Legislative Assembly

Friday, 20 August 1993

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

STATEMENT - BY THE SPEAKER

Parliament, Televising and Radio Broadcasting

THE SPEAKER (Mr Clarko): I refer to the debate on a motion moved by the member for Belmont on Wednesday this week relating to the televising of Parliament, and remind members that the debate was adjourned in the expectation that the Speaker would make a statement. I have spoken with the Leader of the House and the member for Belmont as well as the President of the Legislative Council and have moved to establish a Presiding Officer's committee which will, in tandem with a similar committee formed by the President of the Legislative Council, examine televising and radio broadcasting of the proceedings of the House, particularly question time. I have noted the support for some form of televising already expressed by senior members of this House and, in addition to the general question of desirability of televising, consideration will be given to methods of implementation, particularly in the light of cost, quality and control of the signal distribution.

My preliminary discussions on this matter with other Presiding Officers in Australia indicate that experiments elsewhere are not universally successful, and we will keep in mind that what this House and the Parliament are hoping to achieve and what others seek to gain from broadcasting our proceedings may be two different things. The member for Belmont and the Leader of the House have accepted my invitation to join me on the committee and we will commence our work virtually immediately. I invite all members to make their views on televising known to those members or me.

PETITION - COMMON LAW AND WORKERS' COMPENSATION RIGHTS, CHANGES

MR RIPPER (Belmont) [10.06 am]: I have a petition to present 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.
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> We, the undersigned people of Western Australia on behalf of the injured workers and their families wish to express our opposition to and concern at the proposed unfair and unjust retrospective changes to common law and workers compensation rights, with effect from 4.00pm on 30 June 1993 announced by the Minister for Labour Relations at about 2.00pm on 30 June 1993.
>
> The planned removal of common law rights if a writ had not been issued before 4.00pm on 30 June 1993, unless an injured worker can establish a 30% total body impairment, is a draconian and unwarranted change to the law. It is estimated that 90% of common law claims will be disentitled to compensation. It has not been shown by the Minister that any extensions under the Workers' Compensation Act will adequately compensate injured workers.
>
> 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 bear 38 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 109.]

Similar petitions were presented by Dr Watson (179 signatures), Mr Taylor (256 signatures), Mr Kobelke (22 signatures), Mr Leahy (84 signatures) and Mrs Hallahan (338 signatures).

[See petitions Nos 110-113 and 115.]

PETITION - COMMON LAW AND WORKERS' COMPENSATION RIGHTS, CHANGES

MRS HALLAHAN (Armadale) [10.13 am]: I present the following petition -

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

I had an accident on a mine site 14 months ago in which I incurred an injury to my lower back. The Company I was working for has accepted liability. I am currently being covered by Worker's Compensation.

At the moment I am recovering from back surgery which entailed removing a disc from my spine, having bone taken from my hip, then having global infusion. After this was done I had metal rods and screws inserted into my spine for stabilisation. At this stage I don't know whether I will work again in the future, but I am hopeful that I will be back at work as soon as possible.

My life has been turned into an uncertain future and I am very concerned with the changes to the Worker's Compensation Law that have been scheduled to take place. This change states that if less than 30% of your body's ability is lost, then the injured worker will not be able to make a claim under the Common Law aspect of Worker's Compensation. This will make life uncertain for over 90% of the injured workers each year, as they will not be able to claim under the new legislation.

I am suffering severe pain and constant discomfort due to my injury. I can only sleep 2 to 4 hours a night due to intense pain with which I have to live with. I am unable to sit or stand with the aid of a walking stick for periods of longer than 5 to 10 minutes due to constant pain in my lower back and right leg. The rest of the day I am in a wheelchair. I am unable to enjoy any sort of social life which I previously took for granted as movements seem to highlight the pain which is constantly with me.

Having a child that you cannot pick up or play with on the floor is very frustrating and I am missing out on a lot of the things a 25 year old father with a one year old son usually would be able to look back on.

Due to my injury my tolerance level is almost zero. I find myself constantly snapping at my wife and young son. I am unable to assist my wife in any way, which understandably puts a strain on our relationship. I just thank God that our relationship is strong enough to survive the immense pressure placed upon it now and in the future as well. As my ability to live my life, and provide for my family has been stripped from me, my dignity seemed to have been deprived as well. On these days I am unable to get out of bed, even to perform the most basic of functions. In addition to all of the above, the stress has exacerbated my wife's asthma to the point where she now has to use a nebuliser some days in order to breathe. So in actual fact my accident has not only affected me, but my family as well. So I beg you to seriously consider the human factor, not only the monetary element when you make any changes to the Worker's Compensation as it stands today, before passing your Legislation.

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

The petition bears one signature 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 114.]

PETITION - COMMON LAW AND WORKERS' COMPENSATION RIGHTS, CHANGES

MRS HALLAHAN (Armadale) [10.17 am]: I present the following petition -

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

I sustained a back injury on the 29 October 1991 whilst working for a company trading as Growers Packing Pty Ltd of lot 1 Beermullah Road, West Gin Gin 6503.

I hope you take into consideration from this account that your proposed changes to the Workers Compensation Act, at the Common Law (Negligence) level is not only unfair and unjust, but will deny my right as an injured and abused employee to seek and receive justice which is the right of every human being.

I started to work for the abovementioned firm in late August 1991 along with my fiancee and worked very hard to save enough money to get married in March 1992. After 2 months I was transferred inside to the Processing shed where I had to stamp, size and stack pallets of boxed produce weighing approx 26.5 kg per box. This work was usually done by 2-3 people but I was expected to perform the work alone. I was harassed and pushed daily beyond my physical limits. I was also expected to load sea containers with produce and other physically exhausting duties. On 29 October 1991 I had to work a 13 hour day, 2 hours loading sea containers for export, 9 hours stacking pallets, and 2 hours trying to unblock a pipe used for drainage. When I left for home my lower back was extremely sore and so were my legs, I had problems walking. Returning to work the next day I complained to the company forepersons, they found my pain amusing and still expected me to continue performing my normal physically exhausting duties. I had no choice as I had seen another person complain about a sore back and he was told to continue or be sacked. My fiancee and I needed money badly so I continued working only while taking 10-20 Panalgesics a day. After loading a sea container a few days later I had a recurrence of the first injury but far more intense.

On 10 November 1991 I collapsed with severe shooting pains in my back and right leg, I couldn't stand or walk. I was helped into bed and saw a doctor the following day. I was advised that I could not return to work and to put a claim in for Workers Compensation. The company denied liability and thought I was faking the claim. My fiancee, received constant harassment from the company asking when I was going to return to work and that I was faking my injury. This was extremely distressing for Jacqueline and we were both trying to live solely off her income. The harassment continued for weeks and we began to fight, she started to resent me because of the situation and we soon broke off our engagement and separated. After waiting week after week for the claim to be accepted I had incurred large physiotherapy bills, along with rent and had to borrow money for food. I was forced to sell my car to repay some of my debts. My injury worsened and the doctors established I had a prolapsed disk of the L5-S1 Lumbar region and a compressed nerve root. I had great difficulty walking, standing, sitting and sleeping, even with the large daily amounts of Panadeine Forte.

I approached Mr Chris Prast of JOHN RANDO & CO who took the case and proceeded to act on my behalf. We have had to take Growers Packing Pty Ltd to court three times to get any ongoing payments for my injury. The first hearing the court ruled in my favour saying that the company had not one iota of evidence or reasons for not paying my claim, they were ordered to commence payments

immediately but my lawyer had to take the matter back to the board a further 2 times.

My condition has since worsened, I have had a microdisectomy in June 1992 and in May 1993 I had a spinal fusion which has not fixed my problem. I am now reapplying for a medical fund extension as I have used up all my funds. I am currently taking Morpheine which has proved unsuccessful in easing my pain and due to my financial circumstances am unable to continue medical treatment.

The company constantly makes my payments late anywhere from 7-14 days. I am always having to apologise for late payment of rent, utility bills and often I don't even have food for days. I can't sit, stand, or sleep without constant discomfort. I can't even walk properly, I have no enjoyment of life whatsoever. I have just about given up all hope of ever being able to live pain free. I have become a recluse, lost most of my friends and have become extremely lonely. The depression has nearly caused me to attempt to take my own life, what little's left.

The way things are looking I'll never be employed again. I am unable to care for myself, cook, wash clothes or clean the house. I still have problems washing and dressing myself. What chance do I have to own a house, a car and most importantly what woman would give me the time of day, let alone a chance of marriage and a family? How would I support, feed and clothe them.

If you go ahead with your proposed changes to Common Law Negligence you will be protecting an unscrupulous employer by enforcing a 30% disability penalty for Negligence. Many men and women will continue to be abused and you will be making it legal. WHY?

The changes are not going to help the injured workers, only make matters worse for us all. If the injured fall below the 30% threshold and are still unemployable how do you expect us to survive under conditions of poverty. What kind of life is that along with pain, depression and unhappiness.

So please put yourselves in our position, you still have your health, we don't and may never have again. I can no longer play any sport, play guitar, ride a bike, run, have a sexual relationship, and unable to perform household duties. I need to be compensated to have some small glimmer of hope to live the rest of my life. I am only 25 and feel 95 years old.

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

The petition bears one signature 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 117.]

PETITION - ENVIRONMENTAL PROTECTION AUTHORITY

Positions Split and Budget Cuts Opposition

MR McGINTY (Fremantle) [10.22 am]: I present the following petition -

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

We, the undersigned petitioners and residents of Western Australia, oppose the move to split the positions of chairman and chief executive officer of the Environmental Protection Authority ("EPA") and to introduce a 5 percent budget cut which will likely halve the operations budget of the EPA. We object on the following grounds:

1. The refusal of the government to make public alleged crown law advice that contracts of members of the EPA are invalid leaves severe doubts to the legality of the government's actions;
2. The proposed changes will leave the EPA weak, ineffective and unable to carry out many of its investigations and research projects;
3. The proposed changes seriously undermine government structures required to create open and honest government as proposed by the WA Royal Commission.

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 146 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 116.]

BILLS (2) - ASSENT

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

1. Local Government (Superannuation) Amendment and Repeal Bill
2. Supreme Court Amendment Bill

STATEMENT - BY THE ATTORNEY GENERAL

Mabo Litigation

MRS EDWARDES (Kingsley - Attorney General) [10.25 am] - by leave: I propose to set out in as comprehensive and clear a manner as possible the legal and constitutional aspects and ramifications of the Mabo litigation.

Australian law prior to Mabo: To place this litigation in context, it is necessary to understand that since 1788 Parliaments and the Australian people have acted upon and all courts, including the High Court, have affirmed the following principles of law -

(1) The Crown acquired sovereignty over the whole of Australia with the settlement of each colony;

(2) Upon settlement, English law (including the common law of England) became the law of the colony;

(3) The common law of England did not recognise the existence of any native title held by the indigenous inhabitants of Australia;

(4) The Crown was the absolute beneficial owner of all land in Australia.

The Mabo decisions: There have been two High Court Mabo decisions.

Point of Order

Mr KOBELKE: Members on this side can barely hear the Minister. This is an important statement. I know the Attorney General is speaking clearly, but it is hard to hear her. Perhaps her microphone can be turned up, or the background noise lowered. I would like to hear the Minister's statement.

The SPEAKER: There is no point of order. I will take the member's remarks as a suggestion and I ask the Minister to speak with her usual clarity. As members know, one of the reasons Ministers rush statements is the time element related to both brief ministerial statements and other ministerial statements. I am sure the member will take that fact into account.

Statement Resumed

The first - Mabo v Queensland reported in 1988 volume 166 Commonwealth Law Reports page 186 - involved the Queensland Coast Islands Declaratory Act 1985 and the

Commonwealth Parliaments Racial Discrimination Act 1975. That Queensland Act, in effect, removed the basis for claims to native title in the Murray Islands, which are located in the Torres Strait. The High Court, by a four to two majority, held that the Queensland Act was inconsistent with section 10 of the Racial Discrimination Act and, pursuant to section 109 of the Commonwealth Constitution, was, therefore, inoperative. Chief Justice Mason did not make a decision on this matter.

In the second decision - Mabo v Queensland reported in 1992 volume 175 Commonwealth Law Reports page 1 - the High Court, by a six to one majority, held for the first time in Australian legal history that Australia's common law recognises certain rights, such as possession, occupation, use and enjoyment, over land that derived from native laws and customs. That is, those rights do not come from any of the usual sources of legal authority; for example, Commonwealth or State legislation or Commonwealth or State Constitutions. It is those rights over land which are now commonly referred to as "native title". However, its existence and content over any specific area of land are matters which have to be proved in each and every case. Therefore, native title is radically different from title to land under Australian legislation, including the WA Transfer of Land Act 1893. One stark difference is that with a freehold interest in land the owner or owners have a documentary title which is registered in the Land Titles Office. Despite the nomenclature "native title" no such physical title exists. Rather, "native title" connotes only abstract rights which must be proved, in court, to exist.

In contrast to the law which has existed in Australia since 1788, the majority decision in the Mabo case suggests that the following propositions of law now apply -

(1) The Crown's acquisition of sovereignty over Australia cannot be challenged in any Australian court.

(2) On the acquisition of sovereignty over a particular area of land in Australia, the Crown acquired a radical title to that land.

(3) Native title to land survived the Crown's acquisition of sovereignty and radical title.

(4) The acquisition by the Crown of sovereignty over Australia exposed native title to extinguishment.

That decision is now part of the common law of the States and Territories and is binding on all Australian courts except the High Court, which is not bound by its own decisions. However, the second Mabo decision is a common law decision. Therefore, like all common law decisions, it can be overruled by legislation enacted by a Parliament.

Mr Justice Dawson dissented in the second Mabo decision. In doing so, he expressed the opinion that the High Court had gone further than an exercise of judicial power, which involves the application of existing law to the case being decided, and trespassed onto the legislative domain by creating new law. In so doing the High Court performed a legislative role which, in Australia's system of government, is properly and constitutionally a matter for democratically elected Parliaments, not courts, including the High Court, where judges are appointed and have a fixed tenure. As a matter of constitutional and legal theory and practice, that view is endorsed by most eminent scholars and judges, including many High Court justices. It is a view which, because it respects the doctrine of separation of powers, the Western Australian Government also endorses.

The plaintiffs in the Mabo cases were Torres Strait Islanders known as the Meriam people. The rights recognised by the High Court were the possession, occupation, use and enjoyment of the island of Mer. Although the Mabo decision may appear to be simple, the majority judgments - and in the second Mabo decision there were three separate majority opinions plus a dissenting opinion - are complex and present many difficult problems of interpretation. Apart from some aspects of the Mabo decisions, the law of title to land has always been, and continues to be, State, not Commonwealth, law. As a result, the legal consequences and practical problems arising from the Mabo decision are far more important and serious for the Australian States, particularly Western Australia, than they are for the Commonwealth.

This difficulty, which has been caused by the High Court, of knowing exactly what native title means, arises because the majority indicate that native rights depend on what may have been the relevant Aboriginal laws and customs. My statement highlights many of those significant items which the High Court selected. I also go through the evidence which the High Court selected as proof to substantiate its decision. Between those circumstances on Mer Island and the traditions and customs of people on mainland Australia, including Western Australia, there are significant differences. At the very least for land title purposes, no sensible comparison of such history, customs and traditions can be made between the Meriam people on Mer Island in the Torres Strait and Aborigines in mainland Australia. Nevertheless, the High Court made generalised statements concerning Aborigines on the basis of evidence which was confined to the Torres Strait Islands.

This failure of the High Court to confine itself to the evidence presented in the Mabo case gives rise to the first difficulty in determining what is the law. As a matter of precedent, the Mabo case applies only to the Murray Islands. However, given the breadth of the judgments written by the majority, there appears to be no doubt that the High Court intended the principles in the Mabo case to apply to mainland Australia as well as to the Torres Strait Islands. The High Court did not address the problems of applying a concept of land title developed in a case dealing with Melanesians on small and remote islands to the Australian Aborigines living under entirely different circumstances and having an entirely different lifestyle and customs.

Moreover, everything in the second Mabo decision was beside the point because no Aboriginal evidence or parties were before the court. Indeed, even the Commonwealth had been dismissed from the action on 5 June 1989, two years before the case was argued and three years before the judgments were handed down, which hardly adds to the authority of the case as far as the mainland is concerned. Therefore, it is extremely difficult to apply the same Mabo principles to land in mainland Australia. Especially in Western Australia, one obvious problem is that on mainland Australia there are a large number of interests in land whose relation to native title is very uncertain. This applies with particular force to, for example, mining tenements, pastoral leases and management of Crown land.

Consequently, as a matter of law, Governments and the Australian people need to know a great deal more about what constitutes native title than the facts and judgments in the Mabo case reveal. Precisely at this juncture, the High Court opinions are vague. For example, the leading judgment, delivered by Mr Justice Brennan, concedes that ascertaining the nature and incidence of native title may be difficult. Nevertheless, Justice Brennan proceeded to formulate general propositions on the assumption that they make the law in the Mabo case clear. He enunciated the following propositions -

(1) Whether native title land can be alienated by the holders depends on native law, not common law.

(2) Traditional connection with the land must have been maintained by continuous observance of the relevant native laws and customs, so far as practicable.

(3) A native title can be surrendered to the Crown or otherwise extinguished, in which case it reverts to the Crown anyway.

(4) Although native title is primarily a community title, it need not be. There is no impediment to individual proprietary rights.

Unfortunately, as a matter of law and practice, those propositions are not helpful in determining whether native title exists in Western Australia.

The first proposition, that whether native title can be alienated depends on native law, means that Governments, and those who hold native title do not know whether or not the holders can sell it. The question has to be re-examined and re-answered in every situation. A further problem, for example, is if the holders cannot sell the title outright, to what extent, if at all, can they grant subordinate rights over the land to other people, including Aborigines? These are fundamental questions that affect all Western

Australians and have great economic, practical and legal significance. Until they are resolved, they will continue to make commercial negotiations uncertain because no-one can know what the native title is worth. Indeed, people and companies entering into such negotiations do not even know whether Aboriginal claimants to the title actually have a legal right to it or even what consequential rights it may entail. If litigation is pursued in an endeavour to obtain an answer, the position is quite contrary to what would normally prevail in judicial proceedings. The obvious source of information are the claimants to native title themselves. This means that Aboriginal claimants are in a situation of being expert witnesses in their own cause. This situation of parties to litigation seeking a judicial declaration of their legal rights and then being required to advise the court what the law is - because on the basis of the Mabo decision native title depends upon Aboriginal laws and customs - is unprecedented and in conflict with basic principles of fairness and natural justice.

Mr Justice Brennan's second proposition that continuing traditional connection with the land must be proved is qualified by the words "so far as practicable". Then the judgment adds that it is immaterial that the relevant native laws and customs have undergone "some change" since colonisation. Several fundamental problems arise: What are the limits of practicability? Disputes and confusions will no doubt hinder recollection of past observance of custom, particularly as it has to be only "so far as practicable". How much change is "some change"?

Mr McGinty: You are relating to one dissenting opinion.

The SPEAKER: Order!

Mrs EDWARDES: Mr Justice Brennan's third proposition is that a native title can be surrendered to the Crown or otherwise extinguished, in which case it reverts to the Crown. Again, despite its apparent clarity, this is not clear. The following examples indicate problems which can arise. The obvious reason why a native title would be surrendered to the Crown is that the holders expect to gain a benefit. This is unlikely to occur unless there have been negotiations and an agreement. In these circumstances, what happens to the rule about inalienability? Apparently, it does not apply if the land is sold to the Crown. If that is so, is it possible after all to conduct a secure commercial negotiation provided that the Crown is a party and the native title is surrendered to it? If that is possible, what is the point of the inalienability rule?

Mr D.L. Smith: I hope you are going to disclose who is the author of this?

The SPEAKER: Order!

Mrs EDWARDES: A possible answer might be supplied by references in the judgments to the concept of fiduciary duty. What appears to be meant by this is that under certain circumstances the Crown may have a special responsibility to protect the welfare and interests of former holders of native title who are, or have been, deprived of that title. Only Mr Justice Toohey discussed this possibility at any length and it formed no part of the grounds for the decision in the Mabo case. Perhaps the point of the fiduciary duty suggestion is that the Crown is the only appropriate body to undertake such a responsibility. Even so, it hardly clarifies the situation especially as it is far from clear that, as a matter of law, a fiduciary duty does in fact arise under any circumstances. This is a major issue in the current Queensland litigation known as the Weipa or Wik claim.

In addition, there are further legal uncertainties. If there is no surrender to the Crown of a native title, how else can it be extinguished? The Mabo decision draws distinctions between -

native titles that have disappeared because the relevant laws and customs have not been observed;

titles that have disappeared because the holders have abandoned the land;

titles that have been lost to the former holders because they have alienated the land to others who abide by the same laws and customs; and

titles that are extinguished.

Except where the land has been alienated under native law, the Mabo result is the same: The land reverts to the Crown and the native title cannot be revived. What amounts to nonobservance of laws and customs, or abandonment, is not clear. This is because both possibilities depend on native law, which is precisely the matter which is uncertain. From a practical perspective, what may be more important is the question of what constitutes extinction of native title. This can happen in four ways: The first is by Executive action granting to a third party a common law or statutory title over the same land that is necessarily inconsistent with continuance of the native title. The second is by a law that has the same effect. The third is by Executive action appropriating the land for a purpose inconsistent with continuance of the native title, to the extent of the inconsistency and provided that the intention to extinguish native title is "plain and clear". The fourth is by a law that has the same effect.

Basically, therefore, there are two categories of extinction: Inconsistency of title; and inconsistency of purpose or use. The first category, inconsistency of title, appears to be a purely legal construct that looks only to the rights conferred, in a common law sense, by the particular form of title. Two examples can be offered: It has been suggested that freehold title extinguishes native title because it is effectively, if not in legal theory, outright ownership. Leasehold is said to be inconsistent with native title because during the term of the lease the tenant has the right of exclusive occupation. This is necessarily inconsistent with anyone else having a right to occupy or enter the land during the term of the lease. It is not clear why this should extinguish native title, so that when the lease expires the land reverts to the Crown, but that is the effect of the Mabo decision.

The second common law extinguishing category is dedication of land to a purpose of use inconsistent with native title. Obvious examples are the making of roads or public beaches. The difficulty with this concept is that it depends on the relevant native laws and customs. At this juncture, it must be recalled that the Mabo decision did not limit native title to any particular kind of entitlement in common law terms. As a result, it is virtually impossible to know what kind of land use or purpose must under all circumstances necessarily extinguish native title.

Justice Brennan's fourth proposition is that native title need not necessarily be a communal title but may be individual in character. Firstly, this appears to be quite inconsistent with the general character of native title as conceived by the High Court. Secondly, and even more importantly , it suggests that if an agreement is entered into with Aboriginal community representatives for the development of land which may be subject to native title claims, the possibility of subsequent individual claims entirely undermines whatever security of title such an agreement may be thought to confer.

Options for reform: These are some of the fundamental legal problems presented by the majority Mabo judgments. As a result, there is great legal and commercial uncertainty. This is undermining investment and the economy as well as giving rise to expectations of independence and wealth for some Aboriginal people. The debate is becoming increasingly polarised and rhetorical, not only between Aboriginal and non-Aboriginal Australians, but also between the Commonwealth and States and among Aboriginal groups. What, from a legal and constitutional perspective, can be done? At least two possible legal solutions exist: Some commentators consider that Mabo (No 1) establishes that any State legislation to validate land titles granted since the Racial Discrimination Act came into operation on 31 October 1975 would, as in the Queensland Coast Islands Declaratory Act, be invalid because it would override any competing native title. There are a number of legal and constitutional reasons why this may not, as a matter of law, be necessarily so.

(a) Firstly as Mabo (No 1) clearly indicates, section 9 of the Racial Discrimination Act is unconstitutional in so far as it purports to make it unlawful for a State Parliament to pass a law of a particular kind. That view has been enunciated by Chief Justices Gibbs and Mason and Justices Brennan, Wilson and Dawson in Mabo (No 1) and Gerhardy v Brown (1985) volume 159 Commonwealth Law Reports Page 70.

(b) Secondly, as Justice Dawson in Mabo (No 1) indicates, there is no High Court decision on the validity of section 10 of the Racial Discrimination Act and there are major constitutional questions - for example, whether section 10 implements the Racial Discrimination Convention - which have not been resolved.

(c) Thirdly, as the justices make clear in Mabo (No 1) and Gerhardy v Brown, there are questions of statutory interpretation which need to be resolved before it can be concluded that State legislation would fall within those provisions.

Subject to such constitutional and statutory interpretation questions, State legislation retrospectively validating land titles granted since the Racial Discrimination Act came into operation may, standing alone, be held to conflict with that Act. However, on the basis of the present law concerning section 109 of the Commonwealth Constitution, it is not possible for the Commonwealth Parliament to retrospectively validate land titles derived from State Statutes. In recognition of these problems the Commonwealth Government proposes to provide that State validation Acts do not conflict with Commonwealth legislation, notwithstanding any other law, including the Racial Discrimination Act.

In principle, this may solve the validation problem. Unfortunately, as with everything connected with Mabo, the matter is not so simple. The Commonwealth Parliament has constitutional problems concerning the Racial Discrimination Act. That Act depends for its validity on the Commonwealth Parliament's power under section 51(29) of the Constitution to legislate with respect to "external affairs". This enabled it to implement the International Convention on the Elimination of All Forms of Racial Discrimination by enacting the Racial Discrimination Act.

At this juncture at least three possibilities might arise -

(1) The High Court, although it has given section 51(29) a very wide interpretation, has consistently held that legislation enacted under section 51(29) must conform reasonably closely to the form and intention of international obligations on which it depends for its validity. This means that if the Commonwealth Parliament amends the Racial Discrimination Act to permit discrimination against a particular race, the Act as a whole may be invalidated because it no longer implements the convention.

(2) This raises the question whether a Commonwealth law which in effect exempts retrospective State land title legislation from the operation of the Racial Discrimination Act is itself a racially discriminatory law. The argument that it is, is straightforward. The purpose of the State Acts would be to ensure that non-native land titles granted on and from 31 October 1975 prevailed over any conflicting native titles that may have been operative during that period. Native titles are confined to the Aboriginal and Torres Strait Islander races.

Hence, the State legislation is racially discriminatory because it operates to extinguish only a class of titles identified by race. Therefore, a Commonwealth Act which makes this possible would be, to that extent, itself racially discriminatory. Consequently, the Racial Discrimination Act can no longer operate as a genuine implementation of the international convention and so also becomes invalid. Ironically, if that were to happen there would be no obstacle precluding State validation Acts. The situation would be the same as if the Commonwealth had repealed the Racial Discrimination Act.

(3) On the other hand, if, to overcome this difficulty, the Commonwealth's exempting law is too narrow, it may well not achieve its objective of assisting State land title validation legislation. At the moment the amendment proposed by the Commonwealth is too narrow. It also seeks to closely confine the State Parliaments' freedom to decide the content of their validation legislation.

Although legal doubts and difficulties may surround the States' power to enact remedial land title legislation, that does not lead to the conclusion that nothing can be done. In this regard two widespread assumptions should be rejected -

that carefully drawn State legislation to validate land title back to 1975 will necessarily conflict with the Racial Discrimination Act; and

that better drawn Commonwealth exempting legislation than that currently under consideration will necessarily fail to achieve the objective of removing the possibility that State legislation will conflict with the Racial Discrimination Act.

Therefore, in view of the legal uncertainties which Mabo has engendered and the potential for State legislation to provide a constitutionally secure foundation for all land transactions in Western Australia, the Government intends to take legislative action in the best interests of all Western Australians. A further reason for taking the initiative with our own legislation is that Mabo impacts on each State differently owing to the different land title regimes. The available options in terms of its precise form and content are under review. The form and content of such legislation will be a matter for this Parliament to determine and will not be dictated by the Federal Government's preferences or by pressure from any groups or sectional interests.

If the Mabo judgment becomes law on mainland Australia and State Parliaments are precluded from validating State land titles the question of native title should be put to a national referendum to amend the Commonwealth Constitution. Suggestions that there would be difficulty in drafting such a referendum in a fair and reasonable manner are not correct. Already there have been proposals from constitutional lawyers. It would not, therefore, be difficult to draft a constitutional amendment which would overcome the difficulties and uncertainties created by the Mabo decision. For example, Mr S.E.K. Hulme, QC, of the Victorian Bar, in a paper entitled "Aspects of the High Court's Handling of Mabo", has suggested "an amendment providing that all title to land on the mainland of Australia shall flow from grant by the established government of the State or territory concerned, and not otherwise". Mr Hulme has formulated a constitutional amendment which would require yes or no to a simple question: Should that provision be inserted into the Constitution?

I trust that members have not been lost in this complex maze which the High Court in the Mabo case has erected over Australian land law. At the very least, I hope that all members now realise the difficulties and uncertainties which the Mabo decision creates, not only for commercial dealings and Governments but also, and perhaps most importantly, for ordinary Australian citizens who are involved in land dealings and transactions. I have outlined, with practical examples, the legal and constitutional position as it now appears to exist in Australia.

Dr Watson interjected.

The SPEAKER: Order! I formally call to order the member for Kenwick. I have said it twice before, but I will call her to order again if she persists.

Mrs EDWARDES: If Governments and Parliaments are prepared to address these issues there are, as I have indicated, solutions which can be implemented to secure a legal and constitutional position which is not only secure, clear and certain, but also premised on equality and fairness to all citizens. I commend this approach to the House.

I table my ministerial statement, and in doing so indicate that the statement which I made is in some respects different from the statement which I table.

[See paper No 273.]

DR LAWRENCE (Glendalough - Leader of the Opposition) [10.48 am]: I will respond, albeit briefly, because this is obviously a complex document, at least in its presentation -

Mr Court: If you want to respond when we come back after the recess -

Mrs Hallahan: Belt up!

The SPEAKER: Order! Member for Armadale, it is not your place to decide this matter.

Dr LAWRENCE: I think the Premier was trying to indicate that given the fact that it is a complex legal opinion, in part, it might not be appropriate for the Opposition to respond

today and we might wish to do so at a later date. We will take a later opportunity, having examined it more carefully, to do so. I understand we will have to do that under a different standing order and we accept the responsibility for making that arrangement. However, given the three week break between now and the next sitting - rumours suggest it might be sooner - I thought it appropriate that at least, having had a short opportunity to look at this ministerial statement, we respond in order to put on the record our concerns about it. Firstly, on the face of it, it looks like a more reasoned response than we have seen to date from the Government. I, therefore, welcome it. It makes some attempt to put argument and a case that, in part, at least supports the Premier's position. Having had a closer look at it since last night when it was first given to the Opposition, it seems that it is an attempt to confer retrospectively some degree of respectability and it does not stand up to very close scrutiny.

The legal argument put forward has been heard before; it is not new. It has been advanced by a number of people - including Mr Hassell, but not only by him. I presume it is a compilation of advice received by the Government from, for example, Mr Colin Howard, Mr Chris Humphrey, who has perhaps been retained, and Mr Bill Hassell. It would be helpful to us, and I think to the community, to know who were the authors of this opinion. With due respect to the Attorney General it is clearly not she.

Mrs Edwardes: It is based on very strong legal advice.

Dr LAWRENCE: Most people when giving legal advice prefer they are identified. I ask the Attorney General, by way of question across the Chamber, who assisted in the compilation of this statement?

Mrs Edwardes: It was not Hassell.

Dr LAWRENCE: Who was it then; why is this a matter of some secrecy?

Mrs Edwardes: It was strong legal and constitutional advice, particularly from Dr Colin Howard. There were several others, including constitutional solicitors such as Chris Humphrey, as you have identified.

Mr D.L. Smith: Who?

Mrs Edwardes: Public servants who are constitutional lawyers.

Dr LAWRENCE: Typically, when legal advice of this kind is put into the public arena -

Mr Court: It has come from the Attorney General; it is her ministerial statement.

Several members interjected.

The SPEAKER: Order!

Dr LAWRENCE: None of us in this Chamber denies the Attorney General's right to make a statement of this kind to the Parliament. As I say, we welcome the fact that this is at least an attempt to provide argument for the Government's position. However, it is also important that this Parliament and the wider community, particularly the legal community, understand whose views are represented here. We understand the politics are the Government's. I think it is a reasonable question and we will ask it again in some detail. I accept that the Attorney General is saying that Dr Colin Howard is one contributor, Mr Chris Humphrey from Mallesons Stephen Jaques, who has been retained by the Government - when I was Premier he was retained to advance the State's interests in various land claims - and others. If Crown advice is included, we would appreciate knowing that. It is not to embarrass the Attorney General, it is because we believe it is important we understand where that advice came from. In judging legal opinion, we must be clear of the position of the person giving it. That is true of whether one is talking about High Court judges or anybody else. They have ideological positions, as do ordinary members of the community. People talk about right and left wing constitutional lawyers and about people with the progressive and conservative views. That is the reason for being concerned about the authority, if one likes, that lies behind this statement.

Nonetheless, as I say, I welcome the fact that at least there is an attempt to put an argument, much of which, on immediate reading, we disagree with. In supporting the

argument put forward the Government and, presumably its legal adviser or advisers, has made much of the one dissenting opinion in the High Court judgment. People are quite reasonably inclined to question whether that is a balanced response to the High Court's own judgment when the dissenting opinion is the only one used in supporting argument. The Attorney General certainly described the judgment -

Mrs Edwardes interjected.

Dr LAWRENCE: I did actually listen to the Attorney General's statement and read it carefully. The important thing from the Opposition's view is that we will have others look at the argument the Attorney General has put forward. However, on an immediate reading, there are elements of the legal advice contained in it with which we strongly disagree. That is why it is important to line up the lawyers on either side and see exactly where they are coming from. What worries me about this statement, in the political sense, is that in some respects it is typical of what we have seen every time the Government was in trouble. It has become a Mabo life raft. Every time the Government is in difficulty suddenly Mabo is on the agenda. I hope that is not the cynical motive underlying the presentation of this paper today.

Mrs Edwardes: Absolutely not. It takes a little longer to prepare such a document.

Dr LAWRENCE: Certainly, the timing of the presentation is of some concern here. I understand that it takes time to prepare it, but in my view it is far too late. The Government has enunciated a public position in very simple - one might even say simple-minded - terms and has belatedly dressed it up with a legal opinion that appears to give it respectability. It is far too late to be protesting. I point out, first of all, the timing of this and secondly, that some elements of the argument and description in the paper are clearly at odds with what the Premier has been saying.

A Government member interjected.

Dr LAWRENCE: I will give an example in a moment. It is clear to me that within his Government are a number of cooler and calmer heads who for some time have been trying to draw him back to a more reasonable position, including the deputy leader of the Liberal Party - the Minister for Resources Development - the Attorney General, and the Minister for the Environment, to name but a few. In various public arenas they have, for instance, indicated that the Mabo decision does not pose the threat to the people of Western Australia - in the case of the Minister for Mines, the mining industry - that has been described as inevitable by the Premier. I welcome the fact that members of the Government, including the Attorney General, are trying to pull the Premier back to a more reasoned and clear-cut position.

Mrs Edwardes interjected.

The SPEAKER: Order!

Dr LAWRENCE: I hope that process will continue. One particular matter - since I was challenged to provide an example - is the nature of native title that comes from the Mabo decision and the extreme narrowness of the decision. That is underlined in the Attorney General's description of the decision. It points out in the document that it would be extremely difficult - a great many people agree on this observation - under the judgment for all but a very small minority of people in Australia of Aboriginal descent to lay claim to native title under the decision.

Mr Bradshaw interjected.

The SPEAKER: Order! The member for Wellington should not interject when out of his seat.

Dr LAWRENCE: The circumstances of the islanders are very different in the main from those of people of Aboriginal descent living on mainland Australia.

Mrs Edwardes interjected.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Order! Order!

Dr LAWRENCE: Very few people will be directly able to benefit from the decision because they must have continuous associations and, in a geographical sense, have quite specific claims. They must also have observed traditional use and custom. When one considers what has happened to the Aboriginal people of Australia and what was their original association with the land - the Aboriginal people certainly understand this - it becomes clear that the Mabo decision, even of itself, is a very narrow one, which provides native title legitimacy to a very small number of Aboriginal people, and certainly is not a threat to metropolitan backyards. I know the Premier may regret having made that statement, but the ministerial statement by his own Attorney General makes it clear that the legal advice the Premier received would have showed him, as it showed the Labor Government last year at an early stage in a response to the Mabo ruling, that the view that people's backyards were under threat could never be sustained by the legal argument which flowed from the Mabo decision. The Premier knew that when he said it. It will be to his eternal discredit that he raised that matter. He knows two things: Firstly, that the decision - this is now confirmed by the Attorney General's position - never envisaged people's backyards and title being at risk. It quite clearly indicates that they are not.

Mrs Edwardes interjected.

The SPEAKER: Order!

Dr LAWRENCE: Secondly, it is quite clear that, even were there a threat from the Mabo decision - again this is confirmed in the Attorney General's statement - while complex, the mechanisms for legislation to assure validity of title for those that apply to people's backyards, farms and so on are a relatively straightforward matter that simply require the State and the Commonwealth to cooperate. That cooperation has never been forthcoming.

The backyard claim was always an insult to the intelligence of the people of Western Australia. A great many thinking people, educated or not, who have stepped back from those observations have come to the conclusion that the Premier was absolutely wrong on the issue and that he must have had reasons, other than a legitimate interest in the truth, to advance it. The Mabo life raft -

Mr Taylor: Does the Premier still have that backyard view?

Dr LAWRENCE: The Premier refuses to give us the maps and the list of suburbs. It is a fiction and the Premier knows that.

Mr Court: Wayne Goss says the whole country will be affected.

Mr Taylor: Do you still have that view?

Dr LAWRENCE: The Premier should not try to defend the indefensible position he adopted. I am glad he has stopped saying that in most public places.

Mr Court: I fully support everything I have said.

Dr LAWRENCE: The Premier may continue with that fiction, but his own Attorney General's statement, deficient though it is in the Opposition's view as a legal opinion, clearly gives the lie to that assertion. I invite members to read it and consider, firstly, the original decision and, secondly, the mechanisms that were available to put that question beyond any doubt, if there was doubt at all. I repudiate the Premier on this matter.

I draw attention to two items of the Attorney General's statement which are supposed to suggest a solution. The Government has been at this now for a long time. After all that time retrospective respectability is trying to be conferred onto the indefensible propositions the Premier has put. In addition, the Opposition has just two suggestions: Firstly, the State might legislate. Everybody believes that the State should legislate in cooperation with the Federal Government to ensure the validation of existing title and to set up mechanisms for the future. Complications may arise, but it can be done and

everybody wants to see it done. The form and content of that legislation is what we want to see, not the assertion that it can be done; we know it can be done, and we know it should be done.

Secondly, I mention the old hoary chestnut of a referendum. It is again being suggested that we could run a referendum at the Commonwealth level - pigs might fly. Both the Liberal Party and the Labor Party nationally have had the good sense to say that they will not contemplate a referendum. It is not a proposition of any substance. It is also a joke. I noticed that the Attorney General did not read out the possible referendum question to the people of Australia suggested by Mr S.E.K. Hulme. I will read this to the House to show why it is that in this case both the Federal parties have such good sense. One of the three constitutional amendments being suggested states -

> (1) All land, sea, seabed and waters within any part of the Commonwealth of Australia and its Territories shall be held from, and all title to such land shall flow from, the State or Territory concerned, acting through the established government thereof, or in the case of the seabed and waters from the Commonwealth, acting through the established government thereof, and no title to or interest in such land, sea, seabed or waters shall exist other than as flowing from such government.

The good people of Australia will presumably be asked to answer yes or no to that question. The Government must be kidding. The reason both Federal political parties have indicated their opposition to the referendum question is precisely that these are complex questions likely to incite grave community concern, and unlikely to get an intelligent response. If one cannot frame an intelligible question, how can one get an intelligent response? These are contradictory propositions: Firstly, that the legislation is required to ensure that the Mabo decision is properly respected in the Australian law; and secondly, that a referendum should be held to overturn the decision. However, the Government still does not have a clear position on that.

STATEMENT - BY THE LEADER OF THE HOUSE

Parliamentary Recess, Tuesday, 7 September Resumption

MR C.J. BARNETT (Cottesloe - Leader of the House) [11.04 am]: The coming recess, which was originally scheduled for three weeks, will be reduced to two weeks; therefore, the House will resume on Tuesday, 7 September 1993. I appreciate that that causes some inconvenience to members, but the Government has a heavy legislative program. Also, the program issued by the Government was always a tentative program and it was our intention to keep to that. The schedule put forward by the Government is its intention for sitting times for the remainder of this year. However, because of the depth and complexity of the legislative program the House will return in two weeks.

MEMBERS OF PARLIAMENT - LEAVE OF ABSENCE

Member for Melville

On motion by Mr Bloffwitch, resolved -

> That leave be given leave for the absence from the House of the member for Melville, on the grounds of urgent private business, until 13 September 1993.

INDUSTRIAL RELATIONS AMENDMENT BILL

Second Reading

Debate resumed from 19 August.

MRS HENDERSON (Thornlie) [11.07 am]: Today we will deal with the third of this trilogy of Bills which will be rammed through the Parliament. We are here on a Friday to deal with this Bill. We could have come back tomorrow or sat all of next week. This side of the House was prepared to do that. However, in line with this Government's arrogant use of its numbers in this House we will sit today and ram through this last Bill

by 4.30 this afternoon, regardless of how many amendments are debated. This Government does not want its legislation scrutinised. It does not want the public to know what this legislation contains. The more the Opposition scrutinises it and the more we bring out what is in it, the quicker the Government moves to shut us up. I am not surprised, because most members on the opposite side, just as they seek to shout us down as the member for South Perth is doing now, seek to prevent the public from knowing what is in this legislation.

The public will know, and the public will be told by the Opposition for the next three years. Members opposite won the last election on one thing - WA Inc. They did not win it on industrial relations. In fact, the Minister for Labour Relations went public and complained that his party did not do as well as it should have on industrial relations because, he said, the Opposition told lies about his legislation.

Mr Pendal interjected.

Mrs HENDERSON: Where in the Federal campaign?

Mr Pendal: I am talking about Western Australia. What you say is not true.

Mrs HENDERSON: The Labor Party won the Federal campaign; did the member not notice that? Did he notice what the industrial relations issues were in the Federal campaign?

This Bill, part of the three Bills being rammed through the Parliament, is the third leg of this structure. The first element of the structure is to get everybody onto individual contracts; to take away their rights and their award coverage, and to put them on individual contracts such as existed 100 years ago. The second leg is to establish a raft of minimums that are so low, they are lower than those which exist in some third world countries. The third leg is the one we see today, which is to shackle and castrate the Industrial Relations Commission so that people do not have an independent umpire to whom they can go to air their grievances, or a forum where they can go to have matters arbitrated, and where with some degree of fairness and equity matters can be dealt with.

Let us consider the way in which the three legs of this strategy interact. The first Bill with which we dealt before it was rammed through the Parliament - the Workplace Agreements Bill - had a clear aim to put everybody onto an individual contract.

Mr C.J. Barnett: After nine days of second reading debate.

Mrs HENDERSON: Is the Leader of the House suggesting that members do not have the right to speak in the second reading debate?

Mr C.J. Barnett: You can hardly call three hours of debate on the short title of the Bill ramming it through.

Mrs HENDERSON: How many times did members on the opposite side, when we were in Government, spend three hours on a clause? Many times.

Several members interjected.

The DEPUTY SPEAKER: Order! Members, we have a range of interjections that have little to do with what the member for Thornlie is trying to bring to the attention of the House. Interjections are disorderly, and I ask members to give the member for Thornlie a fair go.

Mrs HENDERSON: Thank you, Mr Deputy Speaker. The workplace agreements legislation had the clear aim of putting individual employees onto individual contracts. The Minister, in this Chamber and in the public arena, said he was going to give people a choice. Mr Deputy Speaker, is it not ironic that when, in this House last night, I put the question to both the Speaker and to you as Chairman as to what my position was in voting on a whole block of some 60 amendments put by the Minister when I might want to support some and vote against others, and how my rights as a member of this House could be recognised, I was told to look at the sessional order, to which the House had agreed, which provides that all the amendments shall be put together in one block? Technically the House did agree to that sessional order. Not one person on this side of

the House agreed, but people on that side of the House used their numbers, as is their right in this Chamber, to ram that through. That is very ironic, because exactly the same principle applies to the kind of choice and agreement in the workplace that the Minister talks about. One party will have the power; one party will have the numbers; one party will draw up the contract, and the other party can bleat and complain, as I am, and it will make no difference whatsoever. The contract will already have been drawn up; it will be put in front of the person, who will have to sign it. Just as last night I had to accept the ruling that my amendments not be debated at all because the sessional order had been agreed by the House - but not by me - and had taken away my rights as a member, so too the rights of the people in the workplace will be taken away by these agreements. We spent a tremendous amount of time very carefully preparing amendments to this legislation. We probably gave it more work and more time than it deserved; nevertheless, we put in that work and that time, and some 90 of our amendments were not considered by this Parliament.

Mr Kierath: If you had spent more time debating things instead of waffling, they would have been given more consideration.

Mrs HENDERSON: I get very little time because the Minister constantly interrupts me.

The DEPUTY SPEAKER: Order!

Mrs HENDERSON: I am addressing the Bill and I am entitled to do it in my own way.

Mr Tubby: Not in a very good way.

Mrs HENDERSON: That is the member's opinion.

The DEPUTY SPEAKER: Order! The member for Roleystone will come to order.

Mrs HENDERSON: Last night a number of amendments were not considered at all by this House, and I would like briefly to inform the Chamber of some of the things we sought to do in relation to these agreements. The first thing was to ensure that people had a reasonable choice. We said that one way of providing that is to give the person making the so-called choice a schedule of what benefits are available under the award and what benefits are available under the contract they are being offered, so they can make a choice. I do not think that is unreasonable, and I do not think it is particularly demanding or radical to say to people, who are supposedly making a choice, "Here you are. Here is a copy of all your entitlements under one system and here are the entitlements under another. Now you make a choice." That was one of our amendments, but it was never considered or debated and the Minister dismissed it out of hand. He did not even respond to that suggestion. We then went on to suggest that the schedule showing the comparisons between the two sets of conditions should be translated into foreign languages for those people whose first language is not English and that they should be given schedules and the opportunity to understand them, read them, and possibly have them interpreted. That amendment was never debated. I did not have the opportunity to put it, and the Minister, although he is also the Minister for Multicultural and Ethnic Affairs, brushed it aside. We also put forward an amendment that that schedule should be given to the person so that he or she could take it away and receive independent advice, and consider it; and, in fact, that there should be a period of seven days between when a contract is lodged with the commissioner and when it is actually registered, to enable the person to give it proper consideration. That was one of our amendments not considered by this House. I did not get the opportunity to move it; the Minister did not respond to it, and it was brushed aside.

Mr Tubby: Ten minutes to go.

Mrs HENDERSON: Is he suggesting I am wasting my 10 minutes?

The DEPUTY SPEAKER: Order!

Mrs HENDERSON: I will mention briefly some of the other things we put forward. We noted that the legislation was all about bargaining. It was meant to provide a new opportunity for people to bargain with each other and to reach agreement but, in fact, the legislation said nothing about the way that bargaining should happen. We suggested that

they should have to bargain in good faith. Good faith means honesty, so bargaining in good faith means that people must bargain with each other honestly. That was one of our amendments, but I did not get the opportunity to move it. There was no opportunity to discuss it. It was just brushed aside because there was a guillotine, because there was such a rush to get this legislation through.

Mr Tubby: Eleven minutes!

Mrs HENDERSON: I thought I made it clear; I want to make some points. If the member wants to make a speech, he should make it and not constantly use my time.

Mr Tubby: I am just trying to help you.

Mrs HENDERSON: I do not need the member's help. If I need his help, I will ask for it. I ask you, Mr Deputy Speaker, to make sure that I get the time, limited as it is, to make the points I want to make.

The DEPUTY SPEAKER: The member certainly has a right. If she addresses her remarks to the Chair and does not answer interjections, the Chair will ensure that the member has a fair go.

Mrs HENDERSON: Thank you, Mr Deputy Speaker. The amendment to ensure that people would bargain in good faith was not debated; it was not able to be moved by me because of the guillotine, and there was no opportunity for discussion by this House. The next thing we sought to move was that, despite this legislation's providing for these amendments to be negotiated, there was no requirement on the employer to negotiate at all. If the employer just said, "I do not want to negotiate. I will not negotiate" -

Several members interjected.

The DEPUTY SPEAKER: Order!

Mrs HENDERSON: - then there would be no negotiation. We sought to include an amendment which would require that negotiations did occur. That amendment - yet another one - was not moved or debated but was brushed aside. We also sought to include an amendment that if during the process of negotiation someone sought to have an independent person mediate or conciliate between the sides to assist them in their negotiations, he or she should be able to do that and, in fact, could choose to nominate a commissioner from the Industrial Relations Commission to mediate between the parties and assist them to reach agreement. I thought that was a pretty reasonable amendment. It did not suggest the mediator be someone who had any particular vested interest in either side, but rather an independent umpire. As the member for Morley pointed out in that debate, approximately one-third of the current commissioners have employer backgrounds, one-third union backgrounds and the remaining one-third either Government or public sector backgrounds, and I know one was a lawyer. No-one could suggest that that amendment giving people the right to call upon an experienced industrial relations commissioner to help with their bargaining or negotiating was somehow extravagant or radical. It was merely seeking to provide an opportunity to help parties having trouble negotiating. No opportunity arose to move that amendment, which was brushed aside by the Minister and rejected out of hand.

We then went on to talk about some of the other bargaining guidelines; that is, that bargaining should be done in good faith and the parties should not be able to refuse to bargain during the limited period of immunity from industrial action. The Opposition wished to point out the effect of those so-called immunities and that they were one sided. They provide immunity against employers who, for example, decide to dismiss employees during the period of negotiation. That clause of the Bill was titled "Immunities" and the Minister talked about the opportunity at that point for legitimate industrial action during the negotiation of agreements. It is recognised around the world that that is usually the time when industrial and strike action occurs; that is, when the two parties are pitting their strengths against each other while seeking to reach agreement. At that time each side is pushing to have the elements it considers will support or protect its position incorporated in the agreement. The Minister claimed the relevant legislation provides an opportunity for that kind of industrial action and some kind of immunity.

The legislation talks about those immunities. It is strange that that limited immunity extends only to certain kinds of actions. At the very end the clause states that nothing in that part affects any right that an employer has to summarily dismiss or terminate the employment of an employee for failure to carry out his or her duties; in other words, if at the point of negotiating an agreement industrial action occurs, the Minister claims that people have the right to take action until the agreement is worked out. However, an employer can sack the employee at that time. Therefore, if the employee refuses to sign an agreement and gets nowhere with his negotiations the legislation provides immunity for the employer if he sacks the employee; if the employee does not agree to the agreement the employer can sack him. What protection does the employee have against the employer taking industrial action? The employee cannot picket, that is clear. An employee cannot take action that will cause loss or damage to the business of the employer. What does that mean? It could mean anything! If an employee goes slow he is causing loss or damage to the employer's business. If he does not produce as many cans of fruit or whatever he is producing because he is going slow, or if he strikes or works to rule while sorting mail, for example, those things cause loss or damage to the employer. I can think of no industrial action that does not cause some sort of loss or damage to the business involved.

When one goes through the legislation carefully - that is, the legislation the Opposition did not get an opportunity to debate because the guillotine was applied - it becomes clear that a lot of the things in it that claim to be forms of immunity for industrial action provide no immunity whatever. The provisions are quite draconian because they provide an opportunity for strong penalties to be imposed on behalf of employers but provide no such protection for employees. We did not reach that stage of the Bills, which are supposedly this Government's flagship legislation. The Opposition was provided with no opportunity to debate or examine that legislation closely. What was the Opposition told by the arrogant members across the Chamber? "If you want to debate the clauses you should not use your right to speak during the second reading debate." How dare members opposite say that! When did we in Government ever say the then Opposition members could not speak to a second reading and that if they wanted to debate the clauses of a Bill they should curtail their comments and they were wasting our time, as this Government has said to us?

How dare members opposite say that! We are members of Parliament with the right to speak in this Chamber provided under standing orders of this House. We are allowed to speak at the second reading, Committee and third reading stages of a Bill if we choose to do so. This Government sought in a harsh and brutal fashion to cut off the Opposition to ensure that dissent to and analysis of its legislation was stifled. For what purpose? What is the urgency of this legislation? What do Government members have on next week that prevents them from returning to this place and debating this legislation? It may be that all Government members have organised holidays and do not wish to come back to this place, or that they are not prepared to put in the work involved with being in Government. That is clear to most of us!

The next matter the Opposition would have liked to debate was the fact that this legislation seeks to override occupation health and safety legislation and the Equal Opportunity Act.

Mr Kierath: Which one, the one before the House or the previous one?

Mrs HENDERSON: If I choose to talk about the interlinking between these three Bills, that is my decision. This is my time and I can use it as I wish. The Bill we are debating today, which members opposite probably have not read all the way through, mentions the effect of this Bill on the Industrial Relations Act, and that is what I am talking about. If I choose to use my time in that way, I am able to do so.

Mr Tubby: Then don't complain at the end.

Mrs HENDERSON: I am complaining now about this Bill generally. One clause of the Bill outlines the fact that when an agreement is struck it completely overrides the Occupational Heal, Safety and Welfare Act. This means that should an agreement state that an employee must undertake an unsafe or dangerous practice, that is okay.

The DEPUTY SPEAKER: Order! It is difficult for Hansard to hear as I can hear a conversation occurring across the Chamber from the Chair. I remind members that if they wish to discuss matters that is in order outside the Chamber or behind the Chair.

Mrs HENDERSON: The Occupational Health, Safety and Welfare Act is to protect the safety of workers, yet these proposed workplace agreements can override that legislation so that a condition can be written into an agreement requiring a worker to undertake unsafe work. An employer can write into an agreement that a worker will do things that would normally contravene safety legislation and get off scot-free because of this legislation. The Minister probably has not looked at the relevant clause which says this legislation completely overrides the safety legislation. It refers to "notwithstanding any other Statute", and the Occupational Health, Safety and Welfare Act is a Statute of this Parliament, as is the Equal Opportunity Act. It is the normal duty of an employer to be careful with workplace agreements and to take care of the health, safety and welfare of an employee. However, that is overridden by this Bill. The Opposition did not get an opportunity to debate the relevant clause of the Bill due to the guillotining of the debate. We did not have a chance to look at that clause. This is reprehensible in the extreme and means workplace agreements can be struck requiring people to work in dangerous conditions, because the Bill completely removes the requirement for an employer to take care for the safety or his or her workers.

Similarly, if an agreement is struck which discriminates against people on the basis of race, sex or marital status, that is okay under this legislation because it seeks to bypass the equal opportunity legislation of this Parliament. One of the most reprehensible things about these agreements is that they must be secret; no-one can look at them. Why does the Government want to keep them secret? It is possibly because wages and conditions will go down. Everyone has agreed that is likely to happen, so the Minister wants to make sure that those documents are not open for public scrutiny. This is a Government that conducted its election campaign on a premise - a propaganda slogan - of greater accountability. This is great accountability! Those agreements are to be secret to the extent that there are heavy penalties for anyone who discloses their contents. It is a little like the debate last night: The Government does not want the public to know what is going on, so it cuts debate short. The Government does not want people to know what is in these agreements, so this legislation makes them secret.

This is the first Bill that has come to this House that states the Freedom of Information Act does not apply. Nobody can get access to these agreements they are so secret. We will have youngsters working for $2 an hour. We will have disabled people employed for $30 a week. We will have people working for piece rates in the mining and clothing industries for less than $275 a week. However, that will all be secret. No wonder the Minister wants to keep it secret! He knows how pervasive this legislation is, how it is intended to erode people's rights, and he does not want that known. He does not want people to know how far their rights will be eroded by this legislation, so his solution is secrecy and penalties. The Minister has said that once people have signed their workplace agreements they should not worry about those agreements because there will be a raft of minimum conditions. That is the protection offered by the Minister. No-one will be able to go below that raft of minimum conditions; that is, $275 a week, no cumulative sick leave and not even the opportunity of working in a safe environment while one is pregnant. That general order in relation to parental leave was deliberately omitted from the legislation. We saw yesterday some of the Government's mean-minded provisions. Worse than that, our debate was cut short last night at a time when the Opposition was seeking to bring to the attention of the House the fact that the wages of people who are disabled - those least capable of defending themselves in the community, those who are physically or intellectually impaired - can go below this minimum standard of $275 a week regardless of whether anyone says it is fair. There is no test for fairness. The Opposition sought to introduce a modest amendment which would have required someone independent, an industrial relations commissioner or a commissioner of workplace agreements, to examine agreements struck between people who are physically or intellectually disabled to determine whether it was fair to sign an agreement for less

than a living wage - that is, less than $275 a week. Was that amendment accepted or even seriously debated by the Minister? Not at all; he brushed it aside. The Minister said that it was too bad if people were exploited, they could stand on their own two feet. Even where those people were physically or mentally handicapped the Minister was not interested in providing some kind of safety net, some independent person to review those agreements. What about the minimum wage? The Minister under this legislation has set himself up to determine the minimum wage. He is the expert, but he does not just do that -

Mr Bloffwitch: He will do a better job than you did.

Mrs HENDERSON: I would never seek to set the minimum wage. The job of the Industrial Relations Commission is to look at those matters. When we were in Government we agreed that the commissioners were the experts, that was their task, and we were happy to leave it in their hands. Not so this Minister. He wanted to make the final determination, but more than that he wanted to be able not only to make a submission to the hearing about how high the minimum wage should be, but also to be the final arbiter. How extraordinary that he should be a party to the original hearing and be the final judge and jury at the end of the day. Again, the Opposition was not given the opportunity to debate this provision of the Bill. Our amendment would have made it impossible for the Minister to be a party to a hearing as well as the final court of appeal. I am not concerned about that, because I know that any court of law will strike that down; it is unconstitutional. The Minister cannot be a party that makes a submission to a hearing arguing about how high the minimum wage should be, then reserve for himself the decision as the final court of appeal. The Opposition did not get to debate the amendment it put on the Notice Paper which would have removed that inconsistency from the legislation because the Minister was not prepared to debate any of the Opposition's amendments.

The Opposition sought to extend the raft of minimum conditions and during that debate we drew the Minister's attention to the fact that he could, at his whim, exempt people completely from his so-called safety net of minimum conditions, such as his minimum wage of $275 a week, which we think no family could live on, and publish it in the *Government Gazette*. I asked the Minister whom he proposed to exempt. He said it was people employed on a commission and those on piece work. I do not mind the Minister's exempting people on commission - real estate agents, used car salesmen and insurance salesmen - as they can look after themselves, but I do mind the Minister's exempting people who work for piece rates, because they are mostly women. Those women sew clothes such as shirts, skirts and T shirts - often 10¢ a T shirt. Some miners work for piece rates and meat workers at the abattoirs are paid according to the number of animals they slaughter each day. Unless it has changed, it also includes those people who read electricity meters, because they receive a bonus according to how many meters they read a day. All of those people come under this legislation and could be exempted by the Minister from even the basic minimum of $275 a week. In other words, the Minister could say that $100 a week was a fair minimum wage for someone who worked in an abattoir. Nothing would stop the Minister; the legislation provides him with that opportunity. Was the Minister prepared to debate that or even consider the Opposition's amendments that would have closed that loophole? No, he was not. In the arrogant way we have come to expect of him in this Chamber, he brushed it aside. He just moved on; he did not even answer the points that we raised, and refused to rise to his feet, and we moved on until the guillotine came down.

Today, we have the Bill that brings together all those things about which I have been talking. The third leg of the Government's strategy, when it has taken away most awards and forced workers into individual contracts, and when it has taken away their right to have an independent arbiter of their choice, is to tackle the Industrial Relations Commission. The Industrial Relations Commission has been a shining light as an independent umpire in our industrial relations system. It was set up almost 100 years ago after the great strikes of the 1890s, to stop strikes from becoming bitter and protracted. The commission was set up so that instead of people battling it out in the mines, or, in the

case of the shearers' strikes, on the farms, with one side holding out as long as it could and not getting its sheep shorn, and the other side holding out and not getting any wages and their families not getting any food on the table, they could come together in a civilised way, in a semi-legal forum, and argue their case, and the argument which had the greatest capacity to convince would win the day. I have attended some of those hearings, as have other people in this House, and there are people in this House who have had illustrious careers advocating positions to the commission very competently.

The Industrial Relations Commission is the protector of the weakest in the community, those people who are least able to exert industrial muscle on the job. Those people are the nurses, the teachers and the police officers of our State, who do not normally go on strike because they know, firstly, that if they go on strike they will hurt the public, and, secondly, that the public will not have too much sympathy because they will say, "Your first duty is your professional duty to care for the sick, to teach our children, and to get the criminals off the streets." The public, I would have to say, would not even be interested in what the strike was about, and it is highly likely that any publicity about the strike would not say what the issues were; it would just talk about how people were being inconvenienced, how children could not go to school, and how parents had to stay home from work to look after their children.

The people who have benefited most from the existence of the Industrial Relations Commission are not only those who have limited capacity to take any form of industrial action, but also those who are the most vulnerable in that they will be sacked if they go on strike. Those people include women of non-English speaking backgrounds who work in processing factories - people whom this Minister is supposed to protect. I know, because I have seen it, that there are processing plants where women of different ethnic backgrounds are put next to each other so that they cannot talk to each other while on the job; and this is supposed to be a civilised community!

Mr Omodei: Can you give us some examples?

Mrs HENDERSON: I could, but I am loath to name here the companies concerned, and members opposite would be the same. However, two years ago, I visited one of these plants. I could not talk to most of the people on the processing chain because they had little command of English, but a person walked around with me and introduced me to them and told me their backgrounds. I was told by that person that the factory had a deliberate policy to place people from different countries next to each other so that they would not waste time talking to each other.

Mr Bloffwitch: That might be an incentive for them to learn English. The difference between this side and that side is that we look at the positives and members opposite look only at the negatives.

Mr Thomas: Would you support giving them time off work to learn English?

Mr Bloffwitch: They could do as I did and attend night school, as most people do.

The SPEAKER: Order! When the member on her feet occasionally takes interjections, that is quite reasonable, but we now have people from both sides of the Chamber interjecting. That is most disorderly.

Mrs HENDERSON: The Industrial Relations Commission has been the refuge for these people. These people are scared to take any form of industrial action because they cannot afford to lose their jobs; they have children to feed, families to look after, and mortgages or rent to pay, and they have less likelihood of getting another job than do most other people. The latest statistics from the Australian Bureau of Statistics indicate that the largest single adult group represented among the unemployed is people from non-English speaking backgrounds. Not only do those people find it the most difficult to get a new job when they lose their job, but also they are the most intimidated against taking any form of industrial action, and for them the Industrial Relations Commission is a refuge and place of reasoned argument, and their only hope for improved conditions.

The Industrial Relations Commission has been a saviour for a lot of these people. It has meant that they can enjoy reasonable living standards and wages. It has meant that

people in the humblest of occupations in our State, people who clean the building in which we work, who work on garbage trucks, who do gardening - who do what others sometimes regard as menial work - do not enjoy the subsistence wages that we see in countries like the United States. The reason for that is that we have an Industrial Relations Commission where those people can be represented, where a case can be argued on their behalf, and where they can win a wage increase on the basis of the work which they do. The Industrial Relations Commission has been a shining light in bringing about equal pay for women. There was neither equal pay for women, nor maternity or parental leave until the Industrial Relations Commission agreed to it. All of those things which we now believe are a measure of our level of civilisation and progress were won not by raw industrial muscle and not by battling it out in the industrial jungle, but by argument in the commission.

The legislation before us today, which is about to be rammed through this House, as the previous two Bills were, so that we can all go home at 4.30 pm, seeks to weaken the Industrial Relations Commission, take away its power, take away the opportunity for people to go there -

Mr Bloffwitch: That is your view.

Mrs HENDERSON: The member for Geraldton said good!

Mr Bloffwitch: I did not say good.

Mrs HENDERSON: This Bill seeks to ensure that when people sign a workplace agreement, regardless of whether they agree, they will lose the opportunity to go to the Industrial Relations Commission. Therefore, if people are sacked unfairly - and people do get sacked unfairly - they will not be able to go to the Industrial Relations Commission, as they can at present, and win the right to reinstatement. They will have to go to a court of law. They can hire a lawyer and go to the Magistrate's Court, and if they do not like the decision of that court, they can go to the Supreme Court. How many ordinary workers can afford to go to the Supreme Court? How many ordinary workers can afford to appeal against a decision which they do not like?

Mr Kierath: Do you know anything about the size of the claims - the jurisdiction of it?

Mrs HENDERSON: I have noticed that there will be a cap of $5 000, and I wonder what sort of compensation that will be for a person who loses his job in the current climate.

Mr Kierath interjected.

Mrs HENDERSON: That is right, because the vast majority are below that. However, in the past a cap has been unnecessary and outrageous claims have not been made. As the Minister says, the vast majority have been below $5 000. Every now and again there are people who are awarded more than $5 000, based on the merits and justice of the case. However, those people's rights were taken away last night when that Bill went through the House with no debate.

Mr Hill: Is it an absolute limit or is it indexed?

Mrs HENDERSON: Not that I am aware of.

Mr Hill: It can be changed only by a decision of Parliament.

Mrs HENDERSON: It will decline in value. It is clear that the intention of this legislation is to put the matter it in the hands of lawyers and into the mainstream court system. That means that ordinary working people will not be able to use it. They will not get justice. The Bills we dealt with on Tuesday - debate on which was cut short - provided the opportunity for people to have an arbitrator.

Mr Bloffwitch interjected.

The DEPUTY SPEAKER: I formally bring to order the member for Geraldton.

Mrs HENDERSON: This Bill provides that every single workplace agreement must contain a disputes resolving procedure and must nominate an arbitrator. I said the other day that there is nothing to stop the arbitrator being the uncle or the brother of the

employer. He can be anyone. The Minister will say that whoever is the arbitrator must be agreed on by both parties. If the employer brings in a workplace agreements form, as he will, and tells the prospective employer that if he wants the job he must sign it, and the employer's brother is named as the arbitrator, that is just too bad. This legislation does not give the prospective employee the chance to take his complaint to the Industrial Relations Commission; he must hire a lawyer and argue under the rules of evidence of the Supreme Court that it is biased to have an arbitrator who is the brother of the employer. What a joke this legislation is! What an outrage it is against normal human decency. The pity of it is that most people will not know about issues like that because this Government has ensured that debate on this legislation will be cut short so that it can go on holiday.

The legislation is very detailed and we will deal with some of the clauses today. Almost every clause seeks to limit the role of the Industrial Relations Commission. Maybe it is a way of saving Government money and involves a plan to sack a few of the commissioners. It certainly is a slap in the face for a commission that over the years has done an outstanding job of improving people's working conditions in this State. It was an insult for this Minister to say, as he did in here the other day, that most of those commissioners are ex-union officials. He did not even bother to do his homework. As the member for Morley pointed out, only four of them are ex-union officials and others are ex-employer advocates. As usual the Minister had not bothered to do his homework; he did not know what he was talking about. He fired from the lip as he normally does and said the first thing that came into his head. When we examine the clauses of this legislation people will see how tightly it restrains and restricts the role of the Industrial Relations Commission. The detail in the Bill is so fine that I will save my arguments on the specific clauses for the Committee stage. I oppose the Bill.

MR BROWN (Morley) [11.53 am]: This Bill has been introduced with three other Bills, two of which have now passed through this House in the most unfortunate circumstances, because the guillotine motion adopted by this House did not allow full debate on them. Indeed, we saw the Minimum Conditions of Employment Bill pass through this House at 11.00 pm and the Workplace Agreements Bill at 1.00 am of the one sitting, Thursday, 19 August.

Government members interjected.

The DEPUTY SPEAKER: Order!

Mr BROWN: This is a sad day for Western Australia as this Bill is the death knell of the industrial relations system as we have known it. This Industrial Relations Amendment Bill will undermine the standards of working and employment conditions that have been built throughout this century.

Several members interjected.

The DEPUTY SPEAKER: Order! The member for Morley wishes to bring very important matters before the House. We have people interjecting from both sides and I ask them to desist; it is disorderly.

Mr BROWN: This is phase one of two or three changes to the Industrial Relations Commission. We will see, after the commission has been successfully undermined by this Bill, the introduction of further Bills which will either wipe out or further undermine that commission. In that way it is a poor day for Western Australian working people.

In the time I have available to me today, I will reflect on what the Industrial Relations Commission, under the Industrial Relations Act, has meant for Western Australia. I will explain something about the award system, which still seems to be fairly well misunderstood by some in this House, and the protection that system provides. I will then compare and contrast the protection that has been provided by that system with the proposed changes to the Industrial Relations Act as outlined in this Bill.

I refer, firstly, to employment standards generally. Anyone who has researched industrial relations in this State will know that the employment conditions we have today have not come about by actions of Governments, be they conservative or Labor Governments.

They have come about as a result of many years of struggle by working men and women to achieve fair and reasonable conditions of employment. The conditions we have today have not been achieved overnight. For example, one week's annual leave was achieved for working people in 1940. It was built on in the sixties and improved again in 1971-72 when the current standard of four weeks' annual leave was achieved. Redundancy pay was not generally accepted as a community standard before 1980, but has been built on and is now accepted as a standard. It was only after the Industrial Relations Commission's decisions in the early seventies that we saw equal pay for equal work. Until then it was not unusual to find women, both within and outside the award system, paid a lesser rate of pay for doing precisely the same amount of work done by men.

A gradualist approach has been taken in all of this. When economic circumstances have permitted, improvements in standards have been made. When economic circumstances have changed, the standards have remained the same. However, we have not seen a reduction of those standards over the years; rather, a continual improvement. Moreover, this system has operated in an egalitarian way. Many workers in Western Australia receive similar conditions of employment even though they are engaged under different awards. That is because in the Industrial Relations Commission there are what are known as standard conditions of employment. Those standard conditions apply to many awards governed by the commission. By virtue of that egalitarian approach many conditions that apply across the work force today are accepted and taken for granted.

Some myths have been generated in this debate about the current system. I will take just a couple of moments to deal with some of them. The first myth is that the award is somehow an union document; that the award is set in stone and cannot be amended. For those who hold that belief, let me correct it. An award is made between two parties - an employer or employers and a union or unions. If either side to that award does not like its content, it has the opportunity of seeking to negotiate with the other side appropriate changes and conditions. If one side is not able to achieve its goals and objectives by way of negotiation it has the opportunity of presenting a case for changes in the Industrial Relations Commission. Some people who would like to see changes to the award system know that their arguments have no basis in merit and no economic logic or substance. They simply seek to downgrade wages and conditions. Hence, they do not take those arguments to the commission because the Industrial Relations Commission requires to be put before it substantive argument and not theories which may or may not be true. It is quite wrong to theorise or create the myth that somehow an award is a document of the union movement or of particular unions. Employers who are party to an award have an opportunity to either exempt themselves or seek changes to it. That is important to understand in this debate.

The second myth about awards is that somehow the minimum wage is in fact the wage that is paid under the award system. The minimum wage is $275.50 a week and it is contained in some awards. However, in awards in which wages are specified for certain categories or classifications of employees, the wages so specified are the minimums. That is, in the shop assistants' award the rate for a shop assistant is $385 a week. If that award also contains the minimum wage of $275.50, the minimum rate that can be paid under the award is $385; not $275.50. There appears to be some misunderstanding, for the want of a better term, that if awards contain the minimum wage, that is the minimum. It is not. The minimum is the rate that is contained in the award for the classifications so mentioned.

A further myth that has been generated is that the award system somehow prohibits different payments to different employees. That is a myth for two reasons. Firstly, many awards provide for different payments for employees with different skills; the higher skilled receiving higher payments and the lower skilled receiving lower payments. Secondly, the award system itself has never prohibited the payment of over-award payments or over-award conditions. Any individual who believes that he or she has a superior skill or knowledge, or earns more for the employer, has the capacity today to sit down with the employer and negotiate better terms and conditions of employment or higher wages. There is no prohibition on that. Indeed, anyone with a fleeting knowledge

of what happens in the work force today would know that many employees take advantage of that situation. Many employees are paid well above the award rate and will continue to be so paid.

Another myth put in this debate is that the system proposed under the Workplace Agreements Bill, the Minimum Conditions of Employment Bill and this Bill will be advantageous for non-award employees. What has not been addressed anywhere in this debate is that by reducing terms and conditions to those contained in the Minimum Conditions of Employment Bill, that Bill will have the effect of reducing conditions not only for award employees but also for non-award employees. That point has been made quite clear and is particularly relevant when one has regard for the pervasive effect of awards in the community today. Awards set the base and they could continue to set the base. It is upon that base that other rates and conditions are set. The award system has also provided protection for new employees. Many new employees do not have sufficient bargaining capacity to be able to ensure fair wages and conditions of employment. The award system has provided that guarantee; it has provided that protection which is so necessary. That protection will be removed by these changes, particularly by the changes that are now proposed to the Industrial Relations Act by this Bill.

The award system has also provided a series of standard conditions. I will refer briefly to some of those standard conditions. I do that by reference to an award which is called the Restaurant, Tearoom and Catering Workers' Award, 1979. That award applies to those people engaged in restaurants and tearooms and is not an award which one could say is in any sense a pacesetter or one which provides extraordinary employment conditions. The type of standard provisions available to employees under the award system are: The hours of work are 38 a week; additional rates for working anti social hours, and overtime rates where employees are required to work beyond 38 hours. Provisions are included for casual and part time workers. Sick leave, which is fully accumulative, and bereavement leave, which is more generous than the minimum conditions arrangements, are provided. There are arrangements for uniforms and laundry and provisions for protective clothing and workers' equipment. There are provisions for travelling on the employers' business; roster changes and for information to workers; breakdowns; and location allowances for workers who work in remote areas. All of those conditions are standard across the award system. They are all in place today and are all guaranteed. A worker when commencing employment does not have to know each and every one of those conditions. They are in place and the employees are protected by those conditions. It is important to understand that in the context of what is now proposed by this Bill and its accompanying Bills, because we will see that situation change quite dramatically. Under this Bill we will find a recognition for the so-called work place agreements which must be "negotiated" between the employer and employee. However, the workplace agreement will not necessarily contain all the employment conditions. Other conditions may be contained in employment contracts. In fact, the new employee, and even the existing employee, will have the complex task of endeavouring on the one hand to negotiate a workplace agreement and, on the other hand, to negotiate an appropriate employment contract. They will be in that position, in many cases, trying to negotiate and finding it impossible simply because there is an imbalance of bargaining power.

On that question of bargaining power, it is important to note that during this debate not one speaker has yet suggested that employees or prospective employees have the same degree of bargaining power as employers. Under this Bill workers will be required to negotiate their own terms and conditions of employment. What does that mean for the new employee, and for the person who is in employment? First, let us assume for the sake of the argument that real negotiations are to take place, and that an employer says to someone, "Come into the office, sit down and we will have a proper negotiating session." What will the employee need to know before going into those discussions? The first thing he or she will need to know is what is "reasonable", what to ask for and what is a reasonable amount. The employee will think, "I do not want to price myself out of the market by asking for conditions which are beyond the pale. What is a reasonable

proposition for the skills which I can bring to this business?" Today employees in that position either are protected by the award or can refer to the award system which is known, to work out what a minimum rate might be for that job; however, under the Minister's proposals in these Bills none of that information will be available. It will not be a question of people seeking to operate in the market where they know what the prices are and can adjust their own price. Here the employee will be going into a job, allegedly seeking to negotiate a wage, not knowing whether he or she is asking for too much or too little by reference to what people are paid for carrying out similar work in similar industries, because that information will not be known - it is to be kept a secret. Secondly, in the fictitious negotiations that would go on, the employee would need arguments in support of the conditions he or she wanted - not simply demand them but have some basis for why they are reasonable. That argument would have to be on the basis that other employees are getting them, the industry can afford them, and so on.

Mr Bloffwitch: You won't sign the agreement unless you do get that.

Mr BROWN: Before the employee signs the agreement he or she must negotiate, and being responsible in negotiations does not mean simply saying, "I want this and I want that", but rather, "This is what I believe in and these are the reasons I believe we should do this." That is the way real negotiations happen.

Mr Bloffwitch: I do not believe that will be the case with workplace agreements. I think in most cases most people will say, "This is what I would like in the agreement", the employer will either agree or not agree, and that will be the end of the story. Many of the people who will be discussing it with me do not have the negotiating skills and the staff doing it are not qualified like you. It will be what is fair and reasonable; it will not be a greatly skilled thing such as you are talking about. This is the whole issue.

Mr BROWN: We have heard much from members opposite about how these agreements will come about by negotiation. I was labouring under the misapprehension that the legislation actually envisaged a system where these negotiations and agreements would occur. Let us continue to talk about this fictitious negotiation. After an employee has argued about the substance of the agreement, the next stage will be the drafting process, and it is very important for the employee to ensure that he or she accurately records what has been agreed. It is no good referring after the event to something that was agreed in discussion unless it is accurately and correctly recorded, because what goes into the workplace agreement will be the rights and obligations of the parties, and unless it is written down clearly, precisely and accurately the employee or the employer will not be able to enforce that agreement. So the onus will rest on every person involved in these negotiations to make sure that they have the drafting skills to write down very plainly, in clear English, exactly what has been negotiated between the parties.

In the context of the discussions it will also be necessary to work out a number of things. The first is what is to be included in the workplace agreement and what is to be included in the employment contract, because there will be different methods of enforcing the workplace agreement as opposed to the employment contract, and there will be different propositions about what will be changed if it is in the workplace agreement as opposed to its being in the new employment contract. Employees will need to know before they go into the mythical negotiations exactly where each condition should go, because failure to put a condition in one or mistakenly putting it into another could have a deleterious effect upon them. For these mythical negotiations they will also need to know what constitutes a fair dispute settlement procedure, because that must go into every agreement. There are many dispute settlement procedures around, some of which I think are eminently fair and others which are dreadfully biased. Each person will need to know the sort of dispute settlement procedure that is appropriate and reasonable.

Employees will also need to know how to go about co-opting someone to carry out an arbitration; that is, whether they should engage the Industrial Relations Commission or employ a private person to carry out the arbitration. They will also need to specify in their workplace agreement the procedures they want to occur if they are unfairly dismissed. This could be a difficult task for new employees in negotiating their first new

agreements with their employers, because they will have to sit opposite the employer in the conference room and say, "If you give me the job, just in case you happen to unfairly dismiss me I want to reach agreement with you today about what arbitration process we will follow. Will we go to the Industrial Magistrate's Court or the Industrial Relations Commission?" Under this agreement they must negotiate which is the appropriate path to choose. They must also be aware of what are the appropriate implied conditions in the contract. Are certain conditions implied and, if so, which conditions; or does the Workplace Agreements Bill stop certain conditions of employment being taken into account in the workplace agreement? In these mythical negotiations that are to take place under the Workplace Agreements Act, in the absence of awards and protection of awards these are some of the skills that employees will need. Of course, the need for considerable skills in this area is recognised by some people. A number of people have told us how easy it is to have these negotiations and said that any dill can carry them out; that there is not much negotiating in these agreements and it is easy for everyone to do. If that is the case there must be a few charlatans around trying to get money out of people by running seminars on how to negotiate an enterprise agreement. I have here a glossy publication from a charlatan charging $545 for a one day workshop or $995 for a two day workshop on how to negotiate a workplace agreement. It was issued by Professor John Niland, who believes that it is a bit more complicated to negotiate one of these agreements than has been said.

What does he say in his glossy publication about the skills that employees will need to negotiate these agreements which we are now being told do not require much skill to negotiate and are easy to do? These are some of the things one needs to know, according to this brochure. On day one of the seminar the following subheadings are covered under the heading "Key Elements of an Enterprise Focus" -

> How genuine enterprise bargaining is different from the traditional Australian approach:

And later -

> Understanding key terms and concepts:

Under the heading "Roles of the Key Players" the following appears -

> Use of mediators versus industrial tribunals

This is an important matter because each worker will have to decide whether he wants to go to the Industrial Relations Commission or the Magistrate's Court. A later heading is "Getting Ready for the Bargaining Table - What to expected in the 10 stages of negotiation". The following appear under that heading -

> Stage 1: Laying the groundwork - climate setting, thinking through the overall strategy
>
> Stage 2: Formulating the claims - assessing the true costs and benefits
>
> Stage 3: Formally establishing the bargaining relationship
>
> Stage 4: Administration and housekeeping - the nuts and bolts of the bargaining process.

After lunch the first heading is "Negotiating Strategy", under which the following appear -

> Which items first? Which items last?
>
> Use of deadline, final offers and bluffs
>
> When to use a mediator, fact finder or arbitrator
>
> Fast track versus slow track - when to switch

He later refers to the tactics of the bargaining process and closure and settlement. Those things are covered on day one of the seminar. On day two the seminar deals under the heading "Review of the Key Skills for Enterprise Bargaining" with -

25 specific skills to practice in the workshop

Hints for proper preparation and planning

Members can see that Professor Niland, who has some experience in this field over some time, believes that this is a quite serious process. The professor thinks that people need a few skills that he can provide and is prepared to teach people those skills at a two day seminar for $995.

One does not believe that the mythical processes outlined in this Bill will ever take place. Anyone who believes that all the things outlined in this Bill will occur in the negotiating process of a workplace agreement still believes in the tooth fairy. This legislation should be seen for what it is - nothing more than a crude and callous attempt to remove conditions of employment achieved for working men and women under the award system. I strongly oppose this Bill.

MRS HALLAHAN (Armadale) [12.25 pm]: I join with my colleagues in strongly opposing this package of three Bills which will undermine the standard of living of Western Australians and tear apart the social fabric of this State. We are having to take part in a diabolical debate. It seems to me that either the Government has no sense of the impact of this legislation or a terrible cynicism and destructive force is working its way very definitely through the power brokers and the people who put members opposite on the Government benches and that those members are unable to resist for decency's sake the thrust of the legislation they are bringing before the House.

It has been said that this legislation is about choice and flexibility. Not many members have supported the Minister in that assertion. When one looks at all matters associated with these Bills one sees choice being removed. There will be no flexibility for anybody in the workplace under this legislation. Many employees are wondering how they will manage the difficult situation that will arise in the work force in this State as a result of this legislation. When it comes to a choice between a job or poverty what does the Minister think that choice will be? Western Australian families and individuals will suffer severe decreases in their incomes, conditions, safety in the workplace and standard of living.

This legislation has particular implications for education. I am told that no discussion has taken place between the Minister and the union representing education employees even though that union is a major representative body for an important sector of our community. The education sector is similar to the health sector in its importance and has a major union representing many people working in that sector. Despite that, the union was not consulted and had no direct discussions about this legislation with the Minister who brought it before the House.

I am told that ministry officials indicated to the union that they believed the Government intended to implement the legislation in a literal way and that they could expect agreements to be entered into on a school by school basis. If that is done, equity will fly out the window and experience and promotion based on the merit system, only recently won, also will go out the window. The quality of education will fall dramatically. Conditions of teachers and their families will be uncertain. For example, what will happen if something happens in a teacher's life when posted to a remote or semi-remote school for a five year period? What penalties will apply in those circumstances? What assurances will that teacher have of a posting?

How can we have a fair and equitable education system if this legislation introduces agreements reached on a school by school basis across this vast State where the education system is spread over 700 to 800 schools? This is exemplified by the uncertainty that will occur regarding teaching and the impact it will have on students. We have seen this Government, again led by the nose by Victoria, derailing the whole of the national reform process of this well educated community. This Government does not recognise the mobility of its people and their need to be able to move from State to State and continue study courses, which they have commenced in one place, in another place. So myopic is the Government of Western Australia that it believes it is cut off and floating adrift in the

Indian Ocean. As a result of that approach it is jeopardising the wellbeing of every person in this State and, most significantly, workers depending on their knowledge, skills and labour to secure an income for their families.

There is another concern within the teaching profession that if this legislation that is being rushed through this Parliament is applied on a school by school basis, people in a significant sector of the community as well as students will be adversely affected. Does it mean particular disciplines will be up for separate agreements within particular schools? Does it mean that maths and science teachers may be paid at a different rate from teachers in other areas and disciplines? Will they all be carved up in a competitive destructive situation? When trying to do the best for their families in that clamour, will teachers see the common good deteriorate? There is no choice for teachers coming out of our tertiary institutions. They will be new graduates and they will not have a choice of opting for an award or an agreement. As this Government is so zealously pursuing the Victorian model, will it also follow the Victorian Government's announcement this week that 2 500 jobs in education will go in 1994? Is that what we will have in Western Australia or, as the Premier has indicated in national newspapers, will there be a boost to educational funding in this State? If that is the case, what will be the cost to other sectors in our community? We do not have coherent, compassionate proposals coming from the Government - certainly not in its legislation and not in the sitting times of the Parliament. Instead we have its mantra about providing choices, that conditions will not be threatened. I cannot believe that the Minister for Labour Relations or any of the Ministers opposite believe that to be the case. In my view that makes them absolutely unfit for public office. Sadly, when we look back on this period in five or 10 years' time the judgment of history will be that this Government was not fit to be vested with the responsibility that it now holds.

Mr C.J. Barnett: There may be some criticism in future, but it will be nothing compared with that of your Government and its behaviour.

Mrs HALLAHAN: We have an inane interjection from the Leader of the House who has proved himself to be incompetent at his job. He is seen by many people in business to have achieved nothing in life except to mess up the Chamber of Commerce, and they are very critical of him. He sits smiling, but many people in significant positions in industry in this State are very disturbed to consider that he may be the ordained leader of the Government in this State. They have no confidence in his ability to carry out this role, any more than they have confidence in the current Premier. They have very significant concerns about the management of this State. I refer to the fact that a number of people in industry are currently considering transferring to the Federal industrial relations jurisdiction. Many of them, I am told, are of a mind certainly not to oppose such a transfer. However, within industry groups peer pressure is coming onto those who have a moderate and sensible view about the wellbeing of their work force, and a divisiveness is growing in industry groups as they debate this issue. The fundamental extremists among them are seeking to deny workers anything which is reasonable in their conditions, and trying to pressure those who are reasonable and who are concerned, who know that productivity depends on a work force working together - that is, employers and employees - to generate the most creative responses to these changing times. They know that is the environment which creates the best outcome for them in a profitable sense and therefore in a productive sense. Certainly it is the environment that gives workers the greatest sense of satisfaction and wellbeing not only in their personal and family lives but also in contributing to this State's economy. Members opposite seem to have a view that organised labour has no sense of its contribution to the wellbeing of this community and a lot of what is proposed and being pushed upon the community comes from some very narrow thinking and naive views about how this community works.

Yesterday a remarkable and outstandingly successful rally was held outside Parliament House. It was generated initially by concerns about the changes that are proposed to workers' compensation conditions, but the rally gathered wider support from people very concerned about these industrial changes. One women said to me, "I would like it known in that Parliament that I have always been a Liberal voter and supporter, unequivocally

so, but now that I see what this Government is doing I will never vote Liberal again and I am very concerned about the future of our State and the effects that these laws will have." That woman was very clear and very responsible. I think she was from one of the professional groups. She was a woman expressing a very deep concern. I have met her request that her view be stated in this place. It was, of course, of great concern to us all to see the metal barriers outside the Parliament yesterday and such a large contingent of the Police Force.

Recently I had an opportunity to see a program on SBS television. Watching television is not something I have had time to do in recent years, but I found this program engrossing. The timing was extraordinary from my point of view - with this legislation being introduced into this House - because it was about General Franco in Spain. I could not help thinking of the parallel between General Franco and the darkest hours that Spain went through in the 1930s.

Mr C.J. Barnett: Is it a Franco-Kierath-Barnett nexus you are developing?

Mrs HALLAHAN: I am glad members are reacting, it shows they have some concern for decency rather than the indecency which we have witnessed in the past few days. Richard Court said, "I am not Jeff Kennett and this is not Victoria", and we have Victoria leading us now down the most disastrous pathway; but I am told this legislation is worse than that passed in Victoria. The Minister for Labour Relations not only gets hairy chested and follows the wrong model but goes out in front of Victoria to try to lead with the most disastrous schools of thought that are impacting on the world in the late twentieth century. In my view we have a real problem. Franco was an interesting man because one could say of him that he was absolutely confident about what he was doing. He thought what he was doing was for the good of his country, that he would be painted as a patriot - a family man, what is more. We could say that about a number of people opposite. Despite that, Franco's regime inflicted the most horrendous conditions on the people who were not in his inner circle of influence and destroyed the pride of that country for many years. Members opposite should reflect on the parallels in such films. History does repeat itself. We have to be wary and stand against what may appear to be a benefit of a different economic or industrial approach but which has not been proved anywhere. That is why I find it difficult to follow the position of this Government.

Mr Bloffwitch: New Zealand has gone backwards since it did it!

Mrs HALLAHAN: It has definitely gone backwards, and so have the conditions of its people. Some of the people in Armadale who helped in my election campaign, which was so successful, were people who had come from New Zealand and were distraught about the diminution in the standard of living of their family members, and they did not want to see such a disastrous regime visited upon this State and economy. This economy, as we all know, is underpinned by an incredible richness. We have a well educated labour force, and we have a capacity, when world markets are right, to benefit from many things in our economy.

Cabinet members should really now dress in military uniform. Several people and, indeed, the Press, have said that people who live in a country where there has been a coup or where there is a military regime at least know about it; there is at least something honest about that. Conservative members opposite are carrying on a charade about having values of decency, support for the community, choice and flexibility, when in fact they are destroying all of those things. I strongly oppose the Bill.

MR RIEBELING (Ashburton) [12.43 pm]: I oppose the Bill. The three Bills which we have been debating this week represent the most savage attack on working conditions that this State has ever experienced.

Several members interjected.

Mr RIEBELING: It was a bit of a mistake by the Minister in the other place to release that document. During the last State election campaign, we were accused by members opposite of scaremongering, and of producing a document which was full of lies and deceit. In fact, it is the current Government which is full of lies and deceit. I would like

to read through a document which was produced by the Australian Workers Union and distributed around most electorates. It outlines what we said would take place when and if the coalition parties came into Government. The document lists in one column the current award entitlements and in the other what the entitlements will be under the Liberal contracts policy. Firstly, wages: Up for grabs. Under the Minimum Conditions of Employment Bill, that will be the case; wages can go down to $275 a week. The document states that there will be four weeks' annual leave maximum, rather than four weeks' annual leave minimum, which is the current award entitlement. The vast majority of workers in the Pilbara enjoy at least five weeks' annual leave because of the harsh conditions in which they live. They should enjoy extra leave because they are the most productive people in this State.

Mr C.J. Barnett: So why would they ever go back to four weeks?

Mr Bloffwitch: That is the minimum.

Mr RIEBELING: This Bill will reduce the conditions that workers in the north have enjoyed for many years. I understand that the 11 days' leave for public holidays will remain. The 17.5 per cent annual leave loading: Nil. The three per cent employer contribution to superannuation: No policy. The 38 hour week: Up to employer. Sick leave: Two weeks' non-cumulative. Maternity leave: 12 months' unpaid. Paternity leave: No policy. Promotion increases, overtime rates, casual rates, rostered days off, adoption leave, redundancy payments, paid training leave and compassionate leave: Nil.

The ACTING SPEAKER (Mr Ainsworth): Order! The Hansard reporter is having difficulty hearing the member. His seat is a long way away, as his electorate is a long way away, so could members please keep down the noise.

Mr RIEBELING: I did not have the opportunity to debate the compassionate leave clause because we did not get to it, but it is interesting that if one's mother-in-law or father-in-law passes away, that is bad luck; one cannot go to the funeral. Does the Minister intend to amend that?

Mr Kierath: They are minimum conditions. A person can have whatever conditions he likes.

Mr RIEBELING: Why not include them? All the other relatives are listed. Is there any reason for that? Does the Minister hate his mother-in-law?

Some of the other allowances that we said would be up for grabs if this Government came into office are protective clothing allowance, meals allowance and jury duty allowance.

These three pieces of legislation represent the most savage attack on working men and women that we have seen in the history of this State. They will allow employers to abolish conditions which have taken in excess of 90 years to build up. The hard work of our grandparents and parents over the last 90 years will be destroyed by the Minimum Conditions of Employment Bill. It is imperative that we fight this legislation even after it is passed. I have no doubt that this Bill will go through the House unamended, because this Minister refuses to change any of the provisions of this legislation, even after rational debate. I have not yet read the Workplace Agreements Bill as amended because there were so many amendments to the original legislation that it will take some time to produce.

There is no doubt that the next savage attack on workers in this State will be the workers' compensation legislation. The 30 per cent body impairment that must apply before compensation is payable is an absolute scam. I do not intend to speak for long about each Bill, but it is important that I make certain points which I have not had the opportunity to make previously because debate has been stifled in this place. The clear and unfortunate inference one drew from the election campaign was that this Liberal Government would not do what it has done with these three pieces of legislation. I remember and so do most Western Australians - it will come back to haunt the Government - that the leader of the Liberal Party actively stated he was not Jeff Kennett and this was not Victoria. However, he was telling lies because what happened in

Victoria is happening in detail and in some cases is worse than we expected. This Government does not have a mandate for these industrial changes. When the next election comes around these three pieces of legislation will be the main reason this Government is dumped in the same way that the New Zealand Government will be dumped at the next election, and for exactly the same reason. People on the other side of the House have held up New Zealand as an example of all things wonderful and good and spoken of the opportunities that are provided by this type of legislation. I spoke to a member of the New Zealand Parliament a fortnight ago. He was of the opinion that before the workplace agreements type legislation was brought into place, New Zealand had one of the highest standards of living in the world, if not the highest. Now, to his dismay, New Zealand's standard of living is equal to that of Peru.

Mr Johnson: Is he a Labor member?

Mr RIEBELING: He is; yes - a good member. I suggest that people on the other side who are concerned about being re-elected look at the results of polls for the conservatives who brought in similar legislation and see exactly what is the popularity of that legislation. If they want to be as popular as a sharp stick in the eye they should continue.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order!

Mr RIEBELING: There is no doubt that the primary purpose of these three pieces of legislation is to create an award free system. The Minister's refusal to amend his legislation has confirmed exactly that. The employer-employee relationship will not be governed by an award system in the years to come. This is the new version of enterprise bargaining. Apart from discouraging constructive negotiations, it will give the employers the opportunity - and in fact invite and encourage them - to opt out of a system that was in place; a system that has served this State well for the past 90-odd years and produced such industries as the iron ore industry which is a world leader in that field.

People criticise the union movement and the workers in that industry, but the fact remains it is the major industry in this State. It is world competitive and pays workers a substantial amount of money because they are very productive and deserve it. This Minimum Conditions of Employment Bill and the Workplace Agreements Bill are about to have an impact on the major employers in my area. I understand they are ready to deliver individual and collective contracts into their workplace which, I am advised, will have an adverse impact on their work force. I hope I am wrong and that what the Government has been saying is right; that is, the employers will not take an opportunity to get stuck into their work force.

What individual contracts will companies such as Robe River Iron Associates produce and how much better off will workers be? I will tell the members opposite exactly what their new, wonderful legislation will produce for the people in my area - not that the people on the Government side are interested in the people in my area. It would appear that their only aim is to ensure that the companies are far better off and the workers will pay that price. This means that individual contracts will take priority over both collective contracts and the award system. I think that in the view of this Minister, individual contracts are the prime hope for the restructuring of our society. If people have entered into a collective contract or workplace agreement - whatever one wishes to call it - and groups in the Pilbara have negotiated reasonable conditions, there is nothing under this legislation to stop companies from continuing to negotiate with individuals to persuade them out of the collective contracts, even if the collective contracts were finalised tomorrow. It is of course clear from the legislation that the individual contracts will take priority over all others.

In my view this will present employers - I hope not many, but I envisage that many will be unable to pass it up - with an opportunity of eroding the many conditions workers have built up over the years. I expect there will be an immediate attack on penalty rates, leave loadings, rent subsidies, travel assistance and many more that the employees in my area do, and should, enjoy. As a matter of interest I suggest that the iron ore companies

and other large employers in my area, such as the gas industry, make huge and increased profits each year, but are employing fewer and fewer people.

Mr Osborne interjected.

Mr RIEBELING: Yes, I believe what I say. I always know exactly what I am saying.

Mr Osborne interjected.

Mr RIEBELING: The member may say what he wishes and I will say what I want. These agreements as such will not improve the unemployment situation. As I said, each year the major industries in my area produce record profits and employ fewer and fewer people. Hamersley Iron Pty Ltd made approximately 400 of its work force redundant recently.

Mr C.J. Barnett: Why are you so passionately opposed to the major employer in your region?

Mr RIEBELING: The Minister has the wrong impression. I hope Hamersley Iron, Robe River and all those companies are very successful. I also hope they employ more and more people in my area so that the whole society will benefit, not just the company. Perhaps the Minister for Energy thinks only the company should benefit.

Mr C.J. Barnett: I talk to people in your community, as does the Premier. Do you?

Mr RIEBELING: I never speak to anyone in my electorate, just hundreds of people each week!

Mr C.J. Barnett: I met many people in Roebourne a while ago. Why are you so passionately against the major industry?

Mr RIEBELING: Why is the Minister so passionately against the workers in this State?

Mr C.J. Barnett: Not at all; I supported this legislation.

Mr RIEBELING: It attacks the working conditions of many people in our area. Is the Minister saying that nobody in my area will be adversely affected by this legislation?

Mr C.J. Barnett: No-one has ever made that claim. There might be some losers but the vast majority will be winners.

Mr RIEBELING: No, they will not. If we produce documents to show that Hamersley Iron, or companies of that nature, will erode the conditions of workers in my area because of this legislation, will the Minister amend it? Does he not expect masses of people to be adversely affected?

Mr C.J. Barnett: Are you saying you will fly to Mars next week?

Mr RIEBELING: Pardon?

Mr C.J. Barnett: I think I have made the point.

Mr RIEBELING: All right, I will disregard the Minister's interjections in future. The Minimum Conditions of Employment Bill sets out quite clearly that it will attack the conditions currently enjoyed in many industries. Already we have seen that large employers are prepared to sack workers and put in place underaward conditions and rates. In short, this system will create a massive imbalance as a result of the difference in bargaining abilities of the parties. The changes that the Federal Government is contemplating seem positively generous when compared with this legislation. I am sure that one of the impacts of these three pieces of legislation will be that the vast majority of unions will endeavour to transfer to Federal awards. I encourage them to look seriously at that and get out of this system until it comes back to some sanity when we regain control of it in three and a half years' time.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on next page.]

Sitting suspended from 1.02 to 2.00 pm

PARLIAMENT HOUSE - VISITORS

Beazley, Hon Kim

THE SPEAKER (Mr Clarko): I acknowledge the presence in the Gallery of a distinguished Australian and former member of Parliament, Hon Kim Beazley.

[Applause.]

[Questions without notice taken.]

INDUSTRIAL RELATIONS AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR RIEBELING (Ashburton) [2.33 pm]: It is important that the public of Western Australia get the facts about a couple of clauses in the Workplace Agreements Bill. Of course, the Opposition did not have the chance to debate that Bill fully. A threat has been made to me by the Minister for Labour Relations that if I continue to put out information about some of the clauses of these Bills I will be committing an offence. He deliberately mentioned the clause about misleading information. However, a more sinister clause, clause 64(2) of the Workplace Agreements Bill, states that -

> A person, not being duly authorised under section 14 -

That is, the bargaining agent section.

> - to represent an employer or employees in negotiations for a collective workplace agreement, must not interfere in or obstruct the negotiations.

In my view, and in the view of most people, this makes it an offence for a person to supply information to any person who is negotiating for a workplace agreement, even if that information is of a general nature. It is ridiculous to suggest that I would be committing an offence if a pamphlet put out by me happened to go to someone who was in the process of negotiating and influenced them in their negotiating. The Minister, quite cunningly, mentioned other clauses which stated that misleading, but accurate, information given to a person would still influence a person in negotiations. Clause 64(2) should be amended instantly. I hope the Minister, if he is listening, will take that on board and amend that specific clause quickly. Another clause of concern to me - which I hope the Attorney General will consider - is clause 96(1), which deals with incriminating answers etc. It states -

> It is not a lawful excuse for the purposes of section 94(1) or (2) -

That is, the clause headed "Failure to attend, take oath, etc."

> - for a person to refuse to answer a question or produce a book, document or record on the grounds that the answer or the book, document or record might tend to incriminate the person, or make the person liable to a penalty.

I put it to the House that this goes against the basis of our legal system; that is, that the defendant has the right to say nothing and that the onus of proof is upon the complainant. That carefully worded clause changes the onus of proof; therefore, the right of the person to say nothing is taken away from him. This is an attack on our legal system and has gone through this House without any debate, as have many other disturbing clauses in this Bill and other Bills associated with it.

I reiterate that the three Bills are the most vicious attack we have ever witnessed in this State on the working conditions of the productive section of this community - the workers. They are the people who do the manual labour and are the most productive in our community, but also the most vulnerable. I urge the House to reject this Bill, in the hope that someone on the other side may look at these Bills and not just mindlessly agree to them because the Government has put them forward.

DR TURNBULL (Collie) [2.38 pm]: The Industrial Relations Amendment Bill, the third of three Bills relating to industrial relations introduced by the Government, has been worked on and developed for many months by the ranks of Government members. It has been my position, as the member for Collie, to look at the industrial reform legislation, particularly in the light of how it will affect the constituents in my area and the industries in my electorate. My electorate includes many forms of workplaces, and industrial arrangements within those workplaces vary from the highly unionised mining and power generation industries to the lowly unionised and organised areas in the farming industry.

Variations occur with all workplace agreements. We in this place must address the reality of what is happening in the workplace at the moment. The Opposition went on and on about what might happen as a result of this legislation but did not address what is really happening. In many workplaces such as those of the Collie coalmining companies a well organised union represents its members extremely well. Two companies negotiate with those unions. Fortunately for the people of Western Australia, particularly members opposite and others who come from the metropolitan area, negotiations between the unions representing the workers and the company representing the organisations in the industry which result in the supply of electricity for members' houses have been going fairly well. These people recognise the reality of the situation in Australia at the moment; that is, that we must be more productive in order to sell our products overseas otherwise our standard of living will drop. We all know that for the ordinary average worker in Australia, in the past 10 years - .

Mr D.L. Smith: Why is there no new mine at Collie? It is because we do not have a 600 MW power station.

Dr TURNBULL: The member is quite ignorant if he thinks Collie coal can be exported.

Mr D.L. Smith: It could be, at $29 a tonne.

Dr TURNBULL: The member for Mitchell is quite ignorant about this matter. Coal cannot be exported from Collie by ship unless that ship is filled with an inert gas. That raises the export cost greatly. That has nothing to do with mining continuing.

The negotiations in the Collie electorate stretch to areas such as Boddington, the alumina mining area, the bauxite mining area and down to Greenbushes where tin, tantalum and strontium are mined. We also have a big timber industry. The reality is that in most areas negotiations are proceeding well between employees and the companies operating industrial organisations.

Unfortunately, the existing State award system prevents many things being done to accommodate individual workplace requirements. One of the best examples of this can be seen at the Muja power station where the employees have different requirements and attitudes to the workplace from those held at Kwinana. However, the union representatives are based in Perth and many are actually from Kwinana, so their attitudes reflect what should happen in workplaces like Kwinana or Kewdale, which is a big storage complex. Many of their attitudes to what should happen in the workplace are developed in those areas and are not relevant to Muja. On many occasions both workers and management have agreed that certain conditions should apply in the Muja workplace, but under the present State award system they cannot be implemented. Much effort has been put into implementing those conditions, but it has been unsuccessful. One of the suggested conditions which has been discussed on many occasions at Muja and which has much support there is alternative hours, but it is not getting anywhere.

Last year, when it became quite apparent that the coalition parties were developing a policy for workplace reform, I took a strong interest in that development and was involved in many of the discussions about what would happen and how we could implement workplace agreements. I did that in order to ascertain what would by the effect on workers and companies in the electorate of Collie. The legislation now before the Parliament contains a few areas that one could say indicate that all the dire predictions made by the Opposition for the past five weeks may become reality. There may be an abuse of the system in some areas. Members will note that many clauses seek

to ensure that abuse of the system will not occur. Despite the good intentions of politicians and others abuses of the system often occur. I can assure members that many abuses of the current industrial relations system occur; that is why it is being reformed here and why the Federal Government is also looking at reform in this area. These three Bills must be implemented to set up a new system which will be monitored. I can assure members opposite and the people of my electorate that I will monitor carefully the progress of this legislation.

I went to the election in February saying that workplace agreements would be introduced by a coalition Government. I circulated that fact throughout my electorate including all those listed as involved in industry. I also went to workplaces and spoke extensively to many people. Following the election I continued to talk to people from Boddington to Collie and Boyup Brook to Greenbushes. That is what a responsible member of Parliament must do; he or she must look at those impediments to industry and to the creation of wealth and, in particular, to the impediments to the use of capital. One problem in our industrialised nation is that it is extremely expensive to instal new equipment, whether drying kilns at Whittakers' timber mill, new excavators at Boddington, or a new refinery section at Greenbushes. All new equipment is extremely expensive. We must seek to ensure that capital invested in such equipment produces a return. One of the best ways of ensuring that such capital expenditure produces a return is seeing that it is used for the maximum time possible, while allowing time out for overhauls and maintenance.

Unfortunately, this is where the award system is letting down Western Australia in my electorate. This is a sensible proposal which not only workers in the workplace but also management think should be implemented, but it has not been implemented because the award is frustrating many such adjustments. When working on developments last year the National Party, and I as the member for Collie, decided that the best procedure for Western Australia was to maintain the award system and the Industrial Relations Commission.

We know that in some places of Australia, particularly Victoria, the industrial relations system has been superseded by a new system, but in Western Australia many areas of the Industrial Relations Commission function effectively. The Collie coal industry tribunal has been providing an extremely good service to the industry and workers since the 1940s. That is why the Government did not want to abolish the award and the industrial relations system. We also recognise that a very important element within the Industrial Relations Commission is the assessment - in other words a readjustment - of remuneration and so on of existing circumstances within society. Those places in Australia, particularly Victoria, where that function has been superseded still need an annual or six monthly assessment of remuneration standards in the current circumstances. I was particularly concerned that Western Australia should maintain the regular assessment of the wages and remuneration structure. I was also concerned that it should have a system of representation for employees who might be entering into a workplace agreement. I know how easily the young employee, the person just entering the workplace, and women and men in a workplace can be left without information or the capacity to negotiate their own position.

The Bills the Government has introduced into this House and which it will progress through the legislative process, contain provisions for the employee to be represented in negotiations; in many case that will be by the union. I am frankly disappointed at everything I have heard come from the Opposition, particularly from the member for Thornlie. She has gone on and on for days repetitively carrying on about the unions. If one talks about progressive unions, such as those unions which are developing in the power production area and within other workplaces in my electorate - including the Collie Coal Miners Industrial Union of Workers, which is responsive to the current circumstances and provides advice to its members on workers' compensation and superannuation - of course, workers will want to continue to belong to those unions.

I cannot understand the way in which the Opposition has been performing about unions. This Bill contains a provision to allow workers to appoint their own representative. If

they want the union to represent them, they can have the union as their representative. Nothing in these Bills will destroy that situation. These Bills represent a choice, particularly to workplaces in the country with different circumstances. We cannot compare the conditions at the Muja power station with those at Kwinana, or the conditions at a large timber mill with those at a small timber mill, so people working in those areas will work out with the company what is appropriate to their workplace. It is unfortunate that the repressive and hog tied people who support the Industrial Relations Commission and the award system as it is at the moment have not allowed reforms in the award system. If that had happened we would not be needing this legislation. Western Australians will have a choice of remaining with the award system or negotiating a workplace agreement and that is most important.

Dr Watson: The unionists at Collie know there is no choice.

Dr TURNBULL: I can assure the member for Kenwick that unions do know a choice will be available, because I have discussed it with them. I can elaborate on many cases where workplace agreements are functioning fairly well, but they need the freedom of these new Bills.

During the past few weeks the member for Victoria Park mentioned the fact that one can have an enterprise agreement under the Federal system. He cited Du Pont (Australia) Ltd and how the Federal industrial relations system accommodated that company. The Australian Industrial Relations Commission has introduced reforms but it has not gone as far as is necessary, because it has stipulated that it is the union which must sign for the bargaining workers.

Worsley Alumina Pty Ltd at Boddington epitomises the failure of the Federal industrial relations system at this time. Worsley has a single enterprise agreement, the Worsley award. Members may say that is a workplace agreement, and it is. The second round of the Worsley award is now under way and a single bargaining unit has worked for a whole year to come up with a new workplace agreement for Worsley at Boddington. Last year members of the Australian Workers Union who worked at the Worsley alumina refinery started to receive their new benefits under the agreement. They have been benefiting from improved conditions since then. However, members of the other two unions involved have been working without those benefits. That is because their union officials will not sign the agreement. The Worsley example shows that the Opposition's claim that workplace agreements can be negotiated under the present award system is wrong. I can assure members opposite that the people in my electorate, especially those in Boddington, have told me what they feel about not receiving their benefits over the past seven or eight months. All those workers agreed through the single bargaining union that they were prepared to accept those conditions. They helped to arrange those conditions, especially those metal workers in the workshops and maintenance areas, and they could see the sense of those new arrangements. That is a specific example. The Opposition may say that is just one case, but I assure the House that there are many other cases like that. I know that agreement comes under a Federal award and the legislation which we are talking about is State legislation.

These workplace agreements will apply to workplaces where in some cases not much reform has occurred. These three Bills to introduce workplace agreements were part of the platform upon which I went to the last State election, and it is well understood by the people of my electorate that the objective of this legislation is to improve the productivity of individual workplaces by having workplace conditions and operations which are suitable to those individual workplaces, because conditions and equipment vary from workplace to workplace.

I acknowledge that the Opposition's dire predictions of abuse may prove true in some cases, but I have listened carefully to the Minister for Labour Relations and he has said clearly, particularly at the Committee stage of the earlier Bills, that we have tried to build into this legislation protections to ensure that abuse does not occur. He has said also that any genuine cases of abuse can be brought to his attention and he will look at them. I as a member and as a responsible person elected to this Parliament will continue to monitor

this situation, as I have monitored all of the cases of abuse which have occurred over the years under the award system.

Dr Watson: What sort of abuse?

Dr TURNBULL: Abuse such as the situation at Muja power station, where a job that can easily be done by a person who is already at work must be done by someone who is called back to work on overtime and who must then be paid for 44 hours of overtime. The workers in those workplaces know that the rigid system which is being applied to them through the current award structure is not good for their workplace, and they are prepared to see reform. The reason I am the member for Collie is that a large proportion of the workers in those workplaces know that their capacity to work productively is being hindered. I assure members that many genuine workers in Western Australia, particularly in my electorate, want nothing more than to get on with the job of producing the goods that are needed in Western Australia.

The final issue I will address is management. Unfortunately, in Western Australia and Australia there have been cases of slack management and, some would say, bad management in the industrial, personnel and financial areas. We know that well from the many years that Western Australians suffered under the previous Government. However, we still have many managers in the workplace who are not doing as well as they can, and workplace agreements will free up the situation so that workers can say to management that if things are done in a different way, there will be a better result, and so that management and workers can work together in a cooperative way. This is happening in a lot of workplaces in Western Australia, but it is not happening as quickly as it could in some, and it is being hindered in others. This legislation will provide a system whereby workers can organise their industrial relations. It will provide a way to improve productivity in tourism, timber, mining and business in this State so that we can achieve better management and productivity and maintain the standard of living of all Western Australians.

MR THOMAS (Cockburn) [3.05 pm]: I oppose the Industrial Relations Amendment Bill, as I opposed the other two Bills that are part of this trilogy that is seeking to do what the Minister has erroneously described as reform our industrial relations system. Some years ago, a former leader of the Liberal Party used the phrase "political bikies pack-raping democracy" to describe something which was quite inappropriately described by that metaphor, but that description could be applied accurately to the process that we have seen in this House this week. We have seen one of the most disgraceful uses and misuses of the procedures of this House to pass legislation that I have seen since I have been in this place and that I have read about in previous years.

We have seen a major change to the method of regulating the terms and conditions of employment in this State brought in by the Government in a most cavalier manner. We have seen deliberate lies told to the people of Western Australia by the Government, paid for by public funds, and when we on this side of the House sought to bring the Government to book over that issue and asked it to account for the fact that it had been lying to the people, it denied it. It compounded the error, or, more to the point, it brought in the infamous guillotine to stifle debate. We have seen a procedure introduced in this House where it has been possible for the Government to close off the debate when a Bill has been debated partially. We have seen a discriminatory procedure brought into this House, and subsequently invoked, where the amendments of one side of the House only are put to the House without debate.

It is absolutely outrageous that substantial amendments, which in many cases are as important as the provisions contained in the Bill before the House, are put to the House without debate. If that were not bad enough, we have seen the situation where amendments proposed by this side of the House have not had even the opportunity of being put to the House. We have seen the situation where the Government has used its position in the House to treat the parliamentary process in a cavalier way, where several major Bills - a package of reforms, as it is inappropriately described - have been put to the House and rammed through without proper opportunity for debate. Those points

have been made by me and other speakers in previous debates this week. It is necessary to point out, if it is not already obvious, that we have been correct; this Bill proves that.

This Bill seeks to make major changes to the Industrial Relations Act. That is the major piece of legislation in this State that has set up the machinery to create awards and various other elements of the system of industrial regulation that has existed in this State - changed on a number of occasions over the years - for the most part of a century. In debate on the Workplace Agreements Bill and the Minimum Conditions of Employment Bill, the Opposition said this Bill would radically change the system of industrial regulation in the State. More to the point, it will tend to destroy the award system. In response, the Minister glibly said that was not the case. However, he has put advertisements in the newspaper at public expense. One of them asks, in the form of a rhetorical question in a speech balloon, "What happens if I do not sign a workplace agreement?" Under that balloon, another says, "Do not. No-one can compel you to enter a voluntary agreement. There are stiff penalties for employers who try to make you agree to unfair conditions. Voluntary workplace agreements are a change for the better. They give you a choice."

The Minister has misled the House time after time over the past week by saying workers will have a choice and will be able to continue to operate under the Industrial Relations Act 1979 or under, as I fear it will become, the Workplace Agreements Act; they will exist side by side. Opposition members have said the Minister should not be stupid and treat us as fools. We know that in the real world the people whose conditions of employment will be regulated under what I also fear will become the Workplace Agreements Act must compete in the labour market with people whose terms and conditions of employment are regulated under Industrial Relations Act awards. When that happens, quite clearly the section of the work force whose terms and conditions of employment are the cheaper will prevail, through the natural operation of the labour market. When the Minister has had that self-evident truth placed before him by speakers on this side of the House, he has either said it will not be so or had that stupid, inane grin on his face and tried to let it pass. He knows that time will expire fairly quickly and that he will be able to use his numbers to pass the legislation.

We now find that the truth has come home. I told the Minister when debating the Workplace Agreements Bill that he had an inherently contradictory position. He said that people would be free to enter into those agreements and they would prevail. However, I drew to his attention that the Industrial Relations Act makes it illegal to discriminate against a person on the basis that he is entitled to the benefits of an award, among other provisions. I then said it would encumber employers who could not dismiss people who were entitled to the benefits of the award, because that would be illegal under the Industrial Relations Act, but at the same time they would have to compete with employers who employed people who enjoyed the benefits - if I can use that phrase - of agreements under the Workplace Agreements Bill. I asked how this could be resolved. If those people were to stick to the law rather than be subject to prosecution before the industrial magistrate for breach of the Industrial Relations Act, they would be forced into bankruptcy. The Minister sat there as he is now and did not answer the question. He has not answered any questions during the debate this week. On occasions words have come out of his mouth, but I have not heard any answer to questions. For the most part, he has not even spoken when these questions have been put to him. We now know, from today's Notice Paper -

Mr Kierath: I have answered every sensible question put to me.

Mr THOMAS: The Minister should not be fatuous, his definition of sensible and that of most other people is obviously at variance. Today, there appears on page 20 of the Notice Paper an amendment to clause 27 of the Industrial Relations Amendment Bill which seeks to remove the provision which would make it illegal to discriminate against a person entitled to the benefit of an award, industrial agreement or order. Until now, it has been illegal in this State for many years, as it should be, to discriminate against a person because he is entitled to the benefit of an award, industrial agreement or order.

Mr Pendal interjected.

Mr THOMAS: The member for South Perth is raising matters that are catered for in the same clause. Those provisions are not being deleted.

Mr Pendal: You supported discrimination for a decade.

Mr THOMAS: The industrial legislation has contained sections for well over a decade which provide remedies for people who are discriminated against on the grounds to which the member is alluding. It has been open to all sorts of people to take action if they have a mind to do so. Clause 27 of this Bill, if amended, will remove the provision which makes it illegal to discriminate against a person because he is entitled to the benefit of an award, industrial agreement or order. That is a very major change to our legislation. If it were possible to discriminate against people because they are entitled to those benefits, one of the major underlying planks of our industrial relations system would be removed.

It is quite amazing that this legislation has been brought on for debate when we have a guillotine hanging over us, knowing it will not be possible to fully debate this amendment and the many other clauses in this Bill. If that were not enough, how did we find that this provision was before the House? We found out, not because it is in the Bill, which the Minister has said we had weeks to examine during the recess -

Mr Pendal: Of course you have.

Mr THOMAS: The member for South Perth said, "Of course you have." We had some comfort from that provision as we read the Bill because, even though the Government - this group of bikies pack raping democracy - was doing all sorts of other dreadful things to our industrial relations system, it was not doing anything to that provision. However, when we came in this morning and looked at today's Notice Paper, we discovered that the Government wanted to get rid of that provision also. I ask the member for South Perth who prides himself on being a bit of a parliamentarian, I understand, whether it is fair and reasonable that a Parliament should discover that it has before it such a major provision to pass given that the guillotine is hanging over the debate and that it will come down at 4.30 pm. At that point, there will be no more consideration of and no more debate on that very major provision. Is it reasonable that we discovered that when we came in here this morning when most of us sat here until late last night? I think it is an outrage that a guillotine on this debate will occur in circumstances -

Mr Pendal: The outrage is your being in Parliament following the royal commission's comments about you.

Mr THOMAS: I will talk in a moment about the circumstances that brought me into this Parliament because I have a little bit to say about that. I am glad the member raised the subject.

It is absolutely outrageous that such major provisions should be debated before the guillotine comes down, before most people have the opportunity to speak and with no opportunity being afforded to members to debate the very substantial provisions that are contained in this Bill and, in particular, when no opportunity will be given to members to debate the Bill clause by clause at the Committee stage. If ever there was a need for a proper Committee stage to consider a Bill, it is to be found in this Bill. There are amendments on the Notice Paper to five of the clauses of the Bill and there are nine amendments to one clause. I think those nine amendments appeared on the Notice Paper this morning, but I could be corrected on that. I notice that the Minister is not here at the moment, nor is the Leader of the House, who is responsible for the guillotine.

Mr Trenorden: Do you know how Cain used to run the Victorian Parliament? Totally on time management.

Mr THOMAS: I am sure John Cain would never have been a party to the sorts of restrictions that we have in place now on such major changes without giving his Parliament a proper opportunity to scrutinise and debate them. If he did, he was wrong. I do not defend anyone doing that; but I doubt whether John Cain would have done it.

Not only are such provisions being debated with a guillotine hanging over our heads, not only are so many amendments on this legislation before the Parliament, and not only have a very substantial number of those amendments appeared on the Notice Paper only this morning - most Government members would not even know they are there and even if they did they would not understand them - but also we now find an unsigned piece of paper on our desks which has been circulated to members which states -

> Members. I draw your attention to a minor typographical error on the Notice Paper in relation to the Industrial Relations Amendment Bill 1993.
>
> The Minister for Labour Relations gave notice of an amendment to Clause 27, page 32, lines 9 and 10 - To delete the lines. The amendment was forwarded from the Minister's Office to the Assembly Office to be placed on the Notice Paper.
>
> Unfortunately, the amendment was incorrectly typeset into the Notice Paper, and it now appears on page 19 of today's Notice Paper as page 36.
>
> I ask members to note that accordingly, I will regard that particular amendment as being Clause 27, page 32, lines 9 and 10 - To delete the lines.

Those of us who try to do our jobs as members of Parliament, who look at the Notice Paper and go through the legislation to try to work out what is happening, have found a bit of paper circulating after lunch which states that the amendment is to a clause not on page 36, but page 32. That is a very substantial difference. I referred earlier to the removal of the provisions on discrimination against people who are entitled to benefit or reward. However, we now find that a parallel provision has been introduced on page 32 to provide an equivalent amendment to the clause which protects people against discriminatory and injurious acts because of non-membership of employees' organisations. The process of proper debates in this House is in a shambles.

The member for South Perth said that it was outrageous that I should be here in Parliament commenting on this Bill. It is not up to the member for South Perth to decide whether I should be in this Parliament; it is up to the constituents of Cockburn.

Mr Pendal: Hang on! You know that the Labor Party could have put up an orang-utan in Cockburn and it would have won.

Mr THOMAS: I take that as an insult not to me, but to my constituents. The constituents of Cockburn, as with constituents of South Perth and all other electorates, had an opportunity to vote for members of this House in an election held on 6 February. The member for South Perth should note that I distributed throughout my electorate, which has 20 000 constituents, a pamphlet in which I outlined what I believed would be the case if the Liberal Government were elected. I told them that individual workplace agreements would be introduced. I called them "individual contracts" in the pamphlet.

Mr Pendal: Did you send them a message about the royal commission report? Did you ask them to comment on that?

Mr THOMAS: I assure the member for South Perth that my constituents had more information than most about that in the weeks and the months following the royal commission and leading up to the election. As the member may or may not recall, I was the subject of some adverse comments in the royal commission.

Mr Pendal: And justifiably so.

Mr THOMAS: Well, I did not think so.

Mr Pendal: They caught you out good and proper.

Mr THOMAS: I thought the comments were ill-founded and gratuitous. However, more to the point, I circulated in my electorate my side of the story together with the appropriate quotes.

Mr Pendal: Only to your friends; I am told you sent out only four copies!

Mr THOMAS: No, I circulated it widely throughout the electorate and it achieved wide, prominent coverage in a local newspaper circulating in that area. Do members know

what happened? I got an increased majority. My constituents are the ones who count in this matter. They had the opportunity to judge and they had the appropriate extracts from the royal commission, copies of the original documents and my quotes and I am back here with an increased majority.

Let us return to industrial relations. I also distributed my concerns about individual work contracts of employment if this Government were elected.

Mr Bloffwitch: I saw some of your literature. It was absolutely scandalous.

Mr THOMAS: It has turned out to be uncannily accurate.

The Opposition, even in its wildest dreams, did not believe that the minimum wage would be $275 a week. Apart from that, the Opposition has been uncannily accurate. I advise the member for South Perth that 66 per cent of the people in my electorate voted for me. By a majority of two to one, the people in my electorate, by voting for me, were telling me to vigorously oppose this industrial relations legislation if the Government introduced it. That is what I was elected to do and what I am paid to do, but I cannot do it because the Government has used its numbers to guillotine the debate. Therefore, members cannot properly debate major legislation.

Members on this side of the House believe it will not be possible for people to have a choice. We have also said that not only is the Government lying to the people of Western Australia, but also it is using taxpayers' money to pay for those lies by way of advertisements which state there will be a choice. I asked the Minister how there could possibly be a system of choice when a provision in the Industrial Relations Act says it is illegal to discriminate against a person because he is entitled to the benefits of the award. The Minister, as did other Government members, remained silent. Little did I know that he realised that what I said was the truth and that he would bring forward an amendment to the Industrial Relations Amendment Bill. He did not do that openly so that all members could examine it and assess its merits to determine whether they should support it, but he tried to sneak it in today, the day the House set aside to debate the Bill, when the guillotine will to come into effect at 4.30 pm. He put that amendment on the Notice Paper today even though the House had sat until the early hours of this morning. I suggest that is ramming legislation through this House.

I have outlined the circumstances under which I was elected to this House to represent my constituents. They gave me a very clear mandate to oppose this sort of legislation. I am duty bound to oppose the legislation, to speak in the second reading debate and to participate in the Committee stage of the Bill where each clause of the Bill should be examined properly. Government members were elected by their constituents to examine legislation. Can they honestly go to their constituents after the House rises this afternoon and say that they gave the legislation which went through this House this week proper consideration when not every member had the opportunity to participate in the second reading debate and there was no proper Committee stage?

Mr Blaikie: Yes, I will and I will tell them that it is the result of what they did on 6 February and that the Government did what they required it to do.

Mr THOMAS: Perhaps the majority of the member's constituents would have wanted it.

Mr Blaikie: It is democracy at work.

Mr THOMAS: No, it is not. Democracy at work requires not only that the Government should present its legislation to the Parliament, but also that the legislation be subjected to the scrutiny of the House. This gives every member the opportunity to express his or her view during the various stages of the debate.

One problem is that when legislation is passed through the Parliament quickly mistakes are made. The point has often been made that amending Bills are introduced into this House to correct errors in legislation because the earlier legislation had been passed through the Parliament without being properly considered - and that is when each stage of a Bill has been debated properly and scrutinised in the other place! On this occasion the amendments before the House are printed on the Notice Paper. Amendments have

been made to six clauses, one of which has nine amendments, some of which were slipped onto the Notice Paper early this morning. Another amendment before the House is by way of an erratum. Why does the Minister not write an amendment on the back of a bus ticket, photocopy it and circulate it to members? The documentation before the House is not sufficient to allow members to properly evaluate the Bill before the House. How is it possible for members to hold up their heads and go to their constituents and say that they have properly discharged their constitutional duties by scrutinising the Bills? It is not possible because of the use of the guillotine provision this week and, in particular, today and the sloppy way in which the Government has placed its legislation before the House. The absolute undue reliance on the Notice Paper to place amendments before the House has meant that it is virtually impossible for anyone, unless he is a parliamentary draftsman, to know what is actually before the House. The Government had six months before the Parliament was recalled and a three week recess since then to prepare the legislation, yet as late as this morning substantial amendments were circulated and now we have an erratum before the House. It is a farce and the House should oppose the Bill for that reason.

MR McGINTY (Fremantle) [3.36 pm]: Because of the lateness of the hour and the nature of these proceedings I will address four specific matters in the legislation: Firstly, limiting the Industrial Relations Commission's jurisdiction; secondly, unfair dismissal; thirdly, the Minister's power to suspend awards; and fourthly, the punitive measures contained in the legislation, particularly concerning deregistration, although not exclusively in relation to the deregistration of section 73 of the existing Act.

This Bill seeks to reduce the number of matters on which the State Industrial Relations Commission can adjudicate and that has two effects; firstly, the broad power in the commission is there so that the question of equality of the bargaining power between employers and employees can be met by giving to an independent umpire decisions on a number of matters which would normally be vested exclusively in the employer. The fact that the employee has the capacity to challenge what he believes is an unfair decision by the employer in an independent tribunal gives the employee some power. It is a significant contribution towards the equalisation of the bargaining power. Members who believe that absolute power in the employment relationship should rest with one side - the building unions on the building site on the one hand, or an employer who has a weak and compliant work force on the other - should try understand that those extremes can be detrimental to a healthy working relationship in the work force.

One of the ways we have traditionally addressed that question in this State has been to give the power to the Industrial Relations Commission to deal with particular matters and, in that way, strike a balance in the nature of the relationship between the employer and the employee. Amending the provisions relating to the definition of "industrial matter" - that is what the commission is empowered to deal with - and excluding a number of matters currently included within that definition, swings that balance well and truly in favour of the employer and against the employee. This Bill takes matters which are currently expressly defined to be industrial matters - for example, the collection of union dues from wages and matters which are the subject matter of workplace agreements - outside the jurisdiction of the Industrial Relations Commission. One of the effects of this legislation is to change the balance between the employer and the employee in the workplace.

The second effect of limiting the jurisdiction of the commission is to make the State industrial relations system far less attractive to those people who are detrimentally affected by this legislation; in other words, to the employees. The Minister made some considerable point in the second reading speech, and in the publicity surrounding the introduction of this legislation, that the Western Australian industrial relations system had certain advantages over the Federal system. Over the past 10 years since the Australian social welfare union case in the High Court in 1983, the High Court and federal industrial relations system have been progressively expanding the scope of matters that fit within the definition of industrial matters or industry for the purposes of the Commonwealth Act. In this State the reverse is taking place with this legislation,

which is reducing that. However, an increase or decrease is made in the range of matters that are the subject of arbitral power, and that determines the attractiveness of one system or the other. This proposal to limit the jurisdiction of the Industrial Relations Commission will have the effect of making the State industrial relations system less attractive to potential or current participants, and of encouraging unions to move into the Federal arena where a broader range of matters is capable of being dealt with by the Australian Industrial Relations Commission. For that reason those clauses which seek to limit the power of the State Industrial Relations Commission are a step backward, in terms of the power of an employee to influence matters affecting his working environment and also if the Government is truly interested in encouraging employees to remain in the State system rather than move to the Federal system. I say that, not expecting the Minister to accept that he should change the Bill. It is clear that this action of limiting the jurisdiction of the commission and driving unions to the Federal system is a common theme running through the two Bills we have passed in the past two days. Therefore, I do not expect the Minister to pick up on that point.

However, he should pick up my second point relating to unfair dismissal. The legislation has a number of deficiencies which I place on the public record, and I hope the Minister will accept that what I am about to say is eminently reasonable and will, therefore, amend the legislation in order to pick this up. Firstly, I refer to proposed new section 23A(3) on page 13 of the Bill, which relates to the commission's powers to deal with unfair dismissal. Where the commission has found an unfair dismissal has occurred, it can order that the employee be reinstated in his or her employment. That is fine, and I have no argument with it. However, proposed subsection (3) provides that if an employer fails to comply with an order under subsection (1)(b) the commission may upon further application revoke that order and subject to subsection (4) make an order for the payment of compensation for loss or injury caused by the dismissal. The steps in the process are unfair dismissal, a finding to that effect by the commission, an order for reinstatement and, if the employer thumbs his nose at the commission's decision, monetary compensation in lieu of dismissal and the revoking of the order to reinstate. Why not give the tribunal the power to do either of those things up-front rather than go through the process I have just described? Every other jurisdiction in Australia gives the commission the power on the merits of the case to order either re-employment or monetary compensation, subject to the limits deemed to be appropriate. This Bill is making the whole process unduly bureaucratic by requiring numerous applications for the matter to be finalised, rather than allowing a compensation power or reinstatement power and leaving it to the person who is the expert in that field to determine which is appropriate in the circumstances.

I make three points in relation to unfair dismissal: Firstly, the two powers should be there to allow the commission to decide which remedy is appropriate in the circumstances - whether to pay compensation or order a reinstatement. The second issue I raise with respect to unfair dismissal relates to a fundamental flaw in the legislation and it is also a justification for the need to give the commission alternate powers to exercise so that it can order either reinstatement or compensation. I give two examples of circumstances in which people might find themselves with regard to unfair dismissal. The first involves a small employer when it is quite clear that the employment relationship has broken down irretrievably. It may, for example, be a farmer who has clashed with a farmhand so that there is no possibility of re-establishing a worthwhile employment relationship in the future but, nonetheless, a dismissal has been judged unfair by the commission. In those circumstances the commission should not have only one remedy which it can use at that stage; that is, to order in a most artificial way that the employee be reinstated. There should be an alternative to order compensation in the circumstances rather than go through a step which artificially recreates an employment relationship which everyone knows will not work. The second problem associated with that is that when the commission is considering whether to order reinstatement it will not do so if it knows that the practical consequence of the reinstatement is to try to re-impose an unworkable situation. A commission simply will not order reinstatement when the employment relationship has irretrievably broken down. That is an injustice to the

employee who has been unfairly dismissed, and that employee should have a remedy available to him or her. It is often the case in unfair dismissals that some animosity exists in the relationship between employer and employee. That is why both these remedies should be available rather than the commission not having the power to order compensation first up. This is a valid point which the Minister should take on board if this legislation is to be true to its word and if we want to achieve something that will allow a measure of justice to the employee adjudged to have been unfairly dismissed. That is an important issue.

The third issue I raise - they all go to the reasons that proposed section 23A of the Industrial Relations Act should be rethought - is a deficiency in the clause. In a recent decision from the Supreme Court in this State involving Coles Myer Ltd - I referred to this case in debate in this place a month or so ago - the Supreme Court and the Industrial Appeals Court ruled that the only time the commission had the power to deal with unfair dismissal of an employee was if an employment relationship existed at the time of the application or there was a reasonable likelihood of that employment relationship being reinstated; in other words, only a temporary hiccup had occurred. In cases in which a person had been dismissed and there was no prospect of re-employment, such as irretrievable breakdown of the employment relationship, redundancy and so on, the commission had no power to deal with an unfairly dismissed employee. That means this Bill still gives no right to an employee who has been dismissed prior to making the application if there is no real prospect of re-establishing the employee-employer relationship. The problem with the Coles Myer decision to which I referred has not been addressed in any way at all by this legislation. Also, because of the way in which these amendments have been drafted, a person in those circumstances will not be reinstated.

Proposed section 23A reads, in part -

> (1) On a referral to the Commission of a claim of harsh, oppressive or unfair dismissal under section 29(b)(i), the Commission may -

That is what activates the jurisdiction of the commission on the order for reinstatement. What is essential to invoke the commission's jurisdiction here is that it be in respect of an employee. In the current Industrial Relations Act, section 29(b)(i) provides it must be a claim by an employee that he has been unfairly dismissed. This Act does not address the fundamental problem exposed in the Supreme Court this year of excluding power to deal with the reinstatement of an unfairly dismissed employee where the employment relationship has ceased and there is no likelihood of its being reinstated.

In summary, three problems exist regarding the unfair dismissal powers proposed by this legislation. Firstly, upfront alternative remedies of compensation or reinstatement are not available. Secondly, cases arise where someone has been unfairly dismissed, such as where the employment relationship has broken down or where the employer has changed its identity so that the legal identity is no longer the employer of the people but in real terms it still exists. There is no order for reinstatement in this circumstance. Thirdly, no attempt is made to overcome the Supreme Court decision in the Coles Myer case which makes it a requirement of the reinstatement power that the employer-employee relationship must still exist or alternatively that there is a likelihood of its being re-established in the near future in order to invoke the jurisdiction in the first place. For those reasons, the reinstatement power or the job security power, as I prefer to call it, of the Industrial Relations Commission as proposed in these amendments is deficient.

The third point I wanted to refer to was the power of the Minister to suspend State awards. We have heard him say in this House and in public generally that the purpose of this provision was to provide a one-way ticket for unions that were looking at leaving the State Industrial Relations Commission and moving to the Federal area. To the extent that this package of legislation is based on the concept of freedom of choice, to seek to penalise someone who exercises that choice is a contradiction in terms. Putting that to one side, the Minister is not giving people a fair choice.

Mr Kierath interjected.

Mr McGINTY: This has been so far a reasonably constructive debate. The Minister's contribution will not in any way assist that to continue.

Proposed section 37A leaves a lot to be desired. It will give power to the Minister to suspend awards where a Commonwealth award applies. It provides -

> (1) If in the opinion of the Minister a number of the employees to whom a particular award under this Act ("the State award") extends are bound by an award under the Commonwealth Act the Minister may by order published in the *Industrial Gazette* suspend the State award.

That is taking something unto the Minister which I do not believe should be taken unto him. It is an award made by the Industrial Relations Commission and the Minister, by Executive action, will be interfering with a quasi judicial process. In principle, that is wrong.

The second reason I oppose this power is that a State award cannot extend to people who are covered by a Federal award. Section 109 of the Australian Constitution provides for the resolution of conflict between State and Federal laws. When there is a conflict or a dispute between those laws, that conflict is resolved in favour of the Federal laws. The tests that are applied are whether there is an inconsistency between the State and Federal law, in which case the Federal law applies, or whether the Federal law covers the field. If so, that has the effect of excluding the State law.

To give an example from the Minister's former industry - the contract cleaning industry - where a Federal award might cover contract cleaners employed in companies A, B and C, it excludes the State award which purports to cover every contract cleaner in the State to the extent that the State award does not extend to and cannot legally have any effect in extending to workers who are covered by the Federal award. Again, in this legislation we have what is a nonsense. It gives the Minister power to intervene not when there is a conflict as to which award covers the employees, whether State or Federal and not where there is a safety net of the State award that the Federal employees can fall back on. However, in a situation where workers are clearly covered by the Federal system, the Minister has the power, because of that fact alone - and not because there is conflict or duplication in the process - to cancel the award in respect of employers who are not covered by the Federal award.

It is a remarkable situation, and I repeat the requirements of proposed section 37A: If in the opinion of the Minister a number of the employees to whom a particular award under this Act extends are bound by a Federal award, the Minister may suspend the State award. To give an example, there might be 1 000 contract cleaning companies operating in Western Australia. If three are covered by a Federal award this legislation gives the Minister power - notwithstanding that the people covered by the Federal award cannot be covered by the State award, because of the operation of section 109 of the Constitution - to cancel the award in respect of those other employees who are not covered by the Federal award, as a punitive measure against the employees and their trade union.

It is a remarkable power and one I hope that was not intended. However, one must take these words as deliberately written because they have the power to remove any protection of the industrial relations system for employees who are covered by the State award where some people employed in the same industry, and by unrelated companies, are covered by a Federal award. It is an extraordinary power to give a Minister. It is inappropriately vested in him and, if exercised, will produce grave hardship and injustice, as well as remove the cover of awards for a range of employees.

That is an area that must be further considered. If the Minister insists on a one-way ticket, if there is a positive decision by the unions or employees to move to the Federal system, maybe there is an argument to say in respect of those covered by the Federal awards alone there should be power to cancel an award, but not in respect of those who have not been covered by a Federal award and have not sought to leave the State system, and be covered in that way. This power is remarkably broad and will open up the possibility of the Minister's using it capriciously and vindictively, because of its breadth

and the way in which the power is expressed. I hope that is not intended but the legislation allows that. In respect of the last two points, the reinstatement power and the power of the Minister to suspend State awards, the Minister should rethink what he is doing because his rhetoric has been about trying to achieve certain ends and extending certain protections.

I refer to the unfair dismissal and suspending awards provisions which indicate that the Bill was not fully thought through when drafted; namely, it does not cover the needs of people unfairly dismissed and those covered by an award when people in the same industry are covered by the Federal award. These people will be significantly penalised.

The fourth point I raise is the punitive nature of a number of provisions. Clause 17 seeks to amend section 50(2) of the Industrial Relations Act. It involves a fairly discrete matter relating to long service leave entitlements. Currently most people in Western Australia have a general order from the Industrial Relations Commission which extends a long service leave entitlement after 15 years' service. This Bill seeks to cancel that order as clause 17(2) reads -

> Despite the repeal effected by subsection (1)(c) the Long Service Leave General Order continues in force in the form in which it existed immediately before the repeal -

Therefore, the power to make the general order has been repealed, but the general order remains intact. The latter part of the provision represent a remarkable power to vest in a Minister; it continues -

> - as if the repeal had not occurred, but may be cancelled by order made by the Minister and published in the *Industrial Gazette*.

The exercise of arbitrable power in determining long service leave rights has been conducted for decades in this State through general orders of the tribunal. However, that power will be removed from the tribunal, and the Industrial Relations Commission and this Parliament can do nothing about it. The power will be vested in the Minister to simply publish an order in the *Industrial Gazette*, a determination which would adversely impact on literally tens of thousands of employees in this State. This will be done without reference in any shape or form to Parliament or the Industrial Relations Commission. The order which currently extends rights to employees can be capriciously removed by the Minister. That is offensive to the nature of representative democracy in this State. It seeks to give the power to the Minister to revoke longstanding rights without reference to a tribunal, where they have been traditionally resolved, or to the Parliament. Where similar rights are to be affected elsewhere in the legislation, it is required that the matter come back to Parliament. This will not be done with this provision. As I said during debate on the Minimum Conditions of Employment Bill, the Minister will have the power unilaterally, at his whim, to set conditions of employment. In this case long service leave entitlements, established by the Industrial Relations Commission, can be revoked unilaterally by the Minister, and this is wrong.

Another punitive aspect of this legislation is the amendment to section 73 of the principal Act. Under the existing legislation the Minister for Labour Relations can initiate deregistration proceedings against a union when the union's actions expose the safety, health or welfare of the community to risk. That is reasonable and would produce no objection. Under this legislation the Minister can initiate proceedings to deregister a union in two additional circumstances. When the Minister initiates a deregistration, it is mandatory for the commission to comply. The legislation provides that the commission shall give direction under that subsection when the Minister initiates proceedings. The first additional ground for a Minister requiring deregistration of a trade union is clause 20(2)(a)(ii), which reads -

> a number of a group or class of employees who are, or are eligible to be, members of the organization bound by an award under the Commonwealth Act;

Therefore, it will become an offence, leading to deregistration, for members of a union to be covered by the Federal award. That is remarkable and most draconian! No crime has

been committed and nothing requires sanctions when a union has some members covered by the Federal award. However, it could lead to deregistration if the Minister so decides to direct the commission. The second circumstance which can give rise to deregistration is -

> there is sufficient evidence of breaches of the organization of . . . the *Workplace Agreements Act 1993*.

These matters do not even need to be proved; it is a matter of sufficient evidence. I do not know what is meant by "sufficient", but it seems remarkable that such a punitive part of the Bill contains such loose and woolly criteria as "sufficient evidence". However, the evidence is not extended to the point of being proved. It is a fundamental principle of the criminal system that the charges before the tribunal are known and the charge is proved guilty before the penalty, the ultimate sanction of deregistration, is invoked.

In my half-hour I hope I have been constructively analytical of the matters which should have been considered by the Minister in putting together this legislation, and where it is absolutely deficient.

MR GRAHAM (Pilbara) [4.08 pm]: I begin on the same point with the Industrial Relations Amendment Bill as I started on the two previous related Bills: The Minister, when introducing the Bill, and in his public utterances, spoke about the need for this legislation due to the state of the Western Australian economy. I have questioned him on this matter on the other Bills and asked him to produce evidence to substantiate his argument. He has yet to do so. At question time today we had the absolutely absurd situation of his leader answering a Dorothy Dix question from his back bench and completely contradicting the Minister's argument.

This is the third of the industrial relations Bills, to which the Minister used economic need for justification. They are not necessary. The Minister's Government continues to pay for and produce reports which indicate exactly the opposite of what the Minister claims. The public cannot possibly be aware of the content of the legislation and what is coming down the hill at them. This legislation, which will affect people's daily lives, has been so mismanaged that a sessional order has been introduced to curtail debate. On every occasion members have spoken to these measures, difficulties and problems have been raised. The member for Collie made a very interesting point regarding why the Collie coalfields' work arrangement should remain in the hands of the local unions and coal company. Therefore, both sides of the House have been able to identify problems, although the member for Jandakot was unsure to which jurisdiction he was speaking! However, we are not able to debate the proposal. We are unable to quiz the Minister, yet we are told this is radical legislation.

Mr Kierath: The way you are going you will not give me time to answer.

Mr GRAHAM: We have the smart alec Minister saying he will not have time to provide answers to our queries!

Mr Kierath: I said you will not give me time to answer your questions.

Mr GRAHAM: That is exactly the point I am making.

At the beginning of this week I spoke on a motion to have an extra week's sitting by using one of the weeks allotted to the parliamentary recess, a recess that serves no purpose other than to give us a break. The Government voted against that motion, then brought in a sessional order gagging and guillotining the debate but then found itself suitably embarrassed in the public arena about those actions. The Leader of the House then came here and said the House would be recalled a week early, but not to deal with this - in the words of the Minister for Labour Relations - radical, important legislation. The extra week's sitting obviates the need for the sessional order. One or the other has to go.

The member for Fremantle stole some of my thunder by raising the quite extraordinary powers the legislation gives to the Minister. I make no personal comment about the incumbent - I am showing great restraint; it could be anyone as the Minister for Labour

Relations. That office now gathers extraordinary powers, the like of which this State has never had to deal with before. Once this legislation is passed the Minister will have the authority to determine the minimum weekly rate of pay to apply to the most vulnerable workers in Western Australia. What mechanism process has the Minister outlined for setting that rate of pay? Absolutely none. What process will the Minister use to determine that rate of pay? We do not know. Government members will vote on this legislation in a minute but they do not know by what mechanism the Minister will set the minimum rate of pay. Neither they nor I nor the public of Western Australia know whether this Minister will allow parties to be heard. Will there be some arrangement about what the rate of pay will be or will he just pluck a figure out of the air? The Industrial Relations Commission, for its part, will hear parties and will abide by the relevant legislation which says that it has to take certain factors into account. That is a process that has been tried and proven in this country for nearly a century.

Under this legislation the Minister is not obliged to do any of that. He is obliged to determine a rate of pay. He either accepts the commission's decision or he brings down his own rate of pay. No fair person could vote for this part of the legislation which gives the powers to a Minister, having no knowledge at all of how that decision will be made or on what criteria the decision will be made. We have not heard one word. The Minister has been absolutely silent on it. When we debated the Minimum Conditions of Employment Bill I asked him for information on how we would do it. I received no reply. Will the Parliament be involved? Who knows. Will people who have wage cases come in here? Will both Houses of Parliament be involved? What will happen if this place says that the minimum wage should be, say, $300 a week and the Legislative Council says that it should be, say, $400 a week?

Mr Kierath: You have a problem, a big problem.

Mr GRAHAM: I do not have a problem, other than the Minister's not telling the people of Western Australia how he will set the minimum wage and his moving the authority for that decision from an independent, methodically argued body to himself. The Minister will not give any indication of how he arrived at that decision.

Mr Kierath: You have only to wait until next May to find out.

Mr GRAHAM: I am happy to accept the comment from the Minister, if the Minister is prepared to take out of the legislation the power that he seeks unto himself until May. We are being asked to give this man the power to set the minimum wage in Western Australia with no knowledge of how he will exercise that authority. It is a nonsense. The member for Fremantle referred, as I will, to the power in this legislation for the Minister to suspend parts of the award, either wholly or partially.

Mr Kierath: One of the most important parts of this Bill.

Mr GRAHAM: I am glad to hear the Minister say that. It demonstrates quite clearly the lies on which this legislation is founded. The Minister wrote to people the length and breadth of this State and said, "Your awards are safe."

Mr Kierath: They are.

Mr GRAHAM: They are not. The Minister seeks unto himself the power to suspend awards. Not only are people's awards not safe but also they are put in the hands of a person who will not tell us how he will make his determinations. The Minister's legislation does not say, "Your award will be suspended if you have done something terribly wrong." It says, "If, in the opinion of the Minister, the number of employees to whom an award under this proposed Act extends are bound by an award under a Commonwealth Act, the Minister may, by order to be published in the *Government Gazette*, order the suspension of the State award." No factual base is needed for the decision, and no process exists by which we determine which award has priority; it will be the opinion of the Minister. If in the opinion of the Minister a group of workers is covered by a Federal award, every worker covered by that award can lose his rights. This Minister and this Government have run around Western Australia saying, "Your wages are safe." It is like putting Dracula in charge of the blood bank. It is absolutely unbelievable.

When and if this Minister responds, he will not address himself one iota to these two questions. During the debate on the previous legislation he failed to address himself to how he would set a minimum wage, notwithstanding that I asked him. He will not do it this time. Nor will he explain to us how he will suspend awards, or why, or what organisations will need to do to get him to form an opinion.

Mr Kierath: They have to choose between operating under a State award or a Federal award.

Mr GRAHAM: The Minister has not addressed himself to those fundamental questions.

Mr Kierath: It will make some of your phonies make a choice.

The DEPUTY SPEAKER: Order!

Mr GRAHAM: Let us look at what the Minister wants to change. The system has been in place for the best part of a century and it has survived. Why has it survived for a century? It is because it has been responsive to the needs of the group that it services. Any party at any time can seek to amend an award as long as that person is paid to do so. The problems raised by the member for Collie about the award are a load of nonsense. If the people she mentioned were dinkum about sorting out their problem, they would run it into the commission. I have done it a hundred times; so have the members for Cockburn and Fremantle. Anyone can do that at any time.

Mr Kierath: Only with your permission.

Mr GRAHAM: If those people were unable to do that, they would be unable to run a coal company. It is an egalitarian system. Under its constitutional powers and rules, this system is obliged to be equitable. There is no equity in this proposal. The legislation proposes specifically to exclude the Industrial Relations Commission from informing itself of what is in a workplace agreement. The commission will not even be able to read it. That is what will happen to workplace agreements under this system. The system has been flexible. It is also independent of the political processes and removes the uncertainty from industrial relations. In closing, I wanted to find out who made the comment about a conservative Government being an organised hypocrisy, because I wanted to stand up and be clever and use the quote. It was Benjamin Disraeli. However, the quote below it in the book took my fancy and sums up this industrial relations debate and this Minister perfectly. Kin Hubbard, 1868-1930, said, "Some fellows get credit for being conservative when they are only stupid."

[Continued on page 3172.]

MOTION - STANDING ORDERS SUSPENSION

Sessional Order to Restrict Debate, Discontinued

MR RIPPER (Belmont) [4.20 pm]: I move, without notice -

> That so much of the standing orders be suspended as is necessary to enable consideration forthwith of the following motion -
>
> > That the sessional order passed on 18 August to restrict debate be hereby discontinued.

Our experience in the past couple of days of the operation of the sessional order has shown that it is a disastrous order both in principle and in practice. The experience of this House shows the folly of a strategy adopted by the Leader of the House -

Point of Order

Mr C.J. BARNETT: I seek your advice, Mr Deputy Speaker, on whether this can be done when there is a question already before the Chair.

Mr RIPPER: It has been the position in this House for some time that a motion to suspend standing orders can be taken at any time at which a member can get the call. Precedent exists in this House for a motion to be moved at the time at which I have moved this motion. I draw your attention, Mr Deputy Speaker, to a ruling of Speaker Thompson on Tuesday, 10 November 1981 in which he stated -

There is always an opportunity, when no member has the call, for a member to move for the suspension of Standing Orders, and that has occurred on a number of occasions. If a motion is moved to suspend Standing Orders, the House can return to the business it was previously considering after the motion has been dealt with.

The DEPUTY SPEAKER: I believe that is the case. I accept the motion to consider a suspension. I rule that it is in order to proceed.

Debate Resumed

Mr RIPPER: I repeat that the experience of this House in the past two days shows the folly of the strategy adopted by the Leader of the House. The strategy was wrong in principle and disastrous in practice. It has brought this House into disrepute. Let us consider how this matter should have been handled. If the Government really believed it was necessary to pass this legislation, some consultation should have occurred: Firstly, on the drafting of the sessional order and, secondly, with some consideration of how the order would be applied. Instead, we have seen no consultation whatsoever. No consultation has occurred on the drafting of the sessional order; no consideration has been given by the Standing Orders and Procedure Committee as to what sort of sessional order should apply; and no discussion has occurred on the time limits which should apply were the sessional order to come into effect. The Leader of the House did not approach the Opposition and negotiate in any sense what would occur with these Bills. He issued the Opposition with a dictate. In other words, he did what employers will be empowered to do under this package of industrial relations legislation. The sort of situation members of the Opposition have been put through is the same sort of situation that will apply to employees under the Workplace Agreements Bill. It is a misnomer. There will be no agreement; employers will enforce their will on employees under that legislation, just as this Government has sought to force its will on members of the Opposition in the debating of this legislation.

It does not work in the Parliament. We have seen that. It will have disastrous effects if it is followed in the Parliament as it has been applied this week. Likewise, the legislation will have disastrous effects on the community if applied as we expect employers to do. How could it have been done? It could have been done as it was in 1988. I am not saying that it should ever be done because good reasons exist for it never being done; however, it could have been applied in a different way. The last time on which a sessional order such as this was applied was after 53.25 hours of debate on the Budget Estimates, not counting the second reading stage of the Budget debate in that year. What did the then Leader of the House say at that time? He said he would put the motion forward but would not apply it because he hoped that he could find some agreement with the then Opposition. He indicated at the outset that he would like to reach some agreement for the further management of the debate with the Opposition. Even after the motion had been endorsed by the House, provision existed for discussion, negotiation and consultation with the Opposition. Has that occurred on this occasion? No. On the very same day that notice of this motion was given, the Leader of the House rose to his feet and made a ministerial statement in which he indicated what time limits the Government would apply to this debate.

No recognition has been given to the need for this House to be run on a cooperative basis. We have had impatience, arrogance, and a determination to ram through legislation without respect for the rights of members of this Parliament. Members are elected to speak on behalf of their constituents. Each member has that right, privilege and, indeed, responsibility. This sort of motion cuts across the privileges which apply to members of Parliament. It cuts across the very reason members are here in the first place. Strong arguments exist that we should never have a sessional order such as this. It is not only wrong in principle, but also disastrous in practice.

Let us consider what has occurred. When the Workplace Agreements Bill was rammed through the House, 90 clauses and 40 amendments moved by the Minister for Labour Relations were not debated. On the Minimum Conditions of Employment Bill,

51 clauses and 17 amendments moved by the Minister for Labour Relations were not debated. Now, on the Industrial Relations Amendment Bill, 30 clauses and 15 amendments moved by Minister for Labour Relations will not be debated. These are not trivial matters. This is an important package of legislation because for more than 90 years in this State, Western Australians have had access to rights under industrial arbitration and conciliation systems. It is those rights which are being overturned; rights which the people have expected and to which they have been entitled. This is important legislation which the Government acknowledges to be radical and a fundamental change. That is the type of legislation which is being rammed through this House without the proper debate or scrutiny of, in total, 171 clauses. Seventy-two amendments moved by the Minister for Labour Relations will not be subjected to scrutiny in this House. What will be the outcome of this lack of scrutiny and this draconian haste? Members know what will happen. This legislation will have to come back to the House for correction.

This legislation will not work in practice, as the Minister for Labour Relations hopes it will. I predict quite confidently that the Minister will be back here within months, certainly within a year, seeking further amendments to this legislation.

Mr Kierath: I will be back with a second wave of industrial relations reform legislation before then.

Mr RIPPER: So there will be a further attack on the rights of Western Australians. No doubt the Government will seek to guillotine that legislation through the House as well and to impose its will in the draconian way it sought to impose it during this debate. Whatever the Government's intentions regarding the rights of Western Australians, it will need to bring this legislation back within that time because it has not been subjected to proper scrutiny. This legislation cannot be in good shape when at least 72 amendments moved by the Minister for Labour Relations, who presented this package of Bills to the Parliament, were not dealt with.

Point of Order

Mr BLAIKIE: My point of order relates to a ruling made by Speaker Thompson which the member has put as his reason for this motion. He is speaking to the subject he wishes to discuss and not the motion.

Several members interjected.

The SPEAKER: Order! The member for Mitchell should not interject on a point of order.

Mr BLAIKIE: The point of order, Mr Speaker, is that the member -

Dr Gallop: It has been taken.

The SPEAKER: Order! It has not been taken. The member for Victoria Park will come to order.

Mr BLAIKIE: I ask you to rule, Mr Speaker, whether the member on his feet can canvass the wider subject matter I assume he wants to discuss at a later stage or whether he should confine himself more appropriately to the question of the suspension of standing orders.

The SPEAKER: It is correct that on motions to suspend standing orders to debate a particular matter it is always, as I have said repeatedly in this place in the brief time I have held this position, difficult for the member who has moved the motion to restrict himself or herself to the particular matter before the Chair. I do not believe the member on his feet has strayed excessively from the point of the motion to this point, but I ask that he from now on direct his remarks closely to the matter before the Chair.

Debate Resumed

Mr RIPPER: I was discussing how the business of this House would be severely affected were we not to consider the motion that this disastrous sessional order be hereby discontinued. The business of the House will be affected because the legislation will be defective as it has not been subjected to the scrutiny the House needs to apply. I repeat

that a large number of clauses in this legislation were not debated by the House and a large number of amendments - including 72 moved by the Minister for Labour Relations - were also not debated by the committee. Such actions, in my view, produce poor legislation.

The House now has an opportunity, if it acts now to suspend standing orders, to subject this legislation to the scrutiny it deserves. I was pleased that the Government took up the Opposition's suggestion that the Parliament sit for another week. It is a pity it did not take up that suggestion made earlier this week when the alternative was to move this sessional order. The House will now sit for an additional week. The Opposition is prepared to sit for an additional two weeks if that is what is required to deal with this legislation properly. But no! Rather than allowing the Opposition an opportunity to act now to suspend standing orders and the operation of the sessional order, the Government prefers to ram through this legislation and let it pass without the scrutiny to which it should be subjected.

I know that not all members of the Government are happy about the use of the guillotine on legislation. We heard the Minister for the Environment indicate during question time that he would prefer not to use the guillotine on environment legislation. Nevertheless, in keeping with the authoritarian cast of this Government, he knows it might be forced on him, so he said he would reserve his right in that area. We may see further use of this sessional order to the further detriment of the quality of the legislation passed by this House. I believe that will be to the further detriment of the reputation of the House.

I turn to a matter I understand to be of some sensitivity. I have no doubt that the way in which this House has been operating in the past two days has not been conducive to its good reputation. Further, I believe that this sessional order has helped to compromise your authority, Mr Speaker, and the authority of the Deputy Speaker and the Deputy Chairmen of Committees. That is unfortunate.

Mr Court: So you are reflecting on the Chair, are you?

Mr RIPPER: No, I am saying that the Government has created a situation which has made things very difficult for the Presiding Officers, and that that is something that does not happen when the House is run with due attention to the need for cooperation and not by a Government seeking to impose its will on all members. In such a situation circumstances arise which are difficult for the Presiding Officers to handle. Those difficult circumstances flow on to the other business of the House and can contribute to an undermining of the authority of the Presiding Officers. That is the sort of circumstance which occurs when the Leader of a House has an authoritarian strategy to run the House like that of the present Leader of the House. He could have consulted and negotiated with the Opposition on the drafting of this sessional order. He could have negotiated with the Opposition on the operation of that sessional order and on the time limits to be applied. However, he did not; he simply rose in this place, gave notice of the sessional order, and then gave notice of the time limits to be applied.

It is fair to say that the Government's nerve cracked after only 12 hours of debate on the Workplace Agreements Bill. We saw, in contrast, 24 hours of debate on the Freedom of Information Bill last year and a double debate on a Bill to provide consumer protection for home owners. The present Government, in Opposition at that time, was not unhappy to go through a Bill for a second time clause by clause, line by line. I remember the Leader of the House taking an active part in that debate. It is ironic that the debate on our side was handled at that time by the member for Thornlie who, along with the then Government of which she was part, was prepared to allow that debate to proceed without the draconian use of the guillotine. The Government was prepared to let that debate proceed without gagging or guillotining it.

The then Opposition, now Government, thought it quite proper that that Bill be debated twice and the present Leader of the House was an active participant in that debate. He went through the same clauses again and again, clauses which had previously been debated by the Chamber. This shows the hypocrisy of this Government, which is prepared to make full use of the rights of members of Parliament in Opposition, but when

put to that test in Government its nerve cracks, and its authoritarianism comes to the fore and it introduces the guillotine motion and time limits which have not been the subject of negotiation or discussion with the Opposition and which are far too tight for legislation as important as that just debated.

The outcome of this has been 90 clauses of the Workplace Agreement Bill not debated, 51 clauses on the Minimum Conditions of Employment Bill not debated and 30 clauses of the Industrial Relations Amendment Bill not debated. In addition, more than 70 amendments moved by the Minister for Labour Relations were not the subject of debate because what should be the last resort of a Government or the Leader of the House became, for this Government, the first resort early in the session, and on the first major piece of legislation which was fundamentally important to the rights of all Western Australians and which should have been subjected to full scrutiny.

Has the Leader of the House allowed us to apply that full scrutiny and the rights of members of Parliament which applied when he was in Opposition? No, he has not! He has rejected the notion that this Government should be accountable to the Parliament. The Leader of the House did that in the face of what we know to be great public demand for improved accountability mechanisms in this place. We know a change has occurred in the public's view of how Governments and Ministers should behave. That change of view has been reinforced by the findings of the royal commission which drew attention in its recommendations to the need for Parliament to pay attention to the way it operates to ensure its accountability.

Is this Government showing any signs of having taken notice of that public view of the spirit of those royal commission recommendations? The answer is no, it is not. We can see that in a lot of the Government's decisions, in its retrospective approach on legislation, in the way in which it has attacked people's rights, and the way in which it has sought to evade parliamentary scrutiny and accountability. Members opposite can redeem themselves on this important legislation if they accept this motion to suspend standing orders. This is the last chance for this Government to show on this legislation that it respects the rights of members of Parliament, that it will subject itself to scrutiny and that it will allow full and open debate. If the Government cannot support the suspension of standing orders, its authoritarian attitude, which is becoming daily more apparent, is only confirmed. That is the reason this motion to suspend standing orders should be accepted now. It is the Government's last opportunity to prevent the operation of the guillotine on the very important package of industrial relations legislation which the Minister has put before this Parliament.

Mr Speaker, the reputation of the House is at stake, the standing of the Presiding Officer is at stake, and the reputation of the Government is at stake. Why is that? It is because this Minister and this Leader of the House, instead of managing the business of the House in the same way it has been managed previously, have managed it in a draconian way and, without negotiation or consultation, have sought to enforce this Government's will on the rest of the House, and have sought to have the Government's legislation rammed through without proper scrutiny.

I return to the figures that I cited before, because they are highly illustrative of the point I am making. We see that 171 clauses on the three Bills were not subject to debate; that includes 72 amendments moved by the Minister himself. If the Government rejects this motion we will see poor legislation, confirmation of the authoritarian direction which this Government is taking, and further evidence of its refusal to accept the requirement of accountability imposed by the public and the royal commission. The reputation of the House will be damaged and, seemingly, so will the position of the Presiding Officer. The motion must be supported.

MR C.J. BARNETT (Cottesloe - Leader of the House) [4.46 pm]: The Government does not support the sessional order.

Mr Ripper: Good.

[Applause.]

Several members interjected.

Mr C.J. BARNETT: If one is going to make an error, this is not the time. The Government does not support the motion to suspend standing orders. It supports the retention of the sessional order.

Dr Lawrence: That is a quick change of mind.

Mr C.J. BARNETT: It is no change of mind, of course. I will restate for the record the reality of the debate on the industrial relations legislation. The Minister for Labour Relations made a statement in this House and the second reading speech was made in this Parliament on 8 July - that is over five weeks ago.

Mr Thomas: Substantial amendments were listed on the Notice Paper for the first time this morning.

Mr C.J. BARNETT: The Minister for Labour Relations brought on the second reading debate at the beginning of last week. At that point I approached the leader of Opposition business in the House and suggested that as the three Bills related to an industrial relations package they should be handled as a cognate debate. That proposal therefore would have implied that every member opposite could have an opportunity to make a speech in the second reading debate, and we could have had the remainder of that week and all this week to progressively work through the clauses one by one, and then we could have had a third reading of the Bills. However, the leader of Opposition business in the House said, "No, we want to have separate debates." I agreed not to have a cognate debate, but how did the Opposition then tackle it? Last week the Government said that it wanted to deal with this legislation in two full weeks. The Opposition had 18 speakers on the second reading debate of the Workplace Agreements Bill.

Mrs Henderson: Which is our right.

Mr C.J. BARNETT: Yes. It was clear there was going to be absolutely no cooperation opposite in the rational and timely passage of this legislation. When we got to the Committee stage we had - again I state this for the public record - nearly three hours' debate on the short title of the Bill. That is how dinkum the Opposition was! Opposition members spent two or three hours of this valuable time arguing about the short title of the Bill. I tried to accommodate the fact that members opposite did want to raise issues of importance to them and to their constituents, so I said to members opposite that we would sit an extra day, Friday, and an extra night, as well as late at night. The Government worked out that it could allocate an extra 20 hours' additional sitting time. I said, "Why not forgo private members' time?" but the Opposition said that it was more important to discuss the television coverage of Parliament. Its choice was to debate TV coverage.

Mr Ripper: Did you forgo your private members' time to debate the royal commission?

The SPEAKER: Order!

Mr C.J. BARNETT: During all of the past two weeks - and that is a long time in a Parliament - the use of the extra nights and day was entirely up to members opposite. They chose to filibuster, to speak and speak. Even today they chose to speak and speak rather than get down to the details of clauses.

Mr Ripper: We had five speakers. Is that excessive on a Bill as important as this one?

Mr Brown: Not one person was repetitive.

The SPEAKER: Member for Morley, order!

Mr C.J. BARNETT: I will go back one step further; since the start of this session this Opposition has set about delaying the business of the House, by trying to frustrate the Government's legislative program which has a mandate from the people of Western Australia.

Mr Ripper: You do not understand the obligations the Parliament imposes on Governments.

Several members interjected.

Mr C.J. BARNETT: I remind you, Mr Speaker -

The SPEAKER: Order! The level of interjections is intolerable. I call on members to give the member on his feet the opportunity to speak. The previous speaker had very few interjections, and I believe it is appropriate that we hear the present speaker in the same way.

Mr C.J. BARNETT: The extent of the attempts by the Opposition to frustrate the House go back to the Address-in-Reply debate; it is always a long debate as it allows all members to speak. The Opposition moved 16 amendments to the Address-in-Reply; so, not content with one general debate, it contrived to have 16 general debates on the Address-in-Reply to the Governor's speech. At one stage it was high farce, with members opposite gathering behind the member for Fremantle trying to think up new amendments late at night.

The joke around the House was that the Opposition was even thinking about whether to move a special amendment to object to the suspension of Chris Lewis, the Eagles' footballer. That is about the level it got to. It was an absolute farce. If ever the abuse of the Parliament were evident, it was the Opposition's foolhardy, reckless and irresponsible approach to the Address-in-Reply, which we immediately found repeated on the industrial relations Bills.

The sessional order has been introduced and it has been used. Members opposite think it has been used too harshly. I agree that there is a legitimate point of debate and discussion about two issues. The first issue is whether a sessional order is appropriate. The second issue is how then to determine the time.

I accept that if a Government decided that it wished to use a sessional order, there might well be a to-ing and fro-ing about the use of time, but at no stage was the leader of the Opposition business in the House willing to do that. In fact, when I went to him last week and said that we wanted to deal with this legislation, with which the Opposition had been mucking around for a week now, by the end of next week, he was not prepared to give a commitment that the legislation would be dealt with.

Mr Ripper: That is right. I would not agree to your dictates.

Mr C.J. BARNETT: He concedes that; I thank him. Therefore, at that stage we introduced the sessional order. The sessional order is about the time management of the House. I understand the point of view of members opposite. They want to debate industrial relations week in and week out. I put it to members: What is better? The Government introduced a package of three industrial relations Bills. The Government said that, under time management, the Opposition would have a full two weeks to consider Bills that had been on the Table for five weeks. The people of Western Australia and the people who come into the gallery expect this Parliament to perform and get on with the job of government and debating legislation. Members opposite sit there piously and self-righteously, but I remind them -

Several members interjected.

Mr C.J. BARNETT: The Leader of the Opposition laughs! Do members know what the Leader of the Opposition did last year? She criticises the Government now for its time management when it gave the Opposition two weeks to consider an industrial relations package that has been in the public arena for nine months and was an election issue, but - here is the test - in the last three days of the sitting before the Parliament was adjourned before Christmas, her Government pushed through the House, to use the Opposition's terms, 26 Bills in three days. That was its commitment to debate! How outrageous!

Several members interjected.

The SPEAKER: Order! I formally call to order the member for Armadale and the member for Fremantle. I will take extreme action, if required, if they do not come to order.

Mr C.J. BARNETT: I believe the sensible people in the community, regardless of whether they agree with this particular circumstance, would agree that the Parliament

should manage its time properly. I believe the people in the community would agree that this is a reasonable management of time for a matter that was an issue in the election campaign, was debated publicly for six months, and was allocated two full weeks' of debate, after it had laid on the Table for five weeks previously. However, I do not believe the people of Western Australia would agree that to debate 26 Bills in three days is a reasonable management of time.

Mr Hill interjected.

The SPEAKER: Order! Member for Helena, come to order.

Mr C.J. BARNETT: The sessional order has been used by the Government. It may be used again. It will only be used reluctantly and in a responsible way. It was quite obvious, and I think it remains obvious to everyone, including the wider community, that the Opposition never had any intention of dealing with this industrial relations legislation in a sensible way. It was more interested in stunts with hooded people in the gallery, in the rally outside, in debating the television coverage of Parliament, and in a three hour debate about the name of the Bill, than it was about getting on with the job. It wasted time in the Address-in-Reply, with trivial amendments, and in this debate. It would not accept any reasonable offer about how this legislation could be dealt with. It had speaker after speaker get up -

Mr Brown interjected.

The SPEAKER: Order! I formally call to order the member for Morley.

Mr C.J. BARNETT: It was in that context, and given that the Government had just won an election and had a large legislative program, that it introduced the sessional order.

Mr Hill: Then why wait six months to reconvene the Parliament?

Mr C.J. BARNETT: The Government had to do a number of things. It had to put together the fine detail of this legislation. It had to act on the report of the royal commission. It had to draft legislation for a Commission on Government. It had to put in place public sector management legislation.

Mr Thomas interjected.

The SPEAKER: Order! I formally call to order the member for Cockburn.

Mr C.J. BARNETT: I think I have made the point -

Mrs Henderson: Of how arrogant you are.

Mr C.J. BARNETT: The member for Thornlie talks about arrogance. One day, some student of political history may read the debates that she engaged in, and I hope her friends at trades hall will take the time to read how members opposite spent two weeks of opportunity making the same speech over and over again, rather than debate the substance of the Bill.

I give some credit to the member for Thornlie, the member for Fremantle and the member for Morley, because during the debate they did raise some interesting points, but most of the debate was repetitive. For those reasons, the Government feels justified in having in place a sessional order. The Government used the guillotine reluctantly, but it does not resile from that because it has a legislative program, and a commitment and mandate to industrial relations reform. For all of those reasons, the Government does not support the suspension of standing orders.

House to Divide

Mr BLOFFWITCH: I move -

That the question be now put.

Division

Question put and a division taken with the following result -

Ayes (28)

Mr Ainsworth	Mr Johnson	Mr Prince
Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Strickland
Mr Board	Mr Marshall	Mr Trenorden
Mr Bradshaw	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	
Mr House	Mr Pendal	

Noes (21)

Mr M. Barnett	Mr Graham	Mr McGinty
Mr Bridge	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mrs Henderson	Mr D.L. Smith
Dr Constable	Mr Hill	Mr Thomas
Dr Edwards	Mr Kobelke	Dr Watson
Dr Gallop	Dr Lawrence	Mr Leahy *(Teller)*

Question thus passed.

Motion Resumed

Division

Question (suspension of standing orders) put and a division taken with the following result -

---

Ayes (21)

Mr M. Barnett	Mr Grill	Mr Ripper
Mr Bridge	Mrs Hallahan	Mr D.L. Smith
Mr Brown	Mrs Henderson	Mr Thomas
Mr Catania	Mr Hill	Dr Watson
Dr Constable	Mr Kobelke	Mr Leahy *(Teller)*
Dr Edwards	Dr Lawrence	
Dr Gallop	Mr McGinty	
Mr Graham	Mr Riebeling	

Noes (28)

Mr Ainsworth	Mr Johnson	Mr Prince
Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Strickland
Mr Board	Mr Marshall	Mr Trenorden
Mr Bradshaw	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	
Mr House	Mr Pendal	

Question thus negatived; motion defeated.

INDUSTRIAL RELATIONS AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

Division

Question put and a division taken with the following result -

Ayes (29)

Mr Ainsworth	Mr House	Mr Pendal
Mr C.J. Barnett	Mr Johnson	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Dr Constable	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	

Noes (20)

Mr M. Barnett	Mr Grill	Mr Riebeling
Mr Bridge	Mrs Hallahan	Mr Ripper
Mr Brown	Mrs Henderson	Mr D.L. Smith
Mr Catania	Mr Hill	Mr Thomas
Dr Edwards	Mr Kobelke	Dr Watson
Dr Gallop	Dr Lawrence	Mr Leahy *(Teller)*
Mr Graham	Mr McGinty	

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Mr Strickland) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

The CHAIRMAN: Members, I draw your attention to a minor typographical error on the Notice Paper in relation to this Bill. The Minister for Labour Relations gave notice of an amendment to clause 27, page 32, lines 9 and 10, which seeks to delete the lines. The amendment was forwarded from the Minister's office to the Assembly office to be placed on the Notice Paper. Unfortunately, the amendment was incorrectly typeset into the Notice Paper, and now appears on page 19 of today's Notice Paper as page 36. Accordingly, I ask members to note that and I will regard that amendment as being clause 27, page 32, lines 9 and 10 - To delete the lines.

As the time has arrived in Committee for the completion of all remaining stages of this business, I am required under the sessional order to put every question necessary to complete the business without further debate or amendment. The question now is -

(i) that the amendments standing on the Notice Paper in the name of the Minister, to the various parts of this Bill, be agreed to;

(ii) that remaining clauses 1 to 30, as amended, and the title of the Bill be agreed to; and

(iii) that I do now leave the Chair, and report the Bill with amendments.

Division

Question put and a division taken with the following result -

---

Ayes (28)

Mr Ainsworth	Mr House	Mr Pendal
Mr C.J. Barnett	Mr Johnson	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Trenorden
Mr Bradshaw	Mr Marshall	Mr Tubby
Dr Constable	Mr McNee	Dr Turnbull
Mr Court	Mr Minson	Mrs van de Klashorst
Mr Day	Mr Nicholls	Mr Bloffwitch *(Teller)*
Mrs Edwardes	Mr Omodei	
Dr Hames	Mr Osborne	

Noes (20)

Mr M. Barnett	Mr Grill	Mr Riebeling
Mr Bridge	Mrs Hallahan	Mr Ripper
Mr Brown	Mrs Henderson	Mr D.L. Smith
Mr Catania	Mr Hill	Mr Thomas
Dr Edwards	Mr Kobelke	Dr Watson
Dr Gallop	Dr Lawrence	Mr Leahy *(Teller)*
Mr Graham	Mr McGinty	

Question thus passed.

The CHAIRMAN: I advise members that, as with the other Bills, time is required for the amendments to be cross-checked on the Bill paper.

Amendments agreed to under the foregoing resolution were as follows -

Clause 4.

Page 5, line 8 - To delete "registered" and substitute "in force".

Clause 5.

Page 6, line 11 - To insert after "are not" the following -

, in relation to one another,

Page 7, lines 18 to 24 - To delete the lines and substitute the following -

7D. (1) Where any employer and any employee are parties to -

(a) an agreement that has been lodged for registration as a collective workplace agreement under Division 4 of Part 2 of the *Workplace Agreements Act 1993*; or

(b) a workplace agreement that is in force under that Act,

Clause 13.

Page 16, lines 22 to 25 - To delete the lines and substitute the following -

(a) by repealing subsection (2) and substituting the following subsection -

" (2) Subject to subsection (3) and section 41A, where the parties to an agreement referred to in subsection (1) apply to the Commission for registration of the agreement as an industrial agreement the Commission shall register the agreement as an industrial agreement.

and ".

New clause.

Page 17, after line 7 - To insert the following new clause -

Section 41A inserted

14. After section 41 of the principal Act the following section is inserted -

" **Restriction on power to register industrial agreements**

41A. (1) The Commission shall not under section 41 register an agreement as an industrial agreement if -

(a) the agreement applies to more than a single enterprise; and

(b) any term of the agreement is contrary to this Act or any General Order made under section 51, or any principles formulated in the course of proceedings in which a General Order is made under section 51.

(2) For the purposes of subsection (1)(a) an agreement applies to more than a single enterprise if it applies to -

(a) more than one business, project or undertaking; or

(b) the activities carried on by more than one public authority. ".

Clause 23.

Page 27, line 1 - To delete "87" and substitute "97".

Clause 27.

Page 30, lines 16 and 17 - To delete the lines.

Page 32, line 5 - To insert after "employees;" the word "or".

Page 32, lines 9 and 10 - To delete the lines.

Page 36, line 29 - To insert after "organization;" the word "or".

Page 37, line 3 - To delete "; or" and substitute a comma.

Page 37, lines 4 and 5 - To delete the lines.

Page 37, line 16 - To insert after "employees;" the word "or".

Page 37, line 19 - To delete "; or" and substitute a comma.

Page 37, lines 20 and 21 - To delete the lines.

Report

Bill reported, with amendments.

The SPEAKER: The question is that the report be adopted.

Division

Question put and a division taken with the following result -

Ayes (29)

Mr Ainsworth	Mr House	Mr Pendal
Mr C.J. Barnett	Mr Johnson	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Dr Constable	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	

Noes (19)

Mr M. Barnett	Mr Grill	Mr Ripper
Mr Bridge	Mrs Henderson	Mr D.L. Smith
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Dr Edwards	Dr Lawrence	Mr Leahy *(Teller)*
Dr Gallop	Mr McGinty	
Mr Graham	Mr Riebeling	

Question thus passed; report adopted.

Third Reading

The SPEAKER: I have a certificate from the Chairman - the question is that the Bill be now read a third time.

Question put and a division called for.

Bells rung and the House divided.

Remarks during Division

Several members interjected.

Mr M. Barnett: Do you have the certificate?

The SPEAKER: Yes, I do have it.

Mr M. Barnett: Is it part of the motion?

The SPEAKER: It will be. I will put it in a moment. I was given the wrong advice.

Several members interjected.

The SPEAKER: Order!

Mr Thomas: You're a disgrace! You should resign.

The SPEAKER: Order! The motion is as is required.

Several members interjected.

The SPEAKER: Order!

Mr Thomas: You're a disgrace! You should resign.

The SPEAKER: Order! The member for Cockburn has said that three times and I will take the appropriate course of action against the member in a moment.

Mr Thomas: And I meant it.

The SPEAKER: Order! I have a certificate from the Chairman of Committees that this Bill is in accordance with the Bill as agreed to in Committee and reported. The question is that the Bill be now read a third time. Those are the full words to be used and I thank the former Speaker for his advice.

Mr M. Barnett: Would you like to put it so members can vote on it?

The SPEAKER: I put it before.

Several members interjected.

Mr M. Barnett: You should now stand and put the whole motion and give members the chance to vote on it. They will vote on it and they will then decide whether there will be a division.

Several members interjected.

An Opposition member: You should put it properly.

The SPEAKER: I have done it properly.

Several members interjected.

The SPEAKER: I have seen the member for Rockingham in a similar position and I corrected it and am taking his advice.

Mr M. Barnett: You should put the motion.

The SPEAKER: The question is that the Bill be now read a third time.

I have received a certificate in writing from the Chairman of Committees that this Bill is in accordance with the Bill as agreed to in Committee and reported. The question, which I have repeatedly put, is that the Bill be now read a third time.

Division resulted as follows -

Ayes (29)

Mr Ainsworth	Mr House	Mr Pendal
Mr C.J. Barnett	Mr Johnson	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Dr Constable	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	

Noes (19)

Mr M. Barnett	Mr Grill	Mr Ripper
Mr Bridge	Mrs Henderson	Mr D.L. Smith
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Dr Edwards	Dr Lawrence	Mr Leahy *(Teller)*
Dr Gallop	Mr McGinty	
Mr Graham	Mr Riebeling	

Question thus passed.

Bill read a third time and transmitted to the Council.

The SPEAKER: Order! I name the member for Cockburn.

Suspension of Member

Mr C.J. BARNETT: I move -

That the member for Cockburn be suspended from the service of the House.

Division

Question put and a division taken with the following result -

---

Ayes (29)

Mr Ainsworth	Mr House	Mr Pendal
Mr C.J. Barnett	Mr Johnson	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Dr Constable	Mr McNee	Mr Tubby
Mr Court	Mr Minson	Dr Turnbull
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Dr Hames	Mr Osborne	

Noes (19)

Mr M. Barnett	Mr Grill	Mr Ripper
Mr Bridge	Mrs Henderson	Mr D.L. Smith
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Dr Edwards	Dr Lawrence	Mr Leahy *(Teller)*
Dr Gallop	Mr McGinty	
Mr Graham	Mr Riebeling	

Question thus passed.

The SPEAKER: Order! I direct the member for Cockburn to retire from the House.

Mr Thomas: I am prepared to retire from the House but I do not resile from the fact that I believe you, Mr Speaker, and the Chairman are disgraceful for being a party to these decisions.

Several members interjected.

The SPEAKER: Order! Retire!

[The member for Cockburn left the Chamber.]

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Mr C.J. Barnett (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 7 September at 2.00 pm.

House adjourned at 5.35 pm

QUESTIONS ON NOTICE

POLICE - PAY CLAIM

460. Mr CATANIA to the Minister for Police:

(1) Could the Minister advise what the pay claim is referred to in the *Sunday Times*, page 13, of 11 July 1993 where it states "Police angry over pay claim"?

(2) Would the Minister advise how the Government handled the pay claim?

Mr WIESE replied:

(1) The pay claim referred to relates to pay increases agreed to for police officers in September 1991, January 1992, July 1992 and March 1993. These pay increases were based on work value changes and a package of productivity initiatives.

(2) The pay increases referred to in (1) were agreed to by Government and ratified by the Western Australian Industrial Relations Commission. A number of outstanding issues were referred to the commission for arbitration. A decision was handed down on 14 July 1993 and the matter is now finalised.

WOMEN'S INTERESTS - COUNCIL FOR MINISTERS, NEW ZEALAND
Centenary of Women's Suffrage, Minister's Participation

575. Dr WATSON to the Minister for Women's Interests:

(1) When the Minister soon attends the Council for Ministers for Women's Interests in New Zealand will the Minister participate in some way in the celebrations of 100 years of women's suffrage in that country?

(2) If so, how will the Minister participate?

(3) If not, why will the Minister not participate?

Mrs EDWARDES replied:

(1) Yes.

(2) Attendance at functions arranged for all Ministers attending the Commonwealth-State Conference on the Status of Women.

(3) Not applicable.

WOMEN'S INTERESTS, OFFICE OF - WOMEN'S INFORMATION SERVICE
North West Women's Gathering, Roles

577. Dr WATSON to the Minister for Women's Interests:

What part is the -

(a) Office of Women's Interests

(b) Women's Information Service

playing in the North-West Women's Gathering to be held shortly?

Mrs EDWARDES replied:

The Office of Women's Interests has been invited to participate and provide information. The Women's Information Service will represent the Office of Women's Interests and provide information and meet women to discuss issues of concern.

PRISONS - PERSONAL COMPUTERS, CONFISCATION

585. Dr WATSON to the Attorney General:

(1) Does the Attorney General intend that those prisoners whose personal

computers were confiscated recently will have them returned as part of their rehabilitation?

(2) If not, why not?

(3) If so, what monitoring procedures will be put in place?

Mrs EDWARDES replied:

(1) No, but will be available in the education centres for those prisoners undertaking approved education courses.

(2)-(3)

I refer the member to my response to question 516.

MINISTERIAL OFFICES - STAFF SALARIES

603. Mr RIPPER to the Attorney General:

In relation to the Attorney General's answer to question on notice 123 of 1993, what is the salary in dollar terms of each of the Attorney's staff?

Mrs EDWARDES replied:

I refer the member to the Public Service Award 1992 for the information he requires.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - DOMESTIC VIOLENCE POLICY AND RESEARCH BRANCH
Funding; Distinct Unit Maintenance; Grants to Organisations

613. Mr RIPPER to the Minister for Community Development:

(1) What level of funding, including funding for grants to non-government agencies, was allocated in 1992-93 to the domestic violence policy and research branch of the Department for Community Development?

(2) What funds, including funding for grants to non-government agencies, were actually expended in 1992-93 on and by the domestic violence policy and research branch of the Department for Community Development?

(3) (a) How many officers were employed in this branch;

(b) what were their levels?

(4) In the organisational restructure of the Department for Community Development will the domestic violence policy and research branch be maintained as a distinct unit?

(5) If so -

(a) how many officers will be employed in the branch;

(b) what will be their levels?

(6) What funds will be allocated for expenditure on and by the branch in 1993-94?

(7) Which organisations received grants through the branch in 1992-93?

(8) For each case -

(a) what was the purpose of the grant;

(b) was the grant for recurrent activities or for a one-off project?

(9) What was the value of each grant?

(10) What was the combined value of these grants -

(a) for recurrent purposes;

(b) for one-off projects;

(c) in total?

(11) For each organisation which received a grant for recurrent purposes through the branch in 1992-93 -

(a) was that grant for a full year's operations or was the grant for a part of the year's operations only;

(b) if the latter, for what proportion of the year;

(c) what grant will the organisation receive for a full year's operations in 1992-93?

(12) Were grants for one-off projects to combat family violence made through other programs or units of the Department for Community Development; for example, Social Advantage grants in 1992-93?

(13) If so, what was the total value of these grants for this purpose?

(14) Will funding for one-off projects to combat family violence still be available from these sources in 1993-94?

(15) If so, how much funding will be provided?

(16) What is the total amount of funds that will be available through the Department for Community Development for one-off projects to combat family violence in 1993-94?

Mr NICHOLLS replied:

(1) $762 000.

(2) $410 529.

(3) (a) Four.

(b) Level 6
2 x level 4
Level 1.

(4) No.

(5)-(6) Not applicable.

(7)-(9)

Marriage Guidance WA

Purpose:	Additional funding for Domestic Violence Intervention Program.
Recurrent:	Yearly allocation $30 000.
Value:	$20 000.

Marriage Guidance WA

Purpose:	Pilot counselling service for children who are secondary victims of domestic violence. Funding for two years only - two year pilot program.
Value:	$70 000.

Centrecare

Purpose:	Counselling program for both victims and perpetrators of domestic violence.
One-off	1.1.93-31.12.93.
Value:	$37 560 for six months.

Bunbury Domestic Violence Action Group

Purpose:	Counselling program for perpetrators of domestic violence.

One-off 1.1.93-31.12.93.
Value: $4 500 for six months.

Waratah Support Centre
Purpose: Counselling for victims of domestic violence.
One-off 1.1.93-31.12.93.
Value: $22 500 for six months.

Starick House Women's Refuge
Purpose: To provide education/support groups for victims of domestic violence.
One-off 1.1.93-31.12.93.
Value: $7 500 for six months.

Mamia, Jamdu
Purpose: To establish a mobile family violence counselling service in the West Kimberley.
One-off 1.1.93-31.12.93.
Value: $35 000 for six months.

Geraldton Sexual Assault Referral Centre
Purpose: To provide a domestic violence counselling service for primary and secondary victims in the mid-west region.
One-off 1.1.93-31.12.93.
Value: $25 000 for six months.

Women's Refuge Group of WA Inc.
Purpose: To increase the level of resourcing available to the Women's Refuge Group.
Recurrent: Yearly allocation of $430 000.
Value: $20 000 for nine months.

(10) (a) $40 000.

(b) $202 060.

(c) $242 060.

(11) (a)-(b) All organisations received funding for six months only, until 30 June 1993, except for the Women's Refuge Group and the Domestic Violence Intervention Program, Marriage Guidance WA, which each received a sum of $420 000 being nine months' funding for the period of 1 November 1992 to 30 June 1993.

(c) As above.

(12) Office of the Family.

(13) $42 667.

(14) Unknown until 1993-94 Budget is finalised.

(15) Not applicable.

(16) Unknown until 1993-94 Budget is finalised.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - PARENTS
Prevention and Early Intervention Programs

625. Dr CONSTABLE to the Minister for Community Development:

With reference to the Ministerial Statement of 12 August 1993 how does the Department for Community Development intend to increase the focus

of prevention and early intervention programs which focus on skilling parents?

Mr NICHOLLS replied:

Parent Help Centre provides the following programs which are both practical and educative for parents -

(a) One to one counselling when the programs are tailored to suit the individual client;

(b) teaching skills through parent groups;

(c) two more intense programs for skilling parents are also provided;

(d) All day parenting programs - for high risk parents; and

(e) Children Educational Activity Programs - interactive playgroups where modelling is usual to help parents deal with children's behaviour.

McCall In Home Parent Skills Services provides to parents or caregivers an intensive "in home" individualised program focusing on teaching the behaviour management skills necessary to bring about behaviour change in their children. Parents are taught skills to deal effectively with serious child behaviour problems.

DCD provides funding - approximately $4.5m - to a range of non-government services to provide a preventive service to families with dependent children. Included in these are community and neighbourhood houses, Community Links and Networks - CLANS - family counselling services, and parent education services.

Early Intervention programs were commenced during 1992-93 which have as their focus the enhancement of caregivers' skills.

The Early Education Program was extended into a number of country locations in the goldfields, Murchison, Pilbara and Kimberley regions.

Two major projects encompassing a health/education/welfare approach to service delivery for families with young children were developed in Kwinana and Mandurah.

Five smaller projects were developed in metropolitan locations. The two large projects and two of the smaller projects are delivered by the non-government sector.

In June 1993 I announced the establishment of a task force which would identify ways of strengthening family life in Western Australia. The task force will look at the many influences, both positive and negative, which affect families in our community today. These include domestic violence, child abuse, marriage breakdown, parent-teen conflict and other social, cultural and economic factors. Also included are programs which provide parenting skills, family enrichment and marriage guidance.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - PARENT HELP CENTRE; McCALL IN HOME PARENTING SKILLS SERVICE; OTHER PROGRAMS

Parents Receiving Services; Expenditure

626. Dr CONSTABLE to the Minister for Community Development:

(1) How many parents received services during 1992-93 from -

(a) Parent Help Centre;

(b) McCall In Home Parenting Skills Service;

(c) other counselling and early intervention programs?

(2) What was the actual departmental expenditure in 1992-93 on each (a), (b),(c) referred to in (1) above?

Mr NICHOLLS replied:

(1) (a) 4 126 families received services during 1992-93 from the Parent Help Centre.

(b) 222 families received services during 1992-93 from the McCall In Home Parenting Skills Service.

(c) 346 families received services through the Early Education Program (Parent Skilling).
A number of early intervention initiatives, referred to in the previous question, were commenced during 1992-93. Data on numbers of families serviced is not yet available. Counselling and early intervention programs are provided through all the department's district offices. A database is currently being developed which will provide relevant statistics on this service.

(2) Departmental Expenditure:

(a) Parent Help Centre - $439 505 (figure includes salaries).

(b) McCall In Home Parenting Skills service - $260 210 (figure includes salaries).

(c) Costings for this service are incorporated in the budget for running a district and are not able to be costed individually.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - WARDS
Senior Case Work Supervisor

628. Dr CONSTABLE to the Minister for Community Development:

(1) With reference to the newly created position of senior case work supervisor -

(a) will there be one such position in each district of the department; or

(b) only one position for the entire department?

(2) How many children was the department legally responsible for in 1992-93?

Mr NICHOLLS replied:

(1) A position undertaking the role of senior casework supervisor will exist in each district of the department.

(2) As at 30 June 1993 the department had legal responsibility for 594 wards.

BHP IRON ORE - PILBARA ENERGY PROJECT
Government Support

638. Dr GALLOP to the Minister for Energy:

Will the Government give "in principle" support to Broken Hill Proprietary Iron Ore's Pilbara energy project on the basis of the proposed amendments to BHP's agreement Acts tabled by the member for Pilbara on 8 July 1993?

Mr C.J. BARNETT replied:

The Government supports the Pilbara Energy Project, but any amendments to agreement Acts will be negotiated between it and BHP Iron Ore. The Government has advised BHP that it will honour the Cabinet decision of 5 January 1993.

GREER, ARTHUR BOYCOTT - MASON, SHARON, MURDER CASE
Police Procedures, Review

644. Mr CATANIA to the Minister for Police:

With reference to the conviction of Arthur Boycott Greer for the wilful murder of Sharon Mason, is the Minister reviewing police procedures in light of media reports that -

(a) a vital prosecution witness, interviewed by police a year ago, was forgotten and discovered only two weeks before the trial by Crown lawyers;

(b) another witness who made regular deliveries to the killer's shop was never asked by police if he had seen masks;

(c) Greer was never interviewed in the initial investigations despite an appalling criminal record;

(d) significant parts of interviews with Greer, when he was eventually interviewed, were subsequently found to be inadmissible;

(e) the victim's father committed suicide, and one of the reasons given was that he believed he was one of the principal suspects?

Mr WIESE replied:

It is not the role of the Minister for Police to become involved in such operational matters as developing and reviewing police operational procedures. I am aware that the commissioner has noted the matters raised in the question and is examining whether action should be taken. The Commissioner of Police does, as a matter of course, keep police procedures under constant review. I do point out to the member that a missing person case which had remained unsolved for nearly 10 years was investigated and a person charged within two weeks after the body was uncovered during excavations in Mosman Park. Those investigations were successful in bringing about the arrest and subsequent conviction of that person and his sentencing by the court for a term of 20 years without parole.

ELECTORAL DISTRIBUTION ACT - CHANGES
Electoral Boundaries, Redistribution Commencement

647. Dr GALLOP to the Minister for Parliamentary and Electoral Affairs:

(1) Does the Government propose any changes to the Electoral Distribution Act 1947?

(2) If yes, what changes are proposed?

(3) When will the redistribution of electoral boundaries as provided for in the Electoral Distribution Act 1947 commence?

Mrs EDWARDES replied:

(1) No. However, items 15 and 16 in the list of specified matters in schedule 1 of the Commission on Government Bill 1993 refer to the electoral system for representation in the Legislative Council and the Legislative Assembly as matters which may be inquired into by the Commission on Government. The report of that commission may comment on possible amendments to the Electoral Distribution Act 1947.

(2) See (1).

(3) Section 2A(2) of the Electoral Distribution Act 1947 provides that if the same division of the State has applied in respect of two successive general elections for the Legislative Assembly, the State shall be divided into districts and regions as soon as practicable after the day that is one year after the polling day for the second of those general elections. As the

1987-88 division of the State applied to the two general elections held on 4 February 1989 and 6 February 1993, the next division of the State will commence as soon as practicable after 6 February 1994.

WATER AUTHORITY OF WESTERN AUSTRALIA - PILBARA
Water Supplies; Towns, Capital Costs

667. Mr GRAHAM to the Minister for Water Resources:

(1) What is the quality, quantity and extent of surface and ground water supplies in the Pilbara Region?

(2) What is the capital cost to the Western Australian Water Authority of the water supplies for the towns of -

(a) Port and South Hedland;
(b) Karratha;
(c) Dampier;
(d) Wickham;
(e) Pannawonica;
(f) Paraburdoo;
(g) Tom Price;
(h) Shay Gap?

Mr OMODEI replied:

(1) The quantity of divertible water resources within the Pilbara region has been estimated as -

220 million cubic metres potable surface resource
75 million cubic metres ground water resource
295 million cubic metres total divertible resources.

Divertible resources are defined as the "annual average volume of water which, using current technology, could be removed from developed or potential surface water or ground water sources on a sustained basis". The information provided has been extracted from two documents which give a good overview of the quality, quantity and extent of water resources in the Pilbara.

A review of the major ground water resources in Western Australia: Geological Survey of WA, Dec 1992.

Water resource perspectives in Western Australia, Report No 2 Water Resources and Water Use: WA Water Resources Council 1986.

(2) The current replacement costs (December 1992 price base) for Water Authority assets associated with the supply of water to the towns requested are -

		$m
(a)	Port and South Hedland	88.00
(b)	Karratha*	235.00
(c)	Dampier*#	.18
(d)	Wickham*	5.00
(e)	Pannawonica#	0.00
(f)	Paraburdoo#	0.34
(g)	Tom Price#	0.51
(h)	Shay Gap#	0.00

* The Karratha figure includes the common headworks cost for assets that also serve the towns of Dampier, Roebourne, Wickham, Point Samson and the operations at Cape Lambert and the Burrup.

\# Mining company schemes. Water Authority assets only refer to the provision of water to the distribution point.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - PILBARA ORGANISATIONS, FUNDING

668. Mr GRAHAM to the Minister for Community Development:

(1) Will the Minister ensure all funding for community based welfare organisations in the Pilbara are compensated for the high cost of living in that region?

(2) If not, why not?

Mr NICHOLLS replied:

(1) Yes.

(2) Account is taken of the location and model of service in the determination of funding levels wherever services are located within the State of Western Australia.

ENERGY LABELLING - HOUSEHOLD APPLIANCES, LEGISLATION

672. Dr GALLOP to the Minister for Energy:

(1) In what States is there legislation requiring energy labelling for household appliances?

(2) What approach to energy labelling is taken in Western Australia?

(3) Does the Government intend to legislate for energy labelling?

(4) If yes, when?

Mr C.J. BARNETT replied:

(1) Victoria, New South Wales, South Australia.

(2) The Government through SECWA locally promotes recognition of the "Star Rating" scheme that is operated by those three States, as it benefits the WA community.

(3) Yes.

(4) During the next 12 months, in line with the coalition's energy policy as published in "Energy - Western Australian Coalition Policies for the Nineties", January 1993.

GAS FLARING - GOVERNMENT POLICY

673. Dr GALLOP to the Minister for Energy:

(1) Does the State Government have a policy on gas flaring?

(2) If yes, what is the policy?

(3) If no, does the Government intend to develop a policy?

Mr C.J. BARNETT replied:

(1) Yes.

(2) Natural gas produced in association with oil production should not be flared, except for safety and in emergency situations, when there exists an alternative such as sale or reinjection of the gas that is feasible within the overall economics of developing that oilfield.

(3) Not applicable.

LAND VALUATION TRIBUNALS ACT - REVIEW

677. Mr HILL to the Premier representing the Minister for Finance:

(1) When was the last review of the Land Valuation Tribunals Act 1978?

(2) Is the Act overdue for review?

(3) Will the Minister undertake a review of the Act in this session of Parliament?

(4) If no, why not?

(5) If yes -

(a) when will the review commence;

(b) who will undertake the review?

Mr COURT replied:

(1) I am not aware of any review having been undertaken since the inception of the Act.

(2) Although my attention has been drawn to a complaint made to the previous Government about certain provisions of the Act, no-one has submitted to me that a review of the Act was desirable.

(3)-(5)

If there were a demonstrated need for the Act to be reviewed, I would give due consideration to the question.

POLICE - KALGOORLIE-BOULDER REGION, ADDITIONAL OFFICERS

691. Mr TAYLOR to the Minister for Police:

(1) Given the coalition's election commitment to provide additional police officers to the Kalgoorlie-Boulder region, when will those officers be provided?

(2) How many additional officers will be located in the area?

Mr WIESE replied:

(1) While the Government remains committed to its aim to increase significantly the size of the Police Force over the next four years in order that areas such as Kalgoorlie-Boulder can be provided with additional officers, I am unable to say when this will occur.

(2) The Commissioner of Police is responsible for the deployment of police resources. As additional officers become available, the relative needs of the Kalgoorlie-Boulder region will be assessed.

WATER AUTHORITY OF WESTERN AUSTRALIA - VASSE DIVERSION DRAIN

Plugging, Damage to Farms

692. Mr HILL to the Minister for Water Resources:

(1) While work was being undertaken on the Vasse diversion drain on Tuesday, 18 May 1993, did staff of the Western Australian Water Authority plug the drain, causing flooding to small farms nearby?

(2) Did officers of WAWA inspect damage which occurred to vegetable farms as a result of the upgrading of the drain?

(3) As a result, did the officers admit that the damage to vegetables was as a result of the negligence of staff in not responding to the requests of farmers to remove the plugs?

(4) Had alternative water diversion or restraining methods been explored by WAWA prior to settling on the method employed?

(5) If not, why not?

(6) Has WAWA undertaken an assessment of the extent of the damage to farms as a result of its actions in plugging the drain?

(7) If yes, what is the total cost of the damage?

(8) If no, why not?

(9) Have compensation claims for damage to vegetable crops as a result of the flooding been lodged with WAWA by affected farmers?

(10) Is the Minister prepared to approve an ex gratia payment to the said farmers since the sale of these vegetable crops is the only source of income for them?

(11) If not, why not?

Mr OMODEI replied:

(1) No.

(2) No, WAWA officers inspected damage to vegetable crops on one property, that of Mr and Mrs Conti. However, the damage was not due to the drain upgrading work being undertaken.

(3) No.

(4) Yes, method employed was to divert flow into the Vasse River, from the drain.

(5)-(7) Not applicable.

(8) See (2).

(9) Yes, one claim lodged.

(10) Ex gratia payments are the responsibility of the Water Authority.

(11) The damage that occurred was due to the extremely high rainfall over a short period of time which exceeded the capacity of both the internal farm and local drains in the area of the property. This damage was not influenced or affected by the Water Authority.

PLANNING FOR CHANGE - COST

694. Mr GRAHAM to the Minister for Local Government:

(1) With reference to the nine page document *Planning for Change* prepared by the Department of Local Government, what is the cost of the document?

(2) How many copies were printed?

(3) To whom were copies distributed?

(4) By what processes were the strategies in the document formulated?

Mr OMODEI replied:

(1) Costs are not yet finalised, but will be in the vicinity of $4 500 to $5 000.

(2) One thousand.

(3) All local governments, all members of Parliament, relevant State Government agencies and peak local government bodies.

(4) Through consultation with the local government industry and departmental staff.

POWER STATIONS - STATES AND TERRITORIES

698. Dr GALLOP to the Minister for Energy:

(1) How many new power stations have been commissioned in each of Australia's States and Territories since 1980?

(2) What is the size of each of these power stations?

(3) What fuel is used to generate power in each of these power stations?

(4) How many of these stations have been privately built, owned and operated?

(5) Which of these stations commissioned since 1980 have yet to come into operation?

The answer was tabled.

[See paper No 274.]

LOCAL GOVERNMENT ACT - LOCAL AUTHORITIES' POWERS OVER BUILDING WORKS ON LAND

699. Mr GRAHAM to the Minister for Local Government:

(1) Do local authorities have any powers or controls over building works on land administered under the State agreement Acts?

(2) If so, what controls or powers are available to the local authority?

(3) If not, why not?

Mr OMODEI replied:

(1)-(3)

Section 373 of the Local Government Act defines that the provisions of part XV of the Act "apply throughout each district of the State". There are exceptions to this applicability defined in subsections 373(2) and 373(3) and which generally relate either to districts declared by the Governor, or to buildings under the control of the Crown or its agencies. Exception to applicability of part XV of the Local Government Act might also be clearly expressed in a particular State agreement Act. An organisation wishing to claim exemption from the controls of part XV of the Act should be able to produce evidence to the local authority of grounds for the claim. If the expression is not clear, then the responsibility to provide unambiguous evidence of exemption lies with the applicant, as it is not the responsibility of any local authority to interpret legislation other than the Local Government Act. In the absence of such evidence, part XV of the Act must apply.

The member may also wish to seek advice on this matter from the Minister for Resources Development on any specific agreement Act conditions.

QUESTIONS WITHOUT NOTICE

WILSON, TREVOR - PARLIAMENT HOUSE RALLY, PRESS ACCREDITATION

198. Mr TAYLOR to the Speaker:

Some notice of the question has been provided.

(1) Are you aware that officers of the House approved the press accreditation of a man who identified himself as Trevor Wilson of the *Mundaring Liberal News* for the purposes of standing on the steps of Parliament House and taking photographs of the protesters at the demonstration yesterday?

(2) Are you aware that when a small group of protesters became unruly, this man passed his camera to an unsuspecting legitimate journalist, muttered something about communists and leapt into the fray? I understand this gentleman is known to some of the members opposite.

(3) How can this person obtain press accreditation when it has been denied to a legitimate journalist from the respected national radio current affairs program "AM".

(4) If you are not aware of this occurrence, will you investigate it?

The SPEAKER replied:

(1)-(4)

Questions to the Speaker should be placed on notice. However, the Deputy Leader of the Opposition discussed this matter with me. Because of the nature of the question, I am not in a position to answer it. I am not aware of any of the issues raised by the member. I will follow the course of action suggested by him and make some inquiries.

ECONOMIC RECOVERY - JUNE QUARTERLY ACCOUNTS, COMPARISON

199. Mr OSBORNE to the Premier:

I refer the Premier to yesterday's release of the State accounts prepared by the Australian Bureau of Statistics and ask: How does Western Australia's economic recovery compare with the national situation and what factors account for any significant differences?

Mr COURT replied:

The June quarterly accounts were published yesterday. They indicate that the real growth in Western Australia's performance is considerably better than that of the other States. It is particularly pleasing that, in the first six months of this year, there has been a large increase in new capital expenditure to $3.8b, which is a 23 per cent increase on the corresponding period last year, and is some five times the national growth of investment in the country. It is an encouraging sign.

Mrs Henderson: Are you taking credit for it?

Mr COURT: I was about to say that there is some growing confidence in the community. One thing that does show up is that this Government has the political will to make some of the hard decisions that members opposite did not have the ability to make. The Opposition, when in Government, kept talking about industrial relations reforms for 10 years and did nothing.

Several members interjected.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Order! The member for Balcatta has interjected a number of times since today's sitting resumed after the lunch suspension and I ask him to cease his interjections.

Mr COURT: This Government has the political will to make the decisions which are required to make the economy even more competitive. The Opposition had 10 years to get it right, but it got it disastrously wrong.

HOSPITALS - SIR CHARLES GAIRDNER
Nurses, Stop-work Meeting

200. Mr TAYLOR to the Premier and Treasurer:

I refer the Premier and Treasurer to the stop-work meeting of nurses taking place at Sir Charles Gairdner Hospital today.

(1) Is he aware of the letter sent by the Minister for Health to the Australian Nurses Federation stating that hospitals have been required to prepare budgets encompassing cuts of up to eight per cent?

(2) Is he also aware that the Minister for Health has refused to meet the ANF until after the Budget position is known?

(3) Will he request the Minister for Health to at least sit down and resolve the matter with the nurses as soon as possible?

(4) Does he share my concern that by targeting nurses for staff cuts, hospitals will endanger the quality of patient care?

Mr COURT replied:

(1) I am not aware of the specific letter that was sent, but I am aware of the need to bring about control of expenditures in the health area.

(2)-(3) I would like to think - and I believe he has - that the Minister for Health has been consulting nurses in this State. If the member is concerned about whether he is meeting particular people, I ask him to tell me who those people are so that I can make sure those consultations take place.

(4) The Opposition members are the last people who should complain about the delivery of health care services in this State. Hospital waiting lists blew out under the previous Government, but this Government will address the issue.

Several members interjected.

The SPEAKER: Order!

Mr COURT: A delegation from Bunbury, which included the Leader of the Opposition and the member for Mitchell, met the Minister for Health and me and expressed their concerns about the collocation of the Bunbury hospital. This Government is trying to ensure it can provide a higher quality of health services to the public at a lower cost.

Several members interjected.

Mr COURT: The Government will work through the collocation proposal for Bunbury and if it is determined that the proposal will provide better services at a lower cost, it will go ahead with it. If the Government is unable to put the proposal together it will find other ways to provide health services more efficiently.

DAWESVILLE CHANNEL - DAWESVILLE TIP, SITE CHANGE

201. Mr MARSHALL to the Minister for the Environment:

It appears the relocation of the Dawesville tip could hold up the progress of the Dawesville Channel. At what stage are negotiations with the Minister and the Mandurah City Council with regard to a change of site?

Mr MINSON replied:

I thank the member for short notice of the question. On taking over the Environment portfolio I wrote to the Mandurah City Council on a range of issues which included the future of its landfill site, the future of the septic waste disposal site and the need for its relocation, the need to take advantage of possible additions to the national park estate in the area and the opportunity for a regional waste site. The council responded that it was interested but requested that consideration of the landfill site be deferred until June 1995. Members would be aware that that will cause some problems for the Dawesville Cut project. I have put in place a working party, which includes a range of people from across Government agencies, particularly planning, health and environment. The first meeting was held some time this week and I understand the city council has indicated its willingness to help expedite these matters. I personally hope

we can reach agreement on this matter which is necessary for the good not only of the people of Mandurah but also the people in this State, and certainly for the health of that area from the south of Mandurah through to Fremantle.

PARLIAMENT HOUSE - RALLY
Unidentified Police Officer Filming Protestors

202. Dr LAWRENCE to the Premier in the absence of the Minister for Police:

(1) Will the Premier seek an explanation from the Minister for Police as to why an unidentified plain-clothes police officer was filming protesters at yesterday's massive rally against the Government?

(2) Will he also seek advice and inform the House why, on the steps of Parliament, the said officer provoked two senior journalists who were properly going about their jobs, by grabbing Channel 7 head cameraman Mike Goodall and threatening ABC cameraman Peter Goodall with arrest for hindering police work?

(3) Will he also explain why this officer wore no identification whatsoever and will the Minister carry out an intensive review and report back to the House?

(4) Is he concerned that an unidentified officer, using a video camera, may not only affect the public standing of legitimate journalists but also be in danger of being mistaken for an ordinary citizen trying to provoke others?

Mr COURT replied:

(1)-(4)

I will ask the Minister for Police for some details in relation to this matter. However, I find it quite amazing that the Leader of the Opposition is continuing with her anti-police questions.

Several members interjected.

The SPEAKER: Order!

Mr COURT: The police in this community have a difficult enough job to do.

Several members interjected.

The SPEAKER: Order! I ask the Premier to resume his seat. The member for Fremantle continued to interject when I was on my feet. The level of noise is absolutely intolerable. I call on members not to persist. I ask them to cooperate, but if that noise continues it will be necessary to take action. One course of action would be to call off question time.

Mr COURT: The police have been starved of resources in recent years and I would have expected the Leader of the Opposition to provide some support to them. Would it not be interesting and a pleasant change if the Leader of the Opposition came into this House and thanked the police for their efforts in controlling the crowd yesterday?

SUBIACO OVAL - $8M FUNDING, PREMIER'S LETTER TABLING

203. Dr CONSTABLE to the Premier:

I refer to the front page article of the *Subiaco Post* on 22 June 1993, in which it was reported that the final decision which sealed the Subiaco Oval deal was a letter from the Premier to the Federal Government which declared that his Government had no objection to Subiaco Oval being revamped. I ask the Premier -

(1) Will he table the letter referred to in this report?

(2) Does the Premier stand by that report?

(3) If so, does that mean he condones the allocation of $8m to the project at the Subiaco Oval which was originally intended for Western Australia's roads?

Mr COURT replied:

(1) Yes, I will table the letter.

(2)-(3)

The Government said that it was up to the football people to choose where they wanted to establish their headquarters. This Government did not want to interfere with the internal working of the football league. The football representatives said when we were in Opposition, and have repeated now we are in Government, that they want to develop Subiaco Oval as the football headquarters of this State. With regard to the funding, only a couple of weeks ago did I become aware that the $8m promised was taken from the promised road funding allocation to this State. The Federal Government makes the decision about the areas to which it allocates funds.

Dr Lawrence: What you are saying is incorrect.

The SPEAKER: Order!

Mr COURT: So, the roads do not have the money and the football people do not have the money.

Dr Lawrence interjected.

The SPEAKER: Order! The Leader of the Opposition will cease her interjections.

Mr COURT: As to funding for the oval, we have said to the football people that we do not have State funds available to assist them in their plans - certainly not this financial year - so, they are planning to use Federal funding for the developments, as I understand it. I will table the letter.

[The paper was tabled for the information of members.]

STATE ENERGY COMMISSION OF WESTERN AUSTRALIA - PICTON-BEENUP POWERLINE

204. Mr BLAIKIE to the Minister for Energy:

Following widespread public concern over the Lawrence Government's decision to construct a powerline from Picton to Beenup would the Minister advise the House of the Government's policy to service the Beenup mine site and what endeavours he is undertaking to ensure country participation to bring this important project to fruition?

Mr C.J. BARNETT replied:

I am aware that the member for Vasse, as well as the member for Wellington and other south west members, has been concerned about this matter.

The original proposal by the State Energy Commission of WA was for the power supply to the Beenup mine near Australind to come from Manjimup. That would have taken it through areas of heritage listing and certainly old grade forest. Concern was expressed by the environmental movement. The previous Government made a decision to reroute the powerline from Picton. The problem was that it went across some 90 farming properties and caused a great deal of disquiet within the community and opposition from all local government areas in the south west.

Earlier this year I visited the alternative route sites. Following that, SECWA submitted an alternative proposal to come from the Manjimup

direction, which is shorter and cheaper, but to use a different route going along Palings Road - a wide forestry clearing - and going only through revegetation areas of Forest Road.

I assure members, particularly those from the south west, that the new proposed route is going through a full community and environmental assessment procedure. Dames and Moore recently completed a consultancy economic review which was submitted to the Environmental Protection Authority on 30 July. As members may be aware, the four week period for public consultation is under way and will conclude on 3 September. There will be the normal period to enable any issues raised to be liaised between the EPA and SECWA. If all goes to plan, the provisional timetable is that conditions attached to the new power route should be finalised by 5 November. If the EPA and the Minister for the Environment give approval, subject to all those requirements, I hope we may be in a position to proceed around 12 November. I stress that the project must have full environmental approval, and I hope it will have the backing of the community. Also SECWA will not go ahead with the powerline route until Beenup is firmly committed to a starting date.

Some members opposite have expressed an interest in visiting the proposed new route. I sincerely hope they do. They will find it has minimal environmental impact and is the more desirable way to proceed.

POLICE - POLITICAL SLOGAN ON STATIONARY

205. Mr CATANIA to the Premier:

(1) Is the Premier aware of comments by the General Secretary of the Police Union on Radio 6WF where he condemned the Government for its attempts to politicise the Police Force and for depriving injured police officers of compensation for motor accident injuries received during the course of duty?

(2) Does the Premier agree with the general secretary that the police have been compromised by having to defend the publication of a political slogan on their stationery and that they have better things to do than act as the Government's political messengers?

(3) Can the Premier confirm reports that the political slogan has been removed and, if so, can he explain how that change came to pass?

Mr COURT replied:

(1) No.

(2) Not applicable.

(3) Not to my knowledge.

PARLIAMENT HOUSE - RALLY
Minister's Presence, Provocation Claim

206. Mr McNEE to the Minister for Labour Relations:

Does the Minister support the comments in some sections of this morning's media that his presence at yesterday's union rally provoked a clash between police and demonstrators?

Several members interjected.

The SPEAKER: Order!

Mr KIERATH replied:

I thank the member for the question. I was extremely annoyed upon reading the headline in *The Australian Financial Review* this morning which accused me of provoking the clash during the rally. When the rally

reached Parliament yesterday, I was advised not to go out but to concentrate my efforts on the debate in the House. However, I thought it was important to go out onto the steps of Parliament and listen - as I have always done - to what the demonstrators had to say. At the previous two rallies, I was invited to address the meeting and to listen to what others had to say, but not so this time. Perhaps this was retaliation by the group opposite, as they gagged me outside this place! Nevertheless I wanted to hear what was said.

Several members interjected.

The SPEAKER: Order!

Mr KIERATH: I was disappointed that Halfpenny, the half-baked has-been from Victoria, had to come here because of the incompetence of the people running this State's trade union movement to run a rally! I went outside and stayed at the rally until Rob Meecham called it to an end. I found out later that after I left the rally the violence occurred. In fact, if anything, I may be accused of having had a calming influence!

Several members interjected.

The SPEAKER: Order!

Mr KIERATH: It gets better. *The Australian Financial Review* accused me of a "deliberately provocative action designed to generate conflict". Interestingly, even people within the trade union movement have a conscience and can change their minds. Rob Meecham was asked this question by Gerry Gannon on radio this morning: "You said that the Minister's presence angered the crowd yesterday?" His response was, "Well look, I don't think the Minister's presence had that much effect on the overall scheme of things."

Several members interjected.

The SPEAKER: Order!

Mr KIERATH: That might have been Mr Meecham's view of things, and I can understand and accept it. However, is it any wonder that this Government must launch a public education program when we have such about-faces? Either the headline in the *The Australian Financial Review* or Mr Meecham's comment is wrong!

Several members interjected.

The SPEAKER: Order!

Dr Lawrence: You frequently are wrong.

The SPEAKER: Order! The Leader of the Opposition will cease interjecting.

PARLIAMENTARY SESSIONS - EARLY RECALL
Environmental Protection Act, Amendment; No Guillotine Assurance

207. Mr McGINTY to the Minister for the Environment:

I refer to the early recall of this House on 7 September.

(1) Can the Minister confirm that a major reason for the recall is to consider the Government's controversial amendments to the Environmental Protection Act?

(2) Can the Minister assure the House that the Government's draconian guillotine order will not be invoked to railroad through this controversial legislation?

Mr MINSON replied:

(1) Owing to the time wasted by the Opposition during the last few weeks, we shall return a week early to get on with Government business.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: The answer to the first part of the question is no.

Mr Taylor: You will not be doing the EPA Bill?

Mr MINSON: I did not say that. The member asked me specifically whether the House was being recalled to consider that legislation, and the House is not being recalled specifically for that purpose. However, the legislation may well be considered.

(2) Use of the guillotine has not been discussed, and I have no desire to use it on any debate.

Several members interjected.

The SPEAKER: Order!

Mr MINSON: I find it incredible that I should be asked the question. I have not raised the matter of the guillotine, which I have no desire to use in any debate.

Several members interjected.

Mr MINSON: If members opposite would show some commonsense in the way they use this House, we would not need to use it. I have not requested the use of the guillotine for the EPA legislation; I am more than happy to debate the matter in full. Nevertheless, the use of the guillotine in that debate would not be my decision; it is a matter for the Leader of the House and the Parliament to decide.

JUVENILE JUSTICE BUREAU - JUVENILE JUSTICE TEAMS, PROGRESS

208. Dr TURNBULL to the Attorney General:

With the establishment of the Juvenile Justice Bureau, new programs have been developed to track the rehabilitation of juvenile offenders. Can the Minister report to the House on the progress of the juvenile justice teams, some of which are being piloted at Thornlie and Fremantle?

Mr Ripper: That was a Labor initiative.

Mrs EDWARDES replied:

In that case, the member for Belmont should be interested in the answer. I am sure that members opposite will be pleased to be given updated reports on the progress of the programs, although some changes have been made to those originally proposed.

Mr Ripper: There were going to be four of them. Why are there now only two?

Mrs EDWARDES: We are monitoring the progress of the other two.

Mr Ripper: You cut the program in half.

Mrs EDWARDES: I am sure that members opposite do support the program and will be very interested in the progress -

Mrs Henderson: Four; cut in half.

The SPEAKER: Order! The member for Thornlie will cease interjecting.

Mrs EDWARDES: The programs are being trialled in Armadale and Fremantle. The teams involved include the police, education and justice as well as the parents, victims and juvenile offenders. The programs were launched at the beginning of last month. To the end of last month the teams had 45 references from the courts and the police. Of those, 21 offenders were referred by the courts and the remainder by police. All but six were dealt with by the juvenile justice teams. Where the offenders were not dealt

with by the juvenile justice teams, they were referred back to the police for a caution. The matters are being referred to and dealt with by the juvenile justice teams in a most positive and effective way. On one occasion one of the teams referred a matter back to the courts because it was felt that the offence was far too serious to be dealt with by the team. The offences dealt with by the teams have included petty theft and minor damage to property.

While I am at the women Ministers' conference in Wellington, New Zealand next week I will take the opportunity to attend upon those people who run the group conferencing system, to compare their evaluation scheme with ours. Given that these programs have been operating for only six or seven weeks, it is important to assess their benefit and how they are operating to see whether any changes should be put in place before any further programs are started.

WESTRAIL - DOG SPIKES

209. Mr HILL to the Minister representing the Minister for Transport:

(1) Has Westrail recently ordered dog spikes from an Eastern States company?

(2) If so, from which company and at what tender price?

(3) Is it a fact that a machine to manufacture dog spikes is located at the Midland Workshops?

Mr LEWIS replied:

(1)-(3)

Unfortunately the member will be a little disappointed with my answer. I am informed by the Minister for Transport that the answer to this question is quite complex and he will formally advise the member of his answer next week.

BUILDING MANAGEMENT AUTHORITY - STAFF REHABILITATION, SACKING PLANS

210. Mr PRINCE to the Minister for Works:

Given some speculation on the subject, is it true that the Building Management Authority plans to sack all of its members of staff who are currently on rehabilitation programs?

Mr KIERATH replied:

This is one of the furphies that spreads when some people on the other side choose to play politics. Last week a number of people were terminated in the normal course of events who had been on workers' compensation because they had no alternative duties. That occurred as a normal management decision and was organised from within the Building Management Authority. Guess what happened when that voluntary redundancy payment was offered to those people? The Government was inundated with people wanting to accept the offer. Only Mr Kevin Reynolds has been making outrageous claims about the workers' compensation termination. I am more than happy, if it is desired by members opposite, to table the individual circumstances of those people who have been terminated. I must tell them though that it does not make particularly interesting reading.

However, it was interesting that one of those people was a constituent of mine. When I went through his record of refusing rehabilitation and alternative duties, and of not even being at work when he was supposed to be during his lawful hours of business, it was amazing how suddenly his point of view had changed. It is true that when a carrot of voluntary

redundancy was offered, more people were putting up their hands than the Government had wanted. Nearly every person who has been on workers' compensation in recent times on different duties has put up his hand for a redundancy payment.

MINISTERIAL TRAVEL - PARLIAMENTARY RECESS

211. Mr GRAHAM to the Premier:

I refer to the Premier's answer to the member for Marangaroo's question two days ago about details of Ministers travelling overseas in the parliamentary recess. I remind the Premier that he told the House he would be able to provide the information to the member for Marangaroo five minutes after question time.

(1) Why has the Premier and his officers since failed to respond to members' repeated requests for that information?

(2) Will the Premier make that information available to me today?

(3) Is this another example of the Premier saying one thing to this Parliament and the gallery, and doing quite another thing outside this place?

Mr COURT replied:

(1)-(3)

This Government is tabling all travel information on a quarterly basis. For the first time in this State members will know who has been travelling and what it cost. If the member wants to know where the Ministers will be travelling over the next two weeks I will provide him with that information this afternoon; whether they go or not I cannot say.

Mrs Henderson: Tell us now. You were asked three days ago.

Mr Graham: I will come with you to your office and get it from you.

Mr COURT: Not a problem.