Legislative Council

Wednesday, 23 November 1994

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

MOTION - URGENCY

Royal Perth Hospital-Miscellaneous Workers Union, Patient Care Assistants Agreement

THE PRESIDENT (Hon Clive Griffiths): I have received the following letter dated 23 November 1994 -

> Dear Mr President
>
> At today's sitting, it is my intention to move under SO 72 that the House, at its rising adjourn until 9.00 am on December 25 1994 for the purpose of drawing attention to the consequences of the Government's refusal to ratify the agreement made between the management of the Royal Perth Hospital and the Miscellaneous Workers Union in respect to Patient Care Assistants.
>
> Yours sincerely
>
> Alannah MacTiernan MLC

In order for this matter to be discussed, it will be necessary for at least four members to rise in their places indicating their support for the proposition.

[At least four members rose in their places.]

HON A.J.G. MacTIERNAN (East Metropolitan) [2.35 pm]: I move -

> That the House at its rising adjourn until 9.00 am on 25 December 1994.

As any casual reader of the media will be aware, the Government has decided to block the patient care assistants agreement made between the management of the Royal Perth Hospital and the Miscellaneous Workers Union. Today, the Opposition wants to discuss the circumstances surrounding that and, in particular, express its concern about the financial implications of that decision; the consequences for the quality of health care services in, arguably, one of Western Australia's leading teaching hospitals; and, finally, its concern about the sacrifice of good management of health care for the ideological pursuits of a fanatical Minister for Labour Relations.

Point of Order

Hon SAM PIANTADOSI: There is so much audible conversation in the Chamber that I am having difficulty hearing the member, and I guess other members are also experiencing that difficulty.

The PRESIDENT: Order! The honourable member knows that is not a point of order.

Debate Resumed

Hon A.J.G. MacTIERNAN: I thank Hon Sam Piantadosi, because this is an extremely important matter that goes to the very style of administration within this Government, and to the question of ministerial competence and responsibility under the current Government.

I will give some background to this agreement, under which essentially a whole raft of blue collar classifications within the hospital system - that is, cleaners, ward assistants, nursing assistants, catering assistants and orderlies - were rolled into a single broadbanded and multiskilled patient oriented classification. This offers enormous advantages to the hospital, in that it has very direct consequences on cost savings, it allows a great deal of flexibility in rostering and, at the end of the day, it delivers a much better quality of patient care. Indeed, under this system, instead of patients being dealt with by six to 10 support staff each day, they are dealt with by one or two people. This

continuity of care in dealing with patients is extremely beneficial to the quality of care and the whole experience of patients in the hospital. It has been shown that the quality of service delivered to patients is much better, and the patients' general attitude to their stay in hospital is vastly improved. Experiments have been conducted with this multiskilling around Australia. Indeed, last year the Royal Perth Hospital began a trial in two wards, and the effect of those trials has been extensively followed up. It found not only a great improvement in the quality of care delivered to patients, as perceived by the patients and the hospital administration, but also an enormous increase in the productivity of staff. For example, sick leave was almost negligible in the trial period, and when there was sick leave, staff rarely needed to be replaced. Royal Perth Hospital then decided to move to full implementation of such a program and began extensive consultations with unions. Unions and employees were prepared to agree that, provided certain redundancy protections and protocols regarding the new working arrangements were put in place -

The PRESIDENT: Order!

Hon A.J.G. MacTIERNAN: An agreement was finally made. A great deal of detail had to be sorted out by the hospital administration and by the unions. However, an agreement was entered into in late July 1994. The unions then moved very quickly. They called a meeting of the affected employees on 4 August. On 5 August they advised Royal Perth Hospital in writing that the rank and file had endorsed the agreement. These are facts that will become important later.

The agreement then went to the Health Department which wanted changes made which took into account some of the broader issues at which it was looking. Those changes were agreed to by the union and by the third week in August that agreement had the imprimatur of the Health Department. The matter was put to the Minister shortly afterwards; that is, towards the end of August 1994. The substantial evidence presented in hearings before the Federal Industrial Relations Commission and elsewhere indicated that the Minister for Health strongly supported the agreement. He understood the benefits that would accrue to the hospital administration, the patients and the employees in the health system. However, he was not to have his day. He was rolled in the Cabinet industrial relations subcommittee. The argument was put by Mr Kierath - Mr Foss has admitted this - that, no matter how good the agreement was, it could not be approved because it was illegal because it was in conflict with the regulations proclaimed under the Public Sector Management Act which had been passed in the interim.

We all know that that illegality has been removed twice. It was first removed on 25 October 1994 when Australian Industrial Relations Commissioner Reardon granted an interim award which saw the general order override the regulations. It was again removed on 21 November when Commissioner O'Shea granted an interim award which specifically put in place this agreement about which I am speaking today. However, the Minister for Health still refuses to sign the agreement, notwithstanding the benefits and the clear wishes of Royal Perth Hospital, and notwithstanding the fact that the illegality has been put to one side.

How bona fide were those questions of illegality in the first instance? Quite perversely, Mr Kierath argues in the Press now that it is the union's fault for stalling the agreement. He said if it had acted more quickly, the regulations would not have had an effect because they would not have been proclaimed. On analysing the time lines, that is not true. What is much more likely is that Mr Kierath and his agent, the Department of Productivity and Labour Relations, stalled the ratification of this agreement until after the regulations came into effect so that they could use this argument to serve their own ideological ends.

Again I point to some of the facts in this case. The agreement was struck at the end of July 1994; it was ratified by the union on 4 August 1994; that ratification was advised by 5 August 1994; by the end of the third week of August 1994, the Health Department had given its imprimatur; and it then went to the Minister. As early as August 1994, Royal Perth Hospital had expressed a great deal of concern in correspondence about what DOPLAR had in mind. It had gotten wind of DOPLAR's opposition to the agreement

and it expressed its concern in very strong terms. Commissioner O'Shea, who shared its concern, said it was a question of moving the goal posts three-quarters of the way through the last quarter of a match. The administration of Royal Perth Hospital said that it should not be prevented from entering into an agreement which had been finalised by all local authorities. It pointed to the very substantial benefits that this agreement would give to the hospital and it urged support for the agreement.

Notwithstanding that Royal Perth Hospital had been alerted to the potential problem, the powers that be - I do not know whether it was the Minister, DOPLAR or Mr Kierath - sat on the agreement and it was not considered at the Cabinet subcommittee until after the regulations came into effect on 1 October. All parties acknowledge that this agreement offers great financial benefits to the hospital - $1.2m worth of benefits - great benefits to the patients and great benefits to the general ease and flexibility of the administration. However, it was held up by Mr Kierath, almost deliberately it would appear, until after the regulations had been proclaimed so that he could then argue, "I am sorry, we cannot sign this now because of the illegality in this agreement; it is in conflict with the regulations." He then had the cheek to argue that it was the union's fault for holding it up.

Remedies are available to the Minister for Health. There is no doubt that it is within his capacity and the capacity of the Government to act under the interim award and put these agreements into effect. However, that is not happening. The alternative remedy that must be considered, under the circumstances where the agreement was held up deliberately and the best intentions of local management were being frustrated, is for the Government to provide exemptions to Royal Perth Hospital under the regulations if it does not want to accept the general award. Those two remedies are available. However, those are not the remedies being looked at today. From information that we received from hospital management today, Royal Perth Hospital has expressed concerns to the Government about the $1.2m of savings that it has lost. However, it has been told that it will have to make it up from other areas. One of the other areas that has been suggested is the contracting out of cleaning works. Therefore, even if the financial loss is made up, it is possible that the cleaning work could be contracted out and it may be possible that the $1.2m of taxpayers' money, which has been forgone because of the ideological excesses of Mr Kierath, could be made up. However, in doing so, we lose this great opportunity, at the same time as making the savings, to put into place a better health care system.

We must call into question the clout which the Minister for Health has in the Government if he is being obliged to sit back and allow the fanatical Mr Kierath to thwart the implementation of some very important principles of health care management; that is, letting local managers manage and also ensuring that the hospital structures are set up in such a way as to maximise the delivery of health care to patients. After all, patients must be the focus of the whole health care system. It seems extraordinary that the Minister has every capacity to insist that the agreement be put into effect under the interim award. The Minister for Health has the capacity to demand that Mr Kierath - if he does not want to go down the interim award path - put in place an exemption within the regulations of the Public Sector Management Act, and he is refusing to do so. That goes to the whole credibility of his capacity as Minister for Health.

Finally, we received advice late this afternoon that the interim award has been put in place in Royal Perth Hospital in respect of the trial awards we spoke about earlier. Therefore, it is clear that the management of Royal Perth Hospital will continue -

[The member's time expired.]

HON PETER FOSS (East Metropolitan - Minister for Health) [2.51 pm]: An indication of the style of this debate, and the lack of full appreciation of the facts, is the statement that the Minister has refused to sign the agreement. It misunderstands the way the Health Department operates and the way in which the Government operates. First, if there is an agreement between Royal Perth Hospital and the union it is just that. I do not sign agreements because Royal Perth Hospital is a corporate body.

Hon A.J.G. MacTiernan: The question is ratification.

Hon PETER FOSS: I sat quietly while the member blabbed on.

The fact is that the agreement - if it is to be an agreement - is between Royal Perth Hospital and the workers. It was always understood between the workers that it was subject to conformance with the law and the approval of the Cabinet subcommittee on labour relations.

I am interested to hear the suggestion; indeed I am pleased to hear the enthusiastic endorsement of the change. It was not enthusiastically received by the union members in the first instance. We had to fight them all the way to introduce a similar setup in Fremantle. It was because of the evident success at Fremantle that we managed to introduce the same idea in Perth. The union has not been a willing and enthusiastic partner; so I am pleased to hear the member's endorsement because we will make sure that in future discussions we point out how enthusiastically she supports what we have put forward.

The important point is that the member does not know about the order for which the union members applied in the Industrial Relations Commission. They applied for an order to prevent our implementing it. The Industrial Relations Commission in fact stopped them. Here we have the statement regarding a union bending over backwards to implement it but the order that was applied for was to stop the implementation - because we were going ahead to implement it under the law as it is applied. It is quite appropriate that the Government of the day should implement an agreement under the law of the day. The union members tried to stop it.

The Australian Industrial Relations Commission had other ideas than those which either the Government or the union members put forward. We wanted to go ahead, but the Australian Industrial Relations Commission decided that this agreement should be given effect. Members should keep in mind that this was an agreement always subject to compliance with the law and the approval of the Government, because even the smallest organisation - and RPH is rather a big, small item - must comply with overall government requirements and with the law. As Minister, I go along with decisions of the Cabinet subcommittee - and the matter was endorsed by Cabinet so of course I accepted it. It was always on that basis. The Australian Industrial Relations Commission held that it was appropriate that this agreement should see the light of day even though Western Australian policy and law did not allow it to go ahead in that form. That is the way the Federal Industrial Relations Commission regards the law of Western Australia. It is not important enough! The fact that these people agreed it would be subject to law, and the fact they are subject to law, and they agreed to be subject to ratification, does not matter! The IRC does not care that the matter was always subject to the approval of Government and subject to the law. The matter will be given effect irrespective of that!

I do not know what members of Parliament think when a single member of the Australian Industrial Relations Commission dealing with employees of this Government in a major hospital, who have agreed it was subject to the approval of Cabinet and believe they are bound by Western Australian law, can say it will not apply.

Hon Kim Chance: They must have a legal reason.

Hon PETER FOSS: There is no legal reason. They talked about the agreement, and the problem was that the agreement was subject to the law. The law was that the regulations would apply! However, along comes the Federal Government, a single commissioner under the federal law, who says, "Blow what is done by the Government of Western Australia; blow what is done by the Parliament of Western Australia; blow the fact that the agreement was always subject to the law and subject to the approval of Cabinet. Blow all those things; I happen to know better than everyone else. I will put my views." He made an order that it was to take place under the federal law. I happen to agree with Graham Kierath. I do not believe that the Federal Government through its instrumentalities should be able to interfere with Western Australian law in that way. I hope that if members do not agree with anything else they will at least agree that it is an

important point of principle. If members do not give a damn that the Western Australian Parliament can be overruled by a single industrial relations commissioner, supposedly exercising a federal constitutional power to deal with inter-State disputes -

Hon T.G. Butler: It is the law.

Hon PETER FOSS: We challenge that. It will be seen whether it is the law, when we make an appeal.

Hon E.J. Charlton: Do members opposite like the laws set up by Canberra to run Western Australia?

Several members interjected.

Hon PETER FOSS: We do not believe it is the law. We will show it is not the law because we will appeal it. It is an important point of principle for the sovereignty of the Western Australian Parliament and the Western Australian people. We will make an appeal before the industrial relations authority and we will show that it is not the law. We will show that the single commissioner has it wrong. It is very important to do so.

Several members interjected.

Hon PETER FOSS: It is being done by the Department of Productivity and Labour Relations. I do not know to whom the appeal will be.

It is an important point of principle affecting not only Royal Perth Hospital and the Health Department but also the whole of Government and this Parliament because a deal was done on the basis of the law. If we set aside what happened with the single commissioner, the law and the agreement were clear. The deal was done; it would have taken place according to Western Australian law. We were about to implement it and the union members made an application for an order to prevent our doing so. If the union members had not gone to the Federal Industrial Relations Commission, the agreement would be implemented according to the Western Australian law. If members do not think it is important that Western Australians should write their own laws and should be entitled to enforce them, there will be a parting of the ways.

I do not like the fact that this has happened but it happened because the union members went to the Australian Industrial Relations Commission to apply for an order to stop our implementing it. They have been successful but they have what we regard as an incorrect order. We will establish that before the appropriate court.

It is an important point of principle because we believe we are right; we will show we are right. The matter will have ramifications not only in Royal Perth Hospital or in the health area but across the entire Government of Western Australia. I know that Labor is soft on there being States. Members opposite would hand over everything to Canberra, given half a chance. Time and again members opposite have been shown as soft on looking after the State. Even when we have a clear law for Western Australia, members opposite support their federal mates every time. They will lie down because they do not care for Western Australia and they do not care what happens to Western Australians. Members opposite would like to see centralist government. Perhaps they have forgone their policy that States should be abolished, but they still believe in their hearts that the States should not exist.

This motion indicates that immediately any federal authority says members opposite should do something they lie down with their legs in the air and say, "Take over. We will do everything you tell us to do." Fortunately that is not the way we think it should happen. The Government will make certain that the appeal is taken, and it believes it will be successful. The difference between the Government's regulations and the general order is the difference between six months and 12 months. Interestingly, this is only a six month interim award. In six months they may not have that right. If they had not agreed to this they would have the same protection as the Government is prepared to give them. The Government thinks it is important that it does not allow the Federal Government to trample over it in this way. The State Government will stand up for Western Australia, even though for the last 10 years members opposite have given everything away to Canberra.

HON KIM CHANCE (Agricultural) [3.00 pm]: I welcome the opportunity to speak on this matter. I thank my colleague Hon Alannah MacTiernan for raising it. It is a question that always needed to be debated in this place. I am sure we will debate it again. Debate on this matter was foreshadowed when we dealt with the State's industrial relations legislation last year. The point for discussion was whether the State's new industrial relations laws were so incompetent that it would cause a rush of employees, firstly from the private sector and later from the public sector, to seek coverage under an award created in the federal jurisdiction. It was always going to happen. It has happened now.

Clearly the Minister for Labour Relations is unhappy with what has already occurred in the private sector, in that scarcely 1 per cent of the State's workers and employers have taken up the option of the new laws provided by the State and entered into workplace agreements, yet thousands of Western Australian workers have flocked to the coverage of the federal jurisdiction. That is precisely what happened in Victoria, although people there were not given the choice of the state awards because the Liberal Government simply abolished the awards. The effect has been essentially the same here. The Opposition said it would have that effect, and we love telling government members that we told them so. We will continue telling them that we told them so because the state laws are wrong. The employees and the employers have decided that they are wrong.

I spoke to an employer who represents employers in another industry about the problems they had with their award. The award was archaic and unsuitable for that industry's needs. I asked the employer why he had not explored the other options available to him. He asked, "Which other options?" I told him I was referring to the new state laws, principally the Workplace Agreements Act. I asked whether he had looked at that Act to find a resolution to his difficulties. He said blankly, "No." I was interested in why he had not done that. He said it was because he and his associates did not regard the new laws as a suitable answer; they were inadequate. One day the crunch had to come. Unfortunately, it seems as though the people who will lose are those who use the State's health system. I would feel sorry for the Minister for Health that it happened in an area under his jurisdiction, except that he carried the argument for the Government on those Acts in this place. I am sorry that I cannot feel much sympathy for him; normally, I would.

There are two principal rules in industrial relations if it is to work at all, although sometimes they are more honoured in the breach than in the observance. One is that both sides must be able to respect the decision of the umpire. The other is that industrial relations laws must be fair and consistent, and that as much as possible they must be compatible across jurisdictions, otherwise the participants in the market, whether the employers or the employees, will hop from one jurisdiction to another in order to serve their own ends. Members should make no mistake about that; employers are just as prone to hop jurisdictions as are employees. A number of cases exist of that occurring. One example is in my own former industry of farming which was keen to hop from federal to state jurisdictions whenever it felt it suited its ends. I know that because I was a director of an employer organisation in that field. It is not only unions that will do that.

The Government in presenting its arguments on the industrial relations laws stressed the need for the desirability of making laws at the workplace because, we were told, it was there where the meeting of the minds between the employers and employees, which the Minister was so keen to tell us about, would occur, even though one might be a 15 year old school leaver and the other Coles-Myer. We were told that somehow two disparate groups such as these would have a meeting of minds. We were told that it is important to do it at the workplace and not in the commission because the commission is impersonal and the commissioner does not understand. I was interested in the Minister's comments about the Liquor, Hospitality and Miscellaneous Workers Union's view of the agreement.

Hon A.J.G. MacTiernan: They aren't true, so don't worry about it.

Hon KIM CHANCE: Hon Alannah MacTiernan may be right. One way or the other the union and the employer hammer out an agreement at the workplace - Royal Perth

Hospital. The matter is then taken to the Industrial Relations Commission. The commission validates the agreement and the state Minister for Labour Relations in an unwanted and unwarranted manner interferes with the agreement which has been made at the workplace, on the ground that it contravenes a law which was passed some time after the agreement was made, notwithstanding, I acknowledge, the question of ratification. The law was made after the agreement was put together. The Minister for Health then tells us that it is not proper that a federal instrumentality in the Australian Industrial Relations Commission can override a state law. That raises an interesting point in law; however, it is not a question of States' rights. I doubt whether Commissioner O'Shea would have validated an agreement which overrode a state law without a good legal reason, even though the Minister assures us that he did not have a reason and that all he had was the power. Those on this side of the House can understand the question of power beating reason; it happens every time we vote. Nonetheless, I would like to look at the reasons the commissioner used in making that determination.

If he made the determination under the powers granted to him by the Federal Government and the principle that where two jurisdictions conflict the federal will override the state, he is entirely proper in making that decision. However, I will not try to second guess Commissioner O'Shea in the manner the Minister for Health has. The fact is that it has happened. The interference of the Minister for Labour Relations has put at risk an agreement which includes an enterprise bargaining arrangement which was to save the health consumers in this State $10m over 10 years. An amount of $10m is not something we can afford to throw away in the health system.

Hon Peter Foss: It would have happened if not for the interim award.

Hon KIM CHANCE: Not only that, but the question of multiskilling and training within the industry, which was included in the agreement, is also at risk. The very things we had been trying to achieve -

Hon Peter Foss: It would have been implemented by now, but for the award. The reason the missos went to the court -

Hon KIM CHANCE: Was to stop the wages question.

Hon Peter Foss: - was to stop it being implemented, because it wanted to have wage maintenance. It would have gone ahead though.

Hon KIM CHANCE: I am pleased to have the Minister's comments on record. We need to determine this question. I do not have the time to do it now but at least it is on the record so that we may look at it. The fact is that the determination of the Industrial Relations Commission was to ratify the agreement. Since then the actions of the Minister for Labour Relations have caused the dispute. It leaves room for a debate about why it happened. Those are the effects of what happened.

HON TOM HELM (Mining and Pastoral) [3.11 pm]: The Minister's argument on the issue of States' rights demonstrates the hypocrisy and cowardice of those who hide behind the States' rights catch cry rather than talk about why we are all Australians, and why at ministerial conferences the Minister sits with Ministers of other States and Federal Ministers to debate matters of interest to all Australians. To say that States' rights are sacred and that if someone does not believe it he is kowtowing to the Canberra line is the height of hypocrisy. All we have then is the choices from the other side of the House given to the people of Western Australia diminished significantly because this State's laws have to do with everything we hold sacred in Australia. I put it to you, Mr President, that if that is the case this rhetoric on the industrial relations Bills about freedom of choice is shown for what it is. It is not a matter of choice.

Let us recall the words the Minister used and judge whether they were the words of a coward or a hypocrite. He said that an agreement between the Miscellaneous Workers Union and the hospital was entirely between themselves and had nothing to do with him. He then said, "Nonetheless, I do not agree with what happened and condemn the Industrial Relations Commission for making the decision under federal laws we have to obey." He said that we have to obey state laws but we should be separate from federal

laws. Hon Alannah MacTiernan's point deserves to be answered. The Minister would have been without criticism if he said, "It has nothing to do with me," and left it at that. The only argument we would have had is to say, "Hang on, this is a hospital funded by taxpayers' money for which you are responsible. You are responsible for the workers and for the delivery of care for the sick. In this State you must have some responsibility." However, the Minister tells us this is not his responsibility, it is an industrial relations matter. Fit that argument against the reasons we should have supported the industrial relations argument; that is, the people involved in the enterprise are the ones best suited to resolve questions. The Minister says that the commission has no right because this issue should be left to the hospitals and unions to resolve. We have a commission which has a responsibility in law to involve itself if matters are put before it. We have a Cabinet which decides the Minister for Labour Relations will interfere. What on earth has he to do with the health needs of the patients at a hospital is beyond any thinking person, I would suspect.

It does not become the Minister to use those two arguments to try to defend a position which to a large extent is indefensible. It is indefensible because an agreement has been arrived at and because the Minister for Health told us in the first place it was the responsibility of somebody else. He supports his Cabinet colleague, which is fine; but he thinks it is not fine to have the Industrial Relations Commission set up to look after such matters by law and it is not fine for the commission it make a determination. As Hon Kim Chance said, we told the Government so.

Hon Peter Foss: See if it is right or wrong when you appeal.

Hon TOM HELM: Our argument during the debate on industrial relations was that the Government is not giving people choices. We have demonstrated the injustice on a number of occasions. It is difficult to say, as Hon Kim Chance pointed out, that a 15 and a half year old youth and an employer, whom one would assume to be a little older, are equal and that the choices that young person might make are well reasoned and well balanced. We have suggested that is not the case. We have demonstrated more often than not that employees, including State Government employees, have not been given any choice at all; in other words, sign or resign. The Minister has heard the slogan.

Hon Peter Foss: Only from you.

Hon TOM HELM: He has heard it. The Minister is the three wise monkeys rolled into one: See no evil, hear no evil and speak no evil. The only difference is that the speaking of untruths does occasionally slip through in this place even with your diligence, Mr President. We have had demonstrated many times that those choices are not available for workers of this State because the choice will be determined at the end of the day by the Minister for Labour Relations and not the Minister for Health who has the responsibility for patient care, the Minister for Education, the Minister for Transport, or the Minister for Mines or any of them, because all they need to do is to sit on their hands and say that this is an industrial relations matter. That is the point we were trying to make through the whole of the argument on industrial relations. The Minister cannot come here and talk to us about States' rights.

Hon Peter Foss: I did.

Hon TOM HELM: The Minister only demonstrates his hypocrisy if he does. He has talked to Ministers in other States. He has come to agreements with the federal Minister. He has uniform legislation on his plate of which he has been part. It is a matter of the choice of States' rights. The Minister says, "We are about States' rights with which I agree, but not ones with which I disagree." In other words, the Minister is saying that where the Federal Government has a say it should butt out and let the State do what it wants to do. We are saying that the hypocrisy used in the argument for industrial relations -

Hon Peter Foss: You are not making much sense.

Hon TOM HELM: The Minister wants choices about States' rights and yet he gives them away at ministerial conferences. He has also said it is not his responsibility, and the best people to resolve a dispute are those involved in an enterprise.

Several members interjected.

The PRESIDENT: Order!

Hon TOM HELM: The Minister has said, "The delivery of health services has nothing to do with me. Why don't you bring in the Minister for Labour Relations?" What he should have said is, "It has nothing to do with me. I am sorry. I give up. I want to go back and practise law in the incompetent way I did before I became a member of Parliament."

HON A.J.G. MacTIERNAN (East Metropolitan) [3.19 pm]: I will not waste my five minutes replying to the pedantry of the Minister. We are well aware of the orders sought by the Miscellaneous Workers Union. It is clear from the Minister's comments his advice is from that highly unreliable source, Mr Kierath.

Hon Peter Foss: Read the decision.

Hon A.J.G. MacTIERNAN: I suggest the Minister read it a bit more carefully. The union quite clearly did not seek to block the introduction of the agreement, as the Minister has tried to tell this Chamber.

Hon Peter Foss: The commissioner thought so. Read the first paragraph.

Hon A.J.G. MacTIERNAN: I have read the first paragraph. It certainly does not say that the Miscellaneous Workers Union sought an order to block the introduction of the agreement. That is an important point. I know Hon Peter Foss has told this House time and time again that he has little or no knowledge of industrial law and that is why he cannot comment on matters in his portfolio -

Hon Peter Foss: Read it.

Hon A.J.G. MacTIERNAN: I have read it carefully. The Miscellaneous Workers Union sought an order to block the introduction of the patient assistant classification without the agreement. The Government proposed to put into operation the patient assistant classification without the agreement. There was no objection to the introduction of the agreement - that is what the union had been seeking - but it said it would not go down the track of having this classification put in without the important protections that are contained in that agreement. That is a pretty important distinction, and the Minister got it wrong. This whole issue helps our case. The Minister seems to have read only the first paragraph, but were he to read further he would find that the reason that Commissioner O'Shea was prepared to take the unusual course of action of going beyond the orders sought and entrenching the agreement was that it became very clear from the evidence of the management of Royal Perth Hospital and from a range of other evidence that this agreement was exceptionally important to the management of Royal Perth Hospital and that it would be a travesty of justice if this agreement were not implemented. Commissioner O'Shea commented adversely on the Government's conduct in changing the goal posts at the eleventh hour. However, this is not the issue. This agreement had been entered into provisionally by Royal Perth Hospital by the beginning of August and had been squared away by the Health Department by the end of August, but for over one month the Department of Productivity and Labour Relations and Mr Kierath were able to block ratification of this agreement. Unfortunately, the Minister for Health was impotent in overcoming this block by the ideological fanatics of DOPLAR -

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: "Impotent" has more than one meaning. It has implications elsewhere. The important point is that for over one month, Royal Perth Hospital had drawn the Minister's attention to the fact that DOPLAR intended to block this agreement. DOPLAR and Mr Kierath blocked the ratification of this agreement because they wanted the agreement to be overtaken by events. It was not until 1 October that those regulations came into effect. Before those regulations came into effect, it would have been possible, without any illegality -

Hon Peter Foss: The law would still have applied.

Hon A.J.G. MacTIERNAN: It would have applied from that date. We have received advice that the agreement would not have been made illegal retrospectively by the implementation subsequently of regulations. It is highly improper for the Minister to pretend otherwise. We now have major financial losses. We have losses in quality of patient care. There is a way around this without going into the whole of government nonsense and without going down the federal award route. It is open to the Minister to seek some exemption in these special circumstances in order to ensure that effect is given to this important agreement.

[Motion lapsed, pursuant to Standing Order No 72.]

MOTION - RACING INDUSTRY, FAIR AND HONEST GUARANTEE
Withdrawal

Resumed from 26 October.

On motion, by leave, Hon Graham Edwards withdrew the motion.

MOTION - ABORIGINAL RECONCILIATION SUPPORT

HON TOM STEPHENS (Mining and Pastoral) [3.24 pm]: I move -

That this House resolves -

(1) to note that in 1991, the Parliament of the Commonwealth unanimously enacted the *Council for Aboriginal Reconciliation Act 1991*, (Commonwealth) to promote a process of reconciliation between the indigenous and wider Australian communities;

(2) to support the concept of constructive reconciliation between indigenous and wider Australian communities; and

(3) in acknowledgment of this support, to adopt the Vision of the Council for Aboriginal Reconciliation; namely -

> A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all

as a vision shared by this House.

This motion has been moved in every House of Parliament across the Commonwealth of Australia over the last 12 months, or more, and in every Chamber it has been greeted with much interest and given unanimous support. This motion was moved in the Legislative Assembly of the Parliament of Western Australia by my friend and colleague Ernie Bridge, and was agreed to by the whole House. The mover of that motion is the only Aboriginal member of the Western Australian Parliament and of any of the current State Parliaments, although there are Aboriginal members of the Northern Territory Assembly. Ernie Bridge took the approach at the end of his speech of moving to the other side of the Chamber to shake hands with his opposite number, the Minister for Aboriginal Affairs, in order to indicate his desire that the Government and the Opposition join hands in support of the concepts contained within this motion and vote with one voice in support of it. I appreciate that because of the order of business before this House I have only a few moments in which to introduce this motion and it will then stay on the Notice Paper until such time as the House -

Hon George Cash: You can do it tomorrow at 2.30 pm.

Hon TOM STEPHENS: Perhaps the Government will invite me, as the mover of the motion, to find a time when this motion can become an order of the day rather than be dealt with as opposition business in the Legislative Council - that is, during the first hour of the day's proceedings - because I have a lot to say about this motion, and I am sure other members also wish to speak to the motion.

[Debate adjourned, pursuant to Standing Order No 195.]

INDUSTRIAL LEGISLATION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Minister for Health), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [3.31 pm]: I move -

That the Bill be now read a second time.

This amendment Bill proposes changes to the provisions of various state industrial laws as part of the Government's ongoing program of reforming and rationalising the present industrial relations system. The Bill, in large part, may be regarded as of an enabling nature and, primarily, focuses on technical changes.

Part 2 - Government School Teachers: It is proposed to abolish the Government School Teachers Tribunal and provide government teachers with access to the general jurisdiction of the Industrial Relations Commission. When the GSTT was established as a constituent authority under the Industrial Relations Commission in 1985, it was given exclusive jurisdiction to deal with matters relating to government teachers. The definition of industrial matter for the purpose of the exercising of the GSTT's powers is narrow and vastly different from that which applies to all other categories of employee, including teachers employed in the private sector. The jurisdictional limitations of the current legislation relating to the GSTT and the inadequacies and restraints that it imposes on sensible industrial relations between the employer and the employees in public sector education have been the subject of critical comment for a number of years by the parties themselves and, most emphatically, by the commission. The previous Government endorsed an in principle proposal to abolish the tribunal in 1992.

With the making of a teachers' award which now regulates virtually all conditions of employment, access to the GSTT concerning disputes in any of these areas is assured and means that the State School Teachers Union can no longer legitimately say that access to arbitration generally is denied to it by the design of the legislation. Nonetheless, the limited definition of industrial matter with respect to teachers has led to the complaint that teachers were not treated equally to other employees before the Industrial Relations Commission. With the passing of these amendments, which will remove the special definition of industrial matter with respect to teachers and provide teachers with access to the general jurisdiction of the commission, that complaint is answered.

Part 3 - Public Sector Management: Recently this Parliament enacted the Public Sector Management Act 1994, which provides for the administration and management of public sector employment. A key part of this Act lies in part 7, which provides procedures for seeking relief in respect of a breach of public sector standards. These procedures will allow appeals against an appointment to proceed on the basis of a claim of unfair treatment, rather than on the merit of the appointment. It is also intended that there be no ability to appeal against any decision of the Commissioner for Public Sector Standards under part 7 of the Public Sector Management Act. These amendments will ensure that procedures established under the Public Sector Management Act are not jeopardised by alternative and contrary provisions available under the Industrial Relations Act 1979. Under division 4 of part IIA of the Industrial Relations Act, a promotions appeal board is established as a constituent authority whose function is to test competing claims to promotion by, with certain exceptions, white collar government officers.

In order to accommodate part 7 of the Public Sector Management Act, it is necessary to abolish the Promotions Appeal Board, which, but for such an amendment, would continue to have jurisdiction to hear appeals against appointments to positions within public authorities. The changes in the procedures associated with promotion in the public sector represent a significant change in principle and are consistent with the Government's intention to devolve management authority substantially, with appropriate accountability arrangements, to chief executive officers.

Part 4 - Railways Classification Board: The Railways Classification Board was

established as a constituent authority in 1985. Currently it deals exclusively with all industrial matters affecting clerical and administrative employees eligible for membership of the Western Australia Railway Officers Union, now part of the Australian Services Union. The intention of these amendments is to allow a progressive removal of matters from the exclusive jurisdiction of the board. Under the terms of the Westrail enterprise bargaining agreement entered into by the Railways Commission and various unions, the parties agreed to move to a common award to be registered in the Western Australian Industrial Relations Commission, with a direct mirror agreement being registered in the Australian Industrial Relations Commission. The aim of the parties is to develop and foster a culture that cements a complete team approach to the future competitive business challenges confronting Westrail. The vehicle for achieving this approach will be the creation of a new and additional enterprise-based umbrella award covering all Westrail employees. The new award encompasses all those clauses in the multiplicity of existing awards which, in broad terms, deal with the way that work is arranged, including those clauses associated with pay and classification structures.

However, in order to register the new enterprise award in the Industrial Relations Commission, it is necessary to exclude all matters in the new award from the jurisdiction of the RCB and allow them to fall within the general jurisdiction of the commission. Matters outside the award will continue to be dealt with by the board. Further, the intention is that the parties, through agreement as expressed in the enterprise agreement, will progressively remove matters from the jurisdiction of the RCB. These amendments will enable this process to move forward and the new enterprise award to be lodged with and registered in the Industrial Relations Commission. That award will enable greater flexibility, job redesign and the reorganisation of traditional work methods and thereby enable Westrail to give its customers a competitive advantage in their business pursuits.

Part 5 - Workplace Agreements: Under the present provisions of the Workplace Agreements Act the holder of an office or position covered by the Salaries and Allowances Act 1975 is excluded from the category of employees who may be a party to a workplace agreement. Because most chief executive officers' conditions are determined under this Act, this hinders them from entering into workplace agreements. These amendments will expressly authorise chief executive officers, or any other persons dealt with under those provisions of the Salaries and Allowances Act, and their employers to enter into a workplace agreement if that is their wish. Should they do so, I believe there will be much to be gained by both parties in the flexibility available to them in negotiating terms to suit individual needs and specific circumstances.

Part 6 - Unfair Dismissal: In its first year in office this Government also restored to the commission the power to order that an employer pay compensation to an employee who had been unfairly dismissed. This is something the former Government, that great friend of labour, failed to do in the four years after the Pepler decision denied it that right. This Act will extend that right. It will enable the commission to award compensation at first instance to an employee, if an order for reinstatement or re-employment is impractical. Provision of such a power to the commission is a proper response to the decision of Keely J in Wylie v Carbide International Pty Ltd and will meet the requirements of section 170EB of the Commonwealth Industrial Relations Act 1988 that in order for the federal Industrial Relations Court to decline to proceed with an application in respect of termination, the State must provide an adequate alternative remedy that satisfies the requirements of the termination of employment convention. The amended Act will meet the terms of the convention in ways that the Commonwealth's misuse of its foreign affairs powers did not. It will not exclude those earning over $60 000 as the Commonwealth's legislation provides, an exclusion that is totally contrary to article 2 of the convention the Commonwealth sanctimoniously claims to be giving effect to. It is not an adequate alternative remedy, but a superior remedy to that provided by the federal Act. The amendment will also enable those persons who have begun but not completed proceedings in the federal Industrial Relations Court, to bring their case before the state commission. Such persons will have 28 days from the date the section comes into effect to make their application to the state commission. This period can be extended by leave of the commission if it is necessary to make the state jurisdiction an effective remedy.

Part 7 - Miscellaneous Amendments to the Industrial Relations Act: The amendments proposed in this part of the Bill refer to a number of matters which have been the subject of considerable debate in the industrial community for some time. The principal matters dealt with are, firstly, in response to what has come to be known as the Coles-Myer decision, to re-establish the capacity of the commission to deal with denied contractual benefits after termination of employment. Secondly, it allows applications to be made to the commission with respect to stand down provisions in an industrial agreement. Thirdly, it permits a reduction in the time delays involved for persons who wish to end their membership of unions.

Overcoming the Coles-Myer Decision: For many years the Western Australian Industrial Relations Commission dealt promptly, equitably and economically with claims by employees that they had not received their contractual entitlements from their employer. It was one of the few areas in which individuals had access to the commission. Last year in the Coles-Myer decision the Industrial Appeal Court ruled that, because of the wording of the Act, the commission did not have this power unless the employment relationship was still in existence. This Government in this Act will restore to the commission the power to deal with such claims. Denied contractual entitlements will remain an industrial matter notwithstanding the ending of the employment relationship.

Stand Down Provisions: Most state awards have provision for stand down in circumstances such as strike action, mechanical breakdown or any circumstances which the employer could not reasonably prevent. However, unless an industrial agreement contains a similar provision, there is currently no means available to a party to an industrial agreement to respond to a situation where employees are made idle through no fault of the employer. The Bill makes provision for any party to an industrial agreement to make application to the commission to vary the agreement for the purpose of including, omitting or varying a provision that authorises an employer to stand down an employee.

Resignation from Unions: The current rules of many unions have been a frustration to those members who have wished to resign immediately without a financial burden being attached to that decision. Most unions' rules currently require three months' written notice or payment in lieu of notice in order to resign. Similarly, unfinancial members who have clearly demonstrated a lack of interest in maintaining their membership have been threatened with legal action to recover up to 12 months of unpaid dues, sometimes up to years after a person believed the membership to have expired. Provision is to be made to ensure that a person's membership of a union is automatically ended when that person remains unfinancial for a period of three months. The amendments will also provide for a person to resign in writing at any time without the need to give any notice. The Bill also provides a number of minor amendments the purpose of which is simply a tidying up of various minor drafting errors in the Act. This Bill will not only accommodate Australia's international obligations on unfair dismissal, but it will provide a number of essential technical reforms to the Act. Together, these provisions will contribute both to the better protection of the rights of individuals and to maintaining the integrity of the State's industrial relations system. I commend the Bill to the House.

Debate adjourned, on motion by Hon John Halden (Leader of the Opposition).

LAND, PARKS AND RESERVES AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon George Cash (Minister for Lands), and read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Minister for Lands) [3.43 pm]: I move -

That the Bill be now read a second time.

In May 1993, the Government approved the policy and drafting of a proposed land

administration Act. Due to other priority drafting, this proposed Act has not yet been completed. I know the Opposition is supportive of the need for the modernisation of the existing Land Act and I anticipate that the proposed land administration Act will be drafted and ready to be introduced into Parliament next year. In the interim a number of issues have been identified by the Department of Land Administration to support government policy. These issues form the basis of the Bill before the House.

Recent government initiatives to give more direct responsibility to Aboriginal communities in relation to land matters by way of grants of perpetual leases will be processed in the Pilbara region in the near future. Section 9 of the Land Act has been amended to clarify this policy and enable this process to take place. Under these amendments Aboriginal communities will be able to directly lease land in perpetuity. In addition, it was seen to be appropriate that the paternalistic views in section 9 relating to selectors and limiting land areas be removed at this time.

The Bill also seeks to simplify the procedures for the removal of unauthorised structures erected on Crown land. The current procedures are lengthy and costly as a court order can be required. The legislation used for the removal of unauthorised structures at Port Kennedy under a ministerial order, as developed by the previous Government, is seen as a good model. Relevant sections of the Port Kennedy Development Agreement Act have been incorporated in the Bill.

Finally, the Bill also addresses certain amendments to the Parks and Reserves Act that will later be included in the proposed land administration Act. The Parks and Reserves Act provides for the appointment of boards to administer and manage certain important community lands and gives power and duties to boards. I am pleased to confirm that the Bill implements a recommendation by the Public Accounts and Expenditure Review Committee that the quorum of boards be increased from one-third to one-half. It has also been noted that the boards have certain powers as a body corporate. However, boards do not expressly have power to lease reserves. The Bill seeks to clarify the boards' power to lease reserves and, to remove any areas of doubt, validates any leases already granted.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

FORREST PLACE AND CITY STATION DEVELOPMENT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon E.J. Charlton (Minister for Transport), and read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [3.45 pm]: I move -

That the Bill be now read a second time.

The Citiplace concourse complex at the Perth railway station is governed by the Forrest Place and City Station Development Act 1985. This Act provides for pedestrian access by railway passengers and Westrail employees from the concourse to the railway station. However, the schedules attached to the Act indicate that Westrail has control only over the premises on the ground floor level, up to and including the top step of the escalators.

As the Citiplace concourse complex is vested in the City of Perth and not in the Crown, it could be argued that the area is not part of the railway. This means that Westrail patrol officers, or special constables appointed by Westrail, do not have rights under the existing Government Railways Act over the Citiplace concourse which connects to the railway platforms, or the access along the concourse to the Barrack Street entrance. Thus neither Westrail nor its employees would be protected against any action brought by persons for wrongful arrest, or similar, against Westrail as would be the case if the Railways Act covered this area. This situation could be rectified by amending the Forrest

Place and City Station Development Act 1985, to allow Westrail employees to undertake the duties related to the security of the rail system on the concourse level of the Perth railway station.

Maintenance of security on the concourse area is a key requirement for the prevention of bad behaviour on the rail system. This issue has been discussed with the Police Department and the City of Perth, and they are keen to see Westrail contributing to the maintenance of security in the area. The purpose of this Bill, therefore, is to amend the Forrest Place and City Station Development Act 1985, so that Westrail can treat the concourse as if it were part of the railway for the purpose of maintaining security and order. I have pleasure in commending the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

Sitting suspended from 3.47 to 4.00 pm

JUSTICES AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Minister for Health), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [4.03 pm]: I move -

That the Bill be now read a second time.

Members will be aware that part VII, sections 172 to 178, of the Justices Act enables magistrates to make restraining orders. At present Western Australian legislation does not provide for continuing protection of victims who, as a result of violence, move from other jurisdictions to this State. Under current Western Australian law, a restraining order which has already been made for their protection in another State cannot be enforced in Western Australia. A fresh order must be obtained in Western Australia under the Justices Act. This, of course, may merely serve to inform the person against whom the order is made of the victim's present whereabouts in this State.

This problem was recognised by the Standing Committee of Attorneys General as requiring attention. As a result, all other States and Territories have now enacted legislation to provide for reciprocal enforcement of restraining orders made in those other Australian jurisdictions. Therefore, the Bill before this House proposes to amend the Justices Act to provide for the reciprocal enforcement in Western Australia of restraining orders made in other States and Territories. The Bill will enable the registration in WA of restraining orders made under legislation equivalent to the Western Australian Justices Act in WA courts. As a result, victims of violence will be able to retain in this State the protection of a restraining order made in another jurisdiction.

The Bill requires that a person who has obtained a restraining order in another jurisdiction must register that restraining order in the WA courts. Upon registration, the Clerk of Petty Sessions in WA is to notify the court in the jurisdiction which made the order of such registration in WA and provide the WA Commissioner of Police with a copy of that restraining order. Such a registered restraining order will have the same effect in Western Australia as though it were an order made under the WA Justices Act. The Bill will also provide that where the court in which the order was originally made varies or revokes that order, that variation or revocation has effect as though it were made by a Western Australian court. The order, when registered in WA, can be varied or revoked by a WA court.

The Bill is part of the State Government's overall policy to deal with domestic violence. All members will, I am sure, agree that enactment in this State of reciprocal portability provisions will provide important protection for victims or potential victims of domestic and personal violence. I commend the Bill to the House.

Debate adjourned, on motion by Hon Mark Nevill.

CHILD SUPPORT (ADOPTION OF LAWS) AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Minister for Health), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [4.06 pm]: I move -

That the Bill be now read a second time.

Members will be aware that the Commonwealth Child Support Act 1988 introduced a new system for the collection of maintenance. This legislation designated the Commonwealth Taxation Commissioner as the Child Support Registrar and made the commissioner responsible for registering and enforcing maintenance orders and agreements.

In 1990 the Western Australian Parliament passed the Child Support (Adoption of Laws) Act which adopted the Commonwealth legislation and some of the amendments made to the legislation controlling the scheme by the Commonwealth Parliament during the period since its enactment. These amendments meant that in relation to children of a marriage, the 1988 Commonwealth Act applies in Western Australia of its own force; and in relation to ex-nuptial children, the 1990 Western Australian legislation applies.

Unlike other States, Western Australia is in the fortunate position of having its own Family Court. The Family Court of Western Australia is a state court which exercises both Federal and State jurisdiction. One beneficial consequence of this situation is that the Family Court of Western Australia can exercise not only powers under the Commonwealth Family Law Act 1975, but also powers and jurisdiction conferred by state legislation so that no jurisdictional disputes arise, for example, when ex-nuptial children are involved.

As a result of these arrangements, Western Australia has not, like other States, referred its legislative power over family matters to the Commonwealth Parliament. Indeed, this approach was recognised and endorsed by this Parliament when it enacted its Child Support (Adoption of Laws) Act. That adoption of commonwealth legislation and amendments occurs through section 51(xxxvii.) of the Commonwealth Constitution which, I remind members, provides as follows regarding the Commonwealth Parliament -

> The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: . . .
>
> (xxxvii.)
>
> Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

The WA Child Support (Adoption) Act is the only Western Australian legislation to have adopted commonwealth legislation under section 51(xxxvii.) of the Commonwealth Constitution. Members will appreciate that, particularly from the perspective of commonwealth-state relations, federalism and the preservation of state powers and sovereignty, state laws adopting commonwealth legislation is not the most suitable method of proceeding.

However, in this instance three important reasons require such adoption legislation to be enacted by this Parliament: First, Western Australian legislation - namely, the Child Support (Adoption of Laws) Act - already adopts commonwealth legislation concerning the child support scheme. Second, the commonwealth legislation provides that it applies only to ex-nuptial children in States which refer power over the maintenance of children to the Commonwealth or adopt the commonwealth legislation. Therefore, Western Australia cannot participate in the child support scheme through the preferred option of substantive complementary Western Australian legislation. Third, a good deal of

community concern is being expressed by parents, especially mothers, of ex-nuptial children who cannot utilise commonwealth amendments which have been enacted since the Western Australian adoption legislation. These amendments would make the maintenance claims and disputes easier and less costly to resolve than under the amended child support scheme.

This Bill should not be seen as a precedent for Western Australian "adoption" legislation. In that regard, negotiations are proceeding with the Commonwealth in an endeavour to formulate amendments to the commonwealth and state legislation to allow Western Australia to apply future amendments to the commonwealth support scheme in this State as Western Australian law. Since the enactment of the Western Australian legislation in 1990, several commonwealth legislative amendments have been made to the child support scheme. This Parliament has not, as yet, adopted those amendments. The Child Support (Adoption of Laws) Amendment Bill proposes to adopt those amendments, which are as follows -

> First, amendments in the Commonwealth Child Support Legislation Amendment Act 1990 allowed fuller information to be provided to custodial parents.
>
> Second, the Commonwealth Child Support Legislation Amendment Act 1992 provided for relatively informal and independent review under the scheme. Therefore, both parties to a maintenance dispute are able to present their cases to an arbiter without legal formality or legal representatives. The object of the amendment was to assist eligible persons who previously may have wished to exercise their review rights but had been discouraged by factors such as cost and the complexity of an appeal.
>
> Third, a collection of miscellaneous amendments were made in the Commonwealth Child Support Legislation Amendment Act (No 2) 1992. The most significant provisions in that legislation were to allow greater regard for the high cost of access in certain cases to modify the child support formula, such as where a non-custodial parent shares the care of the child a substantial portion of the time; second, it allowed for greater flexibility of assessment where the taxable income of either party is not readily ascertainable.
>
> Fourth, minor technical consequential amendments in the Taxation Laws Amendment Act (No 3) 1991, the Corporate Law Reform Act 1992 and the Insolvency (Tax Priorities) Legislation Amendment Act 1993 were required as a result of amendments to commonwealth legislation other than the child support legislation.

The Bill adopts all of these amendments, and it will come into operation on the day on which it receives Royal assent.

The Bill will adopt the Commonwealth Child Support (Registration and Collection) Act 1988 and the Child Support (Assessment) Act 1989 which relate to child support which existed at 23 June 1993 for the amendments to the former Act, and 1 July 1993 for the latter Act. Those are the dates of commencement of operation of the most recent commonwealth amendments to those Acts. However, this Bill, and its adoption of the commonwealth Acts to which it relates, will apply to those commonwealth amendments only from the date of Royal assent. Therefore, maintenance for ex-nuptial children in the period before the date of Royal assent will proceed under the previous arrangement; that is, by using those aspects of the child support scheme which are already available as a result of the 1990 WA legislation, but not those aspects covered by the commonwealth legislation which are to be adopted by this Bill. In other words, the Bill is not retrospective. Therefore, some maintenance payments which were due before the date of the Royal assent of the Bill will not be able to use the commonwealth amendments to be adopted by this Bill.

In addition to the reasons already provided, members should support this Bill because, first, the commonwealth amendments improve the operation of the scheme as its affects parents, particularly custodial parents; second, it is inequitable for the commonwealth

amendments to apply in Western Australia to children of a marriage and not to ex-nuptial children; and third, the child support computer program used to administer the scheme has difficulty distinguishing between parents registered under the commonwealth scheme and those registered under the Western Australian "adopted" scheme which, at present, does not include all commonwealth amendments. Enactment of the Bill will minimise such administrative difficulties and the possibility of invalid orders being made. Members should be aware that the Commonwealth Child Support Agency and the Family Court of Western Australia have been consulted concerning these matters and both support the objectives of the Bill. I commend the measure to the House.

Debate adjourned, on motion by Hon Mark Nevill.

BILLS (3) - REPORT

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

Reports of Committees adopted.

HALE SCHOOL AMENDMENT BILL

Second Reading

Resumed from 2 November.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [4.13 pm]: When I first saw the Hale School Act 1876 I was surprised that we had a Hale School Act 1876 and I still wonder about the necessity for such an Act. Nonetheless, the Opposition has no problem with what the Government is proposing. I have spoken with the Minister for Education, and I know that this is a government Bill, but I agree with the Minister that this is more like a private member's Bill to accommodate Hale School's desire to achieve three things: To increase the size of its board, to increase the length of terms for board members, and to increase the size of the quorum for the board. The second reading speech indicates that this is an attempt to achieve better administration at the school. I am prepared to accept the advice of the Minister and of the school that having more board members will achieve that end.

Hon George Cash: As an old Scotch boy.

Hon JOHN HALDEN: Yes. Indeed, it was suggested to me that perhaps we should be considering a Bill to abolish Hale School in reprisal for having been beaten at football and cricket.

Hon Mark Nevill: As a Catholic I would vote for that.

Hon JOHN HALDEN: Some people would support anything. This is a non-controversial matter. I have consulted with the Principal of Hale School, Mr Inverarity.

Hon Max Evans: A good Scotch boy.

Hon JOHN HALDEN: It is a shame we do not have more on this side of the House. He said clearly that this was what the board of the school required. Therefore, the Opposition will support the Bill. I know we have no Scotch College Act, Trinity College Act or Aquinas College Act. Perhaps the Minister could explain why we need a Hale School Act.

HON P.H. LOCKYER (Mining and Pastoral) [4.16 pm]: As one of the many Hale School boys represented on this side of the House -

Several members interjected.

Hon P.H. LOCKYER: Some members opposite conveniently forget that Hon Peter Dowding was an old boy on that side.

Hale School, like all private colleges around Perth, is a very reputable school. It astonishes me that it should have to come to the Parliament to have the number of its board members increased and their terms extended. Surely the Minister would have been better off including in this Bill a clause stipulating that the Parliament should not have any say in the running of Hale School, because the present situation is ludicrous. In the more than 10 years I have been a member here this is the first time I have seen such a piece of legislation.

Hon Max Evans: It is a bit like a status symbol.

Hon P.H. LOCKYER: If it is a status symbol it is one we should get rid of.

Hon T.G. Butler interjected.

Hon P.H. LOCKYER: The member was obviously very young when the school did not accept him and he should not hold a grudge.

Hale School was formed in 1858; it is the oldest public school in Western Australia. The Minister should at some time introduce a Bill to repeal the requirement for the Parliament to be involved in the running of Hale School. Like the Leader of the Opposition, I will consult with the headmaster and with Mr Hantke of the school board and I know that they both will find the situation ludicrous. I am very happy to support the Bill because it is for the wellbeing of the school. The board would not want these amendments without reason. However, why is the Parliament involved?

HON N.F. MOORE (Mining and Pastoral - Minister for Education) [4.20 pm]: As a product of the government school system, I thank the private school silvertails who have contributed to the debate so far for their favourable support of the Bill! The Hale School Act is a successor to the original High School Act of 1876. If members are interested, they should read *Hansard*, as I did, to learn something about this. They should read the debates at the time about whether Western Australia needed a high school in the metropolitan area. It required an Act of the then Parliament - the Legislative Council - to establish that high school. The legislation took several years to go through the House because I understand there was concern about the involvement of state government funds in the running of a high school with board members who were not employees of the Government. The involvement of government and churches in education was a fundamental issue in 1876. It probably still is in 1994! The High School Act was the predecessor of the Hale School Act, which was passed in 1958. It covers the same school which was originally located in Parliament Place, but has now been relocated in Wembley Downs. That is the historical basis of the Act.

The reasons for its retention should perhaps be discussed by members with the Hale School board and persons involved in the operation of the school, rather than my proffering opinions in the House. It has been suggested to me that Hale School would prefer to retain the Act because it means that certain concerns it may have about the future of the school cannot be realised. It may be better to leave it at that, and I will explain some of those concerns to Hon Phil Lockyer afterwards. I put to the board the proposition that it was somewhat strange for it to require an Act of Parliament in order to change its structure, and asked whether it wanted the Act rescinded. The board said that it definitely did not want it rescinded, and that it was happy for Parliament to make these changes from time to time. I have accepted that point of view. I will explain to the member afterwards why that is the case.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon N.F. Moore (Minister for Education) in charge of the Bill.

Clause 1: Short title -

Hon P.H. LOCKYER: I accept the Minister's explanation and thank him for it. I am

happy to talk to the Minister about the matter. However, I will also write to the board - I know some of its members - to inquire why it wishes to remain under the existing structure. As a matter of interest, the legislation covering the school changed from the High School Act to the Hale School Act in 1958, which coincided with its centenary celebrations. I thank the Minister for his answer and I will make some inquiries personally.

Clause put and passed.

Clauses 2 to 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon N.F. Moore (Minister for Education), and transmitted to the Assembly.

MARINE AND HARBOURS AMENDMENT BILL

Second Reading

Resumed from 3 November.

HON KIM CHANCE (Agricultural) [4.25 pm]: The Opposition is pleased to support this Bill. It will propose a brief but important amendment to clause 6 of the Bill. The only other particular area of concern will be raised in relation to clause 5. The Opposition also records its thanks to the Minister for Transport for the briefing made available to its members by Mr Trevor Maughan yesterday morning. He was able to clear up some points, and his advice has led to the Opposition feeling much more comfortable with the Bill.

This simple legislation has two principal functions. Those functions include parking and the general administration and management of Department of Marine and Harbours land, and the stated powers of the Minister in relation to leasing areas of those lands. The Opposition supports the need for this legislation with regard to the parking administration, and the manner in which it is drafted. It has only one query relating to clause 5 of the Bill, which inserts new section 5B(2) in the Marine and Harbours Act 1981. This subclause states -

> It is not a defence to a charge of committing an offence under this Act to prove that a notice or sign is not erected, placed or marked under this section at any place unless an element of the offence is dependent on the existence of the notice or sign.

I would prefer that the clause were not included at all, even though the Opposition will not seek an amendment to it. Many people are unfamiliar with waterfront facilities and practices and, as these regulations will principally deal with tourist precincts on the waterfront, the visitors are likely to fall into that category. They should not be placed in a position in which they may unwittingly breach a regulation prescribed under this legislation. There is no way a person can know whether a particular and perhaps esoteric regulation has been prescribed for such an area. There is even less chance that a person unfamiliar with the area will be aware that some unknown regulation is dependent on the existence of a notice or sign. Two things would need to be known: The first is that a regulation exists, and the second is that such a regulation is dependent on the existence of a sign. An example of this could occur in a No Parking area. A sign may have been erected in the No Parking area, but it may have been obscured or removed altogether as a result of vandalism. That is not uncommon in such facilities. A visitor coming into the area would have no way of knowing that the area is a designated No Parking area. The bays may not be marked in yellow paint or there may be no markings on the road; they may be dependent upon a metal sign on a post. If the no parking regulation were not dependent on a sign, the visitor would have then committed an offence. In other words,

the visitor would have parked in an area which is designated no parking but the sign saying No Parking is obscured or missing. If the regulation does not require the sign - clause 5 allows for that - without knowing that the area was designated no parking, the visitor would have committed an offence by parking there.

In the briefing that we had from Mr Maughan yesterday, we were advised that it was necessary for this clause to be worded in this manner because a blanket rule may exist. The example Mr Maughan gave us was that no swimming is allowed in a fishing boat harbour. He claimed that most people know that they cannot swim in a fishing boat harbour. He argued that it should not be necessary to post notices in the vicinity advising of the no swimming rule. I found that difficult to agree with because some people are not aware of the blanket rule. I can imagine people coming into a tourist precinct - for example, a marina which is controlled by the Department of Marine and Harbours - who may never have been there before. Some may be unsophisticated people visiting from a long way inland who see an inviting bit of water on a hot day and are not able to resist the urge to drop themselves into that water. If there is no sign saying it is offence to swim in a fishing boat harbour or a sign as simple as No Swimming, we cannot expect them to know that they cannot swim there. The argument is simple enough: People should be entitled to know whether a common and normally acceptable action is or is not permitted within that precinct except, obviously, where it involves a general rule which we would expect everyone to know. For example, signs should not be required to prohibit vandalism, theft, etc. However, we should accept that people will visit these facilities and have no knowledge about how waterfront recreation facilities work.

As I said, we do not propose moving an amendment. I made those comments to the ministerial officer who provided the briefing and he noted that we felt a touch uncomfortable with that. We hope that in the drafting and the prescription of regulations, the Minister will be sensitive to the manner in which the regulations are prescribed.

Hon E.J. Charlton: I missed your first comments relating to signage. Was swimming the only area?

Hon KIM CHANCE: No, parking also. Everything that is covered by clause 5. However, swimming happened to be the example that the officer gave us.

The Opposition proposes to amend the provision relating to the power of the Minister to grant leases. This is found in clause 6 which amends section 12 of the parent Act. In that clause, the Bill provides the Minister with fairly sweeping powers. When I first read them, I found them to be fairly offensive because I imagined all kinds of possibilities which could spring from them. That is why I noted particularly the benefit of the briefing we had yesterday because we were able to express those concerns in the light of what has happened in the past, what is happening now and what it all means. Therefore, we are not as offended now as we might have been. However, the clause gives the Minister the power to grant a lease to a commercial user or commercial developer of that land under terms and conditions determined by the Minister and for a term determined by the Minister. It enables the Minister to validate a lease which may have been invalid due to an earlier misunderstanding of the Act. In other words, it allows the Minister to validate retrospectively that which was, or perhaps was, invalidated prior to the enactment of those clauses.

Hon E.J. Charlton: The emphasis is more the other way. This ensures that any previous lease is not invalidated, rather than retrospectively invalidating.

Hon KIM CHANCE: Yes, indeed; the Minister makes a very good point. The other side of the coin of that clause enables the Minister, and in this case Parliament because we will be making the decision, to grant that power to validate and protect leases which were taken out in good faith prior to there being any knowledge of the possibility -

Hon E.J. Charlton: It protects the people as well, you see.

Hon KIM CHANCE: Does the Minister mean broader than the lessee?

Hon E.J. Charlton: I am talking about the lessee.

Hon KIM CHANCE: Yes, to ensure that the leases entered into between the lessee and the Government are validated. Every time we see retrospectivity, we should tease it out a little to see what it means because it has been in this area that Governments, both past and present and I am sure future, have been and will be accused, rightly or wrongly, of taking action to suit their mates or special groups which may be close to the Government for one reason or another. It is a sensitive matter. When we allocate to a commercial user of land, land which is public land and it is done in a deal between the Government and that person, it always causes us to ask questions about the propriety of deals like that. Indeed, our amendment fundamentally addresses that.

As I said, we were alarmed initially at the powers given to the Minister in this clause. However, later advice laid to rest most of those concerns. In the spirit of accountability, the Opposition proposes to move an amendment to insert an additional subclause which will result in bringing such leases to the scrutiny of the Parliament as a regulation in the manner of section 42 of the Interpretation Act. The amendment that was circulated yesterday will insert a new subclause (2)(b) into the amended clause without deleting or otherwise altering the words of the Bill. I acknowledge that other Acts may allow Ministers to have similar powers to those described in this clause; that is, powers of divestment of public property without the need for reference to the Parliament in the form proposed. However, while that probably exists on a fairly broad scale in a number of Acts, the issue addresses the current move for accountability and it is a move that we should all be aware of. We must start somewhere, and this is probably as good a place as any to begin. Governments past and present, and probably in future, have faced and will face charges of favouring their mates in the disposal of public land to individual commercial users. The reason is obvious enough. The potential for corruption is high, and the potential for perceived corruption is even higher. The relatively simple process proposed will provide an adequate check via the Parliament through the procedures of disallowance and scrutiny that accompany such a reference to Parliament.

I remember not so long ago the debate about Kings Park Restaurant. Perhaps someone with a more acute memory will recall the detail - I do not know if I was here at the time. The Parliament spent a great deal of time on matters concerning the lease of land proposed for the use of a restaurant in Kings Park -

Hon George Cash: You were here - obviously you were not listening.

Hon KIM CHANCE: I was here. I think it was early in my time, and I think I was confused by the process.

Hon Graham Edwards: Are things any clearer now?

Hon KIM CHANCE: Sometimes.

I urge the Government to support the amendment when it is moved at the Committee stage. It involves some small inconvenience and some extra administration but the benefits of the enhanced visibility provided in the process of handling public land and assets cannot be overestimated. The acceptance of the amendment will be as much for the assistance of the Minister and the Government of the day as it will be for anyone else. The Opposition's proposal will provide protection not only for the public and the Parliament but also for the Minister because the process will establish a proper and essentially self-checking protocol in a sensitive and sometimes highly political area. The Opposition supports the Bill.

HON J.A. SCOTT (South Metropolitan) [4.43 pm]: Before the Bill passes through this House, members should note something appears to have been left out. The second reading speech states -

> Following the successful challenge for the America's Cup in 1982, the then Government undertook an extensive program to develop and upgrade the maritime facilities necessary for the challenge.

It also states -

> As is normal with small boat marina projects throughout the world, the

development included the establishment of landside commercial developments such as restaurants, shops and other tourist facilities. These commercial developments are essential to help offset the capital and ongoing costs of the running of the facility.

I do not disagree with any of that, but during the earlier process wide community consultation occurred when those major changes were happening at Fremantle. Similar things happened at Hillarys, but at Fremantle there was great community input regarding changes at the boat harbour. The final decisions catered for various sectors of the community including the people conducting the race, the facilities mentioned in the second reading speech, the commercial developments and the existing fishing industry developments along the harbour; and an area was set aside for public open space. It is on that public open space that the latest development has occurred. The Fremantle community has a sense of being cheated out of the area of land without proper consideration by the Government, because that piece of land was hard fought for by the community.

It is important to understand that in the Fremantle city area, once people could go through to the beach unhindered. Also, people could go down to the Fremantle Sailing Club area, once an area of contention because, although it had a 99 year lease, this was supposed to be a public beach but gradually the area was cut off by fences. The community is very concerned because currently in the immediate area of Fremantle, people can take their children to considerable areas of beach front - as long as they have money to spend at the facilities when their children demand drinks from the shop. Very little is available for people who want to go to the beach for a swim and take a drink with them, returning home with little expense. By closing off those areas we are constantly forcing parents with children, who are not holiday makers -

Hon E.J. Charlton: The affluent people like Hon Nick Griffiths; the high income people.

Hon J.A. SCOTT: I am talking about the local residents who use the area. They are the people being cut off from the waterfront. They are concerned about these developments. The Minister is in a powerful position. I do not speak only for the people of Fremantle, because in all areas of the Minister's jurisdiction the same pressures will be placed on communities by the leasing of areas to such developments.

I am very concerned about certain aspects of this Bill because the Minister responsible for marine and harbours will be able to lease land to people interested in any type of development in areas that have been allocated for the public to reach the waterfront. That facility has been taken away from the community. I have seen this happen in Fremantle. Therefore, I am very aware of the situation, and I am very aware of the anger being expressed in the Fremantle community.

Without banging the Minister on the head -

Hon E.J. Charlton: Be gentle.

Hon J.A. SCOTT: - the Minister should understand that not everything in life depends on commercial development. Other things must be considered, and public open space should be provided without pressures on parents to buy something. Such areas are important to many people.

Hon N.D. Griffiths: The Minister does not understand that.

Hon J.A. SCOTT: Although I am happy about the parking facilities provided by the Bill, I am very concerned about clause 6, which will allow the Minister to lease land in this way.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [4.49 pm]: I thank members for their support for the legislation, especially Hon Kim Chance. As a result of briefings, some of the concerns expressed have been addressed to a large degree. When we came to Government, following the Auditor General's assessment it was pointed out that there could be some complications with these leases. Although in all probability they will stand as determined, there was some ambiguity with them. At the time,

therefore, it was considered that as soon as practicable we should make legislative changes to bring those leases in line with all other leases of a similar kind.

The other point concerns the ancillary parking matters. One has only to visit the Fremantle Fishing Boat Harbour area to see what an outstanding development it is. It was a great thing Alan Bond achieved when the Bond syndicate won the America's Cup in 1983 and defended it in this State in 1987. However, it was a great shame it could not have held the cup for one more defence. It would have been of even greater benefit to Fremantle and Western Australia. Along with most other Western Australians I watched with interest when that defence took place. It was an emotional occasion, similar to a football grand final, but which went on for some days. Fremantle as a whole was the great beneficiary of that challenge because it caused the city to have a face-lift. That would not otherwise have happened in the way it did. The State has gained much from that significant achievement. We should not forget that because that would not have happened had it not been for Bond Corporation.

In implementing this legislation, we must ensure that the future of that area is properly managed. In addition to proper management of parking and leases, we have an ongoing responsibility to take advantage of the greater potential to make significant improvements. Parking must be better managed, and this legislative change will ensure that. Hon Jim Scott mentioned the problems associated with the Challenger Harbour development. However, it has brought much happiness and joy to people by enabling them to visit that area to see the boats and the fishing harbour without spending money. People are very enthusiastic about seeing how the fishing boats are maintained and the catches which are brought in. The ancillary businesses associated with maintenance must operate from somewhere, otherwise we would not be able to buy our fish and chips or enjoy everything else that goes with the waterfront.

The opportunity must be available to fully take advantage of the area. Parking problems have been created by people who go shopping in Fremantle, which is only a stone's throw away from the waterfront. The high number of cars will always mean a shortage of parking. However - I know Hon Jim Scott will support this - the electrification of the railway should be extended to that area and we should encourage more tourism facilities in that area. People should be able to walk along Victoria Quay. I envisage their getting off the train at Victoria Station, walking along Victoria Quay around the ocean front and ending up at the Fishing Boat Harbour. That is a very short distance, but people are inclined to think Fremantle Fishing Boat Harbour is a long distance from Victoria Quay because they cannot see it from the quay. A corridor for both pedestrians and drivers from the Fishing Boat Harbour along Victoria Quay would eliminate considerable congestion and encourage more people to visit the area. We are working on making the trains accessible to Fremantle Fishing Boat Harbour. That will certainly bring it even greater presence as a tourist precinct and provide an opportunity for families to watch the ships coming and going.

There are not as many ships as there used to be, as a result of our great initiatives since coming into government! The ships move in and out twice as quickly as they used to.

Hon Kim Chance: I do not mind your saying that as long as you acknowledge the maritime workers of Australia.

Hon E.J. CHARLTON: They are so happy and contented now that they work twice as well and it takes only half as long to look after the ships..

Hon Kim Chance: I will tell Terry you said that.

Hon E.J. CHARLTON: As Hon Kim Chance knows, Terry and I get on well, even though we spar a bit now and again; it is in his nature to do that. He is obviously happy, but he must watch the situation from within the union movement, not so much from without it these day. A number of exciting things have happened in Fremantle and more good things are to come. I thank members for their comments.

Finally, the buildings referred to by Hon Jim Scott resulted from a commitment made initially by the previous Government that a development would take place. This

Government has ensured that development will allow for sufficient public open space to be reserved, for sufficient parking spaces to be provided, and for the people in the boating fraternity to have proper access, whether they be members of a yacht club or of the boating public in general. When they bring in their boats they must be able to enjoy the facilities. It is all good news in that Fremantle waterside area.

Although some people may be unhappy about the rental values, we and the previous Government had to apply them because they were determined by the Valuer General. Obviously, we cannot allocate those facilities at anything less than the market value. I spoke with Hon Kim Chance today about his proposed amendment and said I would examine the administrative effects of it. He will not be surprised to know our reaction! We consider it is not appropriate to agree to the proposed amendment for only one reason; that is, the process proposed when entering into such legal arrangements would be a bureaucratic nightmare. It would not be practical, when entering into a lease with a business proprietor involved in operations such as those in Fremantle, for the lease to be subject to the process proposed in his amendment. The legal agreement, which is a business deal, is based on the Valuer General's valuations. At the end of each year the lease can be assessed; therefore, it is considered the proposed amendment is not in the best interests of the commercial operations.

Hon Kim Chance: You said it was based on the Valuer General's valuation. That is not provided for by the clause.

Hon E.J. CHARLTON: I am referring to the situation where if there is any conflict about a valuation the Valuer General can re-examine the property's value. In other words, at the end of the day if someone is unhappy with a property value, he can always have it revalued. It would be a bureaucratic nightmare to require a lease arrangement to be subject to the procedures the Opposition has suggested. The Government does not support the amendment. I thank the Opposition and Hon Jim Scott for their support of the Bill.

Question put and passed.

Bill read a second time.

[Questions without notice taken.]

MINISTERIAL STATEMENT - MINISTER FOR HEALTH

Questions Addressed to Incorrect Minister in a Representative Capacity

HON PETER FOSS (East Metropolitan - Minister for Health) [5.38 pm] - by leave: A number of questions recently have been addressed to a Minister in this House in a representative capacity which, unfortunately, have been addressed to the incorrect Minister. Instead of the question being referred back with the answer that it is addressed to the incorrect Minister, the answers have gone to the appropriate Minister in the other place and then have come back to this House. Question No 751 is one such question.

It was a question by Hon Ross Lightfoot to the Leader of the House representing the Minister for Police. The content of the question was within the compass of the Attorney General. The answer was provided by the Attorney General. Unfortunately it did not come through me, but it should have when it was returned to the House. It went into the book in this House as being from the Minister whom I represent, without its having gone through me, and was shown as an answer to the Leader of the House representing the Minister for Police.

Hon Jim Scott has asked me a number of questions about waste management. Those questions are now really answerable by the Minister for Education representing the Minister for the Environment. They have also gone into the answer book as being answered by me. I have a problem with that, because I have very carefully not used the formula that is used by many other Ministers; that is, "the Minister for so and so said". As a result, some questions on notice in *Hansard* show me as having answered a question that I did not answer, and showing that formula, which I do not use. Question 751 was

answered through the medium of the Attorney General's department. It should have been redirected. At some stage we need to draw the members' attention to the difficulties with questions being directed to the wrong Minister in a representative capacity.

MARINE AND HARBOURS AMENDMENT BILL

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 5B inserted -

Hon KIM CHANCE: I thank the Minister for his explanation in the second reading debate. This Bill is strongly supported by the City of Fremantle. The Minister mentioned the facility at Fremantle, and one of the problems there is that people are using it for all day parking to the exclusion of people who want to use it as a tourist precinct. The side issue to that is that the City of Fremantle has all day parking facilities nearby which are being underutilised. It is not a matter of inconveniencing people; local government is supportive of the Bill to the extent that it has been consulted. Will the Minister comment on the concerns that I raised in the second reading debate; in particular, will he contemplate the situation of people who are not familiar with the use of the facility and who may unwittingly commit an offence because a notice or sign is not in place?

Hon E.J. CHARLTON: I am sure Hon Kim Chance would acknowledge that when an organisation such as the Department of Transport has the responsibility for the interests of lessees or tenants in areas under its jurisdiction, a requirement would be that it ensures that matters outside the lessee's control are properly managed. I met a representative advisory group from the fishing boat harbour over 12 months ago, which was fairly soon after I became the Minister. The group was powerless to do anything about the problem of managing parking and the movement of traffic. Someone may inadvertently suffer as a consequence of this provision, but on other side of the coin the member will understand the inconvenience to lessees who are trying to carry out their day to day business. This will allow for representatives of the department to carry out that important responsibility, and I want their presence increased. The area needs to be clean, and rubbish must be removed from the water, as well as providing for appropriate signage. People need not be disadvantaged. These officers do not need to operate as policemen. They will be present in an advisory capacity to assist people to do the right thing.

Hon Kim Chance: So this clause will enable the provision of signage?

Hon E.J. CHARLTON: Yes.

Hon KIM CHANCE: I acknowledge the Minister's explanation that this is a power to erect signs and the legal capacity to enforce those regulations in an administratively efficient manner by virtue of the infringement notices that this Bill empowers. That is something the Opposition supports.

The second part of that question concerns those regulations which will be prescribed which will make the element of the offence dependent upon the existence of the notice or fine. We will have two different types of regulation. The first type does not depend on a notice or sign being erected in the area. The other is those regulations that will be prescribed which will make the enforcement of the penalties dependent on the existence of a notice or sign. That is a difficult question. How will a person know whether an offence is one which is dependent on the existence of a sign? For example, if a speed limit road sign is missing, provided it is established that it is reasonable to believe that the speed limit in that area is 90 kilometres an hour, it is not a defence to say that the sign was knocked down, because the previous sign said it was 90 kmh. However, with a speeding prosecution where roadworks are involved, it is a defence to say not only that the signs were not erected at the beginning of the section in which the special speed limit for roadworks is operational, but also at the end. If ever one is apprehended for speeding

in a roadworks area - I hope no member of Parliament would undertake such a dangerous practice of speeding where people are working - and one finds when driving out of the prescribed area that one of the signs is down at the end of the controlled speed area, that forms a defence.

Hon E.J. CHARLTON: I should have referred to the second part of this clause in my initial comments. Signs will be placed on this land indicating that certain things should not happen. The member referred to the offences for which people can be fined if a sign is not erected in the area. A number of offences can be committed in that area, but if the relevant sign is not there the people committing these offences cannot be charged accordingly. Examples include lighting a fire on a jetty and littering of rubbish.

Hon Kim Chance: In other words, they are generally understood offences.

Hon E.J. CHARLTON: Yes, and another offence is if someone trespasses on a person's property. The signs will not cover every misdemeanour that could be committed; therefore, it must be within the department's capability to ensure that law and order is adhered to. The people who commit these offences cannot then say that the relevant signs were not erected.

Hon KIM CHANCE: I understand the situation a little better. Is the Minister saying that the signs shall not be required for those offences which it is reasonable to assume people would generally understand were offences anywhere else? I gave examples in the second reading debate of vandalism and theft. I ask the Minister to confirm that I am correct.

Hon E.J. CHARLTON: I confirm that this clause takes those things into account. I also confirm the assessment Hon Kim Chance made of that aspect of the clause.

Hon TOM HELM: Is the Committee dealing with the principal Act which is No 21 of 1981?

Hon E.J. Charlton: Yes.

Hon TOM HELM: In the principal Act there is a section 5(1), not 5A. Will the Minister explain how the amendment in this Bill will become section 5B when there is no 5A in the principal Act?

Hon E.J. CHARLTON: The member has raised an interesting point. Not being a draftsperson, my observation is that when the document is printed the section in the principal Act will become 5A and this proposed section will be 5B.

Hon TOM HELM: It is rather confusing. Perhaps it will be section 5(1) and 5(2) in the principal Act.

Hon E.J. Charlton: No; I think it will be 5A and 5B.

Hon TOM HELM: My concerns are similar to those expressed by Hon Kim Chance. The amendments fit into the principal Act fairly well. The Act is specific about the department's functions, but this amendment goes a little further in that regard. I am concerned about the situation which will prevail in the Esperance and Geraldton Port Authorities. In those areas there is a reasonable flow of traffic, as well as people, and I realise that the requirements of these ports would not be as great as they are for the Fremantle port. The intention of this clause is to deal with the specific problem at Hillarys and Fremantle. If other port authorities, apart from Esperance and Geraldton - for example, Dampier and Port Hedland - tried to implement this clause of the Bill, would the Minister give it serious consideration? What happens if an officious port authority officer decides to whack up a few signs at the entry to the harbour?

Hon E.J. CHARLTON: This issue concerns land which is vested in the Department of Transport. It does not deal with the Fremantle Port Authority. That authority and other port authorities have vested in them the control to do those things. For example, people may be prohibited to park, walk or fish in a certain area. This land was vested in the Department of Transport, but it did not have that capability.

Clause put and passed.

Clause 6: Section 12 amended, and validation -

Hon KIM CHANCE: I move -

Page 5, after line 4 - To insert the following new subclause -

(2b) A lease and any renewal of that lease granted under subsection (2a) is a regulation for the purpose of section 42 of the *Interpretation Act 1984*.

I spoke to this amendment during the second reading debate. The Minister advised that he had the opportunity to consider the amendment today and to take advice on it. While the Minister does not oppose the amendment in principle, his advice is that it would create a heavy administrative load which the Government feels is unnecessary. The Minister also explained that these leases are open to scrutiny by the Parliament by other means. Questions have been asked recently about leases on the Department of Marine and Harbours' land, including the Mews Road development and old Perth port project.

The Opposition will pursue this amendment to give this Committee another opportunity to consider it, if for no other reason than it believes it is an appropriate way of increasing ministerial accountability. Perhaps the Minister might allow me to speak to some of his officers concerning the degree of administrative overload this amendment might create. I would be interested to hear their comments. The Opposition does not have the same advantage as the Government to discuss administrative issues with governmental officers. I have already made the point on accountability and to some extent history has shown that there has been a reasonable degree of accountability. I reiterate that Parliaments everywhere will have to consider the process of visibility when dealing with public assets which are devolved to private users.

Sitting suspended from 6.00 to 7.30 pm

Hon E.J. CHARLTON: As I indicated during the second reading debate, it is considered by those responsible for implementing this legislation, after reviewing the amendment, that it is not administratively logical to go down the path recommended by the amendment. I concur with that view, as I do with the intent of the amendment, which was moved with the aim of ensuring that any lease entered into should be subject to scrutiny to ensure everything was being done in a proper businesslike way. These leases are entered into on a commercial basis with the private sector and consequently are subject to any question that may arise from time to time. Anyone who is unhappy with any aspect of a lease has other avenues to follow up any queries. Although accountability is desired, the member can well imagine the problems that would ensue if the people who went into these negotiations were to have any agreement subject to this amendment. That would not be businesslike. Again, I acknowledge and concur with the member's motive in moving the amendment, but its impact would be impractical.

Amendment put and negatived.

Clause put and passed.

Clauses 7 and 8 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and transmitted to the Assembly.

MOTION - PARLIAMENTARY COMMISSIONER RULES BE ADOPTED AND AGREED TO

HON GEORGE CASH (North Metropolitan - Leader of the House) [7.36 pm]: I move -

That the *Parliamentary Commissioner Rules 1994* tabled in the Legislative Council on 1 November 1994 be adopted and agreed to.

The proposed rules presented to the House are contemplated by section 11 of the Parliamentary Commissioner Act 1971. That section permits the delegation of functions by the Parliamentary Commissioner to any of his officers, where authorised by rules of Parliament agreed to under section 12 of the Act. The existing rules were approved in 1985 and are in need of updating. Since 1985 the number of complaints handled each year has doubled and the Parliamentary Commissioner is of the view that it is not possible for his office to continue to function efficiently and effectively within the limited scope of the existing rules. With the approval last year of additional staff and the appointment of an Assistant Parliamentary Commissioner to oversee the area of police complaints in the office, the need to extend the rules exists particularly in relation to police complaints.

Rule 3 outlines the functions which may be delegated to the Deputy Parliamentary Commissioner. Section 6A of the Act provides that, in the absence from duty of the Parliamentary Commissioner, or his absence from the State, the Deputy Parliamentary Commissioner shall act in the office of the commissioner and shall perform all the duties of the commissioner and may exercise all powers and functions. Rule 4 outlines the functions which may be delegated to the office of Assistant Parliamentary Commissioner, which was created last year. Rule 5 outlines the specific functions which may be delegated to "special officers", who are defined in rule 2. Rule 6 sets out the matters which the Parliamentary Commissioner is to take into account before delegating any function under the rules.

Finally, section 11(3) of the Act enables the Parliamentary Commissioner to revoke or vary a delegation at any time and no delegation prevents the exercise of any power by the Parliamentary Commissioner.

I commend the motion to the House.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [7.40 pm]: I second the motion. The Opposition has no objection to the rules tabled by the Leader of the House. The work of the office of the Parliamentary Commissioner has increased enormously in the last nine years and, with the recent appointment of an Assistant Parliamentary Commissioner whose duties relate to police matters, it is obviously appropriate for the commissioner to be allowed to delegate certain powers to that officer. As was stated in the rules, authority should be given for certain powers to be delegated to special officers. Quite clearly, it will allow for a more smooth and effective operation of the office of the Parliamentary Commissioner.

Question put and passed.

MOTION - STANDING ORDERS COMMITTEE TO CONSIDER STANDING ORDER 152 AMENDMENT

HON GEORGE CASH (North Metropolitan - Leader of the House) [7.41 pm]: I move -

That the Standing Orders Committee be requested to consider and recommend whether Standing Orders should be amended as follows -

Standing Order 152 amended.

At the beginning of the standing order 152 insert the following -

(a) Subject to paragraph (b),

At the end of the standing order insert the following -

(b) Where notice has been given of a motion for the disallowance of a regulation, then on the day which is the 14th sitting day after the day that the regulation is laid before the House, the motion shall then be called on, and if

proceeded with, moved without debate and forthwith adjourned, the mover being given leave to continue the debate at a later date.

(c) In this Chapter, the term "regulation" includes any measure which is subject to disallowance by the House whether or not it is a regulation for the purposes of section 42 of the *Interpretation Act 1984*.

Members will be aware that Hon Peter Foss has raised on a number of occasions the need to review and at times refine the current standing orders of the House. Recently Hon Peter Foss recommended to the House that an amendment should be considered to Standing Order No 152. It is proposed to request the Standing Orders Committee by way of this motion to consider and recommend whether standing orders should be amended in the way outlined. The Government supports the proposal and I understand it has been considered by the Opposition. I invite the House to support the motion.

HON PETER FOSS (East Metropolitan - Minister for Health) [7.44 pm]: I put on the record the reason for this motion. Section 42 of the Interpretation Act provides that a regulation can be disallowed if notice of resolution to disallow has been given within 14 sitting days of its being tabled in the House. Under section 42, the giving of notice is required. In this House we adopt a process to ensure the matter is then dealt with. That is found in chapter XIII of the Standing Orders of the Legislative Council, which deals with motions and questions. Standing Order No 153 states -

(a) Subject to SO's 58 and 156, a motion for disallowance of a regulation takes precedence of all other business from the time that it is moved but the debate thereon may be adjourned or otherwise interrupted pursuant to a rule or practice of the House.

(b) If a debate is adjourned or interrupted its resumption shall be made the first order of the day for the next sitting . . .

Again, it is given precedence to ensure it is dealt with. The standing order also states -

(c) Where, at the expiration of 10 sitting days (exclusive of the day on which the motion was first moved), or upon the prorogation of Parliament, the question remains unresolved -

The matter cannot be left, because it is brought to the top of the Notice Paper. It continues -

- then, in case (a), the question shall be put and determined without further adjournment on the next succeeding sitting day, and in case (b), the regulations shall thereupon be disallowed.

It is a nice system to make sure notice is given and the motion having been moved, it always comes to the top of the Notice Paper and sits at the top of the Notice Paper. If it is not dealt with, it is disallowed. It sounds wonderful; the only problem is that Standing Order No 153 deals with a motion that has been moved, and section 42 of the Interpretation Act deals with a notice of motion. There is a gap between the giving notice of a motion, and the moving of a motion. We have struck the problem that even though a member may give notice of a motion, it may never become a motion. That becomes a particular problem when the Parliament is prorogued, because Standing Order No 153 does not deal with notices of motion that have not been moved. Therefore, the motion disappears from the Notice Paper as though it had never been given. That is not a problem if it happens within 14 sitting days of the tabling of the document, because notice can be given and the matter dealt with at the next Parliament. However, if the 14 days have passed, the opportunity to disallow that regulation is gone forever.

This motion requests the Standing Orders Committee to give consideration to this matter, so that we have an assurance that such motions will be dealt with right through to prorogation and there is no opportunity for them to be missed. I raised this matter when in opposition and proposed the method at that time. I am not sure whether it is the

appropriate method, but it is one way of ensuring that the process is followed through. That is the intent, and I hope the Standing Orders Committee will support the proposal and initiate an amendment.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [7.46 pm]: I am delighted that the Minister for Health is being consistent from one Parliament to the next. It has not been a hallmark of all his statements! In fairness to the Minister, he has been consistent in this matter. Of course, the Opposition supports the referral of this matter to the Standing Orders Committee. Although the Opposition may not support the proposal word for word, it believes the matter should be resolved. As the Minister for Health has pointed out, there is a loophole in the system that should be fixed. It would be absolutely stupid for the Opposition to do other than support the motion, bearing in mind the importance that we, in opposition, and government members, when in opposition, place on delegated legislation and the disallowance of it. We would be derelict in our duty if we did not take the opportunity provided by the Minister for Health. Therefore, we support it.

Question put and passed.

AGRICULTURAL AND VETERINARY CHEMICALS (WESTERN AUSTRALIA) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [7.48 pm]: I move -

That the Bill be now read a second time.

This Bill is the culmination of three years of work and negotiation by state and commonwealth officers throughout Australia. It has the full support of both industry and the Government. The Bill provides the legal framework for the concept of a single, national system for evaluating and registering agricultural and veterinary chemicals before they are sold for use in any State or Territory of Australia. The national registration scheme, as it is known, will replace the separate state and territory schemes for evaluating and registering chemicals. These schemes emerged during the late 1930s to mid-1950s, primarily to protect farmers from being sold ineffective products for weed, pest and disease control in their crops, pastures and animal herds. At that time, the controls imposed by individual state legislation were considered more than adequate. However, in 1990, the Special Premiers' Conference identified the need for a more uniform approach to these issues on the basis of microeconomic reform, and the need for overseas buyers of agricultural produce to be aware that Australia has national controls over agricultural and veterinary chemicals. The need to ensure that the public has confidence in the chemicals available on the market has not changed. However, the technology, and the role of agricultural and veterinary chemicals, are vastly different from earlier times. Such chemicals are used in homes, gardens, parks, roads and railways, as well as in primary production. We now have a greater understanding of the way chemicals work and their potential impact on human beings and the environment. For these reasons, the general community has an interest in the chemicals available for use in and around homes and in the production of food and fibre The community, rightly, demands a high level of scrutiny before chemical products are released onto the market.

The presently required level of scrutiny is realistically beyond the resources and expertise of any one organisation, or even any one State. State departments of agriculture or their equivalent, and in the case of this State, the Health Department, have been responsible for administering each State's registration scheme for agricultural and veterinary chemicals. To achieve this, those agencies have been cooperating with other state and commonwealth agencies for more than 20 years in order to share resources and/or gain access to expertise, and to attempt to attain some degree of national uniformity.

Furthermore, the development and marketing of chemical products has little to do with state boundaries, or even in some cases, national boundaries. All this makes a national system for the evaluation of agricultural and veterinary chemicals a logical and practical step to take.

This Bill is almost identical to the Bills that will be considered by the Parliaments and Legislatures of each State and the Northern Territory. The national registration scheme will be created by a complementary adoptive system of state and commonwealth laws. At the request of the States, the Commonwealth agreed to legislate to create an agricultural and veterinary chemicals code, known as the agvet code, which contains the detailed provisions for the evaluation, registration and sale of agricultural and veterinary chemicals. For it to be effective, each State and the Northern Territory must legislate to adopt the agvet code, and so create the national scheme. The Commonwealth Government has created an independent statutory authority, known as the National Registration Authority, to administer the national registration scheme. The Commonwealth Parliament has already considered and passed the Agricultural and Veterinary Chemicals Code Act 1994, which contains the agvet code. The purpose of this Bill is to adopt the agvet code as Western Australian law, and so make Western Australia a party to the national registration scheme.

The national registration scheme contains a number of important features. The scheme will evaluate, register and control the sale of agricultural and veterinary chemical products, and the active constituents that they comprise. In doing so, the scheme maintains the controls that already exist in Western Australia under the Veterinary Preparations and Animal Feeding Stuffs Act, and the Health (Pesticides) Regulations. In addition, the national registration scheme contains several new and significant features. As far as the evaluation of chemicals is concerned, the agvet code explicitly specifies that consideration must be given to human, animal and plant health, the efficacy of the product, its impact on the environment, and implications for international trade. The scheme will incorporate a formal program for reviewing old chemicals to ensure they meet contemporary safety and performance standards, and a mechanism for deregistering those chemical products that do not meet those standards.

To bring some equity into the research and development costs associated with providing the data for product reviews, the scheme will allow for the original provider of data to be compensated by manufacturers who wish to use that data to support their own products. The NRA will have the ability to issue notices recalling stocks of unregistered products, on the grounds of improper formulation, contamination, public health, or international trade risk. Under certain circumstances, and with the assistance and cooperation of the States, the NRA will also be able to issue permits for the use of chemical products where these are used in ways which would normally be an offence; for example, commercial trial use, and off-label uses.

No-one will be disadvantaged by the adoption of the national registration scheme. Existing chemical products registered in Western Australia will be deemed to be registered under the new scheme. Farmers and householders can expect the products they rely on to continue to be available. In addition, Western Australia and all other States and Territories, will continue to be involved with the NRA and the national registration scheme. Several mechanisms will exist to maintain communications between the States and the NRA. The most important of these, in terms of day-to-day operations, are the officers in each State and Territory who have been designated as state coordinators, and the network that these coordinators will form for advising the NRA on the practical aspects of the scheme's operation. It emphasises the high degree of support that exists for the national registration scheme. First, the Government recognises the benefits to this State in participating in a national scheme. Secondly, the chemical industry is fully supportive of the national registration scheme. That is important as the chemical industry will be subject to the regulation contained in the agvet code and will, within five years, be fully funding the cost of running the scheme. Thirdly, the scheme is fully supported by primary industry bodies, which are the major users of agricultural and veterinary chemicals.

It should also be noted that the Agricultural and Veterinary Chemicals Code Act passed through both Houses of the Commonwealth Parliament without amendment, with bipartisan support. All parties to the scheme recognise that adjustment and fine-tuning may need to occur after the scheme has been running for a while. In fact, the NRA has already undertaken to review the scheme's operations in about 18 months, with particular regard to public access to information, cost recovery, third party appeals and control of use after sale.

Finally, the Bill contains consequential amendments to the Veterinary Preparations and Animal Feeding Stuffs Act and the Health Act. Each of these Acts is to be amended to make it clear that, where the evaluation, registration and supply of an agricultural or veterinary chemical product is dealt with by the national registration scheme, the sale of that product is exempt from further regulation under state laws. However, where a chemical product is not covered by the scheme - for example, in relation to its use - the provisions of existing laws will apply.

In summary, it is expected that this Bill will lead to advantages for all interested parties: For the chemical industry though the introduction of a national registration scheme; for the farmer through greater scrutiny and information on chemical products; for the environment through greater emphasis on proper assessment of chemical products; and for the public sector through a more efficient and rational administration system. I commend the Bill to the House.

Point of Order

Hon JOHN HALDEN: Is this Bill captured by Standing Order No 230(c), which I understand means that it has to stay on the Notice Paper for 120 days? I understand that that happens after the second reading speech.

The PRESIDENT: It appears to me that it is. If the Minister proposes to proceed with the debate on the Bill earlier than the 120 days, he will run foul of Standing Order No 230(c)(2). However, I have not had any indication that he proposes to do that. My ruling at this stage is that the Bill comes under that standing order.

Debate Resumed

Debate adjourned, on motion by Hon Bob Thomas.

AGRICULTURAL AND VETERINARY CHEMICALS (TAXING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [7.58 pm]: I move -

That the Bill be now read a second time.

This Bill provides a housekeeping mechanism to support the thrust of the Agricultural and Veterinary Chemicals (Western Australia) Bill. It imposes fees that may be raised under part 9 of this Bill, that are taxes. This is necessary in Western Australia because of section 46(7) of the Constitution Acts Amendment Act. This section requires that Bills imposing taxation shall deal only with the imposition of taxation.

For this reason, without the Bill and subsequent Act, it would be not possible to collect the fees to be imposed under the proposed Western Australian agriculture and veterinary chemicals regulations should these fees at some future time be found by an authority with higher legal standing to be taxes under the Australian Constitution. This approach has been adopted in this specific case because other States do not have a law similar to that of section 46(7) of the Constitution Acts Amendment Act, and thus are not as potentially constrained as is Western Australia. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

STANDING COMMITTEE ON LEGISLATION

Twenty-ninth Report, Workers' Compensation and Rehabilitation Amendment Act, Tabling

HON DERRICK TOMLINSON (East Metropolitan) [8.00 pm]: I am directed to present the Twenty-ninth Report of the Standing Committee on Legislation in respect of the Workers' Compensation and Rehabilitation Amendment Act 1993. I move -

That the report do lie upon the Table and be printed.

Question put and passed.

[See paper No 545.]

STANDING ORDERS SUSPENSION

Standing Committee on Legislation, Twenty-ninth Report Consideration

On motion without notice by Hon John Halden (Leader of the Opposition), resolved with an absolute majority -

That so much of standing orders be suspended as to allow the twenty-ninth report of the Legislation Committee to be considered immediately.

STANDING COMMITTEE ON LEGISLATION

Twenty-ninth Report Consideration

HON J.A. COWDELL (South West) [8.03 pm]: I move -

That the report be adopted.

It is important to bring to the attention of the House the contents of the twenty-ninth report of the Standing Committee on Legislation. When various committees consider the procedures of this House it should be a matter of form that the work of committees is considered by the House rather than the current situation where reports may be considered by special motion in extraordinary circumstances. It should be the norm rather than the exception, given the work that members of the committees perform in compiling various reports.

The report before the House shows that the Legislation Committee sat over 23 days and received submissions from 58 individuals and organisations. Those individuals and organisations encompass employers, employees, union representatives, and public servants. In the course of the inquiry the committee travelled to Victoria to look at the operation of the Kennett legislation as it applied to workers' compensation and rehabilitation. That was very useful, given that many features of the Victorian legislation were incorporated into the Western Australian Act, and it was difficult to take matters beyond the theoretical level of debate that had taken place in this House without looking at the operation of the Victorian system. Indeed, when the committee first met on this term of reference it had only the initial statistics coming through from the newly reformed Western Australian system whereas the Victorian system had been in operation for well over 12 months and had many similar features. While in Victoria we were able to witness the Government introducing amending legislation to, shall we say, tune its new workers' compensation legislation in the light of experience. We felt that it was appropriate to look at the initial legislation, the operation of it and the statistics that had become available, and to look at the amending legislation in the Victorian context. It grieves me to say that there were features of the Kennett legislation that the Western Australian Legislature could learn from - as indeed it could from the legislation that we discussed a few weeks ago in respect of voluntary student unionism where the Kennett Government embarked on an alternative model which had some features which were commendable.

Debate in this House, of course, centred upon the workers' compensation amendment Act insofar as it took away workers' rights and appeared not even to provide significant benefits to employers in recompense. The observations of the committee, just to

summarise and put it succinctly, have resulted in a unanimous report by the committee. Those items that we could not agree on are, of course, in that section of the report dealing with matters for further consideration, but on the body of the report we were unanimous. Members will note that the body of the report contains criticism of a range of recent amendments to workers' compensation that were introduced and passed by this Chamber and another place last year. The committee has found that there is a tendency towards over-bureaucratisation of the new system, and that this can involve considerable expense to taxpayers. The committee has recommended that the whole administrative review tier of dispute resolution be abolished; that we go to the Victorian model and have one administrative tier followed by a judicial tier; and that there is no point in having two administrative rounds, particularly of the nature that has been introduced into the Western Australian system.

The committee also found that an injustice has been committed in denying workers the right to appeal from conciliation and review to the Industrial Magistrate's Court on matters of fact as well as matters of law. Currently, workers may appeal only from departmental review, and it is departmental review, on the basis of an error in law. The committee was also concerned that the standards required of conciliation and review officers were inadequate. Conciliation and review officers may come up to scratch, but they may not. The Committee has recommended that conciliation and review officers have training in the processes of dispute resolution and the laws of evidence.

Amendments are also recommended to the operation of medical assessment panels. Members will recall the debate on those panels in this Chamber. An overview of the committee report clearly shows that the committee found major flaws in the legislation introduced in another place by Minister Kierath. These inadequacies have been recognised by both government and opposition members of the committee. Although the committee reviewed only part IIIA of the 1993 workers' compensation amendment Act, it found very significant room for improvement in just that section. However, if members examine the matters for further consideration in the report they will see that in the process of consideration of that narrow part IIIA, other causes of concern and inadequacies in the Act became apparent. They were of the nature that there could be a massive cost blow-out under the new system, that no saving will be made to employers by means of reduced insurance premiums, and that workers could be disadvantaged by not having advocates at conciliation and review. Indeed, the committee was so concerned about other sections of the Act that it did not directly report on that. It has proposed to the Government a full review of the Act as passed last year involving both the Trades and Labor Council and the Chamber of Commerce and Industry. It is obvious that the Government, in its amending legislation last year, did not reform certain sections of workers' compensation that needed reform and got it wrong in areas where it legislated.

Turning to some of the detailed evidence contained before members in the Twenty-ninth Report of the Standing Committee on Legislation, one of the witnesses who came before the committee made quite a valid point. If we shake up a system, we are likely to have short term benefits. No matter how it is shaken up, there is likely to be some benefit in reduction of delays and improvement in performance, but that may not last. Indeed, some of the reforms can be questioned. The introduction of the report notes simply that the committee should be mindful of the fact that the legislation has already been passed and of the objectives of that legislation as stated by the Government. In fact we are, therefore, not looking at all the aspects such as closing access to the courts, the common law solutions to capping medical benefits, ending journey claims and so on - all those contentious areas. We started to review the whole of the Act but it became apparent when we started with part IIIA that that was a full task in itself and there was such a range of recommendations under that part that after three or four months' deliberation on this item - much time and effort was put in - it was necessary to recommend a more substantial review of the other portions of the Act.

With respect to the conciliation phase, members will see at the top of page 7 of the report that we received representations from Ian Viner and Peter Durack QC, who put very strongly a traditional Liberal attitude on taking away common law rights of injured

workers. They expressed considerable concern to the committee that this Government had gone for an administrative bureaucratic solution to a set of problems rather than allow for a reasonable level of legal redress. They expressed concern and surprise that a Liberal Administration should opt for a socialistic administrative sort of solution to workers' compensation problems. Under the section on conciliation, the committee noted on page 8 it should not be inferred necessarily that legal adversarial models of dispute resolution are invariably ineffective. Many situations exist in which such approaches are of considerable worth, particularly where the substance of the dispute is highly complex and the amounts involved warrant the high per capita cost involved. A notation is made of the alternative dispute resolution procedures that have been included in the Western Australian judicial system in the past.

The committee had to note that the performance of the old Workers' Compensation Board had much to commend it, certainly in terms of the comparative economy of cost, the relative figures appearing to be in the order of $1.6m compared with the Victorian system which, on a similar per capita basis, could be in the vicinity of $6m. The committee made the recommendation, as a result of examining the operation of the conciliation and review procedures, that it was an error not to have in the current system some element of compulsion regarding participation in the conciliation process. Indeed, this most important phase could be circumvented by employees choosing to proceed directly to the review stage and employers choosing not to participate but to be represented only by their insurance agents. The view of the committee is that there was a flaw in this regard and its recommendation is that the attendance by all parties to the dispute be made compulsory and the conciliation officer have the power of referral to the Compensation Magistrate's Court. That is, there needs to be a recognition, even at this early stage, that the problems may be so momentous that a capacity should exist for immediate referral.

The committee received evidence from departmental people about the wonderful new hands-on conciliation approach, with the employer and employee present, and the insurance representative and so on, but no-one else - certainly not an employee advocate. It soon became apparent that the employer was not bothering to show up and was being represented by the insurance company, which arrangement may or may not have been in the interests of the employer. The committee found from Victorian evidence that in a number of instances the interests of the employer were at odds with the interests of the representative of the employer's insurance company.

A recommendation is made about country attendance; a recognition that some hardship may be involved and that there should be a facility for the various officers to travel to country areas. The key section on page 12 relating to a two tiered system is worth bringing to members' attention. It states -

> Notwithstanding the Committee's approbation of a private citizen's right to independent review of an administrative decision made by a Review Officer it is of the opinion that there is little justification for the retention of a three tier dispute resolution system incorporating a process of review. The conciliation phase was implemented as a non-adversarial mechanism of bringing opposing parties together for the purpose of resolving the matter in a just and equitable manner. If any or all of the parties are unable or unwilling to resolve the matter at conciliation resolution of the dispute should be by way of judicial process.

It should not be resolved by going through another administrative review. The report continues -

> The current system complicates matters by introducing an intermediary administrative review process which permits a Review Officer, acting in an administrative capacity, to make judicial decisions which are only appealable on questions of law.

Grave concern was expressed about the adequacy of the training of conciliation officers, let alone review officers. The report continues -

> That is, the review stage attempts to resolve questions of fact and law by an administrative rather than judicial process.
>
> Members of this Committee agree that the system of dispute resolution in Western Australia should comprise two rather than three tiers. The first tier should entail non-adversarial dispute resolution by way of a conciliation conference such as that envisaged by the legislature. Failing resolution of the dispute all parties should be entitled to proceed to the second tier, namely, the Compensation Magistrate's Court. Removal of the second tier will only serve to reinforce the incentive for all parties to settle the matter, save in circumstances when the matter is incapable of resolution by conciliation and therefore should proceed to the Magistrate's Court.

That is a fundamental recommendation for change. It is a recommendation based on observations of the Western Australian system as well as observations of the operation of the Victorian system. It is advocacy of a Kennett-style system. How we got to the Western Australian variant, I am not sure. The committee feels that the Government needs to consider closely this reform, and that it does not require the lapse of 18 months or two years' worth of statistics in order to make obvious reforms. In this limited area of part IIIA the committee has put forward by unanimous recommendation a set of what it regards as certain obvious reforms which will assist the development of the system and lead to a better assessment of it at the conclusion of the 18 month or two year period.

I will not go into part 9 of the report in detail. However, the report points out serious matters of concern with legislation that does not require certain minimal qualifications of conciliation and review officers, particularly with review officers when at the moment there is no recourse to the Magistrate's Court in many instances following the determination of a review officer. That is not to say that some of the review officers appointed so far may not do their job and do it well; however, there is no guarantee against a miscarriage in this regard.

The committee notes at page 15 as follows -

> The fact that a Review Officer is not bound by the rules of evidence and may inform himself or herself on any matter in such manner as he/she thinks fit is a cause of concern by the legal profession.

The concerns of the legal profession received relatively short shrift from the committee, particularly on involvement in the administrative conciliation phase. However, concern was expressed about some of the points made by the legal profession about the relative level of training of conciliation and review officers. The key feature under part 10 of the report on the right of appeal states -

> As previously stated, an appeal from the decision of a Review Officer to the Compensation Magistrate's Court is permitted only on a question of law.

This of course is not the case in Victoria. The report continues -

> It was submitted to the Committee by Mr Viner QC, that, at the very least, if the worker's right to legal representation is quashed by the legislation there must be some right of review or appeal of the administrative decision. That is, there must be a right to appeal a decision of the Review Officer, which by its very nature is administrative, on the merits of the case.

That is, it would be a travesty of justice if everything were decided by possibly untrained conciliation and review officers with limited recourse to the Magistrate's Court. The report continues -

> . . . namely, the Workers' Compensation Conciliation Tribunal, be established to deal with appeals against determinations made by review officers on the following grounds:
>
> > cases referred to the Tribunal by a Review Officer who, due to the complexity of the issues involved, is unable to make a determination; and

appeals on the basis that the Review Officer has made an error in fact or in law when making the determination.

That is a most important recommendation to give the system a fair trial.

The committee makes a couple of recommendations about medical assessment panels, particularly the appropriate compensation they can recommend. Perhaps those panels, given the Victorian experience and the experience of Western Australia so far, will not perform as significant a function as was apprehended in debate in this Chamber previously. The committee then noted in conclusion matters that needed further and serious consideration. One dealt with the advocates for injured workers, and the possibility of a worker's case being knocked out at the conciliation phase, let alone the review phase, and that the worker would receive a poor deal through ignorance and inexperience, certainly compared with the employer. However, the experience tended to be that the employer did not show up at any rate, so it was not the face to face resolution that was anticipated, but that a very skilled advocate for the insurance company appeared with a load of cases. We saw in the Victorian instance a professional advocate for the insurance company appearing really as a professional advocate for the employer. We found in the Victorian instance and, indeed, from evidence received from employer organisations in Western Australia that there was no great objection to this to having some form of advocacy for the employee at the conciliation phase; that is, not necessarily in the form of a legally trained advocate or a lawyer. I understand there is no great objection in the current operation of the system on an informal basis. Even if there were, there is an opportunity for gaining advice before the employee goes in or trying to seek advice during the course of the conciliation, but it is a cumbersome method if it takes place. If there is no objection there should be a right to some sort of advocacy. The question arose particularly of those who were disadvantaged in the country and it was felt that they should be able to be represented by someone in an advocacy capacity to put the case without an employer or employee having to travel to Perth and suffering serious disruption of his business. So advocates for injured workers is an area that needs further consideration, certainly in the light of how the Western Australian system has been operating.

Cost comparisons, at point 13, was a matter of concern, especially as our Victorian hosts from WorkCover said, "How would you know what is going on in Western Australia. You are totally deregulated. The insurance companies give you no information. You do not know what percentage of payroll is being paid for this cover. We estimate you are the highest in the country, but we cannot prove it and you do not know because the insurance companies do not give you enough information." Obviously the committee felt that there needed to be a consideration of cost comparison, under point 13, which is, in an administrative sense, what we have gone to with two bargain layers, and also under point 15 with respect to insurance premiums. The witnesses from the Insurance Council pointed out that employers had been misled in their expectation of relief under the new legislation and that because of heavy discounting in the past, despite the so-called benefits of the new legislation last year, there would be a 25 per cent hike in the insurance premiums this year. That was readjusted somewhat to the comment, "Well, it may be 12 or 15 per cent because we are not sure that the market can bear a 25 per cent increase." It was noted that was a real increase and not an increase over the scheduled amount. It was an increase over the bargain basement discounted level of the past. Nevertheless, it led to a significant dashing of employers' expectations of benefit. When we found the quite justifiable fuss that was made about various aspects of reform last year, such as the removal of journey claims, we found it was an insignificant component in the savings that would be made in workers' compensation insurance premiums. However, we found the industry was off and running and for something which might effectively cost realistically $11 a year for cover. All sorts of bargain basement schemes were offered for $39 and they went up from there. This opened an area of competition which was not beneficial, particularly to the employer, who might have to pick this up as a result of an award agreement, or to the employee, who had to pick up that cost.

The most significant comment is under point 16 on page 25 with respect to the return to

work culture. It impressed us that there could well be a lost generation in the system. Once one gets onto the workers' compensation system, and then tries to break out to employment again, once one has told a prospective employer that one is on workers' compensation, one is finished. If there is a category of the long term unemployed because of stigma, it is this. In Victoria we found significant reforms in changing the culture. The Western Australian department did bring over some of the Victorian advertisements and adapt them to Western Australia. I saw them playing on television here. In a further item for consideration the committee expressed concern that a total package was needed and that a few advertisements would not effect the change of the return to work culture. It had to be a total package involving a campaign among doctors and their referral practices, among workers, and among employers in having on-job rehabilitation programs. There seem to be few of those in this State. Also in the return to work culture is the need to consider the concept that insurance premiums must encourage that as well. In Victoria, I think that for the first five or 10 days the employer is up for the wages of the employee and is not covered by insurance. That is a very significant factor in concentrating the mind of the employer to devise some way of not having the employee off or slipping into a workers' compensation permanent benefit situation.

The committee brings all those important features to the attention of the House in this report. For that reason I have taken the opportunity this evening - and it is not a normal opportunity unfortunately in the life of the House - to bring to members' attention some of the aspects I and the committee felt important. We recommend a whole set of things be reviewed 18 months down the track, when one can only effectively review them because one has 18 months of statistics and experience of how the system operates. The report contains a set of proposed changes which the Government can and should make immediately to the system, which are based on observations about the functioning of the Victorian system, upon which we have modelled our system, for 12 to 18 months, and also on the amending legislation introduced by the Victorian Government. On that basis, I commend the report to the House, particularly to Ministers.

Debate adjourned, on motion by Hon Muriel Patterson.

STANDING COMMITTEE ON LEGISLATION

Thirtieth Report, Fish Resources Management Act, Tabling

HON DERRICK TOMLINSON (East Metropolitan) [8.41 pm]: I am directed to present the Thirtieth Report of the Standing Committee on Legislation in relation to the Fish Resources Management Act 1994. I move -

That the report do lie upon the Table and be printed.

Question put and passed.

[See paper No 546.]

STANDING ORDERS SUSPENSION

Standing Committee on Legislation, Thirtieth Report Consideration

On motion without notice by Hon John Halden (Leader of the Opposition), resolved with an absolute majority -

That so much of standing orders be suspended as is necessary to allow debate forthwith on the thirtieth report on the Standing Committee on Legislation.

STANDING COMMITTEE ON LEGISLATION

Thirtieth Report Consideration

HON TOM STEPHENS (Mining and Pastoral) [8.42]: I move -

That the report be noted.

I have noticed that the media has not carried any advertisement from the Standing Committee on Legislation calling for submissions on its term of reference to consider the

impact of the Fish Resources Management Act upon the rights and privileges of Aboriginal people. I have had the opportunity in the last 60 seconds to cast my eye over the report and have noted its recommendation that, after the High Court has delivered its decisions in the cases challenging the validity of the Native Title Act 1993 and the Land (Titles and Traditional Usage) Act 1993, the Fish Resources Management Act 1994 be referred to a select committee for the purpose of reviewing the Fish Resources Management Act in the context of native title or rights of traditional usage. I am pleased that this matter will eventually become the subject of select committee consideration and report to this House, but in the light of the assurances which were given to the Opposition when we debated this legislation, I had hoped that the Legislation Committee would call immediately for submissions from Aboriginal people and others with an interest in this matter so that that group of Western Australians would have for the first time an opportunity to express its views on this legislation. Despite the assurances of Ministers that some consultation has taken place with Aboriginal people, I am now well aware that no such consultation took place and that the consultation was limited to a referral of this legislation to the Aboriginal Affairs Planning Authority, which did not refer this legislation any more widely than to its departmental officers. That is not adequate consultation by any means. No Aboriginal group has had the opportunity for consultation about this legislation.

I see from my quick glance at this report that it contains a minority report, which states -

> It is regrettable that the Aboriginal people in particular have been denied the opportunity of having their views heard prior to the proclamation of the *Fish Resources Management Act 1994*.

That denial has now continued with the Legislation Committee's refusal to advertise for submissions from and consultation with Aboriginal people in regard to this legislation. It is with deep regret that I see this report tabled, knowing that the Legislation Committee has gone down the path of not advertising for submissions about this matter. I look forward to reading the report in more detail and to referring it to Aboriginal groups. I hope that at an early stage there will be a real opportunity for Aboriginal input on this matter. I realise that there is some logic in waiting for the deliberations of the High Court on the question of which parts of the Native Title Act and the Land (Titles and Traditional Usage) Act will survive, but the important principle here is the demand and expectation that Aboriginal people be heard. That legitimate expectation was encouraged by the Minister for Transport, on behalf of the Minister for Fisheries, when the Bill was in this place, when he said that the Opposition should let the legislation go through on the basis that it would go to the Legislation Committee and consultation would take place. However, we now have a report from the Legislation Committee which states that it is not prepared to countenance that sort of consultation at this point. That is a breach of faith on the part of the Government. I know Hon Derrick Tomlinson said at the time of the referral of the Bill to the Legislation Committee that he did not believe that committee was the appropriate place for the referral of such legislation, and I agree. It would be better to utilise a select committee to consider this issue. Unfortunately, that offer was not made to us by the Government at that time. My request on behalf of Aboriginal people was that they have the opportunity to be heard. They have not had that opportunity, and they should be heard forthwith.

HON DERRICK TOMLINSON (East Metropolitan) [8.48 pm]: I draw to the attention of the House that the Fish Resources Management Act was referred twice to the Legislation Committee. It was referred to the Legislation Committee in the form of -

Point of Order

Hon DOUG WENN: Mr President, in order to set my mind at ease, Hon Derrick Tomlinson introduced this motion to the House. We have had one speaker on it, and he is now speaking again. Will that close the debate, because I intend to adjourn it?

The PRESIDENT: Order! He has not spoken on this motion. The only speaker on this motion has been Hon Tom Stephens.

Hon Doug Wenn: So his speaking will not close it?

The PRESIDENT: No. Hon Derrick Tomlinson did not move this motion. He moved that the report be tabled. Subsequent to that, the motion with which we are now dealing was moved, so there is no point of order and the member has no problem.

Debate Resumed

Hon DERRICK TOMLINSON: As I was saying, this Bill was referred to the Standing Committee on Legislation in the form of a Green Paper. The Legislation Committee advertised for submissions. In fact, it received many submissions, none of which addressed the matters to which Hon Tom Stephens referred. When the committee received the submissions and was briefed on the Bill by officers of the Fisheries Department, it decided that it was premature for it to deliberate on the Green Paper then because the legislation was at an early stage of drafting. We were advised that there would be many changes to the legislation before it got to the first reading stage in the House. Therefore, the committee reported to the House that it would not proceed. It was important at that very early stage that the Government made possible the opportunity for public input into the formulation of its legislation. I again make the point that after it had advertised statewide calling for submissions, none of the matters raised by Hon Tom Stephens was raised.

When the Act was referred to the Legislation Committee we sought advice on the standing of section 6 in the light of the current challenges to the Commonwealth Native Title Act and to the Western Australian Land (Titles and Traditional Usage) Act 1993. We received advice that the status of section 6 was as uncertain as the status of those two pieces of legislation before the High Court of Australia, and one could not make a recommendation on section 6 until one had the decision of the High Court about the two pieces of legislation being challenged. Since the legislation was as uncertain as the decision which would come from the challenge to the High Court, there was no point in the committee deliberating further. Until the matter of law is resolved the legality of details of this legislation will remain uncertain. The committee therefore made the early decision, since an Act not a Bill was before it, that it should report that observation as early as possible. After the committee resolved to report its deliberations on the Act, it received a submission informally, the first part of which being that it should call for written submissions to give Aboriginal communities in the north west of the State, particularly the Kimberley, the opportunity to put forward the concerns expressed by Hon Tom Stephens tonight, and which he expressed in the second reading debate.

The second part of that informal submission was that since the committee had already concluded there was no point in deliberating further on the Act until such time as there was certainty about the status of either the Western Australian law or the Commonwealth law on native title, rather than receiving, deliberating and making recommendations on the submission which would become recommendations to the Minister - our recommendations would be recommendations to the Minister because when the Bill passed the third reading stage it would pass beyond the power of this House, and the Legislation Committee could not make recommendations on an Act, which was beyond the power of the House; it could only make recommendations to the Minister on matters which were as uncertain as the deliberations of the High Court - the Legislation Committee should receive the submissions after a proper period had elapsed and then merely pass on the submissions to the Minister.

It is not the role of the Legislation Committee to be a postbox. Neither does the Legislation Committee have the time nor the resources to be a postbox, particularly with matters which are as uncertain as section 6 and native title with respect to fishing rights in Western Australia at this time. Therefore, the decision was made not to proceed along that path which would have meant delaying presenting the report until perhaps March of next year, but to report now and to recommend to the Minister that when the High Court has ruled on the matter of law, a committee then review the Act, particularly native title with respect to fisheries in the light of the High Court decision. The High Court decision will have a significant bearing on the validity of the pertinent sections of this Act.

Hon Tom Stephens: The only thing is that the Minister did leave us with the impression that you would adjudicate this question that was in dispute.

Hon DERRICK TOMLINSON: The Legislative Council does not take instructions from the Minister. The Legislative Council makes its own decisions. The Legislative Council instructed the Legislation Committee to consider certain sections of the Act. The Legislation Committee, having considered the relevant advice, came to its own decision. In turn, it did what is within the power of a Chamber of the Parliament to do: It made a recommendation to the Minister. The Parliament has the power to direct and to give advice to the Minister because we still do not have Executive Government in Western Australia.

Debate adjourned, on motion by Hon Doug Wenn.

House adjourned at 9.00 pm

QUESTIONS ON NOTICE

NATIONAL RAIL CORPORATION - DERAILMENT, AVON VALLEY

905. Hon BOB THOMAS to the Minister for Transport:

(1) Was the derailment in the Avon Valley on 28 September 1994 due to a National Rail freight vehicle with single axles having one wheel fall off when a journal screwed off?

(2) If so, what action has Westrail taken to ensure that National Rail changes its policy to run only vehicles with bogies on Westrail's rail assets?

(3) What was the total cost to Westrail for the repair of the damaged track?

(4) How much of this cost will be reimbursed by National Rail?

(5) Did Westrail also incur costs when Westrail crews were unable to run trains on the affected line?

(6) What were those costs?

Hon E.J. CHARLTON replied:

(1) The cause of the derailment is the subject of an investigation which has not been completed.

(2) All National Rail vehicles operating over Westrail lines have bogies.

(3) The total costs have not been determined.

(4) Under the Railways Freight Service Agreement between Westrail and National Rail, Westrail is to receive the revenue from interstate freight services until 30 June 1995 and National Rail will not be responsible for derailment costs. This is a continuation of the position which applied prior to this agreement. Under a track access agreement effective from 1 July 1995, payments for track damage will be fault based.

(5) Yes.

(6) These costs have not yet been determined.

TRANSPERTH - WHITFORD BUS STATION
Incident; Security Officers

915. Hon BOB THOMAS to the Minister for Transport:

(1) Is the Minister aware that the youth who was arrested for acting in a threatening manner towards Transperth patrons at the Whitford rail/road interchange station on 14 October 1994 at 15.55 was part of a larger group of youths who frequent the bus station and engage in conflict with patrons in the interchange area, the car park and the passageway to the car park?

(2) Has Transperth removed the bus inspector and other staff who formerly occupied offices in the upper level of the bus station?

(3) Does the Minister now intend to install security offices at the interchange permanently?

Hon E.J. CHARLTON replied:

(1) I am aware of the incident in question.

(2) One bus station attendant has been removed to perform other duties.

(3) The Whitfords bus platform is patrolled by a Westrail station attendant, as well as Westrail mobile security officers. Also the MTT has a contract with MSS Security who are on call and available for immediate response to any incidents occurring on MTT buses. The member would also be aware of recent announcements concerning increasing the number of video surveillance cameras at rail stations, installation of emergency

telephone systems and upgrading the security capabilities of the passenger service attendants to enable appropriate response to unlawful incidents.

WESTRAIL - LOCOMOTIVE, CLP CLASS *CITY OF PORT AUGUSTA*, BREAKDOWN

916. Hon BOB THOMAS to the Minister for Transport:

(1) Where on the Westrail network did the Australian National Railways CLP class *City of Port Augusta* locomotive break down on 16 October 1994?

(2) What was the cause of the breakdown?

(3) Was a Westrail L class locomotive used to replace the broken down CLP class locomotive?

(4) At which depot was this locomotive attached?

(5) Were Westrail workers called out to operate the L class locomotive?

(6) What part of the cost of providing the L class locomotive will be met by Westrail?

(7) As Westrail is experiencing a shortage of standard gauge locomotives did the use of this L class locomotive disrupt the running of any freight trains?

(8) If so, how many and by how many hours?

(9) Will Westrail contribute in any way towards the cost of the CLP class ANR locomotive and, if so, how much?

Hon E.J. CHARLTON replied:

(1) The locomotive broke down on the Australian National system.

(2) Not known.

(3) Yes.

(4) West Kalgoorlie.

(5) No. An Australian National locomotive and crew were used to haul the train to Kalgoorlie. A Westrail L class locomotive then hauled the train to Perth using a Westrail crew already rostered for this purpose.

(6) None.

(7) No.

(8) Not applicable.

(9) No.

WESTRAIL - BUS SERVICES
Bruce Rock-Perth

1009. Hon KIM CHANCE to the Minister for Transport:

(1) What arrangements are available for Bruce Rock residents to travel from Bruce Rock to Perth on the Westrail passenger bus service?

(2) When did Westrail cease services to and from Bruce Rock?

(3) Is it correct that on 20 September the Westrail ticket office, at the East Perth terminal, told a prospective passenger that only one seat remained on the 22 September service to Esperance when in fact 32 seats were available?

(4) What efforts are made to ensure that passengers are provided with accurate information and are not frustrated with misleading answers to questions regarding seat availability?

Hon E.J. CHARLTON replied:

(1) Westrail operates a weekly road coach service between Perth and

Narembeen via Bruce Rock. The service departs Bruce Rock at 1.35 pm each Thursday, arriving at Perth Terminal at 6.05 pm.

(2) Westrail has not ceased services to and from Bruce Rock. However, from 1 September 1994 the Quairading-Narembeen section has been contracted to a private operator. The contracted service connects at Quairading with Westrail's road coach service operating between Perth and Esperance.

(3) Inquiries with staff at Perth Terminal have not verified this conversation.

(4) It is Westrail's normal business practice to provide customers with accurate information concerning its services at all times.

CHILD MIGRANTS - FINGERPRINTING

1060. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Community Development:

In respect of the answer given to question on notice 8 of 1994 by the Minister for Community Development regarding the fingerprinting of child migrants on arrival in Western Australia, will the Minister inform the House -

(1) Do records show that fingerprinting of child migrants did occur?

(2) If so, which migrant children were fingerprinted?

(3) If so, who kept the prints, for what purpose were they used, and where are they now?

(4) If the prints are still held, will the Minister inform the House what he intends to do with them?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

(1)-(4) A letter dated 17 September 1947, from the Under Secretary for Lands and Immigration to the Commissioner of Police, referred to an intention to thumbprint migrant children on their arrival in Western Australia. Research of relevant files has not revealed any information about whether the fingerprinting occurred and there are no records about the retention of any prints.

WITTENOOM - ASBESTOS TAILINGS CARTED INTO TOWNSITE

1074. Hon MARK NEVILL to the Minister for Transport:

Would the Minister provide details of the amount of asbestos tailings which were carted into the Wittenoom townsite by the Main Roads Department or contractors working for the Main Roads Department?

Hon E.J. CHARLTON replied:

The Main Roads Department is aware that asbestos was used as material in road construction in Wittenoom townsite. However, I am told that there are no records which would substantiate the amount used.

WESTRAIL - LOCOMOTIVE, DIESEL ELECTRIC, PURCHASED FROM COMALCO AT WEIPA

1103. Hon BOB THOMAS to the Minister for Transport:

(1) Is the diesel electric locomotive recently purchased from Comalco at Weipa now in use on standard gauge rail in Western Australia?

(2) Is it being used as a lead unit on freight trains?

(3) Is it being used as a trailing unit on freight trains?

(4) In its present state is it compatible with L class locomotives for multiple unit working?

(5) At which depot is this unit currently located and how many revenue hours has it completed since it arrived in Western Australia?

(6) On what date did it arrive in Western Australia?

(7) On what date did it commence revenue service?

(8) Does the cab layout conform with Westrail's crewing requirements?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) No.

(3)-(4) Yes.

(5) The locomotive is currently operating from Forrestfield and has completed 120 revenue hours.

(6) 22 August 1994.

(7) 20 October 1994.

(8) No. The locomotive was always intended to be used as a non-driven slave unit.

KALBARRI - MURCHISON RIVER MOUTH, DREDGING COST

1104. Hon GRAHAM EDWARDS to the Minister for Transport:

What is the estimated cost of dredging the Murchison River mouth at Kalbarri?

Hon E.J. CHARLTON replied:

The estimated cost of dredging the Murchison River mouth at Kalbarri is $115 000 for the 1994-95 financial year.

RAILWAYS - *PROSPECTOR* SERVICE
Disruption, Merredin

1111. Hon BOB THOMAS to the Minister for Transport:

(1) Was either the Kalgoorlie-bound or Perth-bound *Prospector* railcar service disrupted at Merredin on a day in the week 24 to 28 October 1994 and passengers transferred to Westrail road coaches to complete the journey?

(2) Was this incident due to the tyres on the railcar wheels not being secured properly to the rims?

(3) Were those railcars recently serviced at a private engineering firm and what work was done?

(4) What was the name of the firm?

(5) Did that work include replacing the tyres on the rims or any other maintenance on the wheels?

(6) When was the Minister made aware of this incident?

(7) In the last five years of its operation, how many similar incidents of this nature were the result of faulty workmanship by workers at the Midland Workshops?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) No. In the interests of safety, the railcar was stopped and examined as a

precautionary measure because of problems experienced with wheel movement on axles on some freight vehicles.

(3)-(5) The railcar bogies were overhauled by A. Goninan and Co. The overhaul included the fitting of two final drive axles which were supplied by Westrail. The final drive axles were previously overhauled for Westrail by Voith Australia Pty Ltd, which included the refitting of wheels onto the axles by Transfield Tulk as a subcontractor to Voith Australia Pty Ltd. The overhaul work did not include replacing tyres on rims.

(6) 24 October 1994.

(7) Not applicable.

RAILWAYS - ACCIDENT, FORRESTFIELD FREIGHT TERMINAL

1112. Hon BOB THOMAS to the Minister for Transport:

(1) Was there an incident at the Forrestfield freight terminal in the week 24 to 28 October 1994 in which a freight train leaving the yard was stopped due to wheels on the carriages moving in on the axle by up to 20 centimetres?

(2) What length of track was damaged in this accident and how many sleepers had to be replaced?

(3) What was the cost of this accident in terms of -

(a) track repairs;

(b) repairs to the rolling stock at the Westrail workshop at Forrestfield; and

(c) additional handling when the freight was transferred to another train?

(4) How many other trains were delayed by this incident?

(5) Was the accident due to the triangular keys not being reinserted in the axles to hold the wheels in place at the correct gauge?

(6) Were any of those carriages recently overhauled or maintained by a private engineering company?

(7) If yes, which company and what work was done?

(8) What was the cost of that work?

(9) When was the Minister made aware of this accident?

(10) In the last five years of its operation, how many similar incidents of this nature were the result of faulty workmanship by workers at the Midland Workshops?

Hon E.J. CHARLTON replied:

(1) No.

(2)-(10) Not applicable.

POLICE - HEAVY HAULAGE, TRANSFER TO TRANSPORT DEPARTMENT

1113. Hon KIM CHANCE to the Minister for Transport:

(1) Was it originally planned that Department of Transport officers would assume responsibility for heavy haulage inspection on 1 July 1994?

(2) Has this occurred?

(3) If not, why has the transition of responsibility from the Western Australian police heavy haulage unit not taken place?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) The transfer of responsibility took place on 30 September 1994, not 1 July as originally planned, due to delays in progressing the necessary regulatory amendments.

(3) Not applicable.

QUESTIONS WITHOUT NOTICE

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY - DELEGATION OF POWERS AND FUNCTIONS

659. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) Will the Minister confirm that on 10 January this year the Crown Solicitor advised the Chairman of the State Employment and Skills Development Authority about the delegation of powers and functions of the authority at the direction of the Minister and said that the most satisfactory solution would be for whatever difficulties presently precluding complete acceptance of the resolution to be resolved swiftly so that ministerial direction became unnecessary, otherwise the possibility would always exist that should anyone wish to take legal action, the ministerial direction might be struck down in whole or in part as ultra vires, and the delegation thus invalidated?

(2) Why was the advice from the Crown Solicitor not tabled in answer to question without notice 646 that I asked yesterday?

Hon N.F. MOORE replied:

(1)-(2)

I have a number of questions without notice about SESDA of which some notice has been given. I do not have those answers at present. I do not know whether the member wishes to ask each question so they automatically go on notice. I will provide the answers as soon as I have them.

Hon John Halden: Is the Minister indicating that he is likely to get those answers during question time?

Hon N.F. MOORE: I do not have them today. The member may wish to ask the questions, or he may put them on notice.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - LOGGING, HESTER STATE FOREST

660. Hon J.A. SCOTT to the Minister representing the Minister for the Environment:

(1) Why has the Department of Conservation and Land Management begun logging operations in the Hester state forest when this forest is the subject of a hearing before the Standing Committee on Constitutional Affairs and Statutes Revision?

(2) Can the Minister assure the House that appropriate woodchip licences are in place and current?

(3) Will the Minister call off this logging until the review by the Standing Committee on Constitutional Affairs and Statutes Revision is completed and the committee has reported to this House?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) CALM commenced logging in accordance with the forest management plan 1994, which has been approved by the Government. The Standing Committee on Constitutional Affairs and Statutes Revision has not made any requests to CALM to cease harvesting. In any event, CALM is directed by the Minister for the Environment.

(2) I am advised that all necessary formalities have been complied with.

(3) No.

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY - DELEGATION OF POWERS AND FUNCTIONS

661. Hon JOHN HALDEN to the Minister for Employment and Training:

Notwithstanding the delegation made by the State Employment and Skills Development Authority to the interim State Training Board at the Minister's direction, does the Minister acknowledge that SESDA may at any time still exercise any of the functions or powers that it has delegated?

Hon N.F. MOORE replied:

I must ask that that question be placed on notice.

WATER AUTHORITY OF WESTERN AUSTRALIA - WATER RESTRICTIONS

662. Hon SAM PIANTADOSI to the Minister representing the Minister for Water Resources:

(1) Can the Minister confirm that the Water Authority of Western Australia board of management decided at one of its meetings that there would be no water restrictions this summer, and that there should be greater use of stored water in preference to ground water for the metropolitan scheme?

(2) If yes, were these decisions a major contributing factor to the imposition of water restrictions?

Hon MAX EVANS replied:

(1)-(2)

I thank the member for some notice of this question; however, I do not have the answer. I ask that the question be placed on notice.

WATER TREATMENT PLANT - ALKIMOS, PRIVATE CONTRACTORS

663. Hon SAM PIANTADOSI to the Minister representing the Minister for Water Resources:

(1) Can the Minister confirm that the new water treatment plant to be built at Alkimos will be given to private contractors to build and operate?

(2) If yes, which standards will that operator be required to comply with for water quality, volume, and the chemicals to be used?

Hon MAX EVANS replied:

(1)-(2)

I ask that that question be placed on notice.

RAILWAYS - SECURITY

664. Hon KIM CHANCE to the Minister for Transport:

(1) Was the Minister quoted correctly in a news story in *The West Australian* this morning as saying, "It is better for someone to miss a train than it is to be subject to violence"?

(2) If so, does the Minister agree that the travelling public, including disabled

persons, have a right to expect a system which is both user friendly and free from fear of assault?

(3) In response to the fear expressed by disabled and elderly passengers, will he reconsider his decision and retain the services of staff whose main function is to provide a service to passengers in need?

Hon E.J. CHARLTON replied:

(1)-(3)

My comment was in response to a question about what would happen if at a particular time a patrol officer on the station was required to intervene in a violent act compared with someone needing assistance to get on or off a train. My response was that I thought such an officer would respond to the violent act before giving assistance in a non-violent situation. I also said that it would be a matter of judgment for the person who had that responsibility.

The West Australian in its usual narrow-minded approach has tried to create an emotional situation by putting across to the public the idea that this Government will take away 80-odd passenger assistants and that, therefore, those passengers who need assistance will not get it. The situation is quite the contrary. Instead of going down that biased and narrow-minded line, *The West Australian* should have told the people the facts; that is, there will be 114 passenger assistants in the future instead of 80, because the officers will be both patrol officers and passenger service attendants.

Hon Graham Edwards: Will they work in pairs or singularly?

Hon E.J. CHARLTON: They work in pairs now.

Hon Graham Edwards: The PSAs don't; they work singularly.

Hon E.J. CHARLTON: That is right. Not only do they work singularly, but also it has been brought to my attention that in many cases they are not there at all. On 6PR radio this morning I had a call from a disabled person who had prearranged to meet a passenger assistant at a station; however, on arrival at his destination the assistant was not there. He asked whether the Government had taken away the assistants already. The answer of course is, no. It will be some weeks before the new system can be implemented.

Hon Graham Edwards: They are doing good work with people with disabilities.

Hon E.J. CHARLTON: I have not said that they are not. I am making the point that there is disappointment with the current system. By joining the two groups of people together a larger number of staff will be available to assist people in whatever their concern may be; whether it be for information on where the ticket machine is located, for assistance in getting on and off a train, or in a violent situation, which does not occur often. The officers will be able to deal with that situation in the same way as a police constable.

The Government is not taking away that service to the disabled or anyone else. It is a great pity that the people in this State who have a responsibility to impart to the public what the Government is attempting to do - there are a number of them - do not do that responsibly. The Government is responding to that hard core group of people who are loitering around the suburban stations and on the trains and causing trouble to other passengers. The Government will deal with them in the strongest possible way. It will also ensure that we not only maintain, but also improve the quality of the people who are available to assist passengers, particularly the disabled. My comments were in response to the question. Unfortunately, as is often the case when one makes

comments to the media, only a small part of the total comment was reported.

TADDEI, DINO - DEATH, TREATMENT AT MT HOSPITAL

665. Hon SAM PIANTADOSI to the Minister for Health:

It is now some 36 days since I handed the Minister a letter with respect to the death of Mr Dino Taddei who had received treatment at the Mount Hospital. Will the Minister indicate when I may expect a reply so that I might pass it on to the family?

Hon PETER FOSS replied:

I was not able to answer the letter, but now the member has asked the question I will take it on notice and make sure he receives a reply.

PERTH, CITY OF - COMMISSIONERS
Fees; Consultants, Fees

666. Hon A.J.G. MacTIERNAN to the Minister for Transport representing the Minister for Local Government:

Can the Minister confirm that the commissioners for the City of Perth are receiving meeting fees, and if so -

(1) How much are these fees and to whom are they paid?

(2) What is the total amount paid in fees to each of the commissioners so far this year?

(3) Apart from the annual payment of $35 000 to each commissioner and $40 000 to the chairman, what other fees or benefits are enjoyed by the commissioners?

(4) What is the estimated value of the additional benefits?

(5) Is it true that the chairman, apart from his $40 000 a year salary from ratepayers, receives a further $60 000 from the Ministry of the Premier and Cabinet?

(6) Is it true that a consultant to the commission, ex Perth City Council chief executive Reg Dawson, is receiving $6 000 a month in his part time position?

(7) Is it true that another consultant, Ralph Fardon, is receiving a similar income paid into a superannuation fund?

Hon E.J. CHARLTON replied:

(1)-(7) As I have not been able to get the information required I request that the member put that question on notice.

QUESTIONS - ANSWERS GUARANTEE

667. Hon JOHN HALDEN to the Leader of the House:

I am fast coming to the view that question time is becoming a farce in terms of asking questions and not getting answers. I wonder if the Leader of the House -

Hon E.J. Charlton: That is because you are asking questions of which some notice has been given.

The PRESIDENT: Order!

Hon JOHN HALDEN: Just in response to that -

The PRESIDENT: Order! The Leader of the Opposition cannot respond to that. Just ask the question.

Hon JOHN HALDEN: He is not supposed to interject in the first place

The PRESIDENT: I know he should not.

Hon JOHN HALDEN: We give notice of questions before 12 o'clock, which has been the convention for years, to assist the Government to provide us with answers. Today we have given that courtesy to some 10 questions and there have been no answers.

Hon Peter Foss: So what?

Hon Graham Edwards: You are a joke.

Hon Peter Foss: Sometimes they are not available. You normally get answers.

Hon JOHN HALDEN: The Minister is the joke in this place.

The PRESIDENT: Order! I want to know what the question is.

Hon JOHN HALDEN: My question to the Leader of the House -

Hon Peter Foss: He is making a statement.

Hon Graham Edwards: You should be the last to whinge about that.

The PRESIDENT: Order! The Minister and Hon Graham Edwards should cut out their argument across the Chamber and let Hon John Halden ask his question of the Leader of the House.

Hon JOHN HALDEN: I ask -

(1) If there are problems with the existing convention is the Leader of the House prepared to enter into a new arrangement so that we can get some answers during question time?

(2) Will the Leader of the House guarantee that we will at least get some answers at question time in spite of the fact that we comply with the conventions that have existed in this House for some time?

Hon Peter Foss: You do?

Hon JOHN HALDEN: The Minister never does. The Minister for Education never answers questions, like yesterday. It is a disgrace.

The PRESIDENT: Order!

Hon GEORGE CASH replied:

(1)-(2) I will not guarantee that anyone will get answers to questions. As to the convention to which the Leader of the Opposition referred, it has certainly been the practice to provide answers to questions where sufficient time has been given for answers to be obtained.

Hon John Halden: They went in at 11.30 am today.

Hon GEORGE CASH: However, if some problem has developed, possibly as a result of the volume of questions of which some notice has been given and which are to be asked during the questions without notice period, I am more than happy to sit down with the Leader of the Opposition and examine the matter. If members look -

Hon John Halden: You are running for cover.

Hon GEORGE CASH: The record of the Government is fair and reasonable on the number of questions that are asked. It can be fairly stated that the Opposition is getting a very fair go.

Hon John Halden: What a joke.

Hon Peter Foss: You never did it.

Hon John Halden: The Minister for privatised responsibility - that would be right.

Several members interjected.

The PRESIDENT: Order! I can understand members becoming irate at the current state of affairs. They will not fix it by having a verbal brawl across the Chamber.

Hon John Halden: It is just as useful.

The PRESIDENT: I do not know that it is. I believe, and I have said on many occasions, that one of the most important times in any Parliament is the time devoted to questions. It is the one opportunity where members have the ability to put questions to the Executive or Government. Over the years I have been sitting here, from time to time I have seen all sorts of tactics adopted by those endeavouring to extract information, some of which have appalled me, some of which have mystified me, and some of which have astounded me. Similarly, when I have heard some of the answers I have been astounded, disgusted and mystified. Unfortunately, this House does not provide the President with the power to intervene, firstly, in regard to the calibre of questions and, secondly, in regard to the calibre of the responses to those questions.

The time has come when perhaps an examination of question time needs to be undertaken by all members of this Chamber, because if question time is to denigrate into this farce we might as well not have it. If we do not have it we lose what I have previously said is one of the most important functions of any Parliament - the opportunity of asking questions. I am not putting blame on one side or the other, and I am not getting angry about the crossfire of interjections this afternoon, because I have been frustrated from time to time. Until we change the system we have to make the best of it. If people genuinely are seeking information they have the right to ask the questions and a right to expect that Ministers will genuinely answer them. I hope that members on both sides of this Chamber will take a good look at what they are doing and how they are approaching question time with a view to permitting the requests to be responded to in a way that allows both sides to become satisfied.

INDUSTRIAL RELATIONS LEGISLATION - SURVEY, COST

668. Hon J.A. COWDELL to the Minister for Health representing the Minister for Labour Relations:

(1) What is the cost of the industrial relations legislation combined survey prepared by Roy Morgan Research Centre Pty Ltd for the Department of Productivity and Labour Relations in February of this year?

(2) Has part 2 of the abovementioned survey been completed?

(3) If yes, what is the cost?

(4) If not, what is the quotation?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) $10 400.

(2) No.

(3) Not applicable.

(4) $10 400.

RETAIL TRADING HOURS - DEPARTMENTAL REPORT

669. Hon N.D. GRIFFITHS to the Minister for Fair Trading:

(1) Is the Minister in receipt of a departmental report dealing with options on retail trading hours?

(2) If so, when was it received?

(3) What publication of the report has taken place?

(4) In particular, have the contents of the report been published, either partly or wholly, to some non-ministerial members of Parliament and/or some members of the media?

(5) Will the Minister table the report in the House this week?

(6) If not, why not?

Hon PETER FOSS replied:

(1)-(6)

I am in receipt of a departmental report suggesting what I should report to the Parliament with regard to the review of retail trading hours. If that is what the member is referring to, I have received that. However, I would not describe it as a report dealing with options, which is how the member describes it. It is a report dealing principally with submissions which were made to the review. If the member is referring to a report which deals specifically with options, I have not received it, so the remainder of the question is not applicable.

FRETTING MORTAR - STEERING COMMITTEE

670. Hon A.J.G. MacTIERNAN to the Minister for Fair Trading:

(1) What are the names and relevant qualifications of the persons who currently comprise the steering committee inquiry into the fretting mortar problem, and by whom are they currently employed?

(2) On what date was each of these members appointed?

(3) Is the Minister contemplating further appointments; and, if so, what is the area of expertise of those persons?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Mrs Jenny Bunbury, Director Housing and Real Estate, Ministry of Fair Trading.

Dr Jenni Ibrahim, Manager Housing Branch, Ministry of Fair Trading: PhD in Applied Research.

Mr Robin Elkins, Fair Trading Officer, Ministry of Fair Trading: Registered builder; member Society Surveying Technicians; Associate of The Incorporated Association of Architects and Surveyors.

Mr Nigel Lilley, Registrar, Builders Registration Board.

Dr Geoff Richardson, Chief of Materials Technology Laboratory, Chemistry Centre of Western Australia: Bachelor of Science (Honours); PhD in Organic Chemistry; 11 years experience in organic chemistry; Fellow of the Royal Australian Chemical Institute; Chairman of Government Paint Committee, Western Australian Branch; member of the Construction Industry Research and Development Task Force; accredited assessor for the National Association of Testing Authorities.

Dr Frank Pitman, Manager in Project Services Directorate, Building Management Authority: Bachelor of Engineering; PhD; member of the Institute of Engineers; over 20 years of experience in the building industry.

Mr John Savell, Co-ordinator Housing Production, Homeswest.

(2) 1 July 1994.

(3) No, not to the steering committee. I have agreed to the formation of a technical subcommittee which will comprise individuals with building, materials science or legal expertise.

KALGOORLIE - GOLDFIELDS AGAINST SERIOUS POLLUTION
Sulphur Dioxide Emissions; Asthma Levels

671. Hon J.A. SCOTT to the Minister for Health :

I have received letters from Goldfields Against Serious Pollution - GASP - outlining its concerns about SO_2 emissions and stating that asthma is 2.5 times more prevalent in Kalgoorlie-Boulder than recorded elsewhere in Western Australia. Does the monitoring by the Health Department confirm this high level; and, if so, what does the Minister intend to do to tackle this problem?

Hon PETER FOSS replied:

I regret that I will have to take that question on notice.

FRETTING MORTAR - STEERING COMMITTEE

672. Hon A.J.G. MacTIERNAN to the Minister for Fair Trading:

This question is supplementary to my previous question. Does the Minister intend to appoint to the steering committee inquiry into the fretting mortar problem representatives of the Housing Industry Association and/or the Master Builders Association or any other industry body?

Hon PETER FOSS replied:

Yes, if appropriate.

WESTRAIL - FREMANTLE AND DISTRICTS MODEL RAILWAY ASSOCIATION, RENT INCREASE

673. Hon J.A. COWDELL to the Minister for Transport:

(1) Does the Minister consider the rental increase of over 1 000 per cent for the Fremantle and Districts Model Railway Association to use a Westrail storeroom at Fremantle Railway Station to be excessive?

(2) Does Westrail have any prospect of letting the said premises for its estimated market rental value of $79 080 per annum or will it remain vacant after the model railway association is forced out?

(3) Will the Minister review Westrail's decision about this rental charge increase for the model railway association until such time as an alternative tenant is found at Westrail's market value?

(4) Is Westrail in a position to provide alternative accommodation to the Fremantle and Districts Model Railway Association?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) For many years, lessees of railway premises have generally enjoyed rentals at well below market value. To ensure a true market rental is received for the premises occupied by the Fremantle and Districts Model Railway Association, an assessment has been made by an independent licensed valuer.

(2)-(3) The premises are being marketed and Westrail has acceded to a request from the Fremantle and Districts Model Railway Association for it to remain as a tenant in the premises until such time as another tenant is found.

(4) No.

DROUGHT - PASTORALISTS, EAST GASCOYNE, RENT AND VERMIN TAX RELIEF

674. Hon P.H. LOCKYER to the Minister for Lands:

Has the Government made a final decision with regard to rent and vermin tax relief for pastoralists affected by severe drought conditions in the East Gascoyne?

Hon GEORGE CASH replied:

I thank the member for that question. Members will be pleased to note that last week Hon Phil Lockyer, Hon Murray Criddle, Hon Cheryl Davenport and Hon Tom Butler accompanied me on a visit to 12 stations in the East Gascoyne to inspect the drought in that area. My visit to the East Gascoyne was in response to the urgency motion moved by Hon Phil Lockyer in this House four or five weeks ago. It was an experience for not only me but also those other members to see the difficult conditions currently being faced by pastoralists in that area and the considerable number of dying and, indeed, dead stock at each of the stations which we visited. Although the station owners and operators are under considerable pressure at this stage of the game, not one person was putting out his hand and asking the Government for assistance. The pastoralists were really putting up their hands and asking the Government and the media to realise that there is a drought in this area so that it may receive some media coverage, rather than the situation which existed until last Sunday when the media concentrated on the drought that was being experienced on the eastern seaboard.

Cabinet made a decision about two weeks ago with regard to rent and vermin tax relief in the East Gascoyne, and certain pastoralists will be entitled to that relief, subject to application. That relief does not represent a huge amount of money, but the pastoralists whom we met during our two days in that region are grateful for that limited relief because, as they said to the members who joined me on that visit, they will not have to worry about those bills piling up with all the other bills with which they are faced currently, so it will obviously give them some minor assistance. It was interesting to learn that some of the pastoralists regarded it not as any great financial incentive or grant from the Government but made the positive comment that it would go towards purchasing a few more drums of fuel for the ongoing operations of their stations. Therefore, the short answer to the question is yes.

SCHOOLS - HEATHRIDGE PRIMARY
Administration Upgrade

675. Hon DOUG WENN to the Minister for the Arts:

(1) What was the total amount spent in the 1993-94 Budget on -

(a) Perth Theatre Trust;

(b) West Australian Opera;

(c) West Australian Ballet Co Inc; and

(d) Country Arts, in total?

(2) What is the allocation in the 1994-95 Budget to -

(a) Perth Theatre Trust;

(b) West Australian Opera;

(c) West Australian Ballet Co Inc; and

(d) Country Arts, in total?

Hon PETER FOSS replied:

I thank the member for notice of this question. The member in his notice of the question has spelt "country arts" with a capital C and a capital A.

Hon Doug Wenn: There are three metropolitan organisations and one country organisation.

Hon PETER FOSS: Two organisations in Western Australia, the Arts Council and the Performing Arts Touring Information Office, PATIO, have amalgamated to become Country Arts Western Australia. I am not sure whether the answer I will give refers to the generic term of country arts or Country Arts, the new organisation. I just put that qualification to my answer, as I would not like to mislead the House.

(1) (a) $2.936m;

(b) $750 000;

(c) $827 000;

(d) $219 000 in total, with another $487 845 for other regional arts funding. That would seem to indicate that this amount relates to the Country Arts organisation.

(2) (a) $2.091m;

(b) $857 500;

(c) $796 500;

(d) $245 175 in total, with another $423 232 for other regional arts funding.

HEATHRIDGE PRIMARY SCHOOL PARENTS AND CITIZENS ASSOCIATION

676. Hon GRAHAM EDWARDS to the Minister for Education:

(1) Has the Minister received correspondence from the Heathridge Primary School Parents and Citizens Association concerning funding for an upgrade to the administration section of the school?

(2) What action is the Minister taking to provide funding for the long overdue upgrading to the school?

Hon N.F. MOORE replied:

I thank the member for some notice of the question.

(1) Yes.

(2) The Joondalup District Education Office has rated Heathridge Primary School with priority for an administration upgrade. Accordingly Heathridge will be receiving every consideration in relation to the needs of other schools throughout the State when the details of the 1995-96 capital works program are finalised next year.

SENIORS - HOME ALARMS, BUDGET ALLOCATION

677. Hon BOB THOMAS on behalf of Hon Cheryl Davenport to the Minister for Transport representing the Minister for Seniors:

Some notice of this question has been given. What amount of money was allocated for the provision of home alarms for seniors considered at risk in, firstly, the 1993-94 Budget and, secondly, the 1994-95 Budget?

Hon E.J. CHARLTON replied:

I thank Hon Cheryl Davenport for some notice of the question. The Minister for Seniors has provided the following reply: The allocation in each of the Budgets was $272 000.

ABORIGINAL RESERVES - WYNDHAM, POWER SUPPLY

678. Hon TOM HELM to the Minister for Education representing the Minister for Aboriginal Affairs:

Can the Minister outline what steps, if any, are being taken to relieve the potentially dangerous situation caused by the cutting off of power supplies to the Wyndham Aboriginal reserve?

Hon N.F. MOORE replied:

I thank the member for some notice of the question. The Minister for Aboriginal Affairs has provided the following answer: Negotiations between the community, the State Energy Commission of Western Australia and the Aboriginal Affairs Department are proceeding as a basis for payment of account arrears and reconnection of power supplies.

AUSTRALIAN NATIONAL TRAINING AUTHORITY - FUNDING, CONDITIONS IMPOSED ON WESTERN AUSTRALIA

679. Hon JOHN HALDEN to the Minister for Education:

Hope springs eternal! In relation to the negotiations between the State and Federal Governments for growth funds for the Australian National Training Authority -

(1) Have any terms and conditions been attached by the Federal Government to Western Australia's funding for the 1995 school year?

(2) If so, can the Minister explain why these conditions have been imposed on Western Australia?

(3) Did any other State have these conditions imposed?

(4) What actions will the Minister be taking to ensure that the terms and conditions are met?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. In respect of the first part of his statement about hope springing eternal, he asked a number of questions today about the State Employment and Skills Development Authority which I have not had time to discuss with the department. I asked him to raise those questions tomorrow.

Hon John Halden: You have had six hours.

Hon N.F. MOORE: The departmental person and I were not available to discuss those matters today. There will be time for that to happen -

Hon John Halden: Ring me and tell me.

The PRESIDENT: Order! I get angry when people deviate from the course of action that we are supposed to be on. It is very nice to know that bit of information, but it has nothing to do with this question.

Hon N.F. MOORE: Mr President, I seek your advice. The question was prefaced with the comment that hope springs eternal, the implication being that the Leader of the Opposition hoped to get an answer when, in fact, I have been giving answers.

The PRESIDENT: Order! From time to time people become oversensitive in this place.

Hon N.F. MOORE: I do because I seek to give answers.

The PRESIDENT: Order! I heard the comment made by the Leader of the Opposition. In this place members have to learn to roll with the punches. When a member makes a comment such as that, it is not necessarily

directed to the Minister for Education; it may have been directed to me. However, I did not take any offence from it.

Hon N.F. MOORE: The answer is -

(1) Yes.

(2) Due to a reduction, relative to the target for 1993, in estimated student contact hours delivered in 1994.

(3) Yes, similar conditions have been imposed upon South Australia and Victoria.

(4) The Western Australian Department of Training has advised that a number of strategies have been implemented to increase student contact hours in 1995 including the provision of 15 new courses in 1995 at 27 locations; a major marketing campaign targeting part time students; increases in the number of certificate and advanced certificate courses available in 1995; and enhancements to the TAFE admissions management system to enable colleges to maximise the take-up of places. Additionally the department will be providing regular reports to me detailing progress towards meeting the identified targets.