Legislative Assembly

Thursday, 12 August 1993

THE SPEAKER (Mr Clarko) took the Chair at 11.00 am, and read prayers.

PETITION - COMMON LAW AND WORKERS' COMPENSATION RIGHTS, CHANGES

DR LAWRENCE (Glendalough - Leader of the Opposition) [11.04 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 people of Western Australia on behalf of 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 4.00 pm on 30 June 1993 announced by the Minister for Labour Relations at about 2.00 pm on 30 June 1993.
>
> The planned removal of common law rights if a writ had not been issued before 4.00 pm 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 bears 19 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 77.]

Similar petitions were presented by Dr Watson (44 signatures), Mr M. Barnett (11 signatures), Mr Thomas (28 signatures), Mr Cunningham (14 signatures), Mrs Henderson (13 signatures), and Mr Graham (12 signatures).

[See petitions Nos 81-85 and 88.]

PETITION - SPEED LIMIT REDUCTION, NICHOLSON ROAD, LYNWOOD-LANGFORD

MR KIERATH (Riverton - Minister for Labour Relations) [11.06 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.
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> We, the undersigned, request that urgent action be taken to reduce the speed limit from 70 kph to 60 kph on Nicholson Road, Lynwood/Langford, from the intersection of High and Nicholson Roads through to Albany Highway. The current speed limit has been in force since the road was constructed and at that time it was not a built-up area. The traffic has increased considerably over the last ten years with the expansion of the Canning Vale industrial area. The excessive speed of the traffic is endangering residents when they attempt to exit their driveways, but more particularly it is endangering the lives of children using the crossing near Petry Street.
>
> 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 122 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 78.]

PETITION - SCHOOL CLEANERS

Government Employed, Retention; No Further Contracts

MR BRIDGE (Kimberley) [11.07 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 request that in the interest of maintaining the high standard of cleaning in schools:

1. Support the retention of Government employed school cleaners.
2. Call on the Government not to introduce any further contract cleaning arrangements.

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 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 79.]

PETITION - STEPHENSON AND WARD INCINERATOR, CLOSURE

DR WATSON (Kenwick) [11.08 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, request that:

The Stephenson and Ward Incinerator, located at the corner of Felspar and Welshpool Roads, Welshpool, be closed because

1. it is inappropriately located being close to residential areas, children's play areas, including schools, and areas in which people work.
2. it does not meet the standards required of modern incinerators and therefore represents an unacceptable health hazard.
3. there is no control on what waste is being burnt and no continuous monitoring of emissions from the incinerator.

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 120 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 80.]

PETITION - NORTHAMPTON HOSPITAL BOARD

Eight Medical Acute Care Beds Funding

MR MINSON (Greenough - Minister for the Environment) [11.18 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 respectfully call upon the Government of Western Australia to provide the Northampton Hospital Board with sufficient funds to maintain its eight medical acute care beds.

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 216 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 86.]

PETITION - ALBANY GUESTHOUSE PLANNING PERMISSION, ILLEGAL, NEW LEGISLATION

MR OMODEI (Warren - Minister for Water Resources) [11.19 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 electors of the State of Western Australia respectfully request you to note the decision by the council of the Town of Albany to approve a change of use of a building to that of a guesthouse which was known in the community to be intended for use as a gay and lesbian guesthouse and we respectfully draw your attention to section 23 of the Law Reform (Decriminalisation of Sodomy) Act 1989 which provides:-

> "It shall be contrary to public policy to encourage or promote homosexual behaviour and the encouragement or promotion of homosexual behaviour shall not be capable of being a public purpose."

We respectfully call upon you to ask the Government to introduce legislation declaring void and illegal the planning permission granted for the use of land for a purpose declared to be contrary to public policy by the above law or by any of the laws of Parliament.

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 19 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 87.]

STATEMENT - BY THE MINISTER FOR COMMUNITY DEVELOPMENT

Melissa

MR NICHOLLS (Mandurah - Minister for Community Development) [11.22 am]: This statement relates to Melissa, a nine year old child who was under the guardianship of the Department for Community Development at the time of her death on 12 June 1992. On 10 March 1993, the Coroner's findings in respect of the death of Melissa were released. On 12 March 1993, I requested Ms Valma Cearns, the Chairperson of the Case Review Board, to conduct an independent inquiry into the Coroner's findings and the involvement of DCD in the welfare of Melissa both before and after she was apprehended and made a ward of the State in June 1991. The report of the Case Review Board took longer than I expected. This was due partly to the complexities of the case and the professional commitments of the members of the review team.

The Case Review Board for this inquiry was given flexibility in the terms of its investigation and the method of approach in conducting the inquiry, but was requested to address the following issues:

1. Examine the findings and recommendations of the Coroner in respect of the department's policies and practice.
2. Examine the department's report in respect of decisions made and action taken in this case.
3. Identify how the department's responsibilities and duty of care could have been more effectively provided in this case.
4. Any other issues relevant to the circumstances and management of this case.
5. Recommend appropriate action to address gaps in policies, practices and procedures, supervision and training.

The Case Review Board for this inquiry comprised Valma Cearns, the chairperson who is a lawyer specialising in family law and practises as a partner in a legal firm; John Manners, a member of the Case Review Board, who is a clinical psychologist in private practice and has extensive experience in the area of child and family welfare, particularly with socially disadvantaged people; and Sue Rowell, a social worker who was seconded to the board for this inquiry, who is the chief social worker at a children's hospital and has extensive child welfare, clinical and managerial experience.

Melissa died as a result of a house fire while at home alone. Subsequently, the Coroner found on 10 March 1993, in part, that Melissa "died as a result of smoke inhalation and thermal injuries" and "that death arose by way of an accident and that the death was contributed to by a lack of care". Melissa's family was fragmented and comprised a brother, a stepsister and two stepbrothers. At the time of her death, she was living with her mother and her mother's de facto husband. Melissa's parents separated in January 1990 and she remained in the care of her father until April 1991. Following an investigation of a complaint made to the department, Melissa was removed from her father's care and placed with her mother, where she remained until the time of her death. A care and protection application was lodged at that time with the Perth Children's Court. Allegations that Melissa's father sexually assaulted and neglected the children were investigated by the department and the police a number of times during the preceding years. These allegations were not substantiated. However, her father was convicted of sexual assault of one of his stepsons in 1987 and of charges in relation to child pornography in 1991. This latter incident led to the removal of Melissa and her brother from their father's care. The Perth Children's Court granted a care and protection application for Melissa for two years and for her brother until his 16th birthday in June 1991. This placed them under the guardianship of the department.

From the beginning of Melissa's placement with her mother until the end of 1991, visits by departmental officers were regular and frequent, both with Melissa on her own and in the company of her mother. From early 1992 until her death, Melissa was visited by departmental staff, but not as frequently. These visits were in conjunction with those to her brother.

The tragic death on 12 June 1992 of Melissa, who was a ward of the State, followed a similar tragedy approximately 12 months earlier, on 4 May 1991, with the death of a four year old child who was placed by the Aboriginal Child Care Agency - which no longer exists - in the same foster placement as a youth who assaulted and murdered her. This youth was a departmental ward with a history of sexual offences and assault. On both occasions, the Government called for an independent review of the circumstances surrounding these deaths, including recommendations about how the Department for Community Development's responsibilities and duty of care could be improved. In the case of the four year old child mentioned previously, the review was undertaken by Ms Maria Harries and Ms Kate O'Brien, and in the case of Melissa, the review was chaired by Ms Valma Cearns.

Two common themes emerge from the Harries and Cearns reports in respect of the work of the Department for Community Development. The first relates to the need for the highest possible quality of case management in the area of the care and protection of children. The second concerns the need for the provision of adequate staff resources in

this area of work. I will outline how the Government intends to address these two major themes. As a result of changes which are occurring within the organisation, the Department for Community Development in future will focus on two major programs; namely, the care and protection of children and the family and community support programs. In the area of the care and protection of children, a new position of senior casework supervisor will be created in each district of the department. The occupant of this position will be responsible for ensuring that, at the district level, the department's policy in the area of case practice is implemented and monitored, particularly for children for whom the department has a legal responsibility. In particular, the senior casework supervisor will: Chair case conferences; ensure regular reviews are undertaken of all ongoing cases; provide professional supervision to field officers in casework methods; develop strategies for staff in casework skills; and monitor the standard of casework in the district and identify deficiencies to the manager.

With respect to the second theme of the Harries and Cearns reports, namely the provision of adequate staff resources for the care and protection of children, the current Government, unlike its predecessor, intends to take positive action.

Before outlining these measures I draw the attention of the House to the following facts: In the period of the previous Government from 1988-89 to 1991-92, the number of child abuse allegations reported to the Department for Community Development more than doubled, from 1 850 to 3 746. During the same four year period the staffing level in the field divisions of the department which are actively involved in this sort of work decreased by 3.3 per cent. We had the situation that during the tenure of the previous Government, while child abuse allegations were increasing by over 100 per cent, the staff of the department who were directly responsible for investigating and monitoring these allegations was being reduced by 3.3 per cent.

As a result of restructuring which is currently under way within the Department for Community Development, 20 FTEs have been identified which will be allocated to the field to work in child care and protection. This allocation will be based on a workload indicator study which identified the district offices which have the greatest need for additional staff resources. The devolution of these FTEs has already begun and these positions will be advertised shortly. As further changes occur within the department and as the numbers in head office are reduced, it is anticipated that even more staff resources will be available for devolution to the district offices to work in the area of the care and protection of children.

Since February 1993 the major actions have focused on increasing the department's capacity and accountability in the care and protection of children. Those actions include -

> The introduction of foundation skills training in case practice - a four week course compulsory for all new staff. This is based on the case practice manual.
>
> Further refinement of the draft case practice manual - particularly in the area of the department's responsibilities for wards.
>
> An independent panel is currently being formed to review cases, including situations where there has been death or serious injury to a child where the department is involved.
>
> As mentioned previously the current Government has restructured the department to provide a greater focus on the care and protection of children and is providing an additional 20 field officers to work in this area.

The deaths of the four year old child and Melissa were tragedies. Unfortunately life is full of tragedies and while it is not possible for Governments to prevent, in an absolute sense, such tragedies it is absolutely essential that Governments and the relevant departments do everything within their power to minimise the occurrence of such events. I believe that with the creation of the senior casework supervisor position and the provision of additional staff resources to work for the care and protection of children, my Government is reducing the risk of such tragedies being repeated. While improved

responses to child maltreatment are an essential component, no doubt prevention is a more effective strategy in the long term. Prevention and early intervention services aim to strengthen families and communities and reduce child abuse, neglect, parent-teenage conflict, and the need for State intervention.

This Government is committed to ensuring that parents understand and are empowered to undertake their responsibilities. The department already provides services such as the Parent Help Centre, the McCall in-home parenting skills service and various counselling and early education programs. In addition non-Government organisations and community groups are funded to provide a range of parent support and parent skilling programs. It is intended to increase the focus of prevention and early intervention programs which focus on skilling parents.

Ms Val Cearns and her team are to be commended on the thorough manner in which they conducted the investigation and on the clarity of the final report. With respect to the 21 recommendations contained in the report, I will be seeking urgent advice from the Department for Community Development on each of the recommendations prior to deciding on how they might best be addressed.

I seek the approval of the House to table the Melissa inquiry report. I also seek the approval of the House to authorise the publication and release of the Melissa inquiry report.

Leave granted. [See paper No 247.]

MR RIPPER (Belmont) [11.35 am]: This is the first occasion during this sitting on which a Minister has used the full ministerial statement provisions which provide the Opposition with an advance copy of a statement and the right to respond. I commend the Minister for that.

Mr Omodei: How many times did you use that procedure in Government?

Dr Lawrence: Lots of times.

Mr RIPPER: I hope we can proceed on the same basis as the Minister was heard when he made his statement. I commend the Minister for initiating the Case Review Board inquiry into the circumstances surrounding this tragedy. In the protection of children, when such a tragedy occurs it is right to have outside scrutiny of the processes which have taken place. When I was the Minister for Community Development I also called for an independent inquiry into the tragedy dealt with by the Harries report. At that time I considered using the Case Review Board to conduct the inquiry, but I was concerned about perceptions that the board was not as independent of the department as it might be. I did not share those perceptions but I was concerned that a public view might be that the board was not sufficiently separate from the department. For that reason I commissioned a completely independent report conducted by Maria Harries and Kate O'Brien.

Child protection work and the provision of out of home and alternative care are inherently risky. There is no way that any administration can absolutely guarantee that tragedies will not occur in child protection and in substitute care of children. We must do our utmost to ensure that systems are in place to minimise the inherent risks. It is true to say that the number of child abuse reports is increasing significantly. That may be a reflection of several factors. It may be that child abuse is increasing; it may be that increased reporting is due to increased public awareness and the decline in taboos associated with the discussion of these matters. I draw the attention of the House to the possibility that the department is developing better information systems and, therefore, recording more accurately the reports of child abuse. The figures are probably a result of several factors interacting. Nevertheless, I agree that the rise in child abuse reports is significant, and that we need to deal with that issue. I am aware that the Minister has said that the department will focus in future on two major programs, the care and protection of children and family and community support. In passing, it is ironic that the statement has been made today when the Minister is involved in controversy surrounding departmental funding for a submission to have a football team in his electorate. Nevertheless, I take the statement at face value.

I welcome the statement by the Minister that an additional 20 FTEs will be redeployed to divisions for field work. That was certainly one of the objectives of the Social Advantage restructure which I initiated following the release of the Social Advantage package by the then Premier last year. The recommendations of the Harries report were part of the terms of reference of the restructure implementation committee which I set up to implement the Social Advantage strategy in so far as it concerned the then Department for Community Services and the Office of The Family.

We were concerned that the Department for Community Services, as it then was, had too many staff in head office and regions and too few staff in divisions. However, the Minister and the department can do better than allocating an extra 20 FTEs to divisions. The recommendations of the Social Advantage restructure implementation committee - which presented alternative restructure proposals to those prepared under the direction of this Minister - were to dispense with one of the three levels within the department. In other words, this involved dispensing with the middle regional level of administration. I received advice shortly before the State election that 70 to 90 FTEs could be made available for field work in the divisions to be renamed as areas. This would have flowed from the Social Advantage restructure implementation committee recommendations. The Minister should have considered these recommendations, and he should talk to the department again. The department can do better than the extra 20 FTEs allocated to divisions if it dispenses with the unnecessary layer of regional administration.

Mr Nicholls: Why the increase of 3.3 per cent?

Mr RIPPER: The Social Advantage restructure implementation committee recommendations were aimed at the need to have more staff at divisions. The Minister has done a good thing in finding 20 extra staff, but he could do better.

Also, I commend the Minister for his support for the prevention and early intervention strategies, as these are just as important as quality case work in providing long term protection for children. It is far better to prevent child abuse in the first place than to wait for it to occur and then intervene with fairly heavy State powers. It is far better if the child is not abused as it is less expensive for the taxpayer and will be better for the child's future. I support the focus on prevention and early intervention. However, the Minister must back his support for this area with resources.

A prevention and intervention initiative was the child value campaign known to the public as "Grow Together", which was funded last year. This should be funded again in 1993-94. The program promoted positive relationships between children and adults, positive parenting practices and a community-wide appreciation of the interests and needs of children. A community appreciation of parenting and the significance of children in our community will reduce the incidence of child abuse and neglect. I appeal to the Minister to back that campaign in the forthcoming Budget.

Inevitably, a link exists between domestic violence and child abuse. If violence is prevalent within a family, children within that family are at risk. If the family violence can be prevented, the risk of child abuse will be greatly reduced. However, the Minister is not backing such programs with adequate resources.

Given the over-representation of Aboriginal people as clients of the department, it is extremely important that specific initiatives are aimed at the Aboriginal community. The Aboriginal family violence program aimed to combat violence and alcohol abuse in Aboriginal communities in consultation with the community: Grants to prevent violence and the incidence of alcohol abuse were to be allocated for solutions tailored to meet the circumstances of the community. Last year $85 000 was allocated to that program, yet I understand that not a single dollar was spent on it. If the Minister genuinely supports preventive programs, he should reinstate that initiative. Also, the Aboriginal family support programs - such as the successful Northside Aboriginal Corporation - should be backed 100 per cent. Last year four initiatives were funded, yet I understand that the department is indicating that this was on a one-off basis. That would be a tragedy. These programs had a great deal of promise for preventing social problems experienced by and within Aboriginal families, especially child abuse.

Also, funding for community groups to provide counselling to victims and perpetrators of domestic violence should be supported. I am disappointed that all such programs are under review.

Mr Nicholls: All programs are under review.

Mr RIPPER: "Under review" is an ominous phrase. I will look closely at the Budget to see whether these programs, which support the value of the child and assist Aboriginal communities, are supported.

Finally, the Minister must report back to the House on the implementation of this report.

Mr Nicholls: Which you didn't do with the Harries report.

Mr RIPPER: When the Harries report was made public last year, I gave an undertaking to report to the House. I did so on two separate occasions regarding the implementation of the report's recommendations. Will the Minister give that undertaking across the Chamber now?

Mr Nicholls: I will report to the House.

Mr RIPPER: I am pleased that the Minister has agreed to do that. Also, I commend the Minister on the process he adopted so that Parliament could consider this matter.

MATTER OF PUBLIC IMPORTANCE - TAXES AND CHARGES, INCREASES

THE SPEAKER (Mr Clarko): Today I received a letter from the Leader of the Opposition seeking to debate a matter of public importance. Unfortunately, the notice requirement of two hours was not complied with.

Dr Lawrence: It is now, Mr Speaker.

The SPEAKER: With respect, the requirement was not complied with. If the Leader of the Opposition will wait a moment, she will discover that I intend to allow this motion to proceed. My opinion is that for the good working of this House, we will not be disadvantaged by dealing with this motion. I treat the rules and regulations of this House in a manner by which this Chamber will achieve its good objectives. Nevertheless, I inform the House and the Leader of the Opposition that on several occasions since recently taking up this position I have indicated that order in this House is gained only through the cooperation of the person in the Chair and members. I hope that when I modify the situation to accommodate members, such members will cooperate with the Chair, particularly when it calls for greater order.

The letter from the Leader of the Opposition related to increases in Government taxes and charges. If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The SPEAKER: Order! The procedure will be as has been our practice for some time. In accordance with the Sessional Order, 30 minutes each will be allocated to the Opposition Party and the Government for the purpose of this debate.

Points of Order

Mr C.J. BARNETT: Mr Speaker, as to your recent ruling, while the Government supports it, Standing Order No 82A(1) states -

> A member may propose to the Speaker that a matter of public interest be submitted to the House for discussion. The member proposing the matter shall present to the Speaker, at least two hours before the time fixed for the meeting of the House, a written statement of the matter proposed to be discussed ...

Mr Speaker, the Government is quite happy with your ruling and is prepared to proceed with this matter of public importance. It is important to draw to the attention of the House the fact that the matter of public importance was submitted to you, according to the time on the fax, at 9.20 am. I thank the staff of the House for bringing that to our

attention immediately. Nevertheless, it became available to staff of the Government at 9.30 am and was not drawn to the Premier's attention until about 9.45 am.

Mr Taylor: You can handle that.

Mr C.J. BARNETT: Yes, we can handle it. Mr Speaker, I endorse your comments. While the Government is happy to debate this matter, it is a simple courtesy to ensure that the Government is informed of a matter of public importance at least two hours before it is due to be debated.

Mr RIPPER: I was not sure of the standing order number about which the Leader of the House was speaking. Mr Speaker, I will seek some further guidance from you.

Mr Lewis: Why don't you accept that you mucked it up?

Mr Taylor: You accept that you mucked up last night.

The SPEAKER: Order! Just as I gave the Leader of the House the opportunity to make his statement, I do the same with the Opposition spokesman. I am sure he will not delay us unnecessarily. I think he is just making a point in the same way as his similar number did.

Mr RIPPER: As I was saying, Standing Order No 82A provides that the member proposing the matter should present to the Speaker, at least two hours before the time fixed under this order for consideration of such matters, a written statement of the matter proposed to be discussed.

We are now about to discuss a matter of public importance about two and a half hours after the matter was submitted to you, Mr Speaker. The standing orders are a little unclear. They refer to the time fixed under standing orders for consideration of such matters. When we look at the standing orders we find no time is fixed. In fact, an order of business is stated which eventually gets to matters of public interest in accordance with Standing Order No 82A without specifying a time. I was about to take a point of order when the Leader of the House rose, to ask, in view of your comments about the submission of this matter of public importance, whether you could guide us as to what is the time fixed under the standing orders. It seems to be unclear. On this occasion we are about to debate the matter of public importance more than two and a half hours after it was submitted.

The SPEAKER: Order! I think you make an extremely good point. In my desire to facilitate the operations of this House, I am aware of those words. They seem to me to be imprecise. I understand the practice is that the time has always been set from the start of the operations of the House. That is why I indicated there was something of a grey area. However, I have indicated that I support proceeding in this matter.

Debate Resumed

DR LAWRENCE (Glendalough - Leader of the Opposition) [11.55 am]: I move -

> That this House condemns the Government for the massive increases in taxes and charges which it has imposed upon the people of Western Australia.

This is a matter of considerable importance. Although the motion is couched in general terms, I want to take the House through some very specific and savage increases that the people of Western Australia will be forced to pay. By now the people of Western Australia will be well and truly stunned by a series of announcements of increases in taxes and charges. They have come at a gallop in recent weeks. Many of them have been announced not by the Government, but by the Opposition. The Government has been a bit chary about informing the people of Western Australia of these increases. We have already seen increases in transport charges - increases that we have condemned in this place at a time when we are trying to encourage people onto public transport and off our road system. I had the pleasure of travelling on the train this morning. Trains are a superb part of our public transport system but are likely to be diminished in importance - by the Government's series of decisions, including a big increase in costs of $4.8m to those who use the public transport system - to families. That is a comparatively small

amount of money when we look at some of the other increases that have been proposed. Nonetheless, it represents a big increase in the daily and weekly expenditure of those people who use public transport regularly.

Yesterday we discussed the very significant increases in water and sewerage charges in Western Australia. At a time when businesses were led to believe they would get relief from water charges, they found that they will pay more because of the combined effects of water and sewerage charges; the Minister admitted this morning that, as estimated by the retail traders, the majority will be affected.

Mr Taylor: Of course they will pay more; $25m more.

Mr Omodei: I did not say that at all.

Mr Court: Get your facts straight.

Dr LAWRENCE: The Premier was not here for most of the debate yesterday. He has a habit of not being in this place, something for which he has criticised me in the past, but he has overdone it. Members of the public will face an increase of $4.8m in transport charges and, added to that, a $25.6m increase in water and sewerage charges. That is not being denied by the Government. Those figures were provided by the Minister for Water Resources to this Parliament. In addition, in the past few weeks we have seen a significant increase in tobacco licensing franchise fees to the tune of $50m. There is to be an increase of $4.8m in transport charges. There is an increase of $25.6m for water and sewerage. There will be an increase of $50 in tobacco licensing fees and another $50m in the third party insurance costs through the levy, probably illegally applied. If we add those costs - I am quite sure members are capable of doing that - we will find that to date, not counting some of the smaller peripheral increases to which consumers have been subjected, it amounts to $130.4m straight out of the businesses and families of Western Australia, without so much as a by your leave or an apology. That $130.4m is being taken from the ordinary people of Western Australia, members might think is bad enough. In the first six months of this Government's operations it has already increased the cost to businesses and families in Western Australia by $130m-plus. Families are reeling under the impact of these increases.

Now the Opposition has evidence of the greatest impost of all. It has not yet been discussed by the Government with the people of Western Australia. In fact, it has been consistently denied by the Government spokesman in this area, Hon Eric Charlton, and by the Premier. Earlier this year, on 12 June, the Opposition revealed that the Government was planning to impose a new metropolitan fuel tax. I draw members' attention to a statement by Hon John Halden, MLC, dated 1 June 1993, in which the Opposition says that the State Government is planning a new metropolitan fuel fax - that is despite Premier Court's promise not to introduce any new taxes. The Opposition said that it would be levied at the rate of 3¢ a litre and it would add significantly to motoring costs in Western Australia. We followed that up with another press release following denials by the Minister for Transport. As recently as Tuesday the Minister responsible, Hon Eric Charlton, was continuing to deny that there was any truth in the Opposition's position. In answer to a question, again from Hon John Halden, our shadow spokesman on this issue, the Minister for Transport said that the State could take a number of measures to raise funds for road operations. He said that WA had two sources of road funding which had been in place for a considerable time; that is, the State fuel levy and motor vehicle licence fees. The Minister then went on in some detail about them. The member followed up with a further question and asked which of the two options the Minister gave in regard to raising additional funds for the State's roads was the Government's preferred option. The Minister for Transport then said that the Government was not pursuing either option at this time. Members should remember that it was on Tuesday that this was explicitly denied. After our earlier statement in June Mr Charlton, in a story in *The West Australian* on 2 June, denied that the Government planned a new metropolitan fuel tax and he went on to roundly condemn the member who raised the issue. On 29 June a spokesman for Hon Eric Charlton said there was no plan to increase the fuel tax. On 11 August it was stated that the Transport Minister had

ruled out increasing car licence and fuel costs in the State Budget. We have had a series of quite explicit denials in the Parliament, as well as in the wider community. Those denials have never been repudiated by the Premier. I ask the Premier, since his Minister has never explicitly denied the Government's intentions to change the fuel tax arrangements. Does the Government plan to increase the fuel levy for metropolitan users?

Mr Court: I have never considered such a proposal. I have never had such a proposal put to me.

Dr LAWRENCE: We have heard the Premier say that he has never considered it. That may well be a clever parliamentary answer, but we will see. The Minister for Transport says that it was not being considered - that was two days ago. He has been saying it since June when the Opposition announced there was likely to be a 3¢ a litre levy on fuel. It has been roundly denied at every point by the Minister responsible and now by the Premier in this place. I draw to the House's attention, therefore, that this is not just a very significant impost on the people of Western Australia, but a very deliberate policy of misleading the people of Western Australia by the Minister responsible and by the Premier, both inside and outside this House; because we now have evidence that that is precisely what is proposed by the Government. It is clear that the Opposition was absolutely right, that the Government is considering not only a 3.5¢ a litre special fuel franchise levy, but also the abolition of family package concessions on motor vehicle licences with effect from 1 January 1994. The total impact of these measures, in addition to the $130m that I have already described, is $60m per annum; that is, $15m by removing the family concession, and $45m from the fuel franchise levy. The total of all these big ticket items for Western Australian families is now a $190.4m increase in taxes and charges. In case members cannot count, given that we have 452 000 occupied dwellings in Western Australia, that is $421.16 a household. That is before the Government even brings down its Budget. In this one measure alone the Government will receive $60m. Members opposite are asking where I get this information. I have in my hand a Cabinet minute from the Minister for Transport and the Minister for Planning submitted to the Premier and Cabinet on the road program for 1993 to 2003. It is under the names of the Minister for Planning and the Minister for Transport. It is most definitely a Cabinet minute that is under consideration by the Government. It goes into some detail about Commonwealth road funding. It contains details of the national road system and the amount of money that is required, according to the current Government -

Mr Pendal: We produce these and send them to you anonymously. Haven't you woken up yet?

The SPEAKER: Order!

Dr LAWRENCE: It may suit members opposite to try to shout this down, but -

Mr C.J. Barnett: Does it have a date?

Dr LAWRENCE: Yes.

We have had consistent denials from the Minister responsible - a denial repeated in the Parliament two days ago - that this matter was under consideration by the Government. I have in my hand a Cabinet minute which shows clearly it is under consideration by the Government. It has the names of two Ministers, not one, and it is written in the first person. That makes it a bit difficult; at least it should say "we" instead of the "I" constantly referred to in the minute. It recommends two changes to raise the necessary $61 per annum over 12 years as described to fund additional roadworks in Western Australia. The minute contains two specific recommendations. The first recommendation is that the family package concessions on motor vehicle licences be withdrawn with effect from 1 January 1994 for vehicles licensed or renewals issued on or after that date. That is very clear. Earlier in the minute it says that vehicle licence fees concessions amounting to $15m per annum, which were applied by the former Government's so-called family package, made up an initial $20 per annum reduction on the licence on cars used for private purposes. The second recommendation is that a

3.5¢ a litre special fuel franchise levy be charged on petrol and diesel fuel sold in the Perth metropolitan area from 1 November 1993 which would be applied to fund Metroads 2000. Hence, the involvement of the Minister for Planning. Attached to the Cabinet minute are tables showing the major rural road needs in Western Australia - which metropolitan users will have to fund, apparently. It shows major metropolitan road needs over the decade, major projects on local government roads, and also a map showing boundaries for the metropolitan area. There is no doubt that this matter is under consideration by the Government. It does not get to Cabinet minute stage by accident. It is not written in the first person by accident. It is very specifically designed to raise funds for road building in Western Australia. It has been consistently denied by the Minister responsible. He has, in my view, misled the other place - I have read the statements that he has made - because if this is not under consideration, I do not know what is.

Mr Court: You asked, "Has the Premier considered this matter?" and I said no. If the Leader of the Opposition wants to ask me the question, "Have you seen the proposal?" the answer is no.

Dr LAWRENCE: The Premier asks me to believe that, as Treasurer in the run up to the Budget which he proposes to bring down within a month, he does not know what additional revenue raising elements he proposes. I do not believe him. If it is true that he has no knowledge of this sort of action on the part of one of his Ministers, who is responsible for a major part of the State's activities, he stands condemned. He should know. It is the same story as occurred with the speech he read in here which misrepresented the Budget in Western Australia. This Treasurer is not up to it. He did not know whether the State's finances were balanced at the end of the financial year. He does not know that his own Government is proposing to increase the cost to motorists in Western Australia by $60m. He does not know that this revenue raising measure, which presumably would be part of his Budget, is actively under consideration by his Government. I do not believe that and the people of Western Australia will not believe that. Certainly his Minister has misled the people of Western Australia by saying it is not being considered.

Mr Court: Will you table that document now?

Dr LAWRENCE: The Premier will see it in due course.

Mr C.J. Barnett: Table it now.

Dr LAWRENCE: I will give it to the Minister when I am ready.

The ACTING SPEAKER (Mr Ainsworth): Order!

Several members interjected.

The ACTING SPEAKER: Order!

Mr Court: Didn't the member for Mitchell want the documents tabled?

Several members interjected.

The ACTING SPEAKER: Order! I have called order several times and even the Premier has not heard me. Members must be more attentive to the Chair.

Dr LAWRENCE: As the Premier pointed out, after 24 hours or so he tabled an appropriate document. I will make this report available to members opposite when we have completed this debate. Members opposite have a habit of simply shouting when they do not like what is being said. This minute is absolutely authentic and in due course it will be provided to the Government.

Mr C.J. Barnett: Let us get a police inquiry under way.

Dr LAWRENCE: There we go! I believe there are members in the Government who, in the face of consistent denials by the Minister for Transport about this matter, felt bound to provide to the people of Western Australia evidence that he was misleading the House and the people. On five separate occasions the Premier has said this matter is not under

consideration by the Government. Some people in government do know it is under consideration, although perhaps not the Premier, who does not seem to know what is going on anywhere. Those people obviously felt they needed to expose the dissembling and misleading of the people of Western Australia by this Government. Members opposite can sic the police onto them if they want; this is an authentic document. The issue is the dishonesty of this Government and the Minister and the fact that, after this initiative has been announced, people in Western Australia will have to pay an extra $60m a year for fuel and licences which will take the cost to each household through the roof. If members want to justify that sort of thing let them do so, but they should not mislead the people of this House or blatantly lie to them as they have.

MR COURT (Nedlands - Premier) [12.14 pm]: It is rather strange that the Leader of the Opposition has moved a motion in relation to taxes and charges when she did not have the political courage to explain publicly what happened to the State Government Insurance Commission when the Government had to introduce a $50 levy on compulsory third party insurance charges. She would not go in front of the cameras and talk to the media.

Several members interjected.

The ACTING SPEAKER: Order!

Mr COURT: The Leader of the Opposition asked me whether I was considering introducing a new fuel tax or whatever. I said that it was not a matter I had considered.

Dr Lawrence: Are you considering it?

Mr COURT: Hang on; I am saying it is not a matter I have considered. If a ministry were developing a proposition and I were asked whether I had seen it, I would tell the Parliament. It is scurrilous for the Leader of the Opposition to say I have misled this House by saying that I have not seen that proposition. The Leader of the Opposition has referred in this House to a document that she will not table, but which she says is an authentic document from the Minister's office containing a proposal that may be presented to Cabinet. The system of Government in this State cannot work if public servants -

Dr Lawrence interjected.

Mr COURT: Hang on.

Several members interjected.

Mr COURT: Let me finish.

The ACTING SPEAKER: Order!

Mr COURT: It will not work if a Minister cannot even prepare a proposal to be discussed by the Cabinet without its first being given to the Leader of the Opposition. The Opposition might think it is smart getting these leaks out of the various areas. However, this Government inherited a Public Service that had been highly politicised by members opposite. We are doing whatever we can to depoliticise the Public Service.

Mrs Henderson: By slandering public servants.

Mr COURT: I am not slandering public servants.

Mrs Henderson: Yes you are.

Mr COURT: Does the member for Thornlie think it is proper that a proposal prepared by a Minister should be leaked to the Leader of the Opposition before it has even reached the Premier?

Mrs Henderson: Do you think it is proper when -

Mr COURT: The member for Thornlie should answer my question.

Mr Henderson: Are you defending that?

Mr COURT: It is an illegal action. The member knows it, and the system of Government cannot work if information is leaked in the way this has been.

Mr Cunningham: Why don't you resign if you can't handle it?

Several members interjected.

The ACTING SPEAKER: Order! I know we had a very entertaining evening last night, but we should have got it out of our system by now. I have called order more than enough this morning. Several members on both sides have chosen to ignore me or not hear me. Let the Premier at least have a chance to put across his message.

Mr COURT: By the time we have started exposing more of the financial mismanagement of the former Government the Opposition will want to resign. Members opposite treated the taxpayers' dollars like confetti. They threw taxpayers' money around and then have the nerve to blame us in this Parliament for putting up some of these taxes and charges. All I can say is, members opposite are just like Mr Keating. Before the election he said we would have tax cuts -

Dr Lawrence: Do you put pins in the Keating doll before you go to bed at night?

Mr COURT: Before the election the Leader of the Opposition said she would freeze taxes and charges for four years. Is that correct?

Dr Lawrence: That they would be kept below the level of inflation.

Mr COURT: The Leader of the Opposition said she would freeze taxes and charges for four years. Can she tell me on whose advice she made that decision?

Mr Taylor: You're the Government; you make the decisions.

Mr COURT: We are debating taxes and charges. Members opposite said they would freeze taxes and charges for four years. On whose advice was that decision made?

Dr Lawrence: Don't filibuster.

Mr COURT: The Leader of the Opposition will not answer that question. She gave a commitment that she knew she could not meet. This Government has inherited a situation where it has had to make some tough financial decisions, and there are more to come. If members opposite want to debate financial mismanagement as a result of what the former Government did, we will debate it every day. If members opposite want to debate taxes and charges, we will do that too. Under the former Government the State's AAA credit rating was downgraded.

Mr Catania: Here we go.

Mr COURT: What does the member mean by "Here we go". That was Moody's judgment on the member's term in Government. Behind the downgrade, this Government is still paying yesterday's debts that members opposite created. That is why we must raise this subject. Why did we place a $50 levy on the State Government Insurance Commission compulsory third party insurance? The levy was necessary because under the previous Government the SGIC had a net deficiency of assets of $400m. Let us consider why the State had its credit rating downgraded.

Dr Lawrence: Have you read the Standard and Poor's report of 1992?

Mr COURT: I am just about to quote from that report. The Standard and Poor's 1992 report states -

> The State Government Insurance Commission of Western Australia was utilised as a vehicle for some of the State government's interventions in business transactions. The Bell/Bond/Rothwells group of transactions are expected to yield losses/writedowns exceeding $400m. So far capital injections into SGIC have not been required hence government debt and budget statistics have been insulated in part from the full impact of the so-called "W.A. Inc" series of transactions.

Does the Leader of the Opposition want me to read more from that report?

Dr Lawrence: Perhaps, because you are not answering the question of whether it is the 1992 report.

Mr COURT: I will now quote from Moody's report which states -

> Behind the downgrade were the following factors: (1) the state's rising debt burden over the last few years and our projections of future borrowing requirements; (2) the deterioration in the state's budgetary position, largely resulting from the slowdown in economic activity; and -

Mr Graham interjected.

The ACTING SPEAKER (Mr Ainsworth): I do not know whether the member is attempting to try my patience today, but everyone is having a go. I have called order twice; please come to order.

Mr COURT:

> - (3) the additional financial burden imposed on the state's finances as a result of capital obligations to the state's financial institutions.

Members opposite want to know why this State has a financial problem. Some of these independent reports spell out clearly why that is the situation.

Several members interjected.

The ACTING SPEAKER: Order! Members will come to order. I formally call the member for Pilbara to order.

Mr COURT: What a rabble they are becoming on the other side. They want a debate on taxes and charges, but when I start outlining that it was they who created the financial problems in this State, they do not want to know about it. What a nerve they have coming in here saying that the Government has lost $1.5b of taxpayers' hard earned funds and that is why we cannot put as much money as we want into improving our schools, into providing police with equipment, and into our health areas. It is the members opposite who lost those funds at a time when we had good revenue flowing into this State. Members opposite have now come into this House saying that they have more leaked documents and that the system is still working; their contacts are still providing all of the information.

Mr Taylor: How do you know they are not your friends?

Mr COURT: Perhaps the Deputy Leader of the Opposition could tell us from where the information came.

Mr Taylor: It might be a lot closer to home than you think.

Mr COURT: I assure members opposite that we have more to say about their credibility. Before the election the then Premier was running around saying that we were going to introduce a poll tax. At the same time, Mr Keating was running around saying that we were going to eat our cake and have it too. The Federal Government was going to cut taxes, but was not going to do anything to enable it to do so. Now that Keating has been returned to Government he has increased taxes; he cannot meet the commitments he gave. Now that members opposite are in Opposition they are running around saying that the increases the Government has had to introduce are not a result of their financial mismanagement when they were in Government.

Dr Lawrence: They are not.

Mr COURT: I would be surprised if the Leader of the Opposition were proud of what her Government did with the SGIC.

Mr Catania: Is the Western Australian economy in a healthy position?

Mr COURT: It is a lot better than it was six months ago.

Mr Catania: In answer to that question did you read from your own reports?

The ACTING SPEAKER: Order! The member for Pilbara and the member for Balcatta will both come to order.

Mr COURT: The members opposite when in Government used borrowed funds for

school and hospital maintenance programs. That is how low they had to resort to try to keep up maintenance. It is an absolute disgrace. Does the Leader of the Opposition support the reforms the Government has made to the water rating system?

Dr Lawrence: In relation to the water rating part of the question, I do. That is a great victory, but you ripped them off on the other side of the ledger.

Mr COURT: The answer is yes. Do Opposition members support decreasing electricity tariffs for the small business community? They do not know whether they support it. Do they support the increase in the tax on cigarettes?

Dr Lawrence: Get on with your speech. You have taken $190m: $60m from metropolitan road users; $50m in third party insurance; $26m in water and sewerage rates; and $50m from those who use tobacco, yet you are not putting it back in the right place.

Mr COURT: Members opposite know that we are doing the right thing. They agree with us on the charges for water, cigarettes and electricity.

Mr Catania: How about sewerage?

Mr COURT: Let us talk about sewerage. One of the difficulties we have with sewerage rates, land taxes and other areas is that a dramatic change has occurred in the valuation of properties. The property values in the central business district have dropped some 50 per cent. The Government is moving to a system of annual valuations which will obviate the sharp fluctuations associated with three-year valuations.

The member for Balcatta will understand that the Government has tried to address sewerage charges, land tax and Perth City Council rates by changes to the valuations system, and it has not been an easy exercise.

Mr Catania: Why did you say you would help small business by reducing water charges when you knew the sewerage rate would be increased?

Mr COURT: What about the businesses that received a cut in charges this year?

Mr Catania: There were very few and 90 per cent of them received an increase in their overall bill.

Mr COURT: The member should get his facts straight. In cases where the valuation has decreased the sewerage charges have decreased accordingly. The member for Balcatta supports what the Government has done with water charges and if the Government introduces reforms in the sewerage area he will support that also. The Opposition had 10 years in which to tackle the water problem but it did nothing. The Government is not running away from the fact that it has had to make difficult financial decisions.

Amendment to Motion

Mr COURT: The Government inherited a financial legacy which is extremely difficult to work through. Therefore, I move -

To delete all words after "condemns" with a view to substituting the following -

the Leader of the Opposition for her legacy of financial mismanagement which now needs to be rectified.

MR TAYLOR (Kalgoorlie) [12.33 pm]: The essence of this debate is the document I have in my hand which includes the following recommendation -

1. The "family" package concessions on motor vehicle licences be withdrawn with effect from January 1 1994 for vehicles licenced or renewals issued on or after that date.

2. A 3.5 c/l special fuel franchise levy be charged on petrol and diesel fuel sold in the Perth Metropolitan area from November 1 1993, which would be applied to fund Metroads 2000.

It is a Cabinet minute from the Minister for Transport, Eric Charlton, and the Minister for Planning, Richard Lewis. The Premier said today that he had not considered this matter

and I accept that. I do not believe the Premier was misleading the House. In one way or another I have been involved in the finance and Treasury matters of this State for nearly 20 years. It is absolutely extraordinary that we have a Government which is led by a Premier and Treasurer who is ill informed and lacking in knowledge of accounting and budgeting in his Government. Without his knowledge, according to what the Premier said in this House today, two of his senior Ministers responsible for the portfolios of Planning and Transport put together a Cabinet document that makes recommendations for a $60m increase in revenue without telling him.

Mr Court: Are you saying I should read all Cabinet submissions before they go to Cabinet?

Mr TAYLOR: I do not disagree that the Premier may not have known. The biggest problem this Government faces, apart from the fact that the Minister for Transport has obviously been misleading the people of Western Australia since 1 June, is that it has a Treasurer who must be dealing with the formulation of this year's Budget which will be brought down very soon -

Mr Court: And you will like it.

Mr TAYLOR: Okay, we will like it. The Treasurer must be dealing with that, if he is doing his job properly, virtually on a daily basis. He should be regularly liaising with the Ministers who are responsible for the portfolios which are the key revenue makers so that he knows what to expect this financial year. If the Treasurer is looking to a balanced Budget this financial year and one which, as he said, hopefully will be reasonable for the people of Western Australia, he has a serious problem. The Premier, as Treasurer, is not informed on the key elements of the Budget. His admission to this House that he is not aware that two of his Ministers put together this proposition which will raise $60m is absolutely extraordinary.

The Premier has come into this House and run the usual litany of the past. He started with the State Government Insurance Commission, then he referred to Mr Keating, his inheritance, a Standard and Poor's report and the Opposition's election promises. On only one occasion did he deal with this document which recommends $60m of additional impost on the people of Western Australia which is part of the $190.4m the people of Western Australia will pay in the short time that the Government has been in office. It is no mean sum. Each Western Australian household will have to pay an extra $420 a year.

How did the Premier choose to deal with this issue? He immediately focused on the public servants who, in his view, must certainly have made this report available to the Opposition. The Premier's offsider, the man who would be Premier given half the chance, said, "Give us the document and we will call in the police." Once again, I find it extraordinary that the Premier came to the view that the document should have come only from public servants. I suggest that the Premier look closer to home. He should not immediately assume that only public servants make these documents available.

Some people are concerned to know that since June this year the Minister for Transport, as good a bloke as he may be in some situations, has said, not once, but time and time again that this issue is not under consideration. He said that outside the House and, even more worrying for the Government, he has also said it inside the House, but that is a matter for the Legislative Council to deal with. Going back to 2 June, we are faced with a report in the Press about the Minister for Transport as follows -

> He denied an Opposition claim that the Government planned a new metropolitan fuel tax . . .

He was also reported as saying -

> There was no proposal before him or Cabinet for any form of new fuel tax or any increase in the existing tax.

On 29 June when the groups that will be happy about this debate today - the Conservation Council and the Cyclists' Action Group - were calling for an increase in State fuel tax, the following report appeared in the Press -

> A spokesman for Transport Minister Eric Charlton said there were no plans to increase the fuel tax.

On 11 August the following report appeared in the Press indicating that Hon Eric Charlton -

> denied Opposition transport spokesman John Halden's claim that the Government was considering eliminating the $20 family rebate on motor vehicle licence fees.

The Government has a real problem with its Minister for Transport.

Mr House: Of course one thing has changed since the statements made by the Minister and your assertions in this House. I refer to the announcement from the Federal Government that road funding to Western Australia would be slashed. That changes the context of these statements.

Mr TAYLOR: It does in relation to the comments made by the Minister in June, but not to those made in the past couple of days. I have no doubt that the Treasurer is telling the truth in this matter but the Government has a serious problem with a Treasurer who cannot come into this House -

Mr Court: You know the processes of government and you know what goes on.

Mr TAYLOR: Of course, I am very familiar with the processes of government, having been involved for some 20 years.

Mr Court: When someone gives the Premier a proposition, he reads it but I have not received a proposition.

Mr TAYLOR: I accept that the Premier and Treasurer has not received a proposition.

Mr Court: Why not tell the House where you got the information from?

Mr TAYLOR: I have no problem accepting that the Premier did not know about the proposition. His biggest problem is that he should have known about it. It is extraordinary that the Premier can sit back and allow two of his Ministers to put together a $60m revenue raising proposition without his knowing about it.

Mr Court: When the proposition comes to me of course I will know about it.

Mr TAYLOR: The Treasurer should be dealing with these revenue raising Ministers, if not daily, at least on a weekly basis and he should be aware of what is going on.

Mr Court: You could not remember what happened inside the Cabinet.

Mr TAYLOR: The Treasurer could not recall whether he had balanced the Budget. He should not talk to me about my ability to recall Cabinet matters. The member for Cottesloe sitting beside the Treasurer will be more than happy to slide into his seat. Quite clearly the Premier is an incompetent Treasurer.

MR OMODEI (Warren - Minister for Local Government) [12.44 pm]: I support the amendment to the motion condemning the Leader of the Opposition for the state in which she left Western Australia. We see before us the face of a person who has become embittered since the election. She knows that young Jimmy already has the numbers and is hanging over the back of her seat. The Leader of the Opposition is dead meat.

When the Government set new rates and charges in this State it knew it was facing a very difficult situation. I said last night when speaking in the debate on an Opposition motion to disallow Water Authority charges that this Government inherited a mess from the previous Government, now the Opposition. It was made very clear in the Government's statements to the people of Western Australia that the current reforms would be made. Members of this House know the Leader of the Opposition was a member of the Water Authority's board for two years before entering this House and she should understand the methods by which water rates and charges are set in this State. She should also know that valuations have fluctuated dramatically this year, particularly in the metropolitan area. In the central business district some have reduced by 43 per cent, and in some dormitory suburbs they have increased by 40 per cent. The result of that is a $160m deficit in the revenue to the Water Authority from the CBD. That has never been

acknowledged by members opposite. The Water Authority is fully commercialised with a global budget, and if revenue goes down in one area it must be picked up elsewhere. The Leader of the Opposition knows that. What would have happened had the Government set the rates and charges in the same way that they were set last year?

Mr Catania: You are the Government.

Mr OMODEI: Members opposite know that property owners in the CBD would have received a huge reduction in water and sewerage rates. That has not been acknowledged. The Government chose to put in place tariff reform that gives a reduction in water rates to small businesses right across the metropolitan area.

Mr Catania: But the overall bill went up.

Mr OMODEI: The overall income to the Water Authority increased because the number of consumers in this State has increased. Therefore, the budget of the Water Authority has grown with that. The Leader of the Opposition has failed to tell the people of this House that after the Budget of 1992-93 she passed to the Water Authority an interest bill for $26.3m, from a GLF loan of $209m from the old country water supplies. That was done without telling anybody in this State. Who picks up that bill for $26.3m? The Leader of the Opposition also failed to tell the people of Western Australia that in last year's Budget the statutory levy increased by one per cent. In all, an additional $31m was imposed on the water consumers of this State, and members opposite dare to criticise this Government today for taking responsible actions in tariff reform in Western Australia. Members opposite do not know what they are talking about. This Government made it very clear in statements in this House that changes would be made to the tariff system.

Mr Catania: You make a huge amount of money from headworks charges.

Mr OMODEI: I do not make any money from headworks charges.

Mr Catania: Western Australia makes a huge amount of money from headworks charges.

Mr OMODEI: The Opposition again fails to tell the people of Western Australia that the State Government does not make windfall gains from water charges. The Water Authority is a fully commercialised operation. The only money the State Government makes from water charges is the statutory levy. Members opposite prefer to move around this State frightening pensioners and others by a raft of misinformation. The Labor Party has been caught out for its actions over the past 10 years. The previous Government failed to do anything about tariff reform. Members opposite do not have a leg to stand on, and the Leader of the Opposition stands condemned for her actions in leaving Western Australia in such a state.

MR C.J. BARNETT (Cottesloe - Minister for Energy) [12.49 pm]: The original motion moved by the Leader of the Opposition referred to charges in this State. I will comment on a number of energy charges. For the record, and as a matter of fact, energy charges for domestic electricity and gas in 1993-94 will not increase and the electricity charges for small businesses have been reduced by 10.6 per cent. Approximately 70 000 small businesses will benefit from that reduction. For the 1 300 businesses that use time of use tariffs the off-peak saving is 20 per cent, which is a significant cut.

I will give examples of the yearly savings for small businesses. A typical small crash repairer using 140 units a day will save $900; a small office, $580; and a small restaurant using 60 units a day, $400. If one takes the reduction in off-peak tariffs into consideration along with overall reductions large savings are shown. For example, a dairy farmer in the south west could save between $2 000 and $4 000 a year on his electricity costs. A small supermarket can save $1 000 a year and a medium size supermarket of the order of $12 000 a year on electricity charges, significant real decreases in costs delivered by the coalition Government.

A related energy area is security deposits. SECWA holds approximately $20m in security deposits from approximately 41 000 business customers. An additional $9m is held in the form of bank guarantees. That is a significant drain on the cash flow position

of small businesses. The member for Victoria Park, the former Minister responsible for energy matters, said about a year ago in this Parliament under questioning from the present Premier and Deputy Premier that he could not do anything about those moneys and that the securities deposit system had to stay.

During the election campaign the present Leader of the Opposition said she would get rid of those costs, having done nothing about them for three years. She did nothing about them, but the Court Government has done something about them. Within six months of coming to office security deposits disappeared for businesses with satisfactory payment and credit standing. The businesses involved will receive a credit to their electricity accounts, or on application can get a cash refund. Within 12 months of this Government's coming to office the security deposits scheme will be a thing of the past, except for a small number of credit risk companies. In line with good commercial practice, the Government has required SECWA to introduce normal commercial credit control procedures, as any proper business should. What does this mean? It means from the one measure alone - that is, getting rid of security deposits - a small video store will save $500 immediately; a service station $800 -

Several members interjected.

The ACTING SPEAKER: Order!

Mr C.J. BARNETT: There are many restaurants in Victoria Park and they will each save $1 000. When did the member for Victoria Park ever save those businesses $1 000?

Several members interjected.

The ACTING SPEAKER: Order! The member for Victoria Park should come to order.

Mr C.J. BARNETT: The previous Government failed to deliver on energy and gas charges whereas the Court Government has delivered in those areas in its first six months in office. It has not delivered promises but large savings which are now being enjoyed by businesses.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order! The member for Cockburn will come to order.

Mr C.J. BARNETT: Today the Leader of the Opposition came into this House and waved a piece of paper saying that it was a Cabinet minute. Despite repeated challenges from this side of the House she refused to table that document. We do not know whether it was a Cabinet minute. Clearly, illegal behaviour has taken place for that minute to become available to members of the Opposition. I again challenge members opposite to table the document so that it can be referred to the Public Service Commissioner and the police for investigation. The Leader of the Opposition will not table the document because she knows it can be traced and that anyone guilty of illegal behaviour will have that behaviour exposed. Has the Leader of the Opposition played a part in an illegal action? Has she actively encouraged, elicited or supported behaviour by public servants, employees of the State, in illegally making available confidential papers? Again, the Leader of the Opposition is not in her seat, but I challenge her to table the paper.

Several members interjected.

The ACTING SPEAKER: Order! The member for Fremantle will come to order.

Mr C.J. BARNETT: I challenge the Leader of the Opposition to table that paper now to allow us to have investigations commenced through the Public Service Commissioner and the police. Will she cooperate with those investigations and will she explain to the police how she got this information? If the Deputy Leader of the Opposition knows who supplied the information, will he explain? Members opposite are as guilty as sin on this matter.

Several members interjected.

The ACTING SPEAKER: Order! I have called for order several times, and to the

surprise of some members who could not hear me because they were shouting so loudly. I ask that the member who has only two minutes left in which to complete his remarks be given time to do so.

Mr C.J. BARNETT: One can tell when the Leader of the Opposition is in trouble because she stands talking to the former Speaker and will not sit in her seat. She will not table the document mentioned or cooperate with the police or Public Service Commissioner in this matter. Let us find out who made this information available! The Leader of the Opposition should come back to her seat and talk about this, but she will not do so! The Leader of the Opposition stands with the former Speaker of this place and will not pick up that paper and table it so that we can get an investigation under way. We will require the Leader of the Opposition to cooperate in any investigation if illegal behaviour has taken place so that we can find the culprit. If the Leader of the Opposition or any member of the Opposition has invited illegal behaviour by a public servant, the Government demands that they answer for it.

DR GALLOP (Victoria Park) [12.59 pm]: What a generous Government! When this Government came to power it inherited a financial situation with the State Energy Commission facing a projected profit of $100m for the year. What did this Government give the small business sector? It gave it $16m - 10 per cent of the profits were passed back to small business. Twelve months earlier the Labor Government ploughed $40m back into the small business sector through a direct cut in commercial tariffs. This was in dollar terms and not real terms. Through new off-peak tariffs it made other savings available to small business. That is the Labor Party's record while in Government. It has the runs on the board and this Government has the gall to come into this place using books inherited from the Labor Government to congratulate itself.

The ACTING SPEAKER: Order!

[The time for debate expired.]

Division

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

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Ayes (26)

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

Noes (19)

Mr M. Barnett	Mr Graham	Mr D.L. Smith
Mr Bridge	Mrs Henderson	Mr Taylor
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Mr Cunningham	Dr Lawrence	Ms Warnock *(Teller)*
Dr Edwards	Mr Marlborough	
Dr Gallop	Mr Ripper	

Pairs

Mr Strickland	Mr Riebeling
Mr Shave	Mrs Hallahan
Dr Turnbull	Mr Leahy
Mr Cowan	Mr Grill
Mr Kierath	Mr McGinty

Amendment thus passed.

Division

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

Ayes (26)

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

Noes (19)

Mr M. Barnett	Mr Graham	Mr D.L. Smith
Mr Bridge	Mrs Henderson	Mr Taylor
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Mr Cunningham	Dr Lawrence	Ms Warnock *(Teller)*
Dr Edwards	Mr Marlborough	
Dr Gallop	Mr Ripper	

Pairs

Mr Strickland	Mr Riebeling
Mr Shave	Mrs Hallahan
Dr Turnbull	Mr Leahy
Mr Cowan	Mr Grill
Mr Kierath	Mr McGinty

Amendment thus passed.

Motion, as Amended

Division

Question put and a division taken with the following result -

Ayes (26)

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

Noes (19)

Mr M. Barnett	Mr Graham	Mr D.L. Smith
Mr Bridge	Mrs Henderson	Mr Taylor
Mr Brown	Mr Hill	Mr Thomas
Mr Catania	Mr Kobelke	Dr Watson
Mr Cunningham	Dr Lawrence	Ms Warnock *(Teller)*
Dr Edwards	Mr Marlborough	
Dr Gallop	Mr Ripper	

Pairs

Mr Strickland	Mr Riebeling
Mr Shave	Mrs Hallahan
Dr Turnbull	Mr Leahy
Mr Cowan	Mr Grill
Mr Kierath	Mr McGinty

Question (motion, as amended) thus passed.

Sitting suspended from 1.07 to 2.00 pm

SUPREME COURT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

[Questions without notice taken.]

SUPERANNUATION LEGISLATION AMENDMENT BILL

Second Reading

MR COURT (Nedlands - Treasurer) [2.33 pm]: I move -

That the Bill be now read a second time.

This Bill introduces amendments to the Superannuation and Family Benefits Act and the Government Employees Superannuation Act which respectively govern the pension and lump sum schemes available to public sector employees. The main purpose of the Bill is to introduce changes to these superannuation schemes to accommodate the Commonwealth's superannuation guarantee charge requirements. At the same time, the opportunity is being taken to greatly improve the overall administration of the schemes and to remove a number of discriminatory provisions in the pension scheme.

Superannuation guarantee charge: Under the SGC requirements, employers are obliged to provide a minimum level of employer-sponsored superannuation for employees from 1 July 1992. For the purposes of the SGC, the State Government is regarded as a single employer for all its agencies and the level of support ranges from four per cent of salary from 1 July 1992 to nine per cent by 2002-03. If an employer fails to provide for the minimum level of superannuation, a charge with penalties is levied on the employer by the Australian Taxation Office and redistributed to a superannuation scheme of the employee's choice.

Non-contributory lump sum scheme: The most significant changes proposed by the Bill to accommodate the SGC are to the non-contributory lump sum scheme which covers about 67 000 employees. The level of employer support provided to employees by these arrangements is currently three per cent of salary and will need to increase progressively to the levels specified under the SGC requirements. Further, eligibility for membership must be expanded to meet the wider coverage under the SGC, particularly in respect of casual and temporary workers.

A review of the existing non-contributory scheme revealed that its design was not capable of administering the SGC arrangements and therefore a completely new scheme had to be established if the State Government was to meet its obligations under the Commonwealth legislation. The problem stems from the fact that Western Australia is the only State to have introduced a defined benefit scheme to administer the non-contributory three per cent arrangements. Although difficulties with administration were experienced from its inception in 1987, these were exacerbated by the introduction of the non-contributory membership initiative from 1 July 1992. The difficulty is that to calculate a non-contributory defined benefit under the existing arrangements requires known periods of service and a predetermined salary. For many casual and temporary employees, the periods of service and salary are very volatile and employers cannot maintain accurate employee records.

With the problems attached to such a large section of the public sector work force, it was obvious that a new scheme design was essential and the Bill proposes to make this possible. In this regard, the proposal is to establish a new scheme with a benefit structure as close as possible to the old scheme and which, for ease of administration, is entirely salary based. For this purpose, the Bill proposes to separate the existing lump sum

scheme and its two categories of membership into two distinct schemes, a contributory lump sum scheme and a non-contributory lump sum scheme. The existing non-contributory arrangement is redefined to remove its current cumbersome emphasis on salary and service for benefit purposes. The main features of the proposed non-contributory scheme are -

a broader definition of eligibility than required under the SGC resulting in most Government employees being eligible for membership; this wider approach is being taken on the grounds of equity and in consideration of the diverse nature of employment across the whole of Government;

the accrued defined benefits of non-contributory members are to be converted to a dollar amount as at 30 June 1992; this amount is to be credited to individual member accounts and indexed by consumer price index plus two per cent per annum which is the earning rate implicit in the existing scheme;

from 1 July 1992, members' accounts will be credited with the minimum level of employer support under the SGC arrangements and will also be indexed by CPI plus two per cent per annum;

the benefits are to be portable out of the fund after 12 months from termination of employment;

a continuation of insurance benefits based on the expected benefit of a member at age 60; and

the Government Employees Superannuation Board is to be given authority to deduct fees for insurance and administrative charges; currently, these charges are built into the overall level of benefits and not explicitly designed.

In summary, the outcome of the proposed changes will be a new scheme which will have the flexibility and ease of administration to accommodate the SGC requirements in a cost-effective and equitable manner. For members, the new scheme will operate like a savings account, and for employers the new scheme will be like a payroll system.

Contributory lump sum scheme: The changes proposed in the Bill for the contributory lump sum scheme are relatively minor. In general, the maximum level of employer support under the contributory arrangements - 12 per cent of salary - exceeds the minimum required under the SGC. However, there is a need to address the following categories of employees who receive a lower benefit -

members who cease membership with less than two years' service: These members receive only a refund of their own contributions plus interest plus a preserved non-contributory three per cent benefit;

members who forgo the full benefit and elect for a fund of their own contributions plus interest: These members also receive the preserved non-contributory three per cent benefit; and

members who work with more than one Government agency are restricted to the maximum benefit available from one employer.

In order to cater for these employees, the Bill proposes to -

waive the two year qualifying rule for the preservation and vesting of full benefits;

remove the provision whereby employees can forego the full benefit and elect for the lesser non-contributory benefit; and

allow members with more than one employer to be eligible for more than one membership.

With these changes, the contributory lump sum scheme will operate on the same basis as before, but with the ability to meet the SGIC requirements.

Pension scheme: I now turn to the changes proposed to the pension scheme for the purposes of the SGIC. The current level of employer support for members of the pension

scheme is generally well in excess of the level required by the SGC requirements. However, some members will not qualify for a sufficient level of benefits, including those who resign from the scheme or elect for a low number of units. The approach adopted in the Bill is to establish a safety net provision which will allow pension scheme members who receive less than the minimum requirements to receive a top-up benefit in the proposed non-contributory lump sum scheme.

Financial impact: Over the next 10 years the SGC requirements will have added an estimated $700m to the cost of superannuation for Government employees. The impact on consolidated revenue fund is estimated to be $500m.

Administration: In addition to implementing the SGC requirements, the Bill proposes a number of amendments to improve the administration of superannuation throughout the Government sector and overcome a number of technical deficiencies in the current operations. These proposals include -

a simpler definition of salary, to reduce the administrative burden on employers. Under the current arrangements employers must maintain information on a wide range of salaries and allowances and decide which allowances are eligible and which are not; the Bill proposes that most allowances are eligible unless otherwise exempt;

the reintroduction of the requirement that a person must have at least 12 months actual or prospective service to be eligible for contributory membership; this provision clearly identifies the contributory scheme as a scheme for permanent employees;

a changed definition of partial disability benefits to provide a clear distinction between a member's accrued benefit and the insurance benefit. The current method of calculating the benefit in such cases has not been clearly understood by members and clarification is desirable; the proposed change will not lead to a reduction in disability benefits;

an amendment to the governing rules of the pension scheme to provide the Treasurer with the same degree of flexibility to alter employer funding arrangements as exists in the lump sum scheme;

a proposal to allow for the repayment of moneys held in trust in the pension scheme; these moneys are surplus contributions owed to members.

Financial impact: Overall it is envisaged that the proposed administrative changes will result in net long term savings across the whole of Government through reduced staff resources being dedicated to superannuation.

Removal of discriminatory provisions: In addition to the administrative changes, the Bill proposes to address a number of discriminatory provisions in the pension scheme. The proposals are for -

the recognition of de facto spouses;

the abolition of the present restriction, whereby pensioners re-employed by the Government suffer a reduction in the pension; no such restriction currently applies in respect of private sector employment;

the continuation of a pension entitlement on the remarriage of a widow; under the current Act the pension is suspended until the widow turns 55 years of age;

the provision to generally confer upon a widow a pension where remarriage occurs after a pensioner has retired except where the GES board does not believe that a bona fide marriage occurred.

Also, the Bill provides for the payment of a member's full pension to the widow for seven day periods after the member's death, to assist with bereavement costs and other expenses. Under the current arrangements a widow receives a benefit of two-thirds of the member's pension immediately on the death of the member.

Financial impact: Most of the initiatives for the pension scheme will have only a minor impact on State finances, except for the extension of widows' pensions which will cost about $350 000 a year. .

In conclusion, this Bill proposes the most significant changes to superannuation arrangements for Government employees since the introduction of the lump sum scheme in 1987. The proposed changes not only will provide for the SGC requirements, but also will lead to significantly improved efficiency in superannuation administration throughout the public sector and a much more equitable superannuation coverage for employees. I commend the Bill to the House.

Debate adjourned, on motion by Mrs Hallahan.

PLANNING LEGISLATION AMENDMENT BILL

Second Reading

MR LEWIS (Applecross - Minister for Planning) [2.45 pm]: I move -

That the Bill be now read a second time.

The Metropolitan Region Town Planning Scheme Act, which was enacted in 1959, made provision for the preparation, approval, amendment and implementation of the metropolitan region scheme. The scheme itself was subsequently prepared by the Metropolitan Region Planning Authority and was derived from a report written by Professor Gordon Stephenson and Mr Alistair Hepburn, then Town Planning Commissioner. That report, entitled "Plan for the Metropolitan Region - Perth and Fremantle", was a visionary document based on a 30 year planning horizon. The first metropolitan region scheme, approved in 1963, adopted its provisions in almost every respect. This brief history is provided to emphasise the point that the whole purpose and intent of a metropolitan region scheme is to act as a far-reaching blueprint for the future planning of the Perth metropolitan region. That original scheme has served Perth well. The evidence is around us today, in the beauty of the city and the attraction it offers for living, working and enjoying recreation, as well as the ease of transportation and communication.

Regrettably, however, over the past 10 years or so, that scheme has been allowed to deteriorate to the point at which its provisions do nothing more than limp along ahead of, and in some cases even behind, demand. It no longer serves its fundamental role of setting out the planned future for Perth. Instead it has become just another part of the bureaucratic process which must be overcome before land can be subdivided and released on the market.

The Metropolitan Region Town Planning Scheme Act 1959 also provided two mechanisms by which the scheme could be amended. The first of these involves a process whereby proposed amendments to the scheme follow a procedure very similar to that used for the approval of the scheme itself, namely -

(1) consent to advertise being granted by the Minister for Planning;

(2) advertising of proposals for public comment for a period of 90 days and inviting submissions;

(3) the Metropolitan Region Planning Authority - now the State Planning Commission - evaluating submissions and conducting hearings into objections to the proposals;

(4) final approval to the amendment being given by the Governor;

(5) the tabling of the amendment in both Houses of Parliament for 12 sitting days, during which time it may be subject to disallowance;

(6) the gazettal of the amendment.

This process has become known as the substantial or major amendment procedure and is set out in section 33 of the Act. The second amendment procedure for what is known as a non-substantial or minor amendment, is set out in section 33A and involves differences

to the steps already outlined for major amendments. Ministerial approval for advertising is deleted. The public comment period is reduced to 60 days and hearings into submissions are deleted. Ministerial approval is substituted for that by the Governor, and the requirement for such amendments to be tabled in Parliament is removed.

As I have said, for many years now the metropolitan region scheme has only limped along a little ahead of demand and, contrary to my belief about the intention of the Act, the previous Government used the minor amendment procedure extensively to reclassify land on an ad hoc basis. This Government, however, recognises the need to restore the metropolitan region scheme to its former status. Its provisions are to be amended to show the manner in which Perth will accommodate its future population through the zoning of land for urban, industrial and city centre purposes, as well as land to be conserved, or set aside, for regional parks and recreational purposes. Transportation routes will also be identified.

To reinstate the scheme as a firm blueprint for future planning and to give certainty to all concerned, it has been necessary for the State Planning Commission, in response to the new Government's policy direction, to embark upon a range of major amendments to achieve the desired results. Already, two such amendments have been prepared, adopted and advertised for public inspection and submissions. This initiative, will, however, produce an exceptionally heavy workload for the commission at the conclusion of the advertisement period for each amendment with respect to the conduct of hearings to objections. This brings me to the purpose of the Bill now before the House.

At present the Metropolitan Region Town Planning Scheme Act provides that the commission may hear objections itself, or may appoint a subcommittee of the commission for that purpose. Even allowing for the fact that the commission may delegate its powers and functions to the Metropolitan Planning Council, and has done so, the workload would still fall upon some or all of the members of that council, which is a committee of the State Planning Commission. Because the members of both the commission and the Metropolitan Planning Council are all part time appointees, it will be difficult, if not impossible, for those involved to make the necessary times available to hear and report on all of the objections arising from a succession of some eight or nine major amendments.

One solution to this dilemma, as proposed in the amending legislation, is that in addition to the procedures currently available to it, the commission should be permitted to appoint a committee of independent persons to conduct hearings. This solution will also overcome the criticism, sometimes levelled at the existing procedures, that the commission, or the Metropolitan Planning Council, is not best placed to conduct hearings into objections because of its predisposition to promote the amendment in the first place. A range of retired planning professionals and others would be available for appointment by the commission to any such independent committee to conduct hearings and report on submissions.

Because the commission already has the power under the State Planning Commission Act to appoint and give directions to committees, it has been decided that this legislation should delete the specific provisions about appointment of a subcommittee and substitute reference to the appointment of a committee. Some uncertainty exists about whether the State Planning Commission Act permits the commission to appoint a committee totally comprising independent persons. To avoid any such doubt, the State Planning Commission Act is also to be amended to allow the commission to appoint a committee comprising members of the commission; members of the commission and other persons; or persons other than members of the commission.

The authority of the Metropolitan Planning Council, when acting under delegated powers from the commission, is almost identical with that of the commission. It is, therefore, proposed to make an amendment to give the council the power to appoint a committee.

The proposals contained in this Bill are considered to be practical and effective housekeeping measures. They will enable the commission to undertake its functions better and overcome the particular issues generated by the current range of amendments.

This legislation and the program of amendments are essential to restore the Metropolitan Region Scheme to its proper place as a visionary plan for the future of the Perth region. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

MINING AMENDMENT BILL

Second Reading

MR C.J. BARNETT (Cottesloe - Minister for Resources Development) [2.52 pm]: I move -

That the Bill be now read a second time.

This Bill was introduced to Parliament late last year by the previous Government as the Mining Amendment Bill (No 2) 1992. Members will recall that because of its late introduction the Bill did not proceed to the debate stage. The Bill is now reintroduced without any changes being made to the contents, other than the title being updated to 1993. The Bill proposes various amendments to the Mining Act 1978, including a number of important changes sought by the mining industry and also changes to the Mining Amendment Act 1990 to rectify some minor inconsistencies. The main proposals in the Bill include -

the establishment of environmental inspectors to ensure compliance with environmental conditions attached to the grant of mining tenements;

new amalgamation provisions for exploration licences;

a fixed four year term for prospecting licences;

the introduction of a retention licence to allow explorers to retain identified ore reserves which cannot be mined in the short term;

provision to allow prospectors to mark out and apply for special prospecting licences for gold over existing mining leases; and

the tonnage limits and depth restrictions on mining leases for gold being extended where the consent of the primary mining tenement holder is obtained.

Other amendments contained in this Bill seek to enforce the underlying principles of the Mining Act and address issues which have arisen through the general day to day operation of the Act. In order to ensure compliance with environmental conditions, it is essential for an adequate inspectorial system to be implemented. Experience in recent years has shown that while the majority of operators comply with their responsibilities in respect of environmental matters, some do not. It is proposed to provide for the appointment of two classes of inspectors - senior environmental inspectors and environmental inspectors. All environmental inspectors will be authorised to -

enter land where mining operations are being carried out for inspection purposes;

require any information relating to the mining operations to be provided; and

give directions to the mining tenement holder requiring that holder to modify mining operations so that environmental conditions may be complied with.

Senior environmental inspectors will also be authorised to issue directions to stop work. An appeal mechanism to the Minister against such directions given by a senior environmental inspector has been provided for.

The Mining Act currently provides that the holder of an exploration licence may, without marking out the land, apply for the amalgamation of any surrendered, forfeited or expired mining tenements situated wholly within the boundaries of that exploration licence. The new provisions will allow exploration licence holders to amalgamate their own mining tenements, and also tenements which are surrendered, forfeited or expire during the period the exploration licence application is pending. There are three administrative benefits to both the mining industry and the Department of Minerals and Energy in these new amalgamation rules. An application to amalgamate mining tenements can succeed

only where the land formerly comprised in the mining tenements has not been marked out or applied for by another party.

This Bill also introduces a new title, to be called a retention licence, which will be an intermediate form of tenure between the exploration licence and the mining lease. Its primary purpose will be to provide secure tenure, for a limited time, to enable an explorer to hold an identified mineral resource which is not a commercially viable proposition in the short term but for which there is a reasonable prospect for development in the longer term. From time to time deposits are identified for which no further exploration or mining is warranted in the short term. The identified resource may be sub-economic or cannot be mined for some other reason. In these circumstances the current mining tenements are inadequate. The exploration licence is for the exploration of the ground for mineral resources; it is not a holding title, and the mining lease is inappropriate and too expensive. A less expensive title is needed with a work program determined by the Minister after taking into account economic, technological and policy factors. A retention licence would clearly indicate to all parties that a resource had been identified and that different commitments to and expenditure on the working of the ground applied. The introduction of a retention licence will -

give improved security of title for mineral deposits which cannot be mined for the time being;

facilitate the implementation of an appropriate work and/or research program designed to achieve economic development of the identified resource;

highlight areas of identified mineralisation which may be developed at some future stage; and

reduce the administration costs and simplify administrative procedures for companies with such mineral deposits.

Certain criteria must be met before retention licences will be considered, and title will be issued only where it can be established that a mineral resource has been identified and cannot be mined for the time being because -

the resource is uneconomic or markets cannot be found, but in either case it is expected to become economic or marketable in the future;

the resource is required to sustain future operations of an existing or proposed mining operation; or

current political, environmental or other difficulties in obtaining requisite approvals make mining the resource impracticable for the time being.

The main elements of the proposal for a retention licence are that any such licence -

may be applied for only within the boundaries of current mining tenements by the holder of those mining tenements;

shall be limited in area to that which is sufficient to cover the identified mineral resource and operational areas necessary for a mining project based on that resource;

shall be for a term up to five years with provision for renewal for further periods up to five years; and

may incorporate a work program or expenditure commitment as determined and this will depend on the reasons for the licence being issued.

Amendments are also sought to allow a special prospecting licence for gold to be marked out within an existing mining lease with the consent of the leaseholder. Such licences are currently allowed over other prospecting licences and exploration licences, and the extension of this concession to include mining leases will enable the parties to avoid high legal costs that may be associated with tribute arrangements. This will provide improved access for the prospector to ground which is not required in the short term by the current lessee. The amendment has been urged by the Amalgamated Prospectors and Leaseholders Association, which sees it as a means of providing a stimulus to activity in

the goldfields. As with the current special prospecting licence arrangements, these licences will also be restricted in the tonnages allowed to be mined unless prior permission is obtained to mine larger tonnages. Depth limitations are also attached to all prospecting licences. However, provided the prior consent of the primary tenement holder and the approval of the Minister are obtained, mining to greater depth will be allowed. Special prospecting licences may be converted to mining leases for gold, and if a conversion takes place these limitations on tonnage and depth also apply to the lease. Other amendments that have been incorporated into the Bill provide for -

an automatic right for a plaintiff to mark out land the subject of the plainted mining tenement where the holder surrenders that mining tenement - other than a compulsory or conditional surrender; this will stop the practice of defendants surrendering tenements before plaints against those tenements have been determined;

the holders of leases to arrange for the survey of their own leases at their cost, with such surveys to be carried out if requested; the present system where surveys are subsidised by the Government will no longer apply;

a provision prohibiting the conversion of a mining lease to a prospecting licence or exploration licence for a period of three months; the practice of converting leases back into licences is against the intent of the Act as it encourages operators to hold ground for prospecting or exploration for unlimited periods;

the registration of withdrawals of applications for mining tenements to be effective upon lodgement of instrument of withdrawal as now applies with surrenders; once a withdrawal is lodged, it cannot be set aside and thus, the priorities of later applicants to mining tenements cannot be adversely affected;

prospecting licences will have a fixed four year term rather than the present two year term, with a provision for an extension of the term for a further two years; and

clarification of provisions relating to tailings and/or mining product; therefore, tailings left untreated when a mining tenement goes out of force become the property of the Crown; these tailings are to be included in the grant of any subsequent mining tenement; and tailings lying on existing mining tenements which are not subject to current licences to treat will automatically be included in the grant of that mining tenement.

This Bill also seeks to amend section 40 of the Mining Amendment Act 1990, which was proclaimed to commence from 28 June 1991 and introduced a graticular format for description of the boundaries of exploration licences. It also provided that all existing licences and applications, as at the commencement date, would remain subject to the old rules. In this regard section 40 of the Mining Amendment Act provided that certain sections of the Mining Act remain in force as though they were not amended by the amending Act. The Mining Amendment Act was amended in Parliament for other reasons; however, a consequential amendment to section 40 was overlooked. In addition, some of the amendments contained in section 40 should have applied to both the old and new form of exploration licences. The amendments in this Bill are designed to introduce the consequential amendment that was overlooked, and to clarify the application of some earlier amendments. I commend the Bill to the House.

Debate adjourned, on motion by Mrs Henderson.

WORKPLACE AGREEMENTS BILL

Committee

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

Clause 1: Short title -

Mrs HENDERSON: I move -

Page 2, lines 3 and 4 - To delete all words after "the" and substitute the following -

Employment Contracts Act 1993.

This amendment goes to the heart of the legislation. One of the features of debate on this legislation in the community has been what I describe as deception. The title of the Bill is deceptive, and it is intended to be deceptive. The Bill is titled the Workplace Agreements Bill 1993, and my amendment is to change the title to the Employment Contracts Bill 1993. What basically is this Bill all about? Is it about agreements or is it about contracts? I wish to highlight some of the views that I believe most of the community hold about the difference between a contract and an agreement. Legal definitions exist about what constitutes a contract or an agreement but we must take the most commonly understood meaning of the words in the community. Without question, the words are perceived differently in the public arena. The word "contract", for example, to most people specifies a very serious document that one would think twice about signing. A contract usually is characterised by being written in technical, legal language which is a measure of its seriousness. A contract often carries with it penalties for the breach of any its terms. Often one cannot get out of it because it is a very binding and serious undertaking. For most people in the community the only experience in a lifetime of signing what they consider a contract would be the signing of a mortgage, a contract to borrow money to buy a car through a finance company or bank, or some other equally important transaction. In most cases people would think carefully about signing those contracts. When I was the Minister for Consumer Affairs, it was my view that people did not think carefully enough and did not always read contracts as closely as they should when signing them; nevertheless they were aware that it was a binding document.

One of the key characteristics of a contract is, in general parlance, a document drawn up by one side, by one party, and presented to the other party for signature. I do not know whether you, Mr Acting Chairman (Mr Prince), have ever signed a mortgage contract but I would be amazed if even one per cent of people who signed such mortgages ever tried to read them. They are impossible to read. Mr Acting Chairman, you would know better than others that often the first sentence extends down the whole of the first page and that it cannot be read as a sentence. So cleverly and carefully is it crafted it is a tribute to the highly-paid lawyers who are given the job of designing such watertight contracts that preclude every eventuality that might result in the finance provider losing money. That is a feature of a contract. It is a serious and binding document and one which people would not enter into lightly. It is often difficult to change. However, alongside that, when people enter a bank to sign a contract for a mortgage they cannot negotiate. People cannot say that they do not agree with a certain clause and that they want it to be changed, because the bank would only laugh. The bank would say that it is not open for negotiation and if people want a loan the terms are there; sign it. The bank would say that if the person wants a loan that person should take it on those terms; if not, the person should go somewhere else. The bank will not negotiate about the contract. So strongly are banks of that view, contracts are already printed on a form. People do not have a choice; they can only sign the contract. That indicates that the person who drafts the contract has all the power. That is a feature of the contract. People take it or they leave it. Most people are accustomed to that notion. They know that is what they are in for when they go into a bank or a finance company. They do not expect to negotiate what their mortgage contract will say. They would think it quite ludicrous to suggest what the contract would say. Why is a contract different from an agreement? Some people would say that an agreement is also a legally binding document - and I am sure it is.

In general parlance the word "agreement" is quite different. The word "agreement" generally means a meeting of minds. People get together and negotiate; there is a bit of give and take; someone puts forward a proposition and someone else puts forward another proposition; suggestions and changes are made; and, at the end of the day, out comes a document which is an agreement - a totally different process from making a contract. It could not be any more different than the process of people walking into the bank and getting a contract put in front of them and they sign it or go somewhere else.

There is also the general view in the community that if people sign an agreement, there is a possibility of its being changed. It is not so formally irrevocable that, if in six months time people do not like a condition and want to change it, they cannot say, "This agreement is not working out as I thought it should. Why don't we change it?" In most agreements people would say that is reasonable. In my view that is probably reflective of the difference between a contract and an agreement.

The Minister has chosen to call this legislation the Workplace Agreements Bill. The implication is that it is the sort of document that is the result of negotiation, has less formality than a contract, is more open to change, more negotiable, more a meeting of minds, more possibly - not necessarily - the result of negotiations by two equal parties. Let us look through the Bill to see where the word "agreement" fits with what is in this legislation. If I am right and there is a distinct contrast between the public perception of the word "contract" and the word "agreement", when we look to the Bill we should find that it is not too difficult to change these agreements, and that there is some flexibility and some informality about them. That is not the case, sadly. If people want to vary one of these agreements, they will have to cancel it and start again.

That reminds me of a contract. If people decide they want to repudiate a contract, that is the end of it. People start again. They do not normally get the chance to negotiate. The chance to negotiate is usually a feature of an agreement. It is quite misleading of the Minister to give the impression that this legislation is about agreements. It is about contracts of employment. Let us be up front about this and tell the community what we are talking about - irrevocable, legally binding contracts of employment. If people breach them, there are serious consequences. There are penalties throughout this Bill for people who breach its provisions. It is not a minor matter.

Why should we not call these documents agreements? One reason is that when we draft legislation we, as legislators, should try to be as clear as we can be. We should try to ensure a minimum of ambiguity. We do not want to provide the courts with the task of interpreting our legislation. There is in common parlance in the industrial relations world two other phrases which incorporate the word "agreement" - enterprise agreements and industrial agreements. They do not bear any similarity to workplace agreements. In fact, if there is any possibility of people being confused about the relationship between these workplace agreements and enterprise agreements or industrial agreements, it is our task today to overcome that confusion. The biggest single difference between an enterprise agreement and one of these workplace agreements is that in an enterprise agreement the award is the base, the floor below which people may not go. Some employers do not like that.

Mr Bloffwitch: That is your interpretation.

Mrs HENDERSON: No, that is not my interpretation; that is fact. If I were the member for Geraldton I would check my facts before I opened my mouth. Today Mr Ralph, on behalf of a national employer body, came out publicly and said that he thought enterprise bargaining was not going far enough, that it had not produced the amount of change he had hoped for. Why did he say that? Because the award is still there. It does not allow people to go below the award - and that is exactly right.

Mr Bloffwitch: Get a copy of Paul Keating's speech to the directors in Sydney and see what he said.

Mrs HENDERSON: If the member wants to make a speech, he should move to his own seat and wait for the call. Enterprise agreements are based on the award. They cannot have conditions below those in the award. Workplace agreements deliberately go below the award. That is the whole intention of this legislation. If the agreements are not to go below the award, why do we need them? Employers can pay above the award today, tomorrow, next week - and many employers pay above the award.

Mr Bloffwitch: What do we do when there is no award?

Mrs HENDERSON: That is a very good point. Those people have contracts of employment. I shall come to that shortly. They do not have workplace agreements; they have contracts under the common law of employment.

Mr Tubby: A bit like workplace agreements.

Mrs HENDERSON: Not at all. If this legislation is to be clear, we must make sure that people do not confuse the workplace agreements with enterprise agreements or with industrial agreements. As the Minister will know those agreements are struck under the Industrial Relations Act. They must meet certain minimum requirements of the industrial relations legislation to be registered as industrial agreements. They must also meet requirements way above those that the Minister has so proudly brought into this Chamber, saying, "Look at my package of minimum conditions, $275 a week. People will be dancing in the street to work for $275 a week." What is that an hour?

Mr Bloffwitch: Why didn't you do something about it when you were Minister?

The DEPUTY CHAIRMAN (Mr Prince): Order! The member for Geraldton is being disorderly. He is not in his seat.

Mrs HENDERSON: Does the member for Geraldton think that a family could live on $275 a week.

Mr Bloffwitch: No, I don't.

Mrs HENDERSON: Has the member told the Minister that people cannot live on $275 a week? It did not have much effect in his party room.

Mr Kierath: What about the 1.3 per cent who live on an amount under the award system? What do you say about this?

Mr Bloffwitch: You don't care about them.

Mrs HENDERSON: I do care about them. We will come to people who are currently on the award system shortly. This legislation means that everybody's minimum will be $275 a week, not just those on the award system, but everybody. To ensure there is no confusion, we should delete the words "workplace agreement" and we should put in what these agreements are all about: Contracts of employment - legally binding, serious contracts for which there are penalties if they are breached. They are not like enterprise agreements, not founded on the award; not like industrial agreements, scrutinised by the Industrial Relations Commission for fairness, equity and those sorts of things that never appear in this Minister's legislation. He is not interested in fairness or equity. We should replace those two words in the title.

Mr BROWN: I support this amendment because I believe it is important in legislation such as this for the title of the Act to be very clear and precise, and to reflect what the legislation is about. There are various forms of human relations systems around the world. These come under various names. There are systems of enterprise bargaining, workplace agreements, new contracts and employment contracts. Each of those forms is quite different and distinct as anyone who has had any experience in the local or international industrial relations system would know.

The title of this Bill creates a confusion in terms. Perhaps we can understand where that confusion starts if we consider the Minister's second reading speech. That speech is always very carefully prepared so that the Minister delivering the speech can be specific about the Bill's intentions. At page 1451 of *Hansard* the Minister said the choice of the title of the Workplace Agreements Bill instead of an enterprise agreement Bill or an enterprise bargaining Bill was very deliberate. One can understand that because this Bill is not about enterprise bargaining, so in that aspect of his second reading speech, the Minister is entirely correct. However, between his second reading speech and his response to the second reading debate last night the Minister has created some confusion. Last night the Minister was talking about embracing enterprise bargaining, but that is not the system that he described in his second reading speech. To someone who might be a casual observer, enterprise bargaining agreements and workplace agreements might seem similar, but a very big difference applies between the systems. An enterprise bargaining system is known elsewhere around the world as exactly that - a system based on the collective views of the employees and the employer at the enterprise. In the United States it is a system of collective agreements on an enterprise basis between unions

supported by their members where the members vote in favour of an agreement and a system that covers that enterprise. The Japanese system of enterprise agreements is a system of agreement for the enterprise, as is the case with many other countries. A confusion of terms has arisen between the Minister's second reading speech - the carefully drafted speech - and the Minister's response in the second reading debate.

Mr Kierath: There was not a confusion of terms. I had to deal with the confusion of terms from members opposite. I was trying to embrace all the points your group raised and they tended by definition to be a bit of a potpourri.

Mr BROWN: The Minister could have taken them one by one.

It is important to look at similar systems to this and to their names. No comparison exists between this system and the systems which exist in the United States of America, Germany and Japan because it is not an enterprise bargaining system. The only comparable system is that of the Employment Contracts Act in New Zealand. Members should note that title, because that is the prime instrument in this Bill and it has precedence over the others.

New Zealand's Employment Contracts Act sets minimum conditions including four weeks' annual leave and $245 a week. We have not yet quite got down to the New Zealand figure; our minimum wage is $30 a week higher than New Zealand's. The Employment Contracts Act in New Zealand is similar to the hallmarks of this Act. I concede that the distinction is that the New Zealand Act got rid of the award system in that country.

Mr Kierath: Do you want us to get rid of the award system?.

Mr BROWN: I want the Government to leave the award system. During the course of this debate the Opposition will be moving amendments relating to that.

Mr Kierath: Are you proposing we remove the award system?

Mr BROWN: No, I am not proposing that.

Mr Kierath: If you are suggesting we go to the main contracts, that would be like removing the existing awards and having only contracts.

Mr BROWN: The Minister should listen and consider the hallmarks of what this Bill does in terms of individual bargaining taking primacy, the provisions for established bargaining agents, and the individual authorities. The Minister should also consider the question of secrecy. Some time ago before this Bill was introduced I said that the New Zealand Parliament had decided in its wisdom that when it introduced its Employment Contracts Act it contained provisions which precluded the operation of the Freedom of Information Act. Various members interjected at that time and asked whether I had seen the legislation. I had not, but one did not need to be Einstein to work out what it would contain because New Zealand had done it before and it was a model for this Bill. Some changes - never precise changes - have been made, but for all intents and purposes it is a model. I raise that point because what did they call the Act in New Zealand? Was it related to the workplace or was it related to a contractual relationship between the employer and employee? That was the primacy. The one thing for which the New Zealand Government must be given credit - I would not give it credit for anything other than the title - is that it was pretty straightforward when it came to setting the title in the Act. At least it said it would get clause 1 right. It said that it would accurately describe in the title of the Bill - now the Employment Contracts Act - what it was all about.

Significant other arguments can be made about why the title should be changed in the way set out in the amendment. Time does not allow me to go into all those reasons; however, I will touch on one. The first word in the title - "workplace" - suggests it is an agreement about a single workplace. That is wrong; many agreements may occur in a single workplace. It is a deceptive point.

Mr KIERATH: I introduce to members my adviser, Mr Tony Dowling from the Ministry of Justice. I will firstly cover some of the general definitions. When the Government first began developing this policy it considered the term "enterprise bargaining" to which

the member referred together with a range of other terms. The Government chose "workplace" because it went further than what an enterprise connoted. That was a deliberate move on our part. We wanted to ensure that it was not only an enterprise bargain, but went further. A workplace agreement could be an enterprise bargain if it was so desired. Collectives are in place, and it may be that some people turn a workplace agreement into an enterprise bargain. When I made the comments last night about enterprise bargaining I was talking about a general trend. If the member had listened to my whole speech he would have known that I also said that this general trend was occurring around the world.

Mr Brown: I did.

Mr KIERATH: It is good that at least someone on the opposite side is paying attention because I sometimes do not think that many on that side of the Chamber do. We considered using the term "contract" and chose not to do so for two important reasons: Firstly, despite a workplace agreement, an underlying contract of employment still exists. I will return to that issue in a moment. Secondly, a contract normally becomes a legal document once it is signed by the two parties. In this situation the two parties - say, an employer and an employee - could sign the contract, but it would not necessarily be binding until it completed its registration process. From that process it then gets out of the award system. That was also one of the reasons the Government chose to look for a term other than contract. "Agreement" is more in line with what this legislation and the accompanying two Bills will do. That is, it aims to set up a process of trying to change people's attitudes and culture. Members opposite have an infatuation with the adversarial idea of sign or resign. I suppose that is because that is how they are used to doing business. The history of the union movement has been that one either does something, or else. We decided that was the very attitude we were trying to overcome. We do not want that sort of attitude in any circumstances. We want the players to come together and reach an agreement. If the Government had adopted the Opposition's attitude it would have gone down the Victorian path and terminated the awards; however, this Government wanted a change in attitudes. We knew that some members opposite would have a great deal of difficulty in grappling with that aspect. I have no doubt that it will be a real test of the member for Morley's character for him to embrace that. We want the players to get together on an equal basis and reach an agreement.

The member for Thornlie raised a number of other issues. If we do not seek agreement - that is, obtain genuine consultation and seek views - an agreement will not be reached. Reaching agreement is the most important part of this issue. The member for Morley also seems to have a fetish that all wages will be down around $275 a week. Something like 98.7 per cent of people in the award system receive well above the minimum mark: So it is that we expect the 98.7 per cent of people involved in workplace agreements to be above the minimum wage. The member for Thornlie seems to think that is the starting point; however, she has not understood it. Provided the employee has the power of veto, which effectively that person does, the starting point is the award he is currently receiving, not the minimum of $275 a week. It was tempting at one stage to not include the $275 figure at all because approximately 105 000 Western Australians have no minimum wage. The profile of that group is similar to the profile of those under the award system. Very few are down around the minimum wage level. They do not have an award or a minimum wage. The Government understands some people in the award system do not want to shed their security blanket and are fearful of moving into the new system. That is the reason the minimum wage element was included in the Bill.

I agree with the member for Thornlie that a meeting of minds should occur; I could not have said it better. We want people to reach agreement and to change their attitude and culture. The legislation refers to a contract of employment, which is also known as a contract of service. People may have been operating under an award and that could be replaced by a workplace agreement which could come and go, but the underlying contract of service would still be in place. We did not use that term because people find it confusing. A comment was made by way of interjection about what Mr Keating said. He actually said that workplace agreements will replace awards.

Mrs Henderson: That is not what he said.

Mr KIERATH: He did. The legislation allows people to replace awards with workplace agreements.

I have answered most of the points raised, but I reiterate what I said to the member for Morley; that is, if the Opposition has a shortsighted and petty attitude to the short title of the Bill then I question how serious it is. I wonder how genuine it is in trying to change the Bill - to improve it rather than simply being obstructionist.

Mr McGINTY: When someone picks up an Act of this Parliament he or she should be able to get a decent idea of what it is about from its title. On my reading of this Bill the title is a complete misnomer. It is clear from the reaction of the Minister to the amendment suggested by the member for Thornlie, that the notion of an agreement has a far more pleasant connotation than the notion of a contract. It is quite clear that what we have before us, if one considers an agreement to be a pleasant notion and a contract to be harsh and mechanistic, is something worse than what would be a contract at common law. To take something which is in reality a nasty piece of work and call it something pleasant is an act of gross deception. Pleasant terminology has been used in the Bill to portray something which is nasty. In essence, the Bill is proposing the use of contracts and it is widely known that contracts are built on a recognised legal fiction of free and equal participation. A contract provides that where the notion of freedom is offended a range of remedies are available. It is interesting that these remedies are not available in this legislation. Currently, where, in a commercial arrangement, a contract is entered into on the basis of duress it is able to be voided. Where a contract, in a commercial sense, is entered into on the basis of undue influence it is void. Where there is unconscionable behaviour by any participant to that contract the court will strike it down. Generally speaking, where there is an element of unfairness associated with the contract it will be struck down by the court. This is not the case under this legislation. This legislation provides that where a document is entered into under duress, undue influence and unconscionable behaviour it can stand. The court does not have the power to strike it down, and that is one of the essential weaknesses of this legislation. It is something worse than a common law contract in any usual commercial situation.

I refer the Minister to clause 28, which outlines the matters on which the proposed commissioner for workplace agreements must be satisfied. He does not have to be satisfied in a positive sense, but he must, firstly, be satisfied that the agreement complies with the Act. The formal requirements of this Bill are minimal and pedestrian. Also, the parties to the agreement must genuinely wish to have the agreement registered. It does not state that the parties to the agreement genuinely wish to have those as their conditions of employment, but that they wish registration. It is a different notion than support for the issues contained within the agreement. I suggest to the House that the third requirement that must be met is the sloppiest of all and is quite remarkable; that is, the Commissioner for Workplace Agreements must be satisfied that the party to the agreement appears to understand his or her rights and obligations. If it appears that someone can read English it will probably be okay. It is not a question of whether the parties genuinely signed the contract with a great meeting of minds and in a true sense of agreement. It will be interesting, when an agreement is registered, to see what will happen if what is provided is less than the prevailing award. The Minister referred to the situation of the SPC Ltd factory over east. I can see in these rare situations some workers might willingly enter into an agreement to reduce their pay and working conditions. However, there is no test in this Bill to ascertain whether workers are willingly entering into an agreement to reduce their pay and conditions in a positive sense. The only test is whether the agreement will be registered. They may dislike what it contains, but they know they will lose their jobs unless it is registered. Therefore, they will support registration.

Mr Bloffwitch: Talk about the Minister drawing a long bow.

Mr McGINTY: I advise the empty vessel opposite that English is used to convey a precise meaning. There is no requirement that the Commissioner for Workplace

Agreements must be satisfied that people want to settle on the basis of those conditions of employment. All the Bill provides for is that the commissioner must be satisfied that people want the agreement to be registered.

Several members interjected.

Mr McGINTY: The member for Geraldton is probably not capable of understanding what I am saying. It does not go to the content of the agreement and it is indicative of where this Bill has a significant shortcoming. I will apply my comments in a commercial example. The day someone drives a car out of the member for Geraldton's car yard, he may be happy with it. What if they found they had bought a lemon a week later?

Mr Bloffwitch: In that case it is up to the generosity of the company as to whether it accepts it is a lemon.

Mr McGINTY: Is that fair with respect to employment conditions generally?

Mr Bloffwitch: In the couple of cases it has happened to me, the company has acted extremely admirably.

Mr McGINTY: No doubt, but where somebody has against his will been forced into signing an agreement and it does not come to light until later that the person did not understand what he was doing, or was coerced or under some influence at the time, there is absolutely no provision for the matter to be reviewed. There is no capacity for him to go to common law, as with other contracts, and say that he did not know what he was doing at the time or was under some influence and could not tell the whole story to the commissioner. The Bill contains no provision for the event to be reviewed when the oppression comes to light, which might be after the document has been registered. It is a fundamental problem because in common law such rights are available with regard to any commercial contract entered into. On the scale of agreements being good and contracts being a bit nasty, this is very nasty. It takes away the common law rights of people. It is wrong to call this Bill an agreements Bill because no protection is afforded particularly to the employee - although it might also affect the employer. People will not have the basic common law contractual rights.

Mr Bloffwitch: Any party can bail out.

Mr McGINTY: No, they cannot. If a person could give a week's notice and the agreement be cancelled, that would be fine. However, the Bill states that people will sign for a term up to five years, and have no capacity to retire from the agreement except by entering into a new agreement, which would require the consent of the employer who put the person under duress in the first place. Therefore, it is not an agreement. The Bill does not provide the sort of remedies one would have in a normal contractual sense and it makes no provision for the commissioner or any other court to subsequently quash an agreement which common law would say is completely unfair. That is the reason that the main title of this Bill - and as a consequence the subsequent provisions contained in it - should be reviewed. It does not give the protection warranted in this situation.

The commissioner does not need to be satisfied, for instance, under clause 28 that the contract or agreement entered into is of benefit to the employee. It would provide an interesting test if that were inserted. For example, a benefit could be a pay cut if that meant security of employment and things of that nature. One must weigh up all the issues involved. Clause 28 does not require the commissioner to be satisfied that the agreement is of any benefit to the employee, the employer or the two collectively. The commissioner is required only to satisfy himself about some fairly mechanical items laid down in clause 28. That is a fundamental flaw and a reason that the Minister is guilty of misleading advertising by claiming that this Bill is a workplace agreements Bill. It is my strong belief that true agreements under this Bill, if it becomes law in its present form, will be very rare.

The people who will be the subject of so-called agreements will be migrant workers, those from non-English speaking backgrounds, long term unemployed people who are desperate for work, the unskilled and those on low wages. They will not be agreements with those people, but contracts imposed upon them. I had not heard the analogy by the

member for Thornlie previously, but certainly those people will be in the same situation I would be in when applying to a bank for a housing loan. In that situation I have no capacity to negotiate the terms of that loan with the bank, which has fixed rates and conditions to which I must agree if I want a loan.

Mr Bloffwitch: You could go to another bank.

Mr McGINTY: No doubt, but I still would not have the capacity to influence the rates and conditions of that bank and would have to accept its terms.

Mr Kierath: Would you like to impose regulations on the banks?

Mr McGINTY: Of course not. If the Government wants to call this an agreements Bill, it should contain something capable of being negotiated, rather than imposed, because it does not have the essential elements of an agreement. It has none of the hallmarks of a true agreement or even a true contract at the point at which it is entered into, when it is registered or when it is discovered to be deficient. It is more punitive in law than any other contract one would enter into, and in a commercial sense is designed to inflict pain on those people least able to negotiate an agreement or contract. For those reasons the Bill should be renamed to more accurately reflect the reality of what is contained in it. In the Minister's experience with his contract cleaning company before he entered Parliament, I doubt whether he employed many people as cleaners who had the capacity in their own right to draw up an agreement, to negotiate with him as their employer the conditions to be applied or perhaps even a capacity to have a broad concept of what in the circumstances was reasonable. I support the amendment.

Mr THOMAS: I support the amendment, and agree with my colleagues that the title proposed for the Bill before the Committee is inappropriate. The member for Fremantle indicated it is more appropriately referred to as a contracts Bill because of the nature of the arrangements that will be imposed on employees. I agree with him.

There is another aspect of the Bill which makes it inappropriately described as a workplace agreements Bill; that is, the breadth of impact it seeks to have. The Bill seeks - and the Minister's second reading speech reflects this - to radically alter the relationship between employers and employees in Western Australia. As such, it should be appropriately titled the employment contracts Bill or some other title which gives recognition to the breadth of the impact it seeks to have - but not that it will necessarily have for other reasons. We need to consider how this legislation could conceivably have that sort of impact, were it not for the existence of another jurisdiction in which employees can seek refuge to avoid the legislation of this Parliament, should the Bill before us be passed. The relationships between employers and employees in Australia are regulated by common law, known traditionally as the law of master and servant. There is a well established body of case law which regulates the relationships. That imposes a significant number of obligations on both parties to the contract. The servant, or employee, is obliged to undertake the tasks assigned to him by the master, or employer. These employees are obliged not only to undertake duties imposed upon them by their employer but also to undertake them in the way in which the employer directs. That is essentially the responsibility of the servant; he must do what he is told, when he is told, how he is told, and where he is told. In response to that, other obligations rest upon the employer or master; the duty of care and the obligation to pay remuneration in accordance with the contract. A number of other responsibilities exist employer to employee.

Awards will be radically affected by this legislation if it is ultimately passed by the Parliament. Awards are not contracts or agreements, as I understand it; they are not the terms of a contract of employment between an employer and an employee but are attached to extend the agreement; and in case of inconsistencies in the contract between an employer and employee - the master-servant common law contract - the award prevails. This system is well established in Australia and has been operating to the benefit of both employees and employers in this country for some time.

Earlier in the debate the Minister said that this legislation was creating the legislative framework for "workplace agreements" as described in the legislation. That is a

misnomer. The Minister has said glibly that workers can either opt for workplace agreements between them and their employers or for the award. The Minister touted himself as a person introducing freedom of choice into the workplace that did not exist previously. As I indicated previously, that is a fiction in the same way that the title of the Bill is a fiction. It is a fiction to say any freedom will be introduced by this legislation. The fact is that contracts of employment between employers and employees exist in the marketplace. It is nonsense to say that if workplace agreements come into effect in a particular section of the work force it will be possible for people to enter into a workplace agreement with their employer in a particular industry or section of industry - that is, work for $275 a week, or $290 a week if they are really good - or otherwise have the option of staying on the award. The Minister is saying that whatever the industry - for instance car cleaning - the worker will have the option of hanging onto the award or opting for a workplace agreement.

It is facile to suggest to the House that any freedom would exist in the work force if that were the case, because quite clearly there would be no freedom of choice. I am sorry that the member for Geraldton has left the Chamber because I wanted to refer him to some remarks he made last evening during the debate about the freedom that will be introduced by this Bill. I wish to ask him about the industry with which he is familiar; that is, vehicle sales. He employs salesmen and mechanics and presumably sells cars using their services. I will draw a comparison for him. I assume the member operates a firm called Bloffwitch Ford in Geraldton. Let us assume that he sells Ford Fairmonts for $35 000. Let us also suppose that I have sufficient money to go to Geraldton and set up a Ford dealership in competition with him - assuming I could get a franchise from the Ford Motor Company - and I set up Thomas Ford. Let us suppose that I am selling Ford Fairmonts for $35 000. I guess I could glibly say that technically the member for Geraldton would be quite free to offer Ford Fairmonts for $40 000 while I am offering them for $35 000, or that I would be free to put those cars on the market for $40 000 each and the member for Geraldton for $35 000 each. One could say glibly that was a free market and one can charge whatever one wants. However, no freedom exists, because the one with the higher price would not achieve any sales and in a short time would be bankrupt and would no longer be in the market. Therefore, to say freedom exists to offer products at different prices is quite facile. The Minister has been quite facile in saying to the House that this legislation will introduce new freedoms to the work force and that workers will have the freedom to choose between an award and a workplace agreement. Another example using Thomas Ford and Bloffwitch Ford -

Mr Bloffwitch: Does the member not see a possibility of being able to reward employees for productivity as I see such opportunities in my world?

Mr THOMAS: I believe that is a great idea.

Mr Bloffwitch: I am glad the member agrees with something.

Mr THOMAS: We agree on many things. I am glad that the member has said that he should be able to pay more to productive employees. That is great! He may be interested to know that under the existing industrial relations system and enterprise bargaining it is possible to recognise productivity in the work force in a particular place and, if particular employees merit it, to pay them over award payments.

Mr Kierath: One cannot vary the conditions of the award. The member knows that. An employer can make the money payments but cannot remove restrictive work practices.

Mr THOMAS: I am appalled that the Minister for Industrial Relations - which is a frightening thought - who is responsible for industrial relations legislation in this State, says that an award cannot be varied at present.

Mr Bloffwitch: It can't.

Mr THOMAS: The Minister is now backed up by his colleague the member for Geraldton, who at least is not the Minister responsible for industrial relations legislation. It is a simple process to fill out an application to vary an ward, file it with the commission and have it brought on for hearing.

Mr Kierath: How successful is it if the employee and employer agree and the union does not?

Mr THOMAS: I was an industrial advocate for a number of years and can assure the Minister that many variations to awards have been implemented which were opposed by unions and on many occasions unions have sought to vary awards unsuccessfully. On other occasions employers have sought to vary awards and been successful notwithstanding the opposition of the union or the work force. That is the simple thing to do. There is a flexibility within the industrial relations system to accomplish that; but, more to the point, in more recent times the industrial relations system which we have in this State and this nation at present has made specific provision for enterprise bargaining. So there has been recognition that what may be the case in one enterprise in an industry may not be the case in another enterprise in that same industry. It has been possible to reach agreements which will reflect the circumstances and the economics of that enterprise which may be different from those in the industry at large, and hence achieve what one would have thought would be the objectives the Minister would seek to achieve with this legislation.

I described this legislation as seeking to radically alter the relationships between employers and employees in this State, and that is what it seeks to do. It will be limited in its effect because awards are made not only by the State tribunals constituted under the legislation for which this Minister is responsible, but also by tribunals established by Commonwealth legislation. What this Minister is doing is creating the greatest incentive that has ever existed in the history of this State for employees to seek refuge in the Commonwealth jurisdiction to avoid the impact of draconian State legislation. I am quite confident that one of the main effects of this legislation, if the Parliament ultimately passes it, will be to alter the nature of relationships between employers and employees in Western Australia. However, probably its most significant impact historically will be to marginalise the State jurisdiction for industrial relations, because all those who are capable, through their organisations, of achieving Commonwealth awards - and hence avoiding the impact that this legislation would have on the protection that awards have traditionally given to employees - will seek that refuge in a Commonwealth jurisdiction and, instead of the State tribunals being, perhaps, the main determinant of wages and conditions in this State, we will find the State jurisdiction becoming increasingly irrelevant.

Dr EDWARDS: I support the amendment moved by the member for Thornlie. Part of the problem we are dealing with is that the whole notion of workplace agreements is built on the false premise that people all have the same power when they are all in different situations, and that is just not true. In my contribution to the second reading debate I gave the example of a relative of mine who had quite a good job in the city. Her contract came to an end and she was offered a job in the country. However, in that new job her hours of work would have almost doubled, and she would have been on call 24 hours a day working in an isolated part of the State for a long time before she could return to the city. The contract she was offered initially stipulated that she would be paid the same amount as she had received for working at an office job in the city. Ultimately she challenged the company and was given a good rate of pay, but the risk for her was that she could have been left without a job.

If, for example, 50 unemployed people lined up outside a factory to apply for a certain position, under the conditions proposed in the Bill those people would not all have equal power. If the employer wanted to pay less than the award but one of the potential employees wanted to be paid the award rate, that person would not get the job. What rights, and what veto powers, would that person have then? Obviously the employer would choose a worker who would be happy to be paid less. It is false to call these contracts workplace agreements. To call them employment contracts would be far more honest.

Mrs HENDERSON: When I spoke to this clause previously I talked about what I believed to be the commonly understood meaning of the words "contract" and "agreement", and why I believed that, to facilitate the public's understanding of what this

was all about, the title of the Bill should reflect what the Bill was actually about. However, there is another reason why I feel very strongly about this, and I resent the fact that the Minister, in his response to my comments, said that I was making a song and dance about something trivial. It is not trivial at all.

Mr Kierath: I did not say it was trivial, I said you were trivial. There is quite a difference.

Mrs HENDERSON: Very well, the Minister said I was trivial. He can say that, but whether this legislation is accurate and honest in its title is not a trivial matter. It may not make much difference to the Minister, but to members on this side of the House it is very significant.

A further reason why the title should be changed is that this legislation deals not just with workplace agreements but with two other forms of contract. It deals with the kind of contract the member for Geraldton kept mentioning, and which the Minister has mentioned on many occasions. He has come into this Chamber many times and said, "What about all those people who are not under awards? Why do you never show any concern about them?" Those people are under common law contracts of employment, which are mentioned in several different places in the Bill.

Mr Kierath: Everyone has a contract of employment.

Mrs HENDERSON: Yes, everyone does. Those contracts of employment which are not governed by awards are mentioned in this Bill and are distinguished from these other contracts, which are called workplace agreements. They, in turn, are distinguished from a third kind of contract mentioned in the Bill, which is a contract of employment governed by an award. So at least three different kinds of employment contracts are mentioned in the Bill, and in a number of clauses it is made quite clear which will override which. If someone enters into a workplace agreement the Bill says what effect that will have on that employee's common law contract of employment, and it distinguishes that from a common law contract of employment governed by an award.

This Bill is about different kinds of contracts of employment and how they interrelate, which takes precedence over which, which have the award as their base, which have the minimum conditions as their base, what happens if a contract is breached, what that employee's remedies are, where he can go, what recompense he has, where he can appeal and which court system he can approach. That is what this Bill is about. If someone has an employment contract governed by an award - the Minister says people will be able to stay under that kind of contract - and the contract is breached the employee can go to the Industrial Relations Commission seeking a remedy. If an employee has a common law contract of employment and believes it has been breached, he can go to the civil courts to argue his case. If an employee is given a workplace agreement contract and believes the contract has been breached he can go to the Industrial Magistrate's Court. There are three different kinds of contracts, all in the one Bill. What more accurate title, then, than the employment contracts Bill? The legislation states clearly that it is about three kinds of contracts and how they interrelate. I commend the Minister on the Bill's drafting, which makes clear how those contracts interact. I do not agree with which overrides which, but it is crystal clear how they relate to each other.

The present title of the Bill creates confusion because it gives the impression that the Bill is simply about agreements. It is not. In fact, as I said earlier, anyone who picked up this legislation would think it was about an agreement, with two people or two groups of people getting together and reaching agreement. It is not about that at all. It would be, as described by a number of members today, that one party puts a contract on the table. I know the Minister does not believe that will happen, but from our experience it undoubtedly will.

Mr Kierath: It would go on the table, but it would not be registered; that is the difference.

Mrs HENDERSON: Let us imagine that a new employee is entering negotiations.

Mr Kierath: Other clauses in the Bill cover that. We are debating the short title.

Mrs HENDERSON: The title is significant because it impacts on whether the contract is an agreement. The new employee may go to an employer and say, "Let's negotiate my contract of employment." Let us assume that it is Maria the cleaner, to whom I referred during the second reading debate. Her employer may say, "No. Here is the contract in its final form. Everyone else has signed it. This is what I offer; take it or leave it." I wonder whether it could be described as an agreement in such a situation. Maria did not agree at all. She was probably horrified by the conditions she was offered, but she had no choice as she must support her family. The other day the Minister said that Maria should just take her contract to the commissioner at a later stage and allege that she was coerced.

Mr Kierath: I didn't say that.

Mrs HENDERSON: At a later stage I will read the transcript of the Minister's comments.

Mr Kierath: I was trying to explain the process.

Mrs HENDERSON: We will make the matter clear. This legislation is about contracts of employment. It will involve three types of contract and outlines their relationship. However, the legislation is not necessarily about agreement. It covers contracts in which no agreement is reached because the Commissioner of Workplace Agreements must, under the legislation, take it that a signature indicates consent to the contract. If a person has signed under coercion, and is still being coerced, the commissioner may still regard the signature as consent. The employer may say, "Sign there if you want a job, and if you go to the commissioner you will not get the job."

Mr Kierath: Read clauses 65 to 67.

Mrs HENDERSON: If the Minister thinks that no employer will do that, he is more naive than I thought. Employers will say, "Here is the contract; sign or you won't get the job."

Mr Kierath: We believe that provisions will cover that. I have never said I supported that action or that employers would not do that. However, provisions will prevent that from happening. There is a big difference.

Mrs HENDERSON: Indeed. Let us consider the provisions to prevent duress. What will happen when the employer says, "Sign the contract and do not go to the commissioner or else you will not have a job"? In that case the person will be coerced into signing and told not to complain under the threat of losing his or her job. The commissioner does not have to satisfy himself by interviewing people to find out whether they were coerced into signing a contract.

Mr Kierath: What does clause 28 state? He must satisfy himself.

Mrs HENDERSON: It also states that a signature is deemed to be consent. Therefore, unless the person complains, the commissioner deems consent. This is exactly the same as the coercion put on the person to sign the contract.

Mr Kierath: Have you read clause 28?

Mrs HENDERSON: I have read every clause very carefully. The title is not a trivial matter; it is supposed to embody the content of the legislation, but this Bill is about workplace contracts.

Mr BROWN: The words which properly describe the type of contractual arrangements to be established under this Bill are "workplace contracts Bill". A little earlier today the Minister talked about the word agreement being appropriate because each side in a contract had the power of veto over the proposed agreement. He claimed that if the agreement were unacceptable to one side or the other, neither of the parties would enter the contract. Therefore, the proposed agreement would lapse and the veto would remain in place.

Let us then consider whether we have negotiation followed by agreement under this legislation. I refer to what happens in today's work force: Agreements are currently made between workers and employers for over-award payments, which are sometimes

large. For example, a highly qualified chef would be employed by a restaurateur who wanted to improve his business. As members know, the chef would know that his or her skills were in demand and would be able to bring significant rewards to the employer. Therefore, restaurateurs and chefs would negotiate for wages and conditions which were mutually satisfactory.

The same situation applies in the legal profession. Some highly skilled people may be seeking a partnership or employment arrangement within a practice. In many instances such people have unique skills, and a sustained period of negotiation occurs before an agreement is reached. This would apply to people who are not employed under the award today, or who receive the award and benefits over the award.

Another category is people who are paid the award rate - nothing more, nothing less. The award does not make it illegal for those people to be paid more or receive greater conditions than those outlined in the award. It is a matter of those individuals having skills which are not so much in demand as the earlier examples I gave. With this legislation such people will accept contracts or they will not have a job.

Mr Bloffwitch: Do you believe there is a better system than the award? I think you do.

Mr BROWN: No. Many thousands of shop assistants are employed by the Coles-Myer group, and they receive the current award rate of $385 a week. Does the member for Geraldton believe that a new shop assistant employed with this legislation in force will receive the $385 award rate or the $275 minimum wage outlined in the legislation?

Mr Bloffwitch: If the employer adopts the principle which I will follow, his worker will earn more. I will be able to put in place a productivity scheme.

Mr Thomas: But you're a reputable person.

Mr Bloffwitch: I hope that the majority of employers are reputable people.

Mr BROWN: The difficulty with this Bill for those people in the labour market who are very vulnerable is that they either accept the contract that is offered, or nothing.

Mr Bloffwitch: Or they stay where they are currently.

Mr BROWN: What if they are unemployed?

Mr Bloffwitch: Are you telling me that Coles Supermarkets will sack its employees if they do not sign the enterprise agreement? I doubt that very much.

Mr BROWN: A significant mining company in this State which has awards has drawn up a contract of employment. It is a most significant contract of employment. It covers every contingency in the workplace. Many things that are not contained under the award are covered in that contract, which is very skilfully crafted by some of the best legal brains in this city. I could not imagine the cost of crafting that contract. Do members think there can be any negotiation in the terms of that contract? Not one word of that contract is changed. A prospective employee looks at that four or five page document, and, if he can understand it - because one would need to be almost legally qualified to understand it - he either accepts the contract or he does not get the job; that is what it comes down to. That is what will happen under this Bill. That is why those of us who are concerned about those people who are vulnerable in the work force or are seeking to enter the work force are concerned about this Bill. Those people who have sufficient skills will be okay, but it is those people who are the most vulnerable who will suffer the most. In reality, under this Bill is a contract system and that is the reason the Opposition strongly supports the title of the Bill being a reflection of what will happen; namely, the implementation of employment contracts at the workplace.

Mr THOMAS: The Committee is debating whether this Bill should be known as the Workplace Agreements Bill 1993 or the employment contracts Bill 1993. A number of my colleagues and I have put forward a number of reasons why the Workplace Agreements Bill 1993 is a misnomer. Firstly, it uses the word "agreement" whereas in our submission a contract of a sort will be imposed upon employees. Secondly, it is quite narrow. It will have a significant impact not only on what it seeks to create; namely, the

legislation which would enable the creation of workplace agreements in the way they are envisaged in the Bill, but also on the master and servant common law employee-employer relationship, and the system of industrial relations which has existed in this State and the Commonwealth jurisdiction through the award system. By way of interjection when my colleague, the member for Morley, was speaking, the member for Geraldton said that under the regime of workplace agreements his employees would be paid more.

Mr Bloffwitch: I can see enormous opportunities for them. Every article I read says that unless we move to this type of forum we will never catch up with the rest of the world. Mr Keating said that in a talk.

Mr THOMAS: I agree with what the Prime Minister said on that occasion. The point I made yesterday, and again today, is that the current system makes provision for that. If an employer wishes to pay his employees more than the award, nothing under the current system of industrial legislation prohibits him from doing so.

Mr Ripper: The only thing you cannot do is pay them less.

Mr THOMAS: He could pay them more under the existing award. I agree with the Prime Minister's contention, to which the member for Geraldton referred, that there needs to be greater flexibility. The old assumption that a fitter must be paid the same amount of money, irrespective of the industry he works in, is a principle which is out of date; the system needs to be more flexible. Over the past 10 or 12 years it has become infinitely more flexible, and provision exists for it to be even more flexible. In a sense, the jargon the Minister is using in this legislation has been plagiarised from the existing system, which contains a provision now for workplace agreements. If Bloffwitch Ford is a particularly productive enterprise, and I am sure it is, as it is run by a reputable man, it is possible for Mr Bloffwitch to pay his employees more than he is currently paying them. He is a kindly fellow and would no doubt want to do that. If Mr Bloffwitch wanted he could enter into an enterprise agreement with his employees and enshrine an agreement under the existing system. He does not need this lie - that is what this awful piece of legislation that calls itself the Workplace Agreements Bill is. This Bill seeks to impose conditions upon employees, and the word "agreement" is quite inappropriate in its title. The member for Geraldton made several points by interjection.

One of the points he raised is that a reputable employer such as he no doubt is, or as the member for Wellington no doubt was when he had a pharmacy, or as a number of people on the other side no doubt were in their various businesses and no doubt as my colleague the member for Balcatta is in his travel agency, will seek to continue, once this new regime is introduced, to pay their employees the award which they are currently paying or perhaps a bit more if the employee is worth that and the employer is able to afford it. However, that nice intention is unlikely to be carried on, at least for any period in practice, because these businesses operate in a competitive environment. I have no doubt that there are car dealers in Geraldton apart from the member for Geraldton, there are pharmacies in Waroona - or wherever it was that he ran his pharmacy - other than the one operated by the member for Wellington and there are travel agencies in Perth other than the one that is operated by the member for Balcatta. If there are no competing businesses and those entrepreneurs continue to operate businesses whose costs are higher than they should be, they can be pretty damned sure that there soon will be competing businesses, and they will offer their employees less. They will have that opportunity because they will be able to use the Workplace Agreements Bill. They will be able to go to some poor, unfortunate, unemployed person who will accept their offer. Because there is no agreement, they will be able to get someone who is unemployed and desperate for work to work for $275 a week or, if the employer is generous, $280 or even $290, and that person will probably take that job. All of a sudden, a Ford dealership in Geraldton will be staffed by people all being paid $290 a week, a pharmacy in Waroona will be staffed by people being paid $290 a week and a travel agency in Northbridge will be staffed by people on $290 a week. Under those circumstances, it is unlikely that those businesses - the car dealership in Geraldton, the pharmacy in Waroona and the travel agency in Northbridge - will stay in business and remain competitive. Therefore, notwithstanding

the good intentions of the member for Geraldton, the member for Wellington and the member for Balcatta, it is unlikely that they will be able to continue to pay the awards and the over award payments which they would like to pay.

I am not suggesting that wage rates must be protected - although it is desirable that they are - if they are truly uneconomic, if the country cannot afford them or if they are internationally uncompetitive. However, under the current industrial relations system we have scope for flexibility. If people such as the Minister want to pay their employees more - he professes to have this desire - there is nothing to stop him from doing so. If he wants to reflect that in an award, there is nothing to stop him from applying to vary the award. If his enterprise is so profitable and so well run that he would like to enter into an enterprise agreement, not just individual arrangements with his employees but over the whole enterprise to reflect the prosperity of this well run business, he could enter into an enterprise agreement. Therefore, why do we need this wretched, misnamed Workplace Agreements Bill? The only thing that is accurate about its title is that it is a Bill. There is nothing in it about agreements. The use of the word "workplace" to indicate an equal meeting between employer and employee in a workplace to come to some sort of agreement again is a misnomer. There is no equality of capacity between the two parties to the arrangements that will be reached under this legislation. The nature of the arrangement between the employer and the employee is that it will be possible for the employer to impose it upon the employee and the name "workplace agreement" is totally inappropriate.

Mrs HENDERSON: The debate this afternoon has basically been around the word "agreement" compared with the word "contract". Effectively, the Minister has said that he does not believe that the kinds of concerns that we have expressed will eventuate. Maybe he believes that; maybe he is genuine. Maybe he believes that all of these workplace agreements will truly be a meeting of minds, that they will be true agreements between the parties that will not reduce working conditions or wages and that everybody will enjoy greater wages and conditions. There is no reason why that cannot be done now without this legislation.

Mr Kierath: There are lots of reasons.

Mrs HENDERSON: There are not lots of reasons. There is the capacity to do it. BHP demonstrated it a week ago and CSBP demonstrated it six months ago.

Mr Kierath: I met health workers this morning and they gave me an example of certain unions frustrating changes that would benefit those health workers.

Mrs HENDERSON: Have they sought to negotiate?

Mr Kierath: Yes, they have, and the unions refused to cooperate. Under the current system there is nothing they can do about it.

Mrs HENDERSON: That is one point of view.

Mr Kierath: There is a queue of people lining up saying the same sort of thing. That is what you are really worried about, aren't you?

Mrs HENDERSON: No, not at all.

Mr Kierath: You are worried that the power base of the people who supported you financially to put you in this place will be eroded.

Mrs HENDERSON: The Minister should watch what he says because nobody supported me financially to put me in this place.

Mr Kierath: That is what you are fearful of.

Mrs HENDERSON: The Minister should be careful about what he says. I did not receive a cent or a dollar from any organisation to put me in this place.

Mr Kierath: Didn't you get any money out of Burkie's leadership account? Were you on the outer?

Mrs HENDERSON: Never, not a cent. The Minister should watch the words he uses.

The DEPUTY CHAIRMAN (Mr D.L. Smith): Order! The Minister should keep his remarks relevant to the Bill. I do not think it helps for him to be interjecting. It lengthens the Committee stage intolerably.

Mr Kierath: My remarks are about as relevant as the other remarks.

Mrs HENDERSON: I am very disappointed in that last remark because members on this side of the Chamber take this legislation seriously. People have done a lot of work. They have read the Bill carefully. The Opposition has drafted its amendments very carefully. We have used the one parliamentary draftsperson available to us. She has worked day and night on our amendments. I resent the implication that somehow they are trivial and not worthy of the attention of the Chamber. Whether the Minister likes it or not, this is a democracy. His will does not prevail over everybody else's. This Committee is entitled to discuss this Bill. It is unfortunate that he made such a derogatory remark because I was actually being quite pleasant to him. I was saying that maybe he is quite genuine in his thinking that these agreements will reflect a true meeting of minds and that people will agree. I accept that, as a result of that, he believes everybody will be better off. I do not know where the money will come from but everybody will be better off! Everything will be more productive and everybody will enjoy high wages and conditions! We all look forward to that day. However, the reality is that that has not happened in those jurisdictions where this kind of legislation has been introduced. I was fortunate last year to visit New Zealand, which has very similar legislation to this. It is called the Employment Contracts Act, which is what this Bill should be called. I looked at some of the contracts that have come out since that Act was passed. I notice that one of the visitors in the Chamber today came with us to New Zealand and he too saw the contracts that I saw. One of them was for a person working on a building site. The contract was on a single piece of paper. It was presented to a 22 year old man and it had a place on it for his name. It said, "I agree to the following conditions of employment." The conditions were a 44 hour week, $7 an hour, no sick leave, and no annual leave because the employment was to be on an hourly casual basis. The last line of the contract read, "I agree to be available at whatever time is required by my employer." In other words, he works 44 hours a week for $NZ7 an hour. If the employer calls him in for two hours, he goes. He receives no sick leave, annual leave or superannuation. To what does that equate? The New Zealand minimum wage. We talked to the people being contacted about those sorts of contracts and they told us building contractors around that city use these standard contracts. They are handed to the young people when they apply for jobs at building sites, and they are told that is the rate if they want the job and they must agree to the conditions. It is not the only instance I saw. I saw others very similar, some of which were exposed in the media last year. I refer, for example, to the Copperart contracts. That company cut the wages of its shop employees, and the relevant contract was drawn up in anticipation of the Victorian legislation, which is similar to this. There is no award network or foundation, and no safety net. These employers drop the wage to whatever they like as long as it is above the minimum of $275 a week.

I ask the Minister to respond to my next point. The legislation contains in its title the word "agreements". If someone later established that there was no agreement, that an employee was coerced into signing the agreement and also coerced into not going to the commissioner to complain because that was part of the coercion, will the Minister give an undertaking that the contract will be void? Will he assure me that under this legislation the person will not be bound by the contract signed, which was not an agreement or meeting of minds but was a coercion of one party over the other because one party had the bargaining power and the other had nothing to offer but his labour? I do not want the Minister in reply to read clause 56 about the commissioner and about duress. I have read that. If the Minister thinks that people are not coerced into signing contracts and told not to complain, he lives in fantasy land. It happens now. In relation to the most important contract most people enter into - their contract of employment which provides their livelihood - there is not that possibility because the safety net of the award and the legally binding minimum set of conditions, prevents their signing to work

for a pittance and being coerced. That was part of our progress from the last century - to move away from the days when people were on subsistence wages.

The only kind of rationale the Minister constantly gives is that this legislation will create more jobs. Every time we speak in this House on the subject Government members, like a little chorus, ask about unemployment and jobs. A hearing took place in the Industrial Relations Commission at which the fast food industry sought to reduce the wages of its young employees. Employers in that industry were asked to go to the witness box and say how many jobs they would create if they were allowed to reduce the wages of their young employees. How many employers said they would create more jobs? Not one was prepared to give sworn evidence that he would create extra jobs if he paid lower wages to his staff. The employers know, as we all know, that if wages are reduced the extra money goes into the pockets of the enterprise. If the wages of 10 workers, who were managing to do the job adequately, were reduced by 10 per cent or 15 per cent, the employer certainly would not employ additional staff to walk around the enterprise doing nothing. The money would go into the employer's pocket.

Mr BROWN: I also come back to the question of whether under the provisions of this Bill we shall see so-called agreements or contracts. I thought it would be wise to look at the meaning of the word "agreement" under the law. I looked at the *The Oxford Companion to Law*, which is kept in the Parliamentary Library, and one of the definitions of "agreement" in that publication states that agreement has by itself no legal effect but is a prerequisite of any valid contract, payment, compromise, variation or discharge of contract, or conveyance.

In fact, the terminology used in the title of this Bill, which seeks to put into place contracts, is misleading, when one has regard for the way in which agreements are interpreted in the law, certainly as indicated by the publication to which I have referred. To emphasise the point, that publication also refers to an agreement itself being of no formal effect but the agreement leading to a contract. The contract has the force and effect. Indeed, this Bill refers to wages and conditions of employment being reflected in the contract. It refers to the registration of the contract. Hence, one can take from all of that only that the Bill is about contracts as they are known in the law; it is not about agreements as they are known in the law. It is important to put that very clearly and precisely because there is some imprecision not only in the title but also in the understanding of the provisions of the current industrial relations system. It has been said already that the current industrial relations system will not give proper cognisance to the views of employees where those views are different from the views of the union. That has been said time and time again. The commission is said to have regard only for the views of the union with respect to wages and working conditions. Any elementary research of the industrial tribunals in this country shows that is patently wrong, and there is a patent misunderstanding about that issue.

I will give members two cases - I do not have all the references here - which are reasonably well known and should be well known to those people who have even a fleeting interest in industrial relations. The first case was the Hamersley Iron clerks' case. In that case, the Federated Clerks Union applied to the Western Australian Industrial Relations Commission for an award to cover clerks at Hamersley Iron. Hamersley Iron claimed and demonstrated to the Industrial Relations Commission that the clerks at Hamersley Iron were well paid vis-a-vis other clerks, that they did not want an award, and that they did not want the Federated Clerks Union. A number of clerks at Hamersley Iron were members of that union and had authorised the union to apply for that award.

The DEPUTY CHAIRMAN (Mr D.L. Smith): Order! I have made the point previously about my view of conversations; that includes conversations on the telephone, which is a convenience for the whips. They should not be prolonged conversations, and they should not be too noisy.

Mr BROWN: That case is a clear example of where the views of the majority of employees - not of all - prevailed. The second case, which will be known clearly to

people with a fleeting interest in this area, is the Castle Bacon case. In that case, the Australasian Meat Industry Employees Union refused to ratify an agreement that was negotiated at the workplace level between the employer and the workers. In that case, the Australian Industrial Relations Commission changed that agreement to reflect what had occurred at the workplace, contrary to the views of the union. That was done within the existing industrial relations system. Therefore, anyone who says that people do not have a say, that workers are not listened to, and that the views of workers are not taken cognizance of in the existing industrial relations system, is patently wrong. There are many other examples of where that can be proved to be the case.

I believe there is a decision of the Privy Council that where there is a gross imbalance in bargaining power - not where someone is coerced or pressured - a contract is invalid and should be struck down. There are provisions in this Bill which deal with coercion, but there are no provisions which deal with an imbalance of bargaining power. Therefore, I ask the Minister, if he is unwilling to change the title or substance of this Bill: If it is found that there is a gross imbalance of bargaining power and if, as a consequence, poor contracts are negotiated for employees, will the Minister introduce into this House a Bill which will strike down those contracts and ensure that the award provisions apply? The Opposition believes that those who are most vulnerable in the labour market - not the highly skilled, not those whose skills are in demand - will finish up not with workplace agreements but with employment contracts. In many instances, those contracts will be crafted and negotiated not by the workers but in the lofty towers of St George's Terrace. Those contracts will follow a set formula and have set conditions, and the only role of the worker will be to sign on the bottom line if he or she wants the job.

Division

Amendment put and a division taken with the following result -

Ayes (19)

Mr M. Barnett	Mr Grill	Mr Ripper
Mr Brown	Mrs Hallahan	Mr D.L. Smith
Mr Catania	Mrs Henderson	Mr Thomas
Mr Cunningham	Mr Kobelke	Dr Watson
Dr Edwards	Dr Lawrence	Ms Warnock *(Teller)*
Dr Gallop	Mr Marlborough	
Mr Graham	Mr McGinty	

Noes (21)

Mr C.J. Barnett	Mr Kierath	Mr Pendal
Mr Blaikie	Mr Lewis	Mr Prince
Mr Board	Mr Marshall	Mr W. Smith
Mr Bradshaw	Mr McNee	Mr Tubby
Dr Constable	Mr Minson	Mrs van de Klashorst
Mr Day	Mr Omodei	Mr Wiese
Mrs Edwardes	Mr Osborne	Mr Bloffwitch *(Teller)*

Pairs

Mr Hill	Mr Shave
Mr Riebeling	Dr Turnbull
Mr Leahy	Mr Cowan
Mr Taylor	Mr Court
Mr Bridge	Dr Hames

Amendment thus negatived.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Mr KIERATH: I move -

Page 2, lines 10 to 12 - To delete the lines and substitute the following -

"**award**" means -

(a) an award under the *Industrial Relations Act 1979*, and includes any industrial agreement or order under that Act; and

(b) an award under the *Coal Industry Tribunal of Western Australia Act 1992*, and includes any order under that Act and any agreement that comes within section 12(4) or 17(1) of that Act;

The amendment is designed to ensure that workplace agreements are available to workers in the coal industry.

Mrs HENDERSON: I intend to pose a series of questions to the Minister. I was disappointed with debate on clause 1. Though it may not be of great moment for the Minister it was significant for me and for other people on this side of the Chamber. During that debate I asked the Minister some questions. I asked him to make a note so that he could respond. He chose not to, and that is his right.

Mr Kierath: I am sorry but the member was talking such rubbish at the time that I did not hear her.

Mrs HENDERSON: The Minister may choose to decide that it was rubbish -

Mr Kierath: If the member wants to rephrase the questions I will see that something is done.

Mrs HENDERSON: It is in *Hansard*. The member for Morley also asked questions about contracts signed under coercion. They are not trivial matters or of small moment.

Mr Kierath: Those matters can be dealt with under other clauses.

Mrs HENDERSON: I asked the Minister specific questions going to the title of the Act and about agreements, particularly in relation to the interpretation of the word "agreement" in the Statute; but never mind, we will leave that. I express disappointment because the Bill is being debated in a serious way. A lot of preparation has been put into it, and the Opposition would appreciate it if the Minister would respond to questions.

The Minister has stated that his amendment will ensure that workers in the coal industry will have access to this legislation. Currently they will not because they are not covered by the Industrial Relations Act but by the Coal Industry Tribunal of Western Australia Act. Did the Minister consult the coal industry before moving this amendment?

Mr Kierath: No more than we did in any other way. We consulted many people. It was always the intention that workplace agreements would be available.

Mrs HENDERSON: No. Did the Minister talk to the coal industry?

Mr Kierath: If the member is going to be like that, I will not answer. The member asks me a question and does not seem to want the answer.

Mrs HENDERSON: The Minister is attempting to answer in a general way. That was not the question. Did the Minister consult the coal industry?

Mr Kierath: It has always been our intention that workplace agreements will be available to everybody under State jurisdictions; that is, the Industrial Relations Commission and the Coal Industry Commission.

Mrs HENDERSON: I understand that was always the intention, but that was not my question. Did the Minister consult the coal industry and ask if people wanted to be included?

Mr Kierath: Our policy is that the agreements will be available to everyone.

Mrs HENDERSON: I am not questioning the Minister's policy. Did the Minister ask the coal industry whether it wanted to be included? I guess from the Minister's evasive

answers that he did not. He did not go to the coal companies before putting together this amendment. He did not ask them whether they would like to be included in the Workplace Agreements Bill. I do not know whether the Minister went to the employees or to the coal industry unions. Did he?

Mr Kierath: That is interesting because recently I went to Collie. I spoke to quite a few people there.

Mrs HENDERSON: Did the Minister ask them about this?

Mr Kierath: I spoke to people from the trade union movement and from the companies.

Mrs HENDERSON: Why cannot the Minister answer?

Mr Kierath: I was told they were waiting for workplace agreements.

Mrs HENDERSON: Why cannot the Minister answer the question?

Mr Kierath: As to the coal companies and the coal unions, the answer is no. I spoke to people involved in the coal industry and they said they wanted to be involved in workplace agreements. That has always been the basis of our policy.

Mrs HENDERSON: Did they say that they wanted especially to be included in this Bill?

Mr Kierath: Yes.

Mrs HENDERSON: Were they the managing directors of the coal companies?

Mr Kierath: I spoke to people from everywhere - plant operators and people in the metal trades.

Mrs HENDERSON: The are supervisors. I am asking about the coal companies. Did the Minister ask the heads of those companies whether they wanted the Bill to be amended to include the coal companies?

Mr Kierath: I did not ask the heads of all companies in Western Australia either.

Mrs HENDERSON: That is not the question. I am asking about the coal industry because the Minister is moving an amendment to include the coal industry. Did the Minister ask those people? No! Did he ask the coal industry unions? No! But the Minister is talking about agreements. He says, "Let's have agreements. Let's get together and have a meeting of minds." He has moved an amendment to this legislation but he has not asked the coal industry companies or the coal industry unions, and he has not been approached by the coal companies or the coal industry unions regarding this amendment. Who has approached the Minister?

Mr Kierath: I have been approached by many people. I do not need to tell the member about everyone who approaches me. I simply say that I met people in the coal industry and they wanted the amendment.

Mrs HENDERSON: Has the Minister met the managing directors of some coal companies in this State?

Mr Kierath: We will see what happens when workplace agreements are put in place in the industry. That will happen in 12 months. They are just starting the process.

Mrs HENDERSON: The Minister does not need to be smug. I am asking a question. The Minister can address that issue in his own time. I want some answers, because the thrust of the legislation is to achieve agreement. I want to know whether the amendment resulted from an approach by the coal industry anxious to be included in the agreements and in this legislation. It is pretty clear to me that it did not.

Mr Kierath: Are you agreeing to the Bill?

Mrs HENDERSON: No; I am not. I will tell members where the basis for the amendment came from. It came from the Chamber of Commerce and Industry of Western Australia. The chamber has said what it thinks should be in the Bill. There was no scope within the Bill to enable the coal industry in Western Australia to pursue workplace agreements.

Mr Kierath: Most of the organisations got back to us with comments. The only group that did not was the TLC. It is the only one that did not make the deadline.

Mrs HENDERSON: The Minister can have his turn. The Minister has had almost five months to draft this legislation. From what I hear around the Terrace, Freehill Hollingdale and Page have been busy for more than five months working on this legislation. It has been in gestation for five months. The Minister comes to the Chamber and moves 60 amendments. What kind of drafting is that, having had five months away from the Parliament in which to draft the legislation?

It is interesting to work out where those amendments came from. I have a document entitled "Industrial Relations Bills: Recommendations to the Minister for Industrial Relations" from the Chamber of Commerce and Industry. Surprise, surprise! Most of the amendments on the Notice Paper are from the Chamber of Commerce and Industry. This Minister forgets that his salary is paid out of the public purse. He is meant to be governing for everybody; not just for the chamber, not just for one section of the community. He is the lap dog, the puppet, of the employer organisations in this State. They say to him, "You forgot to put in the coal industry." What does he do? He quickly puts it in and he moves the amendment. Has he asked the coal industry whether it wants it? Has he asked the employees whether they want it? No. So much for the great cooperative approach to industrial relations! It is a sham, and the Minister should admit that it is. He has not talked to the coal industry. Neither the coal industry nor its employees have asked to be covered by this Bill. However, the amendment has been moved by the Minister because he - or rather Freehills - forgot to put it in the Bill as originally drafted.

The Chamber of Commerce and Industry came along and said, "You ought to put it in." So the Minister came in with the amendment. We will not oppose the definition of "award", but we will oppose everything else to do with this legislation because it is coercive and harsh in the extreme. It is quite significant that in this section we are talking about the definition of an award, an award which to most people in the community represents their safety net, their protection. "Award" is defined in clause 3 of the Bill. After that, it has a slow death by strangulation. That is the intention; let us not be under any illusions. This document from the Chamber of Commerce and Industry makes it quite clear that that is the intention. Later I will read a few excerpts from the document. It makes what the Chamber of Commerce and Industry said to the Minister absolutely crystal clear. When the award conditions are undermined the Chamber of Commerce and Industry says, "That is what will happen under this Bill."

If this Minister were genuine, he would have spoken to the people affected by his amendments. He would have said to them, "Do you find the current system lacking? Can you not get up an enterprise agreement under the current section 41 of the Industrial Relations Act? Do you need to come under my new Bill?" I wonder what they would have said. The previous member for Collie who used to sit on the other side of this Chamber made a very strong contribution in this place. He had very strong links with the coal industry and the workers in Collie. Those employers in Collie had no difficulty in negotiating with their work force. They have had a history over 60 or 70 years of negotiating changes to their awards, to negotiating improved productivity.

We had a classic example of that last year in relation to the establishment of a new power station in Collie. We had changes in work practices that resulted in productivity gains of about 20 per cent. Those very significant gains had massive benefits for the Government of the day, the now Opposition. It enabled the contract price for coal to drop. There were massive changes in workplace procedures in a very old industry which had well established practices. After all the publicity that was given to those negotiations in the coal industry last year, the least this Minister could have done was to ask the industry if it wanted this amendment in the legislation. But he did not.

This is an ideologically driven Minister who has this obsession about opening up industrial relations to market forces and letting the weak bargain against the strong, letting the devil take the hindmost. His philosophy is let the weak bargain for

themselves; let them be self-reliant. He should have checked whether the industry wanted to be included in the legislation. But he did not. This amendment is here today because the Chamber of Commerce and Industry picked up the omission. The chamber went through the legislation with a fine tooth comb. It suddenly found that the coal industry did not come under the Industrial Relations Act and, therefore, there needed to be an extra bit put into the legislation. So the Minister trots out his amendment, hands it to the Clerk and has it put on the Notice Paper because he is interested in the views of one segment only of the community. He makes no bones about it. It is time he dropped the facade of pretending he is bringing in something for everybody; he is bringing in something for one group only. I predict that it will come back to bite him. He cannot govern for just one group in the community; he must try to govern for everyone, for the good of the entire community.

Mr Kierath: It is a pity you don't practise what you preach. What did you do with part 6A when you were in power? You ignored it for the people who were in power. It is a pity you breached your oath of office. I have not forgotten that.

Mrs HENDERSON: Did I change any part of the Industrial Relations Act to give extra benefits to unions over employers? The Minister should just answer the question. Did I ever bring to this Chamber legislation -

Mr Kierath: I have proof that people brought plans to you and you overrode your own department in the matter of prosecution under part 6A.

Mrs HENDERSON: We have proof about the Minister as an employer. We can table in the Chamber notices of prosecution for underpayment of wages. What happened to them? What happened to the employment records?

Mr Kierath: Nothing happened to the records.

Mrs HENDERSON: There was just by chance a fire that burnt the records. What a shame it was that the prosecution could not go ahead.

Mr Kierath: If you check you will find that those fabricated charges were dismissed because they were false and a fabrication by the union and within two hours of my addressing a union rally outside this place, you suddenly manufactured some charges. That is the sort of tactics you stoop to, that you used then and use now; bully boy tactics trying to single out individuals. You ought to be ashamed of yourselves.

Mrs HENDERSON: The charges were not dismissed, and the Minister knows they were not dismissed. They never got to the court. This amendment shows the Minister for what he is all about. He is the puppet of the Chamber of Commerce and Industry. He is not here for the people of Western Australia. That is why the amendment is put before us.

Mr KIERATH: I sometimes have difficulty in believing the words that come out of the mouth of the member for Thornlie. I want to put the record straight because of the number of falsities that she uttered during her barrage of rubbish. As usual the member has not bothered to get the facts. She used the facts that suited her purpose and ignored everything else. She does not want to know anything else. Her mind is made up and she does not want to be confused by the facts. Irrespective of whether the member listens, I intend to put the facts on the record. The first thing people generally want to do is to consult, to seek someone's views. If we are genuine, we will listen to the views that are put. If there is a point to be made, we will consider it and perhaps agree. I started this debate today with that very comment. I have to say that my patience has been severely tested.

The member for Thornlie cannot even wait to hear the facts. As soon as I have something to say she bolts. This will be on the record - that is if the member reads *Hansard*. I am prepared to seek other views and I formed a body called the Western Australian Labour Relations Advisory Council, comprising the major players in the industry, to consult directly with the Minister for Labour Relations. Guess who sits on that body? It comprises four representatives from the Trades and Labor Council - I did not hear any mention about them - and four employer representatives, of which the

Chamber of Commerce and Industry is one. Both of those groups have been represented at all meetings. I have also allowed for a mail box facility so that other groups are aware of what is discussed at those meetings. I will refer to the minutes of the Western Australian Labour Relations Advisory Council. I invited all the parties to comment on the legislation. I asked that their views be submitted by Wednesday, 21 July 1993. I said that it was my intention that the three Bills should complete their passage through the Parliament by the end of this session. I said that I wanted their input. However, some people were not prepared to discuss it. They wanted to debate whether we should have this legislation. I reminded them that matters of principle were not negotiable. Rob Meecham made the comment that the trade union movement would campaign against the Bill and, therefore, amending details of the Bill were irrelevant. I gave unions the chance to participate and comment and do something constructive. They said it was irrelevant.

The council minutes show that I reminded the TLC of its obligation. I said that if the TLC did not participate the legislation would go forward without its input. Rob Meecham said that the TLC was meeting on Friday, 23 July and would not be in a position to notify me of its position until a fortnight's time at the earliest. Good old softy me; I wanted their input, so I said that I was prepared to extend the written deadline to Wednesday, 28 July 1993 to accommodate the unions and to have something from them with which we could deal. I even asked the TLC to contact me by Monday to give an overview of its direction, and said the written instructions could come through on Wednesday. The important part of the minute record is that I said I needed this time line in order to provide time for the Parliamentary Counsel to prepare any amendments that may be required. There it is. I told them why I was extending the deadline. The Bill was not drafted by any firm. Members opposite go on about that, and I am sure the Office of the Parliamentary Counsel would be insulted to think that its work would be given to some private firm. I am pleased with the sterling job the Parliamentary Counsel has done on the Bill under extenuating circumstances, and under heavy pressure from me. I do not make any apology for that. It has done an outstanding job. The minutes record - after the TLC gave me another barrage - that I reminded the TLC that consultation means to seek other views, that the TLC would be consulted but would not make the decision. That is the difference between this Government and the former Government: The TLC made the decisions with the former Government, but this Government makes the decisions.

At the very end of the meeting, in case they had forgotten because we discussed lots of issues, I reminded all the parties that they should formally give their views by 28 July 1993. I have not received any written submissions from the TLC. I did receive written submissions from the CCI. The difference between the groups is that one was prepared to be involved, to consult, and to give its view, and the other spat the dummy. I cannot help it if the Opposition's supporters do not want to play the game. If people do play the game and participate in the process I am not prepared to penalise them. They did their homework and gave one their views. I have an open mind. I am prepared to listen to constructive views. I am not prepared to tolerate a vacuum or destructive views, but I am prepared to listen to constructive views. I gave them an official forum and invited participation, and I have met them. One can lead a horse to water but one cannot make it drink.

I did overlook the coal industry. I will accept full responsibility for that. I make no bones about it. I made a mistake, and when it was brought to my attention I said that it was never my intention to exclude the coal industry. It had always been my intention to include everyone. When faced with that I said, "Yes, I am wrong, please draft an amendment to include the coal industry." In that cooperative spirit I listened to the views which were put and I took them on board.

Mr BROWN: I will speak on the amendment which seeks to include the Coal Industry Tribunal of Western Australia in this definition. Until this amendment appeared on the Notice Paper the employees and members of the coalminers union in Collie believed that their award and industrial relations arrangements would not change. Until this amendment was introduced, and I saw it for the first time a day or two ago, the Collie

coal miners certainly did not know that this change was coming about. The question that exercises my mind in relation to this amendment is, having regard to the Minister's second reading speech, what is the changed circumstance or the justification for bringing forward this amendment.

The Minister raised a number of concerns in his second reading speech in relation to the operation of the existing industrial relations system. One is the great rigidity the Minister sees in the system, brought about by union influence. The Minister thinks that unions, or at least some unions, are set in stone, that they would not agree to change the system, that they are Neanderthal, and as a consequence of that one could not make the productivity and efficiency changes that are necessary for a modern society. The second issue that he raised is that the current laws under the Industrial Relations Act, and one assumes also under the Coal Industry Tribunal of Western Australia Act, impose a rigidity which is too difficult to deal with; that one could not get the flexibility that the industry needs from time to time; and that industry is prevented from changing its work arrangements and meeting new demands by virtue of the rigidity placed in the law. The Minister complained in his speech about the pervasiveness and influence of unions and the rigidity built into the existing legislation. It was said that that had to be changed because those things were inherent in unions and the way the law currently stood. Let us consider the coal industry to see whether that is the case. It is clear that the coal industry, and in particular the Collie Coal Miners Industrial Union of Workers, has been not only at the forefront of change, but also receptive to that change.

Mr Thomas: It invited that change.

Mr BROWN: Yes. The coalminers were not saying that the practices could not change, nor were they seeking to use the tribunal to prevent that change. They were not wedded to practices or arrangements which are somehow today no longer required. They were not saying that they were not prepared to give any consideration to changes in their wages or conditions which would bring about work for their members. The flexibility for which the Minister craved in his second reading speech has been a feature of the coal industry in this State. If one considers every basis which the Minister used in his second reading speech for why the Workplace Agreements Bill was necessary - whether one agrees with the Minister's assertions - and applies each one to the coal industry, nothing stands up. None of the Minister's concerns about industry at large applies to the coal industry. In this new world, where everyone will trust and love each other and operate in an altruistic way under this Workplace Agreements Bill, an inherent trust, lovingness, caring and mutual respect should occur. I thought that the Collie coalminers' union may have received some of that trust and some of that lovingness. The Collie coalminers have not stood in the way of change; they have been receptive to change. They have been prepared to work with the employers and the power industry to facilitate that change. In the interest of the Collie coalminers I thought that in this new loving and warm environment which is envisaged by the Minister they would be consulted, not necessarily for their views to be taken account of or for their views to dictate the position -

Mr Kierath: Are the coal unions affiliated with the Trades and Labor Council?

Mr BROWN: Absolutely.

Mr Kierath: Do you agree that the TLC is the peak body in the trade union movement?

Mr BROWN: Absolutely.

Mr Kierath: The TLC was consulted. I cannot help it if the TLC didn't do its job and consult with its constituency.

Mr BROWN: When did the Minister tell the TLC? The Minister placed on the Notice Paper the amendment relating to the Coal Industry Tribunal two days ago.

Mr Kierath: That is true, but I have read to you the minutes of the Western Australian Industrial Relations Commission meeting where I sought the comments and views of the TLC.

Mr BROWN: On the coal industry?

Mr Kierath: The TLC did not come back with any input. The Chamber of Commerce and Industry of Western Australia did, but the TLC did not. That is where you have been caught out again. That is what happens when you take your bat and ball and go home; you don't get any more to say. That is one of the problems and is why I asked the TLC to give us its views and tell us what it would like us to change.

Mr BROWN: I want the Minister to finish so that he will listen to me in silence, because I listened to him in silence, and answer my question. Did he tell the TLC at that meeting that he intended to bring forward an amendment in this place so that the Workplace Agreements Bill would apply to the coal industry?

Mr Kierath: I told the TLC that -

Mrs Henderson: Just answer yes or no.

Mr Kierath: It is not as simple as that. The TLC was invited to comment, but it did not want to be involved in discussions on amendments. It did not even want to discuss the issues that the CCI raised in the WAIRC meeting.

Mr BROWN: The one thing the TLC may have agreed with in this Bill was that it did not cover the coal industry. Is the Minister suggesting that members of the TLC should have attended his meeting, anticipated that in some weeks' time he would move this amendment, and written to the Minister saying that in the event he moved this amendment, they did not agree with it?

Mr Kierath: If they had been prepared to make input we would have convened another meeting, but the TLC said no. We gave it an extension but after that nothing was received. I wrote to the TLC again asking for more input, but still received no answer. You cannot have it both ways. If the TLC wants to be the peak council it must abide by its responsibilities. As I reminded people from the TLC, they have a responsibility to their constituency to do the right thing by those unions involved. This is precisely the sort of case about which I was talking. If you don't get involved you miss out on having your point of view heard.

Mrs Henderson: Are you saying they gave you nothing?

Mr KIERATH: They gave me nothing.

Mrs Henderson: They gave you a submission, because I have a copy of the submission.

Mr Kierath: After the date.

Mr BROWN: We have had this debate about consultation. We know the consultation that occurred. It is on the record in my speech in the second reading debate and in the Minister's reply. In case people have difficulty remembering what it was, let us put it on the record that the TLC was given a copy of an old Bill one day before it was introduced into this place. As the Minister has indicated, that was four or five months after he had been engaged in secret discussions elsewhere with a number of unnamed people. Let us talk about that if they want to talk about negotiating and evenhandedness. The Minister should tell this Chamber who was involved in those discussions. We could have a guess. Were any union people or employees involved in those discussions?

Mr Kierath: Yes, they were.

Mr BROWN: Management employees?

Mr Kierath: No, you just asked whether employees were involved.

Mr BROWN: Was anyone other than management engaged in the discussions?

Mr Kierath: I will tell you in a minute.

Mr BROWN: We shall be listening intently to find out who it was who brought the view of the working people to those discussions to try to provide some form of balance in this Bill. People say to us that we on this side of the Chamber have too much cynicism and that we should place greater faith in human nature. Can the Minister tell me about the Swan Brewery and the faith that company had in its industrial agreement negotiated for two years, which it then reneged on, resulting in people being sacked after years of

service? The Minister can tell me about the trust that is there and about the trust the Collie coalminers can have in this Government.

Mr Kierath: What system do they operate under?

Several members interjected.

Mr BROWN: Is the Minister saying that under this Government's system that will not happen?

Mr Kierath: If they operated under a workplace agreement they would be far better protected than under the existing system.

Mr BROWN: The Minister should very carefully explain how they will be better protected, because Opposition members will be listening to him. If he can convince members on this side of the Chamber, we might say it is a plus - there are not many in the Bill.

It is appalling that this amendment has been moved now in relation to the coal industry. The Collie miners union is not guilty of any of the accusations or allegations made in the Minister's second reading speech. This amendment confirms the Opposition's cynicism about this Bill and its intent.

Dr GALLOP: This amendment is like a set of binoculars - it focuses us on the major problem which exists with the legislation and this can be illustrated by reference to the Western Australian coal industry. Members in this Parliament should know that coal has been mined in Western Australia for 100 years. In 1991 the one-hundredth million tonne of coal was mined in Collie and the town celebrated that historical event. Over the past 30 years the coalmining industry has been characterised by harmony. The Western Australian Coal Industry Tribunal was set up to regulate industrial relations in the Collie coalmining industry and it is interesting to note that there have been very few disputes and grievances sent to the tribunal. That industrial harmony has meant a secure supply of coal, used primarily but not totally in our electricity industry. In the 1980s coal became even more predominant on our energy scene as oil started to fade out. Along with natural gas, coal played an important part as a fuel source for this State's energy system. This put an increasing focus on the nature of work practices and the levels of productivity in that area. Of course, the need for improved productivity was imperative if that industry was to consolidate its place in the Western Australian energy scene.

In 1991 the Collie Coal Miners Industrial Union of Workers and other unions involved in the coalmining industry sat down with their employers, the Griffin Coal Mining Company Pty Ltd and Western Collieries Ltd, to inquire into how the industry could be improved. It was a very difficult process for those involved and they required the assistance of the then Western Australian Labor Government to facilitate those negotiations. In fact, the member for Eyre, the member for Peel, the member for Mitchell and I were involved in those negotiations between the coal companies and the coal unions. I will remind the Parliament of what happened as a result of those negotiations and explain why it happened and indicate the relationship between that situation and this amendment.

[Leave granted for speech to be continued.]

Progress

Progress reported and leave given to sit again, on motion by Mr Kierath (Minister for Labour Relations).

STATEMENT - BY THE MINISTER FOR COMMUNITY DEVELOPMENT

West Australian Football League Team, Mandurah Proposal

MR NICHOLLS (Mandurah - Minister for Community Development) [5.57 pm] - by leave: During questions without notice today the member for Belmont asked me whether I had written to any agency involved in the proposal to establish a Western Australian Football League team in Mandurah. I replied that I was not aware of any letters to such

an agency. I requested a search of the files in my ministerial and electorate offices and a letter has been highlighted which I will read to the House.

Mr D.L. Smith: Is it written by you as Minister or as the local member?

Mr NICHOLLS: As the local member. The letter is dated 27 April 1993 and is addressed to Mr K. Fisher of the Peel Development Commission. It reads -

> Dear Ken,
>
> Re: PEEL WAFL TEAM
>
> There is a number of potential benefits which could flow on from a WAFL Team being based in Mandurah. As such, we need to collate a positive and well researched document promoting the virtues of Mandurah, against other locations.
>
> Rockingham will come into the Peel League (which is separate from the Peel Region) and will be a major force to be considered. It appears that they have done their homework and are advancing their case for the re-location of a Fremantle team or the establishment of a new Peel WAFL Team.
>
> I have expressed strong support for such documentation to be produced as soon as possible, enabling the W.A. Football Commission a comprehensive insight into Mandurah's potential.
>
> As one of the individuals who advanced the idea of a Peel League before it was "acceptable", I believe the time is right to pursue this issue with extreme vigour.
>
> You have my full support.
>
> Yours sincerely
>
> Roger Nicholls MLA
> MEMBER FOR MANDURAH

I table the letter for members' information.

[See paper No 248.]

JUDGES' SALARIES AND PENSIONS AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

SUPERANNUATION LEGISLATION AMENDMENT BILL

Message - Appropriations

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

MINES REGULATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr C.J. Barnett (Minister for Resources Development), read a first time.

House adjourned at 6.00 pm

QUESTIONS ON NOTICE

WESTERN WOMEN FINANCIAL SERVICES PTY LTD - PAYMENTS
Liquidator, Legal Aid Commission, Investors; Legal Advice Tabling

204. Mr D.L. SMITH to the Attorney General:

I refer to the answer given to question on notice 88 of 1993:

(1) What is the total amount of fees paid to the Receiver to date?

(2) Has the Receiver rendered any further accounts and if so how much are they?

(3) What are the total costs paid to the Legal Aid Commission by the Government to date?

(4) What are the names of the individual investors who have been made offers and:

(a) what was the amount claimed by each;

(b) what amount is being offered to them?

(5) What is the total amount of costs incurred by the Government or the R & I Bank in obtaining advice on the matter to date and to whom were the costs or fees paid including the amounts paid to non-professionals?

(6) Is the Attorney General prepared to table the legal advice on which the offers were based after the matter is concluded?

(7) If the Attorney General is unwilling or unable to provide any of this information what is the reason in each case?

(8) On what date does the Attorney General expect that payments will be made to the persons who have accepted the offers made to them?

(9) Will the Receiver as part of the completion of her work be required to file a report with any statutory agency, department or officer, State or Commonwealth, and if so, to whom and when is it likely to happen?

Mrs EDWARDES replied:

(1)-(2) Nil. The liquidator is independent of the Government and has not made any claim against it.

(3) $100 000, 1992-93; $218 000, 1993-94.

(4) The Government has not made an offer to individual investors. The offer was made to investors as a group.

(5) The matter has been handled internally in the Crown Solicitor's Office. I have no knowledge of the R & I fees.

(6) Legal advice provided by the Crown Solicitor's office is confidential to the Government.

(7) See (1)-(2), (4) and (6).

(8) This depends on the outcome of the creditors' meeting. The Government's offer is open until 5.00 pm, 18 August 1993.

(9) This is a matter for the liquidator.

WESTERN WOMEN FINANCIAL SERVICES PTY LTD - SETTLEMENT
Eligibility Criteria; Assessment; Claimants List

205. Dr WATSON to the Attorney General:

(1) In relation to the answer given to question on notice 88 parts (4) and (7), will the Attorney General explain why a criterion for eligibility to claim moneys was not a belief that investors "were induced to invest in the Western Women group in the belief that its operation had the imprimatur of Government"?

(2) What steps were taken by the Government to protect taxpayers' interests by testing the veracity of the claim made by each investor?

(3) Will the Attorney General provide information on a grid which lists the successful claimants - identified by number - their investments with the Western Women group and dates of each investment, the amount of payment and any identified link with Women's Information and Referral Exchange or any other Government agency?

Mrs EDWARDES replied:

(1) The Government entered a joint offer of settlement with the R & I and National Australia Banks to all individual investors in Western Women. The amount offered by the State Government was determined by reference to a number of factors including the amount of the claims of those investors who were induced to invest by the perceived links between the Government and Western Women.

(2) The Government relied on the Legal Aid Commission to ascertain the truth of the investors' claim to have invested in and be a creditor of Western Women, and legal advice provided by the Crown Solicitor's Office as to the potential liability on those claims of the State Government.

(3) This information was provided in confidence for the purposes of settlement negotiation.

WESTERN WOMEN FINANCIAL SERVICES PTY LTD - SETTLEMENT
Eligibility Criteria; Claims Lodged; Date

452. Dr WATSON to the Attorney General:

(1) What criteria were used to assess the eligibility of Western Women investors to claim compensation from the State Government?

(2) Given that it is the Attorney General's duty to guard taxpayers' interests, is the Attorney General satisfied that all investors to be compensated would otherwise be able to successfully claim State Government liability for their losses in a court of law?

(3) Was a deadline of 25 June 1993 set for the lodgment of claims for compensation?

(4) How many claims for compensation were lodged by 25 June?

(5) Of the eligible investors, how many did not lodge claims by 25 June?

(6) Has a new deadline for lodgment of claims been set?

(7) If so, for what reason?

(8) Did the Attorney General issue a media statement about the changed deadline?

(9) If not, why not?

(10) What is the new deadline?

(11) Will it still be a requirement that all investors have to agree to the terms of the compensation package for it to proceed?

(12) When will eligible investors be compensated?

Mrs EDWARDES replied:

(1)-(2)

The Government entered a joint offer of settlement with the R & I and National Australia Banks to all individual investors in Western Women. The amount offered by the State Government was determined by reference to a number of factors including the amount of the claims of those investors who were induced to invest by the perceived links between the Government and Western Women.

(3) The date for acceptances of the offer was originally scheduled for 25 June 1993. The date was set after consultation with the parties including the liquidator. The liquidator required an extension of the date as a result of the amendments which were required to be made to the resolutions to be passed by the creditors, including the investors, of Western Women Management Pty Ltd. A new meeting was set for 29 July 1993.

(4) I am informed that 623 claims were lodged with the Legal Aid Commission.

(5) Thirteen came forward to the Legal Aid Commission after 25 June.

(6) The new deadline of 18 August 1993 has been set.

(7) The new deadline was set at the request of the liquidator to enable the liquidator to comply with the provisions of the Corporations Law.

(8) No.

(9) The liquidator advised the creditors and the investors of the changed date.

(10) See (6).

(11) It is a term of the compensation package that all investors agree.

(12) It is anticipated that this will occur by the end of August or the beginning of September.

PRISONS - COMPUTERS, PORNOGRAPHIC SOFTWARE INQUIRY

516. Dr WATSON to the Attorney General:

(1) Will the Attorney General make public the results of the inquiry into the acquisition of pornographic computer software by certain prisoners?

(2) If not, why not?

Mrs EDWARDES replied:

(1)-(2)

An initial report to me was made public at the time the decision was taken to remove computers from prisoners' property. A further report of the incident has been completed, but I think the member would understand that a matter of this kind is not appropriate for publication. The report goes not only into the background of the incident referred to but also to remedial and security measures. All those matters must, of course, be maintained in confidence.

STATE GOVERNMENT EMPLOYEES SUPERANNUATION BOARD - SCOTT, MR FRANKLIN

Superannuation Payout

545. Mr HILL to the Treasurer representing the Minister for Finance:

(1) In the matter of a superannuation payout by the Government Employees Superannuation Board to Mr Franklin Scott (GESB reference SB: SCOT

7650-001), when is the board likely to consider the request from Mr Scott's Solicitors, Dwyer Durack, of 8 July 1993, to use its discretion under section 50 of the Government Employees Superannuation Act 1987 to accept an election out of time?

(2) Does the GESB accept that Mr Franklin Scott did not receive the correspondence allegedly forwarded to him on 1 September 1992 concerning the election to make increased contributions as part of the special superannuation arrangements for police officers?

(3) Is the GESB policy of not providing a copy of all medical reports concerning Mr Franklin Scott's retirement a denial of natural justice?

(4) Is the GESB policy of not providing a copy of all industrial rehabilitation service reports concerning Mr Franklin Scott's retirement a denial of natural justice?

(5) Will the Minister direct the GESB to provide copies of the above reports to Mr Franklin Scott, given that these reports form the basis of the GESB decisions in relation to a final payout for Mr Franklin Scott?

(6) If no to (5), why not?

Mr COURT replied:

The Minister for Finance has provided the following reply -

(1) The out of time election will be considered by the board when Mr Scott's request for a review of its decision regarding his disability entitlement is presented to the board. This presentation will occur when board staff have received further medical assessment of Mr Scott's claim.

(2) No.

(3)-(4) No; the policy is in accordance with prudential practice of the board in pursuit of its trustee responsibilities.

(5)-(6) No, as I am not prepared to interfere with the independence of the board in carrying out its trustee responsibilities.

BURSWOOD PROPERTY TRUST - UNIT HOLDERS; FOREIGN UNIT HOLDERS

551. Dr CONSTABLE to the Minister representing the Minister for Racing and Gaming:

(1) (a) Who are the current unit holders of the Burswood Property Trust;

(b) what is the percentage of units held by each one?

(2) Which of those unit holders are deemed to be foreign unit holders under the Casino (Burswood Island) Agreement?

Mr SHAVE replied:

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

(1) (a) As at 31 July 1993 there were 10 061 registered unit holders in the Burswood Property Trust. The trust register of unit holdings is held at the unit registry, Deloitte Ross Tohmatsu.

(b) The register of unit holdings records the unit holdings of all unit holders. The names of the top 20 unit holders, their unit holdings and percentages relative to the total number of units on issue are published annually in the Burswood Property Trust annual report.

(2) A recent audit of the register of unit holdings by the Office of Racing and Gaming, based on unit holdings as at 30 June 1993, confirmed that foreign unit holdings in the trust do not exceed the previously approved level of 58 per cent.

WATER RESOURCES - CONSOLIDATED WATER LEGISLATION PROGRESS

595. Mr THOMAS to the Minister for Water Resources:

(1) Is the Minister planning to introduce consolidated water legislation in the life of this Parliament?

(2) If so -

(a) what progress has been made in the preparation of the legislation;

(b) when is it likely to be introduced?

Mr OMODEI replied:

This issue is still under consideration.

WATER AUTHORITY OF WESTERN AUSTRALIA - DRAINAGE RATES
Bibra Lake, New Rates Protest

596. Mr THOMAS to the Minister for Water Resources:

(1) Has the Minister received a letter from K. and M. Evans of 42 Colonial Drive, Bibra Lake, protesting at the introduction of drainage rates in their area?

(2) Has the Minister replied?

(3) How does the Minister reconcile the imposition of new drainage rates on residential properties while removing them from rural properties?

Mr OMODEI replied:

(1) Yes, on 10 August 1993.

(2) No.

(3) New drainage rates are levied on residential properties, under the provisions of the Metropolitan Water Authority Act 1982, upon declaration of a catchment as a main drainage area. Customers receive a direct benefit from such drainage. Country drainage districts are in the process of being declared exempt from rates under the Land Drainage Act 1925. The benefits of drainage are seen as of benefit to the community at large rather than specific customers.

WATER AUTHORITY OF WESTERN AUSTRALIA - SOUTH WEST IRRIGATION SERVICE, REVIEW

597. Mr THOMAS to the Minister for Water Resources:

(1) What progress has been made in the review of the south west irrigation area?

(2) Is the Government proposing to prepare a draft strategy?

(3) If so, when is it expected that this will be available?

Mr OMODEI replied:

(1) A major review of the future south west irrigation service has been under way since late 1989. The study has progressed through the following phases -

(a) Background data gathering and issue identification - July 1990.

(b) Development and evaluation of options for the future irrigation service - November 1992.

(c) Public review of the options report and preparation of stake holders' submissions of the future strategy - April 1993.

(2) Yes.

(3) September 1993.

QUESTIONS WITHOUT NOTICE

STATE SUPPLY COMMISSION - ANTHONY BLEE MEDIA, CONTRACT REFUSAL

Documents Tabling

151. Mr COURT (Premier): I table documents in respect of question without notice 142 of Wednesday, 11 August.

[See paper No 246.]

FUEL TAX - MOTOR VEHICLE LICENCE FEES, FAMILY REBATE ABOLITION

Minister for Transport's Denial, Resignation

152. Dr LAWRENCE to the Premier:

I refer to the Premier's election policy speech in which he said the coalition would display new standards of enthusiasm, efficiency and integrity. Given that the Minister for Transport, with the complicity of the Minister for Planning, has been exposed wilfully misleading the Parliament and the people of Western Australia by denying Opposition claims that the Government was considering introducing a new metropolitan fuel tax and scrapping the family rebate on motor vehicle licence fees, when will the Premier ask for the Minister's resignation?

Mr COURT replied:

During the luncheon suspension I spoke with the Minister for Transport and the Minister for Planning. No signed proposal has gone to the Cabinet in relation to this matter, and nothing the Minister for Transport has done will have any effect on this year's Budget because it is not something that is being considered in this year's Budget.

Dr Lawrence: This is the most extraordinary ducking and weaving and dissembling. It is under consideration.

Mr COURT: The Leader of the Opposition asked me earlier whether I knew about this matter, and I told her I did not.

Mr Hill: You should have known about it.

The SPEAKER: Order! The member for Helena.

Several members interjected.

The SPEAKER: Order!

Mr COURT: During the luncheon suspension I made inquiries about it, and as a result of those inquiries I can say two Ministers have been discussing a number of proposals. The information in the document - has the Leader of the Opposition tabled the document?

Dr Lawrence: Do you have a copy somewhere?

Mr COURT: Will the Leader of the Opposition table the document?

Dr Lawrence: I will make it available.

Mr COURT: If the Leader of the Opposition will give us a copy of the document, that is fine; because it is my intention this afternoon to ask the Commissioner of Police -

Dr Lawrence: Some whistleblower objected to the fact that -

Several members interjected.

The SPEAKER: Order! I will not tolerate multiple interjections. The Leader of the Opposition has made interjections which I found acceptable. The Premier was accepting her interjections. Interjections of that nature can occur but I will not tolerate the interjections of the Leader of the Opposition being joined by three or four from her colleagues. I will take action if members persist.

Mr COURT: I will be writing to the Commissioner of Police to ask him to investigate the theft of these documents. It is not whistleblowing. This matter has nothing to do with corruption. It is not the formal process of Government. This is a situation where a document was stolen and has come through. If the Opposition had any credibility it would not be a willing party to such an exercise.

GOVERNMENT TRADING ENTERPRISES - REPORT

153. Mr W. SMITH to the Premier:

Is the Premier aware of the report on Government trading enterprises by the steering committee on national monitoring released today? If so, will the Premier inform the House of the significance of the report in relation to our own Government trading enterprises?

Mr COURT replied:

The report to which the member has referred examines the performance of 50 Government trading enterprises across Australia. They were examined between 1987 and 1992, so this is the first comprehensive coverage to determine comparisons between the States. The Government trading enterprises in Western Australia covered by the report are the Fremantle Port Authority, the Water Authority of WA, the State Energy Commission of Western Australia, Transperth and Westrail. In general the report gave this State's authorities a middle ranking, which indicates that, despite some recent improvements, the running of these enterprises still has a long way to go. It is also of concern to see that some of the comparisons with the international trading enterprises are not particularly good. In other words, the report has highlighted that we are falling well short of international best practice in the running of our Government trading enterprises. Many improvements can be made. We look forward to the handing down of the McCarrey report addressing some of the Government trading enterprises, and where we can we will be bringing about improvements aimed at achieving a top ranking.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - WEST AUSTRALIAN FOOTBALL LEAGUE

Submission, Consultant Employment Proposal Inquiry, Minister's Direction

154. Mr RIPPER to the Minister for Community Development:

(1) Has the Minister given any verbal or written direction, request, recommendation or suggestion to any officer in his department to investigate a proposal for a consultant to be employed to put together a submission to the West Australian Football League?

(2) Has the Minister's staff member, Mr Peter Lamb, a prominent identity in the Peel Football League, made any similar approach?

(3) Has any member of the Minister's staff or any officer in his department attended meetings at which this proposal was discussed?

Mr NICHOLLS replied:

(1)-(3)

It is interesting that the member chooses to go out and peddle untruths.

Dr Lawrence: Truths!

Mr NICHOLLS: Untruths - and tries to gain ground by trying to find out the facts.

Mr Ripper: We have the document.

Mr NICHOLLS: The only document is the one I have here, which is a briefing note as an agenda given to the Mandurah City Council. That is the only one of which I am aware. Efforts have been made to consider the feasibility of relocating a Western Australian Football League side in Mandurah, and I am on the public record as supporting such an initiative if it is viable.

Mr Ripper: Have you said that to any officer in your department?

Mr NICHOLLS: I have spoken to the manager of my departmental office in Mandurah and suggest it may be worth considering whether it would be beneficial and feasible for the youth of the area. We have a major problem with youth in Mandurah. When considering available activities, I find nothing inappropriate or improper in the manager of the local DCD office being involved in discussions regarding the feasibility of the proposal.

Mr Ripper: Did you suggest that DCD funding might be appropriate?

Mr NICHOLLS: No requests have been made for funding, and no suggestions have been made that any funding would simply be given. A number of people have looked at whether the submission, which was asked for, could be funded. I have no difficulty at all in providing my support to such discussions. However, no funds have been allocated, requested or authorised, although efforts have been made to draw conclusions and peddle untruths by the member who asked the question!

Mrs Hallahan: You just said that you had discussions with your Mandurah office manager.

Mr NICHOLLS: There is nothing wrong with looking at the initiative for youth in the area.

Several members interjected.

Mr NICHOLLS: I have no problem at all in supporting good initiatives, but I am not prepared to consider situations in which funds would be misused or misallocated. I support the group trying to attract funding from appropriate sources for this proposal. I indicate to this House my strong support for the efforts to relocate a WAFL team to Mandurah if it is viable, beneficial to the local community and will not cause major problems.

CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION, INQUIRY

155. Mr PENDAL to the Attorney General:

Can she inform the House of the current state of investigations into the activities of the building services division of the former Department of Corrective Services?

Mrs EDWARDES replied:

I thank the member for his question. I advise members that charges were laid today under the terms of the Public Service Act by the Chief Executive Officer of the Ministry of Justice against the former director of the building services division of the Department of Corrective Services.

I am advised that 94 charges were laid relating to a range of matters pursuant to non-compliance with Treasury instructions and tendering procedures, among other matters. The inquiries into these matters, which remain ongoing, were initiated by the then Chief Executive Officer of the Department of Corrective Services in consultation with the Public Service Commission. During the course of the inquiry where changes to departmental procedures were found necessary, they have been made.

DOMESTIC VIOLENCE - WOMEN, SERVICES IMPROVEMENTS
Women's Refuges, Country Areas, Improvements; Mobile Team

156. Dr CONSTABLE to the Minister for Community Development:

(1) In its first six months in office what developments has the Government put in place to improve services to women who are subjected to domestic violence?

(2) In particular what steps have been taken to improve the availability of women's refuges in country areas?

(3) Has the promised domestic violence mobile team been introduced and, if so, in which areas does it operate?

Mr NICHOLLS replied:

(1)-(3)

I thank the member for her question. A number of developments have occurred regarding the domestic violence issue during our first six months in office. In particular, we have looked at assisting those agencies which have long waiting lists for victims or perpetrators of domestic violence seeking counselling. The direction of $100 000 to that area was publicly announced, and I have spoken to departmental officers in isolated areas, particularly in the north, about how best support can be put in place. Also, discussions have taken place about increasing funding to women's refuges located within and outside the metropolitan area.

No decision has been made on the mobile counselling unit. That will be constrained by the funds available in this Budget. However, like the member, I intend to pursue the matter.

POLICE - BAHYAH, SITI, DEATH INVESTIGATION
Brentwood Criminal Investigation Bureau, Overtime Work Funding

157. Mr CATANIA to the Minister for Police:

I refer to claims published in *The West Australian* newspaper this morning that investigation of the death of Ms Siti Bahyah was hampered by financial constraints which limited the availability of overtime to Brentwood Criminal Investigation Bureau officers. I should note that it is to the credit of those officers that they pursued the investigation in their own time.

(1) Has the Minister received requests from the police for increased funding or approval for additional overtime in respect of this or any other investigation?

(2) If he has shielded himself from such concerns on the ground of the operational independence of the force, will he now put in place a mechanism which enables the police to make requests for additional funding for such critical investigations?

(3) Will he take steps to ensure that the funds are available to reimburse the Brentwood CIB officers for their unpaid overtime?

Mr WIESE replied:

(1)-(3)

Let me take the last part of the question first. If the officers have worked overtime, they are allowed to claim for it in the normal manner. That is a mechanism within the Police Force. In relation to the overall question, the officers in this case did a fantastic job in successfully uncovering the body. I am full of praise for their efforts. That typifies the spirit within the Police Force. It is no secret to anybody - it is very much general knowledge - that members of the Police Force are under enormous strains, both financially and in their resources, as has been the case for a long time. That is part of the budgetary process.

The Brentwood situation is an operational matter; it is not a matter in which I, as the Minister, can interfere or direct - nor will I - the operations of a specific inquiry, a specific station or even a region within the Police Force. That is not my role as Minister for Police, and I have no intention of getting involved or interfering at that level. Overtime is a real problem within the Police Force because the overtime budget is limited, and always has been. I am sure that the previous Minister would absolutely verify what I am saying about overtime. The allocation of special overtime for an investigation or to a station is, once again, the specific responsibility of the Commissioner of Police. It is not an area that I, as Minister, can, or will, get involved in.

DAWESVILLE CHANNEL - CONSTRUCTION STAGE; OPENING DATE

158. Mr MARSHALL to the Minister representing the Minister for Transport:

(1) At what stage is the Dawesville Channel?

(2) What is the anticipated opening date?

(3) Has a study been made on what effect a new tidal flow will have on the estuary and the harbour? If so, what is the answer? If not, why not?

Mr LEWIS replied:

(1)-(3)

Construction of the Dawesville Channel is well ahead of schedule. The excavation is 80 per cent complete, and 90 per cent of road works is complete. It is anticipated that the new bridge will be open on 26 September 1993 - a matter of five weeks. The channel will be open to the ocean in March-April 1994. An information brochure summarising the results of the study will shortly be available for distribution. I will make copies available to the member for Murray for distribution within his electorate, to local authorities bordering the Peel Inlet and Harvey Estuary, and to other departments and agencies including the Department of Agriculture, the Department of Conservation and Land Management, the Waterways Commission and the Department of Marine and Harbours.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - WEST AUSTRALIAN FOOTBALL LEAGUE
Consultant Proposal Meeting; Mandurah, Approaches

159. Mr RIPPER to the Minister for Community Development:

(1) Did any member of the Minister's staff or any officer in his department participate in meetings at which the Western Australian Football League consultancy proposal, which included a Department for Community Development commitment of $10 000 and which was presented to the Mandurah City Council, was discussed?

(2) Has the Minister made an approach to his department, the Peel Development Commission or the Mandurah City Council promoting the idea of attracting a Western Australian Football League team to Mandurah? If those approaches were in written form, will the Minister table the correspondence?

Mr NICHOLLS replied:

(1)-(2)

I thank the member for Belmont for his question.

Mr Ripper: I bet you do.

Mr NICHOLLS: As a fishing exercise it is a little bit off beam. People did participate in those discussions.

Mr Ripper: Which people? Were they members of your staff?

Mr NICHOLLS: I said at the time that the manager of the Department for Community Development and Peter Lamb, who is a member of my staff, were in attendance. The matter of the consultant was discussed, and a proposal was put to the meeting for funding. I want the member for Belmont to clearly understand that the meeting was told that no funding commitment could be given on behalf of the Department for Community Development, and any funding request must be put in an application and be approved before any commitment could be given. To my knowledge, there has been no written correspondence, although in the local media I endorsed the proposal to try to relocate a WAFL team in Mandurah.

Mr Ripper: So you have written to the agency involved.

Mr NICHOLLS: I am not aware of any letters to the agency involved.

INDUSTRIAL RELATIONS LEGISLATION - BRERETON, LAURIE, DELAYING COMMENTS

160. Mr PRINCE to the Minister for Labour Relations:

(1) Is the Minister aware of comments by the Federal Minister for Industrial Relations, Mr Brereton, that the WA Government should delay its industrial relations legislation until after further consultation with unions and employers?

(2) Does the Minister agree with this approach?

Mr KIERATH replied:

I thank the member for the question. It is interesting to note Mr Laurie Brereton's involvement with the tactics of the Opposition and the Trades and Labor Council concerning this Government's industrial relations Bills. This Government has been trying to get the TLC to the table to discuss industrial relations intelligently. However, the TLC has been delaying the issue and refusing to participate. Last week when its members realised the tactics of the Opposition and the TLC would not succeed, Rob Meecham decided to go east to see who he could rustle up over there. When Mr Brereton became the Federal Minister for Industrial Relations and this Government's intentions in this area were clear he did not seek its views. In April this year a conference of Ministers for labour was held, at which I invited him to comment. However, again, he made no comment. In addition, when I introduced the Bills into this House I sent him three copies together with the second reading speeches pleading for his input. The silence is still deafening. There has been no participation at a Federal level.

It seems as though the Australian Workers Union has had the same problem with Mr Brereton. I refer to an article which states that

Mr Michael Forshaw of the AWU accuses Mr Brereton of not discussing or debating the issues with his union. That is one thing the coalition has in common with the AWU. We could not get him to discuss it intelligently either. At our invitation he came over here and, again, when we asked him for a personal point of view he gave us absolutely nothing. Mr Brereton said that he wanted to bring the Federal industrial relations policy in line with the International Labour Organisation's conventions. We presume he is referring to the one year's unpaid parental leave, the strengthening of unfair dismissal procedures, and guaranteed minimum conditions. Does that sound familiar to members? It sounds awfully like the Minimum Conditions of Employment Bill we have introduced into this House. The Federal Labor Government has been in office for 10 years and what do we have?

Several members interjected.

The SPEAKER: Order! The member for Morley!

Mr KIERATH: What the Federal Labor Government cannot come to grips with is that in six months of being in office this Government has introduced a Minimum Conditions of Employment Bill which the Opposition was incapable of doing when in office. Mr Brereton is upset that we have beaten him to the gun and done what nobody in Canberra could do. The Government has been able to do this because we on this side of the House govern impartially.

Several members interjected.

The SPEAKER: Order!

Mr KIERATH: We do not have to stitch up deals as has Mr Brereton. He is helpless; he has had to try to stitch up deals and his own faction is cutting him free. I assure this House that we have been able to bring in the Minimum Conditions of Employment Bill because we have no-one like that pulling our strings.

POLICE - BAHYAH, SITI, DEATH INVESTIGATION
Overtime Funding

161. Mr CATANIA to the Minister for Police:

I refer to my previous question regarding the death of Ms Siti Bahyah. The Minister said that the overtime funding is an operational matter. Does he believe that the Commissioner of Police erred in not supplying additional funding to investigate Ms Bahyah's death?

Mr WIESE replied:

I totally support the Police Commissioner's decisions in relation to a matter like this which is within his responsibilities. It would not be proper for me to comment.

MEMBER FOR ALBANY - WORKERS' COMPENSATION CHANGES, JUDICIAL INQUIRY

162. Mr MARLBOROUGH to the Premier:

I draw the Premier's attention to a legally obtained transcript of a telephone conversation between the member for Albany and another lawyer concerning the actions of the member for Albany when he advised his law firm of the Government's imminent workers' compensation changes and the disastrous impact they would have on the community.

(1) Given the many unanswered questions surrounding this affair, including a clear discrepancy between the version of the member

for Albany concerning events related in that telephone conversation and the story he told this House, when will the Premier announce a judicial inquiry into this matter?

(2) How many lies does a member of the coalition have to tell -

The SPEAKER: Order! I direct the member for Peel to delete the word "lies" from his question. He might like to begin the second part of the question again.

Mr MARLBOROUGH:

(2) How many untruths does a member of the coalition have to tell before breaching the Premier's election undertaking that coalition members will uphold new standards of enthusiasm, efficiency and integrity?

Mr COURT replied:

(1)-(2)

No untruths have been told. Taping telephone conversations without the knowledge of the other person is immoral and improper.

Several members interjected.

The SPEAKER: Order! The member for Peel will come to order. That type of interjection which seeks to go over the top of the person speaking is disorderly. I ask the member not to interject in that way again. I also formally call the member for Cockburn to order.

Mr COURT: After 10 years in Government, the best this Labor Party Opposition can get involved in is taping telephone calls and telephone tapping. That is all its reputation is worth.

GREEN SNAILS - SWAN VALLEY, ERADICATION

163. Mrs van de KLASHORST to the Minister for Primary Industries:

My question relates to a serious problem in parts of the Swan Valley, especially among people growing vegetables, with the destruction of crops by an infestation of green snails. I have been approached by the people concerned to ask: Will the Minister take steps to eradicate the problem?

Mr HOUSE replied:

I get asked only one question a week and it has to be about snails! The green snail was introduced into Western Australia in the early 1980s. The Department of Agriculture undertook an extensive campaign in an attempt to eradicate the green snail. That campaign unfortunately was not successful. I acknowledge that it is a fairly serious pest in the areas the member represents. I assure her that the department will continue to be vigilant and supply advice to people in that area and help in the process of controlling the snail. However, it has probably gone past the stage of our being able to eradicate it completely.