the Coroner. That is where the Attorney is at. He will await the outcome of the Coroner's inquest in relation to the cause of death, and he will await the opinion of counsel on the opinion of Mr Redlich to see whether there is anything in that opinion which would give rise to any further concern. To the extent that the member for Cottesloe expresses any concerns about those aspects, he is calling into question again the competence of the senior officers of the Crown Law Department and of the Coroner to come to the right conclusions. It is disgraceful that a member in his position could go around touting that there is something wrong with the Crown Law Department, with our criminal process, with our criminal pathologists and with our forensic science procedures, and that there is something wrong with the Attorney General and our system, simply to gain political capital. I urge members to reject the motion and support the amendment.

MRS EDWARDES (Kingsley) [3.20 pm]: I oppose the amendment moved by the Minister for Justice, and support the motion. It is absolutely disgraceful that the Government should say in its amendment that this place shares the deep concern of the community. If the Government truly shared the deep concern of the community, it would be talking about the breakdown in the system and the lack of confidence in it. The Liberal Party is not talking about punishment at all in the member for Cottesloe's motion; it is talking about the loss of faith and confidence in the system. Not everyone would have the perseverance of Mrs Tan. The verdict cannot be reversed, but that is not what the Liberal Party is after. This is not a political issue it is a human one which deals with public confidence in the system. Everything the member for Cottesloe has done was done at the request of Mrs Tan. That is why there have been delays, and that is why opinions perhaps were not handed on to the Attorney General beforehand. Those opinions were not the opinions of the member for Cottesloe; they were Mrs Tan's opinions and the Government is turning this issue into a political football by dealing with it on that basis.

How does the Government explain the failure of the system to produce medical evidence? The Coroner could not do that; he might be able to clear up some of the doubt about the medical evidence and to determine the cause of death but that will not deal with the

breakdown of the system. We need to restore faith and confidence in the system so that it does not happen to you, Mr Speaker, to me, to my neighbours or to any other ordinary person like Mrs Tan. If members do not believe this is an issue of concern to the wider community, I would bring to their attention the editorial in today's *Daily News*, which reads in part as follows -

> On evidence now available there is a case for Attorney General Joe Berinson to institute a publicly-accessible inquiry that addresses critical issues in this case.
>
> If a breakdown in the system did deprive the Tans of justice -

We are not talking about the Tans and Meredith any more; we are talking about the system and about people. The editorial continues -

> - it needs to be identified and appropriate mechanisms put in place to prevent any similar occurrence.
>
> With public confidence in the judicial system possibly at stake, it would seem to be worth the effort.

That is what the motion is all about. The responsibility lies not only with the courts, it lies with defence counsel and prosecution; it lies with the Crown Law Department - whether it be the Solicitor General or the Chief Crown Prosecutor, they have a duty to ensure all evidence is presented to the courts, that the evidence is of the highest standard and was accumulated properly so that it can be tested in the judicial system. The opinions show that there appears to be substantial flaws; the Opposition is not attacking the Crown Law Department nor is it attacking the solicitors - the Opposition is attacking the system. Things need to be put in place to ensure that this situation does not occur again for you, Mr Speaker, for me and for our neighbours. That is what we are talking about. In the interest of maintaining the highest level of public confidence in the judicial system, greater care should perhaps be taken in these instances. The Attorney General should deal with the issue of confidence in respect of the problems that have occurred because of the breakdown in the system. I propose to move an amendment to the amendment as follows -

> But notwithstanding all the foregoing the Government and the Attorney General stand censured and condemned for their wilful and persistent refusal to face up to the central issue in the Tan case, namely the failure of the system to produce at trial relevant available medical evidence, and for their continuing bureaucratic stonewalling and avoidance, exemplified by the Government's performance in this House today.

The SPEAKER: I am just a bit confused about where the member wants that to go.

Mrs EDWARDES: At the end of the amendment.

The SPEAKER: It would be my intention - unless I am wrong - to put the motion that the words be deleted and then to add the member's words to the amendment and then amend the amendment.

MR PEARCE (Armadale - Leader of the House) [3.25 pm]: I would have thought that the member for Kingsley neatly undermined in the last 30 seconds of her speech all she was to say afterwards. She sought to deny that this was an issue in which the Opposition was seeking political advantage, and said this was not a vote scoring exercise. She then moved an amendment to the amendment moved by the Minister for Justice which attempted to censure two senior officers of the Government. The member can have it one way or she can have it the other. The fact is that the Opposition - and particularly the member for Cottesloe - has persistently sought to milk this exercise of every last bit of publicity and vote-scoring it can get out of it.

That can be neatly summarised by the fact that when he received this opinion from the Eastern States he delivered it first to "The 7.30 Report" and subsequently to the Attorney General.

Mr Hassell: I did not give it to "The 7.30 Report". You are wrong, Minister.

Mr PEARCE: That is not the truth. That has consistently been the approach which the member for Cottesloe has taken on this issue. The member for Kingsley says that we have here a breakdown in the system and we require some kind of public inquiry which is

different from the system to set the system straight. The Government's argument is that although it feels that certain aspects of this could have been better handled at the time - which was very eloquently outlined by the Minister for Justice - the fact is that the system is able to deal with those sorts of matters. All the evidence and opinions which have been brought forth subsequently are capable of resolution inside the existing system. That is why the Minister for Justice moved the amendment; he pointed out to the Parliament the way in which the matter is currently being dealt with inside the system The Government does not feel the compulsion which the Opposition seems to feel that whenever anything controversial turns up, one attacks all the people involved. I would think there is hardly a senior public servant in this State who has not been smeared by the member for Cottesloe at some stage during the past seven years. The member for Cottesloe has gone quite unmercifully and unscrupulously for senior officers of the Crown Law Department over this issue. Those people are not in a position to defend themselves on the basis of judgments that the member for Cottesloe makes himself. It is not as though the member for Cottesloe is just raising questions to be answered; he has set himself up in this matter as judge, jury and executioner. He sentences people publicly; he puts those sentences out through the media and he appears on "The 7.30 Report" to point out the guilty and then he comes into the House trying to pretend that all he is asking for is some kind of inquiry.

I have seen many disgraceful things in my years in politics but I have seen little as disgraceful as the efforts of the member for Cottesloe to whip up public hysteria on this issue. I had the opportunity, for example, to speak to a large number of taxi drivers a day or two after the member for Cottesloe had spoken to them on this issue. Some of the things they reported to me as having been said by the member for Cottesloe were - and I put it in no lesser way than this - outright lies. Unless the taxi drivers were misreporting dramatically the conversations they had with the member for Cottesloe, all I can say is that the member for Cottesloe has picked out those elements in the community who might be susceptible to the kind of emotional campaign he has been waging on this particular issue, not in any fair or reasonable way -

Mr Hassell: You are a scoundrel!

Mr PEARCE: The member for Cottesloe is a bounder and a cad!

Mr Hassell: Tell us about one taxi driver who has presented one piece of evidence about what was said by any taxi driver.

The SPEAKER: Order!

Mr PEARCE: The way in which the member for Cottesloe is prepared to use people in a public way is disgraceful. One of these days someone will write a tragedy about him because when he first came into this place in 1977 he had a touch of ability and a fair touch of principle as well. The way in which he has declined in terms of presenting principles before Parliament, as more and more he has become desperate for power, is disgraceful. The member has degraded not only himself but also his party.

Mr Hassell: The Leader of the House's performance today will go down in history as one of the most disgraceful ever seen.

The SPEAKER: Order!

Mr PEARCE: On this occasion the member has sought to score points and win votes on this issue; I do not know how much lower he can go because he is already scratching the bottom of the barrel.

Amendment (words to be deleted) put and a division taken with the following result -

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Ayes (28)

Dr Alexander	Dr Gallop	Mr Marlborough	Mr Taylor
Mrs Beggs	Mr Graham	Mr Parker	Mr Thomas
Mr Carr	Mr Grill	Mr Pearce	Mr Troy
Mr Catania	Mrs Henderson	Mr Read	Mrs Watkins
Mr Cunningham	Mr Gordon Hill	Mr Ripper	Dr Watson
Mr Donovan	Mr Kobelke	Mr D.L. Smith	Mr Wilson
Mr Peter Dowding	Mr Leahy	Mr P.J. Smith	Mrs Buchanan *(Teller)*

Noes (19)

Mr Ainsworth	Mr Grayden	Mr MacKinnon	Mr Strickland
Mr Bradshaw	Mr Hassell	Mr Mensaros	Dr Turnbull
Mr Clarko	Mr House	Mr Nicholls	Mr Wiese
Mr Court	Mr Kierath	Mr Omodei	Mr Blaikie *(Teller)*
Mrs Edwardes	Mr Lewis	Mr Shave	

Pairs

Mr Bridge	Mr Watt
Dr Lawrence	Mr Fred Tubby

Amendment thus passed.

Amendment on the Amendment

MRS EDWARDES (Kingsley) [3.37 pm]: I move -

To add to the amendment the following -

> But notwithstanding all the foregoing the Government and the Attorney General stand censured and condemned for their wilful and persistent refusal to face up to the central issue in the Tan case, namely the failure of the system to produce at trial relevant available medical evidence, and for their continuing bureaucratic stonewalling and avoidance, exemplified by the Government's performance in this House today.

Amendment on the amendment put and a division taken with the following result -

Ayes (20)

Mr Ainsworth	Mr Grayden	Mr MacKinnon	Mr Shave
Mr Bradshaw	Mr Hassell	Mr Mensaros	Mr Strickland
Mr Clarko	Mr House	Mr Minson	Dr Turnbull
Mr Court	Mr Kierath	Mr Nicholls	Mr Wiese
Mrs Edwardes	Mr Lewis	Mr Omodei	Mr Blaikie *(Teller)*

Noes (28)

Dr Alexander	Dr Gallop	Mr Marlborough	Mr Taylor
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Mr Donovan	Mr Kobelke	Mr D.L. Smith	Mr Wilson
Mr Peter Dowding	Mr Leahy	Mr P.J. Smith	Mrs Buchanan *(Teller)*

Pairs

Mr Watt	Mr Bridge
Mr Fred Tubby	Dr Lawrence

Amendment on the amendment thus negatived.

Amendment to Motion Resumed

Amendment (words to be substituted) put and a division taken with the following result -

Ayes (28)

Dr Alexander	Dr Gallop	Mr Marlborough	Mr Taylor
Mrs Beggs	Mr Graham	Mr Parker	Mr Thomas
Mr Carr	Mr Grill	Mr Pearce	Mr Troy
Mr Catania	Mrs Henderson	Mr Read	Mrs Watkins
Mr Cunningham	Mr Gordon Hill	Mr Ripper	Dr Watson
Mr Donovan	Mr Kobelke	Mr D.L. Smith	Mr Wilson
Mr Peter Dowding	Mr Leahy	Mr P.J. Smith	Mrs Buchanan *(Teller)*

Noes (20)

Mr Ainsworth	Mr Grayden	Mr MacKinnon	Mr Shave
Mr Bradshaw	Mr Hassell	Mr Mensaros	Mr Strickland
Mr Clarko	Mr House	Mr Minson	Dr Turnbull
Mr Court	Mr Kierath	Mr Nicholls	Mr Wiese
Mrs Edwardes	Mr Lewis	Mr Omodei	Mr Blaikie *(Teller)*

Pairs

Mr Bridge	Mr Watt
Dr Lawrence	Mr Fred Tubby

Amendment thus passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (28)

Dr Alexander	Dr Gallop	Mr Marlborough	Mr Taylor
Mrs Beggs	Mr Graham	Mr Parker	Mr Thomas
Mr Carr	Mr Grill	Mr Pearce	Mr Troy
Mr Catania	Mrs Henderson	Mr Read	Mrs Watkins
Mr Cunningham	Mr Gordon Hill	Mr Ripper	Dr Watson
Mr Donovan	Mr Kobelke	Mr D.L. Smith	Mr Wilson
Mr Peter Dowding	Mr Leahy	Mr P.J. Smith	Mrs Buchanan *(Teller)*

Noes (20)

Mr Ainsworth	Mr Grayden	Mr MacKinnon	Mr Shave
Mr Bradshaw	Mr Hassell	Mr Mensaros	Mr Strickland
Mr Clarko	Mr House	Mr Minson	Dr Turnbull
Mr Court	Mr Kierath	Mr Nicholls	Mr Wiese
Mrs Edwardes	Mr Lewis	Mr Omodei	Mr Blaikie *(Teller)*

Pairs

Mr Bridge	Mr Watt
Dr Lawrence	Mr Fred Tubby

Question thus passed.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY BILL

Introduction and First Reading

Bill introduced, on motion by Mr Troy (Minister for Employment and Training), and read a first time.

Second Reading

MR TROY (Swan Hills - Minister for Employment and Training) [3.45 pm]: I move -

That the Bill be now read a second time.

This is a Bill for an Act to establish a mandatory training levy of 0.2 per cent on the value of building and construction work. The levy will be the mechanism to raise funds to be applied for training purposes within the building and construction industry. The levy may be varied by regulation and will be applied to project owners of construction work. This Bill is fundamentally linked to the Building and Construction Industry Training Fund and Levy Collection Bill. The Bills were initiated by the building and construction industry in response to cyclical skills shortages and are designed to increase the quantity of skilled labour and improve the quality of skills in the industry. Once enacted, the Bills will be incorporated and read as one. I commend the Bill to the House.

Debate adjourned, on motion by Mr Lewis.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION BILL

Introduction and First Reading

Bill introduced, on motion by Mr Troy (Minister for Employment and Training), and read a first time.

Second Reading

MR TROY (Swan Hills - Minister for Employment and Training) [3.48 pm]: I move -

That the Bill be now read a second time.

The introduction of this Bill is a significant step for training arrangements in the building and construction industry in this State. It provides for the establishment of a training fund and a tripartite board of management which will administer the fund and the collection of the training levy. The training fund will assist in overcoming the cyclical skills shortages that often plague the industry by creating additional training places and by providing greater opportunities for enhancing the skills of the existing work force and mobility across the various sectors of the industry. The overall intention of the fund is to increase the level of training in the building and construction work force. The scope of the levy will cover the residential and commercial building sectors as well as engineering and Government construction.

Employer and union bodies in the building and construction industry recognise that construction activity is cyclical in nature over time, and have for some years expressed concern at the impact this has on the stock of skilled labour in the industry. Many workers are limited to working within particular sectors of the industry, either through choice or because of the narrow range of skills they possess. It is not uncommon for construction workers to seek work outside the industry if the level of activity falls away in their sector. Having found jobs outside the industry, in many cases in unrelated occupations, many never return to it. Another trend which has emerged in recent years is the overall decline in the training effort in the industry, despite an increase in the overall number of workers. From 1981-82 to 1987-88 training declined by 39.2 per cent, while employment grew by 11.2 per cent to take the total number in the industry to more than 50 000. The drain of skilled labour from the industry and the decline in training have had a serious impact on productivity and efficiency, the implications of which are felt by the entire community.

Another dimension adds impetus to the development of the fund. The process of award restructuring will create additional pressure on training resources. Restructuring will broaden the scope of many job classifications as well as make provision for career pathways. This will increase the demand for training as workers seek to improve their skills base. It is vital that adequate training resources are available to meet this extra demand.

It is critical for members to note that the drive for the development of the fund has come from the employer and union bodies in the industry. This is not a Government-driven initiative. This is a case where the industry has recognised a problem and has taken steps to rectify it. The idea of a levy arose out of a seminar in late 1987 conducted by the industry to investigate ways of overcoming the problems of skills shortages. Two of the industry representatives at the seminar had recently participated in a State Government sponsored mission to Western Europe, and had observed how levy arrangements had been developed in several of those countries to address skills shortages. Notable among them was a construction industry levy developed by West German industry. This levy had resulted in a trebling of training places and improvements in training quality. The seminar concluded with a recommendation to Government that an industry levy be established and that a tripartite steering committee be convened to investigate the feasibility and options for such a levy. The committee consisted of representatives of key employer and union bodies including the Australian Federation of Construction Contractors, the Master Builders Association, the Housing Industry Association, the Confederation of Western Australian Industry (Inc), the Trades and Labor Council, and the Construction, Mining and Energy Workers Union. Homeswest and the Building Management Authority represented Government interests. The Department of Employment and Training assisted the process by providing resources to contract Coopers & Lybrand and W.D. Scott Consultants to investigate the fund options on behalf of the industry committee. The parties involved in the

development of this initiative have been conscious both of its importance to the skills levels in the industry and the fact that there is no precedent in this country on which to model it. It is testimony to the vision of both the employers and unions in the building and construction industry that they embarked on this initiative at that time. It is a credit to their ongoing commitment and capacity to work cooperatively to have progressed it to this stage.

The industry committee continued to meet during 1989 to address some of the detailed aspects of the proposal before approval was sought from State Cabinet to draft legislation. In making its decision, Cabinet sought to demonstrate the State Government's commitment to this initiative and its total support, by including construction work undertaken by State and local government construction labour forces. This work, with the exception of maintenance and repairs, will be subject to the levy. I am pleased to say that the Commonwealth Government has also accepted that private sector tenderers for Commonwealth contract work in Western Australia will be required to contribute to the levy. In addition, Cabinet decided that, since the initiative had come from the industry itself, it was appropriate for employer and union representatives within the industry to be involved in the drafting of the legislation. This reflected the Government's desire to secure industry's ownership of the scheme, rather than to impose a set of bureaucratic arrangements which might mitigate against industry control and support of the scheme. Consequently, the building and construction industry steering committee was reconstituted as a legislation drafting committee with representation from the Housing Industry Association, the Master Builders Association, the Australian Federation of Construction Contractors, the Confederation of Western Australian Industry, the Building Trades Association of Unions, the Metal Trades Federation of Unions, the Australian Workers Union, and the Trades and Labor Council. I should point out that the role of my Department of Employment and Training has been to facilitate this process and to ensure that the provisions contained in the Bills before the House accurately reflect the intent of the building and construction industry parties.

Two Bills are required to establish the training levy and the associated administrative arrangements. The reason for the two Bills - the Building and Construction Industry Training Levy Bill and the Building and Construction Industry Training Fund and Levy Collection Bill - is as follows. The first Bill takes account of the fact that the Constitution Acts Amendment Act 1899 makes provision for Acts imposing taxation to deal only with the imposition of the taxation. The second Bill provides for the administrative arrangements, including establishment of the board, collection of the levy and other associated matters. Once enacted, the two Bills will be incorporated and read as one Act. Provisions in the Bills will not come into effect until after proclamation.

The legislation provides for a levy of 0.2 per cent to apply to the value of construction work undertaken in the residential and commercial building sectors, as well as the engineering and Government construction sectors. The rate of the levy may be changed by regulation, on the recommendation of the training fund's board of management. This tripartite arrangement has worked well, as demonstrated by a reduction of the construction industry portable paid long service leave levy from three per cent to 1.7 per cent effective from 1 January 1990. I envisage the training fund levy being reduced over time as the industry itself develops mechanisms to ensure an adequate supply of skilled personnel. The levy will be payable before the commencement of new building and construction work. It will not apply to any work in progress at the time of proclamation. The levy will be paid by the "project owner" who, in most cases, will be the holder of a building licence or the principal contractor for engineering construction work. Since the principal contractor will be contributing directly to the fund, it can be assumed that subcontractors will also be meeting a proportion of the levy costs through their tenders. It is my view that subcontractors will be contributing to the fund through this process. As members will be aware, the Commonwealth Minister for Employment, Education and Training, Hon John Dawkins, has proposed the establishment of a national training levy. Mr Dawkins has acknowledged to me that he appreciates the commitment by the building and construction industry in this State, and has indicated that the proposed levy is likely to exceed the minimum training obligation of the Commonwealth's proposal. This being the case, employers will be exempt from contributing to the training guarantee.

The definition of building and construction work has been kept broad to include activity in the four key sectors of the industry; that is, residential building, commercial building,

engineering construction and Government construction. The industry has had significant input into the framing of this definition. It combines work which is subject to building licences and the definition of "construction industry" in the Construction Industry Portable Paid Long Service Leave Act. Exclusions to this definition are to be prescribed by regulation, on the recommendation of the board of management of the fund.

I will appoint a 12 member board of management which will include a presiding member. The board, to be titled the Building and Construction Industry Training Board, will be responsible for administering the operations of the fund, including the collection of the levy. The board will consist of an equal number of representatives from employer and union bodies, as well as representatives from the State Government and the Local Government Association. A key determinant of the fund's success will be the industry's compliance with the legislative provisions of the Act. While the board will not have an ongoing inspectorate, it will have some powers to request and to verify information relating to construction work subject to the levy. Again, this provision is similar to provisions in the Construction Industry Portable Paid Long Service Leave Act.

Operational plans: The legislation provides for the board to work in close liaison with the Industry Employment and Training Council - IETC - for the building and construction industry to be registered under the proposed State Employment and Skills Development Authority - SESDA. The Industry Employment and Training Council will, of course, be expected to have a broader role, particularly in relation to vocational education and training programs funded by the State through the Office of TAFE, independent colleges established under the Colleges Act 1977, and the Department of Employment and Training.

In contrast, the board will have a specific role in funding additional training, cross-skilling and retraining programs within industry, as well as ensuring that the stock of apprentices and trainees is sheltered against the disruptive effects of cyclical fluctuations within the industry. Nevertheless, the legislation requires that the board, in conjunction with the building and construction Industry Employment and Training Council, produce for my approval annual operational plans. The plans will allocate funds to priority training areas identified by each of the four sectors within the industry. The proposed State Employment and Skills Development Authority will, once enacted, provide the mechanism for accreditation and approval of programs funded by the board.

Currently two group schemes operate in the industry, with the objective of creating additional training places. These group training schemes are sponsored by the Housing Industry Association and the Master Builders Association. The HIA scheme is funded by a voluntary levy which was introduced early last year as consideration was being given to this broader industry levy. The HIA and MBA are to be commended for the contribution they have made to increase the number of training places within the industry; and their schemes will continue to be funded by the board once the levy is operational. Although the legislation does not specify any administrative changes to these schemes, the HIA and MBA will need to make some adjustments to take account of the training fund as a new funding source. The nature of these changes will be up to the organisations to determine.

The industry has agreed to the principle that funds will be allocated to the four sectors - residential building, commercial building, engineering construction, and Government construction - in the same proportion as they were raised. Amounts will be deducted to cover administrative costs, and for a proportion to be allocated to cover the overall and future skill requirements of the whole industry. Clearly, the board will have a keen interest to ensure that administrative costs are kept to a minimum. The purpose of this fund is to resource the training effort. It is not to raise revenue for its own sake, nor to squander money on the administration of a bureaucracy. A lesson can be learnt from the Construction Industry Portable Paid Long Service Leave Act, which is administered by a tripartite board, and which now has a lower levy than when it commenced.

I anticipate that each of the sectors in the industry will be responsible for determining its own funding priorities. For example, representatives from the AFCC, MBA and relevant unions will determine funding priorities in the commercial sector. The responsibility for identifying funding priorities in the residential sector will be by representatives of the Housing Industry Association and the Master Builders Association. Training in the residential sector will be delivered principally through the existing group schemes in the sector, in particular those

operated by the HIA training foundation and the Master Builders Association. The operational plan, which reflects funding allocation for the entire industry, may then take the form of an aggregation of the priorities of the sectors, in addition to the overall needs of the industry. This would include research activities, as well as catering for the interests of groups, such as plumbers and electricians, which are engaged in activities across the entire industry, and would also involve existing group schemes. It needs to be emphasised that the board and the building and construction IETC must work cooperatively to ensure funds are allocated in accordance with the industry's overall priorities.

Expected outcomes: The introduction of this levy should result in the collection of some $5 to $6 million per annum, for allocation within the industry for training purposes. The Department of Employment and Training is currently undertaking an extensive survey of the training needs of the industry. This survey will target both employers and workers, and is being conducted in close liaison with employer and union bodies. The results of the survey will be available for consideration by the fund's board of management at its first meeting. The data it contains will assist the board in the development of its first operational plan, and in planning future training strategies to meet the skill requirements of all sectors of the industry.

The fund will provide resources both to create additional training places and to improve the quality of training. If one assumes that $5 million is available for training, this could finance the training of 5 000 people at $1 000 each. This would represent some 10 per cent of the building and construction work force.

Conclusion: This is a significant piece of legislation. The key to its eventual success in achieving its objectives is the fact that the impetus has come from industry. This is not a Government initiative that has been imposed on the industry; industry has driven its development, while Government has simply assisted the process with the provision of financial and human resources. This is clearly a model to which other industries can aspire. This industry has defined a problem, and devised a solution which meets and conforms to the characteristics of its particular circumstances.

This fund will contribute to achieving some great benefits for the Western Australian community. Skills shortages have had implications both on individuals and families directly, and on the community as a whole. Individuals and families have suffered due to time delays and increased costs of building projects. There have also been problems with workers leaving the industry when their narrow range of skills is no longer required. Technological change has had, and will continue to have, a significant effect on the skills requirements of workers in this industry. For example, the increased use of aluminium as a material for window and door frames has meant that carpenters have had to upgrade their skills. Workers who are not prepared to upgrade their skills will suffer as their skills are rendered obsolete. Improvements to training arrangements in the industry will result in a broader range of skills, in time leading to increased transfer of workers from job to job and from sector to sector as the market determines.

On a more general level, skills shortages can have a negative effect on the investment decisions made by overseas investors. I am referring in particular to some of this State's major resource projects. The supply of skilled labour is a key determinant in investment decisions. By increasing the quality of skilled labour, we increase our opportunity to attract investment, leading to the production of products oriented towards adding value to our resources, import replacement, and export markets. These developments are definitely in the best interests of this State.

I congratulate the industry partners on their diligence in progressing this important initiative, and commend to the House both this Bill, and the Building and Construction Industry Training Levy Bill, in the firm belief that the fund will have great impact on the quality and quantity of skilled labour in the building and construction industry in this State.

Debate adjourned, on motion by Mr Lewis.

ACTS AMENDMENT (PARLIAMENTARY SUPERANNUATION) BILL

Returned

Bill returned from the Council without amendment.

ROAD TRAFFIC AMENDMENT (RANDOM BREATH TESTS) BILL

Second Reading

Debate resumed from 16 November.

MR STRICKLAND (Scarborough) [4.09 pm]: The Opposition will support this Bill, but it will do so in the knowledge that not all members on this side of the House are convinced of the Bill's merits, and we will be seeking to amend the Bill to provide for an annual review of the legislation.

I acknowledge the assistance of the Minister for Police and Emergency Services in organising a briefing by Dr Smith. That briefing assisted us greatly. I believe that a decision is one thing but a commitment to that decision is another, and the way to improve the commitment to a decision is to allow people to become involved and to participate. I extend a personal challenge to the Minister to find some mechanism which would allow early involvement of Opposition members which may maximise the areas in common and support for them, because the subject of road safety is above politics and if we work together I am sure we could do better.

The Opposition also advocates the introduction of a total road safety management program. Random breath testing is one part of a road safety program and, after discussing the matter, we believe there is a need to better coordinate what might now be considered a partially fragmented approach. The idea is that a road safety management program would focus on the matter, which should maximise progress. The aim would be to facilitate improved road safety, to monitor and review the progress, and to spread the good ideas. One aspect that could be considered in such a total road safety management program is road safety devices. I am aware that while the Police Department has the prime responsibility in this area, other people such as the Main Roads Department and local authority engineers are also involved. In recent times we have seen the introduction of roundabouts, deceleration lines, slip roads and a whole range of things, so the situation is gradually changing. Some authorities are experimenting - good ideas are being tried and put into practice - but we need to put the whole thing together as a total package, spread the information and improve the whole situation.

There is a need also to continually upgrade student education programs. I have written a letter to the Minister only today on the question of roundabouts and child safety, and I will comment on that shortly. Other issues to be discussed under a total road safety management program could include vehicle roadworthiness, driver awareness and traffic police presence. Those sorts of things could be focused on, tested, and monitored.

Returning to the subject of the Bill, I acknowledge that two important factors are contained in the report on random breath testing compiled by the Traffic Board of Western Australia; these are the enforcement and publicity factors. The report indicates that they must act in tandem and that the success of the program is wholly dependent on the perception by the public that random breath testing is taking place, and that people risk being caught if they have overindulged in drink and then drive. One of the reasons we want our amendment passed is so that once a year the relationship between publicity and enforcement can be reviewed, we have the opportunity for input into those things, and any necessary adjustment of resource allocation to back up the public confidence in the program is made.

Not only did I listen to Dr Smith's briefing but also I spent some time reading the report and I was interested to see that a wide range of approaches have been adopted in the other States in Australia, with varying degrees of success, but that some definite trends have appeared.

One of the difficulties which must be faced when we are introducing these measures is the question of the impingement on personal liberty. That is a very serious question, and before Opposition members jump up and say, "Yes, it sounds good and we agree with it", I must say that the fact that a trial period was held was a very important part of the process for those people who are concerned about any impingement on their liberty. For instance, the trial period enabled the Police Department to thoroughly investigate the value of random breath testing and prepare an in-depth report. As well, it allowed the public to understand that it was a trial and that if the predictions were not fulfilled there was the opportunity to call a halt to it and to retain and maximise the personal liberty aspect. I therefore believe that the trial period was an important part of the process; it allowed us to look at more and better information than would have been available to us if we had not had that trial.

The report on random breath testing mentioned a couple of factors which were working against and having a diminishing effect on the impact of random breath testing. One such factor was that penalties were increased for drink driving offences, and there was much associated research publicity. As well as that, there were factors working against reducing the road accident rate.

The normal increase in population of around three per cent, the increase in registered vehicles of around five per cent, the extension of Sunday trading hours from six hours to nine hours, changes in tax which supposedly make beer cheaper, as well as the buoyant economy which is associated with drinking and the fact that there was a de facto random breath test in place prior to the formal introduction of the RBT trial were factors which all tended, one would suspect, to work against reduction in road accident statistics.

The opinions of people driving on the roads were also looked at. There was reasonable support for random breath testing before it was introduced and the statistics show that the level of support has increased since. I was interested to look at the figures in the report. The statistic used to support the introduction of random breath testing is called the ratio of daytime to night-time accidents. This ratio means that one must consider firstly why one picks that ratio. Alcohol-related driving accidents are associated with the night-time more than the daytime; given that this is reasonably factual, that means that when one has a ratio where the number of night-time accidents reduces, the figure in the report increases. Therefore, when one looks at the table the increased figures support the fact that random breath testing is having a positive effect. The effects were considered under several headings, which included fatalities. It is interesting to note that prior to the introduction of random breath testing, in the period from 1981 to 1988, the daytime/night-time ratio ranged between 1.07 and 1.49, with an average of 1.16. Following the introduction of the random breath testing trial, the figure became 1.43. That means it was higher in all years other than one. Statistically one can expect some figures to vary and I regard that as strong evidence that, in respect of fatalities, random breath testing is having a positive effect.

The report then goes on to consider serious casualty accidents. The range of figures for this ratio prior to random breath testing varied from 1.31 and 1.39 per cent, and after random breath testing was introduced it became 1.66. That means there were no occasions when the pre-RBT figure was as good as the RBT figure. That is positive evidence of a good reduction in the serious casualty accident rate. Likewise in minor accidents and in areas of property damage the RBT figure was not exceeded in pre-RBT times. When one takes the whole range of accident statistics, the evidence indicates strongly that RBT is in fact having an effect. I was interested in the breakdown of the statistics and I looked at the Saturday/Sunday figures, the Friday figures and the figures for Monday to Thursday. The figures for Saturday/Sunday and for Friday - overall a period when there are many accidents on the roads - were similar. In other words the RBT figure for this daytime/night-time ratio was better than prior to RBT. I cannot explain the Monday to Thursday figure, which in the RBT trial turned out to be a little lower on a few occasions than it was prior to the trial. Whether that relates to the time in which the RBT program was implemented, I do not know.

To summarise, I acknowledge that the statistics will vary but at the end of the day one is looking at trends and to me the trends suggest that RBT is having a positive effect. One has only to consider the people with whom one associates and the practices they have undertaken as a result of RBT. I know that people close to me now give a lot more consideration to whether they will get behind the wheel of a car after they have been drinking in comparison to what they did before RBT. In relation to perception, I have seen only one RBT unit operating, and I was going in the other direction. My wife has not seen one. From a small vote taken among a group of people, only half had been pulled over in an RBT operation. To me that highlights what the Minister spoke about in respect of infringement on civil liberties. How often is one pulled over for random breath testing? It might only be once a year or once every two years. However, the perception that one can be caught is very important.

Mr Taylor: That is critical. It is a bit sad but people will only change their behaviour if they believe they have a chance of being caught.

Mr STRICKLAND: That is why the Opposition supports the need for these programs, which remind people, via the media, that RBT is in place. However, that must be followed up with a reasonable level of enforcement so that people hear about others actually being stopped. There must be some credibility in the publicity given through the media.

I found it interesting that generally wherever RBT is tried - whether in this State or Australia-wide - public support, as indicated through surveys, is increasing. That seems to be fairly constant throughout Australia; in fact approval ratings are consistently in the high - over 80 per cent - levels. There is a slight difference between the metropolitan and country areas but the trends are there and they are the same. There is increasing support because people have weighed this matter up and said, "We are going to suffer the possibility of a loss of a little bit of personal freedom but perhaps that is better than someone else suffering a permanent loss of freedom through the loss of their life." If one is worried about infringing on personal liberty, one must consider the people who disapprove of RBT. In fact the level of disapproval has dropped from 14.2 per cent to 8.5 per cent.

The second reading speech stated that 44 per cent of the drivers and motorcyclists killed on Western Australian roads had a blood alcohol level of 0.08 per cent or higher. I challenged that figure and it was indicated that the figure was obtained from people who had had their blood level determined, and Dr Smith indicated that 90 per cent of fatalities were examined in that way. If 90 per cent of the 44 per cent killed were tested, this would mean that 36 per cent were killed. That is a small point regarding the way police statistics are measured which I found interesting.

The work done in a police officer hour has been referred to. Prior to the introduction of random breath testing 11 people per hour were stopped by the police and only one was tested, and about one-ninth of a person was charged. After the introduction of RBT, of the 26 people stopped, 14 were tested and about one-quarter of a person per hour was charged. The interesting aspect is that a greater number of people were stopped, yet there was little difference in the percentage of persons charged; both methods resulted in about one per cent of people being charged. However, slightly fewer people were charged after the introduction of RBT; this might not necessarily relate to the efficiency of the police, but may be a reflection of the fact that fewer people are drinking and driving beyond the 0.08 level.

Mr Taylor: That is certainly what I think is the case.

Mr STRICKLAND: It is interesting that it appears that about one per cent of drivers on the road are in a situation in which they are liable to be charged. Obviously, that is the group of people who must be targeted.

In supporting the Bill I reiterate that we on this side of the House believe the amendment is a positive measure which will allow the pressure to be maintained on the Police Department in that the department will know that it will be examined once a year - that is a healthy situation from Parliament's point of view. The relationship between the publicity and the enforcement will be maintained. The Opposition would like to see a total road safety management program considered on the grounds that a lot of differing aspects are involved in this field and their coordination could be improved. For instance, some big local authorities have the expertise that others do not have, and if a program were established we could focus on the total package, and that could only be healthy.

MR HOUSE (Stirling) [4.34 pm]: I was interested while listening to the member for Scarborough in how quickly people's opinions about certain courses of action can change. It is fair to say that the opinion of the public of Western Australia has changed considerably over the last 12 months since random breath testing was introduced on a trial basis. As a representative of country people in this Parliament, I have a slightly different view for a number of reasons about random breath testing from that held by other members of this Parliament. In that light I was interested to hear the member for Scarborough say that he had seen only one RBT unit in action. I assure him that that is not the case with most country people, for a number of reasons. I suggest that the average country person in the past 12 months would have seen half a dozen RBT units. The first reason for that is that country towns are smaller and when a function takes place it is a little easier for the police to cover the roads leading out of town when the function finishes. One of my constituents - she happened to be my secretary at the time - was stopped four times in Katanning in one night, and was subjected to testing four times. When I spoke against the introduction of RBT 12 months ago I was concerned about the civil liberties issue because that matter can be overlooked when we consider the good aspects of RBT, which I readily acknowledge and to which I will refer later.

With a few exceptions, the police have conducted this trial in an orderly, reasonable and responsible way. The danger is that we might now unleash the force into a more

uncontrolled RBT situation, particularly in country areas. The situation is different for country people for a number of reasons: One is that it is easy to target the bowling club or the golf club or a function in a town such as Mt Barker because of the number of people at the function, and the very nature of the function itself. Police in country areas have a tendency not to want to get off side with the people in the town in which they live, so if the police were to target the town of Gnowangerup, often the police from Katanning or Cranbrook would operate the unit so that the local policeman would stay on side with the local people. Meanwhile the policeman from Gnowangerup has probably been doing the same thing down at Cranbrook. There is no denying that that is what occurs.

However, I agree that the tests have been carried out in a responsible way, and I hope the police will not change their method of operation. Most people would agree - and the figures indicate this - that RBT has a degree of acceptance, which has largely been brought about by the way in which the police have conducted themselves during the trial period. If that were to change, public opinion may change too. I hope the Minister will comment on that when he replies. In addition, it is very important that the Minister reiterate two things that he has said in the past: Firstly, that RBT will not be conducted in Western Australia in the same way as the booze bus system operates in New South Wales. I hope the Minister will be able to give the House an assurance that that is still his opinion and that he will make that opinion known to the police officers of this State. Even those of us who support random breath testing would have severe reservations about that type of practice. Secondly, I hope the Minister informs the House of his opinion about retaining the 0.08 per cent blood alcohol level. While none of us agrees with people who are highly intoxicated driving on our roads, there is a level of social acceptance. People should be able to enjoy a can of beer and a glass of wine with their meal and still be able to drive home. That is particularly important to the people I represent who might travel to the restaurant or roadhouse in the local town and enjoy a beer and a glass of wine with their meal. I know that the Minister has commented about the 0.08 blood alcohol level and if he has been reported correctly I understand that he supports its retention.

I have several reservations about random breath testing. I hope that this is not being used as an excuse to lower the police numbers in country areas. It is very easy for police to go to towns on fly in missions, book 20 or 30 people and then leave, never to be seen again. To that end it is very important that random breath testing does not become the prime operation of police in country areas. They should not focus their energies only on RBT and neglect their other duties. Country people will tell members that they see policemen upholding the traffic laws to the nth degree. Only recently a building contractor in my electorate was booked for having an overwidth load which consisted of mesh that he uses in concrete floors. It was a little over two inches in excess of the allowed width and the vehicle was being driven without a sign indicating that it was overwidth. The fellow who works for the contractor was driving the vehicle at the time and he was booked. Not only that, the owner of the vehicle who was a passenger in the vehicle at the time, was also booked for allowing the driver to drive the vehicle. As far as I am concerned it was a minimum breach of the law. I have a great deal of respect, and I will continue to have respect, for 90 per cent of the Police Force. I acknowledge that they have a difficult job, but every now and then the odd policeman steps over the line of sensible responsibility and makes it difficult for people to carry out their normal business.

I cannot let this debate go by without commenting once again on one-man police stations in the country. This type of station is important to members of the National Party who represent country electors and they must be retained in some form. Broomehill is a good example of a one-man police station even though there has been some reorganisation of it. The officer at that station comes under the umbrella of the Katanning Police Station, but he lives at and operates out of Broomehill. For a number of reasons it is important to the town to have a policeman at that station. I hope the Minister will reiterate what he has said before; that is, that he will do his utmost to retain one-man police stations in the country.

I am sure that policemen realise the disadvantage that country people face with regard to their not having public transport. It is easy for city members to accept random breath testing because they know that their constituents have alternative means of transport. If a person happens to be one point over the 0.08 level it is far more difficult for country people than city people to accept that that person should be booked.

Mr Clarko: Isn't that a good reason why the Minister should be supporting the retention of 0.08 instead of reducing it to 0.05?

Mr HOUSE: I have asked the Minister to comment on that in his reply to the second reading debate. There is no simple answer; we cannot set up a public transport service in every rural town, and I am not asking for that. I am asking that people recognise that country people do not have the advantage of public transport, and that we should have reasonable and responsible police officers to put the law into effect in a reasonable and responsible way.

It is fair to say that country people cooperate with the police to a large degree. I am sure that a number of cases could be cited to the House in which, if it had not been for the assistance of the public, the police would have had difficulty in carrying out their duties. The police are outnumbered in country areas by the local population and on many occasions they have had to call on the public to assist them in their operations. It is beholden to policemen that their job is not only to enforce the letter of the law, but also to encourage the cooperation of the community and to work within the spirit of the community in which they live. By doing that the police will earn respect for the job they do and the public will understand that they have a job to do.

Mr Taylor: I agree with that. A good example of that is a story about a bicycle rapist in tonight's paper. There is a front page story and an identikit picture of that person. The public are being asked to assist the police. Without that sort of interaction the work of the police would be almost impossible.

Mr HOUSE: It would, and many similar examples could be cited. If there were only a couple of policemen in a town and they got into some sort of trouble police reinforcements could take up to an hour to reach them because of the logistics associated with travelling.

I support the comments of the member for Scarborough regarding an education program for young drivers. It is fair to say that it is too easy for young people to obtain their licences and it is an area at which we must look closely. For example, a young city driver could go to his local police station and pass his driving test by driving around the block, reversing into a parking space and answering questions. This could take only half an hour. That person is then eligible to drive the motor vehicle on a country road and even though he is limited to driving at 80 kilometres an hour, other drivers on the road will be travelling at 110 kilometres an hour. Also, there will be road trains, weighing up to 100 tonnes using the road and they require an enormous distance to stop. It is very difficult for a young driver to understand that it takes time for road trains to pull up. A young driver would not have a hope in Hades of handling a vehicle which got out of control on a potholed, sandy or gravel road.

A very limited training program is available for young people. I tried to get my son into an advanced driver-training course because I was concerned that he should have the best possible understanding of driving, although he had been driving on the farm from the day he could put the ute into gear. The course was booked out and it took several months before he was able to take the course. There may be a lot of parents who are not as persistent as I was because by the time he did the course he thought he could drive. I went to a lot of trouble to get him to do the course. After a couple of months of driving he thought he could handle anything. However, a month after he took the course he managed to badly damage the farm ute and he realised that he did not know everything. He went to turn on a right angled bend, but he did not appreciate the speed at which he was travelling. The accident was due purely to a lack of experience. We allow road trains carrying loads of up to 100 tonnes on our roads and we allow drivers who, as soon as they obtain their licences, to drive on sandy and potholed roads even though they are limited to travelling at a speed of 80 kilometres an hour for the first 12 months that they have their licence. We must insist on stricter licensing requirements. Every country person who does as much driving as I do on country roads will know that hardly a day goes by without their witnessing an incident in which a person is lucky not to have caused an accident. Often that involves inexperienced drivers. I ask the Minister to consider this matter.

In conclusion, as a representative of country people, I have some strong reservations about random breath testing. I acknowledge there has been a big change in public opinion, but I have always been of the opinion that the police had every right to stop drivers at any time, and I believe that is still the case, without the passage of this Bill. I sincerely hope that when this Bill is passed - I know it will be because the Liberal Party has indicated it will vote with

the Government - the police use this increased power in a wise and responsible way. I repeat that I have some reservations about the provisions of the Bill, and I consider that a review should be tabled in this House on a regular basis so that the Parliament has up to date information on the facts and figures each year.

MR TAYLOR (Kalgoorlie - Minister for Police and Emergency Services) [4.51 pm]: I thank both members for their indication of support for this legislation and I understand the reservations of the deputy Leader of the National Party. I am very pleased with the responses of both Opposition parties to this legislation on road safety, which represents a milestone in Western Australia. It is a victory for commonsense; it is not a victory that I or the Government claim, but it is a victory for the people in this State when all political parties in this House today agree on this issue to put the politics of the past behind them and to ensure that random breath testing in Western Australia is here to stay. They do so on the basis that it is effective and efficient, and the results of the report completed by Dr Smith and others have demonstrated that it works in this State.

I will respond to some of the points raised by both members. With regard to the question raised by the member for Scarborough of bringing together a number of Government agencies and others to look at the whole range of road safety issues, including health and roads, the Government has sought this by setting up Roadwatch. It was funded in this year's Budget with a substantial amount, and Dr Ian Smith is in charge of it. His job is to bring this information together for the Government so that it is able to act on the information. I am advised that the executive committee comprises representatives from the Police Force, Main Roads Department, Health Department, University of Western Australia Department of Medicine, and a road trauma surgeon, Dr Webb. Dr Webb had a great deal to do with getting Roadwatch off the ground in Western Australia and was a driving force behind it. The Roadwatch program provides an opportunity to do many of the things referred to by the member for Scarborough.

Another issue raised related to personal liberty. That is an important issue which I mentioned in the second reading debate. Both members realise that personal liberty in relation to this issue is very much concerned with the way the police treat the issue rather than whether this legislation should be enacted. In my view the police have treated this matter in a sensible and rational way, to the extent that there is strong public support for random breath testing. In fact, more than 80 per cent of Western Australians surveyed favour random breath testing in this State. It is interesting to note that the people surveyed least likely to favour random breath testing are those who are most likely to be drink driving and most likely to be caught. People who drive while under the influence of alcohol are much more likely to cause damage to other people on the road than to themselves. The study released with the Bill indicates that drink drivers are four times as likely, while under the influence of alcohol, to run into someone else rather than to be run into. They are also more likely to get off unharmed and to cause death and injury to others. That is the personal liberty issue in relation to random breath testing. Those people who deliberately drink drive have no care or concern, sometimes for themselves and certainly never for others.

Another matter raised related to trends and where we are going with random breath testing. Benjamin Franklin once talked about lies, damned lies and statistics. This report is certainly based on a number of statistical issues but, rather than dealing with lies, damned lies and statistics, I have no doubt we should be considering the trends apparent from the report. The trend has undoubtedly indicated that random breath testing in Western Australia has worked well. As the member for Scarborough quite rightly stated in relation to how well it will continue to work and for how long, that has a great deal to do with methods of enforcement and the publicity surrounding it. A lot of publicity in recent times has been very positive and the Government has run a strong advertising program, certainly in the period after random breath testing was introduced 12 months ago. I talked today to the Commissioner of Police about this issue, and tomorrow the Christmas road safety campaign will be launched in Western Australia. With the passage of this legislation through the Parliament today, the Legislative Assembly will be sending a clear message to Western Australians; that is, all political parties feel that drink driving is not acceptable, certainly not over Christmas. I hope there will be publicity for the events today. The Government is also prepared to start a formal publicity campaign advising people that if they drink and drive they have every chance of being caught. That is what this question is all about; if people believe there is a

chance they will be caught, they will not drink drive or they will choose a skipper to drive for them because they have drunk too much alcohol.

The deputy Leader of the National Party and the member for Scarborough referred to the rate at which drivers were stopped. The survey indicated that 54 per cent of Perth drivers were stopped in the first year, and 74 per cent of drivers in country areas were stopped by the police. They were not all tested but they were stopped. The deputy Leader of the National Party referred to his former secretary who was not only stopped in Katanning four times in one night, but was also tested on each occasion. That is very disappointing, but I do not think it has happened very often. In fact, I have received very few complaints of that nature in the last 12 months and I know that the police are discouraged from doing that sort of thing. Of course, that is the way it should be. I have received more criticism, as the Minister involved, from people who have been stopped and not tested than from people who have been stopped and tested. As part of a deliberate campaign, when the police stop a vehicle and they are convinced that the driver has not been drinking, they do not test the driver. That is a very important aspect because there must be a measure of trust between officers and the drivers being stopped. If the driver tells the police that he does not drink or he has not had many drinks and the police are sure this is the case, they tell the driver to go on his way. That is the way it should be and as far as I am concerned that is the way it will continue to be, although undoubtedly with the odd exception.

Mr House: I was not using that example by way of a complaint, but to demonstrate that country people can be an easier target and that they are not as anonymous as people are in the city. City people can hide away in the traffic.

Mr TAYLOR: That is reflected in the rate at which people are stopped; 74 per cent of country people have been stopped in the period referred to. That is a very high percentage; much higher than we initially envisaged would be the case.

The member for Stirling raised the issue of booze buses. The Commissioner of Police has given an assurance that that is not the way random breath testing will be conducted in Western Australia. I give that assurance also. The police could decide to operate in that way without my being able to stop them, but they would need funding approval to buy a booze bus; and they would not get my support from a policy point of view to obtain that sort of facility. Booze buses are a much less effective way of controlling drink driving than the system we have in Western Australia. In the Eastern States there is a very bad feeling towards the use by the police of booze buses; that feeling could be turned around by adopting the Western Australian approach.

One of the other questions raised was in respect of what should be the blood alcohol limit. In recent times I have said that in Western Australia the limit should stay at 0.08. The Traffic Board is also of the view that it should stay at 0.08; I see no reason for that to change. The Federal Government wants the limit for probationary drivers to be zero. A few years ago in Western Australia the limit for probationary drivers was increased to 0.02; I believe on medical advice. It is very difficult in some circumstances to have a zero blood alcohol content. For example, if a probationary driver has been out to dinner, and eaten brandy sauce on his food, or has eaten a Christmas pudding at Christmas time, where not all the alcohol has been burned out of the pudding, he could suddenly have a blood alcohol content above zero, and be charged with being over the limit. That would be most unfair. That is why we believe the limit of 0.02 is quite realistic and more widely acceptable.

Mr Clarko: The members of the O'Connor Cabinet overruled the recommendation - which I think came from the police - that the limit be zero, for the very reason you are now giving. We got other advice which said to not make it zero but 0.02.

Mr TAYLOR: It was obviously good advice. I gather it was medical advice.

Mr Clarko: It came from a lot of places.

Mr TAYLOR: I would be reluctant to change that. The Federal Government occasionally puts us in a difficult position by saying that if we are prepared to fit in with what it wants, we can have the necessary funding. This is a matter we will have to take up with the Federal Government. Hopefully we can change some of these points of view.

Another issue raised was the number of police in country areas. Over the last year 500 additional police officers have been recruited into the Police Force in this State. That has

made it much easier for the commissioner to put members of the Police Force where they are most needed in this State. I was interested to learn today that a large number of the recruits from the current intake will, after their graduation parade in February, be sent to country areas in this State. That should interest the member for Stirling. That is indicative of the commissioner's view that as many as possible of the police graduates be put into operational areas, where they can form part of the blue line to enforce law and order in this State.

When it comes to enforcing the traffic laws in this State, and certainly when it comes to enforcing issues associated with drink driving, I do not believe the police should show too much mercy. I understand the issue raised by the member for Stirling about those people who perhaps have a piece of wood on the back of their ute which is two centimetres over length; I agree it is a bit silly for them to be pulled over, and perhaps charged. The death toll in this State for the first 11 months of the year is 214 people - a little higher than for last year; if the murder rate in this State were 214 people, there would be public outrage. The traffic police have to be fairly tough in their attitude towards law enforcement; and I would not want to discourage them from doing that. However, in being tough they should concentrate on dangerous drivers, and on the sort of behaviour which brings about death or injury on the roads, rather than nitpicking about other offences.

I am quite happy for one man police stations to continue to operate, although that is obviously a decision for the Commissioner of Police. The difficulty, however, is that a lot of the one man police stations in Western Australia, particularly in the south west, are now getting quite old, and the houses in which the police officers live are quite run down. On occasions we have been faced with the situation of spending $200 000 or $300 000 to make the police station and the house a bit more habitable. However, the police are then coming to me and saying that is only a stop gap measure; they really need a new house and police station. The resources are not available to keep on the police officer and his family, and to spend $200 000 or $300 000 to build a new facility. There has to be a realisation on the part of people in some of these towns that the police officer may stay, but what we can do in terms of putting in new facilities or putting in a substantially upgraded facility will be a very difficult issue for us. I have pointed that out to officers throughout the State, mostly in larger police stations, where they have complained about the facilities, and I have said to them, "We will do our best to make it more habitable, but in the sense of what you want, a new police station or more police officers, what would be your choice?" Their choice has always been to have additional police officers. That is also my choice, and as time goes by we will be able to pay more attention to the capital works side of policing in Western Australia.

The issue of drink driving is very difficult. This year, with the support of the State Government Insurance Commission, we have set up driver education programs for young drivers in a number of high schools in Western Australia which have school police officers. Those programs have been quite successful, and include lectures in the school, plus the opportunity to go out on the road. We are hoping that in 1990 most of the major high schools in this State will have access to that program. That is an important first step in getting through to young people the message of what are their responsibilities in relation to driving on our roads. These programs are aimed not at making them the sorts of drivers who can drive better on a gravel road, and who know how to approach bends, and things like that, but at instilling in them the behaviour and attitude they should have when driving on the roads.

How we make young people better and more skilled drivers is a much more difficult issue. The answer lies more in the nature of our driving schools, and what they teach people, and in what parents are prepared to do to make sure that their children learn to drive properly. Not every parent is prepared or able to be like the member for Stirling and pay to send their son or daughter through an advanced driving program. However, parents have to realise that if their son or daughter has a car, or access to a car, they have a responsibility to make sure that they are trained to drive properly. It is like the situation of parents who spend $250 to buy a bike for their child for Christmas, but are not prepared to spend an additional $20 or $30 for a helmet to ensure that their child will not fracture his skull if he falls off the bike. The same analogy applies to driving on the road: If parents are prepared to see their children driving a car, they must also be prepared to teach them the proper manner of driving.

I think I have answered most of the points that have been raised. The attitude of all parties in relation to random breath testing must be very pleasing to all Western Australians, because

this legislation is a victory for commonsense. I am sure it will ensure that fewer people will be killed or injured on our roads.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Dr Alexander) in the Chair; Mr Taylor (Minister for Police and Emergency Services) in charge of the Bill.

Clauses 1 to 3 put and passed.

New clause 4 -

Mr STRICKLAND: I move -

Page 2 - To add after clause 3 the following new clause to stand as clause 4 -

4. Section 5 of the *Road Traffic Amendment (Random Breath Tests) Act 1988* is amended in subsection (1) by adding after the words "section 4" the following -

and thereafter at yearly intervals

We have already spoken of the reasons for this amendment. It is a positive amendment to allow Parliament to focus on the matter annually. It is good both for the Police Force, which is aware that the matter will be reviewed annually, and for the parliamentarians who will have the opportunity to make comment.

Mr HOUSE: As I indicated in my speech during the second reading debate, I support this amendment because it will be a good thing for the Parliament to be able to examine exactly where random breath testing is at from time to time, and it will help allay the fears that I have indicated to the Minister could arise should the police adopt a different attitude with the introduction of random breath testing on a permanent basis. We support the amendment and I hope the Government does too.

The only problem I will have is when I get home, because one of my friends suggested very strongly that I vote against random breath testing. He told me that since it was introduced on a trial basis he and his friends have operated a skipper system when they play bowls. When it is not his turn to be the skipper, he can get properly full, which means he has a terrible headache the next day, whereas before, when he had to drive home all the time, he only got half full so he did not have such a bad headache when he woke up the next day. He will not be too pleased about it, but I am pleased to support the amendment.

Mr TAYLOR: The Government certainly supports the amendment, which makes a great deal of sense. I note that the South Australian legislation requires virtually an annual report to the Parliament on this issue, and that should also be the case in Western Australia. The people of this State should be aware of how issues like this are progressing and it is an opportunity not only for us but also for all Western Australians to become aware of that progress.

In case I do not have another opportunity, I want to thank Dr Ian Smith from Roadwatch for the great work he has put into this matter in the last year or so under a great deal of pressure. He has come up with a very accurate and good response to the question of random breath testing in this State. I am also appreciative of the support he has received from Gavin Maisey, Principal Research Officer with the Police Department and Kari McLaughlin, who is the Assistant Senior Research Psychologist at the Western Australian Alcohol and Drug Authority. Those people have done a great deal of work to enable us to reach this stage today, and have played an important part in briefing Opposition members and getting their support for this legislation. As the Minister responsible, I have no hesitation in supporting the amendment.

New clause put and passed.

Title put and passed.

Report

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

Third Reading

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

Cognate Debate

On motion by Mr Troy (Minister for Labour), resolved -

> That leave be granted for the Bill to be debated concurrently with the Mines Regulation Amendment Bill.

Second Reading

Debate resumed from 30 November.

MR COURT (Nedlands - Deputy Leader of the Opposition) [5.18 pm]: These two items of legislation have been subject to much to-ing and fro-ing both within the Government and between the Government, the Trades and Labor Council and the mining industry, and it is interesting that at this late stage of the year some sort of compromise seems to have been achieved and the Government is now keen for these changes to go through. The arrangements that exist without the legislation, from the point of view of safety, would not harm the safety performance of the mining industry one bit, and the changes we are to adopt here are not so much about trying to improve safety, because I believe they will not make a great deal of difference, but are very much about trying to alleviate certain political problems inside the Labor Party and the trade union movement.

In relation to occupational health and safety legislation, the Liberal Party's concern has always been that the agenda of the Government tends to move more toward industrial issues and power in the workplace rather than toward safety issues. Our concerns have been expressed both when this legislation was initially passed and since its coming into operation. The major problems are to do with the misuse of the legislation by some irresponsible elements; that is, the legislation is not used for the purpose of improving safety in the workplace but as a means of gaining industrial muscle.

With a little qualification the Liberal Party will be supporting the proposals contained in this legislation. The Chamber of Mines and Energy has stated that as a result of negotiations with Government it supports the amendments. Following a question by the member for Riverton, the Minister for Mines stated that the mining industry had agreed to incorporate parts III and IV of the health regulations in the Health Act into the Coal Mines Regulation Act. I understand that the Government has been negotiating on this issue with the Chamber of Mines and Energy but not with other groups in the mining industry.

Mr Carr: Discussions have taken place over something like two years involving the mining industry, but more specifically involving the Chamber of Mines and Energy

Mr COURT: When I had discussions with the Association of Mining and Exploration Companies, that body stated that it had not had discussions regarding the occupational health and safety legislation.

Mr Carr: The legislation has been around for about two years.

Mr COURT: The issue may have been around and the Minister may have been dealing with the Chamber of Mines and Energy; but my point is that a number of bodies represent the mining industry. I ask for the Minister's clarification on whether he has had any negotiations with those bodies.

Mr Carr: A working party has carried out detailed work - certainly with representatives from the Chamber of Mines and Energy on behalf of the mining industry. My understanding is that other parts of the industry were consulted in a less direct way.

Mr COURT: Does "a less direct way" mean they were not consulted?

Mr Carr: By the particular working party?

Mr COURT: I make the point that when the Minister talks to the industry he should talk with the different groups which represent the industry.

The current Occupational Health, Safety and Welfare Act does not apply to workplaces under the Mining Act, the Mines Regulation Act, the Coal Mines Regulation Act and the three petroleum Acts. The Bill seeks to apply part II of the Occupational Health, Safety and Welfare Act to the Mining Act, the Mines Regulation Act and the Coal Mines Regulation Act only. The Minister stated in his second reading speech that part II mainly establishes the commission, provides for the appointment of a commissioner and members, details the functions of the commission and sets out the administrative procedures for the conduct of meetings, and the terms and conditions for appointment of members etc, and provides for the appointment of advisory committees to the commission. The legislation will establish a tripartite advisory committee as part of the commission to cover the mining industry.

The Mines Regulation Amendment Bill introduces the provisions of parts III and IV of the Occupational Health, Safety and Welfare Act into the Mines Regulation Act which deal with the general duties of care and health and safety representatives and committees. The concept that has been developed in parts III and IV of the occupational health legislation will be brought into the Mines Regulation Act, but at the end of the day it is still the mines inspectorate which is to oversee safety standards etc in the mining industry. The Government's original proposal was that all the safety operations currently handled by the Department of Mines should go to the Department of Occupational Health, Safety and Welfare. However, the concern of the industry is that considerable expertise on safety matters has built up over many years within the Department of Mines and, as the mining industry has had a very good record of improving its safety performance, with such a trend in the right direction the situation should not change. Why should this responsibility be placed with a body which has yet to prove itself?

When comparing safety statistics of the mining industry with those of other industries, one could say that other industries could take a few lessons from the mining industry. The mining industry has applied considerable pressure and both the National Party and the Liberal Party have made the situation clear to the Government. During briefings with the Department of Mines, in the presence of the Minister for Mines, we made clear that we would not support the transfer of that function from the Department of Mines to the Department of Occupational Health, Safety and Welfare. The amendments before us will ensure that the mines inspectorate maintains that role.

Mr Troy: The member for Nedlands is slightly wrong in assuming that the Government's original proposal included that transfer; that was the mining union's desire but the Government did not support it. We saw that the concerns needed to be examined by the Minister.

Mr COURT: We on this side are not privy to the negotiations taking place.

Mr Troy: Well, don't claim it; it is a false claim.

Mr COURT: I attended an all-day seminar at Kalgoorlie on this issue when the Minister's officers spelt out clearly what was proposed. The Minister should not tell me that I was making this up. I did not sit all day listening to the proposals for no good reason.

Mr Troy: It is wrong to say that the Government made a decision to transfer the inspectorate.

Mr COURT: Does the Minister agree that the matter was widely discussed? That was the whole purpose of having the all-day seminar at Kalgoorlie.

[Questions without notice taken.]

Sitting suspended from 6.00 to 7.30 pm

Mr COURT: Just before the dinner suspension, the Minister for Labour interjected that the Government had not said that the mines inspectorate functions would go across from the mining industry to DOHSWA. I ask the Minister whether I am incorrect in saying that he had publicly said, or the Government had said, it would transfer the operations under the control of DOHSWA.

Mr Troy: No, the question we were talking about before the dinner suspension related to the operation of the inspectorate. You established a claim position that we had made a determination about that. We had never made that determination to transfer those operations, certainly not prior to the commission's undertaking its role of examination.

Mr COURT: Well, what was the proposal the Minister announced on 18 October?

Mr Troy: You put on the record what you told the Kalgoorlie conference and then we will clarify it.

Mr COURT: The Premier's Press release said -

> Mr Dowding said Cabinet had agreed that an exemption in the Act now applying to employees in the mining industry should be removed from January 1, with amending legislation to be introduced in the current session of Parliament.

The article went on to say that the Government would extend the Occupational Health, Safety and Welfare Act to the mining sector. That was spelt out quite clearly on 18 October.

Mr Troy: And are you saying we are not doing that?

Mr COURT: No, I am saying that the Government's initial proposal allowed for two departments to be responsible for overseeing the operations of that legislation, but the mines inspectorate work would be carried out by DOHSWA.

Mr Carr: No, that was never said.

Mr COURT: Well, what was the dual proposal?

Mr Carr: What was said in that original proposal, which is not the subject before the Chair, was that we would take out the exemption in the DOHSWA Act so that the whole of the DOHSWA Act would apply to the mining industry, that section 42 would be amended so that Mines Department inspectors would be able to be sworn in as DOHSWA inspectors, but that they would remain in the Mines Department and remain responsible for the administration of safety in mines.

Mr COURT: But they were going to be responsible to two people. They were going to be inspectors sworn in under the DOHSWA legislation and also they would be operating under the Mines Department. There would have been two departments responsible for the same operation.

Mr Carr: Why don't we debate the matters before us now?

Mr COURT: I am just correcting the record. The Minister was trying to tell me that the Government was not transferring the role of the mines inspectorate across to DOHSWA.

Mr Carr: That is correct.

Mr COURT: Under this legislation it is not, but under the proposals publicly announced on 18 October it was.

Mr Carr: No, it was not.

Mr Troy: That has never been enunciated by the Government.

Mr COURT: It is drawing a fine line to say it will be half under the control of DOHSWA and half under the control of the Mines Department.

Mr Troy: You are saying it is half and half.

Mr COURT: No, the Minister's Press release is saying that. That was the whole thrust of what the Government was saying.

Mr Troy: You show me in the Press release where it says that.

Mr COURT: I will table the Premier's Press release.

Mr Carr: Is there any reason why we should debate the Press release and not the Bills?

Mr COURT: There is a very good reason. I was explaining some of the background and the Minister for Labour was trying to deny it. The Minister must agree that this has been the debate over the past few months. It is only a matter of weeks ago, on 18 October, that the Chamber of Mines and Energy itself, in reply to the proposal put out, said this -

> The Chamber of Mines and Energy of Western Australia says the State Government's decision to legislate for dual departmental control of occupational health and safety in the mining industry is a complete cave-in to the demands of the left wing of the Australian Labor Party and the union movement.

Of course, the Minister is saying we should not even mention it, but we must mention it because it is an important background to these amendments we are debating tonight.

I want to spell out a little bit about the track record of the mining industry in this area, because unfortunately a number of fatal accidents have occurred this year, in the goldmining industry in particular, which have given a pretty high profile to the whole question of safety in the mining industry. It was given an even higher profile when the Premier very emotionally said, "We are going to make these major changes. We will change the legislation and bring the mining industry under the DOHSWA legislation."

The DEPUTY SPEAKER: Order! The level of background conversation is making it difficult to follow the debate from here.

Mr COURT: The public would have had the impression that the mining industry was not performing in that area. Some interesting statistics have been prepared which show that the mining industry has had a pretty good track record in recent years. I will go through some of the charts that show this, and I seek leave to have these seven charts incorporated in *Hansard*.

[The material in appendix A was incorporated by leave of the House.]

[See page No 6202.]

Mr COURT: The workers' compensation premium rates in Western Australia for 1989-90, given as a percentage of the payroll, show the iron ore industry rate at 2.81 per cent, open-cut goldmining at 3.46 per cent, with underground goldmining being the highest at 9.22 per cent. Members should compare those figures with the figures for house builders, 14.02 per cent; builders, 19.22 per cent; engineering works structures, 22.63 per cent; and boat and shipbuilders, 22.63 per cent. Therefore the premium rates for workers' compensation in the mining industry are quite dramatically lower than for those other industries I mentioned.

Another chart shows the workers' compensation cost trend. For example, the workers' compensation cost for underground goldmining has declined since 1984-85, and the same applies to coal and iron ore. It is an interesting trend. Fatalities per 1 000 employees in the gold and nickel mining industries show a downward trend, as do fatal accidents in the mining industry, serious injuries, mining injuries - all show a downward trend. There are some comparisons of the injury trend by States, which again show Western Australia performing very well in those areas. When one compares the safety performance of the mining industry with other industries, for example, the building and construction industry, one finds that it has been performing quite well. Safety in the workplace can never be good enough because the aim is a zero accident level and unfortunately that is not being achieved. One must always aim to improve the situation but one must also be realistic and compare the safety record in the mining industry with other industries.

The DEPUTY SPEAKER: Order! Assuming that my request for a reduction in the level of conversations around the Chamber was not heard I will repeat that request: Please reduce the number and volume of conversations so we can hear the debate in an orderly manner.

Mr COURT: Thank you, Mr Deputy Speaker. It would be an interesting exercise if DOHSWA - and it may have already done this - compared the safety performances of a wide range of industries to see where the mining industry fits. Does the Minister for Labour know whether such a study has been undertaken and, if it has not, could he ensure that DOHSWA includes Government operations if such a study is to be made? Many Government businesses such as Westrail and the State Energy Commission employ large numbers of people and I would interested in the comparisons if they are available.

Mr Troy: It would not be appropriate to compare unlike industries. It would be unfair to compare Government versus private industry.

Mr COURT: I am not saying we should compare like industries. Some of them would be like industries; but one must look at a wide range of industries to see the trends which have occurred, and whether they have also had a downward trend in the incidence of accidents, whether they be minor injuries, serious injuries or fatal accidents.

Mr Troy: It is important to look at trends.

Mr COURT: I do not care whether the industries are like or unlike; it would be an interesting comparison to see the performance of Government operations compared with the private sector. In 1986 the mines inspectorate was restructured and there was an increase in staff. The mining industry has said that there has been a considerable improvement in the services that the inspectorate provides. There has been an increase in funding arising from higher mining tenement fees. The Trades and Labor Council has been critical of what has taken place in the mining industry, but it should have been more honest in the statistics it was using to show the performance of the mining industry. For example, when one looks at the statistics on the lost time accident rate per thousand workers in the building and other construction industries one sees it is 99 compared with 70 in the mining industry. The serious lost time accident rate per thousand workers in the building and other construction industries is 38.8, while the figure for the mining industry is 21.9. When one compares those industries one sees the mining industry has performed reasonably well.

A number of questions have been asked about employers being prosecuted for failing to comply with the safety standards and requirements, and it is fair to say that in the last year or so the inspectorate has been very successful in bringing prosecutions against people who have not been complying. The mining industry has said that the level of successful prosecutions has increased quite dramatically and perhaps the Minister for Labour will give us some statistics on just how effective prosecutions have been. I have mentioned the effectiveness of the levels of workers' compensation premiums being paid in the mining industry compared with other industries. A number of fatal accidents have occurred in the goldmining industry in recent times. They were tragic. However, it is important when looking at the statistics to level out the trends over a few years because if one looks at only one year in isolation one could well get a result that does not reflect the true position in the industry.

The mining industry has expressed concern that as certain sections of the industry have had boom periods large numbers of untrained workers have been employed. The classic example of that is in the goldmining industry where there has been a huge expansion in its development in the goldfields and throughout the Murchison. I am concerned that many of the men attracted to these areas - many quite itinerant - have not had previous training or experience with the equipment that is used in open pit operations. The mining companies must provide quick training programs to get these people to a standard where they can work in this industry. The mining industry itself has recognised the fact that this rapid expansion and growth has caused some problems. I was at the underground Cadjebut lead zinc mine just out of Fitzroy Crossing which was opened a few years ago. There are training programs for the work force which is drawn largely from towns such as Broome and Port Hedland. When they told me the number of people working in the mine and how many of them had no previous experience in the mining industry and had to start from scratch it brought home to me how critical it is to have proper training programs and standards in place. When the industry is booming people going into that industry must receive the basic training required. In the goldfields there was a huge increase in the number of mines but at the same time the Department of Mines and the mines inspectorate did not grow a great deal. In the past few years the Government has increased resources to the Department of Mines so it can ensure that the mines inspectorate operates effectively. Perhaps the Minister for Mines will tell us his plans for the further expansion of the mines inspectorate in view of the continuing growth that is taking place in the State's mining industry.

During the public debate on this matter over the past year, driven by the Trades and Labor Council, misleading statistics have been used to show that the mining industry has not performed as it should.

As I mentioned earlier, the mining industry has a good track record. Why knock an industry that is trying to do the right thing? Why try to bring change to a system that has proved to be working reasonably effectively when those changes may endanger safety? Certainly, those elements in the union movement that are out for industrial and political power through the operation of the occupational, health and safety welfare legislation should be condemned. If safety issues are to be talked about genuinely, the legislation should not be misused or used for personal gain. The mining industry has very effectively put its argument to the Government and that is the reason for the Government changing its original proposal.

When visiting a number of mines during the past year I took the opportunity to talk to both management and employees about these changes, and they were unanimous in their support

for maintaining the status quo; they did not want the mines inspectorate functions to be transferred to the Department of Occupational Health, Safety and Welfare. It is important that the Government keep that role within the Department of Mines where the expertise lies. I mentioned at the beginning of my comments that the Chamber of Mines and Energy had written to us stating that it accepted the proposals put forward by the State Government. When handling these matters, it is necessary to talk to all of the industry organisations involved. I will quote part of the letter sent to me -

> We have also responded to the Minister advising to say that the Executive Committee of the Chamber accepts the proposal subject to:
>
> . The amending legislation complying with industry expectations;
>
> . Representation by the mining industry in its own right on the Occupational, Health, Safety and Welfare Commission; and
>
> . The current review of the Coal Mining Regulations Act being allowed to continue in its present form to enable implementation of Parts III and IV of the Occupational, Health, Safety and Welfare Act into the Coal Mining Regulation Act by 30 June 1990.

What stage has that review of the Coal Mines Regulation Act reached, and when does the Government intend to amend that Act to provide for similar changes that are occurring in the Mines Regulation Act?

When the Occupational Health, Safety and Welfare Bill first came before Parliament, long debates took place on the effects parts III and IV would have on the industry. We were concerned that matters to do with safety could be used as a lever to create industrial disputation and that some militant sections of the union movement could wrest control of certain operations from the management through continued disruption in the name of safety. We should make it clear that it has been brought to our attention that this has occurred in some industries and businesses. It would be a crying shame if the mining industry found afterwards that misuse of the safety legislation had occurred. If examples were brought to the attention of the Government - whether a Labor or a conservative Government - of unions misusing the safety legislation, the unions should be jumped on very quickly. I would appreciate it if the Minister could state whether any instances were brought to his attention in which the occupational health, safety and welfare legislation had been misused by unions for industrial or political means. This problem has been brought to our attention and the Confederation of Western Australian Industry has stated in briefings that it has many examples of that practice taking place. We all understand the importance of the mining industry and if legislation did enable a new form of disputation to creep into that industry, it would be harmful to the industry.

Earlier this year I had the opportunity to visit a number of African countries. I inspected many mining operations and spoke to many people in their equivalents of our Department of Mines and the Chamber of Mines and Energy. In Zimbabwe I found that a number of Western Australians, some from my electorate, were actively working in and developing new mines, and the safety issues were very similar to ours. It was in South Africa that I found the most interest regarding safety in mines. That country has very large underground mining operations which have quite horrific safety records. It is not uncommon to have a mine with 10 000 or 20 000 employees, many of whom are working underground. I went 10 000 feet underground in one of the gold mines which was a rather frightening experience. We went to the workface and had to go down a very steep shaft and walk for about half an hour. Eventually, as the tunnel got smaller, we scrambled up a slope which was about a metre high. We proceeded for another half an hour until we reached where the miners were working. The conditions were dreadful - I do not know how anybody could work in such conditions. A mixture of black and white workers were working a reef about one foot thick. They were mining a foot either side of it, so the seam was about one metre thick. It was an incredible operation. That country has developed very sophisticated safety procedures. If the Minister is not aware, the Chamber of Mines and Energy in that country is responsible for employing the work force on all mines. All labour is employed through a central pool. This organisation handles all the safety issues, including the running of the hospitals specifically for people in the mining industry.

Dr Watson: But they are not allowed to live with their families.

Mr COURT: The mines I visited were completely self contained. The Kloof mine had 40 000 employees, all of whom lived on the site. They sign their contract for a year and after that time they return to their homes. The mine management live on site. Before members opposite become too critical I advise them that having been to Kenya, Zimbabwe, Zambia and the like the living conditions in those mines are better than they are in other parts of Africa.

Dr Watson: There is no reason to separate families.

Mr COURT: If those people want to work there, that is their choice. The reason they do so is because they are better paid than people in other parts of Africa. The point I am leading to is that the safety standards in South Africa are very high. Underground development in the mining industry in South Africa depends a lot on the safety developments that take place.

Mr Gordon Hill: Do you know how many people died in South African mines last year?

Mr COURT: Yes, I have all the statistics related to what has taken place in that country. When I returned from my last trip to South Africa I spoke with representatives from the Mines Department in Western Australia and they told me that a lot of developments that take place in mine safety originate in that country. The point I want to make to the Minister is that we have a habit of ignoring developments that take place in South Africa. The mining industry in Western Australia has a close affiliation with the industry in South Africa and the Mines Department in this State could further improve its expertise by talking to its counterparts in that country. South Africa is known to have one of the world's great mining operations and if the Mines Department in Western Australia had better access to the work being done in that country, it could only help to improve the situation in this country, particularly as we are starting to open up more underground mines, an area in which South Africa has the necessary expertise.

The Liberal Party will support these two Bills. It will watch the outcome of the Bills very closely because it does not want to see the safety legislation abused. Any person who abuses the legislation and who uses it for selfish industrial and political gains should be dealt with quickly. We should all be working towards improving the safety standards in the mining industry. While members opposite may want to jump on me for speaking to people in South Africa I was trying to advise them that that country leads the world in mine safety and we should keep in mind that its expertise would help improve the performance of the industry in this State.

MR COWAN (Merredin - Leader of the National Party) [8.03 pm]: I have a few questions which need to be answered in relation to the commitments which have been given by the Government and which clearly have been compromised. I do not mean that they have been compromised to the extent where they no longer have any value. Nevertheless, the original statement made by the Government has, in fact, been compromised by the introduction of these two Bills. I would also like to deal with some of the history of the performance of the Occupational Health, Safety and Welfare Act and to make reference to what it has achieved in relation to safety in the workplace. It may have started in a way in which a large number of safety issues have invaded the industrial relations field and quite often have become the subject of industrial disputes. I do not think that any member would deny that when the original legislation was brought into the Parliament the claim that was made was that it would take safety issues out of the industrial relations arena and it would place the responsibility for safety matters with the two bodies which were mostly responsible and they are the employees and the employers. While that may or may not have been the intention of the Occupational Health, Safety and Welfare Act, one of the spin-offs has been that health and safety issues are still very much in the industrial arena. In fact, they are more so now than they have ever been.

Mr Troy: I do not agree.

Mr COWAN: Unfortunately I do not have the statistical data with me, but I have been given a copy of the joint annual report which was published recently. I have not had a chance to read it to ascertain whether it contains any statistical data which support my remarks.

In talking to people from different industries it is clear that health and safety issues are still the subject of the majority of industrial disputes. That is particularly so in the building industry and no one would argue about that.

One of the problems has been the appointment of safety inspectors. In most cases they come from the trade union movement and I do not think that is establishing an environment in which health and safety issues can be dealt with properly. They invariably become industrial issues, leading to industrial disputation. By introducing these amendments to the Mines Regulation Act and the Occupational Health, Safety and Welfare Act we are likely to open up the mining industry to an environment in which there will be a higher incidence of health and safety issues becoming a matter of industrial disputation. That is my prediction and whether it proves to be correct is a matter for time to resolve. However, I am sure that members will find that I am correct in making that prediction. I hope that I am not.

This legislation will provide some advantage to the mining industry because it calls upon the industry, both employees and employers, to exercise that duty of care which was incorporated in the original Occupational Health, Safety and Welfare Act and which, I must confess, attracted the National Party to give its support to that legislation.

There is no question that the employees, the people who work in the workplace, and the employers, the people who provide that work, are responsible and do have a duty of care in terms of health and safety matters. If we can make people aware of their responsibilities, that is fine. I think the Occupational Health, Safety and Welfare Act has been in place for nearly five years and one of the problems with the legislation has been that the emphasis on the duty of care has not really been as great as people would like.

Mr Troy interjected.

Mr COWAN: I did not know it had been operational for that period because there had been some teething problems with it. In that case we are talking about a period of 12 months. I do not think the Minister for Labour can point to any record which shows that we have been able, by legislation, to change the attitude of people in industry, either the employees or the employers. If either Minister can indicate his response I would be very pleased to hear that.

Mr Troy: I bet you would; it is an education.

Mr COWAN: Of course it is, and just now that education program seems to have become lost in some very deliberate political manoeuvring - for want of a better way to describe it - within the Department of Occupational Health, Safety and Welfare. I think it is more concerned with its interpretation of the Occupational Health, Safety and Welfare Amendment Bill and climbing up the rungs of this bureaucracy than it is with delivering this new approach which incorporates the duty of care in industry. That has been one of the failings of the Occupational Health, Safety and Welfare Act. I acknowledge that it has only been in operation for just over 12 months. It has to improve, otherwise it will become very clear that we have simply established a mechanism by which the trade union movement, through the appointment of some of its people as health and safety officers, can take health and safety issues into the industrial arena and create greater industrial problems.

Coming back to the mining industry, an undertaking was given a long time ago that the Government would incorporate those same duties of care which were enshrined in the Occupational Health, Safety and Welfare Act into the Mines Regulation Amendment Bill and it seems to me that those particular functions have been incorporated in the Mines Regulation Amendment Bill in pretty much an identical fashion with DOHSWA with perhaps one or two exceptions. The first is that the Government is saying - the Minister can correct me again in his response - that safety inspectors can only come from among the officers within the Department of Mines. In addition, those people eligible to be elected as health and safety representatives have to have a record of employment within the mining industry and with the mine where they will be working. As I understand it, this is not quite the case under the broader terms of the Occupational Health, Safety and Welfare Amendment Bill. Those two matters strengthen the mining industry position and perhaps, to some extent, make it more difficult for health and safety issues to become a subject for intense activity by the union movement, or even takeover by the union movement, through which it can then begin to press for resolution of some industrial disputes which have no bearing whatsoever upon safety matters. This transition is slightly better than just transferring the responsibility for safety in the mining industry to the Department of Occupational Health, Safety and Welfare and keeping it within the responsibility of the Department of Mines through the Mines Regulation Amendment Bill.

I am a little bit concerned, as I said right at the beginning, that by providing the mining industry with greater awareness of safety issues, notwithstanding the safeguards that a health or safety representative must have a much greater experience or length of employment with a mining company or in the mining industry, and by making sure that the inspectors come from within the Department of Mines, the Government has opened up an avenue for greater industrial disputation within the mining industry. We will watch very closely to see whether that occurs and if it does it will not be just a matter of saying, "I told you so"; we will be seeking positive action from the Government to ensure that some legislative change is made which provides even greater safeguards to the mining industry to ensure that the trade union movement does not take up occupational health, welfare and safety matters to create industrial disputes which can be resolved only through the normal industrial processes which are generally very disruptive and which undoubtedly cause great cost to any industry.

We see this as being a compromise. The Government is clearly duplicating a role within these two Bills. It has already incorporated in the Mines Regulation Amendment Bill all of those provisions which it is seeking to make available through the Occupational Health, Safety and Welfare Amendment Bill by saying part III of this Bill is now going to apply to the mining industry.

Mr Carr: Part II.

Mr COWAN: These are two separate amendments which do separate things.

Mr Troy: Part III is not there.

Mr COWAN: I am sorry, I cannot see the difference. Would the Minister correct me if I am wrong? The Government is seeking to amend the Occupational Health, Safety and Welfare Act, is it not, by amending section 4 of that Act?

Mr Troy: Yes.

Mr COWAN: In doing that, the Government will make those activities which are the responsibility of the Mining Act, the Mines Regulation Act and the Coal Mines Regulation Act subject to clause 3 of the Occupational Health, Safety and Welfare Amendment Bill.

Mr Carr: No, clause 2 of the Occupational Health, Safety and Welfare Amendment Bill is being made to apply to the mining industry. That is the part relating to DOHSWA which is a general policy setting body.

Mr COWAN: Clause 3.

Mr Carr: Clause 3 is being made to apply to the Mines -

Mr COWAN: It is being made to apply to the general provisions relating to the occupational health, safety and welfare duty of employers, duty of employees.

Mr Carr: That is in the section of the Bill before the Parliament.

Mr COWAN: That is correct. So the Government has made that clause applicable to those industries which are subject to the Mines Regulation Amendment Bill and the Coal Mines Regulation Act. However, it is already contained in the Occupational Health, Safety and Welfare Amendment Bill which the Minister will see if he looks at the amendments. Just as the duties of the employer are listed in clause 3 of the Occupational Health, Safety and Welfare Amendment Bill, the duties of the employer and the duties of the employee are all listed in the Mines Regulation Amendment Bill.

Mr Carr: The Bill you are holding is the Bill to amend the Mines Regulation Act, to put in parts III and IV; that is separate. We are debating two Bills at the moment.

Mr COWAN: I know that. I am trying to find out why the Minister has carried out this duplication.

Mr Carr: It is not duplication.

Mr COWAN: I read the second reading speech and it seemed to me that all the Government is doing is duplicating what it has done in one Bill by making another one subject to all the provisions of clause 3 which means that if it is subject to the provisions of clause 3, the employers do have a duty of care. The employees, occupiers and manufacturers have a responsibility, which is written into part III of the Occupational Health, Safety and Welfare Act. The Minister is saying that now applies to the industries which are subject to the

Mining Act, the Mines Regulation Act and the Coal Mines Regulation Act; at the same time he is putting into the Mines Regulation Amendment Bill those same provisions. I will be delighted to hear the Minister's response, because it seems to me he is merely repeating what he has done by one very simple amendment to the Occupational Health, Safety and Welfare Act. I will be pleased if he can tell me what the difference is, because it is far too subtle for me to see.

Given the history and the record of the implementation of the Occupational Health, Safety and Welfare Act, while the transfer of those same provisions to the mining industry may improve the level of consciousness of employees and employers about the need for greater safety, it brings with it the problem, which we have seen in other industries which are subject to the Occupational Health, Safety and Welfare Act, where health and safety issues have been raised in prominence and have become far more prevalent in causing disputes. We will be the first to criticise this Government if there is an increase in industrial disputation because of the passage of this legislation.

DR TURNBULL (Collie) [8.21 pm]: The electorate of Collie is a large electorate, in which more than half of the work force is employed in the mining industry: In the gold mines of Boddington Gold and Hedges Gold Pty Ltd, the bauxite mines of Worsley Alumina, the tantalum and tin mines of Greenbushes, the spodumene mine of Lithium Australia Ltd, and the open and deep cut coal mines of Western Collieries and Griffin Coal. I have held extensive discussions on site with the representatives of the companies and the unions involved in all these areas of mining. Considerable time and energy has been expended by all sectors of the mining industry, the employers and employees, and the Department of Mines, in an attempt to incorporate into the mining and coalmining regulations amendments which will help to improve the regulatory role of the Acts to ensure that the establishment, maintenance and inspection of safety procedures in the mining industry of Western Australia can cope with current mining practices. Those negotiations were completed in July this year, and resulted in a recommendation that parts III and IV of the DOHSWA Act be incorporated into the Mines Regulation Act and the Coal Mines Regulation Act.

I have been assured by the people I have spoken to from the goldmining, hard rock and coal mining industries that the proposed amendments are acceptable to all areas of the industry. At this stage I would like to read a letter which I received from the Association of Colliery Management of Western Australia -

> The Association wishes to register its strong support for the retention of the Coal Mines Inspectorate in its present form, as administered by the Department of Mines under the provisions of the Coal Mines Regulation Act 1946, and wishes to register its total opposition to the proposed inclusion of the Coal Mines Inspectorate under the Occupational Health, Safety and Welfare Act 1984. We believe that the requirement for Mine Management to have statutory qualifications necessitates a Mines Inspectorate with the same qualifications. We are totally opposed to DOSHWA Inspectors without statutory qualifications being present on mine sites.
>
> However, the Association supports the general intent of the DOSHWA Act 1984 being incorporated into Division 8 of the proposed rewrite of the Coal Mines Regulation Act, now in an advanced stage of drafting.
>
> Our support is qualified with respect to the proposed Section 26-28 provisions which include industrial as well as safety issues, and refers to the Coal Industry Tribunal, and Industrial Court. The Association believes that the Coal Mines Regulation Act should only address safety and welfare issues.

The letter points out very clearly not only the position of that organisation but also the position of other unions on the Collie coalfields, and in the other areas of mining I have mentioned.

I turn now to the proposed amendment to the DOHSWA Act to partially remove the exemption in part II of the Act which relates to occupational health, safety and welfare. This move is accepted by all sections of the mining industry, in the anticipation that the tripartite commission will ensure in its discussions that a practical and cost effective health and safety system will continue to be developed in the developing mining areas in Western Australia. Many issues must be resolved before any further amendments to this legislation can be proceeded with, or any further changes made to the legislation in Western Australia.

I would like to place on record two aspects which are very important to the issue of safety in the mining industry. First, this year there have been a number of tragic accidents in the mining industry. Many complex factors were involved in the situations that developed and led to these accidents; two of them are very notable. The first is that there are many inexperienced people in goldmining, in particular, and in other areas of mining in Western Australia. A lot of companies have very strict introductory processes; for example, Worsley Alumina has a very long apprenticeship type scheme for the new miners who enter the industry. However, there are some areas where the introduction of new employees into the mining area, and their instruction about safety methods and procedures, is deficient. Another important factor which many people involved in the management of mines in Western Australia do not completely understand is the fly-in, fly-out method of employing people.

In the small areas - that is, small in numbers, not in output and production - in the goldfields in particular, there is no infrastructure. In many of these mining areas the workers have very long shifts and long periods of time off. This results in what is called the fly-in, fly-out system, which means that those people who go down to Perth or to Port Hedland or Geraldton on their hours off come back to the mining site often quite exhausted from their activities, whether they be diurnal or nocturnal. This factor must be addressed. It is a lifestyle matter which truly is outside the actual responsibility of the mining employers and management but it is a lifestyle which does contribute to mining accidents.

I reiterate that it is imperative that the safety regulations section get an increase in funding. I know there has already been some increase, but in the goldfields region there have been at least two or three vacancies for quite a while and the main reason this continues is that qualified and experienced people in the goldfields are at a premium. They can attract very high wages almost anywhere they want to go, and it is difficult to attract the right men to the inspectorate. It is very wise of both the Minister for Mines and the Minister for Labour to recognise that the mines inspectorate is the correct place for the implementation of the health and safety aspects of mining, but whatever might have happened to the inspectorate, whether it was under DOHSWA as some of the Trades and Labor Council unions wanted it or whether it continues under the Department of Mines as it will under these amendments, it must have adequate funding.

I fully support these amendments, as does the National Party. We do so with full recognition of the total mining situation in Western Australia; in particular I have an understanding of the mining situation in my electorate and all those people who are involved in it. I want to read part of another letter I have received. This one was quite polite and not as strong as that I received from Jim Davidson, the Australian Metal Workers Union organiser from Bunbury. This letter is addressed to the Trades and Labor Council of Western Australia in relation to occupational health and safety in the mining industry. I will read just one paragraph -

> We AMWSU & ASE members employed at Griffin Coal and Western Collieries in Collie call on the Liberal and National Parties to progress this matter urgently through the Parliamentary process and put on notices that any party who attempts to obstruct that change will meet the full force of the Metal Trade Unions at Collie.

Despite that implied threat, I do support the Bill.

MR GRAHAM (Pilbara) [8.33 pm]: Mr Acting Speaker -

Mr Kierath interjected.

Mr GRAHAM: I must say to the member for Riverton that some of us in this place have been involved in industrial relations for a while and we do not mess around with theories, we have actually been out and done a bit, quite positively. I have been involved in what is the biggest industry in this State - the mining industry - which has the best industrial record now of any industry in this State, and which has been turned around. I am quite ready, willing and able at any time for the member for Riverton to hop on a plane and come up north with me and have a chat to people there about industrial relations.

I really did not stand up to debate with the member for Riverton my credentials to discuss this issue, but he raises an interesting point. Unlike many people who have jumped on the occupational health and safety bandwagon for a couple of months, I have been actively involved in this area for a number of years. The concerns members opposite have about the union movement get to me a bit - it is as though they are a big bunch of rogues who are

going to tear people's heads off. In the early 1980s I was engaged in negotiating with my employer at that time, Mt Newman Mining, a safety code that tried to take industrial relations out of safety issues; that safety code is still in place at Mt Newman Mining. The question of safety has been an ongoing issue in the mining industry. We have had some unfortunate deaths recently which have highlighted the issue to some people and put it back at the top of the agenda in the Parliament and in legislative terms; but it is not new. It has been around for a long time. In fact I was on the Trades and Labor Council negotiating committee which negotiated with the Chamber of Mines and Energy and the Department of Mines parts III and IV of the principal Act, and I have derived a certain amount of pride from seeing that come all the way from a concept to some fruition tonight. I know many people in the union movement share my views on that.

Mr Kierath: So do you support it remaining under the Department of Mines?

Mr GRAHAM: What is "it"?

Mr Kierath: The occupational health and safety guidelines.

Mr GRAHAM: I would suggest that the member for Riverton read the Bill, because that is not what is happening. Part II of the legislation gives people in the mining industry access to the Occupational Health and Safety Commission. That is what has been sought for a number of years now - somewhere to go when a worker has a problem. That is not to say that the Department of Mines is wrong; it is not to say that it is right; it is simply to say that if people have a view or a procedural change they think should happen in the Department of Mines, where do they go?

Mr Kierath: Where do the inspectors stay?

Mr GRAHAM: That is the subject of the review under part II of the legislation. At the moment they stay in the Department of Mines.

Mr Court: At the moment!

Mr GRAHAM: That will depend on what happens under the review. A very heavy argument has been run up by the mining industry that mine planning and mine safety are inextricably linked, and I think there is a degree of acceptance about that.

Mr Court: So do you think it is going to be transferred?

Mr GRAHAM: I did not say that, I said a review procedure has been set up under part II of the legislation and the Occupational Health and Safety Commission will make that recommendation. That is my understanding. The Deputy Leader of the Opposition should address that question to the Ministers because that is where the responsibility lies.

Mr Kierath: Where do you support them staying?

Mr GRAHAM: I am supporting the Bill before the House.

Mr Kierath: Do you support them staying with the department?

Mr GRAHAM: That is not before the House. The major attraction for me in the process of occupational health and safety in the industry is that it does exactly the opposite of what members opposite are accusing it of doing. At the moment, if people are working in a mine a couple of hundred kilometres out the back of nowhere and they have a safety issue, they ring up the mines inspector and if they cannot get one they resort to the tried and proven method - they go on strike. It happens in big mines, small mines and the whole shooting match, and it has traditionally happened for years. What this Bill does is to put in place the representation of people in the industry and give them some rights and responsibilities. More importantly, it gives them access to information; an area which has been a major bind to the industry. People cannot make decisions if they do not have the right information. It is interesting that this legislation has been supported all around the industry and through the unions. I have a letter signed by Les Hayward of Shay Gap in which he makes a number of points, not the least of which is that he congratulates the Government on its initiative in bringing mine workers under the protection of the Occupational Health, Safety and Welfare Act. That is the type of response that the initiative is receiving in the industry.

I am particularly attracted to that part of the Bill related to duties of care which puts responsibility on employers, including the types of things they should provide. Without

wishing to enter the rhetorical or emotional argument about Wittenoom, I suggest that if an Act of this type had been in force at the time that mine operated, its operations would have ceased much earlier. There is enough evidence about the Wittenoom operation to show that people were trying to voice a complaint but were not able to. Had an Act of this type been in place that mine would not have operated for as long as it did.

Mr Court: The member for South Perth gave a very good speech a year or so ago about the Wittenoom situation. He explained that the Government did have information about the problem.

Mr GRAHAM: My point is that had the duty of care provisions been in place and had people from the shop floor been able to raise and progress issues, the Wittenoom situation would have been cut short. No doubt the powers were in place for the Government to close the mine should it so choose, but it chose not to. I was not saying that the Government did not know about the situation or should have done something about it. The Bill provides another avenue through which employees can progress.

The duty of care applies not only to employers in a general sense, but also to the employees. That terrible section 49 of the Mines Regulation Act in effect says if a person has an accident at work it is his fault because he did not take enough care. The Bill shifts the onus from the employee to the employer to provide a duty of care; it also places an onus on the employee to look after himself and the equipment which belongs to the company. An obligation is also placed on employees to use the appropriate safety equipment. Those provisions, together with free elections - the ability for people to be represented - places emphasis on consultation, and brings consultation back to where it belongs; that is, close to the problem. But it also maintains the ability to go somewhere else for expert advice. These things attract me to the Bill.

The Leader of the National Party said much about the level of disputation in other industries. I think he was referring to the construction industry. I do not want to compare industrial relations and safety within the construction industry with the situation in the mining industry because notwithstanding the current spate of deaths within it, the mining industry has had a reasonable record over recent years. In my opinion this legislation will provide the mechanism for that record to be improved.

DR WATSON (Kenwick) [8.44 pm]: I support the Bill. The critical issues being addressed are the statutory rights and responsibilities that employers and workers will have. These statutory rights and responsibilities derive from the ILO Convention and are developed from Robens' principles to which our Government and indeed the Labor Party is committed. It pleases me that at long last some of these statutory mechanisms will be extended to the remaining four per cent of the work force to protect employees, and place the emphasis on prevention rather than reaction, and in which we aim to develop strategies to minimise, if not prevent, some of the worst excesses of some of the conditions in which mine workers work.

One of the keys to prevention in workplaces is tripartism. In 1983 when I was working with the then Minister Des Dans, I conducted a review with Brian Bradley, who is in the gallery tonight, of industry and of all relevant legislation. Despite the numerous pieces of legislation, and the numerous Government departments involved in enforcing that legislation, mostly weekly, there was still an industry view that reforms were needed. There needed to be consultation with workers. We reached an agreement with everybody except those in the mining industry that workers' health and safety would be protected by law in two stages. We know now the experience of introducing legislation which first provided a statutory Commission of Occupational Health and Safety. In 1987 we debated the legislation that was proclaimed just over a year ago. No matter what the member for Riverton or anybody else says, that legislation has had the most tremendous and positive impact in the workplace.

Mr Kierath: I haven't said anything yet.

Dr WATSON: The member has interjected.

The Chamber of Mines and Energy has conducted vigorous correspondence with me in which it has accused the Government of wanting to sell out to the left wing of the Australian Labor Party and to the union movement. I am rather aggrieved that the Chamber of Mines and Energy has misconstrued or misunderstood the intent of what we are trying to do. But as the member for Pilbara said, workers have three rights in occupational health and safety - the right to information, the right to participation in both policy formulation and implementation,

and the right to stop work. In these proposals before us the primary focus of all the workplaces will be directed through the Commission of Occupational Health, Safety and Welfare. The transition proposed means a similar two-step process. We have established first the structure for health and safety through the commission and, secondly, the detail of enforcement and how it will be attended to after a process of review.

Already we have had a tremendous modernisation of regulations; 21 sets of regulations have been refined into one set. Already duties of care are known and accepted by most shop stewards and most safety representatives in many workplaces. Already workers and employers who have been able to have health and safety training know in which ways they can be expected to be consulted and to participate in protecting their own health and safety.

I feel we are taking this four per cent of the work force in the mining industry and their employers and bringing them from the nineteenth century - in my mind there is no doubt that many of the practices are nineteenth century - and modernising them, using the expertise of employers, workers and inspectors. I see no reason - the Ministers know this - why the current mines inspectorate cannot work out of the Department of Occupational Health, Safety and Welfare. I am happy to accept this though as a compromise and as a significant step towards having one piece of health and safety legislation in Western Australia.

Mr Court: Are you saying that you cannot see why it cannot work out of the department?

Dr WATSON: This has been considered by the Ministers and I am happy to accept that as a compromise.

Mr Court: Do you think it is a compromise?

Dr WATSON: I do.

Mr Court: I think it would lower safety standards in the mining industry if the mines inspectorate went across to the department.

Dr WATSON: We have been accused of ignoring the need to address mining engineering design, and planning and operations as part of mines safety. However, the Government recognises that that is a principle of health and safety in any workplace, whether it is a hospital, an office, Parliament House, or a building site. If we are going to have a preventive health and safety policy, we have to look at the working environment.

Mr Kierath: How long is it since a health and safety inspector went through this place?

Dr WATSON: The member would be surprised.

Traditionally, safety has been emphasised at the expense of health in mining. But some tremendous pioneering work has been done in industrial medicine in mining, particularly in chest and skin medicine. That has been done in the mining industry for good reasons.

The structure that will be established will be able to deal with physical hazards - not just of safety, but noise, dust and heat as well as where people work and how they work - and chemical hazards. An important and increasing hazard which will have to be addressed will be that of radiation safety.

I was interested to hear the member for Collie refer to the issue of inexperienced workers being vulnerable and induction for new workers as part of the answer. However , we need to look at the vulnerability of workers when they are working away from their normal work site, on night shift or on a new process. Whenever workers face something new or unfamiliar they are vulnerable.

Tripartite forums will be able to be set up in each of the branches of mining; those of iron, gold, coal and mineral sands. The mineral sands industry is growing rapidly and I think that the procedures we have set in place for a modern mining industry will protect workers' health in an area in which we do not have much experience at the moment. I am prepared to predict that not only will safety improve under this Bill, but health also will improve. I am happy to support the legislation.

MR KIERATH (Riverton) [8.54 pm]: I was not going to participate in this debate, but after those comments I feel I should say something.

Dr Watson: Sorry everybody!

Mr KIERATH: As usual, the member for Kenwick is a little mixed up. However, comments have been made and I think it is fair to place on the record that, if I were in the mining

industry and I looked at the record of some of the Department of Occupational Health, Safety and Welfare's activities, and in particular in relation to the construction industry - I will come to that a little later - I would be very worried also. Even the member for Pilbara acknowledged that the construction industry was a little out of the norm. If one looks at the record as far as safety officers and safety pay - it is only a de facto strike pay - are concerned, one would be extremely concerned. That is the basis for some of the fears. Members of that industry have had no objection to having the principles of the legislation apply to their industry, and I think that is pretty fair. Many of their concerns have been about abuses of power by certain people and seeing it used out of context. That is what worries them.

We have seen the union movement do an about turn on this issue. On 22 November I asked the following question of the Minister -

> Is the Minister aware that the Trades and Labor Council of Western Australia gave unqualified commitment to these proposals in September 1986?

The Minister replied -

> I am aware that the Trades and Labor Council of WA agreed to a position on the issue which was negotiated in a tripartite forum under the auspices of the Commission of Occupational Health, Safety and Welfare.

I asked also -

> Is the Minister aware of any reversal of the TLC's commitment and, if yes, for how long has the Minister been aware?

The Minister replied -

> Yes. Since early this year.

Mr Court: It is interesting that the member for Pilbara said that these changes are being brought in only for the time being. In other words, they want the whole thing to go across to the department.

Mr KIERATH: I think we are now coming to the heart of this. As in many cases, the Government wanted to do something but felt too much opposition was building up so it moved in two or three stages. I guess that is because it thinks everybody else will get used to it bit by bit.

I was interested in those comments because we would support the inspectors of mines staying with the Department of Mines. We support the principles of occupational health and safety applying to the mining industry. Our concerns have been directed at people who would misuse and abuse positions of trust and power. I think that is a very important issue to be resolved. The mining industry has shown a great degree of responsibility in accepting that those principles should apply to their industry.

The member for Pilbara raised the construction industry as an example. The construction industry in the central business district for example is tied up with closed shops on most sites. There is total union control; signs are up all over the place saying, "No ticket no start." When that situation is combined with the election of safety officers and the issue of safety pay there are real problems. As some people have said to me, safety pay is a fantastic bonus; they can call a strike on some safety issue that is manufactured and say, "Hey presto, we have de facto strike pay." That is exactly what happens on many of these building sites. There is dispute after dispute. Every day there is a new list of demands that were not mentioned the day before, or the inspection before that. That sort of power is being used as an industrial weapon to soften up an employer for some claim. In many cases these claims are being pursued outside the Industrial Relations Commission.

Mr Court: People like Bill Ethell can do that effectively; they send businesses broke and no one has a job.

Mr KIERATH: That is right. He does it effectively and then gets a promotion to the Eastern States and leaves the mess for someone else to mop up.

Mr Court: What happened at Rottnest began as an Aboriginal issue and then they homed in on some of these so-called safety issues. I think that it was sabotage. It had nothing to do with safety at all.

The ACTING SPEAKER (Mr Donovan): Order! There has been a fair bit of leniency in this debate. Neither of those issues is relevant to the cognate debate which deals specifically with the mining industry and occupational health, safety and welfare legislation.

Mr KIERATH: I was canvassing the principles of the department applying to the mining industry and why the mining industry would be concerned about those principles. I was simply explaining that an industry such as the construction industry is probably the worst example. Unfortunately in this day and age people form their opinions on what happens in other industries. One cannot help understanding and supporting the anxiety of the mining industry because it has seen the events in the construction industry. The mining industry has witnessed the terrible excesses which occur in that basically closed shop industry with the militant unions, and it is very concerned. Many mining sites are also closed shops and the industry has strong unions. The member for Pilbara said that he took great pride in having been involved in one of those unions. There is great concern in the mining industry. I acknowledge that its members are happy to accept the principles - and that is important - of DOHSWA being applied to the industry but they do not want the control placed outside the industry where it could be used for purposes other than the general welfare of the industry.

MR CARR (Geraldton - Minister for Mines) [9.01 pm]: The whole question of this debate on safety has been a very complicated issue that has been fairly emotional over a period of time during which a number of people with different interests have expressed those interests very strongly. A significant range of views is held in the community as to the best way to provide safety in the mining industry. I believe that most of those views are genuinely held. Although comments have been made from each side suggesting that the other side does not have a genuine concern for safety, in my view each participant has a genuine concern for safety and believes the view he is proposing is the best way to go. I am personally very strongly of the view that the decision made by the Government is the best conclusion that could have been arrived at. It is a compromise of different views, and some have been compromised more than others. I believe we have struck a very good balance which provides the best of both worlds.

Provision has been made for very specific mining industry regulations, suited to the interests of the mining industry, and at the same time for the general umbrella provision which will allow DOHSWA to apply its general policy guidelines to the mining industry. It is also true to say the debate has raised the profile of safety in the mining industry and has put new focus on the efforts undertaken to promote safety and training in that industry. It has highlighted the good work done by many companies in the mining industry. It has also stirred some of those who were not doing so much to recognise the importance of safety in the industry.

A lot of discussion has been held about statistics, and it is true that statistics can say almost anything. They show two separate things: First, taking all accidents, or all injuries, figures across the whole of the mining industry over a considerable period, there has been a very significant, steady, downward trend in all accidents. On the other hand, taking just serious injuries and fatalities in the last three years, particularly in the goldmining industry, there is a rather worrying upward pattern. The old adage is true; statistics can be used to prove almost any point. There has been a significant improvement overall, but it is also true that some trends in recent times are of concern. It is fair to comment, as the member for Collie did, that this is not unrelated to the greater amount of activity in the industry in recent times. Overall I make the point that we should not see legislation, in whatever form, as the be-all and end-all of effort to promote safety in the industry. Reference has been made to duty of care, and it should go without saying that safety should be the prime concern of everyone in the industry at all times in all circumstances, irrespective of the legislation applying at any particular time.

I will take a couple of moments to answer three specific queries raised by the Deputy Leader of the Opposition. He referred to the prosecution record of the Department of Mines in recent times. In fact, the best way to answer that query is to refer to question 479 asked on notice in the Legislative Council by Hon Mark Nevill on 21 September, which appears on page 2549 of *Hansard*. That answer details the record of 18 prosecutions in the 12 months to June this year and it also goes through each prosecution individually and clearly indicates a very high success level.

I was pleased that a number of members acknowledged the upgrading of the mining engineering division with the increased resources being provided in recent times. There are

no immediate plans to take new initiatives with regard to that department but, like all sections of the department, it is at all times under review. It is particularly under review at a time of high level of activity in the mining industry. One of the difficulties is that when the industry is at its most buoyant level and the department most needs a large number of mining inspectors, that is precisely the time at which skilled people are offered the highest salaries in the industry. Conversely, when the industry goes through a quieter period and there is not such pressure on the mining engineering division, more people with appropriate qualifications are available to take their place in the department. I hasten to make the point that the people who become inspectors in the mining engineering division are well qualified, with mine manager certification and so on. It was never the intention of the Government that inspections of safety in the mining industry should be handled by people who did not have those mining skills.

The Deputy Leader of the Opposition also raised a question with regard to the Coal Mines Regulation Act and the timetable for its amendment by the Parliament. As the Government has been proceeding to amend the Mines Regulation Act over the last year or so, similarly work has been undertaken to include parts III and IV of the Occupational Health, Safety and Welfare Act into the Coal Mines Regulation Act. However, that work has not proceeded quite as quickly because it has been decided that the Act will be completely rewritten at the same time. That task is well advanced but it was not possible to introduce the Bill in this session. The Government's clear intention is that the redrafting will be completed early in the new year and the legislation will be introduced in the autumn session of Parliament next year to apply from 1 July. With regard to the query from the Chamber of Mines and Energy on that point, that review will proceed, as it is at present, with the very strong involvement of the coalmining industry. Obviously, the outcome of the work of the current review will be examined by DOHSWA before the introduction of that legislation into the Parliament next year. I anticipate that all parties will be satisfied with that aspect of the issue.

MR TROY (Swan Hills - Minister for Labour) [9.10 pm]: In closing this debate I think it can be assumed that there is support on both sides of the House for the proposed amendments to the Occupational Health, Safety and Welfare Act and the Mines Regulation Act in respect of the intention to expand the emphasis of occupational health and safety in the mining industry. The Government has had a fundamental concern about the number of fatalities in some parts of the mining industry, where the question of occupational health and safety has not been followed up to the necessary level of satisfaction. The Deputy Leader of the Opposition acknowledged that over recent years several areas of the industry, particularly in the area of gold mining, have left significant scope for improvement. I do not think any party is able to comment on health and safety in the mining industry other than to express a very strong desire to minimise the incidence of serious accidents and fatalities, which unfortunately have been playing an increasing part in causing personal suffering to families.

I want to correct the wrong impression advanced by the Deputy Leader of the Opposition in terms of the positions he alleged we had adopted during the earlier part of the discussions on these issues. A range of options was discussed with the industry and the trade union movement in moving towards a satisfactory position for both. It is false to suggest that the Government took two particular stances on this matter. First, the Government never made a commitment to transfer the inspectorate from the Department of Mines to the Department of Occupational Health, Safety and Welfare. Second, the alleged parallel operation was clearly an option that was being considered; but it was never adopted by the Government.

My colleague, the Minister for Mines, referred to statistics. I do not believe I can describe the situation more accurately than he has, but one has to be careful when using statistics. Currently there is a significant concern about the breadth of the definition of the mining industry, because it covers not only extraction but also processing and transport, both on land and from the wharf to the ship. I do not think anyone would deny that the definition is very wide. There is no point going over the argument about statistics. There are arguments both for and against, and there is some rebuttal of a whole range of claims made by both parties in this exercise which can be very validly put. I do not wish to enter that debate, and certainly not to take sides in it, because both parties, employers and employees, used the statistical argument, but I do not believe that the statistics stand up to close examination in all respects.

We have made a significant step forward; what has emerged is a very workable situation. It is appropriate to put on record that the occupational health legislation was proclaimed in

September 1988. It has been in operation for 14 months, and although it is fair to say that there are still some difficulties with the implementation of the legislation, when we consider that there is a demand for 5 000 health and safety representatives to be trained across the State, that cannot be accomplished in one year. The performance has been very good, and about 1 400 people have been trained in this area. The building and construction industry has recognised the considerable scope for that training to be done on a tripartite basis; it will certainly receive support from me and the Government to move to that position as quickly as possible.

A number of speakers have raised the issue of the urgency of uplifting the level of training. We will need to address that issue if we are to get the optimum result from what the employers and employees see as being very favourable health and safety legislation. Some interim difficulties are currently being experienced; I might say they will be experienced for a little longer. It is false to suggest that we can transfer the question of industrial disputation from one industry to another simply under the vehicle of occupational health. If we are talking about the building and construction industry, we need to look at what were the occupational health and safety issues some time ago, and what they are now. The fact is the situation does not stand up to examination at a greater level as a result of the operation of the occupational health and safety legislation; but by the same token there are parties on both sides of the employer - employee equation who abuse the present provisions of the legislation. I do not know whether that is out of ignorance or lack of training, or whether it is deliberate; I believe a degree of all those factors comes into answering that question. We cannot look at the current position in the building and construction industry as being the model that will ultimately emerge. I believe the final result will be significantly better than that.

I am in the process of forming a working party, with a considerable degree of involvement by the building construction employees and the unions, to examine occupational health in that industry and to ensure the better facilitation of this changed process. I hope that early in the new year I shall be able to report about the outcome of those negotiations with considerable success.

The processes which have been indicated give power to the Occupational Health and Safety Commission to examine the mining industry. That examination will be conducted in a way that has proved successful over recent years, where the commission has done very good work in other areas. I have every confidence it will be able to continue that work in the mining industry. The industry partners have general agreement about parts III and IV of the Occupational Health, Safety and Welfare Act, their inclusion in the Mines Regulation Act, and their subsequent review of the Coal Mines Regulation Act.

I am most grateful for the significant support expressed for the Bill. I am sure the industry will be appreciative of the approach taken by members on both sides of the House.

Question put and passed.

Bill read a second time.

Third Reading

Leave granted to proceed forthwith to the third reading.

MR TROY (Swan Hills - Minister for Labour) [9.17 pm]: I move -

That the Bill be now read a third time.

MR COURT (Nedlands - Deputy Leader of the Opposition) [9.18 pm]: I realise that there has been considerable tension within the Labor Party as to how this legislation would eventually come before the Parliament. There was obviously a very strong move for the mining industry to be brought under the Department of Occupational Health, Safety and Welfare, and for the Department of Mines to lose the responsibilities that it has had. That tension was brought out in the speeches made by some of the back bench members, who were a bit hesitant about expressing what they thought about this legislation - hesitant in the sense that they thought it was a compromise, and that perhaps a change could occur in the future.

Perhaps the Minister could be a little more specific. We know that within the Labor Party and the trade union movement extensive negotiations have been held and deals have been

done as to how to handle this matter. Perhaps the Minister could give us an assurance that the Government intends to keep the mines inspectorate responsible for parts III and IV of the principal Act. I want to reinforce in the third reading debate on this Bill the concept that if this legislation is used blatantly for industrial and political gains and not for genuine safety reasons the Government will hear a lot of opposition from employer organisations and responsible employee organisations that do not want to see the safety issue abused as it has been abused in many other industries.

MR COWAN (Merredin - Leader of the National Party) [9.21 pm]: I want to make a brief comment relating to some remarks I made in the second reading debate, if I am allowed to do that. I was referring, in the Bill to amend the Occupational Health, Safety and Welfare Act, to part III of the principal Act, but it is indeed part II, which clarifies completely the question that I raised. All I want to do is place on the record that it must be because of the length of time we have been spending in this place lately that I misread part II for part III, which appeared to me to be double-dutch. It is not; it is quite a sensible move and we just hope it succeeds without any further implications of industrial strife within the industry.

MR TROY (Swan Hills - Minister for Labour) [9.22 pm]: The Deputy Leader of the Opposition raised the question of tensions within the Labor Party. We do not need to beef about that point. Our party, as everyone knows, is diverse in its interests, but what must be understood is that we handle that sort of debate pretty well within our party and we have done it again in this instance. We have done it in a way which is in the best interests of all those in the mining industry - certainly the unions there and the employers.

I find the query as to the commitment to keep the inspectorate within the mines area a very strange question because the Occupational Health and Safety Commission is being given the opportunity to examine the provisions within the mining industry, and I believe the Deputy Leader of the Opposition is supporting that, as indicated by his support for the Bill. The commitment the Government can make is consequent upon the commission's consideration and deliberation. If that is the appropriate decision in terms of occupational health and safety in the industry, that is the decision we will make. First it must be examined by the commission. We will give the matter a very fair analysis and if it stands up to that analysis we will make the appropriate decision about it, but it is the right of the commission to examine that argument.

Mr Carr: Of course, it can only be changed by being brought back here in any event.

Mr TROY: That is right.

Question put and passed.

Bill read a third time and transmitted to the Council.

MINES REGULATION AMENDMENT BILL

Second Reading

Order of the Day read for the resumption of debate from 30 November.

Question put and passed.

Bill read a second time.

Third Reading

Leave granted to proceed forthwith to the third reading.

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

CRIMINAL CODE AMENDMENT (INCITEMENT TO RACIAL HATRED) BILL

Second Reading

Debate resumed from 26 October.

MR KIERATH (Riverton) [9.25 pm]: We support the principles outlined in the Minister's second reading speech but we have some grave reservations about the method by which those principles are to be applied. We support the general thrust of the Bill but have some

objection to the way it is to be enacted and, as such, I signal our intention to support the Bill at the second reading stage and to move a series of amendments. If those amendments are not supported I am afraid we will have no alternative but to oppose the Bill. I have given the Minister prior notice of this, and off the record he has indicated his unwillingness to accept those amendments. It is very important to establish that right at the outset.

We believe there should be an offence in this area but that the offence should be targeted and accurately defined rather than the Government using some legislation that encompasses all sorts of other offences and grouping them into one Bill. We believe that the racist propaganda campaign has been abhorrent. It has been disgraceful and disgusting. I have in my electorate a Chinese restaurant that has been the victim of such poster campaigns, a fire bombing and ultimately a bombing. There is even one person in my electorate who, it is alleged, has committed certain offences which resulted in some of those activities and even the death of another person; I am aware of another person who committed suicide as a result of this disgusting campaign.

We want to make it clear that we support the thrust of the Bill. We think an offence should be created but it is the method that causes us to differ. This racist campaign has invoked fear and intimidation in certain people and in some areas that campaign has been running rampant. The poster campaign has been under way for some years. In his second reading speech the Minister even said that he has been seriously considering the problem for two years.

In April this year I was approached by some community groups who asked the new shadow Minister for Multicultural and Ethnic Affairs what the Liberal Party's response would be to this poster campaign. We took it to our party and looked at what we could do. We examined the various reports put out by the Equal Opportunity Commission and the Law Reform Commission; we looked at the legislation in New South Wales - which, incidentally, was brought in by a Liberal Government; we looked at legislation overseas - even that in the United Kingdom, which was brought in by a Conservative Government. However, having looked at that legislation and at the various avenues that had been tried to solve similar problems, we decided we would not use a sledgehammer to crack a peanut. We believe that if a specific problem exists, specific offences should be created and we should not try to invoke all sorts of other offences which were not the intention of the original Act.

The Bill contains some very important parts. One of those crucial parts is the point of possession, and I have indicated to the Minister that a number of people, specifically in the legal profession, have some concern about that aspect of it. The Minister knows that that does not form part of our amendments.

Another section of the Bill emphasises the display of certain material and the double jeopardy, if members like; not only do we need to establish possession in the worst offences, but also to establish intent. Those two factors virtually encompass all areas, then by a process of focusing and selecting an attempt is made to capture the offenders. That is the wrong way to go about it.

The Bill contains the words "threatening, abusive and insulting". The Opposition has no problem with the word "threatening" or the word "abusive". Our problem is with the word "insulting". Another part of the Bill uses the words "serious harassment, alarm, fear or distress". We have a problem with the word "distress". The Opposition feels that a strong educational role should be played. We considered whether we should amend legislation so we looked at the Multicultural and Ethnic Affairs Commission regarding an education role and discovered a clause in its legislation related to this area. However, the Opposition believes the educational role should be emphasised.

As a result of in some way supporting the Government's position, we have received mail from cranks and nuts. I have received mail which could only be described as distasteful, some has been disgusting, and some could be called hate mail. At a recently publicised rally someone was distributing a pamphlet denigrating the actions of the Liberal Party and the Leader of the Opposition in relation to our Bill which is also on the Notice Paper. Because that group has publicly attacked us, I am certain that we are on the right track.

It is important at this stage to consider requests made by the community for a bipartisan approach to the problem. The Liberal Party has been very amenable and agreeable to such

an approach. But a bipartisan approach does not mean a one way street; it is a two way street. During earlier discussions in an attempt to find some common ground, the Minister stated that the possession parts of the Bill were not open to discussion. Other amendments were negotiable, and the Minister would do everything within his power to support realistic amendments. I stated that I had strong reservations about the possession provisions but the Minister confirmed that that part of the Bill was not negotiable. I met the Minister, but I found later that he had issued a Press release attacking the Opposition's lack of bipartisanship. But a bipartisan approach is built on trust.

Not so long ago I was invited to attend a meeting at the Italian Club of WA where the Minister was to outline the Government's Bill.

Mr MacKinnon: Who invited you?

Mr KIERATH: The invitation came from the Minister's office. I was very pleased to receive that invitation because I had asked whether the Minister was prepared to consider any amendments. He said that he would consider a more conciliatory approach. On that basis I was prepared to attend the meeting. Some people said that I should not go to the meeting because it would be a setup. I said that I had had discussions with the Minister, and that I believed what the Minister had said. I attended the meeting fully expecting that I could have between 15 and 20 minutes to discuss our Bill. I said that I needed only 10 to 15 minutes, and I attended the meeting on that basis. Thirty seconds prior to the start of the meeting, I confirmed those arrangements. However I found out that I was only to provide answers to questions if someone wanted to ask questions. I was very disappointed in that approach, not from a personal point of view but because I had been led to believe the Minister was prepared to take a bipartisan approach; I trusted him.

Mr Gordon Hill: You had every opportunity to say whatever you wanted on that occasion.

Mr KIERATH: I believe the community wanted a joint approach. The community did not want a partisan or political approach.

Mr Gordon Hill: Did you or did you not have an opportunity to make a speech?

Mr KIERATH: No.

Mr Gordon Hill: Then you are lying.

Mr KIERATH: That is where the Minister twists the facts. The Minister allowed people to ask questions; one member of the audience realised that I had been double-crossed; he asked a question to give me an opportunity to put our Bill to the meeting.

Mr Gordon Hill: The member could have taken the opportunity to make whatever statement he wished.

Mr KIERATH: The Minister should tell the whole truth.

Mr Gordon Hill: The member should tell the truth.

Mr KIERATH: I was told that after the Minister had finished speaking I would be given the opportunity to speak; that did not happen.

Mr MacKinnon: Who told you that you would be given that opportunity?

Mr KIERATH: The Minister's adviser, or perhaps I should say technical consultant.

Mr Catania: The member was given every opportunity to speak.

Mr KIERATH: No, I was not.

Mr Catania: My colleagues were there; they know the truth.

Mr KIERATH: I have had a whole swag of phone calls from people saying that they felt sorry for us, that the Government had no right to do that.

Mr Pearce: People probably thought that you should be put down.

Mr KIERATH: Every time the Opposition tries to discuss some matter seriously, that is the Minister's attitude; he trivialises everything and makes a joke. I am trying to be serious, and I receive such ridiculous interjections from the other side of the House.

The Opposition was prepared to accept the spirit of this Bill; we were prepared to accept the general thrust of it. We were prepared to consider the areas of the Bill which needed

improvement; we believe some areas of the Bill are very poorly drafted because it has been rushed into this House.

The Law Reform Commission acknowledges that the Government has performed some sort of world record in moving from the report stage to the introduction of legislation in this House. At the same time, the Opposition had legislation which it intended to introduce and I suggest the haste with which the Government has introduced its legislation was almost indecent. That has created problems with the drafting of this Bill.

Another area of the Bill which has received much criticism is that relating to the establishment of intent. Intent is very difficult to prove. Some people cast doubts about whether that part of the Bill will be effective.

The Opposition has grave concerns about the methods of the Bill but we were prepared in the interests of the ethnic communities and a bipartisan approach at least to acknowledge the intent of the Bill. We acknowledge that the Government had some right to put its views across. I repeat that we were prepared to accept the general thrust of the Bill but we acknowledge that some areas of the Bill need amendment. That was one way by which we could indulge in a bipartisan approach - to give the Government its due, to let it go ahead with its techniques, and only to take out the objectionable parts of the Bill. Unfortunately the Minister has indicated he is not prepared to accept that.

Mr Gordon Hill: We are not prepared to weaken the Bill.

Mr KIERATH: From an objective point of view the Criminal Code Amendment (Incitement to Racial Hatred) Bill will depend on the support or lack of it from the Opposition. As I explained to the Minister, I do not think either that Bill or the Criminal Code Amendment (Racial Fairness) Bill will prevent either Bill from being enacted because they cover two completely different ways of attacking racism. In our case it is just a specific offence carrying very much stronger penalties, whereas the Government has taken a completely different tack. It has tried to gather up a whole series of offences, to cover everything, and by using the "double jeopardy" theory, tried to eliminate a lot of issues which are not relevant. We have said in almost every case that the action taken is an offence in itself. The current penalties are not severe enough and the police will not prosecute because they believe it is not worth their while. Our approach is to make the offence a serious offence. In most cases the law is administered according to the seriousness of the crime. The community says, "If behaviour is wrong we will pass a law prohibiting that behaviour." That is the important issue, whereas I think the Government is going about this legislation in completely the wrong way by trying to cover too many things. The Government may disagree with us, but we have the right to put our point of view. We are looking at this legislation from a much wider view and not just from a narrow sectarian view.

We wanted bipartisan support on this Bill and took that very seriously. We were even prepared to reduce some of the amendments we would have liked to have seen in it. However, on the basis of a bipartisan approach, we are prepared to limit those to the areas where people have raised the strongest concerns. If the Government were equally genuine in its aims it would accept some modifications to its Bill.

Mr Gordon Hill: We are not prepared to weaken it.

Mr MacKinnon: There are probably plenty of people in Government who are. I think it is the Minister.

Mr KIERATH: One of the members interjecting on the other side is a person I have a lot of time for. I see him spending time with a lot of the community groups and I believe he is a very genuine person. Certainly a lot of the people I speak to are in a similar category. One of the problems is that the Minister has painted himself into a corner because he wants to take sole responsibility and is not prepared to accept bipartisan support and that is his reason for objecting to our amendments. I believe this action establishes the Minister's intentions.

Dr Alexander: The Minister has very strong support for this Bill right across the party.

Mr KIERATH: We have been prepared to try to accommodate the Government's views in order to get a bipartisan approach. However, we did not find one skerrick of evidence from the Minister that he was prepared to modify his demands. In the Committee stage we will move amendments and then we will see the Government's real stand.

Mr Gordon Hill: We are not prepared to weaken the Bill.

Mr KIERATH: The Opposition does not believe these amendments will weaken the Bill. They will make it very realistic and much more acceptable to the majority of people. If the Government were prepared to list our Bill on the Notice Paper and pass it, it would have nothing to lose and over time it would find that more prosecutions would be brought under our Bill than would be under the Government's because there are some legal loopholes in its Bill. The Minister claims that legislation must be passed to make it a specific offence to post racial posters. However, the placing of those posters is already an offence but not a strong enough offence to warrant the Minister's committing resources to try to catch offenders.

Dr Alexander interjected.

Mr KIERATH: That is the line the Government is dishing out. That does not happen with other areas. How does one get caught for speeding?

Dr Alexander: That is why we have a Police Force.

Mr KIERATH: Yes, we do have a Police Force. The member has not even read the Bill. This is going in the Criminal Code. The police are the people who will enforce it.

Mr MacKinnon: I think the member for Perth had better go back to sleep.

Mr KIERATH: I think he has been in the left wing a little too long. The argument being put forward is that people cannot be caught while placing posters on walls. If the Minister can catch them, anybody can.

Mr MacKinnon: That puts the lie to the argument that he can't catch them.

Dr Alexander: Do you know what happens to people who try to stop the Australian Nationalist Movement? Their houses are firebombed.

Mr KIERATH: I have accepted what the Minister said at face value and then I have tried to analyse what he said.

Mr Blaikie: And in reality it does not work.

Mr KIERATH: That is right, the Minister says offenders cannot be caught. I spoke to some policemen - very senior people who were not prepared to be identified - and asked if a problem exists in catching offenders. Those people said no.

Mr Gordon Hill: They have never caught any.

Mr KIERATH: It is not worthwhile catching offenders when the penalties are pathetic. If the Minister liaises with the local police he will find that the police do not even bother to investigate. That is because the police are not prepared to commit the resources and manpower required for trivial offences. The Minister is shaking his head. He is not prepared to listen to any other point of view. He knows best and we do not know anything. That is what he is trying to say. He is not prepared to accept any advice or any comment.

Mr Hill: I don't call it a trivial offence.

Mr MacKinnon: He gets the arrogance from his leader.

Mr KIERATH: That is right. The sad fact is that a lot of people have believed the Minister and I have tried to point out to people that a whole series of offences exist in the Criminal Code and in a court of law it must be proved that in each case an offence was committed. It is no different from any other crime. If one murders somebody it has to be proved that one committed the murder. When a crime attracts a severe penalty it is absolutely critical that guilt be established and some sort of back door method to try to prove guilt should not be used. We asked two or three different groups of policemen about this issue and they said that if the penalties were serious enough they would commit the resources to catching the people because they know the areas where the posters are being stuck. When one drives around one can see that the posters are placed in the same areas over and over again. They also said that each day a new list is drawn up at the police station of posters that have been placed on walls etc. It must be relatively easy to narrow down the days and areas where those posters are being placed.

We acknowledge the problem of racial posters and we want a solution; we want them stopped. The Opposition's approach is different from that of the Government. We believe the Government's solution is wrong because in some areas the Government is far too heavy

handed. It infringes on some rights and we believe that it will cause severe restrictions to the freedom of publishing. Some offences under this Bill will be very difficult to prove. However, we on this side are not inclined just to criticise; we have introduced our own Bill which has an alternative solution. However, because we were prepared to support the Government we were prepared to accept its proposal with some modifications in the spirit of bipartisanship.

Dr Alexander: Are your amendments on the Notice Paper?

Mr KIERATH: No, but I can provide the member with copies. They have been provided to the Minister with a fair degree of early warning. I indicated the general thrust of my amendments to the Minister and as soon as they were ready they were provided to his adviser. The Liberal Party cannot be held responsible for this legislation. I am learning how the Minister operates and he will try to paint the Liberal Party as being responsible for the destruction of this Bill. The Liberal Party has gone to great pains to say that it is prepared to support the legislation, but it wants it modified in certain areas. If the Government rushes a Bill through this Parliament, the Liberal Party cannot be held responsible for its outcome. If in some areas of the Bill the attempt to legislate is seen to be tardy if in some areas it is heavy-handed if it contains some difficult clauses, the Liberal Party does not believe it is its responsibility. Its responsibility is to look at the Government's proposals, to analyse them and to come up with constructive suggestions. The Government should consider the implications of this legislation very carefully.

I refer now to the opinion of several organisations in the community. The first letter I will draw to the attention of the House is from the Australian Book Publishers Association and it reads -

> However, the current wording of the Bill has the unintended effect of allowing racial or religious groups to censor works of literature.
>
> A distinction must be drawn between freedom of speech and the use of words as weapons against vulnerable groups or individuals.
>
> The unintended consequence of this Bill in its current form is a clear threat to free speech and open debate in the community.

I draw the attention of members to the dissenting opinion from George Syrota of the Law Reform Commission of Western Australia. He makes some interesting points and I do not necessarily agree with every aspect he raises. However, the views he raises are worthy of consideration. He states that the clause relating to the display of racially inflammatory material is too wide. He states -

> Unless the drafting is modified. . . there is a real risk that it may be interpreted so as to criminalise the sale of books such as Salman Rushdie's Satanic Verses (and even to penalise the display in newsagents of satirical magazines carrying tasteless cartoons of a mildly racist nature on the front cover).

Further on he says -

> Implications for political debate Display of leaflets at election time by political parties strongly opposed to immigration could attract fines or imprisonment if the leaflets are subsequently judged to be "likely to cause serious distress to a racial minority", even though there is no intention to stir up any hatred.

One of the Liberal Party's amendments is to remove the words, "that are likely to cause" in this situation. Another area of concern raised by Mr Syrota is as follows -

> The proposed 3rd and 4th offences pose a serious threat to civil liberties. Consideration should be given to incorporating into them the safeguards and defences incorporated into the equivalent anti-racism provisions in NSW and UK legislation, so as to strike the right balance between freedom of expression and protection of racial minorities from harassment and vilification.

He went on to explain that in his view there is a legislative loophole and he states -

> There is a serious problem with the Commission's proposal to limit the 3rd and 4th offences to written material such as pamphlets, leaflets, magazines, etc, which contain racially offensive materials on their front or back covers and to exclude pamphlets,
>
> . . .

Further on he said -

> The 3rd and 4th offences therefore do little to stop such racist organisations switching from sticking offensive posters on the sides of public buildings to distributing offensive leaflets through letterboxes.

They can get around that by making sure that the front cover is not offensive and they could have the most offensive articles on the inside of the magazine and get away with it. I did mean to pass a comment on Mr Syrota's reference to the implications of political debate. I mentioned earlier that a leaflet was handed out at a recent public rally criticising me and my leader for our stance on this issue. Although I totally disagree with those people's point of view I believe they have the right to put their views.

Mr Syrota also said that pop records, videos and other sorts of material which could be used are not covered under this legislation. He said -

> The commission's formulation "serious harassment, alarm, fear or distress" is too vague and should be replaced with the single term "serious harassment".

The Liberal Party has taken part of that and framed an amendment to the relevant clause. It will remove the reference to distress, but it is prepared to leave in the reference to serious harassment, alarm and fear. Therefore, we have gone further than did the dissenting commissioner. I said earlier that we do not necessarily agree with everything Mr Syrota said, but he has alerted the Liberal Party to areas of the legislation which should be examined. The potential problem should be addressed.

Another document to which I shall refer is a report of the Criminal Law Association on this legislation. It made some pertinent points. In reference to the definition of "written or pictorial material" it said -

> The definition does not include oral utterance and it is doubtful whether it includes televisual transmission or videotape recording of the items included in the list.
>
> The definition largely covers the more ephemeral and informal types of written material. However, the notable exception is the inclusion of 'writing'. This is defined in the Concise Oxford Dictionary as including 'written document, piece of literary work done, book, article, etc'.
>
> The offences to be created are of two types:
>
> (1) Ss 77 and 78 will prohibit the publication, etc., - or the possession for publication, etc. - of relevant material. . .
>
> (2) Ss 79 and 80 will prohibit the display - or the possession for display - of relevant material. . .

Further on it states -

> The former pair of offences are in line with the name of the bill. The mischief they are aimed at is the intention to arouse feelings of hatred of the identifiable group. The latter pair of offences go beyond this, and aim at the wrong of intending to upset or, within the terms of the legislation, to be likely to upset the feelings of members of an identifiable group in the specified ways.

That is one of the things that we have included in amendments. We will take out reference to trivial offences, but will leave in the more serious offences such as alarm, fear or hatred. The report continues -

> ... Satanic Verses, may be seen as a test of this.

I am referring to the definition of "identifiable group". An identifiable group could include groups which share the same religion. The report continues -

> It is 'writing'; has been seen by Muslims as insulting; and could be said to be likely to cause distress to Muslims.

The reference to written or pictorial material under that definition could refer to matters which could upset a religious group. We could have a situation with a book like *Satanic Verses* being covered under this Bill. The report continues -

> An offence may be committed even without the intent to cause the specified feelings,

but where the materials are 'likely' to cause those feelings. This is additional to the requirement that the materials be threatening, abusive or insulting.

That is one of the objections we have to the legislation and it is an area which needs to be resolved. The Liberal Party has no problem if the material is threatening, abusive or insulting. The problem arises when we read into the interpretation of the clause that it might be likely to cause those problems. The report continued -

(e) Distress carries in its traditional meaning a notion of being at the extremities in the sense of anger. However, it can be seen as open to a variety of degrees of unhappiness and should be qualified, like 'harassment' with some other word such as 'gross' or 'extreme'.

(f) The feelings of alarm and fear are closer to what might be proper in the sense of relating the acts constituting the offences to some possible breach of the peace.

When one reads that statement in line with the amendments we prepared well before we received this letter one sees a similarity of ideas and feelings to take out some of the more objectionable parts of this Bill. The letter continues -

> The good intentions behind this bill will lead, if it is enacted, to more harm than good.
>
> The Bill constitutes an example of the overreach of the criminal law into legislation protecting feelings. This is particularly true of the second pair of offences. . . .These offences are perhaps more like those in the Police Act which deal with 'offensive behaviour'.

I believe that is perhaps where those offences belong. It is a similar point of view to that put forward by George Syrota that some of these things should be under the Police Act rather than the Criminal Code. The letter continues -

> There is no requirement in the legislation that anyone be physically harmed by the conduct to be made criminal, nor that there be any threatened breach of the peace. The wrong lies in the possession of certain types of material with certain intents, the intentions relating only to the possible stirring up of feelings.

The letter continues, and this is important -

> This is an illegitimate use of the criminal law.
>
> There is also a threat to the proper exercise of written debate about matters of public concern. A newspaper editor will have to consider whether an article about such topics as differences of opinion between Aborigines concerned with the running of the Aboriginal Legal Service, or alleged misuse of public funding by multicultural childcare agency, or the like, could be considered to be 'insulting' and 'likely to cause distress' to a relevant group. . . .

That is very important. That is what I say about this Bill; in some areas it has gone too far.

Dr Alexander interjected.

Mr KIERATH: If the member for Perth had been listening and had looked at my list of amendments he would have seen that I have not touched "hatred"; all I have addressed is exemption of any lawfully published book and I have deleted the words "distress" and "insulting". All the words like "serious harassment" and "hatred, alarm, fear" have remained. We have not endeavoured to touch them.

Dr Alexander: Then the argument does not stand up.

Mr KIERATH: It does. I have been going through the words "insulting and likely to cause distress" so the member for Perth should listen before opening his mouth. The letter continues later -

> Proprietors of book shops and those operating libraries will have to consider the effect of this legislation.

That is linking "insulting" with "likely to cause distress". If the member for Perth bothered to read the Bill he might be equally concerned. The letter continues -

> It is principally the second pair of offences that causes the main difficulties. The combination of the inclusion of 'writing' in the material covered, the notion of insulting writing, and the requirement only that the writing be likely to cause, inter alia, distress, is the main trap.

That is very clear. I do not profess to be a lawyer, but even I can understand that. The letter continues -

> This legislation, if enacted will in my view not only cause the harms suggested above, but will also send racist sentiments underground, cause resentment, stifle the sort of debate that we need for a healthy spirit of acceptance of others, and tend to create martyrs among the extremists.
>
> The legislation is an example of the misuse of a law to attempt to solve wrongs -

So they acknowledge that there are wrongs -

> - which should be tackled in other ways.

There are three or four other points in this letter that I will raise that are, in effect, a summary of what I have just read, as follows -

> The word 'writing' should be removed from the definition of 'written or pictorial materials'.

Our amendment takes that a different way; we exempt any legally or lawfully published book and believe that overcomes that problem. The letter continues -

> In ss 79 and 80, 'distress' should be replaced with 'gross' or 'extreme' distress.

We believe that the word "distress" should be removed, which would overcome that objection. The letter continues -

> In ss 79 and 80, it should not be an offence where the material is 'likely to cause' the specified feelings.

We have likewise moved for that section to be excluded. The letter continues later -

> It is the Association's view that any enactment of this nature should be carefully considered before becoming law.

That is what we have endeavoured to do here tonight - to carefully consider those parts of this Bill we think should be considered carefully before they become law. The letter continues -

> Whilst the Association supports the vetoeing of organised, racial attack such legislation should be strictly reserved for that purpose and great care should be taken in the definition to achieve that purpose. There should not be a knee jerk response by Parliament particularly when the result of legislation is to define conduct otherwise morally offensive now to be criminal with resultant punishment and change of status.

I will raise other queries which are not dealt with in the amendments. I give notice to the Minister so that by the time we get to the Committee stage he can come up with answers. We would like him to explain how many copies of an item constitutes intention to distribute or display. Are we talking about one, or 10, or 100, or 1 000, or 10 000? This is important because one can paint all sorts of scenarios. In some educational institutions studying certain topics could be included so it is important to find out how many copies constitutes that intention.

We support the Government's basic intention, but if it does not listen to our words of concern its own stupidity will result in the defeat of this Bill. We do not want to see that. I have made it plain that we support the second reading and will be moving some amendments.

Mr Gordon Hill: You support the second reading -

The SPEAKER: Order! Members will recall that on several occasions I have asked, I think nicely, that members do not read papers in this place. I think it is highly inappropriate and a number of members who have forgotten that will remember that on occasions I have tried equally nicely to send surreptitious notes to remind them not to do this. I ask the member who is actually reading the paper to take notice of this before I have to take action to tell her not to read it.

Mr KIERATH: We believe that in a spirit of friendship and bipartisanship, even statesmanship, the Government could have a set of laws to assist ethnic communities if it were prepared to accept our amendments. We would much rather see 90 per cent of something constructive and forthright than 100 per cent of nothing any day. I ask the Minister to reconsider his stance, not for his sake or the sake of my party but for the sake of the Jewish people and the Chinese, Vietnamese and Asian communities and all of the ethnic communities in Western Australia; please reconsider. Some of those people have indicated to me they had a dream that there would be some bipartisan support for a set of laws to protect them. In that spirit we have accepted that. Although we disagree with the Government's methods, we are trying to make the Bill as acceptable as possible. Some members of my party are prepared to show a sign of faith and goodwill and to accommodate the Government with this matter. We are prepared to accept some aspects of the legislation even though we do not agree with them. We are willing to compromise and if some people do not like the use of that word then we are being pragmatic.

If he rejects these amendments the Minister will ensure that this issue will not be bipartisan but will remain political in nature. He will stand condemned by his own thrust for publicity and betray the ethnic communities he should be representing. We will support the second reading, but we have some very sensible and realistic amendments which I hope the Minister will consider during the Committee stage.

MR CATANIA (Balcatta) [10.10 pm]: In supporting this Bill to amend the Criminal Code to provide for offences relating to incitement to racial harassment I commend the Minister for pursuing the Government's anti-discriminatory program. Over the past year many incidents have been disturbing and concerning to those who care about all people who reside in Australia. When discussing racial discrimination and incitement to racial hatred, I am reminded of a recent newspaper article which revealed the sad story of a woman called Margaret born to a girl aged 16 as a result of pack rape. Margaret was assessed as part-Aboriginal and therefore unsuitable for adoption. As a result she spent her first 18 years in institutions where she experienced dreadful abuse. These events may have occurred long in the past, but they are living memories for those who have suffered them and for those who have been subjected to the powerful weapon of racist propaganda and sometimes violence because of their colour, race, custom, culture or religion.

Nothing is more certain than that individuals or groups intent on inciting citizens to hate each other are guilty of criminal behaviour. The perpetrators are as guilty as terrorists who commit atrocities against innocent people. By striking at these visible symptoms of racism we can help to eradicate the underlying problem of racism, which is the belief that human abilities and disabilities are determined by race.

The legal sanctions in this legislation provide a basis for the protection of individual rights and legal redress against discrimination. Legal sanctions perform a role in educating by limiting the kind of behaviour which is legally permissible. It is the manner in which these actions are reported which reflect how people of other nations judge Australia. Jaundiced individuals who display their bigotry through posters and pamphlets should be subject to the scrutiny of the law.

I shall spend a little time on the role of the media and the individual processes to curb discrimination. Publishers and writers in the print media should be responsible and sensitive in portraying events which include the participation of ethnic groups. A prime example is in the reporting of criminal behaviour. How many times have we seen crime reporting when journalists have referred to Aboriginal murderers, and Italian, Yugoslav or Macedonian drug dealers? A criminal is a criminal, regardless of his nationality. The crime is not more or less abhorrent because the person happens to have a foreign name or come from another country.

Two articles have come to my attention over the last couple of months. One was the subject of a petition which I had the pleasure of presenting this morning. These articles, as the petition outlined, were demeaning to a group or nationality, and in particular to Europeans. The article is entitled "Men of Dishonour". It was demeaning, and as the petition stated quite clearly, it was insensitive, deplorable, slanderous and libellous. It depicted the Italian community, which has the reputation of being hard-working and law-abiding, to be in general criminals and all involved in drug dealing. It depicted southern Europeans in general as being involved in the drug trade. Such articles must be considered as unacceptable.

Another article which appeared in the *Daily News* on Tuesday, 28 November was headed "Mongrel migrants." That itself has all sorts of connotations and the media should examine it very seriously. The psychological impact of such reporting tends only to perpetuate latent social tensions and lead to more visible forms of racial discrimination such as posters and graffiti.

Freedom of speech in the Press is something we all cherish dearly, but with that freedom goes responsibility; the responsibility of honest, unbiased and sensitive reporting which does not contain innuendoes and emotive phraseology to create suspicion and eventually hatred. Australia has accepted migrants of all nations with various and varying backgrounds, customs, religions and languages. Many have a different physique from the Anglo-Saxons in Australia. We have a responsibility to ensure that our laws protect them. We must demonstrate that we can create an environment of peaceful coexistence in Australia. Each of us has something to contribute to the wellbeing of the other. Differences need not be negative; they can be positive and giving. All Australians should have the opportunity to participate in a richer social and economic life.

The behaviour of Australians in the treatment of people from other nations will be reflected in the willingness of other nations to trade and exchange ideas with this State and this nation. This has been evident from the reaction of our Asian neighbours to what has been going on in Perth in recent months.

Legal sanctions against incitement to racial hatred should be adopted by all Australians and should traverse party politics. I am disappointed to see that the member for Riverton is not here because he could learn from this.

Mr Court: He is here.

Mr CATANIA: These sentiments have been expressed through all our political parties by the ethnic groups and their leaders, and I refer to the meeting which the member for Riverton attended. These sentiments were expressed vocally and well; all ethnic groups were represented that night - and I dispute the fact that the member was unable to speak, because he was given the opportunity and asked to lay political differences aside. I express my concern that this Bill be adopted in the spirit in which it has been presented. That is where the member for Riverton is missing the point. Members opposite should refrain from making it a political football, or perhaps in this case a political soccer ball.

Mr Kierath: Have you read the amendments?

Mr CATANIA: I have read them all, and they are all covered by existing laws. Cheap political tricks do not have a place in the propagation of hatred and racist vilification. I am disturbed that political parties should resort to political tricks by rushing through Bills and amendments. Members opposite should not fall into the same trap as their Federal colleagues who preached that migrants should be banned from access to unemployment benefits or health benefits in their first year of arrival.

Mr Marlborough: Only six months ago.

Mr CATANIA: In fact less. That policy lacks any sense of equity, fairness or understanding of the difficulties faced by migrants; it is discrimination and it is insensitive to the needs of our fellow human beings. The Opposition has an appalling record in this area and it should make some amends by supporting this legislation in order to demonstrate its concern for the victims of discrimination. The Opposition has an appalling record. The member for Riverton earlier stated that New South Wales had legislation, but I would remind that member that such legislation was initiated by the Labor Party.

Mr Kierath: What a load of rubbish. It was introduced by Nick Greiner.

Mr CATANIA: No, it was initiated by the Labor Party. The Opposition should demonstrate its concern for the victims of discrimination rather than resorting to purely political motivation by introducing and supporting an ineffective Bill, the provisions of which are already dealt with by existing law.

Mr Kierath: What other Labor Government in this country has such legislation? There is not one. The only State to have such legislation is New South Wales and that was introduced by the Liberal Party.

Mr CATANIA: It was initiated by the Labor Party. The Western Australian Government is now introducing the correct Bill.

The proposed amendments are designed to combat racism and target extreme forms of racism; they are not designed to restrict freedom, especially freedom of speech and expression. They are intended for freedom; freedom of expression in its various forms for all people in Australia, regardless of their creed, colour or race. The legal sanctions proposed by the amendments are part of an educational process which will teach people to be more sensitive and caring for those who appear to be different from ourselves. Therefore, I urge all members to support this Bill and encourage the Government to pursue vigorously its anti-discrimination program in order to educate all Australians to be more tolerant towards the many diverse ethnic groups which today form the Australian family.

MR AINSWORTH (Roe) [10.22 pm]: The position of the National Party is one of sympathy for the broad intent of the Government's legislation. The National Party has a few difficulties with the fine print of the legislation, but it certainly supports the broad intent. The National Party deplores, like every thinking person, the racist activities which have been seen in recent months in Western Australia. Such activities have been exemplified by the actions of the Australian Nationalist Movement in its poster campaign, which was a highly orchestrated campaign clearly designed to cause distress among a range of ethnic groups. I do not think any fair-minded person could accept that as acceptable public behaviour. The National Party certainly deplores that and recognises very clearly the historical contribution made to this country, and to this State, by a whole range of different ethnic groups.

It is well worth noting the sort of disquiet which has been caused at various times by immigration from specific areas of the globe. The European migration postwar, for example, caused some public disquiet, but these things have a habit of going away. The integration into our community of a whole range of people from different countries has by and large been harmonious and some of the concerns that ill-informed people have expressed at various times have subsided over time; that is, provided such concerns are not encouraged and inflamed by the sort of activities to which I have referred and which we all deplore. This is just a matter of various people getting on together. We all have our differences - as we do in this place on both sides of the House - but these are not irreconcilable and with consultation and commonsense those difficulties go away. The same thing applies with the various racial and ethnic groups in our community. Of course there will always be a small residue of dissatisfaction and fear of the unknown when various ethnic groups come into the community, but that is not something which ought to be encouraged by the activities we have seen in this State recently. The intent of this legislation should be to attack those very extreme groups, not some of the less extreme activities in which individuals may be involved at various times.

The National Party also acknowledges that this question should be beyond party politics. Therefore the National Party will support legislation which encompasses the broad principles without going to the extremes we see in the Bill before the House now. The National Party believes the Government's proposed legislation is too broad in some areas and it is very important that while we address some of the inequities in the current system, we do not go too far and impinge on civil liberties in general. That is the major concern of the National Party. The Bill before the House goes too far and is too broad in its intent. The National Party wants to focus the Bill on the point where it really attacks the activities that need to be addressed and does not impinge on civil liberties, which really are not our major concern tonight. For example, the Bill talks about "abusive and insulting" as a definition of what is objectionable and comes under this legislation. The National Party agrees with the other definitions, but the word "insulting" should be removed and the National Party will support the Liberal Party's amendment to delete it. The National Party finds it difficult to agree to the words, "or would be likely to cause." To define what is "likely" is to make a subjective judgment and that would be very hard to specify clearly in law.

Mr Kierath: Making work for lawyers.

Mr AINSWORTH: I am not here to speak on behalf of lawyers. I would not like to do anything to help them. I think they have enough work to guarantee their incomes now.

While the National Party supports in principle the intent of the Bill, it has some difficulties with the legislation, which I have outlined. Therefore the National Party signals now that it

cannot support the Bill in its present form, but it is prepared to support the amendments to be presented by the member for Riverton at the appropriate time.

DR ALEXANDER (Perth) [10.28 pm]: I would like to make a brief contribution to this debate. Rather than address the general principles which I think have been well covered - although I want to say a few things about that - I would like to concentrate mainly on the apparent differences between the Opposition parties and the Government on this issue.

The rhetoric of the member for Riverton in particular in his broad ranging speech suggests that the Government's legislation is a draconian measure which would restrict freedom of speech and in particular would impinge on freedom of the Press. If that were true, I would have great difficulty supporting the legislation. I put great store in the ability of people - particularly in the printed media and in books - to be able to express their opinions freely and without fear of retribution. I think that is a fundamental right which should exist in any democratic society.

Mr Kierath: Have you spoken to the Press?

Dr ALEXANDER: There have to be limits on any sort of freedom.

Mr Kierath interjected.

Dr ALEXANDER: I have read what the book publishers have to say and I have spoken to people on this issue. So, I have not approached this issue on an uninformed basis.

Mr Kierath: Have you read the supporting statement from the Criminal Law Association?

Dr ALEXANDER: I do not agree that the member's amendment addresses the issue on the one hand, and neither does the Bill in its present form have the dangers which the alarmists seem to think it has.

Mr Kierath: Are you saying that the Criminal Law Association does not know what it is talking about?

Dr ALEXANDER: I disagree with it on this occasion. I do not think it is the fount of all wisdom any more than anyone in this Parliament is. The member is entitled to his opinion as I am entitled to mine.

Mr Taylor: He seems to be more entitled to their opinion than he is to his own.

Dr ALEXANDER: Yes, if the member is simply quoting someone else's opinion and is relying upon it, that is not a good approach to take.

The motivation behind this legislation - as members on both sides have indicated - is that it is primarily directed at those involved in the poster campaign. The electorate of Perth is a very good example of a multicultural electorate and one which has been subjected to frequent and distressing racist posters; I doubt whether any member would disagree with that proposition. However, we seem to disagree about the remedy. The original Opposition Bill suggested that we needed to tighten up the penalties and that we needed to rely on people catching others in the act of putting up those posters. On occasions it has been possible to catch people in the act, but, as the Minister has shown rather clearly, the posters are placed on stop signs, walls and bus shelters.

Mr Kierath: They are generally illegal locations.

Dr ALEXANDER: They may be, but the point is that it is extremely difficult to catch people involved in those actions.

People who have propagated the poster campaign have also struck back against those people who have tried to take defensive action. During the early part of the year a group of young people in my electorate became fed up with the posters and with the Perth Council failing to remove them - the Stirling Council has been far better at removing them on request - so they decided to take their own action and remove the posters. They started to do so one night and were approached by a group from the Australian Nationalist Movement - it would appear - which started threatening them by stating that if they did not desist in the activity, they would pay a high penalty. At first the young people did not take the threat seriously, but after a while they looked at the appearance of the people involved and changed their mind. We know from Press reports, and from the court case earlier this year, that these people wear paramilitary uniforms and drive Land Rovers. Although they do not carry firearms, they

often carry offensive weapons. However, one would have to be keen to continue to take down posters while being threatened by that sort of response. The group of young people decided that discretion was the better part of valour on this occasion.

Mr Omodei: The alternative would be to leave them up.

Dr ALEXANDER: We will get to that in a moment.

When these people arrived at home, their house was fire bombed and the police are pursuing the people involved. The point of my remarks is that one should not have to go to the extent of having one's home fire bombed to make the point that one is offended by racist posters. These young people acted in the interests of their beliefs, and it is not fair that ethnic groups are subjected to that sort of harassment while doing their own police work. It has been suggested that if we used the police more effectively, they could do the job for us; but, if we had a substantial increase in the number of police -

Mr Kierath: It is a job for the Police Force.

Dr ALEXANDER: - to actually remove the posters -

Mr Kierath: What does this Bill do?

Dr ALEXANDER: As the member suggested to me when I was making points against him, he should listen rather than making senseless interjections.

Mr Kierath: I am listening, but who will enforce this Bill?

Dr ALEXANDER: Obviously, the police will enforce this Bill, but -

Mr Kierath: It is like any other Bill.

Dr ALEXANDER: It is extremely different. It is not the same as the original Bill in which the police must catch the culprits.

Mr Kierath: They must prove that an offence has been committed.

Dr ALEXANDER: I am aware of the provisions of the Bill; the member should go back to sleep.

The Bill requires that people who are responsible for the posters - there is usually little doubt who they are - must be shown to have intended to display the material to cause alarm, distress and the other things the Bill states. Once the posters have been sourced to a group of people, the onus is on the courts to prove the guilt. While that may be difficult, it is a much fairer and more effective process than suggesting that we have a poster police force that goes around catching people in the act.

Mr Kierath: Nobody has suggested that at any stage.

Dr ALEXANDER: That is the inference I drew from the member's remarks.

Mr Kierath: It is no different from any other offence under the Criminal Code; the member should do a short course in law.

Dr ALEXANDER: The member for Riverton should do a long course in law and a few other things as well.

The point is that this Bill has been thoroughly thought out despite the accusation that it has been rushed into the House. A number of reports from the Law Reform Commission and other bodies have pointed the way to progressive and fair legislation. I have examined the Opposition's amendments and I do not see any significant improvement to the Bill through them. Without going into detail - we shall do so during the Committee stage - the major difference appears to be in the area of published material. The Opposition seeks to prescribe that any material that is not a lawfully published book or magazine will fall under the ambit of the Government's Bill - that is my reading of the clause it seeks to amend. However, there is little danger of books that may contain racist material being prosecuted under the provision because the operative clause refers to the incitement of hatred against any recognised group. This legislation has been framed to get to the crux of the matter; that is, to stop the repeated offensive distribution of posters in this way.

The member for Riverton referred to the Jewish community. As the Opposition spokesman for multicultural and ethnic affairs he must keep in touch with these groups - I have attended

functions with him - so he cannot be totally ignorant on these matters. However, I had the opportunity to speak to one or two people in the Jewish community and one of these people was the well known spokesman, Mr Doron Ur. We discussed the Bill and the details of the provision. He told me about his experiences in the Second World War and anybody who has spoken to people who have been through such experiences, or have family who have been through such experiences, will see that this Bill addresses those experiences.

Mr Kierath: I sympathise with that, but what has that to do with the Bill?

Dr ALEXANDER: It has a lot to do with the Bill. The way the Nazis campaigned in the 1930s started with a display of offensive posters and the daubing of windows and so forth - I am sure we have all seen this depicted on film or read about it.

Mr Omodei: Did the Jewish community rise up against these posters?

Dr ALEXANDER: The Jewish community, like other sections of the ethnic community in Perth, are deeply offended by the activities of groups such as the Australian Nationalist Movement. They looked at this legislation as a way of protecting their rights and freedoms. They do not want a situation to arise where this sort of racist propaganda increases. While the City of Stirling may be able to take down all the posters - it does a very good job of removing them - there is no way in which it will be able to keep up with the deluge of posters. Therefore, more and more public property is defaced and the racist messages are underlined. The response by people like Doron Ur, whom I trust greatly in relation to these matters, centres around a simple proposition; that is, that freedom of speech extends only as far as the point at which someone else's freedom is not violated. The legislation strikes that balance very well: It does seek to inhibit groups which display posters because that display and the content of that display clearly offends other groups. It does not seek to control publications which discuss racism, analyse racist attitudes or discuss the general composition of the ethnic community, as some critics have suggested.

Other than the one-off responses from groups fearful for their particular rights, if there were any suggestion that the freedom of the Press or the freedom of expression in publications would be seriously inhibited by this legislation, I would not support it and I am sure many other members on this side of the House would not support it. The legislation was not designed to restrict freedom of speech except in the sense that it contains racially offensive material. For that reason this legislation is extremely well thought out and well worth supporting.

Even though it has taken some time for this legislation to be introduced into the Parliament the Government deserves more support for it than it appears to be receiving from the Opposition. In the Committee stage of the Bill the Opposition amendments will be shown up as really inadequate to the task and making a substantial difference to the effect of this legislation.

MR DONOVAN (Morley) [10.43 pm]: This Bill is probably one of the more important pieces of social legislation that this Government has introduced. I mean that in the sense of the period commencing from 1983. That does not mean that I devalue much of the tremendous social policy initiatives that have been introduced by this Government; I mean that this Bill probably goes directly to the heart of one of the more important historical problems which has faced our community. While listening to the member for Perth and the member for Balcatta I was reminded that the problem of racism and racial hostility in our State has not been, in most of our memories, something which has been peripheral or something that is out of the ordinary: To the contrary, it has been institutional.

Until 1967 the entire period of European occupation of this State was highlighted above all else by an institutional form of racial discrimination. The Aboriginal population of this State were not citizens of this State until 1967. That is probably a good point to bring home in appreciating what I regard as central to this legislation. It disturbs me - I do not want to repeat the comments of members who have spoken previously - to read the amendments proposed by the member for Riverton, on behalf of the Opposition, seeking to soften something which needs to be as firm, as clear and as determined as it is possible to make a Bill in this House.

Mr Kierath: And sensible.

Mr DONOVAN: Sensible goes without saying - sensitive and sensitivity is what is important.

In spirit the Bill is obviously about racial intolerance and incitement to racial hatred. In substance and in practice much of the Bill is concerned with the publication, display and possession of material that is likely to be insulting, abusive or threatening. That is how it should be because it is the pictorial and printed message that is displayed and published that gives rise to the sorts of cultural ideas and beliefs that support the situation this State had up until 1967. Indeed, it does more than that, it legitimises it.

The central issue of this Bill is: What is it to be Australian in a multicultural Australian society? That is very much at the heart of the legislation and forms the basis of any understanding of this terribly complex and difficult issue.

I am reminded of an article that appeared in a newspaper that is no longer published and I refer to the *Times on Sunday* of 22 November 1987. The problem that article sought to address was the kernel of racism; the way in which racial intolerance and racial values are made part of our culture and our institutions right in the school ground. A couple of quotes from the article will make the point. One migrant student said -

> "We had a class discussion about whether migrants should come to Australia to live. Nearly the whole class yelled out and said they should stay where they belong because they're the ones trying to take over our jobs and soon they'll be taking over our school. I felt very uncomfortable and upset when I heard all of this."

In the same article a student named Stephen Bratanavicius said -

> "My name was disregarded and substituted with 'wog' constantly in class and out of class. For example, they'd say, 'Let the wog talk'. 'Sure wog, what-ever you reckon'."

A Vietnamese student John Nguyen said -

> "They laughed at me because they thought I had a funny name. So the teacher changed my name to John. . .it's not very nice to call people things like 'horrie' or 'Chinaman'. . . I hope one day the same thing will happen to the people who pick on others because of their cultural background. Then they may . . . experience the same feelings of hurt."

This was not in 1937 or 1957; these were the statements of Australian schoolchildren in 1987. The same is true of our attitude in society and politics. I would dearly love this Bill to have bipartisan acceptance and support, but it cannot pass this Parliament without comment about some of the ways in which racism has been used politically, indeed, as a political tool in this State. Unfortunately, I have not been able to recover an example of a pamphlet which would tell the story beautifully for the House, but in 1982 when I was a candidate in another seat a pamphlet was distributed far and wide throughout the goldfields by the Liberal Party of Western Australia suggesting that 40 per cent or more of the State was about to be taken over by Aborigines.

The pamphlet was a broadsheet that opened out. The map of Western Australia was depicted in black. The names of the Aboriginal communities and people involved were depicted in black. The name of the Liberal candidate contesting that election was depicted in white. In society the problem experienced with institutional, cultural and racial intolerance is as true as one would expect it to be. If it is to be used in politics clearly one would expect to find it in organisations.

It is one of my great privileges and pride to be a part, and I hope a respected member, of certain veterans' organisations in this country, one of those being the Vietnam Veterans Association. The other is the RSL. I can tell members of this House that it has disturbed many of my colleagues from the Vietnam War period greatly, and many fellow members of the RSL, to have national figures such as the State President of the Victorian Branch of the RSL, and the National President of the RSL, seeking to institutionalise within this organisation - and, indeed if they had their way, within the policies of this country - intolerance of the kind that would seek a removal of the Asian community in particular from Australia and at the very least an immediate curtailment of their immigration. For what reason? For one very simple proposition; that Asians and Caucasians in nature do not mix. That seems to me to be precisely the kind of thinking and proselytising that needs combating in the strongest possible terms and not in soft options.

This Bill seeks to introduce into this State a strong argument about racism and racial tolerance. That brings me to one of my other embarrassments. I am aware I have been asked to speak briefly but as an ex-serviceman in this State it is embarrassing to find, especially in my electorate and more broadly in the Perth metropolitan area, that somebody who at the present time faces charges on a matter I am obviously not able to discuss and who is heading the Australian Nationalist Movement, which has caused so much damage and havoc in our community, is also a Vietnam veteran and a member of veterans' organisations.

Things have not all been negative in recent years. Indeed, members who have spoken before me have alluded to that fact. I am conscious of the comments made by the member for Perth about some community responses that have sought to deinstitutionalise and bring down the racial intolerance message in our State. In my electorate the Bassendean Town Council deserves full credit and recognition for its part in sponsoring a major initiative designed to blank out and remove racial posters within the town's boundaries. I am happy to name one of the principal councillors concerned, Chris Earth, who took it on himself with the council's blessing to draw around him a group of young volunteer workers all under 18 years of age who set about clearing the town of Bassendean of racial posters of all kinds. It was a most impressive and successful exercise.

That led another public campaigner on racism, Liz Byrski, who members will know from her columns in various local papers, to pick up the Bassendean initiative and publish a challenge to other local government authorities to undertake the same task. I understand that 11 or 12 authorities responded. Recently it is not just local authorities and formal organisations have supported such moves to break down the institutional barriers in this State to racially different individuals of all kinds. The member for Perth mentioned some people in his electorate have taken action to correct this unhappy situation. I am proud of my young son David who along with a group of mates armed themselves with paint brushes and cans of paint bought out of my electorate account to use on these posters.

Mr Kierath: That could well be an offence.

Mr DONOVAN: One that I am happy to defend. I do not know one police officer in my electorate who would consider prosecuting him for that.

Mr Kierath: I am talking about use of your electorate account.

Mr DONOVAN: He and his mates were successful in denuding a large part of Morley of many of these posters. Of course, my principal concern is the Morley electorate and electorates like it that are most embarrassed by this most un-Australian behaviour we have witnessed in recent times. In Morley, 19 per cent of the overseas population are not English speaking people. They cannot speak English well or read it well, but I know what they think and feel when they go to the bus stop and find a poster which does not require reading to understand the message they are being given. This is one of the most progressive pieces of social legislation to come before this House. It is strong because it has to be strong and does not deserve amendment because that will soften the intent of the Bill. If it stands as it is it will be effective and it deserves the full support of this House.

MR GORDON HILL (Helena - Minister for Multicultural and Ethnic Affairs) [10.58 pm]: We have heard a fairly typical performance from the Opposition tonight. In particular my comments are directed to the member for Riverton. At the outset we heard the member say he supported the spirit of the legislation and the thrust of the Bill. He then spent the rest of the time attacking the Government's legislation and systematically attempting to attack and dismantle it.

The member's amendments will be discussed shortly. Suffice it to say that those amendments clearly seek to water down the Government's legislation. I have said consistently that the Government will not weaken its legislation and I have said publicly time and again at large meetings of ethnic communities, in the media and in a whole range of different situations that the Government is prepared to accept sensible amendments to strengthen the legislation but will not at any time countenance any suggestion that we should water it down so as to make it less effective or, as the member has proposed tonight, not effective at all.

I am intrigued by the Opposition's new found interest in multicultural and ethnic affairs. At the last State election not one word was spoken by the Opposition about multicultural and

ethnic affairs; no appeal was presented to the electorate on multicultural and ethnic affairs. Tonight we have had a contrast in that Government backbench members have supported this legislation and very eloquently articulated the Government's position. Although there have been many opportunities for the Opposition, and in particular for the member for Riverton, to express an interest in multicultural and ethnic affairs, no attempt has been made to do that. In fact recently the Opposition was provided with a golden opportunity to present its policies, even though it had failed to do so at the last election, but it did not say one word about multicultural and ethnic affairs. What did it do? When the Budget came up and an opportunity arose in general debate on multicultural and ethnic affairs, not one word was spoken by the Opposition. Members of the Opposition had the opportunity to address the House on the subject and they failed to do so. Tonight we have seen the Opposition express an intention to move amendments to the Government's legislation - another attempt at cheap politics.

The member for Riverton and the Opposition generally have claimed that after the release of the Law Reform Commission report we rushed this Bill into the House. Nothing is further from the truth. It is well known that this legislation has been two years in gestation. For two years the Government has given consideration to the form this legislation should take. First of all, with the report from the Equal Opportunity Commission, the Government considered the options available. Following that, the Law Reform Commission was charged with the responsibility of considering those options and examining existing legislation to determine if it was possible to strengthen it. A discussion paper was issued to the ethnic communities in May of this year. There was wide ranging discussion and consultation. Seminars were held, surveys were conducted, and over 1 000 copies of the discussion paper were distributed throughout the State to give members of the wider community, in particular members of the ethnic communities, an opportunity to have a say in the form of this legislation. Overwhelmingly Western Australians supported legislation to act on incitement to racial hatred. The Government has considered its approach to this issue very carefully, and it has presented a very strong piece of legislation to address this matter.

First and foremost in the Government's mind in giving consideration to this Bill was the question of civil liberties. It is very difficult to grapple with the task of deciding whether what we intend to do will impinge on civil liberties. On the one hand we had to ensure the protection of people's right to freedom of speech, and on the other we had to ensure that we protected those who were the butt of the racist attack which we have seen from the group known as the Australian National Movement and similar groups. Posters have been erected by National Action and similar organisations. We believe that act in itself is an attempt to silence the ethnic communities in Western Australia. We cannot tolerate that, nor will we. That is why we are introducing this legislation. That is why we have taken so long about it. It is very difficult to strike the fine line between protecting those people who themselves have a right to speak out but who are being intimidated by fear as a result of actions by the ANM and similar organisations. These people suffer violent physical attacks; attacks perpetrated in a whole range of ways, including attacks in a written form by the erection and display of posters and graffiti.

It is the display of graffiti and posters that this Government has sought to address. We will not weaken the legislation on that issue. The Government's position is clear. It has been supported by the community at large, and in particular by those who are the subject of that racist attack by the ANM and similar organisations. We will not let those people down, even in the face of personal attacks from the Opposition; even in the face of suggestions by the Opposition that we are not being bipartisan in this matter, because the people who count most as far as this legislation is concerned know that we have attempted to be bipartisan in this matter. They know that we have consulted widely and that we have considered in depth this legislation to address their problems. They know that this issue does not concern a trivial offence. The member for Riverton suggested that the police would not take action under the section of the Police Act it has the ability to use; that is the littering offence for displaying posters or defacing public property. In only one instance in the last couple of years has somebody been caught erecting posters. An offender must be caught in the process of putting up the poster, and only one case of that has occurred in the last four or five years. We all know when that case was.

The Opposition has said that the police do not believe matters of this sort are worth pursuing under that section of the law because the police regard the offence as a trivial one. Those are

the words of the member for Riverton; that this is a trivial offence under that section of the Police Act. The Opposition is bleating on that issue, but people only have to read *Hansard* to learn the truth of the matter. We do not regard it as a trivial offence.

Mr Kierath: I did not say it was a trivial offence. I said the previous offence, the littering offence, was a trivial one.

Mr GORDON HILL: That is exactly what the member said. I suggest he read *Hansard*.

Mr Kierath: You are an absolute disgrace!

Mr GORDON HILL: That is what the member said. It is not a trivial offence.

Mr Kierath: It is disgraceful!

Mr GORDON HILL: Erecting posters is not a trivial offence under that section of the Police Act or any other section, and we do not treat it as a trivial offence. This is an issue which the Government has tackled expeditiously, once we had received the Law Reform Commission report, because we had a two year period in which to consider this issue, and we have addressed it fully.

I do not need to go into further depth on the particular clauses of the Bill, because we will deal with those shortly, nor do I need to cover yet again the ground I have covered in the second reading speech. I urge members of the Opposition to read again the second reading speech and to satisfy themselves that the particular clauses they are suggesting need to be amended in order to achieve their aim of protecting civil liberties are spelt out very clearly in the second reading speech; the legislation needs to be taken in that context. We do not accept the Opposition's proposed amendments to this Bill because we do not believe this Bill should be trivialised or watered down; in that respect we on this side of the House have been very strong for a long time.

Government members: Hear, hear!

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Dr Alexander) in the Chair; Mr Gordon Hill (Minister for Multicultural and Ethnic Affairs) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Chapter XI inserted -

Mr KIERATH: I move -

Page 2, line 21 - To insert after "representation" the following -

, and does not include any lawfully published book or magazine.

I would not have thought that the Minister would have a problem in accepting this proposed amendment. I have tried, as much as I possibly could, to listen to every word of the speeches this evening, and I have heard plenty of examples of why we have had difficulties with the public display of offensive material, but on not one occasion have I heard an example associated with a book or magazine that caused offence. When I first studied this clause, I thought the lack of exemption for a book was an accident; and when certain groups raised the question of books that may be covered by this section - and the obvious example is *The Satanic Verses* - we heard certain public assurances that books would not be covered. In drafting this proposed amendment I was very careful to use the words "lawfully published book or magazine", because that is critically important.

Mr Catania: What are you trying to do here?

Mr KIERATH: I am talking about any book that is published lawfully and able to be bought. The question is what is the Government trying to do? Is it trying to impose some sort of back door censorship? Does the Government have examples of books it wants to ban? I have discussed this matter with up to a dozen of the largest community groups, and I have to say - and it would be great if the Minister could prove something else - that I have not yet found one group which has objected to the exclusion of books or magazines.

If we are trying to solve a problem, we should first identify the problem, but we should not include other areas that were never intended to be included. I listened to the speech by the member for Morley, and thought that in view of what he said, he would have no objection to this proposed amendment, because it is still proposed to include posters, graffiti, signs, placards, leaflets, handbills, writing, an inscription, a picture, a drawing or other visible representation; so what is wrong with the exclusion of a lawfully published book or magazine? I think it was the member for Perth who said that if he thought this legislation would impinge on the freedom of publication in the Press, he would be opposed to it.

Mr Catania: What will stop someone from publishing a three-page book, and distributing it around the place?

Mr KIERATH: Probably nothing, but is the member trying to solve a particular problem that we have, or is he trying to be a ghost fighter and solve a problem we may never have in the future?

The CHAIRMAN: Order! Member for Balcatta, if you want to interject, it should be from the next seat. Member for Riverton, if you address your remarks to the Chair, we may be able to progress the debate.

Mr KIERATH: It is totally false to insinuate that the proposed amendments will in any way weaken the intent of the legislation. I have asked the community groups to which I have spoken whether it is their wish to include in this legislation any legally published book or magazine; they have said no. They gave me a clear example of what they wanted to prevent, which was the public display of posters or graffiti designed to instil hatred and put fear into people. If one were to go to any library or book store, one would find many books that are insulting. I believe that in many cases books are written with the sole purpose of being insulting; some even go as far as to incite hatred. We have not heard one example of where that has caused any great problems. I would like the Minister to produce evidence otherwise, but no one has raised with me the problem of legally published books or magazines. I cannot see why there should be any opposition to this proposed amendment. I cannot see that it weakens the thrust of the legislation. If it is the Minister's wish to impose censorship on publications through this legislation, that is a different kettle of fish; if that is the intention of this section, then it is very poorly worded. If I wanted to try to create mischief, and if I told people that this Bill was a censorship Bill, we would certainly get some reaction to it.

I have expressed my own feelings. We also received a dissenting report from one of the commissioners of the Law Reform Commission. He also indicated his concern for that area of this Bill. Maybe, if we took the Government's line, the Liberal Party could be wrong - we have never claimed to be the fount of all wisdom; maybe the National Party is wrong; maybe Mr Syrota is wrong; but when it comes to legal opinions we must be bound by groups of legal people. We received correspondence from the Criminal Law Association and we happen to think it is a very respectable organisation and very highly thought of. I went to great pains in my second reading speech to elaborate on and go through the detail of why that association thought the legislation was going too far. The association also supported the intent of the legislation but said the method of going about it was wrong, and that is what we are saying. We are not saying the whole lot is wrong, only this area. The definitions remain the same with that one exception of lawfully published books and magazines. We believe it could be tidied up. This amendment does not weaken the legislation in any way but neither does it impose a form of censorship. I have not heard anybody who has spoken tonight opposing that. We all agree on the principle and thrust of the Bill; where there is some little disagreement we ought to adjust that and I cannot for the life of me understand how that amendment could be objected to unless it was the express wish of the Government to ban or prevent the publication of books and/or magazines. If that is the case, that is a whole different ball game.

Mr GORDON HILL: The difficulty with the Opposition's case on this amendment is that it has not read or considered the second reading speech in the context of this legislation; nor, clearly, has it read the Law Reform Commission's report on incitement to racial hatred which was tabled in October 1989. The member for Riverton goes to great lengths to try to convince us that we should simply accept the words of the Criminal Law Association and that that association is a body which is highly respected and therefore should be the only organisation to be believed. I think he is implying that the majority of the Law Reform Commission members are not worth taking any notice of and should not be believed. The

Criminal Law Association, if the member would like to read the correspondence from that association very carefully, does not argue that books should be exempt from the legislation at all. The difficulty that the Government has with this amendment is that all books are lawfully published. When does one say that a book is unlawfully published? Can the member for Riverton explain to me when a book is unlawfully published? Which book in Western Australia or in a western democratic country has ever been unlawfully published?

Mr Kierath: There are books which have been censored.

Mr GORDON HILL: It is simply not true to say that any book has been unlawfully published. There is not one; all books are lawfully published. The difficulty with inserting the phrase suggested by the member for Riverton which refers to lawfully published books or magazines is that it creates a loophole. Perhaps Opposition members have not thought it through carefully enough. Perhaps they are not trying to weaken the legislation or be mischievous. I will give them the benefit of the doubt, but I put it to the Opposition that all books are lawfully published and this loophole they want to insert in the legislation would create the opportunity for the Australian Nationalist Movement, or any other organisation for that matter, to publish something which on the face of it is despicable and intends to be so. We could have a situation, if we were to agree to the suggested amendment, where the Australian Nationalist Movement, for example - and we will refer to that organisation because it is the target of this legislation - produced a book measuring two feet by six feet with a couple of pages inside, with the horrific words on the outside that it has been displaying on bus shelters around this State. That situation could arise - it could display that sort of despicable message of hatred and continue in that way to attempt to incite racial hatred. The whole question of the intention of the book is an important consideration.

Mr Catania: And would the book be lawful?

Mr GORDON HILL: In that case, yes - if we passed the Opposition's amendment it would be lawful and there would be absolutely nothing we could do to make it unlawful. We could do nothing to prevent the ANM or any organisation that wanted to take that sort of action, because its actions would be lawful. We do not believe that loophole should be inserted in the legislation. It seriously weakens the Government's position and the legislation.

There is no intention at all on the part of the Government to target booksellers or any other such organisation. I will quote from the Law Reform Commission's report which was tabled in this Parliament not so very long ago. It says -

> The racial hatred offences apply to three modes of communicating racially inflammatory material - publication, distribution or display. *Bona fide* booksellers and other unintended targets will not be caught by these offences, because the offences are not concerned with the contents of books unless they are "threatening, abusive or insulting" AND intended to be published, distributed or displayed with the intention of thereby inciting racial hatred.

That is the key to it - the intention must be to incite racial hatred with the publication of that literature. There is no way in the world that anybody in his right frame of mind would suggest that people should be entitled to produce and display a booklet or a cover of a booklet which aims to incite racial hatred. That is the relevant paragraph of the Law Reform Commission's report which should be considered. We will not water down this legislation as the Opposition has requested. The Opposition is way off target with its amendment.

Amendment put and negatived.

Mr KIERATH: I move -

> Page 2, lines 25 and 26 - To delete ", abusive or insulting;" and substitute the following -
>
> or abusive;

As a matter of technique I had to move that amendment but really all it involves is the deletion of the word "insulting". Proposed new section 77, to which the Minister referred earlier, says -

> Any person who -
>
> (a) possesses written or pictorial material that is threatening, abusive or insulting; . . .

Members should bear in mind that written or pictorial material is the definition we tried to cover. Proposed new section 77 continues -

> (b) intends the material to be published, distributed or displayed whether by that person or another person; and
>
> (c) intends hatred of any identifiable group to be created, promoted or increased by the publication, distribution or display of the material, . . .

That situation virtually makes it a triple jeopardy.

The CHAIRMAN: Before the member proceeds, the next three amendments are virtually the same in intent. Unless there is a different argument for each, could we take those three together?

Mr KIERATH: I would rather not. I will not drag the debate on in other areas, but there are some distinctions. Proposed section 77 virtually provides triple jeopardy; in proposed section 78 there is double jeopardy, while in sections 79 and 80 we have it with the intention to display. That area is where we wanted the exemption from a book or magazine to be included. From my point of view it does not matter at this stage in section 77 because it has triple jeopardy. By the time one goes through that process, hopefully nothing untoward will be left behind. Clause 3, proposed section 77, of the legislation includes the words "written or pictorial material that is threatening, abusive or insulting". Earlier in my speech I talked about racial hatred; I agree with the Government's opinion in that regard, and also in regard to serious harassment, alarm, fear or abuse. With the word "insulting" we must search for definitions. There are many things a person could find insulting. I find some of the things the Minister said tonight insulting, but I would not search for a legislative way of getting back at him. Even though I totally disagree with him, I believe he has the right to make those comments except when he says something which is blatantly untrue. The Minister can insult me all he likes; I may not like it but in this situation I do not believe -

Mr Donovan: Is he inciting you to racial hatred?

Mr KIERATH: We are looking at the first jeopardy which says, "threatening abusive or insulting." The Opposition is happy to accept "threatening or abusive" with no problems at all. However when it comes to "insulting" it is a different kettle of fish; it is a very subjective thing, and is an opinion as to what is insulting.

Mr Clarko: The Minister would not be able to address this Chamber if insulting was banned.

Mr KIERATH: That is my point. The word "insulting" means different things to different people. I believe the word should not be there because it is not necessary. I would say that in almost any attempted prosecution, it would be in the instance of threatening or abusive. I do not believe that word "insulting" is necessary. I think that many people feel the same way, although the Minister and some Government members think differently. We have no problems with the words "threatening" and "abusive" because the triple jeopardy exists, but why have the word "insulting"?

Mr GORDON HILL: Again this attempt to remove the word from the clause is designed to weaken the legislation. The Opposition may well think that the word "insulting" does not really mean very much. That seems to be apparent from what members opposite have said. However "insulting" has a stronger case law meaning than does abusive. The phrase "threatening, abusive or insulting" as a whole is one with which courts and law enforcement authorities are most familiar, particularly in the context of public order. The Law Reform Commission responded to the comments made by Mr George Syrota in a dissenting opinion which was tabled in the Legislative Council by the Attorney General recently. For the Opposition's edification I would like to read a couple of phrases from that report which spells out very clearly what the legal position is with respect to the three words taken together, and which reads as follows -

> The requirement that the material be "threatening, abusive or insulting" is one of the substantive mechanisms by which concerns about civil liberties were sought to be protected in the UK Public Order Act 1986. . .

The phrase "import of a breach of the peace" is dealt with. In a footnote the report goes on -

> There is a wealth of authority on the interpretation of the terms threatening, abusive

and insulting." The words import a breach of the peace, or the likelihood of a breach of the peace occurring. Threatening abusive and insulting behaviour are familiar concepts to criminal law. They are threatening if they cause persons of ordinary firmness to apprehend physical harm to their persons or property; they are abusive if those who hear them are likely to be provoked to violence by what was said; and they are insulting if they assail the person at whom they are directed with offensively dishonouring or contemptuous speech or action.

The three words have to be taken together, otherwise the legislation is weakened considerably. The strength of those three words lies in the final word "insulting"; that is the strong word. There is plenty of case law to show that. In addition all of the legal text books show that to be the case. If we chop off one word from that phrase, we may as well chop the lot off. If we delete one word, we may as well delete all the words because that will have the same effect. It will weaken considerably the intent of that phrase. That is the important consideration.

The Government will not allow the weakening of this legislation and opposes this amendment because it weakens the legislation to a point where it becomes meaningless.

Amendment put and negatived.

Mr KIERATH: I move -

Page 3, line 5 - To delete ", abusive or insulting;" and substitute the following -

or abusive;

This clause covers the publication of material which incites racial hatred. Proposed section 78 reads as follows -

(a) publishes, distributes or displays written or pictorial material that is threatening, abusive or insulting; and

(b) intends hatred of any identifiable group to be created, promoted or increased by the publication, distribution or display of the material,

is guilty of a crime and is liable to imprisonment for 2 years.

This is what I would term double jeopardy. For the same reasons I outlined before, which I will not canvass again, it is double jeopardy with the word "insulting". I read extensively from a letter from the Criminal Law Association which was signed by an eminent Queens Counsel. I would have thought the opinion of that body would cause the Minister to at least think seriously about that clause. That association does not agree with the view the Minister has just outlined; in fact from memory when the association said that when using the word "insulting", further descriptions were needed to make it something which was very strong. That is from a group of criminal lawyers, and members must remember that this is an insertion into the Criminal Code. I know the Minister has quoted from behavioural codes but they apply to the Police Act. The Criminal Lawyers Association said that some of the offences are probably better handled under the Police Act rather than the Criminal Code.

Mr Gordon Hill: It did not say that.

Mr KIERATH: It did. I do not mind if the Minister interrupts but he misrepresents things so much. I was talking about what the Criminal Lawyers Association had said. When I spoke about the trivial offences clause, the Minister tried to put words in my mouth and claimed that I was talking about the affixing of posters being a trivial offence.

Mr Gordon Hill: That is what you said. The member rushed to correct *Hansard*.

Mr KIERATH: The Minister should check *Hansard*. I was talking about what the police said about the offences - that under the current code the offences are trivial. I would never have said that this offence under debate was trivial. I will not labour the point. I support the amendment.

Mr GORDON HILL: Again, this amendment is an attempt to water down the Bill. We have covered the whole question so we will not go on ad nauseam. Case law shows that the Opposition is incorrect. The much quoted case of Jordan v Burgoyne is one which relates to the definition of the word "insulting". The decision in that case was that to use that word is to actually hit somebody with the word; it represents almost a physical attack. That case

decision was that the word "insulting" has strength. The deletion of the word weakens the Bill; we are not prepared to accept that. I have already stated that the three words "threatening, abusive or insulting" must be taken together. The word "insulting" is the key and important word in this case.

Mr WIESE: The offences in this clause seem to apply to groups. Is that a deliberate intention? Can these offences relate to individuals?

Mr GORDON HILL: The definitions state that the offence must be insulting to an identifiable group.

Amendment put and negatived.

Mr KIERATH: I move -

Page 3, line 16 - To delete ", abusive or insulting;" and substitute the following -

or abusive;

Proposed new section 79(a) reads -

any person possesses written or pictorial material that is threatening, abusive or insulting; and

Any person who possesses such material under that definition, including lawfully published books or magazines, which could be insulting, and intends to display such material - in a shop or on a wall in a public place - and if such display is intended to cause or be likely to cause serious harassment, alarm, fear or distress to any identifiable group, will be guilty of a crime and is liable to imprisonment of one year. We have no objection to the intent of the legislation but it contains weaknesses. The word "insulting" combined with the intent to display the material causing distress to somebody represents big trouble for the Government. The definition of "identifiable group" contains the word "or" many times; the definition includes citizenship. One famous example would be the Irish joke.

Mr Gordon Hill: That is rubbish.

Mr KIERATH: The Minister has not read the Bill.

Mr Gordon Hill: The Bill refers specifically to written or pictorial material.

Mr KIERATH: But if we look at the definition of "written or pictorial material" it includes posters, graffiti, and signs; it could be a leaflet or a photocopy of an Irish joke. I have no objection to the spirit of the legislation but even the Minister must acknowledge that was not the intention of the clause. If it is, we are in serious trouble. We could have an outrageous state of affairs if this provision remains. Members opposite should not close their minds to this point; they should realise what is possible with this provision.

Mr GORDON HILL: I have never heard such an incredible untruth in my life. The member for Riverton suggests that the Government is trying to prevent people from telling jokes. That is patently untrue.

Mr Kierath: Publishing jokes.

Mr GORDON HILL: That is untrue; it is clearly spelt out. The material must be displayed and the intent must be to cause racial harassment. How can anyone say the publication of such material is trying to cause racial harassment? That is a ridiculous assertion. The material must be displayed.

The member has run out of argument; there is no point in going over again and again the argument that the word "insulting" ought to be deleted. It has been well expressed. There is plenty of case law to suggest it needs to stay and stay it will.

Amendment put and negatived.

Mr KIERATH: I move -

Page 3, line 20 - To delete "or would be likely to cause,"

I have some Irish friends who find Irish jokes insulting. If a photocopy of an Irish joke were put on a wall in a public place, it would contravene proposed new section 79(b). If it were a cartoon it would contravene paragraph (a) of proposed new section 79. I would be happy to leave the other words in the clause; I am concerned about the words "or would be likely to cause" in paragraph (c) of proposed new section 79. Is this another if or maybe?

Mr Wiese: It is a lawyer's delight.

Mr KIERATH: The member has hit the nail on the head. I do not want to slam the legal profession, but I have always had this sneaking suspicion that many laws are developed to encourage extra work among the legal fraternity. I am convinced that this proposed new section is one of those provisions. The paragraph goes on, "serious harassment, alarm, fear or distress." An Irish joke would contravene the three paragraphs of proposed new section 79 because it would be published in a public place, it would be a cartoon, and it would be likely to cause distress to any identifiable group. The person publishing that joke would be guilty of a crime and liable to imprisonment for one year.

I do not think that is the intention of this piece of legislation. That is why I left all the other bits in and have moved to take out only the words "or would be likely to cause" distress. I am happy for the words "serious harassment, alarm or fear" to stay. I am moving to take only the words "insulting" and "or would be likely to cause" and "distress" from the Bill. I do not think it is the intention of members opposite to have that included in this clause.

Mr GORDON HILL: We are talking about material which is threatening, abusive or insulting and material which is displayed in a public place to which people are involuntarily exposed. In those circumstances, that material is aimed at terrorising people or inciting racial hatred.

The Bill spells out clearly that there are two types of offences: Firstly, an offence inciting racial hatred which is aimed at hatemongers; and, secondly, terrorising target groups by racist displays. It is aimed only at displays. The consequences of those displays are so important that the proof of intent to harass is not needed.

The Bill aims to deal with people who will not admit their intention to cause the spread of racial fear, harassment or distress when it is clearly their intention. The legislation is based on the Law Reform Commission report and that report states that liability under the harassment, alarm, fear or distress offences will not arise if the material is possessed merely for publication or distribution, but only if the person intends to display, or actually displays, such material to the public. The latter offences are concerned with external visible representations which are either possessed with a view to display or which actually are exposed or exhibited in the general field of vision of passers-by and which are either intended or likely to cause serious harassment, alarm, fear or distress.

Mr Kierath: That is not in the Bill.

Mr GORDON HILL: It is in the Bill. It is the Government's intention to look after the interests of those who are unintentionally subjected to racial harassment by unavoidably seeing those posters or graffiti.

The removal of the phrase "or would be likely to cause" undermines entirely the effectiveness of these offences which are targeted specifically at the racist poster problem. The effect of the suggested deletion is to require strict proof of intent to cause harassment, fear, alarm or distress. It will not always be possible to obtain that strict proof because who will admit that that was their intention. The proposed new section covers those who will not admit that intention and the removal of that phrase dramatically weakens the provision. We reject the amendment.

Mr CLARKO: About 10 years ago I sat on the Government side next to Brian Sodeman who was the member for Pilbara. He had held that seat for three terms which most people regarded as pretty incredible for that area. He was a teetotaller. One day I was going through my papers and I found among them a group of jokes that somebody had typed up and put among my papers. They included a number of Irish jokes. He asked me for a copy of them. He said that when he goes to the Pilbara he does not drink but goes into the pubs because that is the only place he can meet people. He said that when he approached groups for conversation and they asked him whether he wanted a beer, he said that he would have a lemon squash and so did not get off on the right foot with the group. He reckoned that if he had a few jokes to tell it would makes things easier. Brian Sodeman used to leave this Parliament on a Thursday or Friday and head off to the Pilbara and he would return on Monday or Tuesday. I remember saying to him one day in this Chamber that I was waiting for him to thank me. He said, "What for?" I said, "For those jokes that I gave you and no doubt you were a real hit with them." He said, "Not likely. I went into this pub and I bought

a lemon squash and rattled off the first of those jokes to about six men in the bar. The biggest bloke in the group who was about six foot four inches tall, with massive arms and who was one of those men who would not wear a sleeve in his shirt, turned to me and said that if he were me he would not try to tell two of them." Certainly when I told him the jokes I did not see them as being anything of any great moment. A year or two later some members may remember that a new Ambassador from Ireland was appointed to Australia. He travelled around Australia criticising Australians for telling Irish jokes. He was distressed by it.

I agree with what my colleague said; that is, while I agree with a large part of this Bill the Government is going to Hitlerian extent when it includes a clause in the Bill which is intended by that person to cause, or likely to cause distress. When Brian Sodeman took the jokes from me I certainly did not think there would be any distress caused and he, when he told those jokes, did not think he would cause any distress. The clause will not be weakened by the amendment and it will still allow those people who are saying undesirable things in our community to be caught. The Government is going to a Hitlerian extent when the Bill states "it is likely to cause". Similar expressions could be inserted in other legislation, but in 16 years in this place I have never seen clauses of this kind.

The Government is insisting on this clause and the Minister would be the last person I would want to see presiding over a court. If I told an Irish joke and I came before him for telling it I would be liable to a penalty of one years' imprisonment. It is incredible that in the Press only two days ago there was a story about a man who drove through a red light and killed two children and he was fined $350 only. However, the Government wants to imprison someone for doing something that is likely to cause distress.

Mr Pearce: You would get more for killing someone.

Mr CLARKO: I suggest to the Leader of the House that he reads the paper. The person to whom I am referring drove through a red light and Mr Freeman drove through a red light.

The CHAIRMAN: Order! The member for Marmion shall return to the amendment.

Mr CLARKO: I believe I am speaking to the amendment; I am talking about the penalty.

The CHAIRMAN: Talking about red lights is irrelevant.

Mr CLARKO: I believe it is relevant: It is a question of an inappropriate penalty when a child is killed and someone is fined $350 only and in this legislation it is possible for someone to receive a one year's gaol sentence for saying something that is likely to cause distress. It is something that cannot be measured and I am amazed that the Minister wants such harsh legislation. He is not prepared to listen to the Opposition. He has insulted the Opposition throughout this debate. He says that a racial insult is bad, but it is all right for two Anglo-Saxons to insult each other.

Mr GORDON HILL: We often hear the member for Marmion, at all hours of the night, tell anecdotes. He has delivered the same performance tonight. It is clear that the member for Marmion has not read the Bill or that he has not understood it. The Bill refers to serious harassment, alarm, fear and distress. We are not talking about any sort of distress, any sort of alarm or any sort of fear; we are talking about serious alarm and serious harassment.

Several members interjected.

Mr GORDON HILL: The Bill does say that.

Mr Clarko: It does not.

The CHAIRMAN: Order! Let us not have this trivial argument.

Mr Clarko: It does not say serious distress.

Mr GORDON HILL: It does say that.

Mr Clarko: It says that it is likely to cause distress.

Mr GORDON HILL: I suggest to the member that he reads the Bill properly because it does say serious harassment, etc.

Mr Clarko: It does not say serious distress. You do not understand English.

Mr GORDON HILL: We are talking about the display of material only. We are not talking

about the publication and distribution. The individual has to be exposed to it. The deletion of the clause would mean that the legislation would not catch anyone. The intent in those circumstances would have to be proved. Under those circumstances we are saying that intent should not be proved because it would be impossible to prove intent. The only way to prove intent is for the individual to admit to it. No-one will admit his intention. The material has to be exposed to the public in order that the possessor also knows what is in the publication.

Amendment put and negatived.

Mr KIERATH: I move -

Page 3, line 21 - To delete ", fear or distress" and substitute the following -

or fear

The Minister has made a couple of comments which disturb me. He has quoted from his second reading speech to justify the Bill. I have heard him try to promote the point of view that the second reading speech is an important part of any Bill. It is not. A case has to go before the court before it can be determined whether there is any dispute over a section of any legislation. If the presiding judge says there is no dispute and the intent is clear, the second reading speech is not read in conjunction with that particular section of the Act. The Minister keeps reading from the second reading speech as though it is relevant to this debate. It has relevance only when the wording of the clause in a Bill is obscure.

I thought the Minister had made a mistake in regard to proposed new clause 79. It appears he has a different Bill from the one I have. The Bill states that if any person possesses written or pictorial material that is threatening, abusive or insulting - I may not be a QC, but even with my limited grammatical background I know that it means that if I possess something that is insulting - that clause would apply to him. Do any members have an objection to that? The clause also states "that person intends the material to be displayed". If I put it in the front of my shop window I obviously intend to display the material. The intention refers not to racial harassment but to displaying the material. The clause further states "whether by that person or another person". Therefore, if I ask my wife to put it in the window, I have intended it to be displayed. The Bill further states that "display" refers to the material being in or within view of a public place. Referring to my example, if some insulting material is displayed in a public place, that qualifies two conditions. Proposed new section 79(c) states that -

the display of the material is intended by that person to cause, or would be likely to cause,

The Opposition supports the provision as far as it relates to material that is intended to cause serious harassment. However, it disputes that part of the provision which states -

or would be likely to cause,

The reference to serious harassment is one condition. The second condition in the proposed section is "alarm", followed by "fear or distress". I understand the provision to read that any material which causes distress has fulfilled the third condition; that is, if insulting material has been displayed in a public place and it causes distress, the person responsible is guilty of a crime and liable to imprisonment for one year. If the Government wishes to bring legislation into disrepute among the community, it should introduce provisions such as this. People will ridicule the Government, and lose respect for it. I do not wish to throw out the provisions in this clause, but it would be improved if some words were removed and the core were left. We are trying to address the problem of one person causing serious harassment, alarm or fear, and I support the intention of the Bill as far as threatening and abusive material is concerned. However, how can I support a provision which could apply to something that somebody might publish in the form of a joke in a public place that might cause somebody some distress?

Mr GORDON HILL: Many of the comments of the member for Riverton were related to the amendment to remove the word "distress". He referred to the second reading speech and suggested it would not be taken into account if any dispute arose in the future. The member should be aware that when the interpretation of any Act is called into account in a court of law by the prosecution or defence, the second reading speech is referred to. Quite clearly, this issue has been clearly spelled out in the second reading speech. I went through that

speech with a fine toothcomb, and asked lawyers to do the same, to ensure that the right interpretation was contained within it in case it was ever called into question. Without doubt the interpretation in that second reading speech is clear and would be used in such circumstances.

During the course of the Law Reform Commission's deliberations it met individuals and groups from different ethnic communities - as did the Multicultural and Ethnic Affairs Commission - and a whole range of people to debate the discussion paper published early this year by the Law Reform Commission. During the discussions, from the surveys undertaken and responses to the surveys and the discussion paper, it became evident that a significant number of people in the community are concerned about the impact of the campaign waged by the Australian Nationalist Movement and similar organisations and its effect on children. This clause addresses that area.

Of the four harmful consequences enumerated in the harassment sequence, distress is the emotion most likely to be suffered by children. For that reason, if for no other, the Government believes it is appropriate to leave that provision in place. Children may be distressed, not just in the playground, but also at bus stops where most of this graffiti is evident, if they see slogans such as "Asians Out" and "There is no such thing as a Jewish holocaust". It is difficult to establish that children are harassed, but not difficult to establish that they are distressed. Most people believe children should be protected from the distress caused by the slogans they may see while waiting for a bus. The Government is trying to protect children and, if the Opposition decides to delete the word "distress" it will affect children.

Amendment put and negatived.

Mr KIERATH: I move -

Page 3, line 30 - To delete ", abusive or insulting;" and substitute the following -

or abusive

The offence becomes even less serious in proposed new section 80 which relates to displaying material, as opposed to the previous section which deals with possession . I refer members to proposed new section 80(a) which says that any person who displays material that is insulting, the display of which is likely to cause distress to any group is guilty of a crime and liable to imprisonment for one year. Throughout the debate we have said we support the Government's intent. We have heard the Minister talking about children who are suffering some "alarm" or "fear". We support him.

Mr Gordon Hill: You have never suffered like that.

Mr KIERATH: We supported that. The Minister tried to make it sound as though removing the word "distress" would cause a problem. We were again leaving in the words "threatening" and "abusive" and only removing the word "insulting" so anything threatening or abusive will be included. I will leave discussion of "distress" until later. We are talking here about a person who is displaying insulting material that is likely to cause distress to an identifiable group being in big trouble. The retention of those words will bring that part of the Bill into ridicule.

Mr GORDON HILL: I have argued before about the need to leave the phrase as it is. The word "insulting" in the Bill in the context of the phrase "threatening, abusive or insulting" needs to remain. This argument has already been delivered and I see no point in repeating it.

Amendment put and negatived.

Mr KIERATH: I move -

Page 4, line 2 - To delete "or would be likely to cause,"

Again, this is reference to the display of written or pictorial material being likely to cause an identified group distress.

Mr GORDON HILL: I have argued this matter before and the same argument applies.

Amendment put and negatived.

Mr KIERATH: I move -

Page 4, lines 2 and 3 - To delete ", fear or distress" and substitute -

or fear

I wish to canvass the matter of distress. The Minister earlier said something about young children at a bus stop being threatened or intimidated by posters. Throughout the debate we have indicated support for that thrust. The Bill mentions "serious harassment", so if it causes someone serious harassment they are covered. We support the words "serious harassment, alarm, fear" but it goes on to mention "distress" and we have a concern about that word. I hope the Minister understands what I am saying this time. By my definition and the definition of his Bill if one of these posters were at the bus stop and children were there the matter would be covered by the Bill, but we are talking here about it being likely to cause distress.

Mr GORDON HILL: I am sure that if an Asian child sitting at a bus stop saw the words, "Asians out" or something similar it would be difficult to prove that the child was alarmed or had a feeling of fear as a result of those words or that the child would be harassed by those words. However, I am damn sure the child would feel distressed and we ought to protect those children. If the Opposition does not want that, be it on their heads.

Amendment put and negatived.

Clause put and passed.

Clause 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted

Third Reading.

MR GORDON HILL (Helena - Minister for Multicultural and Ethnic Affairs) [12.28 am]: I move -

That the Bill be now read a third time.

MR KIERATH (Riverton) [12.29 am]: As I outlined at the beginning of the debate, we support the thrust of the Bill but feel that the technique used was wrong. I tried to point this out throughout the Committee stage so I will not canvass these matters again. However, the amendments moved would not have gutted the Bill in any way and were reasonable ones allowing almost every aspect of the main thrust of the Bill to remain. They would have removed only problem areas that would cause people to trivialise the Bill. They would have allowed the exemption of any lawfully published book or magazine, which I do not believe was the Government's intention or the intention of the Law Reform Commission.

The Minister should have listened to the rationale put forward as to why those amendments were necessary. They were sensible, logical and reasonable and 90 per cent of the Bill would have remained in its present form if they had been accepted. It is with great disappointment, now those amendments are lost, that we are unable to support the Bill. That causes me great personal concern and disappointment because I believed the Minister when he said he wanted a bipartisan approach in this matter. We tried that in the best way possible by embarking on sensible, logical and reasonable debate. The fact the Minister chose not to accept any of our amendments shows his real intent; that he did not want to accept sensible amendments to the Bill.

I took that recommendation to my party room for endorsement. We then received correspondence from various groups. The most eminent group was the Criminal Law Association. That group of people practise law every day. The president of the association is an eminent Queen's Counsel. If anyone should be listened to, it is those people. They canvassed a range of matters, which I have outlined in great detail. If the Government were really genuine in its attempt to have a bipartisan approach to this legislation, it could at least have agreed to these amendments. It would have been tremendous to have seen all party support for this legislation from this House; the Bill would then have gone to the Legislative Council, and hopeful again received all party support. Instead, through the playing of cheap politics by the Minister, that opportunity has been lost. Because of the unwillingness of the

Minister to adopt a bipartisan approach, the Liberal Party will now have no alternative but to vote against the third reading.

MR AINSWORTH (Roe) [12.31 am]: I rise with the same concern as that expressed by the member for Riverton. We in the National Party had some concerns about the breadth of the coverage of the Bill as presented to this House. It was so wide ranging in its potential interpretation that it seemed to us to be too wide. We wanted to narrow it down and redesign it to clearly address the quite genuine concerns expressed by a range of ethnic groups in our community. All we really sought to do in supporting the very worthwhile amendments proposed by the Liberal Party was to do some fine tuning to the Bill; not to reject major portions of the Bill, nor to water down the Bill to the point where it would not achieve its major intentions. We wanted to address some of the concerns expressed by various groups about the somewhat nebulous sections of the Bill, which perhaps gave it the ability to do things that it really should not do, and which it should not have been the intention of the Government to do.

We certainly sought to address the concerns of the ethnic and the broader community in this State in respect of the most reprehensible activities of groups such as the Australian Nationalist Movement. None of the proposed amendments, had they been adopted, would have weakened the ability of the law to counter the activities of such groups and to apprehend and convict those people for the things they were doing. Yet we see here the opportunity for a tripartisan approach to this question of incitement to racial hatred being lost because this Government is not prepared to accept some very minor amendments.

I am disturbed and very saddened about that fact, because it shows up the lack of genuine desire by the Government to achieve a major step forward in race relations in this State. It causes me no pleasure to have to support the stance taken by the member for Riverton in saying that we in the National Party reject the Bill because the amendments were not supported by the Government.

MR GORDON HILL (Helena - Minister for Multicultural and Ethnic Affairs) [12.34 am]: Absolutely no-one can call into question the Government's sincerity and commitment in tackling this issue in a meaningful way, which will address the real problems that Western Australia has experienced during the last couple of years, and to achieve a workable solution. Time and time again the Government has attempted to meet with the Opposition to adopt a proposal which will meet with the support of all the political parties in Western Australia. We do not believe this issue should be used as a political football. On a number of occasions I have written to the member for Riverton and the member for Roe and invited them to my office to discuss in detail the clauses of the Bill and to talk about a bipartisan approach to this issue. It is an absolute joke to hear both members opposite say the Government is not serious.

Mr Court: They are representing their parties. Their parties have made that decision. You are not dinkum if you are not prepared to work with them.

Mr GORDON HILL: Their parties have made a decision which is at odds with the view of the Government; therefore, it is at odds with the views of the ethnic communities in Western Australia. The Opposition used quotes to suggest that the Criminal Law Association is opposed to the Government's position, but the Opposition quoted from that association in a most selective and inaccurate way. We have received legal advice about the Opposition's amendments, after thorough examination by a number of lawyers. In every case, the advice has been that the Opposition's amendments would weaken the Government's stance and weaken the legislation. At the outset I have said publicly, and time and time again in this House, and in other forums, that the Government will only accept amendments if they will strengthen or make our position more meaningful.

The amendments proposed by the Opposition would weaken the legislation. We will not accept that. We believe this issue is too important for it to be used as a political football. The interests of the ethnic communities in Western Australia are too important to accept lightly the weak amendments proposed by the Opposition.

Question put and a division taken with the following result -

Ayes (25)

Dr Alexander	Dr Gallop	Mr Leahy	Mr Thomas
Mrs Beggs	Mr Graham	Mr Marlborough	Mr Troy
Mr Carr	Mr Grill	Mr Pearce	Dr Watson
Mr Catania	Mrs Henderson	Mr Read	Mr Wilson
Mr Cunningham	Mr Gordon Hill	Mr D.L. Smith	Mrs Buchanan *(Teller)*
Mr Donovan	Mr Kobelke	Mr P.J. Smith	
	Dr Lawrence	Mr Taylor	

Noes (19)

Mr Ainsworth	Mrs Edwardes	Mr Mensaros	Dr Turnbull
Mr Bradshaw	Mr Grayden	Mr Minson	Mr Watt
Mr Clarko	Mr Kierath	Mr Omodei	Mr Wiese
Mr Court	Mr Lewis	Mr Strickland	Mr Blaikie *(Teller)*
Mr Cowan	Mr McNee	Mr Fred Tubby	

Pairs

Mr Peter Dowding	Mr Hassell
Mr Parker	Mr MacKinnon
Mr Bridge	Mr Nicholls
Mrs Watkins	Mr Shave

Question thus passed.

Bill read a third time and transmitted to the Council.

MINING AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 2 November.

MR COURT (Nedlands - Deputy Leader of the Opposition) [12.42 am]: This legislation is one of the more important Bills that we will be handling this year. Last year very similar legislation -

The ACTING SPEAKER (Mr Ripper): Order! The level of background conversation is far too high.

Mr COURT: This legislation was introduced into this Parliament last year, but the Government never proceeded with it. That was just prior to the election. The legislation has again been in the House for some time, and we are now debating it in the dying stages of this session. With the way things are planned, we have to debate certain legislation in the small hours of the morning, but legislation of this importance deserves a full debate in a far better environment than we have here tonight.

The reason this legislation is important is that it will have a huge impact on the mining industry in this State. If it is passed, as the Government intends it to be, it could well mean that a few years down the track the mining industry will be severely affected if more and more land is locked up for exploration. That is the main aim of this legislation.

The mining industry plays a critical role in our economy. Along with the agricultural industry, it carries this country and has done for many years. The Government is playing a dangerous political game with its tactics in relation to exploration in national parks proposals for the mining industry. In many ways the Government is trying to pander to certain environmental groups. It is not dinkum. The fact that this legislation was introduced last year, was not continued with, and is now being brought up in the dying stages of this session, is an indication that the Government probably wants the House to throw out certain parts of this legislation so that it can go back to its advisers and say that the conservative parties threw the legislation out.

The Liberal Party has spent a great deal of time talking to many of the people who may be affected by this legislation and trying to get a better understanding of just what effect this legislation could have on that very important industry. If this legislation is accepted in the

form in which the Government has introduced it, the approval of both Houses will be required for exploration activity to take place in national parks. At the moment the Government can approve exploration in national parks, subject to certain conditions, but if a company wants to mine in a national park, it needs the approval of both Houses of Parliament. The proposal is to require the approval of both Houses of Parliament for exploration activity in the first place. The Government is trying to say it is merely implementing certain recommendations of the Bailey report, but that is not the case, because the Bailey report does not mention the approval of both Houses of Parliament being required for exploration activity.

When I talk about the mining industry, I do not talk only of employers but also of the many employees working in and dependent upon that industry. If, for example, the upper House were a hung House with an Independent holding the balance of power - which could well be the case under the system by which we elect the upper House of this State - that person may well be anti mining. That one person would be able to dictate whether exploration activity occurred in national parks, and so the industry as a whole would not bother to go to the trouble of obtaining parliamentary approval for exploration activity when it knew that it had Buckley's chance of obtaining that approval. Even if the company concerned knew it could obtain the approval of both Houses of Parliament, the time involved in making the application would act as a major obstacle to activity in this area.

The Government says it is introducing this provision as part of its environmental policy. The system whereby the Government, with the advice of its different departments, makes a decision about whether exploration should take place has worked well, whether we have had a Labor Government or a conservative Government in this State. The Government has accepted its responsibility on this issue and laid down guidelines for any activity. Where a company has not abided by the rules, action has been taken to make sure that it does.

I do not believe it is necessary for this legislation to be introduced. In fact certain people in the environmental movement are concerned that if we have an upper House friendly to those interests, a lot of exploration activity may take place in national parks at the direction of the Parliament. It is quite proper for that responsibility for exploration to be in the hands of the Government with the advice of its Ministers, but the current law regarding mining in national parks, where the approval of both Houses of Parliament is required, is the proper way to go.

The Government is introducing this legislation apparently on the assumption that something is wrong, and I believe that is not the case. I believe that the current system is working, so why change it? Basically the Government is saying that the Minister cannot be trusted with the power he has now to make the correct environmental decisions, and under our system, if the Government is not making good decisions - if the people are not happy with what is taking place - we can change the Government.

I will return to the general thrust of the Bill. If these main changes are introduced they will result in a major disincentive for exploration activity in those large parts of this State that are national parks, and we will effectively lock up those areas. Once we start restricting exploration activity there is a lead time, but down the track we will not have the opportunity to open up mining operations and gain the tremendous benefits to be had from those operations. There are some people in the environmental movement who believe that mining in any form is bad, but it gets back to this: Of course we have to have a balance and strict controls on that activity; of course in certain national parks no-one would support mining. No responsible Government would approve exploration in the first place in some very sacrosanct sections of national parks and certainly it would not support mining in those areas where it would do damage.

I will briefly outline what the Government is trying to achieve with this legislation. It is split into three parts. The first covers the question of exploration and mining activities in national parks; the second relates to some changes in royalties; and the third introduces some new sections for exploration licences - that is, boundaries for exploration licences that are defined by lines of predetermined latitudes and longitudes, very similar to what is used in the petroleum Acts. That is, they will comprise particular sections rather than units of contained area as at present. I know that sounds a bit strange, but with the larger exploration licence areas both the Department of Mines and the industry people believe that, particularly with the modern technology available, that is the more sensible way to go about outlining those areas.

First I will discuss the two areas of the Bill concerning the introduction of new sections, and royalties, because we intend to support them. In relation to introducing the new sections for exploration licences, I realise it is extremely accurate on the map, but I ask the Minister for Mines how accurate it is on the ground. Do they have many disputes about where the line is on the ground?

Mr Carr: No, apparently it can be very accurate and there are not likely to be disputes. There will not be the same marking out requirement on the ground, but apparently it can be quite accurate.

Mr COURT: A talk was given to us by Peter Blake of *Steinlager* the other morning and he said his satellite system tells him where his boat is, to within 100 metres, at any given time.

Mr Carr: Much more accurate equipment than that is available. Fishermen have equipment which is much more accurate than 100 metres.

Mr COURT: I presume a similar system is being used in the mining industry. The Minister knows what the mining industry is like - if a claim is being disputed the parties involved will want to be able to pinpoint it exactly.

Mr Carr: That is my understanding. I am very surprised to hear you say that a skipper of a boat in that sort of race has equipment with an accuracy of only 100 metres.

Mr COURT: That is from his satellite navigation. My question is: When it gets down to a disputed area, will the people in the mining industry be able to survey the line? I would like some more information from the Minister about that because I do not understand how they do it in practice.

I turn now to royalties. There have been some bad practices over the years in relation to transfer pricing, and by this legislation the Minister is seeking the power to deem the value of the reserves to ensure that a fair royalty collection is made. I am told there have been certain practices where a company, which might operate overseas and have an operation here, has been pricing the product such that it has been able to sell the commodity at a very low price, which would be at a considerable loss, and take up the profit in another country. That has enabled those companies in some instances to minimise their royalty payments. The purpose of this Bill is to give the Minister power to deem the value of the reserves so that a fair royalty is paid. Again, the industry has said it will accept those changes.

As to exploration in national parks, when the Bailey committee on mining and exploration in national parks and A Class nature reserves reported in December 1986 it recommended that to be able to explore in A Class reserves a reserve first must be declared open by agreement with the Minister for Mines and the Minister for Conservation and Land Management, with an assessment being made by the Environmental Protection Authority. Basically the Bailey committee's recommendations were the result of a rather extensive consultative process with both the industry and conservation groups. There was a public review of the draft report and an assessment was put out by the EPA. As I mentioned, that committee recommended that an exploration licence over an area of national park or A Class conservation reserve should not be granted until the area was declared open for mineral exploration. The opening of the reserve needed to be agreed by the Minister for Mines and the Minister for Conservation and Land Management, followed by assessment by an interdepartmental committee convened by the EPA. Where the Ministers did not agree the matter would need to be resolved by the Minister in Council. I presume that means the Cabinet.

I must admit I have not yet read Dr Bailey's similar report on the petroleum industry's exploration in national parks as it affects the petroleum industry but I am led to believe that he comes to a similar conclusion; that is, that at the end of the day the Cabinet would give approval for exploration in national parks on similar conditions as laid down in this report. Is that is a fair summary?

Mr Carr: That report has not yet been released.

Mr COURT: I thought the report had become public.

Mr Carr: No, it has been completed and has been referred to a number of departments for comment but it has not been to Cabinet, nor has it been released at this stage.

Mr COURT: So the Minister cannot comment on it. I just offered him a summary of what was in it, in any event. When is it likely to be released?

Mr Carr: I would expect in the not too distant future. It has been with the various departments for a while. I am not sure whether all Ministers have responded to it but I would expect its release probably early in the new year.

Mr COURT: Could it be that the Government is not releasing the Bailey report for the petroleum industry because it has the same recommendations as the other report, which goes against what has been put in the legislation now before us?

Mr Carr: There is no ulterior motive; it is simply that I believe the report was to the Minister for Environment, who has referred it to other Ministers for comment, and that is the stage it is at.

Mr COURT: The first Bailey report came out in 1986. The petroleum report has not been released although I am led to believe it contains similar recommendations as those for the petroleum industry.

In February 1988, Government policy on mining and the environment led us to believe that it would implement the Bailey committee recommendations. That policy included the need for approval of both Houses for the exploration in national parks, which was not a recommendation of the Bailey committee. It was an addition to Labor Party policies.

Among other things it stated that B and C class reserves were to be examined and upgraded to A class reserves if possible. Legislation was introduced last year but it was not proceeded with. Basically it was introduced to Parliament to show the environmental groups that the Government was dinkum. When the Labor Party released its policy on mining and the environment the policy provided for the approval of both Houses, and the areas listed in the National Parks and Nature Conservation Authority as B and C class reserves were to be reviewed and either reclassified to A class or to have National Parks and Nature Conservation authority vesting removed. This initiative was not announced in the Government's policy document, but the Government was to accelerate the implementation of the outstanding EPA recommendations for proposed reserves throughout Western Australia. Many of these reserves were proposed as B and C class, often in recognition of significant mineral potential to allow for greater flexibility in determining multiple land uses. So the Government was to look at the upgrading of those reserves to A class.

We can understand why the mining industry became concerned, because it was feeling the effects of a pincer movement which would not only make it more difficult for exploration access to large areas of the State but would also see a process being undertaken where B and C class reserves were to be upgraded. The Government's review, which would see the process of upgrading B and C class reserves to A class, was progressing. Perhaps the Minister might be able to give us an idea about what stage the review has reached. Apparently some 60 per cent of the 930 reserves identified for upgrading have either been approved or are in the process of receiving approval of Cabinet. Does the Minister have any statistics?

Mr Carr: That is approximately correct; I do not have the figures with me.

Mr COURT: The upgrading of the reserves does not require parliamentary approval. After examining the situation the mining industry has become very concerned about the changes that are taking place because exploration activity is a very expensive exercise. A very high capital risk is involved and no company will undertake that sort of exploration if it has to face the many obstacles which the Government wants to place in its way.

Exploration is important for a number of reasons, not only for the mining companies to locate new minerals but also for us to have a better understanding about what is under the ground. We can all see what is on the surface, but to make decisions about proper land use this exploration activity should take place so that we can assess what is under those areas to be explored. The exploration techniques used these days have become very sophisticated; the industry has become far more responsible about how it undertakes exploration activities. Much concern has been expressed by people in the conservation movement, in the agricultural sector, and by the public at large, that some of the techniques used in the past for exploration have caused considerable damage to the land. The mining industry has recognised that it has to change its ways, as has the petroleum exploration industry in parts of the north of Western Australia. Large grids have been put in and a lot of damage done; in some areas the land could not be rehabilitated, so these activities have caused erosion. Thanks to modern technology these problems can be overcome.

When I had the opportunity with the Minister to attend the opening of the Saladin project, we spoke to a number of people involved in the exploration industry. They explained to me the new techniques which have been and still are being developed, making it possible to do a lot of exploration work without damaging the earth at all. When companies start drilling programs, whether on land or at sea, they will make sure they disturb things as little as possible. Statistics show that of 1 000 exploration programs started only 100 involve any degree of ground surface disturbance; 10 of those 1 000 may be drilled and one will be mined. The exploration people say that they will not risk facing the obstacles if this legislation is passed; in particular if they find themselves in the situation where one House is knocking everything back, that activity will not take place in many parts of this State.

During the Committee stage the Opposition will move amendments which basically delete those clauses which bring in changes to require the approval of both Houses of Parliament.

Concerns have been expressed to us by representatives of conservation groups for whom we have a great deal of respect. Those groups support our amendments which basically reinforce the status quo. However, those conservation groups should understand that the Liberal Party does not support the mining industry at all costs. We believe that the mining industry must comply with very strict guidelines and that certain areas of national parks should not be explored let alone mined. The current arrangements give responsibility to the Government and to Ministers to make decisions in relation to national parks. We have trust in the bureaucracy and the commonsense of the Minister to ensure that any exploration in national parks is governed by stringent guidelines, particularly when the industry expects strict guidelines in relation to access. We have seen many examples of that expectation in the past few years where companies have changed their techniques and policies. We believe safeguards are in place. If a mining company did not comply with the strict rules laid down by the Government, the Government would act quickly and do something to ensure that the company was held responsible for repairing the damage if it has not complied with the guidelines.

We would like to say to the conservation movement that, quite clearly, if we believed that the current system was not working and that the environment was being damaged unnecessarily, we would be the first to support the type of changes being proposed in this Bill. However, that is not the case. The way the system has been established and is working is that Governments of both political persuasions have used the power responsibly. Professional people in the Department of Conservation and Land Management and the Department of Mines are able to lay down strict conditions to ensure that the environment is preserved. As I said at the beginning of my speech, the mining industry makes a big contribution to our economy, but it realises also that it will not be able to develop unless it is able to explore and mine in a way which is environmentally acceptable to the community. I think it is meeting the challenge. In some places it has a long way to go; it has to make improvements. The challenge is to make sure that is done.

The Government is not dinkum with this proposal. It has been fiddling around with it for a couple of years and is not attempting to push it through Parliament. We are now at the end of the second year and the Government is trying to get the legislation through.

Dr Alexander: Plenty of damage can be done by exploration.

Mr COURT: It has been done in the past. The petroleum industry used large seismic ridges. In the Shark Bay area, the pastoralists were concerned about that practice. In cooperation with officers of CALM and the pastoralists, the industry developed new ways of putting grids through and is now using techniques which do not require grids. Changes are occurring. However, legislation like this which lays down guidelines is not needed because the existing regulations give the Minister complete power to dictate how exploration activities will be done. We want to have a responsible approach to it.

Dr Alexander: Why not give the Parliament control? You are always going on about parliamentary control. It seems a good idea to me.

Mr COURT: Exploration activity is going on every day of the week. Literally hundreds of applications go through the Department of Mines every day. Is the member suggesting that all of those applications should come to Parliament. How often does Parliament sit?

Dr Alexander: If they are in a national park, that is reasonable.

Mr COURT: The member knows the size of national parks in this State. Sometimes Parliament sits only once a year. A company would have to wait until then. Parliament would sit for weeks on end looking only at the different applications for exploration in national parks.

Dr Alexander: I do not believe you are right.

Mr COURT: Does the member believe that this Parliament should be bogged down with that sort of work.

Dr Alexander: I do not think it would be bogged down. However, I believe it is legitimate for these things to be subject to parliamentary scrutiny.

Mr COURT: The people responsible for looking at the thousands of Bills and regulations will be responsible for them. We have to give that responsibility to the people running departments. That is what they are trained for. That is the skill of CALM, the Environmental Protection Authority, and the Department of Mines. On top of them is the Minister responsible for their activities. If all applications came before Parliament for approval, nothing would ever happen. Of course, responsibility has to be delegated. If the current system was not working, we would support this proposal. However, no one from the conservation movement, the mining industry or the Government has been able to prove that the system is not working.

Mr Minson: It is getting better.

Mr COURT: Yes, techniques are improving.

There are three parts to the legislation. The Liberal Party will support those sections that relate to changes to introduce sections for exploration licences and it will be supporting the amendments in relation to royalties. However, it will be opposing those sections of the legislation which will require approval of both Houses of Parliament for exploration in national parks.

When the Bill was introduced last year, it provided that both Houses of Parliament be required to give approval but one House could rescind that approval. I was led to believe when the Bill was introduced again that the Government would change that provision so that both Houses of Parliament would be required to rescind the approval clauses. I think the Bill needs only one House to give that approval.

Mr Carr: There was a drafting mistake.

Mr COURT: Is the Minister going to amend that?

Mr Carr: No, the drafting mistake was to maintain the two Houses.

Mr COURT: So the Minister still wants the provisions relating to one House changed.

Mr Carr: Yes.

Mr COURT: I will run through that exercise. What happens if a company wants to explore in a national park? It will go through all the red tape and finally obtain the approval of Parliament with certain conditions. The company then commits itself to a very expensive exploration program in the middle of which one House votes to withdraw the approval. What exploration company would bother carrying out exploration programs if it needed the approval of both Houses of Parliament? It could be half way through a program and one House could withdraw the approval.

Mr Carr: That is the only consistent way to do it. You are suggesting that one House could veto it either at the point of original opening or at the point of closing.

Mr COURT: A company that had gone to the trouble of trying its luck in Parliament to obtain approval and had its approval withdrawn because a new Government came to power following the defeat of a corrupt Government would be in all sorts of trouble. A company is not going to risk capital in an exploration program in that situation. I can tell by the smile on the Minister's face that he would love the Opposition to be successful in having that clause removed from the Bill.

Mr Carr: What nonsense; you are letting your imagination run rampant.

Mr COURT: I know the Minister well enough to know that the professionals working not

only in the mining industry, but also in the departments responsible for these matters do not want this provision in the Bill. It is an extremely important Bill because it affects one of the most important industries in this State. We would not be accepting our responsibility as an Opposition if we did not oppose those clauses of the Bill that discourage a large amount of exploration activity in this State.

MR COWAN (Merredin - Leader of the National Party) [1.20 am]: I would like to put the National Party's position in relation to this Bill. As the Deputy Leader of the Opposition said this is, from memory, the second attempt the Government has made to deal with this issue. I note that we seem to have some duplicity in the actions of the Government and we do not have to go very far into the Minister's second reading speech to witness that. The Minister, in moving that the Bill be read a second time, said -

> This Bill proposes a number of amendments to the Mining Act with the main proposals being -
>
> > the implementation of Government policy in respect to mining and exploration in national parks and nature reserves;
> >
> > a graticular system to describe boundaries for exploration licences; and
> >
> > a new provision to provide a substantive power relating to the verification of royalties payable.

It is the first part that I really want to deal with; that is, the implementation of Government policy in respect to mining and exploration in national parks and nature reserves. The Minister clearly said that he was about to outline Government policy. He then goes on to say -

> Following the recommendations of the committee on Mining and Exploration in National Parks and A Class Nature Reserves, chaired by Dr John Bailey, the Government has accepted that a stricter code of conduct is required on exploration and mining in these classes of land.

His comments imply that the Government is about to apply the recommendations of the Bailey report. The Minister then went on to say -

> The proposed amendments exclude the grant of exploration licences within a national park or A Class nature reserve unless that park or reserve or portion thereof has been declared open for exploration by resolution of both Houses of Parliament.

Notwithstanding that the Minister's second reading speech implies it, the Bailey report made no recommendation that the Parliament be given the responsibility to deal with the matter of exploration licences. Perhaps the Minister could at least acknowledge that the very careful wording of his second reading speech is somewhat misleading. It is not a recommendation of the Bailey report that some responsibility be given to the Parliament to deal with the grant of exploration licences in national parks or A Class nature reserves. I take strong exception to the way in which it has been implied that this amendment really does implement the recommendations of the Bailey report, because quite clearly it does not.

I support the recommendations of the Bailey report inasmuch as they refer to the need for a stricter code of conduct in the course of exploration and mining in national parks and A Class nature reserves. I think that every member in this House accepts that as being necessary. In fact, some members who have had a fairly close association with mining would go even further and say that some of the environmental conditions which should be laid down by the warden in the grant of an application for a mining tenement on Crown land would have to be improved substantially, because some of the damage that has been done by exploration or mining companies on Crown land, particularly that Crown land which comprise pastoral leases, is horrendous. No one would argue against the need for a stricter code of conduct or for the application of that code by the mining warden in the recommendation of a grant for an application. I understand that a grant of such an application can only be made by the Minister. Nevertheless, when the application is granted I would think that everyone would heartily endorse the inclusion of some environmental conditions which are far stricter than those which apply at present. I am not only referring to exploration in national parks, but also to exploration anywhere in Western Australia. This is really the most contentious issue that we take exception to. In this case the National Party is in complete accord with the

Liberal Party in that it accepts that there is no reason to object to the new method of defining exploration licences.

For some time now exploration licences have been sent to land owners on the basis of the provision of a map of the area for which the application is being made for mining. The National Party does not see anything wrong with the idea of moving to the concept of graticular systems. It may be somewhat difficult for the land owner to understand, unless the application is accompanied by a very detailed description of where that land lies. I hope the Minister insists that in the advice given to the land owner that as well as the graticular information there is also a description stating the location and perhaps the reserve number and the location number to make it very clear to the land owner what parcel of land is the subject of the application for an exploration licence.

The National Party accepts the changes to the royalty provisions. The National Party accepts the capacity of this Government to strengthen the royalty provisions by giving the Minister the capacity to determine the worth of the royalties - I suppose it would be on the recommendation of the Department of Mines to estimate what the royalties are worth - and to have some investigatory powers to ensure that the volume of material being mined is accurate and, therefore, a correct payment of royalties is made. One issue relating to the question of royalties which has not been addressed by this legislation concerns the payment by mining companies to local authorities.

For many years the Shire of Yilgarn has had agricultural practices which net something in the order of between $650 000 and $750 000 per annum in rates. Notwithstanding the fact that an enormous volume of gold is extracted from the Yilgarn Shire Council area, the income to the local authority would be less than $25 000. It is time the Government re-examined the royalty provision and looked at ways and means of making some payment to local authorities as well as to the State. Very clearly, the existing provisions which give local authorities access to some form of payment by a mining company on a mining lease, have not worked.

The payment that is made is not commensurate with the value of the mineral being extracted. I know that the Mining Act contains a provision dealing with payments by mining companies to local authorities in the form of a rate but, unfortunately, that provision has proved to be ineffective. Either that provision should be improved or the royalties should be restructured on a two-tier basis so that part of the royalties go to the State and the State offers some of them to its delegated authority, local government, in recognition of the fact that local government provides services to the mining company.

Mr Carr: Most of the mining in the Yilgarn is goldmining, which is not subject to a royalty anyway.

Mr COWAN: That is quite correct. I am trying to point out where dealing with royalties we should consider the provision for rating of mining companies by local authorities. In many instances that does not work very well.

Mr Carr: There is a review under way at the moment which is looking at the anomalies present in the rating of mining tenements.

Mr COWAN: I am pleased to hear that. I know that gold does not attract a royalty, but mining tenements can be rated. The capacity of the local authority to apply a rate which is commensurate with the value of the mineral being extracted from the area is negligible. The Government refers in this Bill to mining royalty provisions to provide estimates of royalties that should be paid, and also to gain access to information about tonnages of material that may have been extracted to assess the value of the royalty. Local government has problems extracting payment from mining companies for the services it offers those companies. The question of a two-tier royalty provision should not be rejected by the Government out of hand. I acknowledge there is no royalty on gold but I used the Yilgarn only as an example of the discrepancy. Agriculture yields approximately $750 000 in rates but the mining industry yields only $25 000. I venture to say that the goldmining industry in the Yilgarn produces in dollar terms probably three or four times that of agriculture on an annual basis. There is some inequity in that situation which should be addressed.

The legislation contains other mining provisions which the National Party will support. We have a difference of opinion with the Government on proposals to explore or mine in

national parks and nature reserves. The National Party feels strongly that the Government should implement the recommendations of the Bailey report, but that report does not contain any recommendation that exploration should be approved only after Parliament has given approval. In this instance the Government has taken that step a little too far, and the National Party would like the Government to adhere very rigidly to the recommendations of the Bailey report. As the Deputy Leader of the Opposition said, mining or exploration in national parks and A Class reserves has not generally been abused. To my knowledge in only two or three cases has a dispute arisen between the Minister and the exploration companies in relation to access to that land. In many cases the decisions that have been made with regard to exploration have been very responsible. Not many people would argue in favour of strengthening those provision because most people regard the status quo as adequate. The real difficulty lies with the indecision by Government because a number of reserves are currently under review, and others are being upgraded or their status is being changed in some way. For that reason the Government has not taken too many steps to approve exploration licences in those areas subject to review. The delay in rating applications has been frustrating for the mining industry. However, I do not think that delay should in itself create a situation in which the Government considers it acceptable for it or the Parliament to promote these changes to exploration in national parks. I would prefer the Government to get on with the job of reclassifying those reserves which are the subject of review to determine whether they have real value in relation to the environment and whether they are environmentally rare and should, therefore, not be subject to exploration. The Government should determine which reserves are not of environmental value, and should invite declarations of interest and applications for exploration licences in those areas from mining and exploration companies. The Government should speed up this process and determine which portions of existing national parks, reserves, or the proposed areas in that category have great conservation significance and should not be touched by mining in any shape or form. Areas which have no significant conservation or environmental value should be available for exploration.

It does not matter how thorough a mining or exploration company is at one particular time, there is always a possibility that in the future the same company, or even a different company, could use different methods or better technology, or even explore for a different mineral. It is not sufficient for the Government to open up these areas for one-off exploration. A system must be set up to allow for periodic exploration, given the advent of new technology or the demand for different minerals. The Government should not consider making certain parks and reserves available for exploration only at one time, and then locking them up for evermore. In practical terms that cannot occur. Clearly, the system should make provision for exploration at different times, not necessarily on an annual basis, but over a period of time. This would clearly allow the mining and exploration companies to exploit the obvious mineral wealth of this State. With the exception of the areas I have spoken about we support the legislation.

MR MINSON (Greenough) [1.41 am]: I am puzzled that this legislation is before the House because there does not appear to be a problem with the existing legislation. For that reason I am not sure why this Bill is here. As a new member I have not seen it presented to the House before but I have heard tonight that this is not the first time the House has seen this legislation. I suggest that from time to time every person, company or family needs to do a stocktake of its assets. After doing that it can make an informed decision about what it will do with those assets. That is the sort of approach we should take to the exploration part of mining in national parks and reserves.

We say that the procedure for approval for mining should remain as it is. Both previous speakers have dealt eloquently with most of the important areas and for that reason, and bearing in mind the time left, I will sum up our attitude to this Bill to give a slightly different perspective to it. AMEC, the industry in general, the Chamber of Mines, the Government and the Opposition, and I believe the National Party because of what its leader has said, appear to agree with the recommendations of the Bailey committee. Therefore, I am surprised that these amendments seem to seek to put in place policies which depart significantly from that report. Indeed, in terms of commonsense, coming to the Parliament for permission to do anything is the penultimate course. The ultimate course is to go to the people.

Recourse to Parliament is unnecessary for exploration, because the expense of such an approach may prevent mining companies lodging applications. The time and expense will eventually prevent the populace from being properly informed and "populace" could also read "this Parliament". This could lead to the prospect of our not knowing what is in many of our Class A reserves and therefore we will not be able to make informed decisions about them. I am concerned that these amendments, combined with the Department of Conservation and Land Management Amendment Bill which has been read a second time, may lead to large areas of this State being locked away and probably effectively removed from exploration. That will create problems for society and industry. It will eventually cause problems for this Government and future Governments.

I think the Government wants these amendments defeated because I can see a time, if the CALM amendments are passed, when the Government will box itself into a corner where much of the land it wants to be explored will be difficult to explore. I do not think the Minister when drafting these amendments paid a lot of attention to the Bailey report. He indicated in his second reading speech that he had paid attention to it. Further, the EPA Red Book recommendation seems to be that B Class and C Class reserves were specifically proposed in many cases to recognise the fact that exploration should take place on some reserves but that it would prevent those reserves being mined while making them easily accessible for exploration. As the Leader of the National Party has said, there has been an upgrading of large areas and large numbers of B Class and C Class reserves to A Class reserves. I think the number is 600 with another 300 under consideration for upgrading. I understand they will become A Class reserves before long.

I have four points to make before I close. Firstly, we do not say mining companies are perfect because they are far from it. As the Deputy Leader of the Opposition has pointed out, they have sharpened their act no end of late and technological improvements mean that exploration can take place with minimal disturbance to the environment. Secondly, it is incumbent upon the mining companies to demonstrate to society that they can do these things without causing unnecessary damage. I believe they have risen positively to the challenge. Thirdly, the situation as it stands with two Ministers having to agree for exploration to occur and then going on to make it such that the two Houses of Parliament have to agree prior to mining is ample protection; to extend that protection further is a nonsense. Fourthly, as has been pointed out previously, but I mention it for the sake of completeness, all or most parks and reserves have some unimportant areas. One of the areas in my electorate which is an example of that is the Kalbarri National Park where quite clearly no one will go into the gorges to drill and explore but there are large areas of that park where we would like to know whether there is a sea of oil underneath. To investigate that might be expensive and involved if this Bill passes the Parliament.

All those amendments will do is hamstring exploration; they will do nothing at all for conservation. They will create a problem for this Government and subsequent Governments. For this Parliament to vote for these amendments would be to do the people of Western Australia a grave disservice so I think the status quo should remain and the amendments should not be passed.

MR CARR (Geraldton - Minister for Mines) [1.49 am]: The irony of tonight's debate is not lost on me. I have sat in this place week after week listening to a persistent and consistent argument from the Opposition that the Executive was not sufficiently accountable to the Parliament and there should be much more Government decision making undertaken at parliamentary level rather than at the Executive level.

Tonight we have a piece of legislation about which we come to the Parliament, saying, "We, the Executive, want Parliament to be party to these important decisions concerning the national assets of the State"; and we have the Opposition saying, "We do not want to be part of it. We want you to make the decisions." Whatever construction people might put on that, I find it to be somewhat ironical. The decision that the Government is seeking to implement is about conflicting views, and an attempt to strike a reasonable balance between those conflicting views. Some people in the community say there should be very few - or, in some cases, no - restrictions placed on the access of the mining industry to land for exploration. There are also a lot of people who say that we should lock up forever all the national parks and not let there be any exploration or mining. The results of opinion polls which have been published suggest that in the vicinity of 85 per cent of the community is saying that national parks should be locked up for all time, with no access at all.

Mr Court: The community does not properly understand what a national park is.

Mr CARR: That may well be so. What I am presenting is an indication that there are quite extreme points of view about this issue; certainly, as the member said, they are not always based on full knowledge. So we have set out to accept that there is a concern in the community about what is done with our national parks; a concern that we acknowledge to the point that any decision to allow particular activities in national parks should be looked at very closely. We have made that decision; and, as has been indicated, it was made after the Bailey committee report. The Government has never said that the legislation is an exact implementation of the recommendations of the Bailey committee. We have said that the Bailey committee undertook its work, and reported; after it had reported, the Government made decisions, which to some extent reflected the Bailey report, but we have never made any pretence that it was an exact implementation of everything Bailey had said.

Mr Wiese: You went very close to implying it.

Mr CARR: I heard the Leader of the National Party say there was duplicity in my second reading speech because of that reference, but if the member had listened carefully to the part of the second reading speech that was read out, he would know that what we said very clearly was this is legislation to implement a policy decision made by the Government after it had considered the Bailey committee report.

Mr Wiese: You said, "The Government has accepted that a stricter code of conduct is required." You have caught that "playing with words" disease again.

Mr CARR: The member is misinterpreting what I said.

Mr Wiese: I am quoting from it.

Mr CARR: I am not denying the words the member is reading to me; I am denying the interpretation he is placing on those words. Bailey recommended that there be a stricter code of conduct. The Government considered that report, and proceeded to make its own decision and to formulate its own policy. We are now legislating to enact that policy. It is as clear-cut as that. I do not believe it is appropriate for people to be putting on it the interpretation that they are.

Members are being unduly pessimistic about the opportunities for the mining industry to undertake exploration in national parks under certain circumstances; that pessimism is shared with a lot of people in the mining industry. There has certainly been a reaction within the mining industry, which has led to some of the mining companies saying the land is all locked up and they will never be able to get into it. That is a defeatist attitude, which does not reflect the reality of the situation. The Government has adopted a multiple land use policy that acknowledges the point made by the Deputy Leader of the Opposition that some of our national parks are a lot better than others. We have national parks that are made up entirely of areas of priceless value. We have also national parks that are in many cases very large, made up of a small, very valuable asset in the middle, with boundaries set around it which relate to a river here or a line of latitude there, or a rabbit proof fence, or something else. There are certainly different circumstances in the particular national parks; that is why we have adopted what we believe is a reasonable multiple use policy, which will allow decisions to be made on their merits, on an individual basis, in respect of particular national parks.

I acknowledge the point made about the greatly improved exploration technology that is now available, especially in respect of seismic surveys. The mining industry has dramatically improved its performance over recent years. There is a realisation that exploration can be taken with a lot less damaging impact than was the case in days gone by. The Deputy Leader of the Opposition indicated that in his view the mining industry would not be prepared to take risks in overcoming the obstacles that it saw under this policy. I believe he was too harsh and was overlooking the provision for geoscientific surveys. Considering the techniques that are available for airborne data collections in the first place, and given the opportunity for geoscientific survey permits, which will be very easy to obtain under this legislation, and which will allow some fairly low impact exploration, I think a lot of mining companies will gradually come to accept that this is a reasonable opportunity for them to undertake the degree of exploration that is needed prior to deciding to pursue the full scale course for the opening up of a particular national park.

Some questions were raised about the reviews of the B and C Class reserves, and also about

the Red Book recommendations. The Government is proceeding as quickly as it can to review the parks that were referred to. One aspect of the review of those parks is to review the boundaries. In the case of the Red Book recommendations, many of these were very generalised recommendations that a national park should be created in a particular area. A lot of work is being put into identifying appropriate boundaries for parks so that the areas of value are included, and the areas that perhaps are not so valuable are not necessarily included. We are proceeding as quickly as we can with both those reviews so that we can establish clearly which areas should be A Class reserves and which areas should not.

In respect of royalties and graticular sections, I thank the members for their support of these measures. My understanding is that the graticular measurements will be very accurate, although I perhaps do not have quite the detail that the Leader of the Opposition was asking for. I certainly acknowledge the point made by the Leader of the National Party that people who are going to be confronted with information regarding graticular sections need more information than they now have, and I would certainly agree that it would be appropriate for the Department of Mines to consider what level of information should be made available to farmers to ensure that they are not placed at any disadvantage by having thrust upon them a new system with which they are not familiar.

I appreciate the comments made in respect of the rating of mining tenements, and the two tier royalty suggestion. I simply repeat what I said by way of interjection that there is a review under way of all matters in relation to the rating of mining tenements, and hopefully some of the anomalies that are now present can be resolved.

Finally, I refer to a comment made a couple of times that the Government may want to have this legislation defeated. That is not the case at all. The Government is strongly of the view that it has made a fair and reasonable decision which will work effectively in practice that will treat national parks as areas that need to be looked at very closely before they are developed. We want to see this legislation passed. I can only suggest that members opposite have made the point about wanting the Bill defeated so that the Government may share the blame with them. There is no doubt severe criticism of the Opposition will result from its opposing this legislation and seeking to make it as easy as possible to mine in national parks.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Dr Alexander) in the Chair; Mr Carr (Minister for Mines) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 24 amended -

Mr CARR: I move -

> Page 3, line 27 - To insert after "minerals" the following -
>
> > but no such resolution may be passed unless the proposal to open the land for exploration for minerals has been referred to the Environmental Protection Authority constituted under the *Environmental Protection Act 1986* and that authority has reported its advice and recommendations on the proposal in accordance with that Act

It was always the intention of the Government, in drafting this legislation, that any proposal to open a national park for exploration or mining would be referred to the Environmental Protection Authority, and that the EPA would report. We presume it needs only one person to make a reference to the EPA. However, concern was expressed that the Bill was not explicit enough, so the Government is prepared to support an amendment that in the event of any such proposal the matter must be referred to the EPA for a report.

Mr COURT: I can understand why the Minister has proposed this amendment, because one of the recommendations of the Bailey report was that this procedure be followed. Those areas to be opened up for exploration would have to be agreed by the Minister for Conservation and Land Management and the Minister for Mines. Clause 6 is the most important clause in this legislation, and that is why, when it is amended, as no doubt it will

be here, we will have no option but to vote against it. The Opposition wants to move an amendment to delete the clause and insert the Liberal Party's proposal.

Mr COWAN: This amendment moved by the Minister is consistent with his original statement in his second reading speech that he was acting on the recommendations of the Bailey report and establishing a stricter code of practice for handling environmental matters when dealing with mining in national parks and reserves. I sometimes wish we had that same stricter code of practice in environmental matters on any mining tenement application. The only difference is that the objective of the Minister for Mines is to require an Environmental Protection Authority report to be made to the Parliament on that particular parcel of land which would be the subject of an application for an exploration licence. My view is that as the existing provisions of the Act are satisfactory I would merely apply that restriction or constraint upon the Minister who has the power to grant now. So I do not have any objection to what the Minister is trying to do in relation to establishing that stricter code by seeking the requirement that the Environmental Protection Authority deliver a report on the parcel of land. I do not think the report should go to the Parliament, because I do not believe the Parliament should make a decision on it. The report should go to the Minister who should then make the decision; but we have no real argument with this because it is in keeping with the concept of the stricter code of practice.

Amendment put and passed.

Mr COURT: I will now speak to clause 6 in its amended form. The Liberal Party is very much opposed to this clause and will vote against it because we would like the opportunity to amend it in the way we have suggested in our amendments, of which we have given notice. This is the key clause in that it is the one which will require the approval of both Houses of Parliament for exploration approval. For all the reasons that we gave during the second reading debate we will oppose this clause as it has been amended by the Government.

Clause put and a division taken with the following result -

	Ayes (25)		
Mrs Beggs	Mr Grill	Mr Pearce	Mr Troy
Mr Carr	Mrs Henderson	Mr Read	Dr Watson
Mr Catania	Mr Gordon Hill	Mr Ripper	Mr Wilson
Mr Cunningham	Mr Kobelke	Mr D.L. Smith	Mrs Buchanan *(Teller)*
Mr Donovan	Dr Lawrence	Mr P.J. Smith	
Dr Gallop	Mr Leahy	Mr Taylor	
Mr Graham	Mr Marlborough	Mr Thomas	
	Noes (18)		
Mr Ainsworth	Mrs Edwardes	Mr Mensaros	Dr Turnbull
Mr Bradshaw	Mr Grayden	Mr Minson	Mr Watt
Mr Clarko	Mr Kierath	Mr Omodei	Mr Blaikie *(Teller)*
Mr Court	Mr Lewis	Mr Strickland	
Mr Cowan	Mr McNee	Mr Fred Tubby	

Pairs	
Mr Peter Dowding	Mr Hassell
Mr Parker	Mr MacKinnon
Mr Bridge	Mr Nicholls
Mrs Watkins	Mr Shave

Clause, as amended, thus passed.

Clause 7 put and passed.

Clause 8: Section 26 amended -

Mr COURT: Our proposed amendment to delete the clause was dependent upon our being successful in amending clause 6, so there is not much point in our continuing with this amendment.

Clause put and passed.

Clause 9: Sections 26A and 26B inserted -

Mr COURT: The first of my next two amendments was dependent on my amendments to clause 6 of the Bill being successful, so I will not proceed with that amendment. I move -

Page 9, line 9 - To insert after "notice." the following -

> Just and adequate compensation to the holder of the mining tenement for any improvements on land resumed under this subsection shall be payable in accordance with the resumption provisions of the *Public Works Act 1902*.

The reason this amendment has been put forward is that under the provisions of section 26B(1) of the Bill, it is provided that any land reserved for or constituting a townsite and subject to a mining tenement may be resumed if required for community purposes.

The clause does not provide for any compensation for improvements. I think the Minister is saying that the Government will not support this amendment because it believes that a case does not often arise where compensation is required. It has been explained to us by the mining industry that a situation could well arise, if it has not already, where certain improvements have been made by a mining company, and the industry believes it is only proper that proper compensation be paid, as do we. That is why we had this amendment drafted in this form - because we believe it is a fair way to determine what level of compensation should be paid if land is resumed and improvements are made. I urge the Committee to support the amendment.

Mr CARR: The Government gave consideration to the general principles involved in this amendment. However the position is not as outlined by the Deputy Leader of the Opposition. We are not talking about a resumption process at all because the holder of the tenement would still hold the subsurface rights and would only be relinquishing the first 15 metres of the area. That person would have first priority to get back the land should it not be needed for community purposes. If that principle was to be accepted, the legislation would have been drafted in a different way. We are talking about a situation as applies in some of the towns in the Murchison where limited amounts of land are available for townsite development and tenements are in place over areas that the town might want to expand into. We will only have a wish to use land in that form to add to the community facilities in the town if it is vacant land. Our understanding is there has never been a situation where a council has wanted to utilise land the subject of tenement for townsite community purposes where there have been improvements upon the land.

Mr Court: It could occur.

Mr CARR: It could, in theory. I do not deny that. But the purpose of the amendment is to accommodate the councils who are seeking to bring vacant land in the townsite into useful purpose for community development. If we accept that is the only purpose for which this provision would be utilised, the question of compensation would not arise. On that basis the Government opposes the amendment in this form. If the Opposition feels very strongly about this matter and wants to force something upon the Government in another place, perhaps it would be appropriate to have discussion with the Parliamentary Counsel and get something drafted which achieves the purpose which the member seeks and which is not inconsistent with the wording here.

Mr COURT: I thank the Minister for that explanation. The Opposition is not trying to force anything on the Government. We thought it was a fair way to go about covering what we wanted to achieve. I accept what the Minister has said; we will have discussions with him and with the Parliamentary Counsel to see if we can come up with an amendment which is acceptable.

Amendment put and negatived.

Clause put and passed.

Clauses 10 to 16 put and passed.

Clause 17: Section 57 amended -

Mr COURT: I will not proceed with my amendment to delete lines 8 to 10 on page 15 because it was to tie in with an earlier amendment which was unsuccessful.

Clause put and passed.

Clauses 18 to 40 put and passed.

Clause 41: Savings and transitional -

Mr CARR: I move -

Page 30, lines 6 to 24 - To delete the lines and substitute the following lines -

41. (1) Notwithstanding sections 16, 17, 18, 20 and 35 but subject to this section -

(a) the amendments to the principal Act effected by those sections do not have effect in relation to -

(i) any exploration licence in force before the commencement day;

(ii) any application for an exploration licence lodged with the Department before the commencement day; or

(iii) any exploration licence granted in respect of an application referred to in subparagraph (ii);

(b) where, after the commencement day -

(i) land that is the subject of an exploration licence referred to in paragraph (a)(i) or (iii) is surrendered or forfeited (otherwise than under section 98 of the principal Act) or expires;

and

(ii) other land in the same block is the subject of an exploration licence granted in respect of an application lodged with the Department on or after the commencement day,

This transitional clause was intended to relate only to the parts of the Bill dealing with graticular sections. However it was drawn to our attention that it could have, in its original form, implications for other parts of the Bill, notably that relating to mining access in national parks. The clause has been redrafted in the amended form to pick up only the parts of the Bill relating to graticular sections.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

MR CARR (Geraldton - Minister for Mines) [2.28 am]: I move -

That the Bill be now read a third time.

MR COURT (Nedlands - Deputy Leader of the Opposition) [2.29 am]: The Opposition is very disappointed that the Government was not prepared to accept its amendments. The Opposition has supported those areas of the legislation relating to exploration licences and changes to royalties. We are strongly opposed to the changes that the Government is attempting to implement in relation to approvals required for exploration in national parks.

As the Opposition has stated on many occasions, no evidence has been put forward to support a need for change. The Government is playing political games in these matters. It brought in legislation last year but did not go ahead with it and now the Government has brought in legislation during the last couple of days of this session in the hope that the legislation will be passed in the upper House. The Government realises that what it has supported in this place will be extremely detrimental to the long term development of not only the mining and exploration industries, but also it will make it impossible for us to discover what is under large areas of this State covered by national parks.

There are many misconceptions in the community that the Government plays on. I believe it will try to make big mileage out of that and will not tell the whole story to the public; that is, that areas of national parks should be clearly outlined on a map so that the public know that huge areas are involved. Exploration and mining activity could take place in large areas of those national parks without causing damage. There are plenty of safeguards already in place to prevent that. Certainly the fact that under the existing system an application has to come to Parliament to obtain the approval of both Houses for mining is the greatest safeguard. The Department of Conservation and Land Management and the Department of Mines are capable of laying down stringent rules so that the environment is protected.

The Government is playing political games with what it is trying to achieve. I do not believe its heart is in the legislation because it knows it will do tremendous damage to an industry which does so much for this State and provides so many people with a standard of living that they could not otherwise enjoy.

The Opposition has no choice but to oppose the third reading of the legislation because the Government has been unwilling to accept the amendments it has put forward.

MR CARR (Geraldton - Minister for Mines) [2.33 am]: I reject the comments by the Deputy Leader of the Opposition. His comments are excessively pessimistic about the impact of exploration opportunities in the areas referred to. I think his comments amount to nothing short of scaremongering. The Government believes that it has struck a reasonable and fair balance between exploration of mineral resources and looking closely at any proposals to have exploration activities in our national parks.

The Government hopes the Bill will not be defeated elsewhere and that the legislation will be agreed to.

Question put and a division taken with the following result -

Ayes (26)			
Dr Alexander	Mr Graham	Mr Marlborough	Mr Thomas
Mrs Beggs	Mr Grill	Mr Pearce	Mr Troy
Mr Carr	Mrs Henderson	Mr Read	Dr Watson
Mr Catania	Mr Gordon Hill	Mr Ripper	Mr Wilson
Mr Cunningham	Mr Kobelke	Mr D.L. Smith	Mrs Buchanan *(Teller)*
Mr Donovan	Dr Lawrence	Mr P.J. Smith	
Dr Gallop	Mr Leahy	Mr Taylor	

Noes (19)			
Mr Ainsworth	Mrs Edwardes	Mr Mensaros	Dr Turnbull
Mr Bradshaw	Mr Grayden	Mr Minson	Mr Watt
Mr Clarko	Mr Kierath	Mr Omodei	Mr Wiese
Mr Court	Mr Lewis	Mr Strickland	Mr Blaikie *(Teller)*
Mr Cowan	Mr McNee	Mr Fred Tubby	

Pairs	
Mr Peter Dowding	Mr Hassell
Mr Parker	Mr MacKinnon
Mr Bridge	Mr Nicholls
Mrs Watkins	Mr Shave

Question thus passed.

Bill read a third time and transmitted to the Council.

WEST AUSTRALIAN TRUSTEES LIMITED (MERGER) BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr D.L. Smith (Minister for Justice), read a first time.

Second Reading

MR D.L. SMITH (Mitchell - Minister for Justice) [2.35 am]: I move -

That the Bill be now read a second time.

[Leave granted for the following text to be incorporated.]

Until 1988 when the Trustee Companies Act 1987 was proclaimed, only two companies had been granted express statutory authorisation to administer estates in Western Australia. These two companies - namely, Perpetual Trustees WA Ltd and West Australian Trustees Ltd - operated in Western Australia for many years on the basis of private Acts of Parliament enacted at the turn of the century. The Trustee Companies Act replaced those two private Acts with a modern, more relevant system of authorisation and regulation, and provided a more deregulated environment. As a result, six additional companies have so far been authorised to act as statutory trustee companies in Western Australia.

In October 1988, Perpetual Trustees Australia Ltd, the holding company of Perpetual Trustees WA Ltd, made a takeover bid for all the shares in West Australian Trustees Ltd, with the stated intention of merging Perpetual Trustees' Western Australian operations, conducted through Perpetual Trustees WA Ltd, with those of West Australian Trustees Ltd. The directors of WA Trustees unanimously recommended acceptance of Perpetual Trustees' offer, and by March 1989, WA Trustees had become a wholly owned subsidiary of Perpetual Trustees Australia Ltd. Perpetual Trustees now wishes to implement its stated intention of merging the operations of its two wholly owned Western Australian subsidiaries with a view to increased efficiency and the provision of a better and expanded service to its clients.

WA Trustees has a wide spread of activities, being active in areas of executorship - being appointed as executor in approximately 60 000 wills - personal trust and agency services, corporate trustee services, common trust fund investments, mortgage investments, accounting and taxation services and internal investment services and the range of real estate, fixed interest securities and investments held on behalf of its clients. The companies have requested the Government to facilitate the orderly transfer of the business and undertakings of WA Trustees to Perpetual Trustees by legislation, rather than the more cumbersome, expensive and disruptive alternative of separate transfer, transmission and assignment of each and every executorship, mortgage, charge and security held by WA Trustees.

The purpose of the legislation is to avoid the great inconvenience which would otherwise be suffered by the general public, by Government authorities, and by the staff of both trustee companies. However, the saving in documentation which will be achieved by the proposed legislation is not intended to deprive the State of any revenue which might have been derived from the stamping of such documentation. The State Taxation Department has negotiated with Perpetual Trustees for a payment in lieu of stamp duty and agreement has been reached on this matter.

Assistance to a merger by Act of Parliament is not new. The present Bill follows precedents set by the merger of the Bank of Adelaide with the ANZ in 1980, as well as the Commercial Bank of Australia's merger with the Bank of New South Wales, and the Commercial Banking Company of Sydney with the National Bank, both in 1982.

Clause 3 of the Bill contains interpretation provisions which are self-explanatory. Clause 4 provides that the Act will bind the Crown. The properties mentioned in the schedule are excluded from the operation of the Bill.

The key operating provision is in clause 5(1) whereby the undertaking of WA Trustees is vested in Perpetual Trustees. This simple enactment will enable succession of Perpetual Trustees to the whole of the property assets and liabilities of WA Trustees, except excluded assets. It allows the name "Perpetual Trustees WA Limited" to be read in lieu of references to "West Australian Trustees Limited" in relation to instruments, places of business, land titles and any rights and liabilities arising prior to the appointed day.

Machinery provisions in clauses 6, 7 and 8 concern the transfer to Perpetual Trustees of client appointments and relationships, securities for debts and liabilities, and documents and chattels in safe custody. Legal proceedings and rights under leases and licences are preserved. Clause 10 preserves the rights of staff of WA Trustees. Employees will transfer with no break in service on identical terms and conditions and with preservation of their

superannuation rights. Other provisions deal with the transfer of securities and recording and registration of transfers of land, mortgages and other property by Government departments to give effect to the purposes of the Bill.

Clause 15 exonerates a person dealing with Perpetual Trustees or WA Trustees from making inquiries as to whether the property with which he is dealing is an excluded asset. The interests of investors are protected by clauses 16 and 17 which preserve the existing terms and conditions of investments with WA Trustees. I commend the Bill to the House.

Debate adjourned, on motion by Mr Court (Deputy Leader of the Opposition).

ADJOURNMENT OF THE HOUSE - ORDINARY

MR PEARCE (Armadale - Leader of the House) [2.36 am]: I move -

That the House do now adjourn.

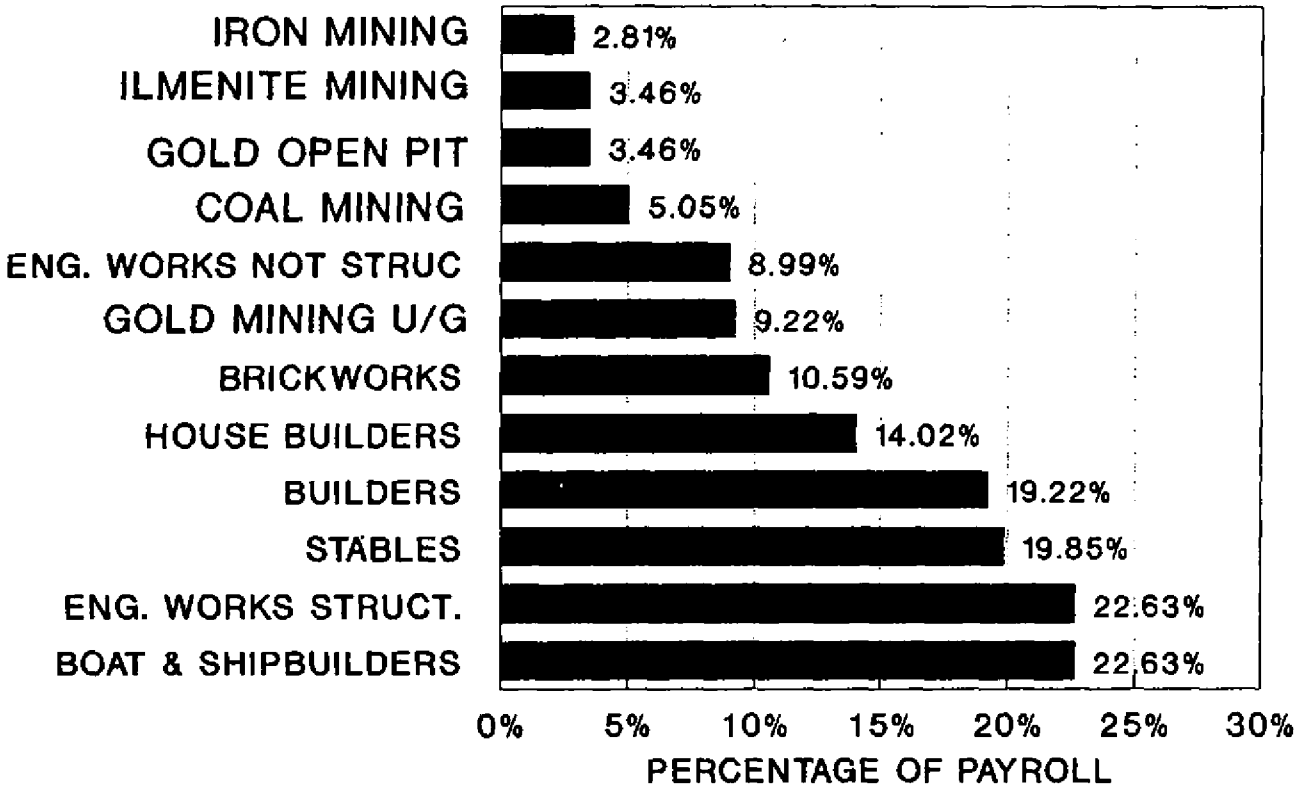
A number of members have drawn to my attention the quote on today's calendar which states -

Measure not dispatch by the times of sitting, but by the advancement of business.

Question put and passed.

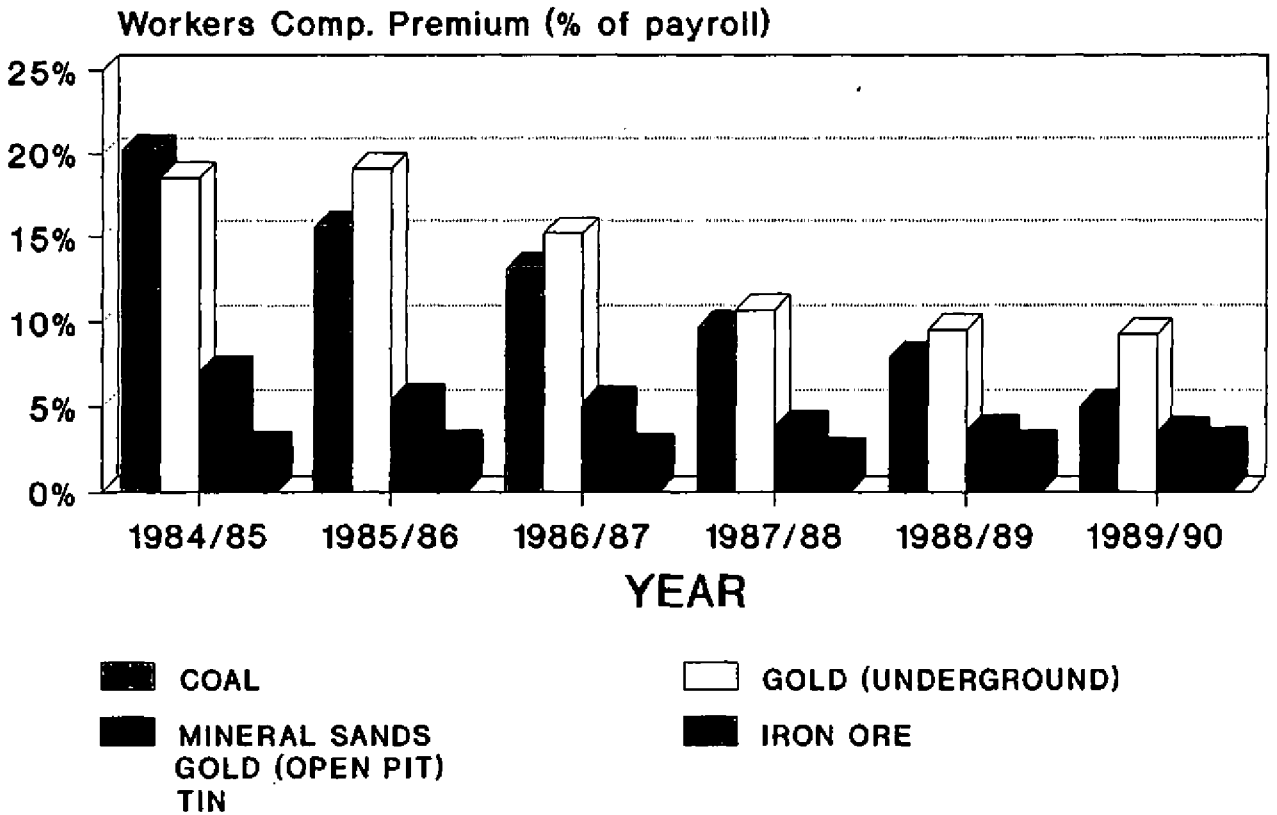
House adjourned at 2.37 am (Thursday)

WESTERN AUSTRALIA
WORKERS COMPENSATION PREMIUM RATES
1989/90



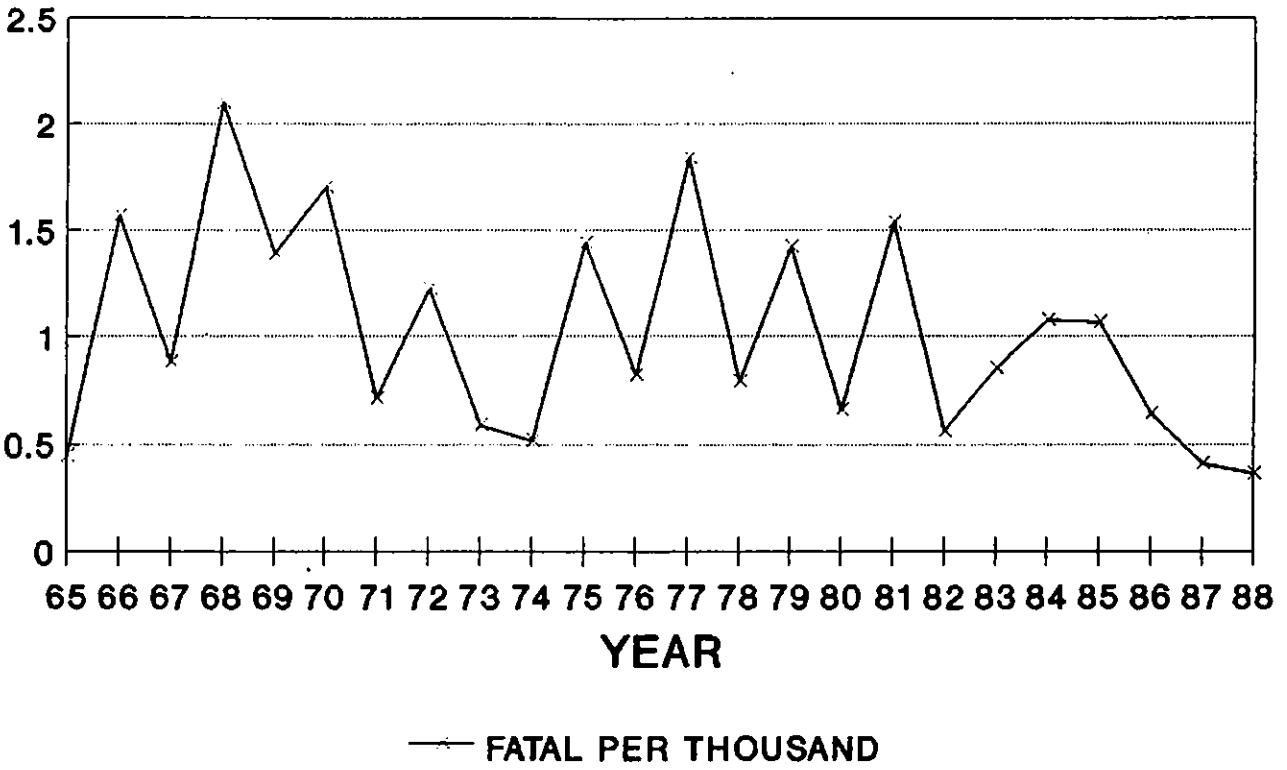
SOURCE: GOVERNMENT GAZETTE

W.A. MINING INDUSTRY
WORKERS COMPENSATION COST TREND



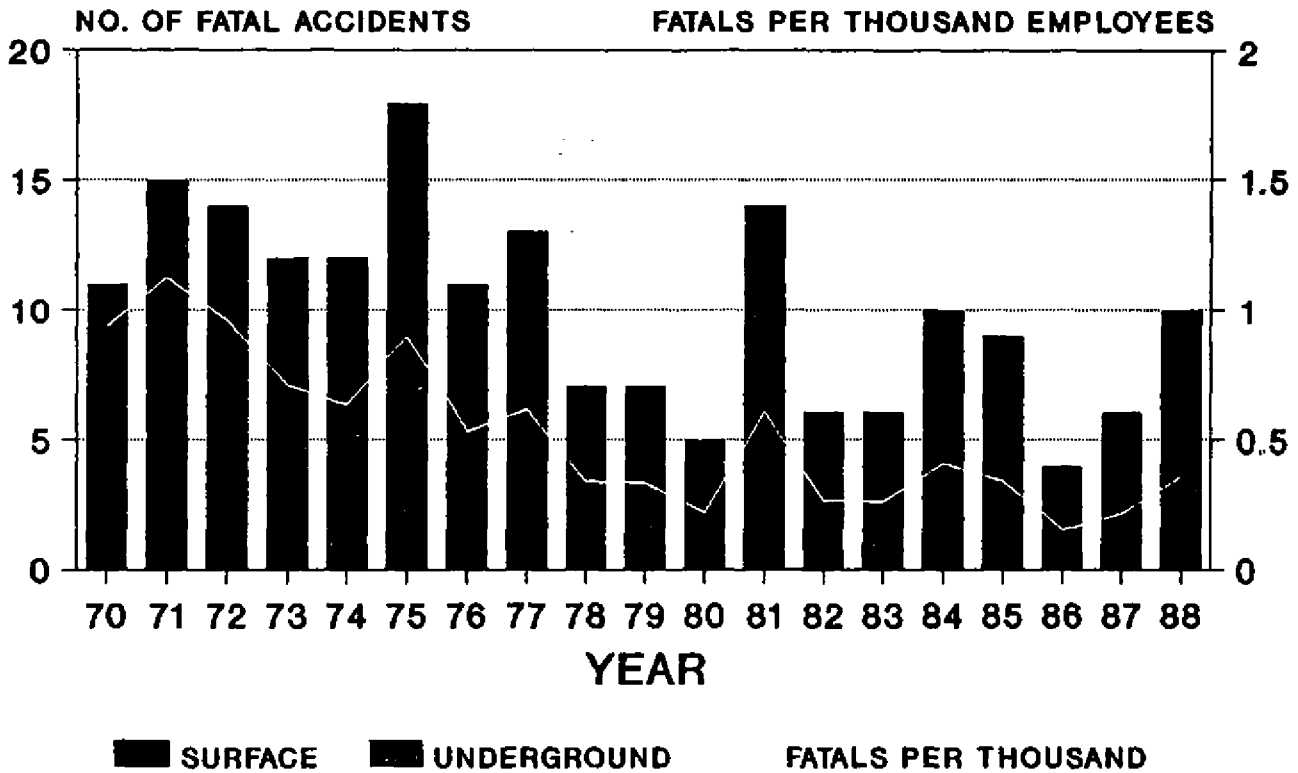
SOURCE: GOVERNMENT GAZETTE

GOLD & NICKEL MINING
FATALITIES PER THOUSAND EMPLOYEES



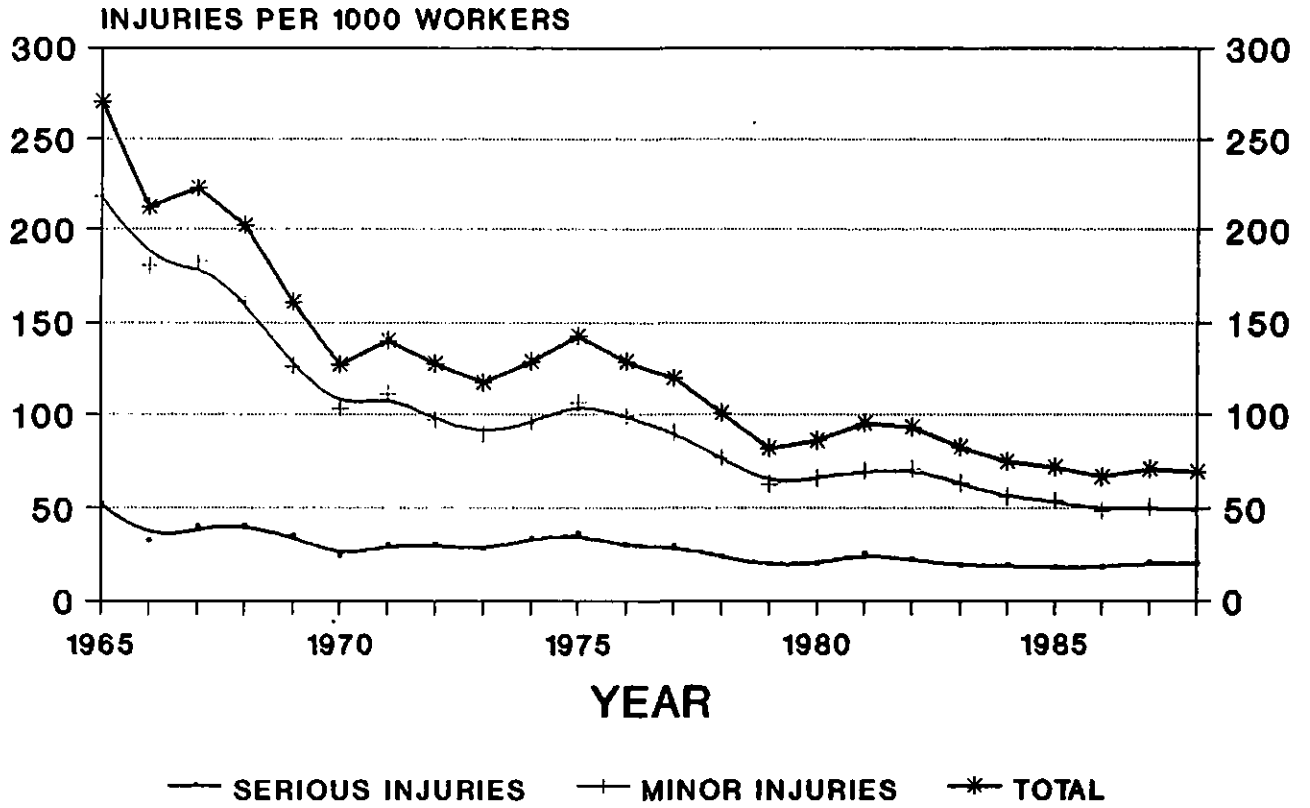
SOURCE: MINES DEPARTMENT ANNUAL REPORTS

FATAL ACCIDENTS
WESTERN AUSTRALIAN MINING INDUSTRY



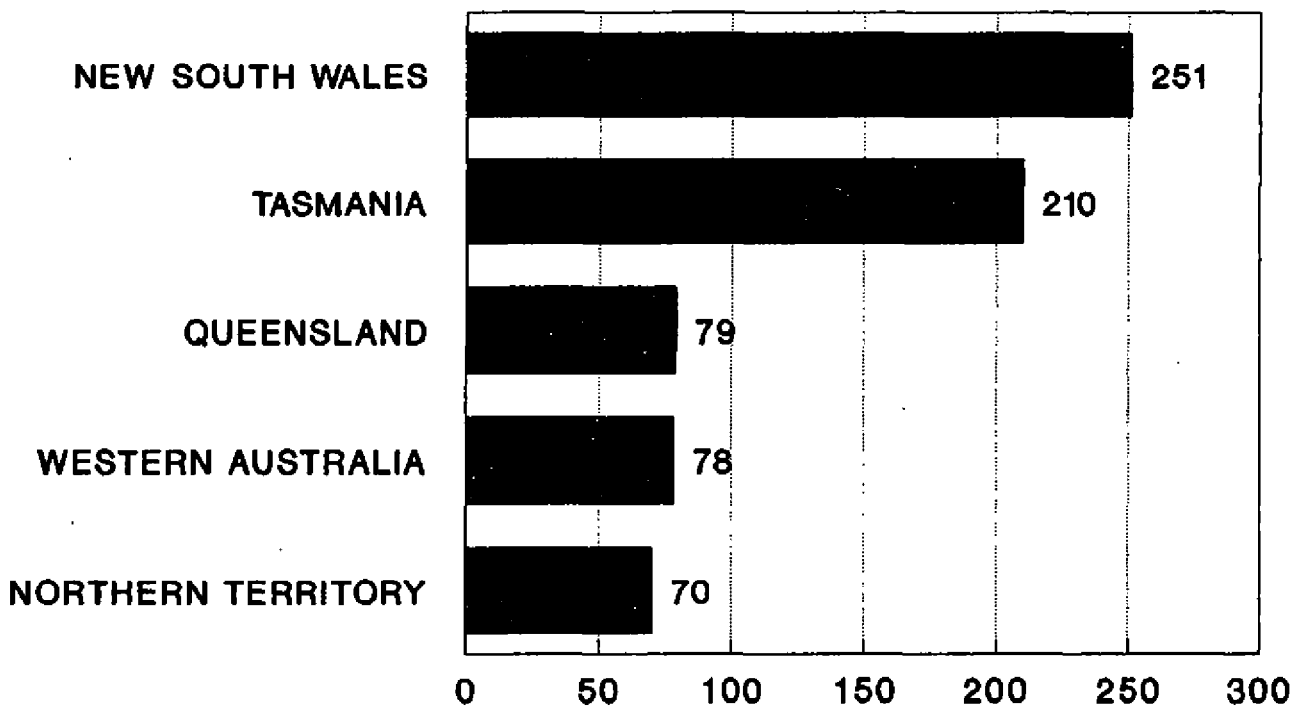
SOURCE: MINES DEPARTMENT ANNUAL REPORTS

WESTERN AUSTRALIAN MINING INDUSTRY
METALLIFEROUS MINES



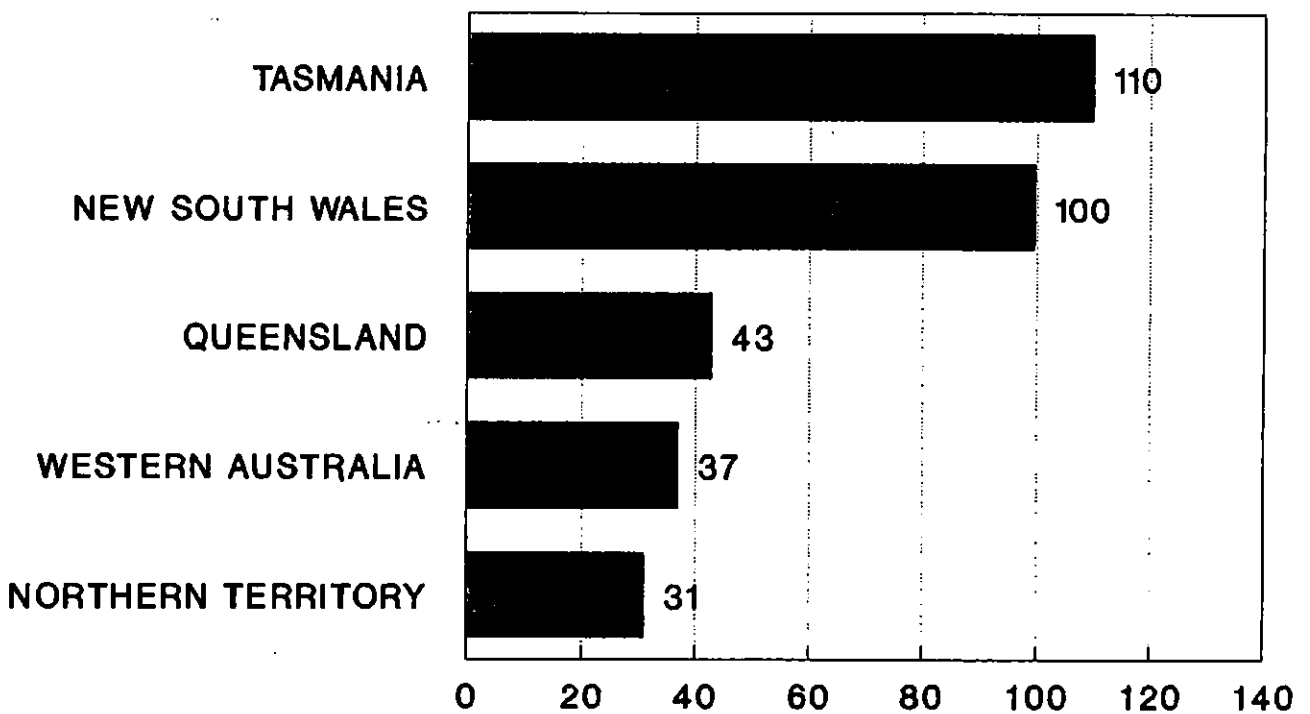
SOURCE: MINES DEPARTMENT ANNUAL REPORTS

AUSTRALIAN MINING INDUSTRY
INJURY INCIDENCE BY STATE
1987/88



SOURCE: STATE ANNUAL REPORTS

AUSTRALIAN MINING INDUSTRY
INJURY FREQUENCY BY STATE
1987/88



SOURCE: STATE ANNUAL REPORTS

QUESTIONS ON NOTICE

ROADS - PINJARRA ROAD
Mandurah Courthouse and Police Station Complex - Access Problem

1831. Mr NICHOLLS to the Minister for Police and Emergency Services:

(1) Is the Minister aware of any problem with regard to access from the Mandurah courthouse and Police Station complex onto Pinjarra Road?

(2) Has there been any investigation into possible changes to the intersection by the Police Department?

(3) If yes to (2), what were the results of any investigations and what action has been taken to date?

(4) If no to (2), is any investigation planned?

(5) What guidelines, if any, are in place at present controlling how police vehicles can make right hand turns from the police station onto Pinjarra Road?

Mr TAYLOR replied:

(1) I am aware that at least one member of the public has expressed the view to my office that road access to the new Mandurah police facility is inconvenient.

(2) During planning stages consideration was given to the issue of access to the facility and at that time a view was held that for reasons of traffic safety the present access arrangements should be implemented. More recently and following the approach to my office referred to in (1) the matter of access to the facility was re-examined.

(3) So far as vehicular access to the facility is concerned, two options were identified -

(a) Breach a median strip to provide direct access onto and from Pinjarra Road for vehicles making a right hand turn.

(b) Provide better sign posting perhaps by illuminated sign to more clearly inform the public of existing access via Third and Coolibah Avenues.

Option (a) is still under consideration and option (b) will be dependent on the decision taken on option (a). Whether the median strip is breached involves considerations of both convenience and of traffic safety.

(4) Not applicable.

(5) Police vehicles intending to turn right into Pinjarra Road do so at nearby traffic control lights in the same way as members of the public.

CIGARETTES - MINORS
Illegal Sales - Convictions

1851. Mr NICHOLLS to the Minister for Health:

(1) How many people were or have been convicted of illegally selling cigarettes to minors in -

(a) 1985;

(b) 1986;

(c) 1987;

(d) 1988;

(e) 1989?

(2) On how many occasions have charges been laid in relation to any person illegally selling cigarettes to minors in Western Australia?

(3) According to the information at the Minister's disposal, how do minors obtain cigarettes for their own use?

(4) (a) Are statistics available which show how many young Western Australians who take up smoking have at least one parent who smokes;

(b) if yes, could the Minister provide details?

(5) Are statistics available which show the socioeconomic background of young people who are using cigarettes?

(6) Has the increased number of cigarettes sold in a packet had any significant impact on smokers' habits?

Mr WILSON replied:

(1)-(2)

These questions should be referred to the Minister for Police and Emergency Services.

(3) I am advised that minors tend to obtain cigarettes for their own use either from friends or through purchase. The available information indicates that among younger regular smokers - year 7 - 12 years old - 20 per cent buy their cigarettes while 46 per cent obtain them from friends, and from year 9 - 14 years old - more than 50 per cent of smokers buy their own cigarettes while 25 per cent obtain them from friends. It appears the older the minor, the more likely he or she is to purchase cigarettes.

(4) (a) There is no recent data available either from Western Australia or nationally indicating how many young Western Australians who take up smoking have at least one parent who smokes. However, while there is evidence from overseas linking parents' smoking habits with the uptake of smoking among children, there is strong evidence that parental sanctioning of children smoking is more important.

(b) See above.

(5) Statistics showing the socioeconomic background of young people who smoke are not available. However, adult prevalence rates in Western Australia show that blue collar groups have twice the smoking rates of the white collar groups.

(6) The firm evidence available in this area is very limited. It appears that adults who smoke one or two packs a day will tend to finish the pack whether it contains 20 or 30 cigarettes. On the other hand, there is clear evidence that some children prefer small packs - "15s" - because they are smaller and easier to conceal and cheaper.

FIRE STATIONS - MANDURAH

Pinjarra Road Hazard - Warning Lights Installation, Funding Request

1852. Mr NICHOLLS to the Minister for Police and Emergency Services:

(1) Is the Minister aware of the hazard which exists when the fire engine needs to turn right when leaving the Mandurah Fire Station and proceeding onto Pinjarra Road?

(2) (a) Has any request been made for funding to install warning lights in this vicinity;

(b) if yes, when?

(3) How many fire engines and fire stations are planned to cope with the Mandurah population in 10 years, which is expected to be in excess of 50 000?

Mr TAYLOR replied:

(1) I am aware of some concerns being raised.

(2) The Main Roads Department was requested on 21 June 1989 to install traffic lights outside the Mandurah Volunteer Fire Station in Pinjarra Road, but has determined not to proceed with installation.

(3) Currently, the Western Australian Fire Brigade Board is reviewing fire protection requirements. It is proposed to construct a new station at Falcon within two years.

EDUCATION - TECHNICAL AND FURTHER EDUCATION
Temporary Teachers - Permanent Status Eligibility

1855. Mr WATT to the Minister assisting the Minister for Education with TAFE:

(1) What criteria must be met by a temporary technical and further education teacher before becoming eligible for permanency?

(2) Are the criteria listed in order of priority and must all be met?

(3) Were approximately 50 TAFE teachers recently awarded permanent status?

(4) Of these, how many were teacher-trained?

(5) If the positions were made permanent and not the teachers, is it intended to grant permanent status to a matching number of teachers?

(6) Has an arrangement been made between TAFE and Curtin University to train non-teacher-trained TAFE teachers?

(7) If yes to (6), why is it preferred to overlook some existing trained teachers for permanency in preference to untrained teachers?

(8) What arrangements will be made for country temporary teachers who do not have the same access to Curtin University as metropolitan teachers?

Mr TROY replied:

(1) Temporary lecturers employed in the Office of TAFE are eligible for permanency provided that -

(i) they have, at the closing date for applications, been employed full time in a lecturing position in the Office of TAFE for a continuous period exceeding three years;

(ii) they hold an approved teaching qualification;

(iii) they have the essential qualifications and experience for the position for which they apply;

(iv) a favourable report on their teaching performance has been received from a superintendent; and

(v) they are prepared to accept appointment to any TAFE lecturing position within the State.

Or, they apply for an advertised "permanent" position and satisfy the qualifications and experience required.

(2) No. However, all criteria must be met.

(3) No.

(4) Not applicable.

(5) The Office of TAFE maintains a permanent full time teaching cohort, the size of which may vary from year to year contingent upon labour market demand. When a vacancy occurs - due to resignation, retirement, etc - the Office of TAFE may decide to fill the vacancy, if there is continued demand in that or any other study area, and may decide to fill it on a permanent or temporary basis, depending upon the short/long term nature of the demand foreseen.

(6) An arrangement has existed for some years with Curtin University to train those staff who gain permanency.

(7) It is not preferred to overlook trained teachers for permanency. In selecting staff for permanency, a number of considerations apply, including -

Eligibility on the basis of criteria outlined in (i) above.

Labour market demand in a particular course/study area.

Experience relevant to the advertised vacancy.

(8) Country temporary teachers can apply for advertised "permanent" positions and teacher training may be deferred for 12 months, or they may enrol externally at Curtin University.

HEALTH - PUBLIC HOSPITALS
Emergency Operations - Patient Waiting List, Deaths

1856. Mr HASSELL to the Minister for Health:

(1) How many people are known to have died while awaiting admission to public hospitals for vital operations?

(2) How long are the waiting lists at all the public hospitals?

(3) What constitutes an emergency operation?

(4) Who decides what sort of operation is or is not an emergency operation?

(5) What action is being taken to alleviate the waiting time for operations in public hospitals?

Mr WILSON replied:

(1) The relationship between the scheduling of operations and deaths prior to admission is not known. Operations classified as emergencies are not placed on waiting lists.

(2) The number of people on waiting lists for teaching hospitals as at 30 September 1989 was 8 447. This information should be interpreted carefully. The waiting list is composed largely of people awaiting non-urgent treatment, and a significant proportion of people are treated very quickly. For example, approximately one third of all people on waiting lists at Royal Perth Hospital are treated within a week of being placed on the waiting list.

Treatment priorities are determined on the clinical need as assessed by the relevant specialist, and those who need urgent treatment receive it promptly.

(3) Sudden, severe illness considered by the clinician to require immediate intervention is deemed to be an emergency.

(4) The prioritisation of operative procedures is determined by clinicians.

(5) Waiting times are carefully monitored by both the hospitals involved and the Health Department. Where expected waiting time is increasing, specific programs are undertaken in an attempt to reverse this trend. Examples of such projects include eye surgery, major joint surgery and plastic surgery. The Government has already provided $8 million to fund special waiting list programs, of which $2 million has been allocated to the management of waiting lists in 1989-90.

JONES, MR TOM - FORMER MEMBER
Government Employment

1862. Mr MacKINNON to the Premier:

(1) Does Mr Tom Jones, a former member of the Legislative Assembly, hold any positions within Government or Government agencies?

(2) If so, what payment does he receive for those positions?

Mr PETER DOWDING replied:

(1)-(2)

See question 759 of 1989. The State Energy Commission has a policy of not revealing details of personal contracts.

READ, MR JOHN - FORMER MEMBER
Government Employment

1863. Mr MacKINNON to the Premier:

(1) Does Mr John Read, a former member of the Legislative Assembly, hold any positions within Government or Government agencies?

(2) If so, what payment does he receive for those positions?

Mr PETER DOWDING replied:

I refer the member to my answers to questions 714 and 1020 of 1989.

DIEBACK - JARRAH TREES
State Forests and Native Forest Reserves - Infected Area

1866. Mr MENSAROS to the Minister for Conservation and Land Management:

What is the approximate area affected by jarrah dieback disease in -

(a) State forests;

(b) reserves containing native forests?

Mr TAYLOR replied:

(a) 187 000 hectares.

(b) In reserves other than State forest, as categorised in section 5 of the Conservation and Land Management Act, 24 000 hectares.

LAND - WETLANDS
Conservation Gazettal - Locations

1870. Mr BRADSHAW to the Minister for Conservation and Land Management:

(1) Have areas of Western Australia been or are they to be gazetted for conservation as wetlands?

(2) Which areas are they?

(3) Is private land included?

(4) If yes to (3), is compensation being considered for owners of this land?

(5) Have owners of such land been consulted?

(6) What restrictions will be placed on such wetlands?

Mr TAYLOR replied:

(1) Yes.

(2) Wetland areas have been and will be gazetted as nature reserves with the purpose of "conservation of flora and fauna". Wetland areas are also included in other reserves, such as national parks and State forest, managed by the Department of Conservation and Land Management.

(3) Private land has been and may be purchased either to add to or create wetland nature reserves. Private land may also be provided for the creation of a nature reserve, or part thereof, as one of the conditions of a necessary subdivision approval.

(4) Not applicable with regard to (3).

(5) Yes.

(6) Wetland nature reserves and wetlands within other reserves will be subject to management by the Department of Conservation and Land Management in accord with the Conservation and Land Management Act and the Wildlife Conservation Act and regulations.

PEOPLE WHO CARE - GOVERNMENT FUNDING

1875. Mr MacKINNON to the Minister for Health:

(1) What funding has been provided by the Government to the People Who Care during the financial years ended -

(a) 30 June 1987;

(b) 30 June 1988;

(c) 30 June 1989?

(2) What funding is it anticipated will be provided by the Government to this association during the current financial year?

Mr WILSON replied:

(1) (a) $57 900 home and community care (HACC) funding and $33 173 Lotteries Commission funding.

(b) $63 000 HACC funding.

(c) $71 700 HACC funding and $150 000 Lotteries Commission funding.

(2) It is anticipated that People Who Care will receive $72 000 HACC funding.

EDUCATION - COLLEGE ROW SCHOOL
Gibson, Dr Margaret - Assessment

1881. Mr BRADSHAW to the Minister for Health:

(1) Has Dr Margaret Gibson carried out the assessment of the College Row School?

(2) What were her findings?

(3) What action is to be taken?

Mr WILSON replied:

(1) Yes.

(2) That the staff coverage provided to the school was adequate.

(3) While no action on staffing levels was required as a result of Dr Gibson's report the health needs of the school will be reviewed at the beginning of next year to determine the staffing needs at that time when the enrolled numbers are known. In any event the current approved staffing level will be maintained.

MILK - FRESH MILK DEFINITION
Extended Shelf Life Milk - Fresh Milk Marketing Qualification

1890. Mr TUBBY to the Minister for Agriculture:

With the introduction of extended shelf life milk which has a shelf life of up to 60 days, could the Minister explain -

(a) what is the definition of fresh milk;

(b) does extended shelf life milk qualify for marketing as fresh milk;

to (c) if yes (b), is there to be a public education program on the differences between what is commonly known as fresh milk and extended shelf life milk;

(d) if no to (b), why is this product being marketed under the guise of fresh milk?

Mr BRIDGE replied:

(a) There is no definition of fresh milk as such in the Western Australian Health Food Standards Regulations. However, State health authorities agree that fresh milk is milk which has a durable life of less than seven days.

(b) Milk having a durable life greater than seven days would not qualify as fresh milk.

(c) Not applicable.

(d) The use of the term fresh as an integral part of the trade name of a business is considered to be acceptable. However, the use of the word fresh as part of the name of the food where the food - in this case milk - has a durable life greater than seven days could be considered to be false and misleading and to contravene section 246O of the Health Act. Use of the word fresh as part of the name of both food and company clearly poses some difficulties. The Health Department is discussing labelling with the company concerned.

DAWESVILLE CUT - CONSTRUCTION TIMETABLE
Land Ownership

1903. Mr NICHOLLS to the Minister for Transport:

(1) After the recent Press release from the Minister's office stating an initial start to the construction of the Dawesville Cut, what is now the time frame for the construction of the total project?

(2) Who owns the land which will be excavated?

(3) (a) Has the Government purchased any land in the area of the cut since 1985;

(b) if so, what location was purchased and does the Government still own this land?

(4) Has any corporate body linked with the Government, such as Western Australian Development Corporation and State Government Insurance Commission, ever purchased land near the location of the Dawesville Cut and, if so, does it still own it?

Mr PEARCE replied:

(1) The time frame for construction of the Dawesville Channel will be considered by Cabinet next year.

(2) Portions of the land to be excavated are owned by a number of separate parties, namely -

Minister for Transport
Wannanup Development Nominees Pty Ltd
Tamnic Pty Ltd
Y.L. and L.T. Soo

(3) (a) Yes.

(b) Lots 20 to 25 Windsor Drive were purchased in the name of the Minister for Transport and are still owned by the Government.

(4) No.

RAILWAYS - "AUSTRALIND" TRAIN
Passenger Costs

1905. Mr WATT to the Minister for Transport:

(1) What was the average cost per passenger for the year ending 30 June 1989 for the *Australind* passenger train?

(2) What was the average return per passenger for the same period?

Mr PEARCE replied:

(1) $37.30.

(2) $13.03.

ENVIRONMENT AND DEVELOPMENT COUNCIL - MEMBERSHIP
Expansion Agreement

1906. Mr WATT to the Premier:

(1) Has the Premier agreed to expand the membership of the Premier's proposed Environment and Development Council beyond the original membership of 12 persons?

(2) If yes, by how many additional persons is the council to be increased?

(3) Are any or all of the following to be offered membership in their own right -

(a) Association of Mining and Exploration Companies Inc;

(b) the Chamber of Mines and Energy;

(c) Western Australian Farmers Federation;

(d) Pastoralists and Graziers Association?

(4) If no to (3), will the Premier recognise their legitimate interest in the areas of environment and economic development and offer the respective associations membership of the proposed council?

Mr PETER DOWDING replied:

(1) No. However the ultimate membership of the council will be considered in the course of determining its statutory basis over the next 12 months.

(2)-(3)
Not applicable.

(4) The interests of Western Australian industry in ensuring economic development in an environmentally sustainable way will be guaranteed. The nominations from industry received by the Government ensure this.

TRADE UNIONS - "TWU THREATENS FREIGHT FIRM" NEWSPAPER ARTICLE
Employee Non-Membership Rights

1908. Mr HASSELL to the Minister for Labour:

(1) Did the Minister observe an article in *The West Australian* newspaper of 22 November 1989 under the heading "TWU threatens freight firm"?

(2) Is the Minister aware that Mr John O'Connor and his union colleagues have threatened a freight company because certain of its employees have exercised their legal right not to belong to a union?

(3) Has the Minister investigated the matter?

(4) If not, why not?

(5) Will the Minister give appropriate directions under the Industrial Relations Act to ascertain whether there has been a breach of sections 96B and 96F of the Industrial Relations Act 1979?

(6) If an investigation discloses a breach of the Act, will the Minister seek the approval of the Attorney General to ensure that an industrial inspector approves action for breach of the sections referred to?

(7) Does the Minister support the right of working people to choose whether or not to belong to a trade union?

Mr TROY replied:

(1) Yes.

(2) This is claimed in the article mentioned.

(3)-(7)
This is not within State jurisdiction. The company concerned is a named respondent to a Federal award.

DRUGS - DEATHS

1912. Mr MENSAROS to the Minister for Health:

What is the number of deceased people whose cause of death was officially established as being heroin addiction or use of drugs generally in the years -

(a) 1985;

(b) 1986;

(c) 1987;

(d) 1988?

Mr WILSON replied:

(a) In 1985 there were 26 deaths attributed to opiates and related narcotics and six to barbiturates.

(b) In 1986 there were 15 deaths attributed to opiates and related narcotics and six to barbiturates.

(c) In 1987 there were 22 deaths attributed to opiates and related narcotics and six to barbiturates.

(d) Figures are not available for 1988.

MANUFACTURERS - LOCAL MANUFACTURING
Government Assistance - Policy Changes

1915. Mr MENSAROS to the Minister for Economic Development and Trade:

(1) Has the Government's policy towards assisting local manufacturing changed since mid-1986?

(2) If so, could the Minister outline these changes?

Mr GRILL replied:

(1) Yes.

(2) While two objectives of the Government's policy towards assisting local manufacturing remain unchanged - that is, enhanced competitiveness of existing industry and diversification of the manufacturing base in terms of markets and performance activity - the methodology used to achieve these objectives has altered. The major changes have been -

(a) The amalgamation of agencies into the Ministry of Economic Development and Trade to achieve economies of scale and greater efficiency.

(b) The creation of the Office of Countertrade, providing a new dimension to the State's trading and investment activities.

(c) Realignment of the operations of Stateships to support the export efforts of local manufacturers.

(d) Devotion of greater resources to Western Australia's participation in the national industry extension service - NIES - to improve the competitiveness of local industry.

(e) Refinement of industry priorities to give greater emphasis to value added processing of raw materials - particularly from the agricultural sector - and minerals.

(f) Using the Government's own procurement power to introduce a quality policy for companies offering products/services. In addition, the establishment of the Industrial Supplies Office has led to a greater local sourcing.

(g) Acknowledging the importance of increased productivity as a cornerstone of industrial growth. In this respect, a productivity portfolio has been established.

(h) Development of new infrastructure for industrial development such as the Defence Technology Precinct, the Coogee Biotechnology Park and the Marine Support Facility.

(i) Establishment of closer links with tertiary institutions as evidenced by the creation of a Chair of Biotechnology.

(j) A commitment to work cooperatively with the Commonwealth Government, the union movement and community groups.

(k) Greater emphasis on improving industry skills, one example of which is the graduate marketing scheme.

(l) Fostering research and development in industry through such programs as the Western Australian research and development scheme - WARD.

(m) Giving greater attention to occupational health, safety and welfare programs.

The success of the Government's policies is perhaps best validated by the recent release of a report entitled "Capital Investment Trends in Western

Australia - A Comparative Analysis" produced at Murdoch University which indicates that real private new investment in Western Australia grew by almost 16 per cent per annum in the 1980s. The report highlights the State's higher productivity growth relative to the rest of Australia and identifies new investment as a major factor in the growth performance of the economy.

RHONE-POULENC RARE EARTH PLANT, PINJARRA - WESTRAIL
Radioactive Waste Transportation - Route Proposal

1916. Mr BRADSHAW to the Minister for Transport:

(1) Has Westrail proposed a route for transporting radioactive waste from the proposed Rhone-Poulenc rare earth plant which passes through Kwinana and the south metropolitan area?

(2) If so, why was this route chosen?

Mr PEARCE replied:

(1) Yes.

(2) The proposed route was chosen because it is the route undertaken by all goods trains travelling between the south west, Kwinana and the Forrestfield Marshalling Yard. This route was clearly outlined in the environmental management program "Proposed Disposal of Radioactive Waste at a Remote Site" prepared by the Health Department for public comment.

WASTE DISPOSAL - HEALTH DEPARTMENT
"Integrated Waste Disposal Facility at Mt Walton" Report

1917. Mr BRADSHAW to the Minister for Health:

(1) Is there a report prepared by the Health Department titled "Integrated Waste Disposal Facility at Mt Walton"?

(2) If so, can I obtain a copy?

Mr WILSON replied:

(1) No, but a report entitled "Health Department of Western Australia, Integrated Waste Disposal Facility at Mt Walton, Report on Implementation and Costing of the Proposal" was prepared by Sinclair Knight and Partners, consulting engineers in March 1989 for the Health Department.

(2) This is a confidential departmental working document containing costing details which may influence the tendering process.

TELEPHONE - 000 EMERGENCY SERVICE NUMBER
Implementation Progress

1922. Mr HASSELL to the Minister for Police and Emergency Services:

(1) Further to question 706 of 1989, what progress has been made towards the implementation of the 000 service to provide phone numbers and location details to its emergency services?

(2) When is it envisaged that this important development will be operating?

(3) What progress has been made with the other States on the implementation of this system on a national basis?

Mr TAYLOR replied:

(1) It is pleasing to see the member's ongoing interest in this important departmental initiative. Through the auspices of the 000 emergency services coordinating committee, Telecom is currently preparing the necessary software to provide the telephone numbers and location details of 000 calls to emergency services.

(2) March 1990.

(3) The Western Australian approach to the solution is being used as a trial for a national solution. Other States are at various, but lesser, degrees of development.

RAILWAYS - TRAIN ACCIDENTS
Death Statistics

1930. Mr KIERATH to the Minister for Transport:

How many people have died as a result of accidents involving trains in Western Australia for the years -

(a) 1983;

(b) 1984;

(c) 1985;

(d) 1986;

(e) 1987;

(f) 1988;

(g) 1989?

Mr PEARCE replied:

(a) Three;

(b) 11;

(c) Three;

(d) Nine;

(e) Nine;

(f) 11;

(g) 10.

LANDCORP - LEDA HOUSING DEVELOPMENT
Environmental Protection Authority - Environmental Clearance Date

1931. Mr KIERATH to the Minister for Environment:

(1) On what date did LandCorp receive environmental clearance from the Environmental Protection Authority on the housing development at Leda?

(2) On what basis was the decision made?

Mr PEARCE replied:

(1)-(2)

The Leda development was reviewed through the Leda structure plan which was convened by the then State Planning Commission. The Environmental Protection Authority advised the State Planning Commission of its concerns on 30 December 1986 and 25 March 1987; namely, protection of the System 6 recommendation area M104, road alignments and water quality issues. Since that time, specific advice on proposed subdivisions within the area covered by the structure plan has been given by the Environmental Protection Authority to the State Planning Commission, now Department of Planning and Urban Development.

DUCK SHOOTING - 1989 SEASON

1932. Mr MINSON to the Minister for Conservation and Land Management:

(1) Will there be a duck shooting season this year?

(2) If so, what are the opening and closing dates of that season?

(3) Are there any parts of the State that will remain closed?

(4) What are those areas?

Mr TAYLOR replied:

(1)-(4)

There is currently a moratorium on duck shooting, effectively meaning no duck season this year, 1989. However, no decision has yet been made in respect to 1990.

RURAL & INDUSTRIES BANK - LA ROSA AFFAIR
Official Corruption Commission - Senior Officer Inquiry

1948. Mr HOUSE to the Premier:

(1) Has the Official Corruption Commission investigated any senior officer or former senior officer of the Rural and Industries Bank of Western Australia in relation to the so-called La Rosa affair?

(2) Was a recommendation made that further investigations be made with a view to laying charges?

(3) Has any senior officer of the R & I Bank recently resigned or retired in order to avoid the further investigations recommended by the Official Corruption Commission?

(4) Can the Premier assure the House that those further investigations, as recommended by the Official Corruption Commission, will proceed irrespective of whether the person or persons being investigated are no longer employed by the R & I Bank or have moved outside Western Australia?

Mr PETER DOWDING replied:

(1)-(4)

The commission is an independent authority which reports to Parliament. As such I have no detailed knowledge of its work.

GOVERNMENT EMPLOYEES SUPERANNUATION BOARD - CENTRAL PARK DEVELOPMENT
Preleased Space - Non-Government Tenants

1949. Mr LEWIS to the Treasurer:

(1) How much of the 67 000 square metres of lettable space in the Government Employees Superannuation Board central park development has been preleased by tenants other than Government departments and instrumentalities?

(2) Has the GESB achieved the industry-recognised safe level of minimum 50 per cent precommitment in tenancy prior to commencement of construction?

(3) What is the forecast percentage area of occupancy on completion of building?

(4) Who has provided the forecast?

(5) (a) Has the Treasurer been successful in obtaining formal registrations of interest from either prospective purchasers or joint venturers for the project;

(b) if so, from whom?

(6) Is it the intent of the GESB or the Government to suspend the development at the Hay Street level if a purchaser or joint venturer is not found?

Mr PARKER replied:

(1) 8 000 square metres.

(2) There is no industry-recognised safe level of minimum precommitment in tenancy prior to commencement of construction.

(3) The viability of the project was calculated on 40 per cent occupancy by completion date, however it is hoped to achieve 100 per cent occupancy on completion of construction.

(4) Leasing agent Jones Lang Wootton; and property consultants, Warren Tucker Pty Ltd.

(5) The question is based on a false premise.

(6) No.

PARLIAMENTARY PRECINCT COMMITTEE - OLD EMU BREWERY SITE
Development Proposal - Latest Consideration

1951. Mr LEWIS to the Minister for Planning:

(1) When did the Parliamentary Precinct Committee last consider the development proposal for the old Emu Brewery site, submitted to the then State Planning Commission in May 1989?

(2) When will the committee next meet to determine its advice on the proposal?

(3) Why has resolution of the proposal been delayed by the Department of Planning and Urban Development?

(4) Is approval by the Parliamentary Precinct Committee the only administrative impediment to the Department of Planning and Urban Development enabling the redevelopment of the old Emu Brewery site?

(5) If not, what other approvals are required?

(6) Can these be obtained without prior approval of the Parliamentary Precinct Committee?

Mrs BEGGS replied:

(1) The development proposal was last considered by the Parliament House Precinct Committee at an informal meeting on Tuesday, 5 December.

(2) The committee has asked for further advice on the proposal by the department and will give further consideration to it when that advice is available. It is expected to be ready mid-January 1990.

(3) The proposal has not been delayed by the department.

(4) The present Parliament House Precinct committee was set up by the State Planning Commission as an advisory committee. Its view will be significant in any decision on the proposal. The final decision rests with the State Planning Commission.

(5)-(6) Not applicable.

HOUSING - KEYSTART HOME LOANS SCHEME
Formal Applications - Preliminary, Secondary and Final Approvals

1952. Mr LEWIS to the Minister for Housing:

As at Wednesday, 22 November 1989, how many formal applications for the Keystart home loan scheme were -

(a) awaiting preliminary approval by Homeswest;

(b) awaiting secondary approval by the scheme managers;

(c) awaiting final approval by Town and Country (WA) Building Society?

Mrs BEGGS replied:

(a) 80.

(b) The scheme manager, Price Waterhouse, is not involved in the approval of applications. However, there are 306 applications being held by Price Waterhouse but not yet handed over to Town and Country Building Society.

(c) 289.

WATER AUTHORITY - DAMS
Landscape Architectural Work - Tenders or Direct Commission

1959. Mr MENSAROS to the Minister for Water Resources:

Averting to question 1902 of 1989, does the Minister have information about the approximate value limit up to which works are called minor?

Mr BRIDGE replied:

Water Authority policy PCY097 defined a petty contract as being works or services which are estimated to cost no more than $30 000. The contracts referred to in question 1902 were all less than $5 000.

PARLIAMENTARY SESSIONS - 1990

1960. Mr MENSAROS to the Leader of the House:

Can the Minister advise, before the House rises for the Christmas recess, information about the sitting weeks for the 1990 autumn session and the commencing day of the 1990 Budget session?

Mr PEARCE replied:

I hope to be able to advise members of the proposed sitting dates for 1990 prior to Christmas.

QUESTIONS WITHOUT NOTICE

STATE FINANCE - CRF MISCELLANEOUS SERVICES
Rothwells Ltd - Payments Authorisation

395. Mr MacKINNON to the Treasurer:

Who authorised the payments made to date by the Government in relation to Rothwells as detailed under item 69, Miscellaneous Services - Division 25 - in the Budget papers and under what authority was the authorisation made?

Mr PARKER replied:

The payments in 1988-89 were made on Treasury Department advice and on my approval and against a "new item" approved by the Governor in accordance with section 28 of the Financial Administration and Audit Act. The payments were made from the Treasurer's Advance Account and, as required by section 5(1)(a) of the Treasurer's Advance Authorization Act, were charged in that year against the Consolidated Revenue Fund.

In accordance with long-standing practice, payments in the current financial year have been made under the Supply Act and do not require my specific authorisation. They have been certified in the normal manner in accordance with the provisions of the Financial Administration and Audit Act.

Parliament House - Visitor - Speaker's Gallery - Bell, Mr Neil, Northern Territory

The DEPUTY SPEAKER: Order! I have pleasure in announcing the presence in the Speaker's Gallery of Neil Bell, MLC for McDonnell in the Northern Territory who is visiting Perth this week. I welcome him to the Parliament.

[Applause.]

Questions without Notice Resumed

JUVENILE CRIME - YOUTH UNEMPLOYMENT
High Levels Link - Government Action

396. Mr P.J. SMITH to the Premier:

Given the link between high levels of youth unemployment and high levels of juvenile crime, will the Premier advise the House what has been done to help address this issue?

Mr PETER DOWDING replied:

The question is timely as today, the State and Federal Governments joined in launching a document titled "Make the right moves" which I will table for the information of members.

When we assumed office in 1983, and largely because the Liberal Government had ignored the needs of young people entering the work force,

unemployment for teenagers and school leavers was at a level of about 30 per cent; that is, one in three faced the prospect of unemployment at a critical time in their lives.

As a result of initiatives by the Labor Government in 1983, the formation of the Department of Employment and Training, the initiatives that were taken by my friend and colleague, the Deputy Premier, the Minister for Fisheries, the Minister for Employment and Training, by me and by others - in fact, the whole of Cabinet - a series of training and skills initiatives have been introduced, many of which were pooh-poohed by the Liberal Party, which, together with the improvement in the general economy, resulted in a major reduction of youth unemployment so that, this year, we are looking at the lowest level of unemployment for those people in Australia - about 12.5 per cent.

This 1990 youth guarantee undertakes, on behalf of both the State and Federal Governments, to provide support to young people entering the labour market to find a place in employment, in training or in further education. The range of opportunities presented in this case is a result partly of the cooperation between the two Governments, and partly as a result of the very positive initiatives, most of which began in Western Australia. I commend it to Parliament. Every young person in this State has a right to a place in education, in training or in employment and the work of the departments and the Ministers concerned and of the Federal Government should be commended.

GOVERNMENT SERVICES AND EMPLOYEES - REGIONAL TOWNS

Retainment Policy

397. Mr WIESE to the Minister for Regional Development:

(1) Does the Government have a policy which endeavours to retain Government employees and services in regional inland towns?

(2) Is the Government aware of the importance of maintaining Government employees and departments in our country towns?

(3) Has the Government investigated the merits of adopting policies aimed at moving Government services and employees away from the metropolitan area and coastal regional centres into the country towns where the services are actually provided?

Mr GORDON HILL replied:

(1)-(3)

The Government is addressing this problem at the moment. In considering this issue, we need to look at the most effective way of delivering Government services and policies to regional areas. That cannot be taken in isolation, if the cost to the community and to the Government is high. In order to address these problems, I and other Ministers have formed a ministerial council to consider this issue. We are holding discussions at this time. I will keep the member informed at some future stage of our progress.

LAND - VACANT CROWN LAND

Durban Street, Belmont - City of Belmont Transfer

398. Mr RIPPER to the Minister for Planning:

What progress has been made to transfer vacant Crown land in Durban Street, Belmont to the City of Belmont?

Mrs BEGGS replied:

I thank the member for some notice of the question. The land to which the member for Belmont refers is seven vacant adjoining lots which were purchased in the early 1960s by the then State Planning Commission. The land was acquired at that time to make provision for the future upgrading of Durban Street as an important regional road. However, as part of the

continuing review of road reserves throughout the metropolitan region, it was found that there was no further requirement to upgrade Durban Street as an important regional road. Accordingly, the land became surplus to the Government's requirement for road widening purposes and, following approaches by both the City of Belmont and the member for Belmont, it has been agreed to dispose of the land to the council for community purposes. The land is well located centrally for Redcliffe residents and is of sufficient size to allow the City of Belmont considerable options when determining how the site can be put to best use for the local community. Negotiations to finalise the transfer of the properties to the City of Belmont should be completed within the next few weeks.

CASINO CONTROL BILL - WESTERN AUSTRALIAN MAJORITY OWNED
Government Policy

399. Mr MacKINNON to the Deputy Premier:

(1) Is the Deputy Premier aware that, in debate on the Casino Control Bill on 29 May 1984, he stated, "I agree with what the member for Mt Lawley said, and it is the Government's view that it should be majority owned by Western Australians."?

(2) Is this still Government policy?

(3) If not, when did the policy change and when was that change -

(a) approved by Cabinet, and

(b) announced?

Mr PARKER replied:

(1)-(3)

I was the Minister in this Chamber representing the Minister for Racing and Gaming - I think that was his title at that time - in a debate on a Bill before this House. I no longer hold that role and it is not part of my portfolio duties. My recollection is that I was talking about some of the propositions that were put to the Government from organisations like Caesar's Palace which wanted to build casinos in Western Australia. We did not view that favourably.

Mr MacKinnon: Has the policy changed?

Mr PARKER: That is not a policy that I have enunciated or been responsible for. The question should be directed to the appropriate Minister.

WOOD - FINE WOOD PROJECT
Progress

400. Mr KOBELKE to the Premier:

I understand the Premier has a special interest in the fine wood project. Will he inform the House of the progress of that project?

Mr PETER DOWDING replied:

I have an interest in the fine wood project. It is one of the great success stories because of the efforts that were put in to ensuring that the south west region of Western Australia which, until 1986-87, had a relatively high unemployment problem, was able to share in some of the benefits of economic development even though there were then no major mega-projects on the book. Of course, that has changed as a result of State Government policy.

One of the activities that was established in the south west as part of that policy was the fine wood project. Interestingly, it was greeted with a constant cacophony of criticism by the Opposition. At every turn and on every occasion, somebody down there found a good reason for complaining about it. An interesting thing that emerged during the work of the people who took on the job of promoting the fine wood project was that a grant of $5 000 was provided in May 1988 to develop a hand-held carving tool. This carving tool

is a relatively small and, perhaps to those not familiar with wood carving, a relatively simple invention. It gives me great pleasure to tell the House that I am informed that this invention is making a profit for the developers and the people who put this small tool project together of $60 000 a week. The group called Arbortech is now selling 3 000 units a week in Australia and the United Kingdom alone. It is about to sell into the United States, Europe and Japan, with profits from the Japanese sales estimated to be potentially $20 million.

In September this year, since receiving support from the State Government, Arbortech won the BHP steel award, consumer category, worth $200 000 in promotional assistance. Arbortech was just a small show which started in Nannup, and it is clearly demonstrating the success of the policies, the ideals and the vision that were developed at the commencement of that project.

CASINO CONTROL BILL - WESTERN AUSTRALIAN MAJORITY OWNED

Government Policy

401. Mr MacKINNON to the Premier:

(1) Is the Premier aware that in 1984, when debating the Casino Control Bill, the Deputy Premier stated that it was the Government's view that the casino should be majority owned by Western Australians, thus clearly indicating that it was the Government's policy at the time?

(2) Is it still Government policy that the casino should be majority owned by Western Australians?

(3) If not, when was the policy change made and announced?

Mr PETER DOWDING replied:

(1)-(3)

The Minister at the time, who is now the Deputy Premier, was expressing the view and the desire of the Government of the day. Quite clearly it expresses a view with which I think we all agree; that is, that any Western Australian asset or project should be Western Australian owned. It is true to say that it is not an aspiration that can be met in every case. It is not an aspiration that is met with respect to the ownership of major hotels or city buildings. It is not an aspiration that is met in respect of a number of major projects in Western Australia. What is fundamental to the policy of the Government in relation to a casino, is that the operator is above reproach, that the owner-operator does not have an adverse reputation, and that the casino is operated in an honest, fair and open way.

The Government has set up through the legislation a system which will ensure that any applications for change, if and when they are received, are given very careful scrutiny. With regard to overseas ownership, the Federal Government will have a view through the Foreign Investment Review Board; and the State Government will certainly have a preference. However, it must be evaluated on the merits, and we will consider the application.

Mr Hassell: You have already agreed to it and you know it.

Mr PETER DOWDING: What is the member for Cottesloe's evidence for that?

Mr Hassell: Tell the House what you have already agreed.

Mr PETER DOWDING: We have not. What is the member's evidence?

Mr MacKinnon: When did you change your policy?

Mr PETER DOWDING: I am very disappointed once again to hear the member for Cottesloe make an assertion which his leader sotto voce told him to keep quiet about. However he could not be controlled and he continued to make an assertion for which he has no evidence. That is typical of the Opposition. Members opposite are happy to make the easy allegation. However the member for Cottesloe has no evidence to support it.

Mr Lewis: Have you been approached?

Mr PETER DOWDING: Not personally.

Mr Lewis: Has your Government been approached?

Mr PETER DOWDING: I have told members opposite that the Minister advised that he had received an informal approach about the matter and has made it clear that a formal application must be made.

Mr MacKinnon: Has your policy changed?

Mr PETER DOWDING: As at 5.45 tonight I do not know whether a formal application had been made. I return to the innuendo made.

Mr MacKinnon: Has your policy changed?

Mr PETER DOWDING: Instead of the Leader of the Opposition falling into the habit we have observed at question time of keeping up a Gregorian chant, let us consider the comment made by the member for Cottesloe without any evidence at all. When the application is received it will be processed and the key issue for the Government will be the honesty and integrity of the person making the application, and the interests of the State. These matters will be considered under legislation in the appropriate way. I challenge the Opposition not to cringe behind the privilege of this House in making snide innuendo without any evidence, but to produce one single piece of evidence to the contrary.

CORRUPTION COMMISSION - PARLIAMENT
Report Date

402. Mr HOUSE to the Premier:

With reference to my question 1948 of Wednesday, 6 December to which the Minister replied that the Corruption Commission is an independent authority which reports to the Parliament -

(1) On what date will the Corruption Commission report to this Parliament?

(2) Will that report be a full and detailed report, or an abridged version?

(3) Will the report contain details of investigation into the so-called La Rosa affair and the R & I Bank?

Mr PETER DOWDING replied:

(1)-(3)

I am sorry the member and his colleagues in Queensland have so much difficulty understanding the meaning of the separation of powers. In this case the separation of powers arises from the legislation passed in this Parliament, on a model put together by the member for Floreat which was accepted by the Government. It is absolute that the Government does not inquire of the Corruption Commission the matters of which the deputy leader of the National Party has asked me. I do not direct the Corruption Commission on the matters of which he has asked me.

Mr House: That was not the question.

Mr PETER DOWDING: I do not know and am not entitled to know what the Corruption Commission will report. If I did, the deputy leader of the National Party would be told.

Mr House: When will it report?

Mr PETER DOWDING: I do not know. How would I know? I am trying to tell the member that the Corruption Commission will report to this House and not to me.

Mr Cowan: We know that.

Mr PETER DOWDING: It does not sound like it. It is useful that the National Party understands that the commission does not report to me and I can confidently

answer the question by saying that I do not know, and nor am I entitled to know.

PETROCHEMICAL INDUSTRIES LTD - GOVERNMENT PAYMENT
State Government Insurance Commission - Repayment, Treasurer's Authorisation

403. Mr COURT to the Treasurer:

(1) Did the Treasurer authorise in June of this year a payment of $5 million to Petrochemical Industries Ltd specifically to repay an outstanding PIL borrowing of $5 million due to the State Government Insurance Commission?

(2) If yes, why was this special payment made just prior to the collapse of PIL, and the subsequent appointment of a liquidator at the Government's request?

Mr PARKER replied:

(1)-(2)

The second part of the question is clearly based on a false premise, as anyone who has followed the issue will know. I cannot recall what happened in June this year with regard to particular payments. If the member had any serious desire to have an answer to that question, he would put it on notice.

Several members interjected.

The DEPUTY SPEAKER: Order! Question time will progress far better if there is no discussion before questions are asked. There should not be discussion during the answering of questions, let alone before the question is being asked. I ask for members' cooperation.

APPLES - SCAB APPLE DISEASE
Pemberton, Donnybrook Areas - Quarantine Measures Inquiry

404. Mr OMODEI to the Minister for Agriculture:

In relation to the outbreak of apple scab or black spot in the Pemberton and Donnybrook districts -

(1) Will the Minister conduct an inquiry into the quarantine measures currently in place to ensure the proper protection of the Western Australian horticultural industry from introduced plant diseases?

(2) If not, why not?

(3) Will the Minister implement a compensation or assistance program for spraying and/or removal of apple trees or orchards affected by apple scab?

(4) If not, why not?

Mr BRIDGE replied:

(1)-(2)

Last night I indicated in a question without notice from the Deputy Leader of the National Party that currently we have in place in the area a team which is carrying out an examination to identify the extent of this problem in the industry. The way in which we will look at the quarantine requirements and/or procedures will follow from that investigation. If it became necessary for us to address the quarantine situation as it relates to this problem, I would want to see that done; that would be the normal, responsible approach. The process of investigation is in train at the moment, but the extent to which we will move in response to that investigation will be determined by the outcome of that assessment and evaluation.

(3)-(4)

At this stage I cannot tell the House how I would approach the matter of compensation because the matter is still being investigated. When I have been given a clear and detailed briefing about the circumstances surrounding this problem, I will be in a better position to consider this question. We will look at the matter in a responsible way so that the industry and the

Government can work through the problem together, as has been the case with other matters which have been brought before the Government from time to time. Our approach to this matter is consistent with the normal practices that the Government has in place.

FISHING - TUNA
Quota Reductions - Licensed Fishermen Assistance

405. Mr AINSWORTH to the Minister for Fisheries:

(1) In light of further tuna quota reductions for Western Australian licence holders, has the Government any plans for assistance to those affected by such reductions?

(2) If yes, what are the details?

(3) If no, will consideration be given to this issue?

Mr GORDON HILL replied:

(1)-(3)

I acknowledge the concern of the member for Roe about this issue; as he has raised the interest of the southern bluefin tuna fishermen on a number of occasions. I have recommended to the President of the Southern Bluefin Tuna Fishermen's Association that he put a proposal to the Federal Government for assistance. Avenues are available to gain assistance by making that approach to the Federal Government. I guess in due course he will be pursuing those avenues, and I am happy to lend my support.

EDUCATION - TECHNICAL AND FURTHER EDUCATION
Name Change Proposal

406. Mr KIERATH to the Minister assisting the Minister for Education with TAFE:

(1) Is there a proposal to change the name, and consequently the structure, of the Office of TAFE to the Department of TAFE?

(2) If so, why and when will this change take place?

(3) If not, is the Minister aware that last night the Director of TAFE stated, at a function at the Carine College of TAFE, that this change of name from the Office of TAFE to the Department of TAFE is to take place?

Mr TROY replied:

(1)-(3)

The question of the independence of TAFE from the normal educational stream is being considered by Cabinet. We are waiting for the results of further work on that issue, and in due course I will be reporting back to Cabinet about that matter. There is a very strong volume of opinion to suggest that the current vocational training urgency can be best addressed by the independence of TAFE from the historical tie it has had with the education stream. It needs to be understood clearly that while the focus will be on vocational training in a very significant way, that does not defeat the argument that there is a volume of general education undertaking in TAFE which will always remain. Those countries overseas which have put a focus and emphasis on vocational training have found that within a very short period there is a significant follow up demand for the general educational standards to be lifted in sympathy with that focus. I am anticipating the same sort of result in Western Australia. I am prepared to report to the House as soon as the Government has made a further deliberation about the matter.

SITTINGS OF THE HOUSE - PROGRAM 1990
Government Consideration

407. Mr THOMPSON to the Leader of the House:

Has the Government given consideration to the program of sittings for next year; if it has, is he able to advise the House what that program will be?

Mr PEARCE replied:

I thought the member was going to put in his bid for a railway line! I think that today I answered a question on notice from the member for Floreat, in which I indicated it has been my practice to announce the annual sitting dates before the end of the previous year. I am hopeful it will be possible before Christmas to circulate to members the dates for next year.

ASSET MANAGEMENT TASK FORCE - FREMANTLE HOSPITAL BOARD
Nursing Homes - Disposal Authority

408. Mr LEWIS to the Minister for Health:

(1) Has the Asset Management Taskforce been given authority to dispose of two nursing homes currently vested under the control of the Fremantle Hospital Board?

(2) If yes, has the Fremantle Hospital Board formally approved of the sale of those assets vested under its control?

(3) If yes to (1), are the capital funds expected to be realised from the sale to be disbursed back to the Fremantle Hospital Board for capital improvements to the intensive care units?

(4) Is the Minister aware that the subject property is conservatively valued at in excess of $5 million?

Mr WILSON replied:

(1)-(4)

These matters are being pursued by the Asset Management Taskforce - which is responsible to the Treasurer and to the ministerial committee - in association with the board of the hospital.

Mr Lewis: No, they are not.

Mr WILSON: I hate to contradict the member, who seems to think he knows more than anyone else, but the truth of the matter is that those issues have been discussed with the Chairman of the Fremantle Hospital Board.

Mr Lewis: Who is the chairman?

Mr WILSON: Mr Latter.

Mr Clarko: Not Red Bill?

Mr WILSON: The member can make all sorts of insinuations about the chairman of the board; that is his liberty. I do not think it brings any honour to him, but he is free to do that. The chairman is the person with whom these matters are being discussed. He is responsible for the overall management of the hospital. I do not interfere with the management of the hospital, which is in the hands of the board. From time to time I have discussions with representatives of the board, through the chairman, but all the discussions held about this matter have been held in the context that the proceeds of the sale of any assets which have been under the control of the hospital will be returned to the hospital, for the purpose of the redevelopment of the hospital. That is clearly understood. As far as I am aware, there is no fuss about it. The board of the hospital, through the chairman, is perfectly happy about that arrangement.

Mr Lewis: That is not what the Budget papers say.

The DEPUTY SPEAKER: Order! Until that last question, I was going to thank members for their cooperation in what has been a fairly productive question time. Members may be interested to know that, according to my calculations, we have had 14 questions and answers, which is the most we have had for a considerable time.